



## PLANNING COMMISSION MEETING MINUTES

7:00 PM September 22, 2022  
City Hall Annex

### 1. CALL TO ORDER

### 2. ROLL CALL

Present: Tim Faber, Blair Scott, Jim Kaemingk, Khush Brar, Bryan Korthuis, Darren Johnson, and Hollie Lyons.

Absent:

Staff Present: Gudde, Planning Director, Timmer, City Planner and Samec, City Planner

### 3. APPROVAL OF MINUTES

A. **September 8, 2022, Scott / Kaemingk 2<sup>nd</sup> 5-0**

### 4. DECLARATION OF CONFLICT

Korthuis asked to recuse himself from the Lynden Door CPA / Rezone. Korthuis stated that the company he works for does significant business for Lynden Door and JD Bargaen. None of the other Commissioners reported any ex-parte contact or conflict of interest.

### 5. PUBLIC HEARINGS

A. **CPA #22-02 and RZ #22-01, JD Bargaen / Lynden Door, 2122 Front Street**

Gudde addressed the Commission and stated that the application is for 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).

The subject property currently has a split land use designation. 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.

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.

The City Council previously supported a similar application in this area. In 2018 the adjacent parcel, immediately east, was successfully shifted from a commercial land use to an industrial land use with Comprehensive Plan Amendment 18- 01. The applicant's response to the criteria is located in the packet.

Lesla Starkenburg PO Box 231, Lynden

Starkenburg addressed the Commission. The proposed 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.

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. As a result of the current ownership of the parcel, infill will occur more quickly if the property is designated industrial versus commercial and may facilitate infrastructure development in this area for the City sooner rather than later.

The site is located adjacent to the 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.

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.

The proposal will result in economic development, employment opportunities for the increasing population, and will maintain a positive business climate. Starkenburg asked for the Commission to please recommend approval to the City Council.

Questions or Comments from the Commissioners- none

Speaking in opposition

Letter from Glen Tromp dated September 12, 2022. Letter is in the PC meeting packet.

**Scott motioned to close the public hearing. Seconded by Kaemingk and the motion passed, 6-0.**

Lyons asked why the zoning change now, do they have plans for development? Gudde replied, not at this time, however, the zoning change is a better fit for the area.

**Criteria for Approval:**

Applicant has responded to the following questions and statements with written justifications for the proposed CPA and Rezone. Care should be taken to consider potential impacts to the surrounding properties and the City as a whole and mitigate as needed. See meeting packet for detailed responses.

To grant this request, the Planning Commission must find that the application satisfies the criteria listed within Section **17.09.040 (C)** of the Lynden Municipal Code. The Commission agreed that the application meets the required criteria.

To grant this request, the Planning Commission and City Council must also find that the application satisfies each of the criteria listed within Section **17.19.050** of the Lynden Municipal Code. The Commission agreed that the application meets the required criteria

No further comments from the Commission. The Commission agreed that the request is reasonable.

**Scott motioned to recommend approval to the Lynden City Council of the Lynden Door Rezone #22-01 and Comprehensive Plan Amendment #22-02 subject to the Technical Review Committee Report dated September 12, 2022. Seconded by Johnson, and the motion passed 6-0, with Korhuis abstaining.**

**B. CPA #22-01 and RZ #22-02, City of Lynden Mixed Use Development Updates, Land Use Map, Future Land Use Map, Zoning Map, and text Amendment**

Gudde addressed the Commission and stated that the application is for a Comprehensive Plan Amendment and Rezone. The City is proposing several updates to the Lynden Municipal Code that are seeking to foster the appropriate development of mixed-use areas (Residential/Commercial) within the City.

The proposed updates will change the current mixed-use allowance (60:40 GFA ratio as determined in LMC 19.23.020) to a mixed-use overlay that can be activated within commercial zones under established criteria. These updates to the City's development code also necessitate amendments to the City's Comprehensive Plan, specifically the Comp Plan maps - the Zoning Map, the Future Land Use Map, and the City's Subarea Map. A related text amendment will update language to reflect changes to the City's subareas.

In December 2021, City Council passed Ordinance No. 1642 which established a moratorium on residential development within the City's CSL zone. This moratorium was a

reaction to somewhat unsuccessful results being witnessed on mixed use development projects undertaken in the City's CSL zone. Achieved mixed use development has been focused on maximizing residential units, which it has done, but has struggled to develop effective commercial space. With the moratorium, Council asked staff to consider a new model for mixed use development that still supports residential use but, effectively, promotes more cooperative commercial uses for that residential development.

Since Ordinance 1642 was adopted, staff has worked with relevant interest groups, property owners, and policy makers to propose a new mixed-use overlay (LMC 19.23.110 Mixed Use Overlay) to the existing Chapter 19 of the Lynden Municipal Code. Discussion regarding the new overlay resulted in supplementary updates to other LMC sections, a change to Lynden's defined subareas, zoning changes for certain commercial zoned properties, changes to the City's Future Land Use map, and related code housekeeping updates.

A complete list of the proposal is located within the Commissioners packet.

Questions or Comments from the Commissioners

- When will the properties in the UGA come into the City? Gudde, it is usually up to the property owners and not City lead. In order to move forward with an annexation request, you need the signatures of at least 60% of the assessed property value of the proposed area.

Questions or Comments from the public.

### **West Lynden Future Zoning**

- Garth Kooy, 331 Birch Bay Lynden Road  
Regarding West Lynden Future Zoning Map, the residential area is being squeezed. Birch Bay Lynden Road should be a line in the sand for the zoning border. Keep the land south as residential, with the exception of the grandfathered in existing commercial uses. It's a great place for residential development.

Think of the families that live in the area with small residential properties. Open space taxation needs to continue.

In support of removing the current commercial and the proposed industrial designation south of Birch Bay Lynden Road to residential, it is a better use.

- Steve Schuyleman, 371 Birch Bay Lynden Road  
I favor of moving from red to white on the existing futures land use map. Low density residential. Schuyleman stated that they have the biggest farm in that area, how would coming into the city affect that? Gudde stated, as those uses come into the city you can continue to use your property as you use it today. Once you develop you will be required to comply.

- Joe King, 849 Flynn Road

Asked for explanation of the low vs. medium density residential. In favor of keeping the zoning as medium density.

The current petition that Council has authorized in my area has not yet come back. Is there a time frame? Gudde stated that she is not aware of a time frame.

Brief discussion regarding annexing the floodplain.

Scott asked King what his zoning preference was. King stated that there needs a place for people to live. He prefers the property to be zoned residential medium density.

**Scott motioned to close the public hearing. Seconded by Korthuis and the motion passed, 7-0.**

Commissioner discussion:

Johnson likes the idea of keeping residential south of Birch Bay Lynden Road with no industrial zoning. Existing businesses could remain, however, there could be no new development of commercial. There are several existing homes just beyond that zoning line in the county.

What about a mix of single family and multi-family?

Kaemingk, residential medium density makes more sense over industrial.

Kush, can we have both medium and low density in that area. Gudde replied, yes. Kush stated that we are pushing the limits in the northeast portion of town, this is a good area for development and a good idea.

Lyons in favor of residential instead of industrial.

Korthuis, if this is changed, it can always be brought back to the PC for a rezone if a property owner was interested.

Looking at the map and seeing a lot of industrial come into the area. Korthuis is hesitant to zone residential for the long run if we are building so much industrial. Can see a potential for residential, but if so, it should be a higher density. When weighing both ideas, Korthuis likes it better as proposed. Industrial fits the overall general area. The big picture goal is better off to set zoning as Industrial for the future.

Johnson, Kaemingk, Scott, Faber, Lyons and Brar would like to see residential in place of industrial in the West Lynden Future Map proposal. Korthuis prefers Industrial.

## **East and North Lynden Zoning**

Discussion regarding the zoning proposed for the east and north Lynden areas.

Letter submitted dated September 21, 2022, from Mike Kooy (sent to PC): regarding Skyview SP No 2 Lot 4. City proposal is to rezone to RM-3 and his group would like RM-4.

Faber asked the commission if there is any discussion on changing the zoning to RM-4? The Commission agreed, no, keep it as RM-3, it is the best fit. Not supportive of the City's highest density category in that area.

Brief discussion regarding WSDOT access permits on E Badger Road. Could WSDOT reduce the unit count? No, however, they would require access improvements.

Staff is supportive of what has been brought forward this evening. RM-3 not RM-4.

### **Criteria for Approval:**

Applicant has responded to the following questions and statements with written justifications for the proposed CPA and Rezone. Care should be taken to consider potential impacts to the surrounding properties and the City as a whole and mitigate as needed. See meeting packet for detailed responses.

To grant this request, the Planning Commission must find that the application satisfies the criteria listed within Section **17.09.040 (C)** of the Lynden Municipal Code. The Commission agreed that the application meets the required criteria.

To grant this request, the Planning Commission and City Council must also find that the application satisfies each of the criteria listed within Section **17.19.050** of the Lynden Municipal Code. The Commission agreed that the application meets the required criteria.

No further comments from the Commission.

**Kaemingk motioned to recommend approval to the Lynden City Council of CPA #22-01 and RZ #22-02, for the City of Lynden, regarding Mixed Use Development Updates, Land Use Map, Future Land Use Map, Zoning Map, Sub-Area Map and Text Amendment as proposed and further subject to the following condition:**

- 1. That the 40 acres south of Birch Bay Lynden Road shown on the proposed future land use map as industrial land use be changed to residential, low-density land use.**

**Seconded by Scott, and the motion passed, 6-1, with Korthuis in opposition.**

### **C. LMC Code Amendments: Mixed Use Overlay, Parking Code, and Associated Housekeeping Updates – LMC 17, 18, and 19**

Gudde addressed the Commission and stated this is the public hearing for the workshop that was held with the Planning Commission on September 8, 2022. This agenda item includes several LMC Code amendments relating to the Mixed-Use Overlay, Parking Code, and Associated Housekeeping Updates – LMC 17, 18, and 19. The proposed redlined updates to the LMC chapters are separately attached in the application packet.

Proposed Code Updates: The full list of proposed code updates is listed below.

LMC 17.01.030 Definitions: The addition of Storage – “Mini” and Storage – “Large Scale”. *PC support.*

LMC 18.22 Manufactured Home Park Subdivision Standards: Updates to “Siting Criteria” to allow increased density, and landscaping requirements. *Kush asked about keeping the perimeter buffer at 30-feet. 30-feet is greater than other areas in the city. The PC supported the proposed 20 feet.*

LMC 19.11 Districts Established: Housekeeping updates and the reduction of RM4 maximum density. *PC support.*

LMC 19.17 Multifamily Zones: Housekeeping updates and added requirements for open space / residential amenities for developments of 8 or more units. *Brief discussion regarding 19.17.100 and why the change to the DRB review vs approval. Faber, DRB provides review for compliance not approval. PC Support*

LMC 19.19 Manufactured Home Zone: Increased density allowances, prohibit site-built homes within MH park. *No Comments*

LMC 19.20.040 – ADU permitting and Enforcement- *PC Support.*

LMC 19.22 Design Standards: Housekeeping updates. Also included in the update is the proposed deletion of the minimum roof pitch requirement. Acceptance of this change was not unanimous; however, the PC did agree to the addition to 19.45.035 that allows a design criteria waiver that could allow a different roof pitch once reviewed by the DRB. *PC Supports.*

LMC 19.23 Commercial Zoning: Removed the existing mixed-use allowances (60:40 and North Lynden Subarea), strengthen site design requirements, and added the Mixed Use Center Overlay (19.23.110), small-scale downtown Mixed Use, and the related zoning language to support that overlay.

*Gudde stated that the Finance / Council Committee would like to recommend that body piercing and tattoo studios be its own line item and not included in with personal services. That the use only be allowed in the CSR zone. PC Support.*

*Discussed the revised language outlined in 19.23.090 (F)(2)(B) regarding CMU Blocks. PC Support.*

*Discussion regarding the removal of the Dutch/Northern European design outlined within 19.23.090 for Mixed-Use Center Overlay and for retail stores great than fifty thousand square feet.*

*Gudde replied, the Dutch them is still required within the HBD. Over the years it has become watered down outside of the downtown core. Arguments indicate that modern / contemporary Dutch varies and changes with time. Faber stated that the Dutch Theme has not been used in the outskirts of downtown for years. Supports the requirement only in the HBD.*

*Brar wanted to be certain that Lynden was not losing its identity. The HBD should still require the Dutch standard.*

*Scott stated that the HBD looks more Dutch today than it did 20 years ago, and the outskirts were not Dutch.*

*Korthuis stated that the Dutch should be a requirement for the HBD, not necessarily for the rest of the town.*

*Faber asked the Commission if the requirement should be changed as proposed or remain. The Commission agreed that it should be changed as proposed.*

*19.23.110 (C) – Small scale Mixed-Use within the Central Lynden Sub-Area. Brief discussion regarding the design review standards for new multi-family construction, and clarification on existing commercial uses that would be permitted to transition into residential use according to the standards. Commission is good as proposed.*

#### 19.23.110 – Mixed Use Overlay Development Standards

- *Discussion regarding max Height- 52 / 60 feet at 4 floors? Should 5 stories be allowed with a CUP?*
- *Open space requirements? Create spaces large enough for people to use. Also look to walkability of parks etc.*
- *Required Commercial Area. CS use within Mixed Use Overlay requires ground floor to be at least 60%. Parking on ground floor does not count as commercial.*
- *Flex Space - Flex space must equal 20% of the net lot area.*



- Design Review Board – Discussion regarding DRB approval requirements including the Dutch themed architecture requirements for the HBD only, and/or to recognize, restore, pay tribute to the historic structure and architecture of the building.

*The Commission was satisfied with 10% open space, 20% flex space and keeping at 4 floors max. The PC was also supportive of the amendment to the Design Review Board requirements and theme.*

• LMC 19.29 Planned Residential Development: Housekeeping updates. *Commission had no concerns.*

• LMC 19.45 Design Review:

- Housekeeping updates.
- Clarification of a process that already exists regarding determining review.

The Commission reviewed David Vos’ letter regarding concerns with Staff authority specifically relating to the DRB. The Commission discussed the importance of staff, in the interest of process efficiency, having the ability to make judgement calls on “minor” proposals. Ultimately the Planning Commission concluded that they would support the proposed language as written without any revisions.

• LMC 19.51 Off-street Parking: Significant rewrite completed to clarify section of code.

- Increased requirements for large MF projects,
- Decreased standard parking size from 9 x 21 to 9 x 19.
- Discussion regarding a parking requirement of 1.5 stalls for a studio unit.

*Commission had no concerns.*

• 19.51.160 Parking exception will extend as follows: from Judson Street Alley to Grover Street between 2<sup>nd</sup> Street and 8<sup>th</sup> Street. *Commission Support.*

• LMC 19.63 Fence Permits: Housekeeping updates. *Commission Support.*

No comment from the public.

**Scott motioned to close the public hearing. Motion passed, 7-0.**

No further comments from the Commission.

**Korthuis motioned to recommend approval to the Lynden City Council of the**

**proposed LMC Code Amendments and Updates to Titles 17, 18, and 19, including; the Mixed-Use Overlay, Parking Code, and Associated Housekeeping Updates subject to the following conditions:**

- **19.22.030 (C) (4) - That the Residential Design Criteria requirement for a 4:12 roof pitch remain with the option to seek a waiver with the Design Review Board.**
- **19.51.040 - That the parking requirements for studio apartments be added to reflect 1.5 parking stalls per unit.**
- **19.23.020 - That body piercing and tattoo studio uses remain as outlined in the current code – permitted only within the CSR zone.**

**Seconded by Johnson and the motion passed 7-0.**

## **6. ADJOURNMENT**

**Motion to adjourn by Scott / Second by Kaemingk. Meeting adjourned at 10:20 pm.**