

Lynnwood Planning Commission
Meeting of December 12, 2002

Staff Report

Agenda Item: **E-1**

Historic Preservation Code Amendment

- Public Hearing
- Informal Public Meeting
- Work Session
- New Business
- Old Business
- Information
- Miscellaneous

Lynnwood Dept. of Community Development — Staff Contact: Darryl Eastin, Senior Planner

Recommendation:

Following the public hearing, staff will ask the Planning Commission to recommend this draft Historic Preservation Code Amendment Ordinance to the City Council.

Background:

The Planning Commission held a work session on the draft code amendment ordinance on November 14, 2002. The staff report for the work session provides background on the proposed code amendment.

Draft Code Amendment Ordinance:

Attached is a revised draft Historical Preservation Code Amendment Ordinance (Attachment A) for Planning Commission consideration and action. The draft code amendment would allow certain Zoning Code development standards to be reduced or waived in return for listing a historic property on a new City of Lynnwood historic landmark register. Once a structure is listed on the register, rehabilitation or enhancement would need to be consistent with national or state guidelines for rehabilitation of historic structures. Reducing or waiving development standards would be considered through an administrative review and approval process (Process III - LMC 1.35.300). The decision to reduce or waive development standards would be made by the Community Development Director with appeal to the Hearing Examiner.

The following are major features of the draft code amendment:

- Applications to reduce or waive development standards would be considered through Process III administrative review and approval (**New LMC 21.80.175 – Process – page 4 of draft ord.**).
- Community Development Director would have the authority to reduce or waive development standards for properties listed on a new City historic landmark register (**New LMC 21.80.200 – Authority for Reducing or Waiving Development Standards – page 4 of draft ord.**).

- Building setbacks, parking, parking area landscaping and lot coverage development standards may be reduced or waived subject to specified limitations for properties listed on the new historic landmark register (**New LMC 21.80.300 – Development Standards Limitations – Pages 5 & 6 of draft ord.**).
- Rehabilitation and enhancement of properties listed on the new historic landmark register must be consistent with the US Secretary of Interior’s Standards for Rehabilitation or Washington State Advisory Council’s Standards for the Rehabilitation and Maintenance of Historic Properties (**New LMC 21.80.350 – Architectural Review – Page 6 of draft ord.**)
- A site or structure must meet certain criteria to be listed on the new historic landmark register (**New LMC 21.80.400 A & B – City of Lynnwood Register of Historic Landmarks – pages 6-8 of draft ord.**).
- Historical Commission would make decision on designating a property to the new historic landmark register (**New LMC 21.80.400.C – City of Lynnwood Register of Historic Landmarks – pages 8 & 9 of draft ord.**)
- Community Development Director’s decision to reduce or waive development standards may be appealed to the Hearing Examiner (**New LMC 21.80.550 – Appeal – page 10 of draft ord.**).

Revisions:

At the work session, the Planning Commission recommended that the first paragraph under new LMC 21.80.400 be revised to clarify that a property cannot be nominated to the new register of historic landmarks without the owner’s consent. The draft ordinance has been revised to address the Commission’s comment.

The City Attorney has reviewed the previous draft ordinance and had the following comments:

- The words “renovation, “restoration” and “enhancement” are used frequently in the ordinance and should be defined because they can have overlapping meanings.
- New LMC 21.80.400.C - Notification of Review - should state how much and what kind of notice should be given to property owner, lessee and nominator.
- New LMC 21.80.400.D – Removal of Properties from the Register - should clarify if the owner can initiate process to remove their property from the historic landmark register.

The draft ordinance has been revised to address the City Attorney’s comments.

In addition to the revisions to the draft ordinance to address comments by the Planning Commission and City Attorney, staff has added paragraph "B" under new LMC 21.80.450 for clarification. The new paragraph clarifies that once a property is removed from the new register of historic landmarks, any changes to the property or structures on the property would be subject to applicable requirements of the Nonconforming Uses and Structures Chapter on the Zoning Code.

In the revised draft ordinance, added text is doubled underlined and deleted text is dashed out.

Referrals:

See "Referrals" section of staff report for the November 14 work session.

Hearing Notice:

Notice of the public hearing was published in the Everett Herald and mailed to:

- Historical Commission members
- Jerry Chinn, owner of Keeler's Korner
- John Milnor, owner of the old Manor Hardware property
- James Ive, architect for John Milnor
- David Toyer, Master Builders Association
- Louise Lindgren, Snohomish County Historic Preservation Planner
- Surrounding cities

What's Next:

It is anticipated that a public hearing on the draft ordinance would be held by the City Council in January or February of 2003.

Attachments:

- A. Revised Draft Historic Preservation Code Amendment Ordinance



CITY OF LYNNWOOD

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, REGARDING ZONING DEVELOPMENT STANDARDS AND THE PRESERVATION, REHABILITATION, AND ENHANCEMENT OF HISTORICAL PROPERTIES, CREATING A NEW CHAPTER IN TITLE 21 OF THE LYNNWOOD MUNICIPAL CODE; PROVIDING FOR SEVERABILITY; ESTABLISHING AN EFFECTIVE DATE; AND PROVIDING FOR SUMMARY PUBLICATION.

WHEREAS, the City Council has determined it is important to safeguard the heritage of the City of Lynnwood as represented by those sites, buildings, structures and landscapes that reflect significant elements of Lynnwood history; and

WHEREAS, there are occasions when compliance with zoning development standards acts as an impediment to the preservation, rehabilitation and enhancement of properties with local, state and/or national historical significance; and

WHEREAS, Policy HR-1.1 in the Cultural and Historic Resources Element of the City of Lynnwood Comprehensive Plan calls for development of an historical preservation program that provides incentives such as the relaxation of Zoning Code standards to encourage property owners to rehabilitate, restore, retain or reproduce historical elements of their properties; and

WHEREAS, the City Council has determined it is appropriate to reduce or waive certain zoning development standards, particularly those regarding building setbacks, parking, parking area landscaping and lot coverage for properties listed on a new City of Lynnwood historic landmark register.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LYNNWOOD, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Chapter 21.80 of the Lynnwood Municipal Code is hereby enacted as follows:

21.80.050 Purpose

The purpose of this chapter is to encourage the preservation, rehabilitation, re-use and enhancement of eligible historic properties within the City of Lynnwood in order to:

- A. Safeguard the heritage of the City of Lynnwood as represented by those buildings, sites, structures and landscapes that reflect significant elements of Lynnwood history;

- 1 B. Foster civic and neighborhood pride in the beauty and accomplishments of the
2 past, and a sense of identity based on Lynnwood history;
- 3 C. Stabilize or improve the aesthetic and economic vitality and values of such sites,
4 buildings and structures;
- 5 D. Conserve valuable material and energy resources by ongoing uses and
6 maintenance of the existing built environment.

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8 21.80.100 Definitions

9 The following words and terms when used in this chapter shall mean as follows, unless a
10 different meaning clearly appears from the context:

- 11 A. City of Lynnwood Register of Historic Landmarks. “City of Lynnwood Register
12 of Historic Landmarks” or “Register” means the local listing of properties
13 provided for in Section 21.80.400.
- 14 B. Emergency repair. “Emergency repair” means work necessary to prevent
15 destruction or disrepair to real property immediately threatened or damaged by
16 fire, flood, earthquake, vandalism or other disaster.
- 17 C. Historic property. “Historic property” means real property together with
18 improvements thereon which is listed in the City of Lynnwood Register of
19 Historic Landmarks, Washington State Heritage Register or the National Register
20 of Historic Places.
- 21 D. National Register of Historic Places. “National Register of Historic Places”
22 means the register maintained by the Secretary of the Interior composed of
23 districts, sites, buildings, structures and objects significant in American history,
24 architectural history, archaeology, engineering, and culture.
- 25 E. Ordinary repair and maintenance. “Ordinary repair and maintenance” means
26 work for which a permit issued by the City of Lynnwood is not required by law,
27 and where the purpose and effect of such work is to correct any deterioration or
28 decay of, or damage to, the real property or structure appurtenances thereto and to
29 restore the same, as nearly as may be practicable, to the condition prior to the
30 occurrence of such deterioration, decay, or damage.
- 31 F. Rehabilitation. “Rehabilitation” is the process of returning a property to a state of
32 utility through repair or alteration, which makes possible an efficient
33 contemporary use while preserving those portions and features of the property
34 that are significant to its architectural and cultural values.

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2 G. Washington Heritage Register. “Washington Heritage Register” means the state
3 listing of properties significant to the community, state, or nation that may or may
4 not meet the criteria of the National Register of Historic Places.

5 H. Washington State Advisory Council Standards for the Rehabilitation and
6 Maintenance of Historic Properties. “Washington State Advisory Council
7 Standards for the Rehabilitation and Maintenance of Historic Properties” means
8 the rehabilitation and maintenance standards as set forth in WAC 254-20-100 as
9 presently enacted or hereinafter amended as minimum requirements for
10 determining whether or not an historic property is eligible for special valuation
11 and whether or not the property continues to be eligible for special valuation once
12 it has been so classified.

13
14 21.80.150 Application

15 A. The owner(s) of any property listed on the City of Lynnwood Register of Historic
16 Landmarks may apply for approval for reduction or waiving of certain
17 development standards under this chapter. An application for the above shall at a
18 minimum:

19 1. Identify the property(ies) for which development standards reduction or
20 waiving is proposed; and

21 2. Include a site plan (and landscape plan if necessary) to scale indicating
22 existing and proposed building(s), parking and site landscaping.

23 a. The site and/or landscape plan shall indicate the following:

24 1 i. Existing and proposed building(s) setbacks from property lines;

25 2 ii. Existing and proposed lot coverage;

26 3 iii. Existing and proposed parking;

27 4 iv. Width of existing and proposed street frontage landscaping and
28 percentage of existing and proposed parking lot landscaping;

29 5 v. All structures to be demolished.

30 3. Include building elevations to scale indicating existing facades and any proposed
31 modifications and/or additions to existing facades. Elevations shall also indicate
32 exterior building materials.

1 B. A property owner may apply for approval to reduce or waive development
2 standards under this chapter while the Historical Commission is reviewing a
3 nomination by the owner to designate the property for the Register. However, the
4 Director shall not issue a decision on an application to reduce or waive
5 development standards until the Historical Commission has approved designation
6 of the property to the Register.

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8 21.80.175 Process

9 The Community Development Director shall consider applications to reduce or waive
10 requirements of the Zoning Code (LMC Title 21) for properties listed on the City of
11 Lynnwood Register of Historic Landmarks utilizing Process III administrative permits
12 review and approval (LMC 1.35.300).

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14 21.80.200 Authority for Reduction or Waiving Development Standards

15 The Community Development Director (Director) may reduce or waive requirements of
16 the Zoning Code (LMC Title 21) for properties listed on the City of Lynnwood Register
17 of Historic Landmarks if:

- 18 A. The applicant has carried the burden of proof and produced evidence sufficient to
19 support the conclusion that the application merits approval or approval with
20 modifications;
- 21 B. The applicant has demonstrated that the proposal complies with applicable
22 decision criteria of this chapter; and
- 23 C. The subject property is listed on the City of Lynnwood Register of Historic
24 Landmarks.

25
26 21.80.250 Decision Criteria

27 The Director may approve or approve with modifications an application to reduce or
28 wave Zoning Code development standards specified under 21.80.300 if:

- 29 A. The proposal is not injurious to the surrounding properties or detrimental to the
30 public welfare;
- 31 B. The proposal is consistent with other applicable requirements and regulations of
32 the Lynnwood Municipal Code;
- 33 C. The proposal does not a cause a significant adverse environmental impact; and

1 D. The proposal is not precluded by city code or state law from being decided
2 administratively.

3
4 21.80.300 Development Standards Limitations

5 Zoning Code development standards identified below may be reduced or waived subject
6 to limitations specified under this section.

7 A. Building Setbacks

- 8 1. Any structure listed on the Register may be restored, rehabilitated and
9 enhanced regardless of existing nonconforming building setbacks as long as
10 the work is consistent with the architectural review requirements of 21.80.350.
- 11 2. Additions to an historic structure listed on the Register may be made as long
12 as they do not increase an existing nonconforming setback and they are
13 consistent with the architectural review requirements of 21.80.350.

14 B. Parking

- 15 1. Minimum parking standards may be reduced for a property listed on the
16 Register if it can be demonstrated that adequate parking can be provided for
17 the historic property.
- 18 2. Shared parking may be approved if it can be demonstrated that adequate
19 parking can be provided for the property listed on the Register and other
20 properties where sharing is to occur.
- 21 3. Nearby on-street parking may be included in this analysis.

22 C. Parking Area Landscaping

- 23 1. Parking area landscaping requirements may be reduced or waived for a
24 property listed on the Register subject to the following:
- 25 a. Street frontage and parking area coverage landscaping should be provided,
26 where feasible, as long as it does not affect the provision of adequate
27 parking.

28 D. Lot Coverage

- 29 1. Any structure listed on the Register may be restored, rehabilitated and
30 enhanced regardless of existing nonconforming lot coverage.
- 31 2. Additions to structures listed on the Register may be made as long as they do
32 not increase existing nonconforming lot coverage, if that condition exists.

1 E. Other Development Standards

- 2 1. The Community Development Director may reduce and waive other Zoning
3 Code development standards based on physical conditions and special
4 circumstances of a property listed on the Register.

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6 21.80.350 Architectural Review

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8 A. Restoration, Rehabilitation and enhancement of structures listed on the Register
9 shall be:

- 10
11 1. Consistent with the US Secretary of Interior’s Standards for Rehabilitation or
12 Washington State Advisory Council’s Standards for the Rehabilitation and
13 Maintenance of Historic Properties; and
14 2. Reviewed by a public agency or consulting architect with appropriate
15 architectural review expertise.

16 B. Ordinary repair and maintenance and emergency repair to structures listed on the
17 register are exempt from the above architectural review requirement.

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20 21.80.400 City of Lynnwood Register of Historic Landmarks

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22 A. Criteria for Determining Designation in Register

23 Any building, structure, site, object or landscape (including trees and other plants)
24 may be designated for listing in the City of Lynnwood Register of Historic
25 Landmarks, with owner consent, by the Lynnwood Historical Commission. The
26 criterion for age is at least fifty (50) years. The building, structure, site, object or
27 landscape must possess integrity of location, design, setting, materials,
28 workmanship, feeling, species, age and association, that is significant in the
29 history, architecture, archaeology, engineering or cultural heritage of America,
30 Washington State and/or City of Lynnwood. In addition to meeting the age and
31 historical significance criteria, the following criteria will be considered:

- 32 1. That are associated with significant historic events; or
33 2. That are associated with a person or persons who significantly contributed to
34 the culture and development of the City of Lynnwood; or
35 3. That embody the distinctive characteristics of a type, period, or method of
36 construction, architectural design, detail, material, craftsmanship, or that
37 represent the work of a master, or that possess high artistic values, or that
38 represent a significant and distinguishable entity whose components may lack
39 individual distinction; or

- 1 4. That exemplify the cultural, economic, social, or historic heritage of the City
2 of Lynnwood; or
- 3 5. That embody distinguishing characteristics of an architectural type or
4 specimen; or
- 5 6. That embody elements of architectural design, detail, materials, or
6 craftsmanship that represent a significant architectural innovation; or
- 7 7. That have a relationship to other distinctive areas that are eligible for
8 preservation according to a plan based on an historic, cultural, or architectural
9 motif; or
- 10 8. That have a unique location or singular physical characteristic representing an
11 established and familiar visual feature of a neighborhood, community, or the
12 City of Lynnwood; or
- 13 9. That have yielded, or may be likely to yield information important in
14 prehistory or history; or
- 15 10. That by virtue of the species, age, scarcity, outstanding quality, location or
16 connection to an historic event or person such landscape, trees or other plant
17 material contribute significantly to the community or the City of Lynnwood.

8 B. Special Criteria for Determining Designation in Register

19 Ordinarily cemeteries, birthplaces, or graves of historical figures, properties
20 owned by religious institutions or used for religious purposes, structures that have
21 been moved from their original locations, reconstructed historic buildings,
22 properties primarily commemorative in nature, and properties that have achieved
23 significance within the past thirty (30) years shall not be considered eligible for
24 the Register. However, such properties may qualify if they are integral parts of
25 districts that meet the criteria of 21.80.400.A or if they meet the following
26 criteria:

- 27 1. A religious property deriving primary significance from architectural or
28 artistic distinction or historical importance; or
- 29 2. A building or structure removed from its original location but which is
30 significant primarily for architectural value, or which is the surviving structure
31 most importantly associated with an historic person or event; or
- 32 3. A birthplace or grave of an historical figure of outstanding importance if there
33 is no appropriate site or building directly associated with his/her productive
34 life; or

- 1 4. A cemetery which derives its primary significance from graves of persons of
2 transcendent importance, from age, from distinctive design features, or from
3 association with historic events; or
- 4 5. A reconstructed building when accurately executed in a suitable environment
5 and presented in a dignified manner as part of a restoration master plan, and
6 when no other building or structure with the same association has survived; or
- 7 6. A property, building, structure or object primarily commemorative in intent if
8 design, age, tradition, or symbolic value has invested it with its own historical
9 significance; or
- 10 7. A property, building, structure or object achieving significance within the past
11 29 years if it is of exceptional importance; or
- 12 8. A property, building, structure or object that exemplifies or promotes the
13 value of historic preservation and contributes to a better understanding of a
14 connection to Lynnwood's or the area's history.

15
16 C. Process for Designating Properties to the Register of Historic Landmarks

- 17 1. Nomination. Any person may nominate, with the property owner's consent, a
18 building, structure, site, object or landscape for listing in the City of
19 Lynnwood Register of Historic Landmarks. In its designation decision, the
20 Historical Commission shall consider the criteria in Section 21.80.400,
21 Historical Commission's Historic Resources Inventory and the Comprehensive
22 Plan.
- 23 2. Notification of Review. The public, property owner(s), lessee and nominator
24 shall be notified prior to the public meeting to review the nomination.
 - 25 a. The notice shall contain the following:
 - 26 i. Date, time and location of the public meeting.
 - 27 ii. Name of the nominator(s).
 - 28 iii. Street address of the property.
 - 29 iv. Brief description of the historic significance of the property.
 - 30 b. The notice shall be mailed to the property owner, lessee and nominator at
31 least fourteen (14) days prior to the public meeting.
 - 32 c. The notice shall be published in the official daily newspaper of the city at
33 least fourteen (14) days prior to the public meeting.

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3. Review. The Historical Commission shall consider the merits of the nomination, according to the criteria in Section 21.80.400 at a public meeting.
 4. Findings. If the Historical Commission finds that the nominated property is eligible for the Register, the Commission shall designate, with owner's consent, the property as listed on the Register.
 - a. In the case of individual properties, the designation shall include a site reference and all features, interior and exterior, and outbuildings that contribute to its designation.
 5. Notification of Designation. The public, property owner(s), lessee, and nominator shall be notified of the Historical Commission's designation.
 - a. Notice of the Commission's decision shall be mailed to the owner, lessee and nominator within five (5) working days of the decision.
 - b. Notice of the decision will be mailed to any person who has specifically requested it.
 6. Recording. Properties listed on the Register of Historic Landmarks shall be identified on the City's zoning map and recorded with the Snohomish County Auditor.

18 D. Removal of Properties from the Register

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1. A property may be removed from the Register if alterations to the property result in loss of historical integrity.
 2. In the event that any property is no longer deemed appropriate for designation to the Register, the Commission may initiate removal from such designation by the same procedure as provided for in establishing the designation. A property may be removed from the Register without the owner's consent.
 3. An owner may initiate removal of their property from the Register. Removal of the property from designation to the Register shall be by the same procedure as provided for in establishing the designation.

28 E. Effects of Listing on the Register

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1. Listing on the Register is an honorary designation denoting significant association with the historic, archaeological, engineering, or cultural heritage of the community. Properties are listed individually or as contributing properties to an historic district.

1 21.80.450 Effects of Removing Properties from the Register

2 A. In the event that a property on the Register that has been granted reduction or
3 waiving of zoning code development standards is removed from the Register by
4 the owner or the Historical Commission, the property shall be considered legally
5 non-conforming with respect to those development standards that were reduced or
6 waived.

7 B. In the event that a property is removed from the Register, any change in use of the
8 property, or alteration or change in occupancy of structures on the property shall
9 be subject to applicable requirements of Chapter 21.12 LMC (Nonconforming
10 Uses and Structures).

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12 21.80.500 Additional Information and Conditions

13 The Community Development Director may require additional information and impose
14 any conditions necessary to protect surrounding properties in approving reductions or
15 waiving of Zoning Code development standards.

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17 21.80.550 Appeal

18 The Community Development Director's decision to reduce or waive Zoning Code
19 development standards may be appealed to the Hearing Examiner under Process II
20 (LMC 1.35.200).

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22 Section 2. Severability. If any section, sentence, clause or phrase of this ordinance should be
23 held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or
24 unconstitutionality shall not affect the validity or constitutionality of any other section, sentence,
25 clause or phrase or word of this ordinance.

1 Section 3. Effective Date. This ordinance, being an exercise of a power specifically delegated to
2 the City legislative body, is not subject to referendum, and shall take effect five (5) days after
3 passage and publication of an approved summary thereof consisting of the title.

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5 PASSED this _____ day of _____, 2003 and signed in authentication of its
6 passage this _____ day of _____, 2003.

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11 _____
12 MIKE McKINNON, MAYOR

13 ATTEST:

APPROVED AS TO FORM:

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15
16 _____
17 MICHAEL BAILEY
18 Administrative Services Director

19 _____
20 GREG A. RUBSTELLO
21 Lynnwood City Attorney

22 FILED WITH THE CITY CLERK:
23 PASSED BY THE CITY COUNCIL:
24 PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO. _____

Lynnwood Planning Commission
Meeting of December 12, 2002

Staff Report

Agenda Item: E-2

Transitional Buffers Code Amendment

- Public Hearing
- Informal Public Meeting
- Work Session
- New Business
- Old Business
- Information
- Miscellaneous

Lynnwood Dept. of Community Development — Staff Contact: Kevin Garrett, Planning Manager 

Recommendation:

Following the public hearing, the Planning Commission will be asked to recommend this code amendment to the City Council.

Background:

The Zoning Code requires a transitional buffer at the property line dividing properties zoned to different types of zones. In most cases, the transitional buffer must be at least 20 feet wide, and it must have two rows of closely planted evergreen trees and a six-foot fence. For example, a 20-foot buffer is required on a commercially zoned property where it abuts a single family zoned property. Both rows and the fence are to be located on the commercial property. Where a commercially zoned property abuts a multiple family zoned property, the Code requires a 10-foot landscaped buffer on both properties (for a total width of 20 feet). One row of trees is required on each property, and the fence is located on the property line. Transitional buffers are installed when properties are developed or redeveloped.

In some situations, however, topography, a low level of activity on the portion of the commercial property next to the single family property, or other factors indicate that a buffer with less width and/or planting will provide adequate protection for the adjoining property. At present, the Code requires approval of a variance to reduce the width of a buffer. The findings for approval of a variance go far beyond the adequacy of the separation between the two properties.

The Planning Commission held a work session on this code amendment on November 14, 2002. The draft ordinance has not been changed since then.

Notice of this hearing was posted at City notice boards and published in the Everett Herald. Staff has received no inquiries from the public.

Draft Code Amendment:

Staff recommends instituting a process to allow a reduced buffer where conditions warrant a reduction. The attached ordinance authorizes the Community Development to revise the buffer if the Director finds that,

“due to the intensity of existing or proposed landscaping, change in topography between properties, use of the properties along the abutting property line, or other characteristics of the abutting properties, a reduced buffer width will provide adequate separation between the properties.”

Notice of a pending action to revise a buffer would be mailed to owners of property that abut the site of the buffer.

A decision to change a transitional buffer could be appealed to the Hearing Examiner (PROCESS II).

The City Attorney is currently reviewing the preliminary draft ordinance. At the work session, staff will present any changes recommended by the City Attorney.

Environmental Review:

The City's Environmental Review Committee reviewed the draft code amendments and issued a Determination of Nonsignificance (DNS) on October 30, 2002. The appeal period for the DNS ended November 13, 2002. No comments or appeals were received.

What's Next:

The City Council is scheduled to hold a hearing and take action on the code amendment on February 10, 2003.

Attachments:

A. Draft Ordinance

CITY OF LYNNWOOD

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, REVISING ZONING REGULATIONS REGARDING TRANSITIONAL LANDSCAPED BUFFER AREAS BETWEEN DISSIMILAR ZONES, CREATING NEW SECTIONS OF THE LYNNWOOD MUNICIPAL CODE; PROVIDING FOR SEVERABILITY; ESTABLISHING AN EFFECTIVE DATE; AND PROVIDING FOR SUMMARY PUBLICATION.

WHEREAS, the City Council has adopted regulations for a landscaped buffer between properties zoned for less-intense activity or land use (such as single family residential zones) and properties zoned for more intense activity or use (such as commercial or industrial zones); and

WHEREAS, these regulations are intended to provide a physical and psychological barrier between the less-intense uses and the more intense uses; and

WHEREAS, in some locations, topography, wetlands or other physical features on the property, or the development or use of the property with the higher intensity zoning provides reasonable separation between the less-intense and more-intense land uses; and

WHEREAS, the City Council has determined it is appropriate to take into account the separation provided by physical features of the property and the development and use of the property in requiring transitional areas between dissimilar zones.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LYNNWOOD, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Subsection 21.42.220.E of the Lynnwood Municipal Code is hereby enacted as follows

E. Exception

The Community Development Director may reduce the required buffer width and revise the required planting and fencing if the Director finds that, due to the intensity of existing or proposed landscaping, change in topography between properties, use of the properties along the abutting property line, or other characteristics of the abutting properties, a reduced buffer width will provide adequate separation between the properties.

A request for approving a reduction in a required buffer shall be made in writing and shall describe fully the reduction and the basis for the request. The fee for processing a request shall be \$200.00. The person(s) requesting the buffer reduction bear the burden of proof that the reduced buffer will provide adequate separation and screening between properties.

1 At least 14 calendar days prior to acting on a request for buffer reduction, notice of the request
2 shall be mailed to the owners of all properties that abut the site of the proposed reduction.

3 A determination regarding an exception by the Director under this subsection may be appealed to
4 the Hearing Examiner using PROCESS II.

5 Section 2. Subsection 21.44.220.D of the Lynnwood Municipal Code is hereby enacted as follows

6 D. Exception

7 The Community Development Director may reduce the required buffer width and revise the
8 required planting and fencing if the Director finds that, due to the intensity of existing or
9 proposed landscaping, change in topography between properties, use of the properties along the
10 abutting property line, or other characteristics of the abutting properties, a reduced buffer width
11 will provide adequate separation between the properties.

12 A request for approving a reduction in a required buffer shall be made in writing and shall
13 describe fully the reduction and the basis for the request. The fee for processing a request shall
14 be \$200.00. The person(s) requesting the buffer reduction bear the burden of proof that the
15 reduced buffer will provide adequate separation and screening between properties.

16 At least 14 calendar days prior to acting on a request for buffer reduction, notice of the request
17 shall be mailed to the owners of all properties that abut the site of the proposed reduction.

18 A determination regarding an exception by the Director under this subsection may be appealed to
19 the Hearing Examiner using PROCESS II.

20 Section 3. Subsection 21.46.220.E of the Lynnwood Municipal Code is hereby enacted as follows

21 E. Exception

22 The Community Development Director may reduce the required buffer width and revise the
23 required planting and fencing if the Director finds that, due to the intensity of existing or
24 proposed landscaping, change in topography between properties, use of the properties along the
25 abutting property line, or other characteristics of the abutting properties, a reduced buffer width
26 will provide adequate separation between the properties.

27 A request for approving a reduction in a required buffer shall be made in writing and shall
28 describe fully the reduction and the basis for the request. The fee for processing a request shall
29 be \$200.00. The person(s) requesting the buffer reduction bear the burden of proof that the
30 reduced buffer will provide adequate separation and screening between properties.

31 At least 14 calendar days prior to acting on a request for buffer reduction, notice of the request
32 shall be mailed to the owners of all properties that abut the site of the proposed reduction.

33 A determination regarding an exception by the Director under this subsection may be appealed to
34 the Hearing Examiner using PROCESS II.

35 Section 4. Subsection 21.48.220.E of the Lynnwood Municipal Code is hereby enacted as follows

36 E. Exception

1 The Community Development Director may reduce the required buffer width and revise the
2 required planting and fencing if the Director finds that, due to the intensity of existing or
3 proposed landscaping, change in topography between properties, use of the properties along the
4 abutting property line, or other characteristics of the abutting properties, a reduced buffer width
5 will provide adequate separation between the properties.

6 A request for approving a reduction in a required buffer shall be made in writing and shall
7 describe fully the reduction and the basis for the request. The fee for processing a request shall
8 be \$200.00. The person(s) requesting the buffer reduction bear the burden of proof that the
9 reduced buffer will provide adequate separation and screening between properties.

10 At least 14 calendar days prior to acting on a request for buffer reduction, notice of the request
11 shall be mailed to the owners of all properties that abut the site of the proposed reduction.

12 A determination regarding an exception by the Director under this subsection may be appealed to
13 the Hearing Examiner using PROCESS II.

14 Section 5. Subsection 21.50.220.E of the Lynnwood Municipal Code is hereby enacted as follows

15 E. Exception

16 The Community Development Director may reduce the required buffer width and revise the
17 required planting and fencing if the Director finds that, due to the intensity of existing or
18 proposed landscaping, change in topography between properties, use of the properties along the
19 abutting property line, or other characteristics of the abutting properties, a reduced buffer width
20 will provide adequate separation between the properties.

21 A request for approving a reduction in a required buffer shall be made in writing and shall
22 describe fully the reduction and the basis for the request. The fee for processing a request shall
23 be \$200.00. The person(s) requesting the buffer reduction bear the burden of proof that the
24 reduced buffer will provide adequate separation and screening between properties.

25 At least 14 calendar days prior to acting on a request for buffer reduction, notice of the request
26 shall be mailed to the owners of all properties that abut the site of the proposed reduction.

27 A determination regarding an exception by the Director under this subsection may be appealed to
28 the Hearing Examiner using PROCESS II.

29 Section 6. Subsection 21.52.220.A of the Lynnwood Municipal Code is hereby enacted as follows

30 A. Exception

31 The Community Development Director may reduce the required buffer width and revise the
32 required planting and fencing if the Director finds that, due to the intensity of existing or
33 proposed landscaping, change in topography between properties, use of the properties along the
34 abutting property line, or other characteristics of the abutting properties, a reduced buffer width
35 will provide adequate separation between the properties.

36 A request for approving a reduction in a required buffer shall be made in writing and shall
37 describe fully the reduction and the basis for the request. The fee for processing a request shall

1 be \$200.00. The person(s) requesting the buffer reduction bear the burden of proof that the
2 reduced buffer will provide adequate separation and screening between properties.

3 At least 14 calendar days prior to acting on a request for buffer reduction, notice of the request
4 shall be mailed to the owners of all properties that abut the site of the proposed reduction.

5 A determination regarding an exception by the Director under this subsection may be appealed to
6 the Hearing Examiner using PROCESS II.

7 Section 7. Subsection 21.54.240.C of the Lynnwood Municipal Code is hereby enacted as follows

8 C. Exception

9 The Community Development Director may reduce the required buffer width and revise the
10 required planting and fencing if the Director finds that, due to the intensity of existing or
11 proposed landscaping, change in topography between properties, use of the properties along the
12 abutting property line, or other characteristics of the abutting properties, a reduced buffer width
13 will provide adequate separation between the properties.

14 A request for approving a reduction in a required buffer shall be made in writing and shall
15 describe fully the reduction and the basis for the request. The fee for processing a request shall
16 be \$200.00. The person(s) requesting the buffer reduction bear the burden of proof that the
17 reduced buffer will provide adequate separation and screening between properties.

18 At least 14 calendar days prior to acting on a request for buffer reduction, notice of the request
19 shall be mailed to the owners of all properties that abut the site of the proposed reduction.

20 A determination regarding an exception by the Director under this subsection may be appealed to
21 the Hearing Examiner using PROCESS II.

22 Section 8. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be
23 invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall
24 not affect the validity or constitutionality of any other section, sentence, clause or phrase or word of this
25 ordinance.

26 Section 9. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City
27 legislative body, is not subject to referendum, and shall take effect five (5) days after passage and
28 publication of an approved summary thereof consisting of the title.

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1 PASSED this ____ day of _____, 2003 and signed in authentication of its passage
2 this ____ day of _____, 2003.
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MIKE McKINNON, MAYOR

9 ATTEST:

APPROVED AS TO FORM:

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12 _____
MICHAEL BAILEY
13 Finance Director

GREG A. RUBSTELLO
Lynnwood City Attorney

14
15
16 FILED WITH THE CITY CLERK:
17 PASSED BY THE CITY COUNCIL:
18 PUBLISHED:
19 EFFECTIVE DATE:
20 ORDINANCE NO. _____

Lynnwood Planning Commission
Meeting of December 12, 2002

Staff Report

Agenda Item: **G-1**

Secure Community Transition Facilities (SCTF) - Recommendations

- Public Hearing
- Informal Public Meeting
- Work Session
- New Business
- Old Business
- Information
- Miscellaneous

Lynnwood Dept. of Community Development — Staff Contact: Dennis Lewis, Senior Planner

BACKGROUND:

The Planning Commission discussed the Interim SCTF Ordinance in detail on November 14th. The DSHS staff person present at the meeting explained several requested ordinance amendments, and the City Attorney advised the Commission on these matters. A Commission consensus was reached on each of the requested amendments and staff was directed to make the appropriate changes to the interim ordinance. A copy of the amended interim ordinance is attached for review. If the Planning Commission approves of these changes, the staff will work with the City Attorney in converting the interim ordinance into a final ordinance. All of the Commission's recommendations will be included in the final ordinance.

PROPOSED AMENDMENTS:

The proposed amendments to the interim ordinance are reviewed in order of appearance in the ordinance and reference is made to the DSHS comments.

1. **Page 2, Section 3.** This section has two sentences added. First, the DSHS suggestion of additional language on concentration of essential public facilities is included as written by DSHS. This was number 4 in previous staff reports on DSHS recommendations. Also, a sentence has been added addressing DSHS concerns on mitigation requirements. This addition covers the DSHS concern listed as number 5.
2. **Page 3, Section 4.B.1.** Capitalization of "Secure Community Transition Facilities".
3. **Page 3, Section 4.C.** Correction of reference to LMC.
4. **Page 3, Section 4.C.2.** The word utmost is deleted. This responds to DSHS concern number 1.

5. **Page 3, Section 4.C.3.** The word “extensive” is deleted and the words “effective site” are added. These changes respond to DSHS concern number 2.
6. **Page 3, Section 4.C.4.** The word “detailed” is deleted and the words “general description of the” are added. These changes respond to DSHS concern number 3.
7. **Page 4, Section 4.D.** A new paragraph has been added to make sure that the City is able to recover the costs of retaining expert assistance in reviewing and analyzing any DSHS application for siting of a SCTF.

Attachments:

1. Amended Interim SCTF Ordinance.



1 Section 1. The recitals set forth above are adopted as findings of fact in support
2 of the need for this ordinance providing for interim development regulations.

3 Section 2. A "Secure Community Transition Facility" (SCTF) means a residential
4 facility, as defined in chapter 71.09 RCW, for the housing of civilly committed and conditionally
5 released sexually violent predators.

6 Section 3. Title 21 of the Lynnwood Municipal Code is hereby amended to
7 include the siting of an SCTF in the City of Lynnwood as requiring the issuance of a conditional
8 use permit in accordance with the provisions of Chapter 21.24 of the Lynnwood Municipal Code
9 and this ordinance. The siting process and criteria for essential public facilities eligible for
10 common site review described in the *Capital Facilities & Utilities* element of the *Lynnwood*
11 *Comprehensive Plan* is hereby adopted as an optional process that may be elected by the sponsor
12 of a SCTF in addition to the conditional use permit process required by this section. In
13 considering the concentration of essential public facilities in the Site Evaluation Criteria
14 described in the *Capital Facilities & Utilities* element of the *Lynnwood Comprehensive Plan*,
15 the essential public facilities to be considered are those listed in RCW 71.09.250(8). Any
16 mitigation required under the Common Siting Process will not exceed those provided for by
17 RCW 71.

18 Section 4. In addition to the requirements required of all conditional uses in
19 Chapter 21.24 LMC, a SCTF shall also be subject to the following standards:

- 20
21 A. Siting shall be limited to locations zoned General
22 Commercial (CG), Business/Technical Park (BTP),
23 and Light Industrial (LI) and only in such zoned
24 areas that are south of 208th St. SW, and west of
25 60th Ave. W.
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27 B. Siting criteria.

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1. Policy guidelines adopted by the secretary of social and health services for the State of Washington for the siting of a SCTF shall be considered when providing for the siting of Ssecure Community Transition Facilities.
2. The siting requirements set forth in RCW 71.09.285 through 71.09.340 shall be considered as minimum requirements and nothing therein shall prevent the imposition of any condition or cause for denial of a conditional use permit for a SCTF so long as the condition or cause for denial does not impose a requirement more restrictive than those specifically addressed in RCW 71.09.285 through 71.09.340.

C. Conditional Use Permit Application Process: A conditional use permit application for SCTF shall comply with all the permitting and procedural requirements pertaining to a conditional use permit under chapter 21.214 LMC and the application thereof shall be accompanied by the following:

1. The siting process used for the SCTF, including alternative locations considered.
2. An analysis showing that ~~utmost~~ consideration was given to potential sites such that siting of the facility will have no undue impact on any one racial, cultural, or socio-economic group, and that there will not be a resulting concentration of similar facilities in a particular neighborhood, community, jurisdiction, or region.
3. Proposed mitigation measures including the use of ~~extensive~~ effective site buffering from adjacent uses.
4. A ~~detailed~~ general description of the security plan for the facility and the residents.
5. Proposed operating rules for the facility.

1 Finance Director, Mike Bailey

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3 APPROVED AS TO FORM:

4 OFFICE OF THE CITY ATTORNEY:

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6

7 BY _____

8 City Attorney, Greg A. Rubstello

SUMMARY OF ORDINANCE NO. _____

of the City of Lynnwood, Washington

On the ____ day of _____, 2002, the City Council of the City of Lynnwood, Washington, passed Ordinance No. _____. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN INTERIM ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, ADOPTING FINDINGS OF FACT; ESTABLISHING SITING REQUIREMENTS FOR A SECURE COMMUNITY TRANSITION FACILITY, AS DEFINED IN RCW 71.09.020; SETTING A PUBLIC HEARING DATE; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EMERGENCY AND DECLARING AN IMMEDIATE EFFECTIVE DATE; AND PROVIDING FOR SUMMARY PUBLICATION.

The full text of this Ordinance will be mailed upon request.

DATED this ____ day of _____, 2002.

Finance Director, Mike Bailey

Lynnwood Planning Commission
Meeting of December 12, 2002

Staff Report

Agenda Item: I-1

Commission Elections Review of Offices & Procedures

- Public Hearing
- Informal Public Meeting
- Work Session
- New Business
- Old Business
- Information
- Miscellaneous

Lynnwood Dept. of Community Development — Staff Contact: Ron Hough, Planning Manager

Background:

The Planning Commission's Scope and Rules call for the election of new officers at the first meeting of the new year. Officers serve one-year terms. There are no term limits. The current officers are:

- Chair – Dave Johnson
- First Vice-Chair – Vacant (Cynthia Olsen resigned)
- Second Vice-Chair – Brian Bigler

There is currently one vacancy on the Commission.

Procedures:

- A staff report similar to this one will be included in the Commission's January 12 packet. It will include the Commission's attendance record for 2002 as well as other information that might be helpful in electing new officers for 2003.
- The election of officers will be the first item of business on the Jan. 12 agenda.
- Nominations will be made from the floor, beginning with the Chair position. There may be one or more nominations. After all nominations are made, the Commissioners will vote. Election of the First Vice-chair and Second Vice-chair will follow.
- The nominee receiving the majority of the votes cast is declared elected.
- Elected officers immediately assume their new positions.

Duties of Officers:

Chair:

The chair presides over the Planning Commission and exercises all the powers incidental to the office, retaining however, the full right as a member of the Commission to have a vote recorded in all Commission deliberations, and to propose and second motions. The Chair may call special meetings of the Commission in accordance with the Scope and

Rules, signs the approved minutes, resolutions and other formal documents, and sees to it that all actions of the Commission are properly taken.

First Vice-Chair:

During the absence, disability or disqualification of the Chair, the First Vice-Chair assumes the duties and powers of the Chair. The First Vice-Chair retains the full right as a member of the Planning Commission to have a vote recorded in all deliberations and to propose and second motions.

Second Vice-Chair:

During the absence, disability or disqualification of the Chair and the First Vice-Chair, the Second Vice-Chair assumes the duties and powers of the Chair. The Second Vice-Chair retains full rights as a member of the Planning Commission to have a vote recorded in all deliberations and to propose and second motions.

Chair Pro-Tempore:

During the absence, disability or disqualification of the Chair, the First Vice-Chair and the Second Vice-Chair, the most senior member of the Planning Commission shall chair the meeting. The Chair Pro-Tempore shall retain the full right as a member of the Planning Commission to have a vote recorded in all deliberations and to propose and second motions. [Example: If Chair Johnson and Second Vice-chair Bigler are absent, Commissioner Powers, the most senior remaining member of the Commission, would chair the meeting.]

Executive Secretary:

The Director of Community Development serves as Executive Secretary of the Planning Commission. Since the Director attends most City Council meetings and numerous other meetings, he has designated the Comprehensive Planning Manager to perform many of the duties of the Executive Secretary and provide the staff services necessary to carry out the work of the Planning Commission.

Council/Commission Liaison:

Each year, the City Council appoints one of its members to function as a liaison to the Planning Commission. Ruth Ross has been the liaison during 2002. A better communication link between the two bodies often exists when a Council member is present to answer questions or help explain the Council's actions or intent.

Last year the Planning Commission decided to appoint one of its members to act as a liaison to the City Council -- for a one-year trial period. Patrick Decker became the liaison and has been attending primarily those Council meetings at which Commission recommendations are being considered. Commissioner Decker has assisted in the presentations, provided helpful background information to the Council, provided support to staff, and has been available for questions.

Since the Liaison position was experimental in 2002, there is no obligation to continue this assignment. However, in the opinion of staff, Commissioner Decker's presence at Council meetings has been valuable and his reports to the Commission on Council actions has helped the Commission understand the fate of its recommendations. Therefore, staff suggests that the Commission continue this position on an informal basis for another year.

