1. CALL TO ORDER

Chairperson Veltkamp called the Planning Commission meeting to order at 7:30 p.m. on Thursday, January 12, 2017, at the City of Lynden City Hall Annex.

2. ROLL CALL

Members Present: Faber, Kok, Scott, Strenghold, and D. Veltkamp
Members Absent: G. Veltkamp
Staff Present: Solano, Director, Samec, Planner and Timmer, Planner

3. APPROVAL OF MINUTES

A. None

4. DECLARATION OF CONFLICT

None of the Commissioners reported any ex-parte contact or conflict of interest.

5. PUBLIC HEARING

A. Re-opening the Public Hearing for the 2016 Comprehensive Plan Update, Chapter 2, Specifically the Arneson Parcel Rezone Request

Veltkamp re-opened the public hearing for the 2016 Comprehensive Plan Update.

Solano addressed her memo dated January 12, 2017. On December 19, 2016, the agenda for the City Council meeting included the 2016 Comprehensive Plan Update. The public hearing on this item drew comments related to the Land Use Element. Lesa Starkenburg, agent for the Arneson Family Trust, asked the Council to reconsider a change in land use designation for the Arneson property located at the corner of Line Road and East Badger Road (Council minutes attached). The original request, heard by the Planning Commission on September 8, 2016, asked that the City alter the land use designation of the property from a combination of CSL (Commercial) and RM3 (Multi-family) to a full residential designation (RM3 in the north and RS-72 in the south). Starkenburg, who had not previously represented the Arneson Family Trust in public meetings, presented to the City Council information in support of a residential designation. Starkenburg also, just
prior to the Council meeting, submitted a letter to the City for distribution to all the Council Members outlining this same information (letter attached). Starkenburg indicated that if the Council approved the Comprehensive Plan Update, as presented, her client would continue to pursue a change to the land use designation at the next available opportunity.

In light of new documentation in support of the change to the land use designation of the Arneson property, the City Council was persuaded to table action on the 2016 Comprehensive Plan Update. Council has requested that the Planning Commission reopen the public hearing, on this issue only, at the January 12th meeting. Staff has been asked to return the Comprehensive Plan Update and the Commission’s recommendation on this item to the January 17th City Council agenda.

Solano stated that the Planning Commission may choose to reverse the original recommendation and allow the Arneson property to change to a residential designation. This reversal would result in revisions to the affected sections of the 2016 Comprehensive Plan Update, likely require coordination with Whatcom County regarding land use capacity, and may require additional review by the Department of Commerce. Alternatively, the Commission may opt to uphold its original recommendation. As noted previously, it is likely that the Arneson Family Trust will continue to pursue a residential designation in 2017. It is relevant to note that other commercial property owners in East Lynden, specifically those on or near Badger Road, have also shown an interest in seeking residential designations.

As the request associated with the Arneson property is most appropriately considered in the context of the entire East Lynden Sub-Area and the City as a whole, staff suggests that land use designations here and specifically along the Badger Road corridor, warrant additional study prior to a change in designation. Additional land owners in this area have shown interest in shifting to residential uses. As such, a study here may involve stakeholder participation and encompass the review of uses permitted under the CSL zoning, which currently includes multi-family uses. The City may want to consider revisions to commercial zoning categories which allow for iterations of mixed use development most appropriate for this area. Alternatively, further study may demonstrate limited viability of commercial uses in this area and clear the path for additional residential capacity in the East Lynden Sub-Area.

Lesa Starkenburg- Kroontje, 313 4th Street, Lynden
Starkenburg addressed the Commission and her letters dated December 19, 2016 (attached) and January 11, 2017 (attached).

The Arneson Family acquired Starkenburg’s assistance when they were informed that the Planning Commission recommended that their request for a Comprehensive Plan Amendment / Rezone was denied.

The Arneson’s parcel is approximately 11.38 acres. The current zoning is CSL (Local Commercial Services) in the northern 2/3 of the parcel and RM3 (multi-family allowing up to 12 units/building) along the southern 1/3 of the property (along Aaron
Drive). The Arnesons have not been able to develop the land as a commercial property and would like to rezone the entire property to residential use – the northern 300 ft to RM3 and the remaining to RS-72 (single family - minimum lot size 7,200 sq ft).

Starkenburg noted that the Arnesons have owned the property is question (corner of Line Road and E. Badger Road) for decades. The property has been held and managed in trust since 1992. The family has been actively seeking to sell the property since 2007. In the Spring of 2016, the Arneson family spoke with the former Planning Director about this topic and was given favorable feedback regarding their proposed change to the land use designation (partial CSL to RM3 and RS-72).

Attached to Starkenburg’s letters (attached) is a letter from Troy Strong with Windermere and Jerry Blankers with the Muljet Group North. Both letters support the Arneson request.

Starkenburg stated that it has been difficult to find a commercial user in this area. The Arnesons have been patient, however, there is not enough traffic now or enough traffic shown on the projected numbers to support a large commercial store on this property.

The Arnesons do not want to wait another year, they want to move forward now. Starkenburg stated that is practical and necessary to discuss the entire East Lynden area, however, the City Council asked for the Planning Commission to reconsider this parcel as they have been working on this under the 2016 Comprehensive Plan Update.

Faber asked, what is the history behind the split of zoning on this property? Starkenburg stated that the layout was determined by the former Planning Director and the Surveyor for the project.

Kok asked Arneson if was open to other zoning options? Starkenburg replied, that is what Staff recommend at that time and the layout is consistent with the zoning in the area.

Faber asked if Arneson would be interested in rezoning the entire piece to RM-3? Starkenburg replied, it could be discussed.

Gary Vis, 508 Front Street, Lynden
Vis stated that there is a significant amount of under-utilized commercial space in town. Most new commercial businesses would prefer to locate with an existing shopping center or along the Guide Meridian. The City has tried to balance development with the desires of the residents, however, it does not meet up with the reality of commercial development.

Vis asked that the Commission reconsider their decision and allow the Arneson parcel to be rezoned. Vis’ personal preference is single family.
There was additional discussion regarding densities and residential land capacity in the UGA.

There was also discussion regarding the variety of permitted uses allowed within the CSL zone. Solano encourages the Arnesons to look at the other options, not just grocery stores. Mixed use developments that allow for residential and commercial together are also permitted.

Faber asked, if the Commission were to make changes to this document tonight, would it cause issues with the County and the State? Timmer replied, yes. The City would need to resubmit this chapter to the Department of Commerce which would require a new 60-day review period. As it sits now, we are non-compliant and not eligible for funding etc.

Starkenburg stated that the City Council is the final body to approve the Comp Plan. If they did not feel it was appropriate to review they would not have sent it back to the Commission.

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

D. Veltkamp addressed the Commission and stated that it is important to be consistent with area zoning. This parcel is in line with other CS property. Should the City be looking at the entire area as a whole rather than a single parcel? Should the Commission uphold their decision and then ask for the Arnesons and others in the area to come back for a Comprehensive Plan Amendment later this year?

Faber stated that he would hesitate to move forward with the change until there was an opportunity for a global review of other properties in the area. Faber would prefer a more holistic approach.

Scott agrees with Faber. Scott understands the argument; however, the City needs to look at the entire area.

Strengholt stated that there is merit to the information presented this evening, however, can the applicants apply again this year? D. Veltkamp replied, yes, the City accepts Comprehensive Plan Amendments once a year. 2016 was a bit different as the requests were included as part of the 2016 Update.

Solano agrees that a change like this warrants more review. Our goal would be to get citizen participation / stakeholder involvement and look at the East Lynden area as a whole.

Faber stated that it is not in the City's best interest to keep pushing the Comp Plan Update further out. The City needs to be in compliance with the State.
Faber motioned to recommend that the Planning Commission uphold its original decision from September 8, 2016 to deny the Arneson rezone request based on the previous findings of facts as follows:

- That the East Lynden residential growth has been substantial in the past 10 years and this growth continues to lay a foundation for local commercial needs in this area.
- That there is a short supply of available commercial land within the East Lynden Area.
- That the existing zoning is in conformance with the current Comprehensive Plan. There are no perceived Comp Plan needs that a rezone of this parcel would meet.

And further subject to the following additional Findings:

- To allow the opportunity for greater public input and participation.
- To allow for a more global look at the zoning for other properties located within the East Lynden Sub-Area
- To better study which residential zoning designation that is best for the City as a whole.
- To provide a more comprehensive traffic count to better support future decisions.

Seconded by Scott, and the motion passed 3-1, with Strengvolt in opposition.

There was also additional concern expressed regarding the current status of the City’s non-compliance with the State regarding the 2016 Comprehensive Plan Amendment

6. NEW BUSINESS

   A. Election of Chair and Vice Chair Positions

Commissioners voted by ballot for Chair and Vice Chair positions:
Results:
Chair: D Veltkamp
Vice Chair: Faber

7. COMMISSIONERS CORNER

   None

8. ADJOURNMENT

   Faber motioned to adjourn the meeting at 9:10 pm. Seconded by Strengvolt, and the motion passed 4-0.
Planning Department Memorandum

To: Planning Commission

From: Heidi Solano, Planning Director

Date: January 12, 2016

Re: Reopening of Public Hearing for 2016 Comp Plan Land Use Element – Arneson Property

History: On December 19, 2016 the agenda for the City Council meeting included the 2016 Comprehensive Plan Update. The public hearing on this item drew comments related to the Land Use Element. Lesa Starkenburg, agent for the Arneson Family Trust, asked the Council to reconsider a change in land use designation for the Arneson property located at the corner of Line Road and East Badger Road (Council minutes attached). The original request, heard by the Planning Commission on September 8, 2016, asked that the City alter the land use designation of the property from a combination of CSL (Commercial) and RM3 (Multi-family) to a full residential designation (RM3 in the north and RS-72 in the south). Starkenburg, who had not previously represented the Arneson Family Trust in public meetings, presented to the City Council information in support of a residential designation. Starkenburg also, just prior to the Council meeting, submitted a letter to the City for distribution to all the Council Members outlining this same information (letter attached). Starkenburg indicated that if the Council approved the Comprehensive Plan Update, as presented, her client would continue to pursue a change to the land use designation at the next available opportunity.

Council Request: In light of new documentation in support of the change to the land use designation of the Arneson property, the City Council was persuaded to table action on the 2016 Comprehensive Plan Update. Council has requested that the Planning Commission reopen the public hearing, on this issue only, at the January 12th meeting. Staff has been asked to return the Comprehensive Plan Update and the Commission’s recommendation on this item to the January 17th City Council agenda.

Commission Action: The Planning Commission may choose to reverse the original recommendation and allow the Arneson property to change to a residential designation. This reversal would result in revisions to the affected sections of the 2016 Comprehensive Plan Update, likely require coordination with Whatcom County regarding land use capacity, and may require additional review by the Department of Commerce. Alternatively, the Commission may opt to uphold its original recommendation. As noted previously, it is likely that the Arneson Family Trust will continue to pursue a residential designation in 2017. It is relevant to note that other commercial property owners in East Lynden, specifically those on or near Badger Road, have also shown an interest in seeking residential designations.
Staff Recommendations: As the request associated with the Arneson property is most appropriately considered in the context of the entire East Lynden Sub-Area and the City as a whole, staff suggests that land use designations here and specifically along the Badger Road corridor, warrant additional study prior to a change in designation. Additional land owners in this area have shown interest in shifting to residential uses. As such, a study here may involve stakeholder participation and encompass the review of uses permitted under the CSL zoning, which currently includes multi-family uses. The City may want to consider revisions to commercial zoning categories which allow for iterations of mixed use development most appropriate for this area. Alternatively, further study may demonstrate limited viability of commercial uses in this area and clear the path for additional residential capacity in the East Lynden Sub-Area.

Attachments
1) 09-08-2016 Planning Commission Meeting Minutes: Initial Hearing re Arneson property
2) 09-14-2016 Letter from City of Lynden to agent for Arneson Property re Commission decision
3) 05-06-2016 Letter and exhibits from agent for Arneson requesting change in zoning (land use)
4) 12-19-2016 City Council Meeting Minutes re 2016 Comp Plan Update
5) 12-19-2016 Letter and supporting information from Lesa Starkenburg, agent for Arneson Property
STARKENBURG-KROONTJE
Attorney at Law, P.S.
P.O. Box 231
313 4th Street
Lynden, WA 98264
(360) 354-7822
Fax: (360) 354-6929
email - starkenburgkroontje@msn.com

Lesa Starkenburg-Kroontje

January 11, 2017

City of Lynden
Planning Commission
PO Box 650
Lynden, WA 98264

FOR DISTRIBUTION TO ALL COMMISSION MEMBERS

Dear Commission Members:

This letter is written on behalf of the Arneson Family Trust ("Arneson") with regard to their property located at the corner of Line and Badger Roads.

Thank you for your past time and effort in reviewing the requested modification to the Comprehensive Plan and Zoning Map for this property that was presented as part of the City of Lynden’s proposed Comprehensive update. I understand that there was information available to both you and to City Planning Staff when you reviewed this proposal in the fall of 2016. This was based, in part, on the change of Planning staff and change of the surveyor for the proposal.

When the Arneson’s were informed that the Planning Commission recommended that their request be denied, they realized that additional communication with the City was necessary. That communication took place with the City Council at their hearing on December 19, 2016. Based on the information presented, the City Council has remanded the Comprehensive Plan update Ordinance 1519 to you to specifically reconsider your previous recommendation for the Arneson proposal of modifying their property from partial CSL to a residential use of RM3 and RS-72.

Attached please find the letter and supporting documents submitted to the Lynden City Council dated December 19, 2016. Please consider this information and update your recommendation to approve the requested modification for the Arneson parcel.

On behalf of the Arneson Family Trust, I look forward to seeing you at the public hearing on this matter scheduled for January 12, 2017.

Sincerely,

[Signature]
Lesa Starkenburg-Kroontje
December 19, 2016

Via Delivery
City Council
City of Lynden
PO Box 650
Lynden, WA 98264

FOR DISTRIBUTION TO ALL COUNCIL MEMBERS

Re: Comprehensive Plan Update
Ordinance 1519

Dear Council Members:

This letter is written on behalf of my client, The Arneson Family Trust, with regard to their property located at the corner of Line Road and E. Badger Road. The Arneson family has owned this property for decades. The property has been held and managed in a trust since 1992 and, following Mrs. Arneson’s death in 2007, the family has been actively seeking to sell the property and close out the trust.

The Arneson’s discussed a proposal with the then City planner in the spring of 2016 and were given favorable feedback on the concept of changing the designation of the property from a partial CSL zone to a residential use of RM3 and RS 72. The Arneson proposal was placed into the 2016 update and the Planning Commission elected to recommend denial of the request. The Arneson family is requesting that you revisit this recommendation and approve the request.

The Comprehensive Plan is the tool used by the City to guide future growth. The 2016 draft Comprehensive Plan update describes the Plan’s purpose as follows:

Lynden’s Comprehensive Plan attempts to look 20 years into the future and helps to guide decision making on population growth, transportation needs, capital projects, housing options and design, economic development,
and cultural and environmental enhancement. It is intended to help retain the city’s unique “community spirit, small town atmosphere and agricultural roots” as it faces the next 20 years of growth. But it is also meant to be a working document, encouraging adaptations to changing economic and social conditions.

The subject property has been part of the City of Lynden for almost 10 years. During that time, the Arneson’s actively sought to develop it as a commercial use. Even as residential use continued to expand rapidly in East Lynden, the subject property has not had any success as a commercial development.

As a tool and “working document” the Comprehensive Plan is to be updated and amended periodically. In fact, the 2016 update is intended to implement changes based on changed conditions or errors discovered since the last Comprehensive Plan adoption.

The Arneson’s contend that their request is supported both by changed conditions and by the need to correct faulty assumptions that resulted in the current commercial zoning. I have attached a letter from Troy Strong, a real estate broker and agent, describing his efforts to attract commercial development for the property and his thoughts on the existing zoning.

I have also attached an email from Jerry Blankers, a real estate broker and agent, who also is a partner in Bender Plaza, the commercial development at the corner of Bender and Badger Roads in Lynden.

As you can see from the information presented by both gentlemen, the concept that nodes of commercial property will develop out in the East Lynden area has not proven feasible. In fact, even an offer at $2.00 per square foot was withdrawn after the developer studied the potential user count based on the location.

The large box stores are not interested in a stand-alone facility removed from the other large box store area. In addition, residential neighborhood services do not require large tracts of property at each intersection. Furthermore, as there are limited jobs within the East Lynden area, it is easy for these commuters to stop by the larger retail shopping areas on the way home from their jobs.

The reality is that the Badger Road provides a quick route to the Guide Meridian and to an established commercial area that is sized sufficiently to accommodate more commercial growth.

The Planning Commission recommended denial of the proposal with three findings to support their determination. Each finding has counter arguments that are equally as strong.

Finding #1: East Lynden residential growth has been substantial in the past 10 years. This growth continues to lay a foundation for local commercial needs in this area.
If the commercial land is to serve the commercial needs of the East Lynden area, then there is adequate land already for neighborhood services. The Northwood Market has finally seen enough neighborhood growth to attract a new buyer. The Bender Plaza is, after 17 years, still having 33% vacancy. The Engels brothers’ development with mixed use has significant empty square footage. There are pockets of commercial development land at each intersection from Depot Road east that are under-utilized.

*Finding #2:* There is a short supply of available Commercial land within the East Lynden Area.

The attached map notes Commercial property at many locations within East Lynden.

*Finding #3:* The existing zoning is in conformance with the current Comprehensive Plan. There are no perceived Comp Plan needs that a rezone of this parcel would meet.

The current zoning may meet some of the goals and objectives in the Comprehensive Plan. However, it is not based on the reality of land use in the area. Also, a residential zoning is also supported by the Comprehensive Plan. By keeping tracts of commercial development land vacant while annexing additional resource land for residential development, the agricultural and rural lands of Whatcom County are strained and sprawl is being encouraged. Also, the Comprehensive Plan promotes a variety of residential uses. In fact, the subject proposal is consistent with the following goals and policies of the 2016 draft Comprehensive Plan:

**Goal H-1: Maintain and enhance the quality of existing neighborhoods.**

**Policies**

1.1. Establish standards for infill development that ensure compatibility with the character of existing neighborhoods.

1.3. Provide buffers, including landscaping, between commercial, industrial, or higher density land uses and existing residential neighborhoods.

**Goal H-2: Provide a mix of single-family and multifamily homes that achieves the density necessary to accommodate projected population growth over the 20-year planning period.**

**Policies**
2.1. Zoning should be applied to ensure that future residential development over the planning period is composed of approximately 60% single-family units and 40% multifamily units.

Goal H-3: Provide for a wide variety of housing types, including low cost housing, for different needs and desires in appropriate locations.

The Arneson family is at a point where the subject property needs to be sold and the Trust closed. It is time to recognize that the goal of several nodes of commercial development along the Badger Road will not be achieved and that the residential use of the area should be accommodated.

Thank you for your consideration. Should you have any questions with regard to the above, please feel free to contact my office.

Sincerely,

[Signature]

Lesa Starkenburg-Kroontje

cc: client
Planning Department
To: Lesa  
From: Troy Strong  
RE: Arneson CS-1 Tract/Lynden Market Activity

Subject Property Market History:
Our brokerage had this property for sale for a 3 year period (from May 2013 thru May 2016). Being the largest CS-1 zoned property available on the East side of Lynden with city services available and being competitively offered at $5/sqft, we felt we could meet with what we had hoped were potential suitors to secure a larger commercial anchor tenant/owner, including reps from Haggen, Fred Meyer, and a few smaller grocery/retail companies.
The conclusion by most all of them was the same:
1.) The traffic count is simply much too low to invest in that specific location (30% of what they look for)
2.) With the existing grocery stores on the West side of Lynden, they just did not feel the residential population on the East side was large enough to support a larger grocer in that location.
During this entire 3 year period, we had no serious offers presented.

Current Residential Market in the same area:
The need for single family building lots is in high demand.
**Via the NWMLS:
**Currently there are just 7 “active” single family lot listings for sale within the Lynden city limits. In 2016, there have been 34 lots sold YTD. This nearly 1:5 ratio is troublesome for supply and shows the powerful demand. On top of the low lot inventory, there are just 9 brand new homes available for sale w/in the city limits.
More specifically, the single family plat (Berryland Estates) that is adjacent to the subject property, was developed in 2015, featured 20 single family lots and it sold out within 15 months. The other single family projects within ½ mile of the subject property also have sold out of inventory quickly in the last few years.
In my professional opinion, as a full-time Broker for 24 years in Whatcom County, it makes logical sense to satisfy a glaring need for a mixed use of single family residential on the Southern half of the parcel and multi-family for the North half of the parcel that is adjacent to E. Badger Rd.

Regards,

Troy A. Strong  
Managing Broker  
Certified R.E. Instructor/ State WA  
Windermere R.E./Whatcom, Inc.  
Serving Whatcom County Real Estate since 1992
Eastside commercial

Jerry Blankers

Fri 12/16/2016 5:17 PM
Inbox

To: Lesa Kroontje <starkenburgkroontje@msn.com>
Cc: Kassi Simonsen <Kassi@muljatgroupnorth.com>

Lesa,
Here are my thoughts on more eastside commercial. As an owner in Bender Plaza it has been 17 years since we started that project and we are finally finishing our last building, which is still only about 1/3 full we have been trying for 17 years to get a pharmacy, a bank or any other larger retail store to locate there, only to hear the same response “we need to be on the west side near the Guide to be successful”. Even though there is a lot of home building going in on the east side of town major retailers still need the traffic count before they will locate there and it just plain isn’t there. And it has played out to be true even the businesses that did locate there it has been a struggle for the most part for them to survive.
I recently was involved in the sale of the SW corner on the Line Badger Rd. intersection and after over a year trying to market it commercial they ended up selling it as a residential site. I truly believe that there is not a market for the small spot commercial sites the City is trying to enforce sometimes what looks good on paper does not work in real life.
If you have any questions feel free to call me.

Jerry

Jerry Blankers | Managing Broker

Muljat Group North
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C: 360.410.1297
E: jerry@jerryblankers.com
www.jerryblankers.com

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Figure 2.5.4 Future Land Use in Lynden’s UGA