

RESOLUTION NO. 1053

**A RESOLUTION FOR THE REVOCATION OF  
CUP #21-04, LYNDEN AUTOMOTIVE**

WHEREAS, Gerardo Morado, hereinafter called "the Proponent," submitted a complete application to the City of Lynden, hereinafter called "the City," for a conditional use permit to allow an automobile repair shop in an existing commercial building within the CSL zone.

WHEREAS, the subject property is located at 8854 Bender Road in Lynden and is one component to an existing fueling station.

WHEREAS, the application was determined to be complete on October 1, 2021, and the notice of application was published in the Lynden Tribune on November 3, 2021; and

WHEREAS, the Proponent provided the City with receipts for the certified mailing of all required notices to all property owners within three hundred feet of the subject property together with the affidavits of posting said notices; and

WHEREAS, the Lynden Planning Commission held a virtual public hearing on November 18, 2021, to accept public testimony on the proposed conditional use permit request, and that meeting was duly recorded;

WHEREAS, the City's Technical Review Committee reviewed the request for the conditional use permit and provided comments and recommendations to the Planning Commission in a report dated November 12, 2021,

WHEREAS, the Lynden Planning Commission reviewed the conditional use permit request and found that the application meets the criteria for granting a conditional use permit under Chapter 19.49.020 of the Lynden Municipal Code.

WHEREAS, the Lynden Planning Commission reviewed the conditional use permit request and also found that the application meets the criteria for granting a conditional use permit under Chapter 19.49.040 of the Lynden Municipal Code.

WHEREAS, On November 18, 2021, the Lynden Planning Commission recommended approval to the Lynden City Council of Conditional Use Permit #21-04, Lynden Automotive, subject to the Technical Review Report dated November 12, 2021, *with recommended conditions including the following:*

1. Submission of the stormwater report must be done within 3 months but may be granted a 1-month extension if the applicant demonstrates steps toward compliance.

2. The proposed landscape screen, specifically, is a Type 3 landscape buffer and installed within 30 days of Council decision.
3. The 10 vehicles, temporary parked while under repair, must have current license and registration.
4. The 10 stalls used for vehicles under repair must be located in the northwest corner of the site and not south of the subject business.
5. Removal of storage containers from the site shall be permanent.

WHEREAS, On December 6, 2021, the Lynden City Council approved the CUP application as recommended with conditions under Planning Commission Resolution #21-10.

WHEREAS, most conditions of the Council's approval were not met. A stormwater report was not submitted within three months and the applicant did not request a one-month extension. A landscape screen was never installed. At various times, more than ten vehicles under repair were on site, and not all had current registration. Finally, the vehicles were also not parked exclusively in the designated parking area. Staff communicated with the applicant by phone and by email during this time, but despite the passing of 7 months, no action was taken to fulfill these conditions of approval, and compliance was never achieved.

WHEREAS, on July 27, 2022, the Lynden Planning Commission held a public hearing to consider the revocation of the Conditional Use Permit as the required conditions of approval have not been met, and that meeting was duly recorded.

WHEREAS, The Lynden Planning Commission reviewed the conditions of the original CUP approval and the *revised* Technical Review Committee Report dated July 22, 2022.

WHEREAS, the Lynden Planning Commission recommend to the Lynden City Council the revocation of the Lynden Automotive CUP by a vote of 4-0, **unless** the following conditions were met within 30 days of Council approval. As this recommendation included conditions which were altered from the original CUP approval, the Planning Commission, in short, recommended both the modification of the original CUP approval and the granting of another 30 days to complete these revised conditions.

1. Comply with all items of the Staff report dated November 12, 2021.
2. The applicant has one (1) month to provide a stormwater report or memo prepared by a civil engineer, verifying outdoor automotive mechanical work, washing & cleaning activities in the existing parking lot is in compliance with stormwater elicit discharge requirements. Applicant my inquire at City Hall for archived plans to determine if the storm drains used in the outdoor mechanic work, washing & cleaning activities, drain to an existing oil water separator. Any discharge into the existing drainage

system must be compliant with illicit discharge requirements. If it is determined that there is a compliant oil water separator on-site, this system shall be maintained and cleaned. If the existing drains are not connected to an approved system, the outdoor mechanic work, washing and cleaning activities shall cease and desist, until such time as a new compliant system is designed and installed.

3. The proposed landscape screen, specifically, is a Type 3 landscape buffer and installed within 30 days of Council decision.
4. Sixteen (16) long term vehicles under repair are allowed only within the marked sixteen (16) stalls adjacent to the new landscaped area.
5. All parking stalls along Bender Road, south of the existing buildings shall be maintained for employee parking and short-term parking (day use) only. No overnight parking permitted.
6. Removal of storage containers from the site shall be permanent.

WHEREAS, on August 15, 2022, at their regularly scheduled meeting, the Lynden City Council reviewed the complete Lynden Automotive Conditional Use Permit record and considered the Planning Commission's recommendation as outlined in PC Resolution No 22-02.

WHEREAS, the Council has concluded that the business owner has failed to demonstrate that the use can be accommodated in this location and conditions of approval, meant to mitigate the impacts of the use, were not completed; and

WHEREAS, this business at the above noted location has been in non-compliance with the Lynden Municipal Code for over 7 months with little or no effort made to rectify the situation; and

WHEREAS, it has become apparent that the stormwater system, constructed for lube services, cannot adequately accommodate the current use without significant renovations and reports of illicit stormwater discharge have highlighted the detrimental impacts of the situation; and

WHEREAS, the Lynden City Council finds that no reasonable conditions could be imposed on the Conditional Use Permit which would remedy the deficiencies, including those recommended by the Planning Commission; and

WHEREAS, the Lynden City Council rejected the recommendation of the Planning Commission and instead voted unanimously to revoke Conditional Use Permit #22-04, for Lynden Automotive, effective immediately.

WHEREAS, the above recitals are hereby adopted as findings of fact by the Lynden City Council to deny the Lynden Automotive Conditional Use permit; and

NOW THEREFORE BE IT RESOLVED that

- (1.) The Mayor and Council of the City of Lynden hereby revoke Conditional Use Permit # 21-04 for Lynden Automotive.
- (2.) The City Council has ordered the immediate cease and desist of mechanic services and advertising of mechanic services as they relate to this location.
- (3.) Uses which result in illicit discharge, including but not limited to the washing of vehicles, engines, engine parts, or the improper disposal of engine fluids must end.
- (4.) Lynden Automotive has 60 days to clear the property of all vehicles not related to quick lube service. This includes vehicles which may be awaiting repair, have been abandoned by customers of Lynden Automotive, and/or do not display current registration.
- (5.) The City will continue to pursue the pending zoning violation at this location initially reported on January 28, 2021 if the above conditions are not met. Criminal charges and/or daily fines may result.

PASSED by the City Council August 15, 2022 and signed by the Mayor on the \_\_\_\_\_ day of September 2022.

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SCOTT KORTHUIS, MAYOR

ATTEST:

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PAM BROWN, CITY CLERK

APPROVED AS TO FORM:

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ROBERT CARMICHAEL, CITY ATTORNEY