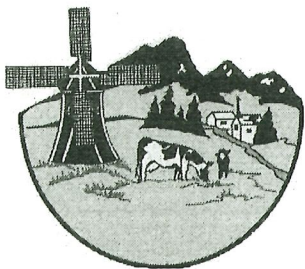


CITY OF LYNDEN

EXECUTIVE SUMMARY - PLANNING COMMISSION



Meeting Date:	November 18, 2021
Name of Agenda Item:	CUP #21-04 Lynden Automotive, Bender Road, Lynden
Type of Hearing:	Public Hearing: Conditional Use Permit
Attachments:	
<ul style="list-style-type: none">• Lynden Automotive CUP Application• Parcel Map and Landscape Buffer• Technical Review Committee (TRC) Staff Report and Recommendation, dated November 12, 2021• Memo to City Prosecutor regarding zoning violation• Lynden Automotive Violation Photos	
Summary Statement:	
<p>Lynden Automotive Specialists, located at 8894 Bender Road, is seeking a Conditional Use Permit for a full-service auto repair shop in the CSL zone (Bender Plaza) in Lynden.</p> <p>See the attached Nov 12, 2021 Technical Review Committee Staff Report and Recommendation for a detailed overview of the proposal.</p>	
Recommended Action:	
<p>Motion to recommend to the City Council the approval of the Conditional Use Permit (CUP #21-04 Lynden Automotive) subject to specific conditions as listed in the Section VII of the November 12, 2021 TRC Staff Report.</p>	



City of Lynden RECEIVED

Conditional Use Permit Application

SEP 07 2021

City of Lynden
Planning Department

General Information:

Property Owner

Name: GERARDO MORADO
 Address: 8894 BENDER ROAD LYNDEN, WA 98264
 Telephone Number: (360) 927-1360 Fax Number: _____
 E-mail Address: gmorado@gmail.com

Applicant (Agent, Land Surveyor or Engineer)

Name: LYNDEN Automotive Specialists LLC
 Address: 8894 Bender Road Lynden, WA 98264
 Telephone Number: (360) 927-1360 Fax Number: _____
 E-mail Address: gmorado@gmail.com

Who is the primary contact for this project? This person will receive all official correspondence for the project. Property owner Applicant

Property Information

Project Location (street address / block range): 8894 Bender Road
 Legal Description (attach if necessary): Lot A Bender Playa SP
 Assessor's Parcel Number: _____ Zoning Designation: CSR
 Parcel Square Footage: 54,101 Property Dimensions: -
 Applicable Sub-Area: - Building/Structure Size: _____
 Height of Structure: existing Addition Size: _____

Please describe request in detail:

CUP Criteria must be attached

Facility to be used as an Auto Repair Shop.
Facility is intended to be used as full Service shop,
like previous business of 15 years. Auto Repair and more.

BY SIGNING THIS APPLICATION, I CERTIFY THAT ALL THE INFORMATION SUBMITTED IS TRUE AND CORRECT. I ALSO UNDERSTAND THAT NO FINAL APPROVAL WILL BE ISSUED UNTIL ALL FINAL REVIEW COSTS ARE PAID IN FULL.

SUBMITTED BY: [Signature] DATE: 9/1/2021
 PROPERTY OWNER SIGNATURE: _____ DATE: _____
 PROPERTY OWNER PRINTED NAME: Mike Morady DATE: 9/1/2021

CUP# _____

PRE-APPLICATION MEETING DATE: _____ HEARING DATE: _____
(APPLICATIONS WILL NOT BE ACCEPTED WITHOUT A PRE-APPLICATION MEETING)

FEE'S (CONDITIONAL USE PERMIT \$400.00 BASE FEE OR FINAL REVIEW COST) DATE PAID: 9/3/2021 RECEIPT # _____

SEP 07 2021

CITY OF LYNDEN

City of Lynden
Planning DepartmentCONDITIONAL USE PERMIT
CRITERIA WORKSHEET

A Conditional Use Permit (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.

Please describe the proposed use. Relevant information may include hours of operation, parking requirements, anticipated traffic to the site, and how the site will be developed and used. Attach additional information and plans as needed.

Automotive General Auto-Repair Facility.

9-5 M-F by App^r SAT. Closed Sunday and Holidays.

Parking will be hidden by creating a natural privacy hedge around back of building. Traffic has constant flow around shell.

Respond to each of the criteria below with the specifics of the proposed use in mind. (per LMC 19.49) Identify nearby streets and the uses surrounding the site.

1. The proposed use in the proposed location will not be detrimental to surrounding uses legally existing or permitted outright within the zoning district.

IT WILL NOT BE, will be contained to leased property.

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;

The flow of traffic is fine, our vehicles are in no way blocking traffic or traffic flow.

- b. Noise, smoke, fumes, glare or odors generated by the proposed use;

Noise is consistent w/ existing approved CUP, for a Lube service center loudest equipment is stationary and same unit as last 15 years.

- c. Building and site design; and

No changes.

- d. The physical characteristics of the subject property.

No changes, all same as previous Tenant/Business

CITY OF LYNDEN

CONDITIONAL USE PERMIT CRITERIA WORKSHEET CONTINUED



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.

We do not require additional public facilities or services.

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.

Our building is separate from shell and surrounding areas and will not block services to other business.

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.

We are working with Planning Dept. to create a privacy area for our North Parking 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.

Yes there is.

7. The proposed use will not destroy or substantially damage any natural, scenic or historic feature of major importance.

No changes to be made.

8. The proposed use is generally consistent with the purposes and objectives of the city comprehensive plan and applicable sub-area plan.

Yes it will be.

September 1, 2021

Dave Timmer

City of Lynden Planning Department

300 4th Street

Lynden, WA 98264

Dear Dave Timmer,

I have submitted the CUP as you requested, in your letter dated March 19th, 2021 you mentioned that a quick lube service center located previously in this building before was a permitted CSL.

We are requesting the Conditional Use Permit for the following business Lynden Automotive Specialists LLC to allow for work in General Auto Repair. We are a Full Service shop above and beyond the Quick Lube oil change shop. The Building has two bays, 1 is intended as a quick lube, but the other is intended with the lift as a full service auto repair bay. This building has been used as a full service Auto Repair Shop for over 15 years previously to us leasing it in January of 2021.

Please consider our application for this Conditional Use Permit at our location 8894 Bender Road, Lynden, WA 98264.

I would like to request a copy of that permit application and paperwork associated with that approval.

I would also like to know who I contact in order to strike that Court date on the 8th of September. If you could email me back or give me a call that would be great.

Gerardo Morado

Lynden Automotive Specialists LLC

gmorado@gmail.com

360 927 1360

CITY OF LYNDEN



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

Planning Department Memorandum

To: Greg Greenan, Prosecuting Attorney
CC: Bob Carmichael, City Attorney, Rick Johal, Code Enforcement Officer
From: Dave Timmer, City Planner
Date: July 26, 2021
Re: Zoning Code violation – 8894 Bender Rd (Lynden Automotive Specialists)

Greg,

Earlier this year, the Planning Department initiated a zone violation process with Lynden Automotive Specialists, LLC located in Bender Plaza at 8894 Bender Road. This is in the CSL zone and part of the Bender Plaza commercial center. The property is owned by McEvoy Brothers Petroleum, Inc and contains a typical Shell gas station (convenience store) and a building which previously was a typical quick lube service station.

The current business, Lynden Automotive Specialists, is a full-service auto repair shop. The permitted uses table in LMC 19.23.020 states “Automotive support services such as auto repair” requires a Conditional Use Permit in the CSL zone. Lynden Automotive Specialists does not have a Conditional Use Permit for their business in this location.

Below is a record of contact:

- January 28, 2021: Code Enforcement Officer records the presence of several vehicles being stored in the parking lot around the business. The vehicles were in various stages of disrepair (body damage, no license plates, expired tabs). The record also indicates an accumulation of miscellaneous debris on the property (garbage bags being stored in a makeshift trailer).
- March 19, 2021: The Planning Department issued an initial violation letter to the business regarding the stored vehicles on the property and operation of an auto repair business without a Conditional Use Permit (letter attached).
 - March 25, 2021: Property owner (one of the McEvoy brothers) called the Planning Department to discuss the situation. He did not indicate much interest in initiating the Conditional Use Permit process but stated they would work on removing the stored vehicles from the property.

CITY OF LYNDEN

PLANNING DEPARTMENT

Heidi Gudde, Planning Director
(360) 354 - 5532

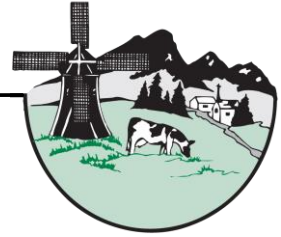


- June 17, 2021: Planning staff visually inspected the property to see if any progress had been made on the stored vehicles. No progress had been made, two storage containers had been added in the parking area behind the building, and drainage from the shop (possibly from detailing/car washing) was observed washing into the stormwater system into the drain behind the building. Construction as-builts of the stormwater system on the property indicate this drain not being connected to the property's oil/water separator system. Public Works staff then made contact with the business to inquire about the stormwater inputs. The conversation was not well received by the business owner.
- June 18, 2021: Planning issued a second follow-up letter (attached) addressed to the property owner and cc'd to the business stating that no progress has been made. It stated that after 30 days, a follow-up inspection would occur the week of July 19 and further action will be turned over to the City Prosecutor.
 - June 24, 2021: Staff received a call from the property owner (a different McEvoy brother than the first time). He was agitated and not pleased with the City's action. Claimed the business is not an Auto Repair Shop.
 - July 1, 2021: Staff spoke with the spouse of Mr Morado (business owner) about the letters. She was also not pleased with the City's action in this case. Claimed the City is racially targeting and harassing this business owner.
 - July 15, 2021: Staff received a voicemail from Jeff Leghorn, lawyer in Blaine, representing Lynden Automotive Specialists stating he would be responding to the letters for his client.
- July 26, 2021: Code Enforcement Officer performs follow-up of property condition since the 2nd violation letter. Zero progress has been made. Junk cars being stored on property (including the same ones identified in the January 28 initial report). Two storage containers in parking spots behind the building. Drainage from vehicle washing/detailing washing into stormwater drain. Garbage bags, vehicle parts, are being stored outside around the building.

Staff understands the business is doing well at this location. Unfortunately, the level of impact associated with this business exceeds the ability of the property to handle it. The CSL zone, where the business is located, requires a Conditional Use Permit (CUP) for this type of business. A CUP would attempt to address the impacts associated with this use. The CSR zone in the city allows this use without a CUP.

CITY OF LYNDEN

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



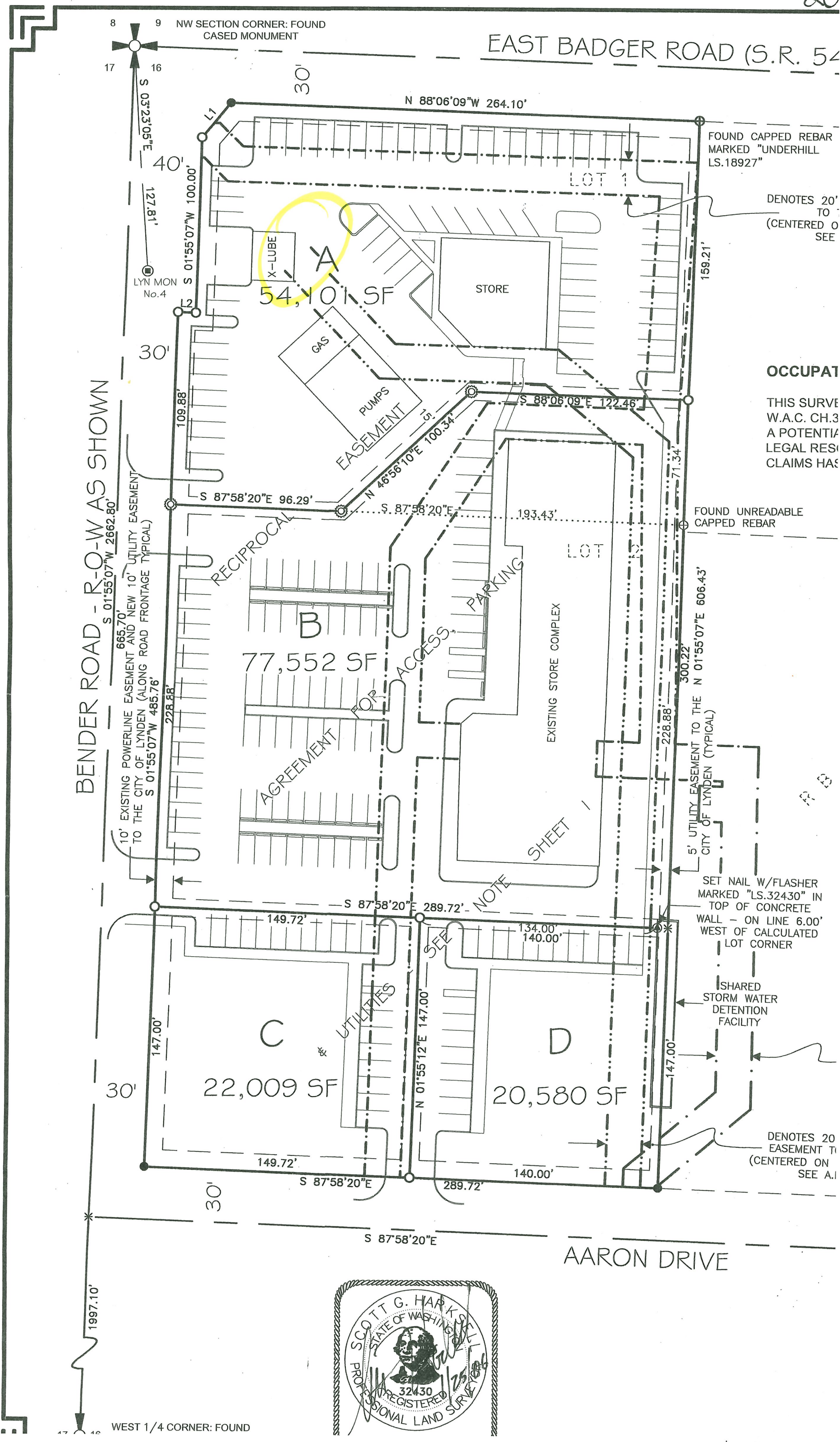
I have attached the supporting documentation. Please let me know if you have questions.

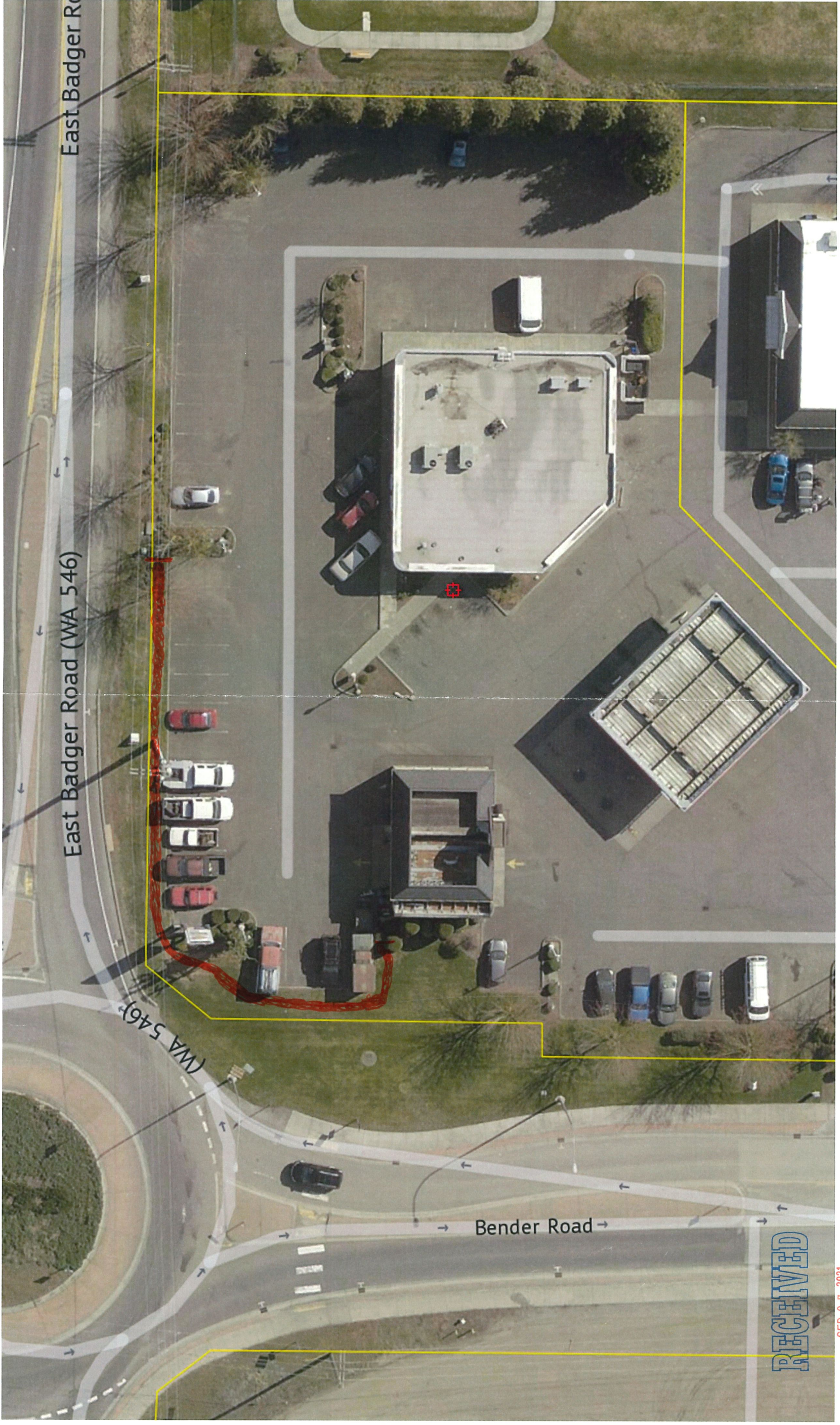
Sincerely,

A handwritten signature in black ink, appearing to read 'Dave Timmer', is written over a light yellow rectangular background.

Dave Timmer

City Planner
City of Lynden





150 Ft
Hedges

Center 2
Center
3 Ft Apart

*3-4 FT
TALL
STARTERS

LADDER
+ PLANTS
"Emerald
Greens"

+ Rental
Equipment
Aug 8 / Dingo

\$3,150
to
\$3,500
+ TAX

Grow Approx
1 Ft Per Year
up. can keep
trimmed
easily under
8 FT.

SEP 07 2021



November 12, 2021

CITY OF LYNDEN TECHNICAL REVIEW COMMITTEE

STAFF REPORT

Re: The application of Gerardo Morado, Lynden Automotive Specialists LLC, for a Conditional Use Permit Application.

CUP #21-04 Lynden Automotive
FINDINGS, CONCLUSIONS, AND
RECOMMENDATION

I. APPLICATION SUMMARY AND RECOMMENDATIONS

Proposal: The request is for a conditional use permit which would allow an automobile repair shop in an existing commercial building within the CSL zone.

Recommendation: Staff recommends the use subject to very specific conditions of approval through the Conditional Use Permit.

II. PRELIMINARY INFORMATION

Applicant: Gerardo Morado

Property Owner: Mac's Stores Inc

Property Location: 8894 Bender Road, Lynden

Parcel Number: 4003160185540000

Legal Description: LOT A BENDER PLAZA SHORT PLAT, RECORDED UNDER AUDITOR'S FILE NO. 2060801211, RECORDS OF WHATCOM COUNTY, WASHINGTON.

Notice Information:

Application Submitted:	September 7, 2021
Notice of Application:	November 3, 2021
Notice of SEPA determination:	N/A
Notice of Hearing:	November 3, 2021
Comment Period Ending:	November 17, 2021

SEPA Review: N/A

Lynden Automotive Conditional Use Permit – TRC Report

Authorizing Codes, Policies, and Plans:

- LMC Chapter 17 Land Development
 - LMC Chapter 17.01.030 Definitions
 - LMC Chapter 17.09, Review and Approval Process
 - LMC Chapter 17.09.040, Planning Commission Review and Recommendation
- LMC Chapter 19 Zoning Code
 - LMC Chapter 19.23.020(11) Permitted Commercial Uses
 - LMC Chapter 19.35 Nonconforming Uses
 - LMC Chapter 19.49, Conditional Use Permits
 - LMC Chapter 19.49.020, Standards and Criteria for Granting a Conditional Use Permit
 - LMC Chapter 19.51 Off-street Parking
- International Building Code
- City of Lynden Manual for Engineering Design and Development Standards

III. PROJECT DESCRIPTION

The subject property is located at 8894 Bender Road, on the north parcel of Bender Plaza. The building being used as an auto repair shop was originally designed as a quick lube oil change shop. This type of business is not explicitly listed in the City's commercial code (LMC 19.23.020), but the use is considered permitted similarly to a fuel station where vehicles are in and out and the customer moves on. The business changed ownership since it was built and the current business is a full-service auto repair. As such, vehicles in various stages of repair are on the premise for considerable periods of time. A full-service auto repair shop requires a Conditional Use Permit in the CSL zone.

Earlier this year, the City initiated a zoning violation process with the business. This was in response to complaints about the number of inoperable vehicles being parked around the property, miscellaneous debris being stored outside of the building, and concerns about what is being poured down the storm drainage system. A compliance option listed for the owner was to submit a Conditional Use Permit application for the business. The owner has not addressed the impacts that originally warranted the violation but submitted a CUP application prior to their scheduled court appearance. For reference, the memo to the City Prosecutor that explains the violation is attached.

Lynden Automotive Conditional Use Permit – TRC Report

The current request is for a Conditional Use Permit (CUP) to allow the continued use of the site for motor vehicle services (full service automotive repair). The property use, currently, is considered to be non-compliant as there is no CUP associated with the property that allows motor vehicle services on site as required within the Local Commercial Services zone (CSL).

IV. PUBLIC NOTICE AND COMMENT

Notice of Application: Formal legal notice for this application was published in the Lynden Tribune on October 6, 2021.

Notice of SEPA determination: Formal notice of the SEPA Determination (MDNS) was published in the Lynden Tribune on September 22, 2021 and mailed to neighbors within 300 ft of the property. The comment period for the SEPA determination expired on August 4, 2021.

Public Comment Received:

No written public comments were submitted in response to this Conditional Use Permit application or the SEPA notice.

V. ANALYSIS AND CONSISTENCY WITH REGULATIONS

The application is reviewed in accordance with the LMC 19.49.020 and the criteria listed for land use application review in LMC 17.09.040(C) "Planning Commission Review and Recommendation; Required Findings".

A. Certain uses may be allowed by a CUP granted by the City Council, after it receives a recommendation of the Planning Commission. The Planning Commission shall issue its recommendation after a public hearing on the CUP application. In the application and during the hearing process, it shall be clearly shown by the applicant that the proposed use is not detrimental to the surrounding area or a liability to adjacent uses. For the purpose of this review, the surrounding area, or neighborhood, means those parcels that are in close proximity to the subject parcel.

B. An application for a CUP may be made only for those uses specified under the conditional use section of the appropriate zoning district.

C. The Planning Commission and Council shall enter findings to support any recommendation or decision on a CUP application. Conditions may be attached to

Lynden Automotive Conditional Use Permit – TRC Report

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.
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;
 - b. Noise, smoke, fumes, glare or odors generated by the proposed use;
 - c. Building and site design; and
 - d. The physical characteristics of the subject property.
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.
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.
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.
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.
7. The proposed use will not destroy or substantially damage any natural, scenic or historic feature of major importance.
8. The proposed use is generally consistent with the purposes and objectives of the city comprehensive plan and applicable sub-area plan.

VI. TECHNICAL REVIEW COMMITTEE COMMENTS

Planning and Development Department

- *CUP Criteria:* Staff acknowledges that the applicant has provided responses to LMC Chapter 19.49 regarding standards and criteria for granting a Conditional Use Permit. The applicant's responses are attached to the submitted application.
 - Several of the criteria will need to be further addressed through required conditions if the CUP is to be approved. Condition recommendations are included below in Section VII.
 - Several times the applicant states they are maintaining the same use as the previous owner. It is possible the previous owner was operating a full-service auto shop without a CUP. If so, they were able to do so under the radar. The current use of the property - with numerous inoperable vehicles stored in the parking lot, the miscellaneous debris stored outside around the building, and documented wastewater entering the storm drain, it is no longer under the radar. At a minimum, the current use requires a CUP to mitigate these impacts.
- *Site Plan, Vehicle storage, Parking, and Landscape Buffer:* Applicant must submit a site plan, prior to final CUP approval, that addresses:
 - *Vehicle Storage:* There is not room for a designated vehicle storage area separate from the already existing parking spots. Applicant must identify which parking spaces will be used for auto storage while they are being worked on. No overnight vehicle storage shall occur forward (south) of the building.
 - *Parking Plan:* The site plan shall ensure that code parking requirements (LMC 19.51) are met for both Lynden Automotive (minus any spots being used as vehicle storage areas) and the Shell Station and convenience store.
 - A landscape buffer shall be approved to screen and improve the aesthetic appearance of the site. Vehicle storage area must be screened. The applicant has initially provided information which indicates that a row of Excelsa Cedar will be used as a hedge along Bender Road and Badger Road.
- *Miscellaneous Debris and Storage Containers:* Storage containers are not permitted on the property, except for during temporary construction projects. There shall be no outside storage of miscellaneous debris associated with the business (engine and/or vehicle parts, garbage, tires, tools, buckets, etc).

Public Works Department

- *Stormwater Infrastructure:* Utility As-builts indicate the rear storm drain flows to the eastern detention basin and does not include an oil/water separator or appropriate filtration for vehicle washing or wastewater associated with auto repair. A full stormwater review and report is required prior to full approval. The report must include BMPs for the site that meet Dept of Ecology Standards. Upgrades may be required.

Fire Department

- Two chapters (23 & 57) from the IFC apply to an auto repair shop. Additional attention regarding parts cleaning dip tanks and flammable liquid storage and disposal should be addressed. The proposal should also address mitigation and extinguishment capabilities for these operations.

Parks Department

- No comments on this application.

VII. RECOMMENDATION

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

- 1) Vehicle storage areas require screening to reduce the impacts of a full-service mechanic shop.
- 2) Install landscape buffer that includes hedging, groundcover along street frontage to provide community privacy and visual screening. 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) Full stormwater review and report is required. The use on site generates illicit discharge and will require an oil water separator and separate containment to handle run off from the vehicles under repair. The stormwater report should be submitted within 3 months of CUP recommendation. Installation of any necessary stormwater improvements shall be completed prior to continuing use of the system for car washing and automotive repairs.

Lynden Automotive Conditional Use Permit – TRC Report

- 4) This Conditional Use Permit will be limited to a maximum of 10 vehicles under repair at any one time. Parking plan is required.
- 5) Removal of all storage containers from the site.
- 6) All trash and debris must be adequately contained and removed from site on a regular basis.
- 7) There shall be no outside storage of materials, parts or associated equipment at any time.
- 8) This Conditional Use Permit will be subject to a 6-month probationary period to ensure compliance. Non-compliance will result in legal action and fines or the revocation of the CUP.
- 9) The requirements and conditions listed by the Technical Review Committee in Section VI of this report are included in this recommendation.
- 10) 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 use.



X. GR. 30.480 KG
67.200 LBS
TARE 2.355 KG
5.190 LBS

NET CU. CAP. 28.125 KG
62.010 LBS
32.8 CU. M.
1.160 CU. FT.

NWRU 990367 1
22G1

MAX GR. 30.480 KGS
67.200 LBS
2.355 KGS
5.190 LBS

NET CU. CAP. 28.125 KGS
62.010 LBS
32.8 CU. M.
1.160 CU. FT.



OWASCO





LYNDER
AUTOMOTIVE
SPECIALISTS
360.927.1360
LARGE REPAIR AREA

WASHINGTON
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LESON

WASHINGTON 3 2022
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EVERGREEN STATE

IF YOU
DON'T LIKE
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LEGACY

SUBARU



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