

CITY OF LYNDEN

PLANNING DEPARTMENT
Heidi Gudde, Planning Director
(360) 354-5532



PLANNING COMMISSION MEETING

7:00 PM October 21, 2021
Microsoft Teams Meeting

1. CALL TO ORDER

2. ROLL CALL

Commissioners Present: Blair Scott, Tim Faber, Hollie Lyons and Darren Johnson

Commissioners Absent with Notice: Bryan Korthuis

Staff: Heidi Gudde and Korene Samec

3. APPROVAL OF THE MINUTES OF September 9, 2021

Scott approved as presented. Johnson seconded.

4. DECLARATION OF CONFLICT

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

5. PUBLIC HEARINGS TO CONSIDER:

A. CPA #21-02 & RZ #21-01, Vander Giessen Nursery, 315 E Grover St and 205 Hawley Street, Lynden

Gudde summarized the proposed Comprehensive Plan Amendment and Rezone Application for Vander Giessen Nursery.

Applicant is requesting a Comprehensive Plan Amendment to change the Comprehensive Plan designation of two parcels owned by Vander Giessen Nursery from Residential to Industrial. It would specifically change the zoning of the subject parcels from Residential Single Family 7,200 (RS-72) to Industrial Business Zone (IBZ).

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

Public Comment

David Vos, Owner, Vander Giessen Nursery, Inc., 401 E Grover Street, Lynden

Vos stated 205 Hawley Street has been use by the by the nursery since the 50's. This request is more to correct the zoning as it has been used in that manner for many years.

For 315 Grover Street, the plan is not to make any immediate changes, however, would like more flexibility in the future to grow the nursery. There is a family renting the property at this time. When it comes time to convert, the property will likely be a display yard / space.

Questions or Comments from the Commissioners

- Faber, the property to the west is still currently single family. Wondered about a buffer along the north side.
- The current residence is still planning to stay a residential use.
- Lyons, no immediate need to rezone 315 Grover. Once it is rezoned, other industrial buildings could be built there if the nursery chooses not to expand the nursely. Will there be any stipulations placed on the approval as a protection? Gudde stated that it is difficult to put conditions on a rezone as it is hard to track. At the time of development any construction would need City review through the permitting process.
- If a new industrial building was built. There would be landscape buffers and enhancements required by code.
- Lyons asked if there was a timeframe for the industrial use of 315 Grover Street? Vos replied, maybe 2-5 years. The family that is renting the home is happy there.

Questions or Comments from the public - None

Scott motioned to close the public portion of the hearing. Seconded by Lyons and the motion passed 4-0.

The Commission agrees that the request is reasonable.

Criteria for Approval: Applicant has responded 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 response

To grant this request, the Planning Commission and City Council must also find that the application satisfies each of the criteria listed within Section 17.09.050 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; **Yes, the nursery has been there for 70 years.**
- b. The proposed site-specific rezone is consistent with the City's comprehensive plan and applicable sub-area plan(s); **Agreed.**
- c. The project proposal is consistent with the City's development codes and regulations for the zoning proposed for the project. **Agreed.**
- d. The proposed site-specific rezone is compatible with existing uses and zoning in the surrounding area; **Agreed.**
- e. The proposed site-specific rezone will promote the health, safety and general welfare of the community. **Agreed.**

In addition, the Commission must review the 6 criteria listed under 17.09.040 (C).

1. The development is consistent with the comprehensive plan and meets the applicable requirements and intent of this code. **Yes.**
2. The development makes adequate provisions for open space, drainage ways, streets and other public ways, transit stops, water supply, sanitary wastes, parks and recreation facilities, playgrounds, sites for schools and school grounds. **Yes.**
3. The development adequately mitigates impacts identified under Titles 16 through 19. **N/A.**
4. The development is beneficial to the public health, safety and welfare and is in the public interest. **Yes.**
5. The development does not lower the level of service of transportation and/or neighborhood park facilities below the minimum standards established within the comprehensive plan, and fully complies with Chapter 17.15 of the city code. If the development results in a level of service lower than those set forth in the comprehensive plan, the development may be approved if improvements or strategies to raise the level of service above the minimum standard are made concurrent with the development, and in conformance with all requirements in Chapter 17.15 of the city code. For the purpose of this section, "concurrent with the development" is defined as the required improvements or strategies in place at the time of occupancy, or a financial commitment is in place to complete the improvements or strategies within six years of approval of the development. **No changes being made, no impacts.**

6. The area, location and features of land proposed for dedication are a direct result of the development proposal, are reasonably needed to mitigate the effects of the development and are proportional to the impacts created by the development. **N/A. No impacts created as there is no development.**

Scott made a motion to recommend approval to the City Council of Comprehensive Plan Amendment #21-02, Rezone #21-01, Vander Giessen Nursery subject to the Technical Review Committee Report dated October 8, 2021. Seconded by Johnson and the motion passed 4-0.

B. CUP #21-03, Alliance Freeze Dry, 675 Redwood Road, Lynden

Gudde summarized the proposed Conditional Use Permit Application.

The request is for a conditional use permit to allow the use of food processing to occur within the Industrial Business Zone (IBZ). The proposal details the construction of a 220,000 square foot facility which produces, and packages freeze-dried pet food. The processing plant site is approximately 9.93 acres and located at the southeast corner of the intersection of Main Street and Berthusen Road. The parcel has frontage on and is addressed from Redwood Road.

The proposal also includes a request to build a portion of the building to 75-foot height. Most of the building will fall below the permitted maximum height of 45 feet. A warehousing section of the building, about 7.5% of the footprint, is proposed to reach up to 75 feet in height to allow for the mechanized stacking of product which is more efficient and allows for a smaller building footprint.

Gudde stated that in the past the City has looked at other CUP for additional height. Preferred Freezer was granted the request for additional height, however, did not use it. Darigold was granted additional height as well with a tower at 150-feet.

There are specific criteria that needs to be met and the applicant has addressed those in their application, also in the meeting packet.

Gudde stated that there were a few letters of concern received which are also in the Planning Commission Packet this evening.

Lyons referenced the Preferred Freezer CUP and asked what the height approval was for their application. Preferred Freezer was granted 75-feet in height, however, did not end up using it. The building was built at 45-feet high.

Gudde stated that the majority of the Alliance Freeze Dry building will be at 41-feet, with a 7.5% portion at 75-feet. There will be some mechanical equipment which will be screened.

Public Comment

Tony Freeland, Freeland and Associates, 220 West Champion, Bellingham, Applicant.

Freeland is the project engineer and is representing Alliance Freeze Dry. Freeland introduced Dennis Wu, owner of Alliance to make a brief statement. Freeland will follow with technical issues.

Dennis Wu, Owner, Alliance Freeze Dry, 5292 272nd Street Langley, BC

Wu thanked the Commission for meeting with them. Looking forward to bringing a very good project to Lynden. Alliance Freeze Dry Group was established in 2010 in Langley BC. Over the past 10 years has become the largest pet food and treats freeze drive manufacturer and supplier in North America. Products can be found in many big box stores, such as Costco, Walmart, Pet Smart as well as online.

Pets are our family members. Want to provide the best pet food and treats for them by using the best materials for those family members making every effort to use extra care and use of innovative ideas. Excited to locate in Lynden.

City of Lynden is the sister City of Langley. Alliance feels as if Lynden is our new home and will gladly contribute to the community and help support the wellbeing of the neighborhood. The new facility will generate new employment and bring new business opportunities to the neighbors.

Freeland addressed the Commission and stated that he will address some of the comments received from the neighborhood. The Team met with most of the neighbors that commented and have greatly taken into consideration their concerns.

Odors: Emphasize that the facility uses raw frozen products and that the organic waste is stored inside the building and then picked up and taken from the site. It is a very clean business.

Traffic: The facility will have approximately 9 truck trips per day.

Noise: The only producer of noise at the facility would be the mechanical and refrigeration units which are regulated in accordance with the noise codes.

Lighting: Lights will be shielded to protect light pollution to the neighbors. As the sun rises in the sky the shadow will be smaller. 7% of the building. It allows for a more efficient use of space.

Stormwater: This is the former PeaceHealth site. This property is not part of the drainage system within the West Lynden Business Park that has drawn quite a bit of attention in the past. Much of the concern is how the stormwater will be managed on site? Historically on this site, including Preferred Freezer and the parking lot within the Park, infiltration is what has been used. That strategy is not what this project intends to do. This project will not rely on ground water infiltration. The project will construct a underground vault, approximately 1 million gallons in size with storage capacity to hold a 100 year storm event. The water will be stored in the vault and pumped into the Berthusen Ditch at a very small rate. The rate will mimic the rate as if the property was forested. Very different approach than what has been used in other areas of the neighborhood. This will greatly address the concerns of the neighbors of peak storms and flooding events. This system will be by far the most conservative and reliable system. This system is a major investment for Alliance. The concrete vault will be located under the parking areas and is 12 feet deep, 100 feet x 150 feet. The water will leave the site at a lower rate than it does now.

Height: The goal was to have a building at 45-feet and to have all storage within that height, however, a condition was to dedicate land to the City for the purposes of constructing a round-a-bout which in turn caused the footprint of the building to be reduced. To maintain the storage requirements the elevation just limited to the storage area of the building had to be increased. By increasing the height, the storage system is using an automated storage system, which takes advantage of height. The facility has a generator along with two pumps.

Another concern related to height was the shadow that the building will cast. Freeland showed a shadow study that was prepared using the longest day of the year starting at 7 am. The shadow does not leave the site. As the sun rises in the sky the shadow will become smaller. Again, the increased height is only 7.5% of the building.

The discharge will be on the south side of the building into the ditch on the west side of Berthusen. There will be no additional waters discharging the site. This will not exacerbate the existing condition. This vault will be greatly oversized.

What is the timing of the round-about? Freeland, likely next summer (2022)

Gudde, addressed Freeland and stated that the CUP relates specifically to food processing. There are other uses that are permitted outright that would not require a CUP. If this was a warehouse or office of the same square footage and same parking area, is there a different stormwater standard that you would be held to? Freeland, no, it would be exactly the same requirements and solution. The owner wanted to take the most conservative approach with regard to stormwater because they do recognize the current impacts and historical impacts. It is an opportunity to share this with the community and public.

Johnson asked, how many people will be employed? 80 employees. Scott asked what type of jobs will be offered? Alliance replied, labor, maintenance, technical positions.

Lyons asked if Alliance has other US companies for manufacturing or processing? No, this is our first?.

Lyons asked if the PW Department is aware of the underground storage solution? Gudde, replied, yes they are. They have met regarding this topic many times?

Has there been any odor complaints from neighbors surrounding the factory in Canada? No complaints on smell from the Canadian neighboring properties.

• **Questions or Comments from the Public**

- Jerry Hemple, 8371 Berthusen Road, Lynden. Hemple is opposed to the project. Has lived here for 20-years. Moved here because of the quiet location and the view. The view is beautiful. The building will take away the entire viewshed. There are several families in this area. Believes there will be odors unless you have an abatement system. The ditch in front of his house cannot handle anymore water. Lives with a 37-decibel hum in his ear from the recently constructed freezer plant. Traffic is terrible with all of the 18 wheelers driving past his house. Hemple hopes that Alliance chooses another location.
- Lesa Starkenburg, 10.21.21 letter received from Lesa Starkenburg on behalf of Curt Maberry Farms regarding building height and stormwater concerns regarding the request (in file). The properties in the area will be agriculture for years to come. CMF wants to ensure that their farm is not negatively impacted or impacted to a greater extent than necessary. They understand that it is zoned for industrial uses, just wants to make sure that it is done in a way that other parcels can still maintain. The biggest issue for CMF is the drainage. Yes, the CUP is about the use inside of the building. However it is also time to discuss whether or not this use is compatible with the surrounding uses. Stormwater is a concern. How do we make sure that this project adequately addresses stormwater?
- Kelly Dykstra 8393 Berthusen Road, Lynden, The Dykstra's bought their property 3-4 years ago. Always knew that eventually there would be a building in front of them but was told that there was a height restriction. The view is part of the reason they moved there. Concerned with the water, view and traffic that will be added to the area.
- Laurel Oval, 8431 Berthusen Road, Lynden, Moved to Lynden to serve in local schools. Concerned for when it snows, decreasing property values, also concerned with the underground vaults. The recent road construction has now caused their home

to shake when large trucks drive by. Concerned with what the underground vault might do?

Freeland responded that he expected to hear those types of comments, understands their concerns. This is typically what happens when industrial and residential are close. The underground vault will not negatively impact any off-site property.

Faber asked, if the height was not granted is there another option? Freeland stated for the facility to function properly it cannot be done without the additional height. If there were no request for a roundabout dedication, the building could be larger and constructed within the 45-feet. Otherwise it is be a no-go.

Public comments received as noted below. City response in meeting packet and in file.

- 1) Thomas VanBerkum - Submitted a letter (included in the PC package) citing concerns related to the height of the proposed building and its impact on views, storm drainage challenges in this area, and other impacts including additional traffic, odors, noise and light.
- 2) Greg Dykstra - Email (included in the PC package) citing concerns related to storm water runoff, odors that would be created from the processing plant, the noise associated with the facility, and the potential for views to be blocked by the 75-foot tall portion of the building.
- 3) Randy Korthus – Letter submitted (included in the PC package) which details concerns related to drainage along Berthusen Road and the West Lynden Business Park, building height and consistency with other buildings in the area, and snow drifting on the west side of the proposed building negatively affecting Berthusen Road.

Johnson motion to close the public portion of the hearing. Seconded by Scott 4-0.

There was discussion regarding Chapter 19.25 – specifically relating to performance standards. CUP's are to be reviewed every year. The nuisance code will also apply. The Commission asked if the CUP could be conditioned regarding noise / decibel levels to meet standards prior to issuing the final occupancy of the building. Yes, performance standards related to noise must demonstrate compliance with allowable levels.

Scott is concerned with comments that truck traffic on Berthusen Road is shaking homes. Is there something that should be reviewed? Faber stated that the best way to mitigate that would be to slow the speed of the traffic. Johnson stated that the roundabout will also slow the speed.

The Commission reviewed the required criteria as outlined in 19.49.020 (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. **Freeland is correct that the overall building at 41-feet will be what most obscures the views not the small percentage at 75-foot height. Adding a condition that performance standards as to noise, smell, would have to be met at the edge of the property corners would be a good idea. Commission Agreed.**
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; **may be improved with the round-about.**
 - b. Noise, smoke, fumes, glare or odors generated by the proposed use; **as long as the City requires compliance with the performance standards.**
 - c. Building and site design; **no concerns.**
 - d. The physical characteristics of the subject property **no concerns.**
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. **Agreed.**
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. **Agreed.**
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. **Other than the height, there is no concern. If we approve the request for 7.5% of the building at 75 feet this item would be met.**

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. **Agreed.**
7. The proposed use will not destroy or substantially damage any natural, scenic or historic feature of major importance. **Standing at Berthusen, one may not even notice the increased height in the back corner. Agreed.**
8. The proposed use is generally consistent with the purposes and objectives of the city comprehensive plan and applicable sub-area plan. **Agreed. Smells will be evaluated if there are any concerns.**

The Commission agreed that the application meets the 6 criteria listed under 17.09.040 (C).

1. The development is consistent with the comprehensive plan and meets the applicable requirements and intent of this code. **Yes.**
2. The development makes adequate provisions for open space, drainage ways, streets and other public ways, transit stops, water supply, sanitary wastes, parks and recreation facilities, playgrounds, sites for schools and school grounds. **Yes.**
3. The development adequately mitigates impacts identified under Titles 16 through 19. **Yes. Addressed during permitting.**
4. The development is beneficial to the public health, safety and welfare and is in the public interest. **Yes, it will bring jobs.**
5. The development does not lower the level of service of transportation and/or neighborhood park facilities below the minimum standards established within the comprehensive plan, and fully complies with Chapter 17.15 of the city code. If the development results in a level of service lower than those set forth in the comprehensive plan, the development may be approved if improvements or strategies to raise the level of service above the minimum standard are made concurrent with the development, and in conformance with all requirements in Chapter 17.15 of the city code. For the purpose of this section, "concurrent with the development" is defined as the required improvements or strategies in place at the time of occupancy, or a financial commitment is in place to complete the improvements or strategies within six years of approval of the development. **No issues with level of service associated with the CUP.**
6. The area, location and features of land proposed for dedication are a direct result of the development proposal, are reasonably needed to mitigate the effects of the development and are proportional to the impacts created by the development. **Only land dedicated will be for a much needed round-about. Agreed.**

Johnson motioned to close the public portion of the hearing. Seconded by Scott and the motion passed 4-0.

Scott made a motion to recommend approval to the City Council of the Alliance Freeze Dry Conditional Use Permit #21-03, subject to the following:

- 1. Those identified in the Technical Review Committee Report dated October 15, 2021.**
- 2. The applicant demonstrates compliance with noise performance per LMC 19.25.040 prior to issuance of the final building occupancy.**
- 3. That the Conditional Use Permit be evaluated annually as described by code, that compliance with the performance standards as described in LMC 19.25.040 are met, especially as it relates to noise and smell.**
- 4. Only 7.5% of the total building area is permitted to reach a height of 75-feet. The additional height is located as shown in CUP application 21-03.**

Seconded by Johnson and the motion passed 4-0.

C. CUP #21-01, Duffner Mobile Home Park, 2010 Front Street, Lynden

Gudde summarized the proposed Conditional Use Permit Application for the Duffner Mobile Home Park. The request is for a conditional use permit to allow the expansion of the existing non-conforming use of a manufactured home community (mobile home park) on a commercially zoned property. Note that a recent code amendment allowed for additional units to be added if approved through a Conditional Use Permit. Boundaries of the community are not proposed to expand.

LMC 19.23.020(11) "The expansion of existing, legal nonconforming mobile / manufactured home communities (MHCs) by adding addition units / pads within an existing community boundary shall be permitted only with an approved Conditional Use Permit (CUP). Approval of the CUP may be conditioned on meeting setbacks, providing buffers, and other appropriate design standards for MHCs. Connecting all units to City utilities is required. This is Conditional Use is applicable only within the CSR zone."

The subject property is located on the north side of Front Street near the intersection of Front Street and the Guide Meridian. The 32-unit manufactured home community (MHC) is

300 4th Street, Lynden, WA 98264
www.lyndenwa.org

commonly known as the Duffner Mobile Home Park. Its boundaries encompass 4 different parcels with a westerly parcel which currently include 2 additional homes for a total of 34 existing residences.

This MHC is considered a non-conforming use because the underlying property is zoned for commercial uses, specifically Commercial Services – Regional (CSR). However, this use was in place when the property was annexed into the City and therefore allowed to continue operation. Non-conforming uses are generally not permitted to expand or increase in intensity. However, recognizing the value of having affordable housing options which provides workforce housing to ag and industrial industries in the Lynden area, the City Council approved a code amendment which now allows some expansion. Specifically, MHCs located within CSR zoned properties may intensify (add units) if permitted through a Conditional Use Permit.

The pending proposal requests the addition of 14 units. New units would be mostly clustered at center of the property with several other units added throughout. The applicant has acknowledged the need to establish frontage improvements in the form of landscape buffers, additional community lighting, critical area protection, and street improvements.

Public Comment

Lesla Starkenburg PO Box 231, Lynden,

Starkenburg is representing the 4 “S” Group.

This project has had several steps. The non-conforming use will continue regardless. However, allowing the addition of units within the pre-existing park would alleviate some of the affordable housing opportunities in the community.

The applicant is looking for additional investment. This is a way for people to secure a place in the housing market.

There is a long list of conditions from the City located in the Staff Report. Met with the applicant to review. Of course the applicant is looking to find a balance as there becomes a point when they will be close to tipping the scale, however, the applicant is comfortable with moving forward as the Staff Report is written.

Questions or Comments from the Commissioners

Faber asked about the letter from Starkenburg regarding the landscape plan. It appears to be different from the Staff recommendation. Starkenburg stated that the landscape plan in the PC packet is what they are working toward. The only change would be to plant availability.

Faber asked, how many parcels are included in the park and should they be combined? Starkenburg noted that there at 3 different parcels. No reason to combine parcels.

Scott agrees with the basic concept that we need affordable housing. The City seems to have put a number of conditions in the Staff Report that will cover the need.

Lyons asked who maintains the property? Starkenburg replied, the owner of the land owns the property, the individuals own their unit. It is the responsibility of the lessee to maintain the property around their unit? Who will maintain the roads and landscaping? Starkenburg replied, the owner.

Johnson, no concerns. It is infill on what is already there.

Johnson motioned to close the public portion of the hearing. Seconded by Scott and the motion passed 4-0.

19.49.020 (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. **The added 13 units are mostly on the interior. Agreed.**
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; **no concern.**
 - b. Noise, smoke, fumes, glare or odors generated by the proposed use; **no concern.**
 - c. Building and site design; **no concern.**
 - d. The physical characteristics of the subject property **no concern.**
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. **No concern.**

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. **No concern.**
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. **No concern. Staff Report covers a lot.**
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. **No concern. Neighbors are higher use.**
7. The proposed use will not destroy or substantially damage any natural, scenic or historic feature of major importance. **Agreed.**
8. The proposed use is generally consistent with the purposes and objectives of the city comprehensive plan and applicable sub-area plan. **Agreed.**

The Commission reviewed the 6 criteria listed under 17.09.040 (C).

1. The development is consistent with the comprehensive plan and meets the applicable requirements and intent of this code. **Yes.**
2. The development makes adequate provisions for open space, drainage ways, streets and other public ways, transit stops, water supply, sanitary wastes, parks and recreation facilities, playgrounds, sites for schools and school grounds. **Yes.**
3. The development adequately mitigates impacts identified under Titles 16 through 19. **Yes..**
4. The development is beneficial to the public health, safety and welfare and is in the public interest. **Yes, it provides housing.**
5. The development does not lower the level of service of transportation and/or neighborhood park facilities below the minimum standards established within the comprehensive plan, and fully complies with Chapter 17.15 of the city code. If the development results in a level of service lower than those set forth in the comprehensive plan, the development may be approved if improvements or strategies to raise the level of service above the minimum standard are made concurrent with the development, and in conformance with all requirements in Chapter 17.15 of the city code. For the purpose of this section, "concurrent with the development" is defined as the required improvements or strategies in place at the time of occupancy, or a financial commitment is in place to

complete the improvements or strategies within six years of approval of the development.
No issues with level of service associated with the CUP.

6. The area, location and features of land proposed for dedication are a direct result of the development proposal, are reasonably needed to mitigate the effects of the development and are proportional to the impacts created by the development. **Agreed.**

Based on the above findings, Staff recommends approval of the Conditional Use Permit subject to the following conditions:

- 1) Final unit count to be limited to 47 residential units. This represents the addition of 13 units. Units 33-41, and 43, as shown on the proposed plan, as well as the addition of 2082, 2084, and 2086 East Front St units. Staff does not support the addition of proposed unit #42. This unit would be disconnected from the community and highly exposed to the intersection of the Guide Meridian and Front Street. It is not an appropriate location for a home.
- 2) Install landscape buffer that includes hedging, groundcover along street frontage to provide community privacy and visual screening as well as flowering shrubs at community entrances. Landscape material to meet applicable size and quality standards described in LMC 19.61. Streetscape plan developed with staff (attached) to be considered the minimum standard for street buffering.
- 3) Continue the installation of a hedge buffer / landscaping along east boundary where unit #42 was proposed.
- 4) Discontinue use of the eastern most access point (previously used by Scholten's Equipment).
- 5) As indicated on the site plan, relocate central access point to align with Duffner Drive. Proposed site plan does not appear to be aligned with Duffner consistent with safety standards. Location of access to be approved by the Public Works Department. This may alter the location of proposed units. All construction within the right-of-way to meet City standard and bonded according to City requirements. Encroachment permit required.
- 6) Fence (such as split rail) or hedge installed at top of bank along Duffner Creek unless otherwise approved by the Planning Department. This is to deter degradation of the critical area. No construction, sheds, or units placed within the critical area buffer of Duffner Creek. Fence installation required prior to issuance of building permits for units 34-47.

- 7) All trash and debris must be removed from the Duffner Creek bank prior to unit addition.
- 8) All stormwater drained away from bank of Duffner Creek. Stormwater plan required for proposed new pavement.
- 9) Vegetation planted to minimize erosion along the bank. Provide planting plan prior to issuance of building permits for units 34-47.
- 10) Lighting and addressing within the community required. To be installed prior to issuance of building permits for units 34-47. Final design must meet the approval of the Lynden Fire Department and Public Works Department.
- 11) Community sign(s) must be replaced at the time of landscape improvements.
- 12) Sewer easement recorded prior to building permits for units 34-47.
- 13) Provide evidence of decommission of on-site septic systems prior to issuance of building permits for units 34-47.
- 14) Provide stormwater report and fill and grade permit for new paved areas. This is required prior to commencement of work and prior to issuance of building permits for units 34-47.
- 15) A 12-inch water line shall be installed to the north property line per City standards and as-built drawings provided to the City prior to the issuance of a building permit for any additional unit placement unless an alternate agreement is reached with the Public Works Department.
- 16) ROW improvements as required per recorded agreement filed under Whatcom County Auditor's File Number #2070202655. Plan review, approval and improvement construction required prior to issuance of building permits for units 34-47.
- 17) Installation of fire hydrants as required by the Fire Chief prior to issuance of building permits for units 34-47.
- 18) The requirements and conditions listed by the Technical Review Committee in Section VI of this report are included in this recommendation.
- 19) Issuance of this Conditional Use Permit does not release the applicant from any other Local, State, or Federal statutes or regulations applicable to the proposed development.

The Commission agreed that the application meets the 6 criteria listed under 17.09.040 (C).

Johnson made a motion to recommend approval to the City Council of the Duffner Mobile Home Park Conditional Use Permit #21-01, subject to the Technical Review Committee Report dated October 15, 2021, including that the 19 conditions identified in the Final TRC Report are met. Seconded by Scott and the motion passed 4-0.

Next Planning Commission will be held on November 18, 2021 at 7:00 PM.

6. ADJOURNMENT

Motion to adjourn by Scott at 10:05 pm. Seconded by Scott.

DRAFT