

# CITY OF LYNDEN

COMMUNITY DEVELOPMENT DEPARTMENT  
Heidi Gudde, Director  
360-354-5532



## PLANNING COMMISSION MEETING MINUTES

7:00 PM March 13, 2025  
City Hall Annex

### 1. CALL TO ORDER

### 2. ROLL CALL

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

Absent: Khush Brar

Staff Present: Gudde, Com Dev Director and Samec, Planner

### 3. APPROVAL OF MINUTES

A. February 27, 2025 Johnson / Scott / 2<sup>nd</sup> 5-0

### 4. DECLARATION OF CONFLICT - NONE

### 5. PUBLIC HEARING

#### A. Conditional Use Permit Amendment – CUP 25-01, DariTech – IBZ Setback

Gudde addressed the Commission and gave a brief overview of the request.

DeYoung and Roosma Construction, on behalf of Daritech, Inc. has submitted a Conditional Use Permit Application requesting a conditional use permit (CUP) to allow for the reduction of 50% to the side setback prescribed by code. The standard setback in this case is 20 feet and DariTech is requesting a 10-foot setback. The City's industrial standards allow for the reduction in setbacks through a CUP as outlined in LMC 19.25.060.

The project includes the replacement of an existing 6,005 square foot storage building with a new 6,341 square foot storage building approximately 26'10" in height. The existing building currently has a 10-foot side yard setback and the applicant would like to maintain that setback for the proposed building.

Staff has concluded their review of the request and has concerns related to the industrial site's impact to the adjacent residential properties. The site is currently lacking in minimum landscape buffers. Staff is recommending approval of the reduced setback but under the condition that DariTech begin buffering their use as prescribed by code. The Technical Review Committee (TRC) recognizes that revised storage solutions may be needed by DariTech operations in order to meet these conditions. A complete list of recommended

conditions has been detailed at the conclusion of the TRC report as updated on March 6, 2025.

Planning Commission asked where the existing hedge was planted. Gudde stated that the hedges that exist now are planted on the adjacent residential properties. Kaemingk asked if the residential properties would have been required to construct the buffer when they were platted. Gudde responded that the more intensive use is, in this case the industrial property, is required to provide the buffer. However, the city does not enforce landscape buffers that may be triggered by adjacent development. Gudde understood that a hedge was planted by residential developer to make the lots more appealing to buyers. Gudde indicated that the buffering requirement should be considered as the industrial property owner is asking for an exception in the side setback and, to date, this property has relied on adjacent properties to provide a hedge.

Speaking in favor.

Ryan DeWaard, Property Owner, 8540 Benson Road

DeWaard stated that the goal is to improve a very old pole building with a new, more efficient, aesthetically pleasing building. The site is already close to a max buildout. DeWaard stated that staff is recommending that we add a 15 foot landscape buffer along the property line between the residential properties to the north - it is not feasible for us to lose the much needed space, move existing racking, and dig out the concrete to add the landscaping. He said that if DariTech is required to do so, they would just walk away from the project as adding landscaping presents concerns with space as we are already very tight.

This property has been used as Industrial since the 70's, well before residential development. There is existing landscaping on the neighboring properties that provides a good buffer.

Scott asked if there will be any addition noise or smell that comes from the new building? DeWaard replied, no, it is the exact same warehouse use and located in generally the same location.

Scott asked if there was any chance to plant a taller tree to help with the screening? Faber stated that a smaller tree actually grows faster as they take on more nutrients in the early stages. Faber would not recommend a taller tree at the time of planting.

Speaking in opposition.

James and Adelle Schmidt, 717 Cedar Drive

Not necessarily in opposition, just a question regarding any contaminants or fumes / dust that may present itself when the old building is taken down? What will the wind carry over?

Jerry Roosma, 141 Wood Creek Drive, Agent / Contractor.

Roosma stated, when we take a wood building down it is taken down within 5 hours and hauled away. We take normal precautions with demolition. Dust control could be taken care of with water but if it was a very windy day they would likely postpone the demo until a calmer day.

The Commission asked, if the PC approves the request as presented including the staff report recommendations does the planting become a condition of approval? Gudde replied, yes. It is important to note that the Staff recommendation is just that – a recommendation. The Planning Commission can choose to create their own conditions, accept the recommended staff conditions or a combination of both. The City Council will make the final determination as any required conditions.

The Commission discussed the landscape buffer exhibit attached to the PC packet.

DariTech has been in this location for many years and prior to that was a phone company. The industrial use was in this location well before the residential use, however, since DariTech is proposing additional changes, it is a good opportunity to provide some compliance with the landscape code. A Conditional Use is an opportunity to review the surrounding impacts etc. The goal is to mitigate potential impacts and to find a middle ground. The map is only showing a recommendation from Staff, the Commission can decide what is best.

Kaemingk stated, at the time the residential use was established, the plat should have required a hedge to be planted to buffer the two uses. Gudde stated, code requires that the more intensive use provide the buffer on their side that is why the residential development was not required to do so. Some properties did plant on their own, but it was not a requirement.

Gudde stated that we recognize that DariTech is an important part of the community, however, also respect that the code when it calls for landscaping.

The Commission asked, if we do not require a 15-foot buffer, is there any other buffer that could work? Yes, however, there are racking systems and concrete in place all the way up to the property line immediately west of the proposed building. Faber asked if a condition could be placed on the CUP that would require DariTech to replace the existing buffers if there was an issue. That is, if the adjacent hedge died? Gudde replied, yes it is possible for the Commission to create a condition like that but noted that enforcement of the condition becomes more difficult. When questioned what that might look like Gudde described a couple possible scenarios. If the adjacent hedge dies then the property owner asks the City to cause DariTech to replace the hedge. DariTech does that – the assumption being that the property owner is then watering and maintaining to ensure survival. The property owner could request payment in lieu of the hedge planting and Gudde asked if a payment would adequately fulfill the condition or only the planting of a

hedge? Perhaps the homeowner would prefer to do the work themselves or opt for different hedge material? In another scenario the industrial user could refuse to meet the condition, and the City could cite them for a violation of their Conditional Use Permit up to and including daily fines. Gudde noted that code violation enforcement like this is often slow moving and relatively complicated but it can be done.

**Scott motioned to close the public hearing. Seconded by Kaemingk and the motion passed, 5-0.**

Commissioner discussion.

The Commission addressed the letter received from Spencer Korous, 813 Cedar Drive. The Commission agreed that concerns related to lighting would be addressed by the approval conditions. Also, noise would be regulated by the City's noise ordinance. The Commission agreed that the other concerns brought up in the letter are not concerns that have to do with this request.

Kaemingk stated that requiring the improvement of the site with landscaping will cause DariTech to lose much needed yard space and he feels that it is a hardship.

The DariTech site is small enough as it is, and the company provides jobs in the City. Scott stated that we should not ask for new buffers since they are only replacing what has been existing for many years. Should not cause an additional hardship to DariTech. The new building will be an improvement.

Lyons expressed concern as the landscape requirement is required per code. The requirement is in place for new buildings, and this is a new building regardless of where it is or was previously located. This may set a precedent for other industrial users. She also noted that the residential owners have carried the burden of buffering the industrial use. Several Commissioners indicated that they felt the landscape requirement presented a hardship for DariTech.

Faber suggested the Commission add a condition that DariTech be required to plant a new hedge if the existing hedge fails. He also pointed out that the low side of the building is on the residential side of the property and slopes upward as it moves away from the property line.

The Commission reviewed the required criteria as outlined in 19.57.210 ( 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 Commission stated that an existing building legally exists.**
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**
  - b. Noise, smoke, fumes, glare or odors generated by the proposed use; **only temporarily during demolition and construction**
  - c. Building and site design; **a newer and nicer building to look at.**
  - d. The physical characteristics of the subject property; **no**
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 changes in that the new building will maintain the current setback of the existing.**
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 changes in that no employee positions will be created by the construction of this building.**
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. **The use complies with the zoning category but not the required setback. However, the new building will be placed in the same / existing location and is not getting closer than the existing building.**
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. **There are some existing buffers in the form of an evergreen hedge on the residential properties.**
7. The proposed use will not destroy or substantially damage any natural, scenic or historic feature of major importance. **No known scenic or historical features involved in this project.**

8. The proposed use is generally consistent with the purposes and objectives of the city comprehensive plan and applicable sub-area plan. **Yes in that it is consistent with the property's zoning.**

The Commission also 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, zoned IBZ**
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. **N/A**
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, maintains a current existing use, replaces an old dilapidated building, provides visual improvements, provides jobs for Lynden.**
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. **Correct**
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**

The Commission chose not to require additional landscaping as recommended by the TRC for the following reasons: 1) This is a replacement of an existing building generally in the same location with an existing buffer between the uses. 2) Requiring the relocation of existing storage rack structures currently located west of the proposed building is a hardship for DariTech. 3) There is an existing landscape buffer already in place on adjacent properties.

**Scott motioned to approve the DariTech Conditional Use Permit #25-01, requesting to maintain a 10-foot side yard setback from the required 20-foot setback when adjacent to residentially zoned property, subject to the Technical Review Committee Report dated March 6, 2025, and further subject to the following conditions:**

- 1) **That DariTech be required to replant the existing hedge located on the neighboring residential properties to the north if any of the landscaping dies. The landscape buffer required by DariTech will be an evergreen hedge to replace any existing hedge with the same plant species and installed at a minimum 6-foot height and spaced so as to create a visual barrier within 3**

years of planting. This condition will be in place for 5 years from the date of new building construction.

- 2) **No Storage** – No storage be permitted north of the proposed building (highlighted in orange in the graphic above)
- 3) **Shielded Lights** - To minimize impacts to surrounding properties all new exterior lighting must be shielded or “dark-sky compliant” to minimize lighting impacts.
- 4) **Mechanical Equipment** – To reduce visual impacts to surrounding property owners, roof-mounted mechanical equipment is not permitted on the proposed building.
- 5) **Prior to final occupancy, improvements must be implemented to the site’s stormwater facilities to prevent the drainage of rainwater into the City’s sanitary sewer system.**

**Seconded by Kaemingk, and the motion passed 5-0.**

**a. Continued Public Hearing - Amendment to LMC 19 – Design Review**

At the February 27, 2025, Planning Commission meeting, the Commission began their review of the proposed amendments to LMC 19 regarding the design review process, the dissolution of the Design Review Board and the adoption of design standards for commercial and multi-family projects.

This change is being made in response to a State of Washington requirement. The primary goal in this requirement is to reduce the review and approval time for proposed projects. It also serves to implement a more consistent standard. The City of Lynden must comply with the State’s directives by the close of 2025.

At the last meeting, the Commission requested more time to review the proposed amendments outlined in LMC 19.23 and chose to continue the public hearing to March 13, 2025, specifically the proposed changes to Commercial Design Standards outlined in LMC 19.23.080 and 19.23.090. All other proposed amendments within the PC packet were reviewed with no concerns.

Gudde stated, while the code already included many of these standards, they were written to apply only to commercial centers of more than 25,000 square feet. These sections will now apply to all commercial projects and edits have been

made to reflect this change. Residential design standards were largely already in place in LMC 19.22 with only minor changes proposed.

The Commission reviewed the following:

LMC 19.23.080 – Commercial Design Standards:

Kaemingk, Scott, Johnson and Lyons had no questions or comments, seems well done.

Faber requested the following:

19.23.080 (A)(2)(d), Façade Patterns: the addition of repetitive window patterns, canopies and sunshades to the façade pattern section.

19.23.080 (A)(2)(e), Architectural Details: the addition of projecting canopies

A note should be added within the document regarding the requirement to have Nooksack Valley Disposal or “waste hauler” to be informed / give approval for the dumpster, trash and or recycling containers. This step is used to verify the dumpster size is large enough for the use and to verify that the garbage trucks can maneuver within the site adequately and not to approve the aesthetics of the enclosure.

Brief discussion regarding max building stories in the Mixed-Use Overlay Development Standards. The code allows 4 stories 52-feet (60-feet with a CUP). The majority of the Commission agreed that 4 stories max was plenty.

**Scott motioned to close the public hearing. Seconded by Lyons and the motion passed, 5-0.**

No other questions or concerns with the proposed amendment

The Commission appreciates the work from Staff.

**Scott motioned to recommend to the Lynden City Council the approval of the proposed amendment to LMC 19 regarding the design review process, the dissolution of the Design Review Board, and the adoption of design standards for commercial and multi-family projects with the changes as noted . Seconded by Lyons, and the motion passed 5-0.**

Staff and Planning Commission discussed the upcoming meeting schedule which will include review of the Comprehensive Plan update.



Planning Commission should plan on the following:

Meeting March 27<sup>th</sup>

No meeting April 10 (spring break for local schools)

Meeting April 24<sup>th</sup>

Meeting May 22<sup>nd</sup>

June 26<sup>th</sup> No Blair

## **6) ADJOURNMENT**

**Motion to adjourn by Scott / Second by Kaemingk. Meeting adjourned at 9:00 PM**