



COMMUNITY DEVELOPMENT COMMITTEE

MINUTES

4:00 PM January 18, 2023
2nd Floor Conference Room, City Hall

1. ROLL CALL

Council Members: Gary Bode, Brent Lenssen

Staff: John Williams, Heidi Gudde

Community: Dale Assink, Gary Vis

2. APPROVAL OF MINUTES

- a. Community Development Committee Meeting Minutes of 11/16/23
Approved as presented.
- b. Community Development Committee Meeting Minutes of 01/04/23
Approved as presented.

3. INFORMATIONAL ITEMS

a. 2023 Community Development Committee Meeting Schedule

- Gudde noted that the dates for the 2023 meetings have been set and email 'invites' to the meetings have been sent to Council members. She noted that the November meeting does not follow the pattern of the Wednesday following the 3rd Monday because it conflicts with Thanksgiving.

b. 2022 Development Report

- The group reviewed the final development numbers for 2022.
- Gudde added that, given the discussion of 'middle' housing within the State of WA, it's worth noting that 58% of residential permits were either attached units or ADU's – the category that falls into the definition of 'middle housing'.
- The format of the development report has been updated to include permit value totals. Gudde has included this as a better indicator of the size and staffing demand related to commercial and industrial projects.

4. DISCUSSION ITEMS

a. **Open vs. Enclosed Patio Discussion** - discussion continued from 1/4/23

- Lenssen introduced the topic and re-capped the discussion from last meeting and the concept of revising code to allow roofed patios to become somewhat enclosed. He confirmed with Gudde that a code amendment, if one were proposed, would go to the Planning Commission. This includes an opportunity for public comment.
- Williams noted that the section of code being discussed is related existing code. An alteration to existing code can be initiated by a Council directive.
- The process for getting a code revision reviewed and approved was discussed. This is a legislative change that would go to hearing before the Planning Commission and the Council. It would also be subject to a non-project SEPA review and submitted to the Department of Commerce before final adoption.
- Lenssen noted that, in his opinion, Planning Commission would likely not support a fully enclosed patio – the type that Assink was requesting – but that he was interested in seeing a more specific description which would allow outside patios to have some protection from the weather.
- Safety issues were discussed. This includes the use of grills, various types of heaters, etc. that create carbon monoxide or create fire hazards and the dangers posed when these are used in enclosed spaces.
- Revision to the rear setback of the primary living structure, currently 30 feet, was not supported by the Committee. The focus, instead is to continue the allowed encroachment of patios into the rear setback but with more ability to enclose.
- Enclosures that are retractable or permanent and also those that are flexible, ridged or semi-ridged were discussed.
- Direction from the full Council is recommended by Williams.
- Gudde asked that the staff be given clear direction to enforce violations and the permitting process.
- Vis recommended that examples be used to guide the discussion if / when it goes to the Planning Commission.
- Assink stated that he would like code to allow unconditioned space within the patio enclosure. To this point Gudde confirmed that garages, per the existing code, are also unconditioned spaces (but frequently are used as living spaces).

Conclusions: The Committee will not be intervening in the current enforcement and the monetary fine associated with 950 Captain Bay Court which was clearly work done without a permit.

Committee may specifically discuss with Council LMC 19.22.030(E) and determine if there is consensus to ask staff to draft revisions to this section of code which would allow for various types of enclosures to be used on roofed patios.

b. Unscheduled Item (also related to pending violations)

Lynden Automotive located at 8894 Bender Plaza

Williams recommended that, per legal counsel, the City move forward to seek injunctive relief related to the pending violation at 8894 Bender Plaza. This is the lube center that has been informed that mechanic services must end and the parking lot be cleared of non-operable vehicles.

Lenssen recommended that the Council go to executive summary to authorize the City's attorney to take this action. This was seconded by the remainder of the Committee.

c. Short Term Rentals –discussion continued from 1/4/23

- Revisions to the City's code on Bed and Breakfasts / Vacation Rentals / Short Term Rentals (STRs) are included in the ordinance pertaining to Community Residential Facilities (Ord 1654)
- Planning Commission has recommended a revision that includes revisions to the City's policy on short-term rentals. In summary:
 - a. Owner's presence on site is no longer required.
 - b. A home-occupation permit is required rather than a conditional use permit.
 - c. Definition of transient accommodation is updated to be any stay less than 30 days (consistent with the State) rather than a stay of 2 weeks or less.
- Feedback from the 1-4-23 meeting indicated that the committee may not support the owner absence and requested additional information. Staff included in the CDC package an article from MRSC which outlined how other Washington cities are handling STRs. Some, including Spokane and Chelan County have a tiered approval process depending on where the STR would be located and if the owner would be on site. Other cities continue to require special permits for all STRs.
- The group discussed the tiered approach and also looked at areas and sub-areas of the City where STRs may be most appropriate.

Conclusions: Ultimately the Committee concluded that because housing availability is a significant concern across western Washington; and Committee members seek to avoid the use of Lynden housing stock as vacation rentals in a way which would remove them from the housing market.

As a result, the Committee will recommend to Council that the City's ordinance on short term rentals be more restrictive than even the current code. They recommend that Ord 1654 be revised so that:

1. STRs are no longer permitted in any attached multi-family units regardless of the underlying zoning.
2. STRs are permitted outright only in residences located on commercially zoned properties (this occurs most frequently in the Central Lynden Sub-Area).
3. STRs are permitted within Single Family Homes in any residential zoning category when:
 - a. Owner resides on the property; and
 - b. Parking is provided; and
 - c. Conditional Use Permit or Home Occupation is secured.

The Committee is open to using the Home Occupation process administratively if specific criteria for approval or denial can be evenly applied to all applications. Staff advocates for the Home Occupation Permit with clear-cut criteria with the goal of having a more objective and efficient process. In the Home Occupation scenario, the neighbors would be notified of an STR and subsequently discuss impacts and mitigation measures with staff but would not force a hearing. Appeal of staff decision is always an option. Staff related to the Committee that the Conditional Use process is outsized for STRs and creates a significant workload for staff that has a predictable result of approval. To date, neighbor objections have led to mitigations but have not resulted in denial of a STR through the Conditional Use Process. Staff to research potential criteria that could be applied evenly, mitigate for potential impacts, and potentially be reviewed administratively.

Next meeting is February 22. Ordinance 1654 is slated to go before Council on March 6th.

Next Meeting Date: February 22, 2022