

CITY OF LYNDEN  
LYNDEN CITY COUNCIL

IN RE THE CONDITIONAL USE  
PERMIT REQUEST OF Darigold  
Processing, Petitioner

NO. 20-02

FINDINGS OF FACT AND  
CONCLUSIONS OF LAW

Owners of the premises known as:

HAWLEY'S ADD TO LYNDEN-E 10 FT OF LOT 6-LOTS 7 THRU 12 BLK 21-  
TOG WI VAC ALLEY ABTG SD LOTS ON N-N 1/2 ALLEY ABTG W 40 FT LOT  
6-TOG WI VAC N 1/2 PINE ST ABTG ON S AS VAC ORD 1422 AF  
2120701934-SUBJ TO ESMT TO CITY OF LYNDEN REC AF 1160514-THAT  
PTN BEAP IN. ALL SITUATE IN WHATCOM COUNTY, WASHINGTON.

**COMMONLY DESCRIBED AS:** 8455 Depot Road, Lynden.

Having made application for a Conditional Use Permit to exceed the height limitation of 60-feet to 70-feet 6 inches tall to contain milk processing equipment.

The Lynden Planning Commission held a public hearing on July 9, 2020 and considered the consistency of the application under LMC 19.49.020 and has determined that the application meets the criteria for granting a conditional use permit according to the findings, conditions and recommendations of the Technical Review Committee Report dated June 30, 2020.

Said request having come before the Lynden City Council on July 20, 2020, and the Lynden City Council having fully and duly considered the conditional use permit request, hereby makes the following:

**I. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

**1.01 Application.** Darigold Processing, ("Applicant") filed a conditional use application which was accepted by the City as complete on June 11, 2020.

**1.02 Location.** The Property is located 8455 Depot Road in Lynden, Whatcom Co., Washington as described above.

**1.03 Ownership.** Darigold are the Property Owners.

**1.04 Reason for Request.** To allow a conditional use permit to exceed the height limitation of 60-feet to 70-feet 6 inches tall to contain milk processing equipment. This property is located within the ID zone.

1.05 Compliance with Criteria for Granting a Conditional Use Permit. The application as presented during the public hearing complies with the criteria listed within Section 19.49.020 of the Lynden Municipal Code.

1.06 Compliance with Project Manual for Engineering Design and Development Standards. The application complies with the development standards and requirements set forth in the Project Manual for Engineering Design and Development Standards, as applicable.

1.07 Appropriate Provisions for Promoting Health, Safety and General Welfare. The application makes appropriate provisions for public health, safety and general welfare.

1.08 Open Spaces, Streets, Roads, Sidewalks and Alleys. The application makes appropriate provisions for public open spaces, roads, streets, sidewalks and alleys.

1.09 Potable Water Supplies, Sanitary Wastes and Drainage Ways. The application makes appropriate provisions for public drainage ways, potable water supplies and sanitary wastes.

1.10 Public Interest. The application is consistent with the City's comprehensive plan and the Growth Management Act. The public interest will be served by the approval of the application.

1.12 SEPA Determination. Environmental review of the proposal was performed and a Mitigated Determination of Non-Significance was issued on June 19, 2020.

The foregoing Findings of Fact and Conclusions of Law are not labeled. Those sections which are most properly considered Findings of Fact are hereby designated as such. Those sections which are most properly considered Conclusions of Law are also designated as such. From the foregoing Findings of Fact and Conclusions of Law, the Director establishes the following conditions:

## II. CONDITIONS

### **Planning Department Comments:**

1. *Application Type:* For clarification please note, although the applicant, at one point, refers to the request as a "variance", the Lynden Municipal Code allows the request to be made as a Conditional Use. Criteria for a variance request are held to a different standard than conditional use requests.
2. *CUP Criteria:* Staff acknowledges that the applicant has provided responses to the CUP criteria. These will be included in the application package that moves forward to public hearing.
3. *Architecture:* Staff recommends that the Permit be conditioned to include a requirement that the color and materials of the new tower be compatible with

that of the existing concrete tower to create a consistent, unobtrusive appearance.

4. *Environmental Review:* Staff acknowledges that the applicant has filed a SEPA checklist and supporting information for the project. The additional 10.5' of requested building height was not found to impose detrimental impacts to the environment. The public comment period will continue through July 8, 2020.
5. *Screening:* As the base of the tower will be located within an existing building, no residential property is adjacent to the subject site, and the height of the tower exceeds what can be practically screened, staff is not proposing additional screening requirements associated with this CUP request.
6. *Performance Standards:* Be advised, like other industrial properties, Darigold Processing is subject to the performance standards listed in LMC 19.25.040 and 19.25.050. These standards relate to acceptable levels of air emissions, vibrations, heat, glare, and noise levels.

#### **Public Works Department**

7. *Stormwater Infrastructure:* Be advised, future construction of tower and associated structure must meet City and Department of Ecology standards.
8. *Utilities - Water:* Be advised, if future structure increases/changes demand for water, studies may be required to see if impacts to the City system require remediation.
9. *Utilities - Sanitary Sewer:* Be advised, if future structure increases/changes sewer discharge quantity and/or concentration studies may be required to see if impacts to the City system require remediation.
10. *Industrial Discharge:* If future construction increases/changes volume and/or concentrations of condensate of whey (COW water), studies may be required to determine impacts to the City system.

#### **Fire and Life Safety**

11. *No Comments:* The Fire Department has reviewed the Conditional Use application and has no comment. Complete Fire review will occur at the time of building permit.

#### **Parks and Recreation**

12. *No Comments:* The Parks Department has reviewed the application and has no comment.

III. DECISION

Petitioner's application for a conditional use permit to exceed the height limitation of 60-feet to 70-feet 6 inches tall to contain milk processing equipment, on the property described herein is hereby **Approved**.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Scott Korthuis  
Mayor