

**City of Lynnwood**  
**PLANNING COMMISSION MINUTES**  
**June 14, 2007**

**Commissioners Present:**

Patrick Decker, Chair  
Elisa Elliott, First Vice-chair  
Michael Wojack, Second Vice-chair  
Maria Ambalada  
Jeff Davies  
Richard Wright

**Staff Present:**

Director Krauss  
Planning Manager Kevin Garrett  
Assc. Planner Keith Maw  
Transportation Manger Les Rubstello  
City Attorney Mike Ruark

**Commissioner Absent:**

Tia Peycheff

**Others Absent:**

Ted Hikel, City Council Liaison

**CALL TO ORDER**

The meeting was called to order by Chair Decker at 7:02 p.m.

**APPROVAL OF MINUTES**

**1. April 26, 2007 Planning Commission meeting**

The minutes of the April 26, 2007 Planning Commission meeting were approved as written.

**2. May 10, 2007 Planning Commission meeting**

The minutes of the May 10, 2007 Planning Commission meeting were approved as written.

**COUNCIL LIAISON REPORT**

Councilmember Ted Hikel was not present.

**CITIZEN COMMENTS**

Edward Wallace, said he was trying to get a message to the King County Assessor regarding his recent assessment.

Joan Graham, 4111 164<sup>th</sup> Street SW #32, Lynnwood, WA 98087, was interested in finding out who is representing them in the Mobile Home Owners Association [microphone off]. Planning Commissioner Maria Ambalada referred her to Mr. Frank Cheeney.

## PUBLIC HEARINGS

Chairman Decker noted that the Commission had just received documents from Don Shaw of Royalwood Estates. He requested that any documents for the Planning Commission be presented to them prior to the meeting so they could give them due consideration. He then explained that there would be two separate hearings tonight and explained the order of events and the procedures that would be followed.

### 1. Transportation Improvement Plan (TIP)

The hearing was opened at 7:08 p.m.

*Staff Presentation:* Les Rubstello, Transportation Manager, Public Works Department presented the TIP six-year (2008-2013) list of projects. He noted that most of the funding for this is grants, not city funds. He explained that the Olympic View project is in final design and will probably go out to bid later this year. A significant project that was removed from the list was the feasibility study for a trolley across town potentially linking the mall and the college. Since Sound Transit Phase II is possibly coming as far north as Lynnwood, this trolley project has been substituted for the hope of Sound Transit / light rail. Otherwise, these are essentially the same projects.

*Public Comments:* The Chair solicited public comments. There were none.

*Commissioner Questions:* Commissioner Ambalada asked for clarification about the term “transportation” in Transportation Improvement Projects. Mr. Rubstello explained that it is essentially all aspects of transportation in the city including streets, sidewalks and trails. Commissioner Ambalada invited the public to make comments on behalf of their neighborhoods.

Chair Decker closed the public hearing at 7:13 p.m. He requested that the commission postpone discussion and debate until after the second public hearing. Mr. Rubstello commented that the City Council was hoping for a recommendation from the Planning Commission before their meeting on June 25.

### 2. Comprehensive Plan Amendments

Chair Decker reviewed the Mobile Home Park zoning issue. He gave a brief announcement regarding the rules and regulations of a public hearing.

#### A. Royalwood Mobile Home Park

Community Development Director Paul Krauss explained that the owner of the Royalwood Mobile Home Park is requesting an amendment to the Comprehensive Plan from SF-2 to SF-3. He is also requesting an amendment to the zoning map from RS-7 to RS-4. Director Krauss described the specifics of the application and the implications if approved.

Director Krauss described the close proximity of the park to high-density residential zoning and commercial uses and noted that it is an appropriate transition to the RS-8 single family zoning east and south of the park.

If redevelopment were being proposed, staff would consider recommending approval of these requests. Staff also recognizes that similar requests were approved at Kingsbury West and the Squire Mobile Home Park in 2003. The designation was also approved for Kingsbury West in 2004, however, the first two have been proposed for redevelopment by the owner and since that time have been sold to the County Housing Authority for preservation. He also commented that since the time those approvals were put in place, the Council adopted an amendment to the Comprehensive Plan adding H-8.2 which encourages mobile/manufactured home parks as a viable alternative to senior affordable housing.

He summarized the facts as staff understands them:

- According to the owner there is at present no plan to redevelop the property.
- The applicant's stated desire is to preserve the park.
- The requested comprehensive plan amendment and rezone will not achieve the owner's stated goal of bringing the park into compliance with current codes and standards.
- The primary effect of the request is to enhance the park's redevelopment potential.
- The requested comprehensive plan amendment from SF-2 to SF-3 places the park in a designation specifically written to support closure and redevelopment.

He stated that primarily because of the inconsistency between the application and the effect, staff is recommending that these requests be denied.

The public hearing for Comprehensive Plan Amendments was opened at 7:24 p.m. Staff clarified that the amendment requested for Royalwood is separate from consideration of all the mobile home parks in the City and should be addressed separately. Chair Decker reviewed the order for the remainder of the hearing.

*Commission Questions/Comments:*

Chair Decker asked what the distance from Highway 99 was that we wanted the RS-4 applied to. Staff replied that it was ¼ mile, but one of the dividing lines was if the underlying zoning was commercial, industrial or residential. In this case it's residential.

Chair Decker referred to staff's comment that this would be a good transition area. He noted that this was not consistent with the park owner's assertion that this would preserve the current state of the park five years. He did not see that changing the zone would aid in protecting the mobile home park. He stated that he saw merit to the argument that it would be a transition from multi-family to low-density single-family via a high-density single-family zone.

*Public Comment:*

Mr. Frank Cheeney, 17408 44<sup>th</sup> Avenue West #40, [difficult to hear – microphone off] complimented the staff on the excellent work they have done. He stated that the City is in violation of our own RCW code and that we shouldn't have a public hearing on Royalwood Mobile Home Park. It was his opinion that the current rents were more than adequate to cover the park's taxes. He has contacted the Snohomish County Assessor's office regarding tax reductions.

He suggested that it would be more appropriate to move onto the next section of the hearing that deals with all the mobile home parks and see what kinds of tax reductions and utility reductions can be given to the mobile home parks.

Chair Decker asked if there was anything in the City Attorney's opinion that would prevent the Planning Commission from continuing the public hearing on Royalwood. The City Attorney replied that he did not.

Leslie Kelley, 5119 – 186<sup>th</sup> Place SW, Lynnwood, WA 98037, stated that she resides to the south of the park. She requested that the Planning Commission recommends to the City Council that they deny Mr. Shaw's application for rezoning. Specifically Mr. Shaw needs to demonstrate how rezoning of Royalwood would be consistent with current use as a mobile home park. Her understanding was that they are grandfathered in as a non-conforming use, which means rezoning would be unnecessary. She also felt that he needed to clarify how rezoning would lower his taxes and utility costs. She commented that rezoning could potentially raise the taxes and motivate redevelopment, but with the MH-1 plan which will be addressed next, he could potentially lower his taxes and utility costs. Mr. Shaw needs to put forward a clear plan that addresses the impact of possible redevelopment to the dynamics of the neighborhood. This could be caused by the displacement of quiet senior citizens, with one or two per household, to larger families. She also felt that Mr. Shaw needs to demonstrate that rezoning is not going to conflict with the City's efforts to encourage the development of affordable housing for senior citizens, which includes, as an alternative, mobile home parks.

John Parker, Candlewood Estates #27, opposed Royalwood Mobile Home Park's application. He pointed to repeated comments that the owner would preserve the park for five years. He demanded to know what would happen in five years. It was his understanding that the City was going to try to preserve the low-income housing in the City of Lynnwood.

City Attorney Mike Ruark introduced himself. He commented on the conditions that Mr. Shaw is attempting to place on this rezone and comprehensive plan amendment. One of them (the tax issue) is beyond the power of the City to effectuate. The other one (the five-year term) is illegal. The City Council can put a sunset clause on any ordinance that they adopt, but they could not give assurance that Mr. Shaw is looking for that in the intervening five-year period or at the end of the five-year period it wouldn't take action to the ordinance if it were adopted.

## **B. Mobile Home Park Zone**

Chair Decker clarified that what they are talking about is if the City of Lynnwood should create a Mobile Home Park zone. If this is created it may or may not be applied to any or all of the existing parks in the city limits and it may or may not be applied to any parcels outside of current city limits that we may or may not annex at some future time. This has to do with the direction that we would like to see the City go in the future.

### *Staff Presentation:*

Director Paul Krauss explained that the City has been working on issues surrounding mobile home parks for the past few years. Currently Lynnwood has 17 mobile home parks.

Several of them are in the process of being closed and redeveloped. After a lot of effort by a lot of people, especially Save our Seniors (SOS), City Council, Snohomish County Housing Authority and the State legislature, they managed to save two of the parks (Squire and Kingsbury East) for long-term preservation and improvement. To date, Lynnwood has made manufactured home developments a permitted use in all residential districts.

Last year, at the request of Frank Cheeney from Save our Seniors, the City created the MH-1 Mobile Home and Manufactured Home Park designation for the comprehensive plan. It hasn't been applied on the map, but it has been created. This year, the City is considering where to apply this designation and in addition, to draft a new section of the zoning code that is designed to implement the designation. In a related series of actions pertaining to mobile home parks, the City intervened with the owners who purchased Evergreen Mobile Home Park. It is in the process of being closed and was purchased by an auto dealership. Some of the people had been relocated; others were having difficulty doing so. The City Council passed a resolution that encouraged the owner to give the residents more time to relocate since they had not come forward with any redevelopment plans. This was successful and the residents were given more time to relocate.

The 2007 Comprehensive Plan Amendment docket includes determining how to apply the MH-1 designation on the Comprehensive Plan and the adoption of Chapter 21.71 *Mobile Home Park Zone*, which is to be used to support the designation. At the direction of the City Council, staff evaluated the City's parks. Of the 17 parks, 12 are located in areas shown for residential use; 5 are located in areas designated for commercial or industrial uses; and one of those (Evergreen) is already in the process of being closed. He explained that application of the Comprehensive Plan and zoning designations must, by law, be based upon reasonable fact patterns and be consistently applied. Staff is recommending that the MH-1 Comprehensive Plan designation be applied over the 12 parks located in the residential areas. The remaining 5 parks in the commercial and industrial areas would be able to remain in place as grandfathered uses.

At the direction of the City Council, the proposed Mobile Home Park zone would be used in a voluntary manner. That is, it must be requested by the owner and not unilaterally applied by the City. The primary reason for this is that some of the owners indicated that they would preemptively submit development applications if the City were going to consider an involuntary approach. To accommodate the voluntary application of the Mobile Home Park Zone, staff is recommending that the Mobile Home Park Comprehensive Plan designation be used as an overlay for those parks located in the residential areas.

Since the goal is to have park owners use the Mobile Home Park zone to preserve existing parks, there should be incentives to encourage them to do so. The City only has control over utilities (water, sewer and storm) and the City Council has indicated a willingness to offer significant discounts for owners who are willing to maintain their parks as mobile home parks. The County also recently adopted an ordinance that was worked through the County Assessor who was willing to base the assessed value of the park on the existing, rather than potential, use as long as they put their parks in a protected Mobile Home zoning district for at least five years, preferably ten. In addition, the City is proposing that the application fees be waived for applications to this zone. Staff is also recommending adoption of the Mobile Home Park zoning district.

City Attorney Ruark stated that the City can adopt a voluntary Mobile Home Park zone overlay and provide incentives to the owner of the property to maintain the property as a mobile home park. He emphatically stated that imposing an involuntary mobile home park zone on discrete properties would be unconstitutional both under the state and federal constitutions. He offered to provide them, in Executive Session, the reasons for that final conclusion.

Director Krauss explained that the Comprehensive Plan designation that staff is proposing would be applied as an overlay so that it would permit the owner to choose between the underlying Comprehensive Plan designation or the Mobile Home Park route. That flexibility in there would pass the legal test. Chair Decker clarified that they were suggesting applying the Comprehensive Plan designation across all of those mobile home parks that are in residential zones and leaving the zone designation on a voluntary basis. Director Krauss confirmed this.

*Public Comments:*

John Parker, Candlewood Estates #27, commented that what the residents really wanted to know is if they can live their lives out without the threat of being kicked out. He said he has thirty people asking him that question every day. He does not see the answer in these plans, but that is what he is looking for and hoping for.

Chair Decker pointed out that the question before them is, "Should we create the zone?" He stated that his understanding was that creation of the zone and application of the Comprehensive Plan would not give a guarantee that those parks would exist in perpetuity as mobile home parks. Given that, he asked if Mr. Parker supported or opposed the creation of the zone. Mr. Parker replied that he didn't care what they did with it. He commented that there needs to be some sort of happy medium between the tenant and the owner of the parks. He described the plights of the residents of Manor Heights Mobile Home Park who have one year to vacate their homes. Chair Decker agreed that this was the reason they were working on this matter, but noted that they needed to do it in a way that was legal and constitutional.

Kylin Parks, 7515 176<sup>th</sup> Street SW, #43, Lynnwood, WA, President of Save our Seniors, stated that this is a very frustrating situation. She is in favor of the Mobile Home Park zone designation, but she also thinks it is a joke since it is on a voluntary basis. She referred to Royalwood's application and suggested that even if this zone were in place, Mr. Shaw would probably not apply for it voluntarily. She noted that Snohomish County has implemented a voluntary zone and she has not heard yet that any park has stepped forward and applied for it. She discussed the concept of property rights at the expense of human suffering. This is what is happening with all these senior parks closing. Mobile home park living is a way of life in which seniors are able to live in a non-subsidized way.

Don Soderberg, Kingsbury West, referred to City Attorney Ruark's comments and asked if this has been tested in court. City Attorney Ruark indicated that it had not, but he was absolutely sure that an involuntary application of the Mobile Home Park zone would be unconstitutional. Mr. Soderberg discussed the uses of a moratorium to stop building permits or zoning changes. Mr. Ruark agreed, but stated that the City could not put a moratorium on the purchase and sale of real property. Mr. Soderberg suggested a moratorium on the redevelopment of mobile home parks.

He discussed the fact that after these self-supporting senior citizens lose their homes they will not be able to be self-supporting and will become a burden for taxpayers. Chair Decker suggested that they could get legal counsel and staff comments on the moratorium issue when we get to the discussion phase of this process.

Mr. Soderberg said he would like to see the City Council bring the discussion of a moratorium to a vote so they get a chance to vote on whether to use one or not. He noted that the voters would like to know what their real feelings are on this compared to political rhetoric.

Don Shaw, Royalwood Estates owner, suggested that there should be mandatory legislation that residents in a mobile home park can't sell their homes if there is legislation that says that he can't sell the park.

Jeffrey Palmer, 5220 176<sup>th</sup> Street SW #5, spoke on behalf of Kingsbury West. He noted that they have some real concerns with the Mobile Home Park zone. Their biggest concern is spot zoning. They would take appropriate action against the City if this was forced upon them. Chair Decker clarified that there was no consideration this evening of a mandatory application of the zone. He asked for confirmation that staff has specified that were the zone created, it would be on a voluntary basis only. He added that his other big concern is that he wants a guarantee that the owners would be allowed out of the zone at the end of five years after they have applied to it. He said he would be very hesitant to apply. Chair Decker commented that his understanding is that the zone does not include a guarantee that the park owner's application to change zones or revert zones would be granted at the end of the five years.

Frank Cheeney, 17408 44<sup>th</sup> Avenue W #40, Lynnwood, Save our Seniors, said he doesn't believe there is anything that would keep the property owner from buying or selling their property. He thinks that this is an argument that doesn't have any merit. He said he does understand the concern that someone in the Mobile Home Park zone might not be approved for a rezone in the future, but that is something that happens today. They would go through the same kind of process that people go through today, like Mr. Shaw.

As far as spot zoning, he would contend that they are ready to do the same kind of threatening that has been done by the park owners and say that because the former Squire and Kingsbury East were zoned without application to RS-4 high-density in 2003-2005, that that was as illegal as we are hearing about tonight about the involuntary application because weren't even notified that there was a public hearing when that happened. The way that the RS-4 zone is written, it is spot zoning because it targets specific things like mobile home parks within the City of Lynnwood within ¼ mile of Highway 99.

Jerry Huffman, Kingsbury East/Haskell Park, suggested checking with King County who is in the process of drawing up a moratorium prohibiting development of parks. He indicated that this was specifically regarding Wonderland in Renton. He remarked that if is illegal here, it must be illegal in King County.

Chair Decker clarified that the property would be allowed to sell, but the moratorium would prohibit any new development on that property. He asked how long this moratorium would be in effect. Mr. Huffman said he did not know all the details. Chair Decker asked if it had been challenged in court at all. Mr. Huffman did not think it had.

Director Krauss said he was not aware of the specific story with Wonderland Park, although there was a story on National Public Radio a short time ago that talked about that one and the Lynnwood park situation. He stressed that moratoriums are not a permanent fix; by law a moratorium is only good for six months. Council can extend it, but the only reason to put a moratorium on is if the city or the county wants to stop development while they put some planning or zoning in place that would regulate whatever is subject to the moratorium.

James Moffitt, Royalwood #16, 18501 52<sup>nd</sup> Avenue West, said he thinks the issue is a lot larger than everyone here thinks it is. The question we should be asking is, what do these park owners want? Because if we don't give them what they want then we can't win. We need to find out what they want and how much it is going to cost us. Then we need to determine if it is going to cost us more or less than relocating all these people. Incentives to keep these owners in their parks are the only way to win the battle.

Leslie Kelley, 5119 – 186<sup>th</sup> Place SW, Lynnwood, WA 98037, pointed out that the City is trying to create the incentives. She noted one of the major points of Mr. Shaw's application was with the utility costs and the taxes. What we have with this proposal is at least a step in the correct direction in that the City would be offering those incentives. Whether or not he takes them is up to him, but it also shoots a big hole in his argument that costs are too high. She agreed that this is a much bigger problem than what we are looking at here in Lynnwood. Information from AARP suggests that in 2001 owners aged 50 and over accounted for 3 million or 43% of the 7.2 million manufactured housing units occupied year-round as primary residences. She felt that the owners of senior citizen parks had a civic responsibility to maintain it as a senior citizen or they shouldn't purchase it to begin with. Lynnwood needs to be a city that takes care of the fundamental aspects of being in a community, including housing among other things, but especially safety of senior citizens.

Edward Wallace, Kingsbury West #14, suggested that a solution to this would be for the park owners and the people who live in the parks to get together and discuss the amount of money needed to purchase the park. He stated that there are ways that this could be accomplished through bonds, grants or other means. He stated that his home is pre-HUD and is too old to move. He expressed support of the Comprehensive Plan amendment.

Wilma Hanna, Candlewood Estates, 3832 164<sup>th</sup> Street, #25, stated that the sooner the Mobile Home Park zoning is taken care of the more comfort it will bring the elderly. She asked if the overlay of the Comprehensive Plan would restrict the use of the park. Chair Decker replied that it would not restrict the use of the park to any one particular use. Ms. Hanna commented that it would be "shooting a hole" in the Mobile Home Park zoning if this was the case. Chair Decker explained that many of the mobile home parks currently already have a Comprehensive Plan designation which allows more than one specific use. The Comprehensive Plan overlay would provide the framework that would allow the Mobile Home Park zone. Without that overlay, the Mobile Home Park zone could not be applied.

Ms. Hanna asked what incentives are being offered to owners to encourage them to let the parks remain. Chair Decker mentioned tax and utility discounts and waiving of the zone application fee, but noted that discussions are continuing. She stated that she would be in favor of the Comprehensive Plan overlay and the creation of a Mobile Home Park zone.

Randolf Gibson, 5220 176<sup>th</sup> Street SW, Kingsbury West #32, recommended creation of the Mobile Home Park zone, that it be voluntary for the park owners should be able to participate in the zone, and that the park owners are offered every possible incentive to participate in the Mobile Home Park zone.

Don Soderberg, Kingsbury West, added that although moratoriums are generally for a six-month period, they can be done in 3-year increments and they can be renewed.

### **C. Parks & Recreation Element Update**

Kevin Garrett, Planning Manager, gave a brief staff report on the Parks and Recreation Element Update, which is an annual update of text and data. He noted that this year's update are very minor and are not policy-oriented.

Public Comments – none

### **D. 5-year Implementation Program Update**

Mr. Garrett then gave an update of the five-year project schedule. He explained that this lays out the work program for the next five years. Departments covered are Public Works, Community Development, Parks and Recreation and Cultural Arts, and unassigned projects.

The public hearing was closed at 8:49 p.m. Chair Decker reviewed the options before the Planning Commission.

## **1. Transportation Improvement Plan (TIP)**

*Motion made by Commissioner Wright, seconded by Commissioner Ambalada to forward on to City Council and to recommend approval of the Transportation Improvement Plan as presented by staff. Motion passed unanimously (6-0).*

## **2. Comprehensive Plan Amendments**

- A. Royalwood Mobile Home Park**
- B. Mobile Home Park Zone**
- C. Parks & Recreation Element Update**
- D. 5-Year Implementation Program Update**

The commission indicated that they were ready to take action on items A, C, and D.

*Motion made by Commissioner Wright, seconded by Commissioner Ambalada, to recess into Executive Session to hear additional information from the City Attorney Ruark regarding item B, Mobile Home Park Zone. Motion passed unanimously (6-0) to recess into Executive Session.*

Chair Decker recessed at 8:54 p.m. for ten minutes for Executive Session for the purpose of receiving legal counsel regarding item B, the Mobile Home Park Zone. The meeting resumed at 9:05 p.m.

*Motion made by Chair Decker to recommend to the City Council the acceptance of the Comprehensive Plan amendments A, B, C, and D as presented by staff. The motion was seconded by Commissioner Michael Wojack.*

There was clarification that the Commission was recommending that item A be denied per staff recommendation and that items B, C, and D be approved including the Comprehensive Plan overlay and the creation of a Mobile Home Park zone.

Commissioner Ambalada [microphone off] asked for confirmation that the zoning would be voluntary.

There was consensus by the Commission to recommended seeking further incentives for the mobile home parks.

*Motion passed unanimously (6-0).*

#### **WORK SESSION**

None scheduled.

#### **BUSINESS**

None.

#### **DIRECTOR'S REPORT & INFORMATION:**

##### **1. Upcoming Commission Meetings**

- There was an update on upcoming meetings.
- The Permit Center is operational now.
- Alderwood Mall Macy's expansion – 38,000 parking garage.
- LHS – EIS is still in preparation.
- Comprehensive Plans coming up in two weeks – Sign code amendments may need an emergency amendment for recommendation. Portable a-frame signs used for commercial and real estate and hand carried signs need to be addressed. There has been a lawsuit pending against the City over this type of signage. There is a potential for settling the case, but that may involve amending the City code. This may require an emergency amendment to the code. A revision of the material reviewed in April would be brought back to Planning Commission.
- Some meetings in July or August may be cancelled.

#### **ADJOURNMENT**

Motion made by Commissioner Wright, seconded by Commissioner Ambalada to adjourn the meeting. Motion passed unanimously (6-0). The meeting was adjourned at 9:16 p.m.

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Patrick Decker, Chair