

# CITY OF LYNDEN



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## PLANNING COMMISSION

Tim Faber, Chairman

(360) 354 - 5532

July 3, 2023

Dear Lynden City Council,

This letter is written at the request of City Administration and Planning Staff. It is meant to provide you with additional information related to the proposed amendment to LMC 19.22 regarding the screening of patios located with rear setbacks of single-family homes. This issue was brought to the Planning Commission for review and public testimony on May 11, 2023. I was Chair of this meeting and can provide additional insights into what consideration was made as the group came to the final recommendation.

At the May 11<sup>th</sup> meeting the Commission received comments from one contractor, Mr. Assink, and the property owner he is representing. Mr. Assink was very forthcoming in noting that he was granted a permit to cover his client's patio on Captain Bay Court but, after the permit was finalized, continued to enclose the patio with glass and overhead doors. He stated that he understood this was not permitted per code but was hoping he could influence a change by working beyond the scope of his permit.

The Commission agreed that Mr. Assink had created a beautiful sunroom. The group considered if a variance or waiver could be pursued for patios enclosed with quality construction techniques. Ultimately we decided that there were too many subjective variables and that granting variances could create inconsistencies between residences – the merit of which would be difficult to decipher in future years. Ultimately, while the Commission considered the testimony and the example that Mr. Assink brought forward, I encouraged the commission members to separate this one example from the larger issue.

The proposed code amendment requires that patios remain outdoor, open spaces. The Commission agreed that if code was revised to allow enclosure of patios it would lead to an expansion of living spaces in a way that is permanent and impactful to the character of our single-family neighborhoods. If the setback is changed we, can and should expect that many homeowners will be enclosing their patios, and creating safety hazards... thinking they can still barbecue in a glass enclosed space, by maybe opening a window or two... heaters likely could be installed in retrospect to make the space more comfortable, with no regard to meeting energy codes etc...

The group discussed options by which a patio could become enclosed yet feel as if it was open and outdoor space. This led to a discussion about the potential difficulties with regulating glass and glazing. The group discussed different types of glazing that can be utilized noting that most window have some tint and glazing can even be mirrored and reflective and then loses it's open and transparent nature. It was concluded that sunroom spaces could be permitted per the

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code but should be included within the current setbacks. Backyard setbacks are provided to encourage private outdoor family activity space, privacy and creating a “green corridor” landscaping or the ability to see distant vistas. If we allow patios that encroach the rear yard setbacks, or in essence reduce the rear yard setbacks, this has the potential of blocking neighbors views if tinted or reflective glass is used.

Discussion of setbacks led to a discussion of accessory structures which are permitted within rear yards. The Commission understands that a property owner is able to create accessory structures that could “fill up” a back yard, reduce yard space, and eliminate the “openness” between homes. Mr. Assink pointed out that the code would allow him to build a sunroom that was detached from the home but not attached to the home. When asked why he didn’t he stated that it was because he wanted it to be part of the home. The Commission generally concluded that bringing living spaces closer to each other is different than constructing unoccupied accessory structures.

Commission Conclusions: Key considerations for the Planning Commission related to maintaining outdoor spaces in our single-family zones and the separation of living spaces. The Commission was not in favor of reducing rear yard setbacks and increasing the area occupied by a home. The Commission discussed different methods by which enclosed patios could still look and feel like outdoor spaces such as glass panels, but ultimately concluded that enclosing the space would lead to an expansion of living space because of glazing techniques and numerous options available for heating the space. A homeowner can still construct and enjoy a space like this with proper planning and designing a space like this within the current setbacks.

We discussed the possibility of a variance for some high-quality projects but decided that too many subjective variables would be at play, and it would be difficult to develop a criteria by which some homeowners would be able to expand their homes into the rear yards and others would not. This, the Commission concluded, would ultimately lead to a revision in setbacks as you would need to allow everyone to do what you allow for one. The commission was not in favor of reducing setbacks, as not everyone would take advantage of using that reduced setback for an enclosed deck or sun room traditionally homeowners build their homes to the setback and the process starts all over again... even closer to the back fence.

As it related to Mr. Assink’s project the group concluded that the patio, as permitted per the approved building permit, would remain a very useful and beautiful space even without glass enclosure and overhead doors.

This is how the Commission came to the recommendation to clarify code to allow for flexible screening options and railings but no enclosure of covered patio spaces that are located within rear yards. Planning Commission believes allowing the enclosure of decks will open a pandoras

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box to allow many different types of fenestrations to be used, reducing neighborhood aesthetics if not regulated appropriately, reduce open greenspace corridors and neighbor's backyard privacy.

I understand that council may request the planning commission to re-consider this proposed code amendment. I would ask that if this is the case, that council clearly identifies the reason(s) for this re-consideration. I think it would be good for the planning commission to hear thoughts on how the concerns noted above could be mitigated.

Thank you for considering our conclusions.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Tim Faber', is written over a light blue horizontal line.

Tim Faber  
Planning Commission Chairman