

LYNDEN CITY COUNCIL

MINUTES OF THE REGULAR SESSION

NOVEMBER 3, 2008

I CALL TO ORDER

Mayor Pro Tem Gary Bode called to order the November 3, 2008 regular session of the Lynden City Council at 7:00 P.M. at the Lynden City Hall Annex.

ROLL CALL

Members present: Mayor Pro Tem Gary Bode; Councilors Doug Adelstein, Dave Burns, Ron De Valois, Tobey Gelder, Jerry Kuiken, and Nick Laninga.

Members absent: Mayor Jack Louws with Notice.

Staff present: Fire Chief Gary Baar, Administrative Assistant Rachel Byers, Finance Director Teresa Camfield, Planning Director Amy Harksell, Public Works Director Duane Huskey, Parks and Recreation Director Vern Meenderinck, and City Administrator Bill Verwolf. Also present was Attorney Simi Jain for City Attorney Bob Carmichael.

APPROVAL OF MINUTES

Councilor Burns moved and Councilor De Valois seconded that the minutes of the October 20, 2008 Regular Council session be approved. The motion carried.

APPROVAL OF THE PAYROLL

Direct Deposits, Draws and Warrants No. 13310 through 13368 \$ 411,580.63

Councilor Adelstein moved and Councilor Gelder seconded that the payroll be approved. The motion carried.

ITEMS FROM THE AUDIENCE

Scheduled - None

Unscheduled - None

III PUBLIC HEARING

Comprehensive Plan Amendment and Rezone - 08-01 - Main Street

On June 2, 2008 Mr. Rick Alexander submitted an application for a Comprehensive Plan Amendment and Rezone which stated his request to change the comprehensive plan designation from Industrial to Commercial and to rezone the property from I-1 (Industrial) to CS-1 (Commercial Shopping) at 100, 104, 110, and 114 Main Street.

The Planning Commission held a public hearing on the request on September 18, 2008 and has recommended approval of both the comprehensive plan amendment and rezone. Being that this is a legislative matter the Council has the opportunity to hold another public hearing on the application.

If Council approves the amendment and rezone, staff will prepare a final ordinance and notice to the Washington State Department of Community, Trade, and Economic Development to be brought back before Council for consideration of final approval in December.

Mayor Pro Tem Bode opened the Public Hearing at 7:03 P.M.

Speaking in favor:

Mr. Rick Alexander, 308 Kwanza Drive, Lynden, WA 98264 appeared before Council and read a statement supporting the rezone.

Mr. Merle Herrett, 104 Main Street, Lynden, WA 98264 appeared before Council and stated that he is in favor of the rezone.

Speaking against:

None.

Councilor Burns moved and Councilor De Valois seconded that the Public Hearing be closed. The motion carried.

The Public Hearing closed at 7:08 P.M.

Councilor Burns moved and Councilor Adelstein seconded that Comprehensive Plan Amendment and Rezone #08-01 be approved as recommended by the Planning Commission and that staff be authorized to complete the required ordinance and notice to the Department of Community, Trade, and Economic Development to be considered by Council in December. The motion carried.

Size Restrictions for Big Box Stores

The City entered into a contract with Pitney Bowes MapInfo in March of this year to analyze the retail market area for Lynden. The firm has identified the City's local and regional trade areas, completed a field analysis, and compiled the demographic, lifestyle, and retail expenditure data for the trade area. The study also provided the City with a list of potential retailers whose demographic and psychographic preferences matched the community.

The Zoning Review Committee discussed the results of the study and how to best approach increasing the availability of goods and services within our city. The question of whether the size limitation for general retail sales should be removed has been the subject of debate and discussion. The zoning Review Committee prepared a recommendation that was sent forward to the Planning Commission for a public hearing.

The Planning Commission held their public hearing on October 9, 2008 and heard from property owners and Lynden Chamber of Commerce Executive Director Gary Vis. The Commission's minutes and resolution were provided to Council.

The staff and the Zoning Review Committee are seeking answers or direction from the Council on the following questions:

1. Should the City lift the size limit of 65,000 square feet on general retail stores?
2. If the answer is yes, should there be any size limit on general retail stores?
3. If that answer is yes, the Zoning Review Committee is discussing a limit between 180,000 and 250,000 square feet. Does the Council have further input on the size limit?

Mayor Pro Tem Bode opened the Public Hearing at 7:13 P.M.

Speaking in favor:

Mr. Don Korthuis, 2151 Stickney Island Road, Everson, WA 98247, appeared before Council and stated that he is in favor of lifting the size limit.

Mrs. Sally Korthuis, 2151 Stickney Island Road, Everson, WA 98247, appeared before Council and said why she would like the restrictions lifted.

Speaking against:

None

Other:

Executive Director of the Lynden Chamber of Commerce Gary Vis, 518 Front Street, Lynden, WA 98264, appeared before Council and stated that the Lynden Chamber of Commerce has not

CITY OF LYNDEN
PLANNING COMMISSION RESOLUTION #08-08

ORIGINAL

A resolution of recommendation for approval of Comprehensive Plan Amendment and Rezone #08-01, Main Street to the Lynden City Council.

WHEREAS, Rick Alexander, hereinafter called the "Proponent," submitted a complete application to the City of Lynden, hereinafter called the "City," for a Comprehensive Plan Amendment and Rezone to change the comprehensive plan designation from Industrial to Commercial and to rezone the property from I-1 (Industrial) to CS-1 (Commercial Shopping).

WHEREAS, the Proponents have provided the City with an affidavit of posting for the notice of application and public hearing in three locations near the subject property, and the receipts for the certified mailing of said notice to all property owners within three hundred feet of the subject property; and

WHEREAS, the application was determined to be complete on July 31, 2008, and the notice of application was published in the Lynden Tribune on August 13, 2008; and

WHEREAS, the City issued a Determination of Non-Significance on August 18, 2008, and the comment period to appeal or comment on that determination expired on September 10, 2008, and

WHEREAS, the subject parcels has property zoned industrial to the north, east and to the west as well as commercial zoning to the south.

WHEREAS, the Lynden Planning Commission held a public hearing on September 18, 2008, at the City of Lynden, City Hall Annex, 205 4th Street, Lynden, Washington, to accept public testimony on the proposed Comprehensive Plan Amendment and Rezone, and that meeting was duly recorded;

WHEREAS, the City's Technical Review Committee has reviewed the request for the Rezone and Comprehensive Plan Amendment and has provided comments and recommendations to the Planning Commission in a report dated September 4, 2008.

WHEREAS, the Lynden Planning Commission has reviewed the request for the Comprehensive Plan Amendment and Rezone and has found the following to be true:

1. Granting the rezone request would further the purposes of the Lynden Comprehensive Plan and allow for logical use of the property.
2. The rezone does conform within the surrounding zoning and land uses.

NOW THEREFORE, BE IT RESOLVED by the Lynden Planning Commission to recommend approval by a vote of 6-0, to the Lynden City Council, of Comprehensive Plan Amendment and Rezone #08-01, Main Street, subject to the Technical Review Committee Report dated September 4, 2008.

PASSED by the Planning Commission of the City of Lynden, Whatcom County, at the meeting held the 10th day of November 2004.



Brent Lenssen, Chairperson,
Lynden Planning Commission



Amy Harksell, AICP,
Planning Director

CITY OF LYNDEN
PLANNING COMMISSION MEETING MINUTES
City Hall Annex
7:30 P.M.
September 18, 2008

I. CALL TO ORDER

Chairperson Lenssen called the Planning Commission meeting to order at 7:30 p.m. on Thursday, September 18, 2008 at the City of Lynden City Hall Annex.

II. ROLL CALL

Members Present: Faber, Lenssen, Reed-Jennings, Scott, Skinner, VanderWerff, and Veltkamp
Members Absent: None
Staff Present: Harksell, Planning Director, and Byers, Administrative Assistant

III. MINUTES

A. August 21, 2008

Skinner motioned to approve the August 21, 2008 Planning Commission minutes. Seconded by VanderWerff, and the motion passed 6-0.

IV. DECLARATION OF CONFLICT

None of the Commissioners reported any ex-parte contact or conflict of interest.

V. PUBLIC HEARING

* A. CPA / RZ #08-01, Main Street, 100, 104, 110 and 114 Main Street

Lenssen opened the public hearing for the CPA / RZ #08-01.

Harksell read the staff report dated September 4, 2008.

Rick Alexander, 308 Kwanzan Drive, Lynden

Alexander appeared before the Commission and read the narrative he had submitted with his application. He said that the subject property is located in an area that has multiple zone uses. There is a mix of Commercial and Industrial zoning within three hundred feet of the subject property boundary. The current zoning of the property is I-1. Section 19.37.080 of the Lynden Municipal Code provides that existing residential uses in non-residential zones shall comply with the standards of the RS-72 zone, which is a residential zone until the use becomes compliant with the underlying zone. This means that the property may be maintained and improved as a residence as if the property were located within a residential zone.

He said that based on these conditions, the City of Lynden will not act to alter or prohibit the continued use of a residence located on the referenced parcel as long as it remains in its current status and condition. If the residence were to be destroyed by more than fifty percent of the property's value, the owner may have the opportunity to request a variance from the non-conforming provisions for the Lynden Municipal Code.

He said that the homes located on the subject property were built in the early 1900's and they are presently owner occupied or rented. The combined square footage of these properties is approximately 32,288 square feet. The homes are for sale. However, it has been very difficult for buyers to get conventional financing because of the Industrial zoning. The one house that sold this past year was through a private portfolio loan arrangement.

Alexander stated that Versacold Cold Storage Corporation also presented offers to buy the subject properties on November 2, 2008. However, their feasibility study concluded that the subject properties were not cost effective for their expansion plans.

He said that the industrial business owners have looked at the subject properties to purchase during the past several years. The prospective buyers are concerned about the pedestrian and vehicle traffic on Main Street and being close to commercial businesses and residential homes. The essential function of the Industrial zones is to provide a suitable area in which manufacturing is conducted. Industrial businesses are not retail or professional services related and they are not looking for high visibility locations. Fortunately, the subject properties have received overwhelming interest from commercial businesses looking for property in downtown Lynden.

He stated that anchored by the New City Hall and Public Library this part of downtown Lynden is transforming in a way that is more suited for professional businesses. The City's large residential populations to the north and east provide a viable customer base that increases the demand for commercial businesses at and near the subject properties.

Alexander said that commercial and residential growth in the downtown area surrounds the Darigold, Versacold, and West Farm Foods Industries. These businesses have loading docks with large trucks and rail crossings that block traffic. It is not uncommon to wait on Depot Street for a Darigold and/or Versacold truck to back in and out of the loading docks. This can be annoying when you are driving the kids to school and you have to be at work on time. The large trucks are a public concern with the elementary and middle school children walking to and from school. However, the rail crossings are seldom used.

He said that he knows real estate prices in the downtown core are not cost effective for the existing Industrial businesses to buy more property and expand their base of operations. To help these businesses grow and stay in Lynden it may be necessary to begin promoting a commercial rezone in this part of downtown.

Alexander stated that the commercial use of this property will promote pedestrian activity with easy access from the new sidewalk and be a nice buffer in front of the Cold Storage Plant. He requested that the rezone be approved.

Merle Herrett, 104 Main Street, Lynden

Herrett appeared before the Commission and stated that the lots have been for sale since Versacold decided not to purchase them. He said for all the reason stated by Alexander he would like the request for the rezone to be approved.

Veltkamp asked Alexander if there have been any further discussions with Versacold since their feasibility 2 years ago. Alexander said that he talked with individuals at Versacold after notices went out regarding this rezone request. Alexander said that Versacold is not interested in purchasing these lots but wished them luck.

Skinner asked if the properties would be developed individually. Alexander said that 3 of the lots would be developed together in accordance with City standards, which will include off street parking.

Veltkamp asked if Alexander was aware of any prospective buys should the rezone be approved. Alexander said there are several.

Faber asked what would happen to the remaining lot. Alexander said that lot 114 will not be developed with the other 3 lots and will retain the existing house. He said he didn't know what might happen in the future.

Reed-Jennings asked Harksell if any of the City codes that are currently being reviewed would be affected by this change. Harksell said no.

Scott asked if the lot that was not being developed could be sold to another family. Harksell said yes. Alexander added that currently it is difficult to obtain financing for industrial which is another reason they would like the property rezoned to commercial.

Veltkamp stated that there are several empty spaced downtown and asked if a development on the property in question would affect the downtown area. Harksell said that she does not believe there would be a negative impact to the downtown if this property is developed for commercial use.

Faber stated that under CS-1 a retail store could be built and asked Alexander if he thought a retail outlet would fit in that location. Alexander said that the space is too small for big retail but he could see an optometrist selling glasses or a small pharmacy maybe, however, the primary use would be for small offices.

Vanderwerff asked if the lone house would remain. Alexander said yes.

Lenssen asked how deep the lots are. Alexander, Harksell, and the Commission all discussed the lots sizes, 150 feet deep, and who owns the various lots in the area.

Scott moved to close the public portion of the hearing. Seconded by Reed-Jennings, and the motion passed 6-0.

Lenssen asked for Commissioner's comments.

Vanderwerff said he felt the rezone would be an okay fit. He stated that he wished Versacold would have purchased the properties; however, since they don't plan to purchase them, and there are no other parties interest in the properties for industrial purposes, he said this is the next best thing. He said he is in favor of the rezone.

Veltkamp stated that she prefers not to do spot rezones. She said she can understand the rationale behind this request, however if the request is approved there will be a mixed bag of zone regulations and the Commission and the City have been very vigilant about making these types of spot rezones.

Reed-Jennings stated that the industrial designation for that whole area no longer fits in with its surroundings and should be rezoned for commercial. She said that she is in favor of the rezone.

Faber stated that due diligence has been done by the property owners to sell the property within its current zone designation. He also feels the whole area should be rezoned for commercial. He said he didn't have a problem with this proposal and that it is a good fit for the area.

Skinner stated that he did not have a problem with the rezone.

Scott said he sort of agrees with Reed-Jennings regarding the whole area's designation. He said he is in favor of the rezone.

Veltkamp asked if the potential was out there to start thinking about this area and the way it is zoned so it is a better fit should the Commission feel strongly enough about the issue. Harksell said that approving this

request is a step in that direction and discussed some issues around that possibility. Harksell also noted that this is not a spot rezone as it is next to property that is currently designated commercial, so it is more of an extension which is consistent with previous actions.

Lenssen stated that it is naive to think that Versacold would ever move. Harksell discussed Versacold's recent investments that supported Lenssen's statement.

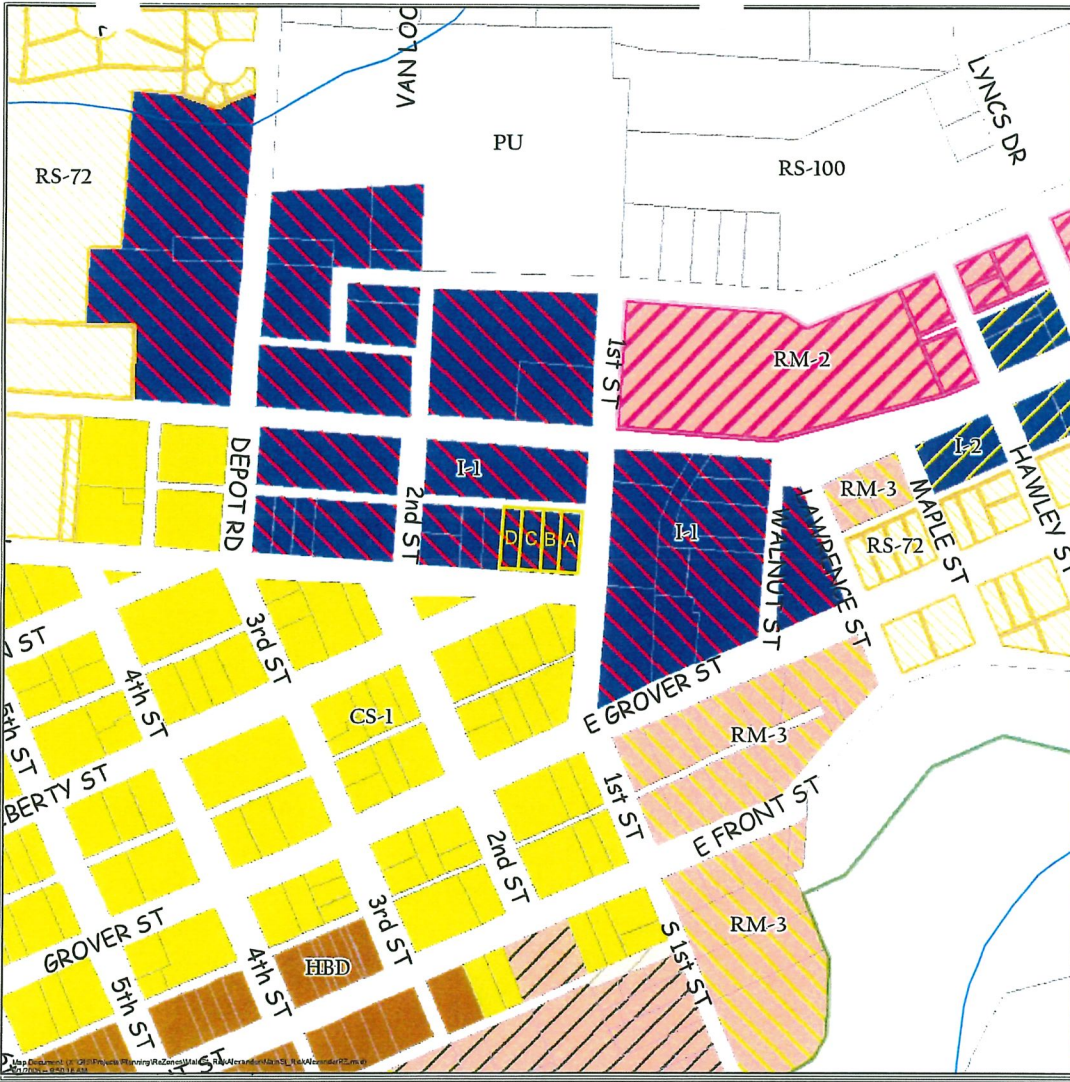
Reed-Jennings motioned to recommend approval of CPA / RZ #08-01, Main Street, as presented, according to the findings, conditions, and recommendations of the Technical Review Committee Report dated September 4, 2008. Seconded by Skinner, and the motion passed 6-0.

B. Other

The Commission briefly discussed their upcoming agenda.

VI. ADJOURNMENT

Faber motioned to adjourn the meeting at 8:13 P.M. Seconded by Scott, and the motion passed 6-0.

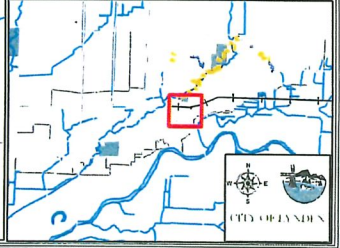
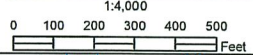


**APPLICATION FOR:
MAIN STREET
COMPREHENSIVE PLAN
AMENDMENT & REZONE**

**Rezone
From: I-1
(Industrial District 1)
To: CS-1
(Community Shopping 1)**

- A Parcel: 400320 384442 0000
Address: 100 Main St
0.16 Acres
6,969.60 SqFt
- B Parcel: 400320 379442 0000
Address: 104 Main St
0.16 Acres
6,969.60 SqFt
- C Parcel: 400320 374442 0000
Address: 110 Main St
0.17 Acres
7,405.20 SqFt
- D Parcel: 400320 368442 0000
Address: 114 Main St
0.19 Acres
8,276.40 SqFt

- Ditches / Streams
- City Limits
- Parcels
- Proposed Rezone



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