



PLANNING COMMISSION MEETING MINUTES

7:00 PM May 11, 2023
City Hall Annex

1. CALL TO ORDER

2. ROLL CALL

Present: Tim Faber, Blair Scott, Jim Kaemingk, Darren Johnson.

Absent: Khush Brar and Hollie Lyons with notice.

Staff Present: Gudde, Planning Director, Timmer, Planner and Samec, Planner

3. APPROVAL OF MINUTES

A. March 9, 2023 Kaemingk / Johnson / 2nd 4-0

4. PUBLIC HEARINGS

A. Amendment to LMC 19.22 re: Screening of Patios

Gudde addressed the Commission and gave a brief overview of the amendment to 19.22.

Planning staff are bringing forward a code amendment to clarify to the city's code on covered residential patios located within the residential design standards of the zoning code.

Historically, the city required that all roofed portions of a home be constructed within the building envelope. The result is that many homes were constructed up to the permitted rear setback line without providing covered outdoor spaces.

Because covered outdoor spaces are highly desirable to most people, about 5 years ago, the city amended the residential code to allow roof structures to extend from the home and encroach into the rear yard setback provided that the structure remained open on three sides and maintained an 18-foot rear setback. These conditions of construction are meant to preserve outdoor yard spaces on residential lots and to prevent ad-hoc home additions that may become unsafe living spaces that lack ventilation, fail to meet energy code, or pose a fire danger.

Since adoption, many homes, both existing and new, have taken advantage of the amendment and have added roofs over outdoor living spaces. Screening or sheltering patio areas can also add to the usability of an outdoor space which has led to the discussion about what sort of screening or enclosure is permitted. When discussed at Council committee it was determined that Council asked that these outdoor spaces remain open but that the code better clarify the options for securing with railings or sheltering from sun, wind, or visibility.

Planning staff has drafted language to clarify the intent and has provided examples of screening that would meet the standards of the proposed code. The Planning Commission is asked to consider the proposal in light of aesthetics, safety, and consistency with the goals of residential zones and make a recommendation to the City Council.

Brief discussion regarding changing setbacks (beyond the required rear yard setback) to allow enclosed patios. Commission was not supportive of that idea.

In opposition

Dale Assink, Pine Creek Construction on behalf of property owner at 950 Captain Bay Court, Lynden.

Assink stated that in 2020 he had a covered patio (appx 19-feet from rear setback) inspected and approved. After inspection, took it a step further and made it into a sunroom. Assink shared photos of the structure. Assink would like to ask the Commission to consider enclosed patios having the same setback as a covered patio.

The benefits of the enclosed structure makes the patio usable year around and cuts down on sound pollution which enhances the use of outdoor spaces without effecting your neighbors.

Assink stated that they are non-compliant under the code. It was his decision to enclose the patio and wanted to make a stand. Encourage the committee to take a close look to allow everyone to do the same. Assink stated that he would like to invite the Commission to visit.

Kaemingk stated that he took a tour of the site, and the patio is very nice. Is changing the setback the only way we can allow this type of space? Allowing enclosed patios presents potential concerns with energy efficiency, health and safety. Not to mention that it would be difficult to enforce. Changing the setback is the cleanest way to do that. Writing code for every scenario is difficult.

Faber stated that a lot of times radiant heaters are installed in enclosed spaces / patios. At what time does the energy code kick in? There are a lot of regulations and compliance required to enforce something like that.

Gudde reminded the Commission that enclosed structures are permitted, however, they must be located within the setbacks required for the home.

Faber talked about concerns with installing a heater after the fact.

Assink, if I submitted a permit for this same structure detached 7-feet from the property line would it be permitted? Gudde replied, yes, however, it is unattached from the house and does not present the same concerns to the "attached" home.

Timmer asked Assink why he did not detach the structure? Assink stated that they did not want that, we wanted it to access the room from the house.

Discussion about reducing the setbacks: Is the Commission looking to change that?

Faber stated, a rear setback is to provide space between houses. Each property has a 30-foot rear yard setback which creates a feel of open space, privacy and a bit of separation.

Scott, is there a compromise that we can make since the lots are getting smaller? Gudde replied, the homes being built now regardless of the lot size are building out to the full extent of the building envelope. As lots get smaller, maintaining a rear yard setback is important for space and privacy. Lot coverage and impervious coverage also plays a part.

Faber, if someone wants a sunroom then they should design their home as such. There are many ways to do so, even in a remodel. If enclosing the space is that important to your lifestyle, then design it into your home and be compliant. Faber appreciates the requirement for a rear yard setback and is not in favor of changing the setbacks.

Kaemingk asked is there an avenue to get a variance? Gudde stated, yes, through the Hearings Examiner and one would have to prove a hardship and that there is a reason for the special exception.

Johnson asked what happens when we make a recommendation tonight with regards to Mr. Assink's structure. The Commission's recommendation will move forward to Council for a final decision. Fines will continue to accrue until a decision is made and or compliance is met.

Faber asked the Commission again if there was any desire to change the setbacks? Kaemingk stated that he would like to find a way to make this work, but is not in favor of changing the setbacks.

Lois what is the difference in having an open patio or having glass around the patio? I'm not any closer to my neighbor than I would be if I was just sitting on the deck without glass? Faber, the current code requires that the structure be open on 3 sides.

Assink, I would like someone to explain the thought behind the setback for a structure as an out building vs a building attached to the house. Timmer replied, it's a question of scale, when you add it on to a structure it makes the entire building look larger and then you are changing the sense of scale of the building on the lot. That is why we have setbacks.

Gudde added, what staff has been asked to do regarding this topic will not make this structure compliant, we are only clarifying code.

Scott, the code was already revised some time ago to allow covered patios (open on 3 sides) 18-feet from the property line, if we continue to compromise over and over again what will we end up with?

Regardless of how nice Mr. Assink's enclosure is, a decision should not be made on aesthetics it must be made on code and/ or whether or not you are interested in changing the setbacks.

Johnson, it is a very nice structure, however it is important to defend the setbacks as we are not interested in changing them.

Kaemingk stated that the glass and garage doors would need to come out for them to comply. With that said, they could add a railing with glass below and screen the rest to enclose.

Gudde stated, if its attached to the primary home we need to pay close attention as it could affect the integrity of the home and to health and safety.

Faber, Scott and Johnson agree to uphold code and agree with the recommendation as proposed. Kaemingk understands the code but feels for the owners.

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

No further comments from the Commission.

Scott motioned to recommend approval to the Lynden City Council of the proposed amendment to LMC 19.22, regarding patio enclosures and screening. Seconded by Johnson, and the motion passed 4-0.

B. Amendment to LMC 19.23 re Revision of Small-scale Mixed-Use Provisions to include for the South Historic Business District (SHBD)

Timmer addressed the Commission and gave a brief overview of the amendment to 19.23 regarding small-scale mixed-use provisions for the South Historic Business District.

The second minor code amendment being brought to the Commission for this evening is a revision to the recently adopted Mixed-Use Overlay code updates. Ordinance 1657 adopted these updates to encourage thoughtful mixed-use development in logical areas of the city near established commercial centers.

While the bulk of the Mixed-Use Overlay code is focused on larger scaled projects, some provisions were also made for small scale mixed-use within the core of the city – the Central Lynden Subarea. The CSL zones near downtown already function as mixed-use

areas where there are existing single-family, multi-family, and commercial uses in the same neighborhood. The small scale mixed-use provisions that were included in Ord 1657 permit additional residential units on already existing residential parcels as a way to provide further density in this area. These provisions were limited to the CSL zone in the Central Lynden Subarea (the CSL zone directly north of downtown).

Since adoption, City staff has realized that a small number of properties (approximately 5) that are within the South Historic Business District – the small subarea directly south of downtown - would also benefit from the small-scale mixed-use provisions in LMC 19.23.110. This proposed amendment adds the CSL zone in the SHBD to the areas of the City where the small-scale mixed-use provisions are applicable. The 5 parcels would now become eligible to utilize the small scale mixed use provisions.

The Commission agrees that the amendment makes sense and is a good thing.

No further comments from the Commission.

Johnson motioned to recommend approval to the Lynden City Council of the proposed amendment to LMC 19.23 regarding small scale mixed-use provisions for the South Historic Business District. Seconded by Scott, and the motion passed 4-0.

C. Public Participation Plan for the 2025 Comprehensive Plan Update

Gudde addressed the Commission and gave an overview regarding the 2025 Comp Plan Update / Public Participation Plan.

Planning Staff is asking for the Planning Commission's review and for public comment on a Public Participation Plan (PPP) for the 2025 update to the City's Comprehensive Plan.

The goal of the PPP is to communicate a framework by which the city will invite participation in the shaping of the city's Comprehensive Plan. The PPP is a required element when completing a periodic update to this long-range planning document. This and other steps are guided by the State legislation on Growth Management (State code reference RCW 36.70A). The State has also required that the city identify and seek input from any vulnerable populations and overburdened communities. Specific definitions of these groups are included in the State code and the PPP. The city will also invite tribal participation throughout the process.

Staff is interested in hearing from the Commission on their ideas of who could be considered stakeholders and / or representatives for vulnerable populations or overburdened communities within the City of Lynden.

Commissioner Discussion

Faber, can we amend this document at any time? Gudde stated absolutely, this is our document, we can amend as we see fit. Faber, this is a good starting point and will only get more populated as we go.

It is very important that we reach the immigrant population as they are definitely part of the community and their voice needs to be heard. Scott stated, getting the word out on “nextdoor.com” seems to be working well in other areas maybe we could try that.

Gudde reviewed:

- The goals of the public participation plan.
- Briefly discussed the scope of work, important planning considerations and desirable planning considerations. Helps to give the City guidance.
- Public Participation Program Structure (techniques, strategies, public involvement, workshops, hearings, website, coordination meetings with county, news releases etc.)
- Preliminary Schedule

The Commission agreed that the PPP looks good. No further comments from the Commission.

Johnson motioned to approve Planning Commission Resolution #23-02 and recommend approval to the Lynden City Council of the proposed Public Participation Plan for the update to the City’s Comprehensive Plan. Seconded by Kaemingk, and the motion passed 4-0.

Scott asked about the vacant lot on the south side of Main Street. Gudde stated that lots is part of an exchange agreement that the City has with the property owner. The parcel will likely remain vacant as it is encumbered by critical areas.

5. ADJOURNMENT

Motion to adjourn by Scott / Second by Johnson. Meeting adjourned at 9:00 pm.