

CITY OF LYNDEN

PLANNING DEPARTMENT
Heidi Gudde, Planning Director
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PLANNING COMMISSION AGENDA

7:00 PM April 22, 2021
Microsoft Teams Meeting

1. CALL TO ORDER

2. ROLL CALL

Commissioners Present: Bryan Korthuis, Diane Veltkamp and Gerald Veltkamp, Tim Faber

Commissioners Absent with Notice: Blair Scott and Karen Timmer

Staff: Heidi Gudde and Korene Samec

City Attorney, Catherine Moore. Moore stated that she has been invited to attend the meeting to assist the PC going through this remand.

3. APPROVAL OF THE MINUTES - None

4. DECLARATION OF CONFLICT

This hearing is to be heard as if the Commission has never heard this rezone request before. None of the Commissioners reported any ex-parte contact or conflict of interest.

5. PUBLIC HEARING / REMAND

A. Site Specific Rezone #20-05, Fishtrap Creek, LLC / O&S Farms 8035 Guide Meridian, Lynden

Catherine Moore stated that this is a remand by the City Council. It was remanded back to the Commission for the following reasons:

1. To ensure that Commissioner Timmer had no conflict of interest. Timmer is not present tonight therefore, we will either finish tonight and be done or continue to the next meeting where we can go over Commissioner Timmer's declaration of conflict.
2. To ensure that the Commission conducts a proper open record hearing. There was concern that members of the public may not have been invited to speak.
3. As always, the Commission is bound to evaluate the proposal based on the criteria established under the code. The Planning Commission acts as an independent review separate from staff and City Council they are to make their own recommendations.

Gudde summarized the Executive Summary regarding the above noted project. Ashley Gosal, on behalf of Fishtrap Creek LLC, has applied for a site-specific rezone at 8035 Guide Meridian. This is the southwest corner of the intersection of Guide Meridian and Bay Lyn Drive. The subject property is currently zoned Commercial Services – Regional (CSR). The applicant has requested that the zoning shift to Commercial Services – Local (CSL).

As the Planning Commission held a public hearing on this item on January 28, 2021. Subsequently the applicant's attorney raised concerns regarding the hearing process. In response the City Council approved the attached order of remand which calls for a new hearing to be held on the item. Detailed findings of the remand are included in the order.

It is critical that the Planning Commission's review and deliberation focus on the criteria by which site specific rezones can be approved. These are addressed in the application and supplemented by the applicant's letter dated April 12, 2021.

Staff maintains the previous recommendation of approval due to the shift in commercial zoning descriptions, the declining need for retail spaces, and the advantage that additional residences in this location will have. This is an area of the City where mixed use is most viable. Planners target these areas for higher density residential in transit-oriented designs because of their proximity to services. The potential of residential uses, in addition to commercial uses in this location, will also assist in the collection of sewer service fees. The City will use these to recoup the cost of installing a sewer pump station in this area – construction that is scheduled to begin next year.

Overall, it can be argued that the rezone to CSL rather than CSR is a modern refinement of a zoning that was put in place decade ago.

D Veltkamp opened the public hearing.

Ashley Gosal, Agent for Fishtrap Creek LLC / O& S Farms. Gosal, addressed the Commission and stated that she submitted additional substantive information regarding the rezone request that she feels sufficiently demonstrates how this rezone application meets each of the City's criteria for a site-specific rezone. Gosal stated that she is available to answer any questions.

Faber has two questions:

This rezone would allow a large mixed-use development, can you please speak to how well other mixed-use projects in Lynden have been received and how are they selling?

Faber also addressed the large mixed use in East Lynden on Aaron Drive. It seems as if the residential fills, however, the commercial seems very hard to fill. Concerned if we allow more residential, that will take off, but the commercial spaces will be left empty.

Gudde stated that the Salmonberry / Tractor Supply development initial take off was slow as they were not eligible for traditional financing mostly because of the difference between condo and apartment designations. The units were recently moved to a condo designation which makes it easier for home buyers to finance. The units are small but they are selling, filling and already turning over to second buyers. Market wise it has done very well. No concerns with parking. The main concern heard is regarding the architecture. It was meant to blend with Tractor Supply.

As to the mixed use on Mercedes Drive, it does not have the same accessibility to amenities that Salmonberry does. The commercial is located on an island with no other commercial nearby. IN addition, there are parking constraints with the property. There may be a day when we have enough services to support commercial in that area. Faber stated that whatever would be built there will need to blend and function well with the surrounding area.

D. Veltkamp asked about the letters that were received in support regarding the rezone. Aleesha Gosal, Chantel Johnson, Darren Johnson and Vern and Shelly VanderGarde and asked what their relationship was to the applicant.

Gosal replied, that Aleesha Gosal is a family member to the applicant, however, she is a homeowner in Lynden. Coming in on her own accord as she received a notice.

Aleesha Gosal, 152 Bay Lyn Drive, Gosal addressed the Commission and stated that she owns 152 Bay Lyn Drive in Lynden and received a letter regarding the request.

Gary Vis, Director, Lynden Chamber of Commerce, 518 Front Street, Lynden.

Much of what I will speak to this evening was presented to the Planning Commission in February 2017, in regards to the Arneson Property rezone request to move from commercial to residential zoning. I have updated the numbers and data as best possible, given my own curiosity regarding the current Covid impacted business climate, and associated changes in the commercial property area, specifically retail and office space. As I mentioned then, and would like to share again, a mixed-use commercial/ residential building can, when done correctly and placed correctly, be an important and vital addition to Lynden. One component to that placement, the most vital, is the success of both the commercial and the residential together.

In the 2008, Pitney Bowes was commissioned by the City of Lynden to create a report on commercial properties within Lynden, suggest long-term opportunities, and identify the potential for growth. The report identified 770,000 sq. ft. of retail only space, excluding the current Tractor Supply, the Dollar Tree location at Lynden Towne Plaza, and the Waples Building in downtown Lynden.

Additional space added from 2007-2017 included not only the three locations mentioned above, but two additional buildings at Bender Plaza, and other converted space, roughly

80,000 sq. ft. additional for a total estimated retail square footage of 850,000 sq. ft. The Pitney Bowes report suggested that an additional 65,850 sq. ft. could be filled by 2013, based upon an annual growth rate of 3.5%. The actual growth in that period was 2.4%, or a 2007 U.S. Census estimate of 11,150 to the 2013 estimate of 13,517.

At the time of my testimony to Commission members in 2017, **the 2007 U.S. Census Bureau Economic Census reported the United States as a whole had 46.6 sq. ft. of retail per capita, with the U.K. as number 2 in the world with 9 sq. ft. per capita. Lynden, again at the time of my 2017 presentation, had a rate of 63 sq. ft. per capita.** At the time, I offered a 2014 Forbes article by author Robin Lewis titled “The Great Retail Demassification”, the premise of which was the significant overbuild of retail space. Given in light of the continuing growth of internet shopping, the author asked the rhetorical question “Try to compute how many square feet of retail space some 5 billion e-commerce retail sites have added to the (retail space) congestion”. It should be noted estimates for the actual number of e-commerce sites for 2020 was 12-24 million worldwide, although the actual number of sellers is unknown, as Amazon alone has in the millions of vendors utilizing their platform.

Since the time of my 2017 report, additional commercial space has been added to the City, by construction or repurposing, most notably the parcel immediately south of Safeway, with Grocery Outlet, Popeye’s, etc., the former Homeland Security/Border Patrol Station along the Guide Meridian, and smaller spaces along Aaron Drive, Evergreen Street, and various other, smaller locations scattered throughout the city. Even now, the Planning Department is engaged in other commercial development projects moving forward. **In addition, with the decline of malls and brick and mortar retail in general, and conversion or demolition of space for housing or industrial needs, not including the current challenges due to the ongoing Coronavirus situation, estimates are the U.S, as of 2019, has reduced square footage to 23 sq. ft. per capita, and by some accounts (Modern Retail; Bloomberg) the U.K. and France have decreased to an estimated 5 sq. ft. per person, and Germany to at an estimated 2.5 sq. ft. per person.**

Given the addition of an estimated 50,000+ sq. ft. into the Lynden market, increasing the total to over 900,000 sq. ft of retail alone, and an estimated City population for 2019 of 15,223, **the Lynden community is more than double the lower estimated national rate of retail space per capita, at 59.12%. Using the school district boundaries estimated population of 20,000 persons, per square footage is currently estimated at 45 sq. ft. per capita. Should the school district population double, reaching 40,000 persons, and all else remains the same in regards to current retail space, Lynden would have 22.5 sq. ft. per capita, and to emphasize, having added zero additional commercial space.**

Currently, as you are very aware, the long-term impacts of CoVID-19 on all commercial space, especially retail and office, are unknown. **E-commerce sales are estimated to have risen from 9% in 2017, to 14.4% in 2020, with estimates of 19.2% by 2024.**

(Statista.com) Such trends are confirmed by the City of Lynden sales tax revenue sources, with 65% of 2020 collected taxes coming from products purchased from outside Lynden, an increase of 10% over 2019. Until our shopping routines return to somewhat normal conditions, it is unknown if this a long-term trend, or simply a matter of a short-term solution to the current situation. **Additional retail impacts will occur as housing costs and rentals rates increase significantly faster than area wages, decreasing discretionary spending.**

Office space needs continue to be an unknown, especially for areas such as Lynden, as larger metro-areas such as Seattle see decreases in occupied space and lease rates. This has been driven in large part by employers and employees in many industries, including tech, financial, engineering and other non-manufacturing professions, finding some freedom from traditional office settings, and working remotely from areas far outside major metro offices. This trend has also been seen somewhat locally, in similar though smaller firms, as technology allows for customer and client to meet remotely, and consolidation of space occurs as employees rotate in and out of the brick and mortar offices as needed. While anecdotally we have heard of and spoken with families moving into Lynden for a different life-style experience, due to the opportunities afforded by remote work, it is unknown in what numbers these individuals exist, or if these individuals will seek a traditional out-of-home office. At this point in time, it at a minimum appears that office space is opening up, and may be expanding, as former retail space is converted to office space.

It does appear at the national level, additional medical space is a trend, but our area is already slated for a newly constructed space, so the impacts to Lynden will likely be minimal, due to our population.

Lynden continues to have significant availability of commercial space. This includes Bender Plaza, Fairway Center, Lynden Towne Plaza, the Aaron Drive commercial/multi-family structure, several properties in the downtown area, although several former banks are being reused or repurposed. Many of these spaces have been empty for several years, and once again, with the unknowns of the longer-term impacts to businesses due to the CoVID-19 situation, it remains to be seen if more space will become vacant, how much, or for how long.

I am deeply concerned with the ability of our current and future commercial property owners to maintain a price point where they are able to not only see a return for their investment, but also to generate sufficient revenue to maintain their properties in a manner consistent with our community standards, while upgrading properties to meet the potentially different needs of new tenant. With the double blow of decreased retail and office tenants, and many unknowns now and moving forward.

I would advise all to “proceed with caution” regarding future commercial space needs. It has been my understanding and observation for over two decades that the Planning

Commission's role in our government structure is to create new opportunities, in balance with maintaining the community we currently have, including sustainable and viable commercial centers.

The proposal before the Commission is very helpful in this regard. As we are all aware, the opportunity for starter housing, in various forms, is a genuine need, and as some of the Commission has heard me speak to previously, placing all multi-family housing in the ever-expanding outskirts of Lynden is unhelpful, and in some cases, detrimental to the overall community as a whole.

In the case of Lynden, it is my opinion that there is wisdom in placing the commercial/residential component of our housing mix near or as close to existing services as possible. This mixed use provides the long-term income needed for investment purposes, balancing the often-transitory nature of multi-family housing. It may be said the mix of the two, placed properly within the community, is a symbiotic relationship, each helping the other to exist. The current parcel being discussed this evening seems ideal. It is located in walkable distance to transit, grocery, pharmacy, medical, dining, clothing, even potential work opportunities, and unlike newer areas of our community, is situated along a road network designed specifically for higher-volume traffic, and does not require many decades of build-up of surrounding services to support those who will live there. Provided, of course, adequate and plentiful parking is provided. I'm all about the parking.

In closing, I support the change in zoning of this parcel, and as a member of the group that reviewed this zoning some time ago, believe that given the changes to our economic trends, and needs for housing, this mix will serve our community well for the decades to come, and demonstrate the flexibility and willingness to adapt Lynden is known for.

Thank you for your time and willingness to listen, and I hope you find the information useful to your discussion. I would be happy to clarify my remarks or answer any questions you may have.

Faber asked as a border town, how does that factor into that? Vis replied, Pitney Bowes excluded any Canadian traffic from their report because it is such an unknown factor. It always varies from time to time. It does have an impact but we are becoming more self-reliant. You must look at the residents of your community as your cake and the Canadian market can be your frosting. Serve the community and the community surrounding you first.

Combining two uses helps other areas in the community. The other commercial can build off of that and they can help each other.

Veltkamp asked about public transit and residential safety. The Guide Meridian is a very busy road. Vis replied that WTA has been very amenable to place pick up locations where

we need them. There are great opportunities. I am not concerned that WTA will not be responsive to any concerns or requests we bring to them.

D. Veltkamp asked about locating residential on a State Highway. Gudde, replied that once dedication is achieved along the State Highway, the underlying zoning setbacks apply. Every site plan gets reviewed by the Design Review Board. The intent is not to put residential close to the Guide.

Veltkamp referenced MF development within the CSL zone and questioned the 200-foot setback requirement listed under sub-section #8. Staff replied that sub-section #8 only applies to the North Lynden Sub-Area, not for this property.

Darren Johnson, 865 Brookfield Drive in Lynden,

Gosal's plan is great, mixed use on this property is the best use. The development of multi-family will help with the lack of affordable housing in Lynden.

Aleesha Gosal, addressed the Commission and state that as a homeowner, she is in support of this request.

None in opposition.

Korthuis asked how close is the nearest park? Gudde replied, the closest trail connection (in the future) will be along the Fishtrap Creek. The closest park may be Dickenson's. Korthuis stated that the property is a bit isolated from a park. How often does the bus come through that location? Vis stated that the Mayor has advocated for more WTA stops in Lynden.

Faber asked about the access to the Guide Meridian? Will there be another access or will it be off of Bay Lyn Drive? Gudde replied, the access will be off of Bay Lyn Drive.

How many feet is it from the stop light at Kok Road? Gudde noted that the question is off topic, but a traffic light is permitted per WSDOT standards as the two would be far enough apart from each other. The distance is roughly 700+ feet.

Veltkamp stated that one of the CSL elements speaks about pedestrian connectivity. Gudde replied, that CSL does have an emphasis on pedestrian connectivity. Without knowing what the development will look like it is difficult to know what that will include.

Gosal stated that the project will meet development, pedestrian and site design requirements, Pedestrian connectivity can be accomplished in many ways. The project is a large site and there is a lot of room to work with.

Gosal stated that she has been in real estate development for over 10 years and is no stranger to requirements and or development. The intent of the project will eventually

accomplish what is best for the city including parks, trails, parking, and provide pedestrian connectivity to the surrounding sites. For now, we are focusing on the rezone, the project details will come later.

Veltkamp addressed Gudde's comment in her report regarding the collection of sewer fees. Veltkamp stated that it is a moot point and cannot base whether or not the city will get the money out of it. Moore stated that the PC can discuss if Gudde or the applicant would like to explain how it relates to one of the criteria for a site specific rezone?

Gosal replied, several criteria apply; one being the health, safety and general welfare of the City. Being able to pay into funds will help the city reallocate budget funds to other items and to pay down quickly and efficiently as possible is going to be in the best interest of the city. It is compatible with the city development plans, codes and regulations as this sewer pump station is part of the city's plan.

Gosal did talk to Public Works and was informed that multi-family is more viable than commercial with regards to paying for the sewer. Gudde concurred.

Veltkamp stated that one of the main points that was talked about at the last meeting was that this is one of the few CSR parcels available. Is it wise to move from CSR to CSL?

Gosal asked how does this relates to the criteria for a rezone? Veltkamp stated that by allowing residential it decreases the amount of commercial availability, especially on a state highway. This topic was discussed at the last meeting and there was concern about rezoning this piece to CSL when the other commercial in the areas was CSR.

Korthuis replied, that the discussion fell under Item D of the criteria which speaks to compatibility with existing uses and zoning. Gosal stated that Item D speaks specifically to compatibility with existing uses and zoning not other CS zoned properties and the amount or locations of those. Korthuis stated that it was regarding the properties right next to it.

Ashley again thanked the PC for taking their time and reconsideration in reviewing this proposal. Thank you to Gary Vis and all other speakers of support.

No further questions from the Commission.

Faber motion to close the public portion of the hearing. Seconded by Korthuis and the motion passed 4-0

17.19.050 - Criteria for approval of site-specific rezone.

Site-specific rezone requests must satisfy the requirements established for development proposals in Section 17.09.040(C). In addition, no application for a site-specific rezone shall be approved unless the applicant demonstrates that each of the following criteria is satisfied:

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;

Discussion: Faber appreciates Vis' reminder of the study. Faber supports that things have changed and agrees that more residential is warranted. If this does go through it is important that it is compatible with the commercial component so that it is not isolated. Korthuis and G. Veltkamp agrees with Faber.

B. The proposed site-specific rezone is consistent with the city's comprehensive plan and applicable subarea plan(s);

Discussion: Faber agrees with what is written in the Staff Report. This property has been vacant for quite some time. If there is a way to encourage development on this property that is appropriate and in line with the City's Comprehensive Plan. Greater density would give greater opportunity for the commercial component to serve the local community. Korthuis and G. Veltkamp agree with Faber.

C. The project proposal is consistent with the city's development codes and regulations for the zoning proposed for the project; N/A,

Discussion: This one is difficult as there is not a development proposal submitted associated with the Rezone. The DRB and the City will need to take a careful look when a development does come in.

It is supposed to meet all 5 criteria? Since there is not a site specific development included and it is supposed to meet all 5 criteria, can conditions be added to the Site Specific Rezone such as requiring that the residential be located further from the Guide Meridian.?

Moore: You will need to rely on staff and the DRB. The PC should not sub zone within a zone. It is too difficult to regulate.

Faber is comfortable with the Applicants response regarding once a development proposal is submitted.

Korthuis stated that as soon as there is a proposal it will have to meet and be subject to all of the regulations.

D. The proposed site-specific rezone is compatible with existing uses and zoning in the surrounding area; and

Discussion: G. Veltkamp stated that it is compatible. Faber agrees. D. Veltkamp stated that the report states that the residential is to the east, a correction may be needed.

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

Discussion: Korthuis has a hard time with this one. Putting residents right on the Guide with no great access to very much. Safety concerns? To say that it promotes the health, safety and general welfare of the community is a difficult one. D. Veltkamp stated that there are no sidewalks on the Guide Meridian. Gudde replied, yes, there are sidewalks on the Guide Meridian.

Faber addressed Page 9 of the PDF. DRB and Staff will review. We will need to ensure that there are safe means to cross the busy roads. If there is a stop light at some time in the future, then great. Our attention at this time should be focused on getting people safely across Bay Lyn Drive as they will go to Safeway, restaurants etc.

Residential should be focused to the back, away from the Guide. We have heard from the developers that this will be the goal. If we let residential right on the Guide, Faber is not sure anyone would want to live right on the Guide. The focus facing the Guide should be commercial. Faber trusts that if the developers want a successful development, that is how it should be laid out.

In the regards to site development. Bay Lyn drive is considered a sub-standard road. Frontage improvements would be part of a development project that comes forward.

G. Veltkamp stated that there needs to be a lot of work done if this is to happen. Pedestrian connectivity is necessary. The in and out by Safeway is not safe for pedestrians.

D. Veltkamp states that this is the one that she has difficulty with.

Korthuis says that the word “promote” is the word that is difficult. The safety is a big concern. No issues with the other criteria, just this one.

Faber stated that enough has been said that satisfies him. We will hope that whatever proposal is brought forward will focus on pedestrian safety and connectivity. The health

and safety will be picked up with the development proposal at that time. We will have to rely on the DRB. Faber trusts that staff will have a good eye.

D. Veltkamp questions whether or not the DRB's responsibility is to look at traffic and safety etc. Gudde stated that Staff has authority through SEPA to look a traffic and the project proposal. Pedestrian and off-site impacts are looked at by Staff. Staff and DRB will cross processes in review.

G. Veltkamp is okay.

Moore reminded the Commission that we do not know what type of development will locate here. The discussion needs to be a little more high level.

Faber made a motion to recommend approval to the City Council of the O&S Site Specific Rezone application #20-05 subject to the TRC Report Seconded by G. Veltkamp and the motion passed 4-0.

**The Commission provided the following rational for their decision:
17.09.040 (C)**

Required Findings. The Planning Commission shall not approve or recommend approval of a proposed development unless it first makes the following findings and conclusions:

1. The development is consistent with the comprehensive plan and meets the applicable requirements and intent of this code. **Yes – Has Met.**
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, these will be addressed when the project comes in. Will meet.**
3. The development adequately mitigates impacts identified under Titles 16 through 19. **N/A – Will meet.**
4. The development is beneficial to the public health, safety and welfare and is in the public interest. **Will be addressed and discussed once a development proposal comes in. At the time, the rezone will be okay – Will meet.**
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. **This is a trust level and we are trusting that it will be handled properly – Will meet.**

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. **Project specific. Will meet.**

The Commission noted that one cannot affirmatively agree that it meets as there is no project attached at this time. The Commission would like to ask Council that Section 17.09.040 (C) be modified so that this can be used for site-specific rezones in the future. There are too many unknowns when there is not a development proposal attached.

5. ADJOURNMENT

Motion to adjourn by Korthuis at 9:10 pm. Seconded by Faber and the motion passed 4-0.