

CITY OF LYNDEN
FINDINGS OF FACT, CONCLUSIONS OF LAW, and ORDER

REGARDING the PROPOSED
AMENDMENT OF PRD #94-1 by
AARON DRIVE PROPERTIES, LLC

Petitioner

PRD Amendment #19-01

FINDINGS OF FACT, CONCLUSIONS
OF LAW, CONDITIONS and ORDER

I. SUMMARY OF DECISION

PRD Amendment #19-01, the requested amendment to PRD #94-1, is **REMANDED** to the Planning Commission, subject to this Order.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

AARON DRIVE PROPERTIES, LLC (“Property Owner”) is owner of the premises known as:

LOT 4, RB DEVELOPMENT, DIV. NO. 1, A PLANNED RESIDENTIAL DEVELOPMENT, ACCORDING TO THE MAP THEREOF, RECORDED IN VOLUME 19 OF PLATS, PAGE 21, RECORDS OF WHATCOM COUNTY, WASHINGTON.

COMMONLY DESCRIBED AS: 801 Aaron Drive, Lynden, WA

(Hereafter “Property”).

Pacific Surveying and Engineering has filed an application on behalf of the Owner to amend PRD # 94-1, RB Development and Heritage Park PRD (“PRD #94-1”). The amendment would allow for the construction of a senior housing complex on the Property, which is already improved with an apartment building.

Said application having come before the City Council of the City of Lynden on December 2, 2019, and the Council having fully and duly considered said application, hereby find as follows:

1.01 Application. Pacific Surveying and Engineering filed an application on behalf of Aaron Drive Properties, LLC which was accepted by the City as complete and containing all information required by LMC 17.19.010 July 31, 2019.

1.02 Location. The property is located on Aaron Drive east of its intersection with Bender Road.

1.03 Ownership. Aaron Drive Properties, LLC is the Property Owner.

1.04 Request. To amend PRD # 94-1, RB Development and Heritage Park PRD.

1.05 Reason for Request. To allow for the construction of a 50-unit age-restricted housing building on the Property.

1.06 Planning Commission Recommendation. An open record hearing was held before the Planning Commission on October 10, 2019, at the City Hall Annex located at 205 4th Street, Lynden, WA. The Lynden Planning Commission recommended denial of the rezone application in Resolution 19-04.

1.07 Staff Comments. The Council considered the memorandum of staff attached as Attachment A hereto. Staff recommended the Council consider approval of the application subject to conditions.

1.08 SEPA Threshold Determination. PRD #94-1 was issued a Mitigated Determination of Non-Significance. This application is within the scope of the original determination.

1.09 Existing PRD Development.

Density. PRD #94-1 is presently developed with a total of 341 dwelling units. Of these, 85 are in the Christian Healthcare Center (based on 57 semi-private suites and 28 private suites per LMC 17.01.030), a skilled nursing facility, 109 are in Lynden Manor, an assisted care facility, 40 are in the Lynden Manor Townhome Condominiums, 64 are in the Heritage Park Estate Condominiums, and 45 are in the Parkview West Apartments. PRD #94-1 was originally allocated 437 dwelling units, leaving the potential for up to 96 additional dwelling units for future development.

Setbacks and Bulk. Other buildings in PRD #94-1 are set back 25 feet from the right of way.

1.10 Existing Development on the Property. The Property is improved with the Parkview West Apartments. The Parkview West Apartments are in two buildings, each two stories tall. There is a total of 45 units between the two buildings, which have one, two, or three bedrooms. The one-bedroom units are over 680 square feet; two- and three- bedroom units are larger. Aside from the apartment buildings, the Property is developed with covered and uncovered parking, storage lockers, and green spaces. The Parkview West Apartments are not age-restricted.

1.11 Proposed Project. The applicants proposed to amend PRD #94-1 to allow development of a 50-unit, 5-story, age-restricted senior housing apartment building. Units would be a combination of one bedroom and studio apartments. The building would be constructed on the Property between the existing apartment building and the street. Amenities would include a central elevator. The building would be set back from Aaron Drive only 15 feet, but the applicant proposed to design the building with bays that are set further back and to install landscaping with small canopy trees, evergreens, shrubs, and low ground covers. Aside from the requested amendments to PRD #94-1, the

applicants proposed to fully comply with the Lynden Municipal Code, including by providing the requisite amount of parking per 19.51.040 LMC.

1.12 Proposed Amendments. The applicants proposed the following amendments to PRD #94-1:

1. Reduce the front setback from 30 feet as currently required to 15 feet.
2. Increase the current permissible height from two stories to 45 feet.
3. Remove the cap on the number of residential units per building allowed on the Property.
4. Remove the requirement that each unit on the Property be provided with a 32-square-foot storage space. The applicant did not propose to eliminate existing storage, but cannot provide it for the 50 new units.

1.13 History of Amendments. A number of amendments have already been made to PRD #94-1. Some elements of PRD #94-1 that the applicants seek to amend now were previously amended:

1. The front setback was originally 45 feet. City records indicate that it was subsequently reduced to 30 feet.
2. The height of buildings on the Property was originally limited to 45 feet. On October 7, 1996, the City Council approved Amendments B1 and B2, but imposed the condition that the buildings be only two stories tall.
3. Originally, 152 units were assigned to be shared among Lots 3, 4 (the Property), and 5 and 6 of PRD #94-1. A note indicates that 32-44 units were anticipated per building, but it is unclear whether that was intended to be a hard cap. Later, also in its approval of Amendments B1 and B2, the City Council limited each building on the Property to 30 units, but did not change the allocation of the number of densities for the Property or PRD #94-1 as a whole.

1.14 Applicable Code Provisions. PRDs are governed by Ch. 19.29 LMC. LMC 19.29.120 lays out when a PRD may be amended and the procedure for amendment. This application meets the criteria in LMC 19.29.120(B). The process for amending it is in LMC 19.29.100, which is the same process for approving a new PRD. An application to amend a PRD must meet the minimum development standards in LMC 19.29.060(A) through (I) or one of the exceptions listed in LMC 19.29.060(J). In addition, it must meet the approval criteria in LMC 19.29.110, specifically at least two criteria in subsection (A) and both subsections (B) and (C).

1.15 Process. The Council cannot locate specific findings as to whether the application meets the minimum requirements in LMC 19.29.060(A)-(I) or LMC 19.29.110(A)(1)-(7) and (B) and (C).

1.16 Conditions. Planning staff did not supply a recommendation to the planning commission, so the planning commission could not have considered staff's conditions which were proposed to the Council. Council would substantially benefit from planning commission review of staff's proposed conditions, and the planning commission's recommendation on whether or not

such conditions should result in approval of the application, prior to Council review of the application.

The foregoing Findings of Fact and Conclusions of Law are not labeled. Those sections which are most properly considered Findings of Fact are hereby designated as such. Those sections which are most properly considered Conclusions of Law are also designated as such.

III. DECISION

Based upon the preceding findings and conclusions, PRD Amendment #19-01 is hereby **REMANDED** to the planning commission for further proceedings consistent with the following order:

1. The planning commission shall consider the conditions of approval suggested by staff in the staff memo at Attachment A, and shall make findings as to the import and desirability of the conditions and whether the application meets those conditions. The planning commission may also consider and recommend additional conditions.
2. The planning commission shall hold an open record hearing on the application subject to said conditions, after which the planning commission shall make specific findings as to the application's compliance with:
 - a. LMC 19.29.060, including subsections (A) through (I) and subsection (J) if applicable; and
 - b. LMC 19.29.110(A) through (C), including individual findings as to each subsection of 19.29.110(A)(1)-(7); and
 - c. Each element of LMC 19.09.040, if applicable.
3. The planning commission shall pass a resolution with its new findings and recommendation to grant or deny the application as so modified by the conditions in Attachment A, and any other conditions, on or before March 31, 2020.

Done by the Lynden City Council by a vote of ____ to ____.

DATED: _____

Scott Korthuis, Mayor