



PLANNING COMMISSION MEETING MINUTES

7:00 PM February 22, 2024
City Hall Annex

1. CALL TO ORDER

2. ROLL CALL

Present: Khush Brar, Tim Faber, Jim Kaemingk, and Blair Scott

Absent: Darren Johnson and Hollie Lyons with notice

Staff Present: Gudde, Planning Director and Samec, Planner

3. APPROVAL OF MINUTES

A. November 9, 2023 Scott / Brar / 2nd 4-0

4. PUBLIC HEARING

A. Zoning Text Amendment #24-01 – Accessory Dwelling Unit Regulations

Gudde addressed the Commission and gave an overview of the proposed zoning text amendment request related to accessory dwelling units.

The staff report includes analysis of the city's existing code and the proposed amendment.

It is important to note that the State has mandated these changes, however, this amendment proposes that these changes become effective immediately rather than per the State's deadline for city compliance. Gudde stated that the Planning Commission should review and decide if it would be beneficial for the amendment to occur at the timeline proposed and if there are any other amendments to this section of code that the Commission would recommend. While the State has required the city to become more lenient in the quantity, size, and location of ADUs the city may opt to provide even more incentive to the creation of ADUs.

As with any Zoning Text Amendment, it is not exclusive to a specific project or zoning designation but would affect all properties within the city limits that permit accessory dwelling units.

As noted in the Staff Report and above, this text amendment application proposes to update Lynden Municipal Code Chapter 19.20 regarding Accessory Dwelling Units (ADUs). The update would further ease potential barriers for residents in establishing legal ADUs on residential properties in the City. The City is required to adopt these updates by December 31, 2025, as a condition of HB1337, which was passed by the state legislature

in 2023. The city intends to make these ADU code updates for compliance as part of its Comprehensive Plan update process and expects to be in compliance by the State's deadline (2026). Ahead of that deadline, this text amendment request is being brought forward by a private property owner and, if approved, would bring the city into compliance with HB 1337 ahead of time.

The applicant has applied for the zoning text amendment because the change would correct a current building height violation at their property located at 143 Terrace Drive.

The construction is nearly complete on the Vos' detached accessory dwelling unit, however, prior to completion, it was discovered that the building had reached a height that exceeds the current 18-foot maximum allowed in the city. The error was made early in the process when the starting grade was established at an elevation which was inconsistent with the approved permit. Modifying the constructed building to conform with the City's current code on height (18 ft) is possible but difficult. Instead, the applicant is proposing this text amendment which would increase the maximum permitted height of detached ADU's, bringing their building into compliance, and would amend the city's code as required by HB 1337.

RCW 36.70A.680 and RCW 36.70A.681 (as a result of HB1337) requires all local governments planning under the Growth Management Act (GMA), to revise their regulations as needed to conform with HB 1337. Highlights regarding the limitations on local regulation as required by HB 1337 can be found in the Staff Report dated February 16, 2024. Regulations touch on but are not limited to: minimum number of ADUs per lot, maximum ADU size and height standards, dimensional standards, street improvements, owner occupancy, condominium sales, design review, required parking, impact fees, rear setbacks, critical areas and common interest communities.

Gudde stated that one of the requirements outlined in HB1337 states that local government may not require owner occupancy for a principal unit or ADUs. Staff has proposed that, consistent with the city's goals to support homeownership, and to allow for additional time to assess impacts, that the owner occupancy requirement be maintained until January 1, 2026.

In addition, HB1337 also states that Impact fees for ADUs are limited to no more than 50% of those assessed to the principal housing unit.(The City of Lynden currently does not charge impact fees on ADUs). Staff has proposed that ADUs be subject to 50% of applicable residential impact fees starting January 1, 2026, which coincides with the proposed timeline to lift the owner-occupancy requirement.

Scott stated that he supports mini housing as means of affordable housing, however, is concerned with adequate parking requirements for lots that may build more than 1 unit. Gudde stated that we cannot require additional parking as per the House Bill. The city did try through our lobbyist, however, with no luck. Faber referred to the revised code that indicates, on lots 6000 square feet or larger 1 parking space per bedroom is required up to

a maximum of 2 spaces dedicated to the ADU. On lots less than 6000 square feet only one parking space must be dedicated to the ADU regardless of the bedroom count. RCW 36.70A.681 states that a city or county may not require off street parking as a condition of permitting development of accessory dwelling units within one-half mile walking distance of a major transit stop. Lynden does not have any qualifying “major transit stops”.

There was brief discussion regarding condominimizing the ADU's. The RCW states that a city or county may not prohibit the sale or other conveyance of a condominium unit independently of a principal unit solely on the grounds that the condominium unit was originally built as accessory dwelling unit.

Jamie Vos, 143 Terrace Drive, Lynden

Vos concurred with what Gudde stated and stated that they are requesting the zoning text amendment to rectify an ADU building height situation at their home. Ultimately, we are looking for a place for multi-family generational housing.

Applying for the zoning text amendment at this time will hopefully allow us to continue with our building project / process. Seems logical since the update will eventually be a requirement.

The Commission reviewed the draft changes:

19.20.010 Purpose – No discussion

19.20.020 Accessory Dwelling Unit – Discussion regarding parking and would like to hang on to the owner occupied requirement for as long as we can.

19.20.030 Setback and Height Requirements – Brief discussion regarding a zero setback to a public alley, side yard setbacks and there being no change in the maximum lot coverage requirement.

19.20.040 Permitting and Enforcement – No discussion

Khush, when will we see the impact fees for ADU's go into place? Gudde stated that staff is recommending January 1, 2026.

Kaemingk asked if private covenants can prohibit ADU's. The new bill states that new CCR's cannot prohibit ADU's, however, established CCR's that restrict ADU's can remain in place.

Faber does not believe there will be a large increase of homeowners building ADU's in Lynden. Gudde state that about 10% of new homes being constructed in Lynden have constructed ADU's.

Can ADU's be used as Short Term Rentals (Airbnb's)? Gudde stated that short term rentals will need to file for a Home Occupation Permit which has a requirements for inspections, business licenses and requires the operator to reside on the premises.

Gudde noted that one letter of support was received from JWR Design.

The Commission was fine with advancing No further comments from the Commission.

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

Scott motioned to recommend to the City Council, Zoning Text Amendment #24-01, subject to the Technical Review Committee Report dated February 16, 2024, along with the clarifications added to the amended document of LMC 19.22. This includes a proposed delay to the following revisions:

- 1. Owner occupancy requirement to remain in place until January 1, 2026.**
- 2. Assessment of impact fees on ADUs in the amount of 50% of that assessed to a single-family home begin on January 1, 2026. (RCW 36.70A.680 limits impact fee assessment to no more than 50% of the impact fees that would be imposed on the primary residence).**

Seconded by Brar, and the motion passed 4-0.

No March meetings. Next meeting will be on April 25, 2023, topic will be LMC 19.33, Lynden Sign Code.

Brief update regarding the 2025 Comprehensive Plan Update.

Brar asked how this ZTA will affect the Pepin Creek Area? Gudde stated that we will need to look at it, however, it will not double the housing in the area. The cost of impact fees in that area are substantially higher than other areas in the city. It would be very costly for someone to construct an ADU.

Faber asked about a rumor regarding WTA leaving? Gudde stated that WTA is looking to surplus the property as it is underutilized. Looking to construct supportive housing.

5. ADJOURNMENT

Scott motioned to adjourn the meeting at 8:10. Seconded by Brar and the motion passed, 4-0.