



September 12, 2022

CITY OF LYNDEN TECHNICAL REVIEW COMMITTEE

STAFF REPORT

Re: The application of JD Bargaen Industries, LLC for a Comprehensive Plan Amendment and Rezone of two Lynden parcels.

CPA #22-02, RZ #22-01 Lynden Door Rezone and Comprehensive Plan Amendment

I. APPLICATION SUMMARY AND RECOMMENDATIONS

Proposal: A Comprehensive Plan Amendment to change the Comprehensive Plan designation of two parcels owned by JD Bargaen Industries, LLC from Commercial (CSR) and Industrial (IBZ) to Industrial (ID).

Recommendation: Staff recommends approval of the CPA and Rezone.

II. PRELIMINARY INFORMATION

Applicant: JD Bargaen Industries, LLC

Property Owner: JD Bargaen Industries, LLC.

Property Location: 2122 Front Street, Lynden

Parcel Number: 400224-332215

Legal Description: LOT 1, BEDLINGTON-BARGEN LOT LINE ADJUSTMENT, RECORDED UNDER AUDITOR'S FILE NUMBER 2018-0300567, RECORDS OF WHATCOM COUNTY WASHINGTON. ALL SITUATE IN WHATCOM COUNTY, WASHINGTON.

<u>Notice Information:</u>	Application Submitted:	June 29, 2022
	Notice of Application:	September 7, 2022
	Notice of SEPA determination:	August 31, 2022
	Notice of Hearing:	September 7, 2022
	Comment Period Ending:	September 21, 2022

SEPA Review: Lynden SEPA #22-10. Determination of Non-Significance (DNS) issued August 26, 2022

Authorizing Codes, Policies, and Plans:

- RCW 35A.63.073 Comprehensive Plan – Amendments and Modifications
- RCW 36.70A Growth Management
 - RCW 36.70A.130 Comprehensive Plans
- LMC Chapter 2.08.140 Plan adoption – Amendment authorized
- LMC Chapter 19 Zoning
 - LMC 19.03 Comprehensive Plan
 - LMC 19.09 Maps and District Boundaries
- LMC Chapter 17.09.030 – Legislative Decisions
 - LMC 17.19 – Site Specific Rezones

III. PROJECT DESCRIPTION

A Comprehensive Plan Amendment to change the Comprehensive Plan designation of two parcels owned by JD Barga Industries, LLC from Commercial (CSR) and Industrial (IBZ) to Industrial (ID).

IV. PUBLIC NOTICE AND COMMENT

Notice of Application: Formal legal notice for this application was published in the Lynden Tribune on September 7, 2022

Notice of SEPA determination: Formal notice of the SEPA Determination (MDNS) was published in the Lynden Tribune on August 31, 2022 and mailed to neighbors within 300 ft of the property. The comment period for the SEPA determination expired on September 14, 2022.

Public Comment Received: None to date.

V. ANALYSIS AND CONSISTENCY WITH REGULATIONS

The **first step** in evaluating this application is to determine whether or not the Comprehensive Plan should be amended. The application materials included in the package provide a number of questions relating to consistency with the Growth

Management Act, the City’s Comprehensive Plan and the change within the community that could necessitate such a change in the City’s plan.

The subject property currently has an undesirable split land use designation. That is the northern portion adjacent to the existing Lynden Door campus has an industrial designation and the southern portion has a commercial designation. The request to shift the entire property into an industrial land use would eliminate the split land use designation which tends to be difficult to regulate. Zoning designations preferably follow parcel lines. Given the scale of industrial development in this area, subdivision to create a lot line at the existing zoning line is likely unnecessary.

The commercial market has changed significantly since the land use and zoning designation was assigned to the subject property in 1994 with annexation Ordinance 943. The existing commercial designation was likely put into place along Front Street because commercial uses desire visibility from roadways to facilitate retail development. However, the demand for commercial / retail spaces has dropped significantly and the City’s existing supply of commercial spaces has been adequate. Meanwhile, the call for large scale industrial properties has increased with millions of dollars of investment anticipated in this area of the City in the next five years.

Compatibility of the proposed industrial use within the West Lynden Sub-Area is high. Staff review does not anticipate a conflict with existing uses. Furthermore, the development of properties along this portion of Front Street will support and facilitate roadway and utility improvements – some of which have already begun with funding support from the Whatcom County Economic Development Investment Program.

The City Council has previously supported a similar application in this area. In 2018 the adjacent parcel, immediately east of the subject property, was successfully shifted from a commercial land use to an industrial land use with Comprehensive Plan Amendment 18-01.

The **second step** in the process will be to evaluate the rezone request.

COMPREHENSIVE PLAN AMENDMENT – FIRST STEP

A. This question in the Comprehensive Plan Amendment application asks the proponent to describe how the proposal is consistent with the Growth Management Act and the City’s Comprehensive Plan.

The applicant has provided the following response: *The plan amendment is consistent with the Lynden Comprehensive Plan. The West Lynden Sub-Area is primarily zoned for a combination of industrial and commercial land uses. The property included in this*

application is adjacent to both commercial and industrial uses. Through their planning process the City predicted which lands could develop in which manner but the exact lines were not set to achieve specific goals. This property was purchased by an industrial user and therefore, the requested amendment to the Comprehensive Plan will result in additional infilling within the City limits of Lynden which is consistent with the Growth Management Act and Lynden's Comprehensive Plan. As a result of the current ownership of the parcel, infill will occur more quickly if the property is designated industrial versus commercial and therefore, may facilitate infrastructure development in this area for the City sooner rather than later.

The proposed amendment meets the following specific goals and policies:

1.1. Establish standards for infill development that ensure compatibility with the character of existing neighborhoods.

1.3. Provide buffers, including landscaping, between commercial, industrial, or higher density land uses and existing residential neighborhoods.

5B. The City of Lynden is promoting economic development by zoning land suitable for commercial and industrial development west of the Guide Meridian.

5C. The City will encourage employment opportunities for the increasing population, unemployed and disadvantaged persons, and replace those jobs lost due to the changing needs of the agricultural industry.

5D. The City of Lynden will ensure that the location and character of land uses optimize the potentials for economic benefit, as well as protecting the City's open space and natural resources.

5G. The City will work to maintain a positive business climate that is consistent, responsive to the needs of the business community, and affordable to business owners.

2.4.1 Commercial and Industrial Use

The City's current actual land use acreages show commercial and industrial uses occupying 335.9 and 61.6 acres, respectively. The City actively pursues opportunity to increase the commercial and industrial zoned land being utilized for economic development.

B. This question involves a change in circumstances within the community since the adoption of the comprehensive plan that would justify the proposed request.

The applicant has provided the following response: *The site has been purchased by the Applicant. The site is located adjacent to Applicant's existing property, which is used for industrial purposes. The site is contiguous to the parcel re-designed by the City under a*

previous request in 2018. The site is tucked behind existing industrial development. Therefore, industrial development is more appropriate for this site.

In addition, commercial use has been slow to develop in Lynden and the COVID pandemic and increase in online shopping will continue to have an impact on commercial growth.

C. This question relates to assumptions that were made during the past comprehensive planning cycle.

The applicant has provided the following response: *Same as Section B above.*

D. Does the proposed amendment promote a more desirable land use pattern as stated in the goals and policies of the comprehensive plan.

The applicant has provided the following response: *Yes, the proposal will create a land use pattern very similar to what exists currently except that it will be consistent to the ownership of the site and the Applicant's adjacent land use.*

In addition, West Front Street is a logical boundary for the industrial designation. Also, West Front Street does not have commercial visibility compared to other nearby tracts. In addition, the adjacent Tromp Road is a rural standard road that is not ideal for commercial traffic.

E. This question within the application materials asks about the impacts to current uses in the area and measures to ensure compatibility within the area.

The applicant has provided the following response: *Changing this site to an industrial designation is compatible with the current uses surrounding the site. The property to the east has already been rezoned and re-designated to industrial use. Now the subject site has been purchased by an industrial user and the use and designation should be consistent with the land to the east. The site is screened by the many buildings consisting of the Lynden Door campus to the north. The only real visibility is from the west. However, the area to the northwest is zoned Industrial Business Zone and the area directly to the west is outside of Lynden City limits.*

F. How will the public interest be served by this amendment?

The applicant has provided the following response: *The proposal will result in economic development, employment opportunities for the increasing population, and will maintain a positive business climate.*

REZONE- SECOND STEP

The rezone request of the proposed property includes two changes.

1. The northern half of the property would shift from the existing Industrial Business Zone (IBZ) to a heavier industrial classification of Industrial District (ID).
2. The southern half of the property, if shifted from Commercial Services-Regional (CSR) zoning, is proposed to be assigned an industrial zoning of Industrial District (ID).

Staff review of the application resulted in a high level of confidence that the criteria for rezone are met by this application. Changes to the commercial market and the development that has occurred within the West Lynden Sub-area constitute a significant change in circumstances since approval of the current zoning and warrants reclassification of the subject property. Industrial development here is consistent with the goals of the City's Comprehensive Plan, can be done consistent with development standards, and supports community welfare by enabling the growth of job-producing industry as well as facilitating the expansion of the community's utility and transportation network through road improvements.

Notably, the City Council has previously supported a similar application in this area. In 2018 the adjacent parcel, immediately east of the subject property, was successfully shifted from a commercial land use to an industrial land use and rezoned to Industrial District (ID) with Comprehensive Plan Amendment 18-01 and Rezone Application 18-01.

Criteria for Approval: Applicant has responded to this comment with written justifications for the proposed rezone. Care should be taken to consider potential impacts to the surrounding properties and the City as a whole and mitigate as needed.

Applicants Narrative: The property was purchased by the Applicant with its current zoning designation in place. The site is located adjacent to Applicant's existing property, which is used for industrial purposes. The site is tucked behind existing industrial development. Therefore, industrial development is more appropriate for this site.

Changing this site to an industrial designation is compatible with the current uses surrounding the site. The property to the east has already been rezoned and re-designated to industrial use. Now the subject site has been purchased by an industrial user and the use and designation should be consistent with the land to the east. The site is screened by the many buildings consisting of the Lynden Door campus to the north. The only real visibility is from the west. However, the area to the north is zoned

Industrial Business Zone and the area directly to the west is outside of Lynden City limits.

In addition, West Front Street is a logical boundary for the industrial designation. Also, West Front Street does not have commercial visibility compared to other nearby tracts. In addition, the adjacent Tromp Road is a rural standard road that is not ideal for commercial traffic.

Additional industrial property in this area is warranted given the build out of the industrial facility. Commercial use has been slow to develop in Lynden and the COVID pandemic and increase in online shopping will continue to have an impact on commercial growth. Commercial property continues to be readily available in the West Lynden area.

The plan amendment is consistent with the Lynden Comprehensive Plan. The West Lynden Sub-Area is primarily zoned for a combination of industrial and commercial land uses. The property included in this application is adjacent to both commercial and industrial uses. Through their planning process, the City predicted which lands could develop in which manner but the exact lines were not set to achieve specific goals. This property was purchased by an industrial user and therefore, the requested amendment to the Comprehensive Plan will result in additional infilling within the City limits of Lynden which is consistent with the Growth Management Act and Lynden's Comprehensive Plan. As a result of the current ownership of the parcel, infill will occur more quickly if the property is designated industrial versus commercial and therefore, may facilitate infrastructure development in this area for the City sooner rather than later

To grant this request, the Planning Commission and City Council **must** find that the application satisfies each of the criteria listed within Section 17.09.050 of the Lynden Municipal Code:

- a. The current zoning was either approved in error or that a significant change in circumstances since approval of the current zoning warrants reclassification of the subject property as proposed; and
- b. The proposed site-specific rezone is consistent with the City's comprehensive plan and applicable sub-area plan(s); and
- c. The project proposal is consistent with the City's development codes and regulations for the zoning proposed for the project.
- d. The proposed site-specific rezone is compatible with existing uses and zoning in the surrounding area; and

e. The proposed site-specific rezone will promote the health, safety, and general welfare of the community.

VI. TECHNICAL REVIEW COMMITTEE COMMENTS

Planning Department Comments

1. *Transportation:* Be advised, future development will be required to provide access to existing public rights of way in a method which does not unduly burden the existing surrounding properties. Participation in the mitigation of transportation impacts will be required at the time of development.
2. *Proposed Uses:* Be advised, future industrial uses are subject to the provision of LMC 19.25 which include, but are not limited to, permitted uses, setbacks, and height limits.
3. *Industrial Performance Standards:* Be advised, industrial uses are subject to performance standards as outlined in LMC 19.25.040 and 19.25.050.

Public Works Department Comments

4. *Public Improvements:* Be advised, that at the time of future development, all public improvements must be constructed as required in the Lynden Municipal Code.
5. *Development Standards:* Be advised, that at the time of future development, all plans must be designed and constructed in compliance with the Department of Ecology's Best Management Practices and the standards approved in the Manual for Engineering Design and Development Standards.
6. *Stormwater Management:* Be advised, at the time of future development, a stormwater management plan prepared by a professional engineer will be required for this development and must be approved by the City of Lynden prior to approval of construction plans. An erosion control plan must be included in the drainage plan and construction plans as necessary.

Fire and Life Safety Comments

JD Bergen Comprehensive Plan Amendment and Rezone – TRC Report

7. *Fire Standards:* Be advised, future development will require full compliance with the Fire Code.

Parks and Recreation Comments – The Parks Department has no comments on this application.

VII. RECOMMENDATION

Based on the above findings, staff recommends approval of the Comprehensive Plan Amendment and Rezone without associated conditions of approval.