

CITY OF LYNDEN
LYNDEN CITY COUNCIL

IN RE THE CONDITIONAL USE
PERMIT REQUEST OF Gerardo
Morado, Lynden Automotive
Specialists LLC, Petitioner

NO. 21-04

FINDINGS OF FACT AND
CONCLUSIONS OF LAW Lynden
Automotive Conditional Use Permit

Owners of the premises known as:

LOT A BENDER PLAZA SHORT PLAT, RECORDED UNDER AUDITOR'S
FILE NO. 2060801211, RECORDS OF WHATCOM COUNTY, WASHINGTON

COMMONLY DESCRIBED AS: 8894 Bender Road, Lynden

Having made application for a Conditional Use Permit to allow an automobile repair shop in an existing commercial building within the CSL zone.

The Lynden Planning Commission held a public hearing on November 18, 2021 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 November 12, 2021, subject to the following clarifications:

1. Submission of the stormwater report must be done within 3 months but may be granted a 1-month extension if the applicant demonstrates steps toward compliance.
2. The proposed landscape screen, specifically, is a Type 3 landscape buffer and installed within 30 days of Council decision.
3. The 10 vehicles, temporary parked while under repair, must have current license and registration.
4. The 10 stalls used for vehicles under repair must be located in the northwest corner of the site and not south of the subject business.
5. Removal of storage containers from the site shall be permanent.

Said request having come before the Lynden City Council on December 6, 2021, 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. Gerardo Morado, Lynden Automotive Specialists, ("Applicant") filed a conditional use application which was accepted by the City as complete on September 7, 2021.

1.02 Location. The Property is located at 8894 Bender Road in Lynden, Whatcom Co., Washington as described above.

1.03 Ownership. Mac's Stores Inc.

1.04 Reason for Request. The request is for a Conditional Use Permit to allow an automobile repair shop in an existing commercial building within the CSL 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 and Section 19.49.030 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.

1.11 Critical Area Review. There were no critical areas found to be on the site.

1.12 SEPA Determination. SEPA was not required for this application.

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

The application is reviewed in accordance with the LMC 19.49.020 and the criteria listed for land use application review in LMC 17.09.040(C) "Planning Commission Review and Recommendation; Required Findings".

A. Certain uses may be allowed by a CUP granted by the City Council, after it receives a recommendation of the Planning Commission. The Planning Commission shall issue its recommendation after a public hearing on the CUP application. In the application and during the hearing process, it shall be clearly shown by the applicant that the proposed use is not detrimental to the surrounding area or a liability to adjacent uses. For the purpose of this review, the surrounding area, or neighborhood, means those parcels that are in close proximity to the subject parcel.

B. An application for a CUP may be made only for those uses specified under the conditional use section of the appropriate zoning district.

C. The Planning Commission and Council shall enter findings to support any recommendation or decision on a CUP application. Conditions may be attached to CUP approvals to mitigate any adverse impacts, protect surrounding properties and to promote the general welfare of the public. A CUP will be granted only if the proposed use complies with the standards and criteria listed below. The applicant shall bear the burden of proof in all CUP proceedings.

1. The proposed use in the proposed location will not be detrimental to surrounding uses legally existing or permitted outright within the zoning district.
2. The proposed use, together with proposed mitigation, will not be detrimental to public health or safety and will be compatible with the surrounding area and land uses with respect to the following:
 - a. Traffic and pedestrian circulation;
 - b. Noise, smoke, fumes, glare or odors generated by the proposed use;
 - c. Building and site design; and
 - d. The physical characteristics of the subject property.
3. The proposed use is supported by adequate public facilities and services unless conditions can be established to mitigate adverse impacts to those facilities or services.

4. The traffic generated by the proposed use will not cause the traffic circulation system in the vicinity to deteriorate below the adopted level of service.
5. The proposed use complies with the performance standards, parking requirements, height, setback and lot coverage requirements, landscaping standards and other provisions of the Lynden Municipal Code.
6. There are adequate buffering devices, as specified in the landscape standards, or other topographic characteristics, to protect the adjacent properties from adverse impacts of the proposed use.
7. The proposed use will not destroy or substantially damage any natural, scenic or historic feature of major importance.
8. The proposed use is generally consistent with the purposes and objectives of the city comprehensive plan and applicable sub-area plan.

Planning and Development Department

- *CUP Criteria:* Staff acknowledges that the applicant has provided responses to LMC Chapter 19.49 regarding standards and criteria for granting a Conditional Use Permit. The applicant's responses are attached to the submitted application.
 - Several of the criteria will need to be further addressed through required conditions if the CUP is to be approved. Condition recommendations are included below in Section VII.
 - Several times the applicant states they are maintaining the same use as the previous owner. It is possible the previous owner was operating a full-service auto shop without a CUP. If so, they were able to do so under the radar. The current use of the property - with numerous inoperable vehicles stored in the parking lot, the miscellaneous debris stored outside around the building, and documented wastewater entering the storm drain, it is no longer under the radar. At a minimum, the current use requires a CUP to mitigate these impacts.
- *Site Plan, Vehicle storage, Parking, and Landscape Buffer:* Applicant must submit a site plan, prior to final CUP approval, that addresses:
 - *Vehicle Storage:* There is not room for a designated vehicle storage area separate from the already existing parking spots. Applicant must identify which parking spaces will be used for auto storage while they are being worked on. No overnight vehicle storage shall occur forward (south) of the building.
 - *Parking Plan:* The site plan shall ensure that code parking requirements (LMC 19.51) are met for both Lynden Automotive (minus

any spots being used as vehicle storage areas) and the Shell Station and convenience store.

- A landscape buffer shall be approved to screen and improve the aesthetic appearance of the site. Vehicle storage area must be screened. The applicant has initially provided information which indicates that a row of Excelsa Cedar will be used as a hedge along Bender Road and Badger Road.
- *Miscellaneous Debris and Storage Containers:* Storage containers are not permitted on the property, except for during temporary construction projects. There shall be no outside storage of miscellaneous debris associated with the business (engine and/or vehicle parts, garbage, tires, tools, buckets, etc).

Public Works Department

- *Stormwater Infrastructure:* Utility As-builts indicate the rear storm drain flows to the eastern detention basin and does not include an oil/water separator or appropriate filtration for vehicle washing or wastewater associated with auto repair. A full stormwater review and report is required prior to full approval. The report must include BMPs for the site that meet Dept of Ecology Standards. Upgrades may be required.

Fire Department

- Two chapters (23 & 57) from the IFC apply to an auto repair shop. Additional attention regarding parts cleaning dip tanks and flammable liquid storage and disposal should be addressed. The proposal should also address mitigation and extinguishment capabilities for these operations.

Parks Department

- No comments on this application.

III. DECISION

Petitioner's application for a Conditional Use Permit to allow an automobile repair shop in an existing commercial building within the CSL zone on the property described herein is hereby **Approved**.

DATED: 12.6.21



Scott Korthuis
Mayor