

**City of Lynnwood  
PLANNING COMMISSION MINUTES  
September 8, 2011 Meeting**

<b>Commissioners Present:</b>	<b>Staff Present:</b>
Richard Wright, Chair	Economic Devt. Director Kleitsch
Bob Larsen, Vice Chair	Kevin Garrett, Planning Manager
Maria Ambalada	Shay Davidson, Administrative Asst.
Van AuBuchon	Janiene Lambert, City Center Prog. Mgr.
Chad Braithwaite	Gloria Rivera, Senior Planner
Michael Wojack, Second Vice-chair	
<b>Commissioners Absent:</b>	<b>Other:</b>
Doug Jones	Councilmember Loren Simmonds

**Call to Order**

The meeting was called to order by Chair Wright at 7:00 p.m.

**Approval of Minutes**

None

**Citizen Comments**

None.

**Public Hearings**

**1. Revisions to City Center Development Regulations (2011CAM0006).** Amendments to Ordinance No. 2627 (City Center Street Grid Protection Ordinance), Title 21 (Zoning), including (but not limited to) Chapter 21.60 of the Lynnwood Municipal Code (City Center (CC) Zones), the City of Lynnwood Zoning Map, and the City Center Design Guidelines. These amendments, if approved, would revise:

1. The requirements to dedicate property for grid street and park/plaza purposes;
2. Zoning regulations for development/redevelopment of properties in the City Center (including, but not limited to building height, floor area ratios, bulk, street standards, setback and signage);
3. City Center design guidelines for site planning and building design; and
4. Zoning Map to identify gateways and prominent intersections.

Planning Manager Garrett introduced the item, noting that this is a continued public hearing which began in June. Janiene Lambert, City Center Program Manager, gave the staff presentation. Ms. Lambert distributed a presentation matrix and a letter to the City from the Public Facilities District which was received today. She reviewed the background on this item and summarized information contained in the Planning Commission's packet. She reviewed the *PFD Questions and Staff Responses* and the *Matrix of Updates from July 14, 2011 Hearing*.

#### Planning Commission Comments and Questions:

Commissioner Braithwaite asked if they received any feedback about the outdoor space requirements change from the organization that was concerned about that. Ms. Lambert stated that they did. They worked with that group to make sure the maximum size met their requirements.

#### Public Comments

Ms. Tanaka stated that her husband has a dental office at 19330 40<sup>th</sup> Avenue. She asked how quickly the construction would start and how long it would last. Planning Manager Garrett explained that the City is only setting the table for redevelopment and will not be buying property and doing the redevelopment. The City is adopting a vision in the plan document with detailed regulations so that property owners, when they are ready, can redevelop. Ms. Tanaka expressed specific concern about the western end of the extension of 194<sup>th</sup> Street which would impact access to their business. Planning Manager Garrett noted that the extension of 194<sup>th</sup> is not funded in the current two-year budget. He recommended that Ms. Tanaka contact the City Engineer and let him know she wants to be involved as the project moves forward several years from now.

Chris Hildebrand, expressed concern with the latest draft of the map on the website because it looks like there was a reduction of support of parks and walkways. She asked if the City still has a commitment to making sure that this is something that citizens will want to walk to. Ms. Lambert stated that they absolutely have a commitment to this as reflected in the Subarea Plan. She reviewed how parks are addressed in this plan. In this draft they have removed the requirement to dedicate land and will be working administratively on how to implement those parks. She stated that there is no plan to change the area they have planned for parks.

Mike Echelbarger, 4001 198<sup>th</sup> Street SW, Lynnwood, WA, stated that he is a partial owner of four existing buildings in the triangle area and was speaking for all the ownership of those four buildings. They are in support of the concept of the City Center Plan, but are not in support of what is happening right now and recommend that they not pass this along to the Council. He recalled that the Planning Commission had recommended that staff take this back to the original

citizens planning committee who worked with the staff to come up with the original plan. He asked if this had happened.

Ms. Lambert explained that everyone from that original meeting and the stakeholders have been emailed and invited to two additional public meetings that they held in June. They have been notified throughout the process of all the updates. Mike Echelbarger is also on that distribution list. She stated that they have not heard any word from any of the other participants. Economic Development Director Kleitsch noted that after the plan in 2007 the Community Development Department, working with the task force, disbanded that group. Members of that group were contacted throughout the process. They have continued to talk to several of those members over time, but several are no longer operating in the city as developers. Staff decided to do more direct outreach via public meetings and the Planning Commission. The City's intent is to further engage in outreach as they go forward with implementation. Planning Manager Garrett added that the three-way agreement between the City, the Public Facilities District and the South Snohomish Chamber of Commerce established the citizens' oversight committee. The purpose of that committee was to work with staff to develop and recommend to the Planning Commission and City Council the documents that came out of the planning project. When the committee completed that work they disbanded.

Economic Development Director Kleitsch added that one of the three organizations that was part of the structure of the original group – the South Snohomish County Chamber of Commerce – no longer exists. The City is building a database of property owners and people who want to stay engaged in the process; the City will continue to build that database throughout the process.

Mr. Echelbarger said he has talked to two of the members who indicated they are willing to do more than just get mailings like everyone else. He stated that there are a lot of things the City should have done and hasn't done over the last five years relative to this plan. He then brought up the issue of parks and asked where the parks would be and how that would be handled. He reiterated that he is in favor of the concept of the City Center, but he is not in favor of staff pushing this through on behalf of certain developers who are pressuring them to make changes.

He commented that the area of the triangle is 100% developed right now and all those buildings except one or two are conforming. How the City treats those existing buildings is important to the City and important to all the citizens. He cautioned against overbuilding which could have an end result like Detroit whose downtown is filled with vacant buildings and homeless people.

Another issue that is a concern to Mr. Echelbarger is that the requirements in the City Center have driven development away from the City Center. He pointed out that the last two hotels that were approved in town didn't get approved in the

downtown area because of the difficult regulations so they moved over by the mall where they could get approved easier. He reiterated that there needs to be way more discussion on this plan.

Commissioner Larsen asked staff to explain the effect of the non-conforming buildings. Ms. Lambert referred to page 17 of the code and stated that the general principle is *that the degree of non-conformance shouldn't be increased overall*. Based on that theory they have tried to revise the non-conforming building section to be a little clearer and more flexible. Non-conforming buildings need to come more into compliance *where they are expanded*. Existing non-conforming buildings may continue to exist in perpetuity.

Commissioner Ambalada commented that as a member of the Planning Commission she has never felt like this plan has been rushed or shoved down their throats because in the process of doing this they have been involved in amending regulations to make it more business friendly. She believes they have made an effort to involve and be partners with businesses. She emphasized that this is an evolving project. She discussed the PFD's lack of involvement in this and the lack of communication there. She feels that the City has tried to reach out to the community to make this the best possible plan. She expressed appreciation that Mr. Echelbarger was at least supportive of the general idea of the City Center.

Mr. Echelbarger stated that other cities have taken on similar tasks and have allocated money from a variety of sources. In the original committee they talked about civic contribution to make it work. This has not happened and the plan will not work without it. This plan could be termed a failure because there is not one building that has been built in the last five years within the area. He is critical of the plan and the way they're doing it. He thinks, in order to get it accomplished, they need pressure against the City Council to make some hard decisions about the money and the parks. The City needs to identify a method of raising funds to make this work. The existing buildings, while they are still allowed, if they have a fire, for example, they would not be allowed to rebuild. As a property owner with buildings with significant vacancies he understands the need for tenants and this code keeps those tenants away. He does not see harm in allowing more of the non-conforming uses over the next 30 years because he thinks they will naturally go away as new development occurs and rents increase in the area. He thinks the whole plan is at risk because of the way they have tried to implement this. He recommended going back for more input and getting some pressure on the City Council to do what needs to be done to make the plan successful.

Commissioner Ambalada reiterated to Mr. Echelbarger that the City Council has been at war against each other for the last five years and they should have taken some leadership about what the original City Center group had done. She thanked Mr. Echelbarger for his comments.

Director Kleitsch clarified that the plan is not before Planning Commission this evening. What they are proposing is regulations in order to implement the plan. Because of the economy and comments by the public, the plan they are proposing imparts more flexibility to allow development to occur without the overlays of the parks and the overlays of the grids. They believe this will benefit the property owners and businesses that want to come here. He clarified that certain uses that are automotive related are excluded in the regulations now. In the original regulations those uses were allowed but they had to be enclosed in a building. The intent of these amendments is that those automotive uses would go away because it's not in keeping with the pedestrian nature of the plan as it's envisioned over time.

Grant Dull, Executive Director of the Lynnwood Public Facilities District, 3711 196<sup>th</sup> Street, thanked the commissioners for their service to the City of Lynnwood. He also thanked the staff of the City for the work they have done with the PFD and its consultants over the last couple of months. He stated that he submitted a formal letter to the Planning Commission earlier today. Because of the PFD's interest in pursuing a Development Agreement approach to address City Center issues on their particular property, they encouraged the Planning Commission to transmit revisions to the City Council. At the same time they have some remaining concerns that they plan to address through that Development Agreement process. Those concerns revolve around the issue of phasing, issue of remaining grid streets, the extent of the right-of-way, how property owners would be compensated, and how the City would replace parking.

The PFD also has specific concerns that are unique to their facilities district. He stated that they purchased 12 acres of property to allow them to site the convention center and to allow for sufficient parking. When it came time to finance their project they realized that their 12 acres contained a shopping mall. They pledged the revenue from the shopping mall to payments on the bonds. In addition to concerns mentioned above, the City should recognize that if the PFD has financial issues it's a problem for the City. Based on productive conversations they have had with staff, the PFD is prepared to move forward with a Master Plan and Development Agreement process subject to budgetary constraints. He acknowledged that building a City Center is a difficult task fraught with challenges. He said he looks forward to further discussions with the City Council this fall.

Elliott Severson, 5150 Village Park Drive SE, Bellevue, WA, applauded the Planning Commission and the staff for what they are trying to accomplish. He thinks the proposed amendments serve to improve the adopted vision by trying to work within the framework of economic realities. He believes it tries to solve what Mr. Echelbarger is concerned about in terms of vacancies in buildings. He agreed that this plan is going to take public funding and that is where it is rightfully a City Council issue. Regarding the parks, he thinks the City needs to set aside money, make a commitment to purchasing property and then buy the

parcs when opportunities arise. This involves staff keeping to the vision and working within economic realities. He spoke in strong support of the proposed amendments and encouraged the Planning Commission to move this on to City Council.

Seeing no further public comments the public hearing was closed at 8:14 p.m.

Commissioner AuBuchon pointed out that there have been some changes in the public input aspect of this. Director Kleitsch reviewed that the South Snohomish County Chamber no longer exists and they were part of the structure of the original committee. Therefore the original group disbanded. Commissioner AuBuchon suggested they consider reforming the group to get some more public input. Planning Manager Garrett stated that the Oversight Committee for the City Center Plan was constituted by the Council through the written agreements with the PFD and the South Snohomish County Chamber. Those agreements provided for funding of the planning project and for creation of the Oversight Committee along with a series of duties. The Planning Commission does not typically separately constitute a formal advisory group. He suggested that one way to proceed would be to move the proposed amendments forward and include a recommendation to constitute a similar sort of body with specific purposes. Commissioner AuBuchon stated that would be his recommendation.

Commissioner Larsen observed that the original plan, as is, was formed by a committee. He does not see a lot of resistance to that. The thrust of what they are doing now is about clarity and flexibility and he thinks these changes achieve that. He feels they have a pretty good plan right now. He is not interested in over-designing this right now. He spoke in support of moving forward with this.

Commissioner Braithwaite expressed concern about the three-story requirement which could preclude more creative development ideas. He reviewed some examples of this. Ms. Lambert agreed that it does preclude certain scenarios. Director Kleitsch stated that for the five-year period he believes it is important that the three-story requirement is maintained. After a five-year period they can amend if necessary.

Commissioner Braithwaite expressed concern that areas that are not encumbered by the road easement can redevelop to the new higher density. This can continue until they get to a point where they get to a parcel that needs a road. What is to preclude all the density from happening on the parcels that don't need a road dedication? Planning Manager Garrett stated that any new development would be required to pay traffic impact fees. The list of projects that underlies those fees includes 42<sup>nd</sup> Avenue and 194<sup>th</sup> Street which are the two streets that will remain in the grid street ordinances. Those streets are eligible for use of the traffic impact fees and as those fees build up the City can acquire property. Also, under the Growth Management Act the City has adopted Level of Service Standards throughout the City and there is a whole system that has been

put in place over the years so that improvements to the traffic system happen concurrently with new development. They know that 42<sup>nd</sup> and 194<sup>th</sup> are critical to handle the traffic that would be generated by new development so each time development comes in they will need to track the number of trips and watch the concurrency thresholds. At some point the City will need to build the streets or we will violate our own concurrency standards. When that violation happens we will need to shut off development or build the streets. Commissioner Braithwaite asked if the traffic impact fees are set to be sufficient to build the roads. Planning Manager Garrett stated they do not cover 100% of the cost. City contributions, including grants and other sources, are implicit in funding the list of projects. The use of those fees is limited by ordinance to the purposes of the ordinance and they are separately accounted in the City's accounting.

Director Kleitsch pointed out that 42<sup>nd</sup> Street and the 194<sup>th</sup> Street extension are the two that are proposed and the only two that are mandated for traffic mitigation purposes. In these proposed regulations they have given more authority to the Public Works Director to be flexible in the placement of those alignments and the development and design of those streets. As a funding issue a policy decision on putting money together to pursue funding of those projects is necessary. Without those roads we will get capped on development opportunity which will delay implementation of the City Center. Two of those roads are necessary but there is flexibility on how they can be achieved.

Commissioner Braithwaite noted that Portland has an FAR bonus system for redevelopment. They also allow trading FAR bonuses from property to property. He thought it was interesting that they allow more bonuses if you do residential versus if you do office or mixed use development. They ended up getting too much residential and less office space. This did not achieve the vision that they set out when they put the plan in place. He expressed concern that Lynnwood might end up with all residential and no office and become more of a bedroom community as opposed to an employment center which is one of the objectives of the City Center. Director Kleitsch stated that the plan, as it's adopted, has residential unit caps and square footage caps on development of other commercial above office and retail. We have built in caps through the environmental process that structure how much can be built to get to the 9.1 million square feet. The only land use type that we incentivize is housing because it's the only incentive Washington allows. Planning Manager Garrett clarified that the numbers are in the EIS and are part of the environmental review. They are not in the plan document itself. He noted that as development comes in if they see the balance not working right, they can start another code amendment and tweak it. Ms. Lambert added that they are also trying to incentivize, not only street level retail and residential, but office through FAR bonuses.

Commissioner Braithwaite thought that the five-year timeline for non-conforming buildings might be a little short since it seems like there are still a lot of vacancies

in Seattle and other areas. He suggested that perhaps they might want to consider seven years instead of five years for that non-conforming timeline. Ms. Lambert noted that they did add language specifically into the code regarding extension based on economic conditions. One of the reasons for five years has to do with the timing of Sound Transit's plan.

Commissioner Larsen remarked that he heard that in Portland for every dollar the public invested in the area, ten dollars of private investment followed. He was in support of forwarding this now to City Council, but he hoped that soon they would come back and start talking about public investment in that area.

*Motion made by Commissioner Larsen, seconded by Commissioner Ambalada, to pass revisions to the City Center Development Regulations including Lynnwood Zoning Map and City Center Design Guidelines to City Council as written.*

Commissioner Braithwaite asked about staff's recommendation to remove references to Appendix A to add a reference to Future City Center Streetscape program.

*Commissioner Larsen moved to amend his motion to change item 16, on page 5 of 6 to removed Appendix A and add the City Center Streetscape Program. Commissioner Ambalada seconded the amendment. There was consensus to approve the amendment.*

*Motion passed unanimously (6-0).*

There was a recess from 8:40 p.m. to 8:45 p.m.

### **Work Session**

1. **Keeping of Chickens Code Amendment (2011CAM0003.** Amendments to Lynnwood Municipal Code Chapter 21.42 (Residential Zones) regarding the keeping of chickens at properties zoned for single-family residential use.

Planning Manager Garrett stated that this is the second work session on this topic. Staff made some revisions based on the last work session. This item is set for Public Hearing in two weeks. He discussed procedural options available to the Planning Commission.

Senior Planner Gloria Rivera gave the staff report as contained in Council's packet. She reviewed the background on this item and discussed proposed amendments and concerns raised by Director Krauss contained on pages E1-1 to E1-3 and the Ordinance.

Highlights of revisions include the following:

- Introduction – The keeping of eggs shall be for the personal use of the household and not sold.
- 3(a) - The number of chickens is still three, but they have received comments from the public that six should be allowed due to the social nature of chickens.
- 3(b) – General comments regarding shelters and pens in response to concerns about humane treatment, predator control, buffering and setbacks. They are recommending 4 square feet per chicken in a pen. The pen should have floors, walls, a roof, a nesting box, and a roost. A building permit will be required if the building code thresholds are triggered. For an outdoor roaming area they recommend a minimum of 8 square feet per chicken. The pen shall be structured to discourage predators. If the pen is set in place the fence of the pen should be a foot into the ground with a cover over it to protect from raptors. There should be a 15-foot setback. Pens and shelters shall not be on the front property line. The side of the pen facing an adjacent residence should be sight obscuring through the use of vegetation or a solid fence. If electricity is provided to the shelter they will require an electrical building permit.
- 3(c) – Experts recommend composting of waste. Waste Management has indicated that they will take waste that is bagged and tied.
- 3(d) – No changes – Roosters are prohibited.
- 3(e) – Chickens shall not be slaughtered on the premises. Chickens infected with diseases harmful to humans shall be removed.

She explained that Director Krauss had concerns that perhaps some of the code was over-regulatory such as prohibiting the slaughtering of chickens. She reviewed comparisons with other cities' codes. Planning Manager Garrett further discussed the concern about regulating what goes on in a person's backyard. The other approach to dealing with some of these concerns is to use the Nuisance Ordinance. He offered to provide a copy of this to the Planning Commission. The City is possibly going to lose a code enforcement officer this year and last year the City lost an animal control officer. They are concerned about adding to the work burden of the one remaining code enforcement officer. As an alternative they could make a flyer of best management practices available to residents.

Senior Planner Rivera noted that turkeys and ducks have not been included at this point. There is concern about the size of enclosure that might be required. She explained that turkeys were running loose in La Connor and became a nuisance. She agreed that making a flyer might be a good approach. She noted that the Historical Commission might plug into this and do a presentation on Lynnwood' historical roots related to chickens.

Commissioner Ambalada commented that this could become quite a unifier in the community. She asked what would happen to people that are already over the limit of three.

Planning Manager Garrett noted that a question had been raised about a potential water quality impact. There is a best management practice that relates to kennels which says that animal kennels should manage fecal waste products and prevent their entry into the surface or stormwater systems.

Chair Wright stated that he was the one who had raised the issue of slaughtering and processing but his concern had been mainly about the smell of processing of chickens (boiling) more than the slaughtering. Regarding the argument about overworked code officials, he did not think the proposed regulations would require any more monitoring than the existing regulation. His main concern had been about allowing them adequate space. There was discussion about the proposed space requirements.

Commissioner AuBuchon commented on the commercial chicken operation he had witnessed which was multiple times the concentration of these requirements. He thought that the sizing of these was good. He said he doesn't understand the requirement for electricity. He grew up around chicken coops and never saw one that had electricity other than commercial operations. Planning Manager Garrett said that the electric light produces what is considered a permanent summer cycle. Commissioner AuBuchon argued that if the sun goes up and goes down the hen will lay eggs. Senior Planner Rivera noted that they do not have to put electricity in their pen, but according to what she read, if they do not they may not get eggs. Planning Manager Garrett noted that they do not require electricity; they just say that if they have it they need to get an electrical permit per the existing code.

Commissioner AuBuchon then discussed the processing of chickens. He commented that boiling is not required to process the fowl. Chair Wright asked if odor is covered in the Nuisance Ordinance. Planning Manager Garrett stated that he would look and see.

Commissioner Braithwaite referred to the concern about this being more or less regulatory; with one code enforcement officer there is not likely to be any enforcement anyway. The benefit of having it a little bit more regulatory is that it would provide a tool in the event that something becomes a nuisance issue. Planning Manager Garrett stated that in some cases having the more detailed regulations creates an expectation that the City will enforce, but the City is not required to. He requested direction for which document would go to the public hearing.

Commissioner Larsen spoke in support of requiring a solid, sight-obscuring fence especially if there are lights.

Commissioner Braithwaite discussed the recommendations by a wildlife agency to protect the chickens from predators. They had recommended having the walls

8 inches in the ground, but they also mentioned having a skirt around the outside edge to prevent predators from digging under the fence. Planning Manager Garrett asked if that should be a best management practice or a code issue. Commissioner Braithwaite thought it should be included in some sort of informational sheet. He expressed concern about allowing chickens at all because you can mitigate against predators and the nuisance issues, but without enforcement it can be a problem.

Commissioner Wojack noted that his neighbors used to have chickens. They are very social and they'll wake you up every morning. He has friends who raise chickens and had to learn to solve problems the hard way. He commented that they do have electricity because they found out here it gets too dark and the chickens stopped laying eggs.

Commissioner Larsen asked if keeping chickens encourages rodents. Commissioner Wojack noted that rodents are attracted to the loose feed, but as long as you keep the manure up and the food and roosting off the ground it doesn't have to be a problem.

Senior Planner Rivera asked about the allowable number of chickens.

*Motion made by Commissioner AuBuchon that the staff recommendations be changed from three to six. The motion was seconded by Commissioner Ambalada.*

Commissioner Braithwaite spoke in support of keeping it at three. Commissioner AuBuchon spoke in support of changing it to six to make it more efficient in terms of the investment they would have to make. Commissioner Ambalada thought six would be better because of the social nature of chickens. Commissioner Wojack thought that six is too many for the small city lots.

*The motion failed (3-3).*

*Motion made by Commissioner Wright to allow five chickens. Commissioner AuBuchon seconded the motion. Motion failed (3-3).*

Commissioner Ambalada noted the headline on TV about the stench of chicken manure in the City of Snohomish.

Planning Manager Garrett asked if there are any other changes they would like to make in the Ordinance prior to the hearing. Senior Planner Rivera reviewed the changes she had so far:

- Fish and wildlife information regarding predator protection.
- Solid fence for screening.
- Chickens shall not be processed on the premises.

There was consensus to send this item to public hearing.

### **Other Business**

None.

### **Council Liaison Report**

Councilmember Simmonds reported that on Monday, September 12 the Highway 99 project will be brought forward to the Council for a vote. He commented on the recommendation to re-establish or bring together another committee for the City Center plan. He stated that a number of the people who were very active in that process have moved on. However, he knew of at least three people who could be accessed and would probably be willing to express their sentiments about that. He added that there may still be \$10,000 that was earmarked for the Urban Land Institute review the plan. He wondered if there would be any value to having a third party look at the plan. Planning Manager Garrett said he was not sure about the availability of the money. He added that the regulations suggested tonight are very much at a detail level. He doubted that the ULI would have a particular opinion about those details.

### **Director's Report**

Planning Manager Garrett had the following comments:

- Council will be looking at the Highway 99 issue next Monday. All the documents are on the website with a link from the home page.
- Construction on projects that have been discussed before is moving forward. This includes Whole Foods, Discount Shoe Warehouse, Anthony's at the mall, and Hobby Lobby. They have not seen major new development applications. What they are seeing is reoccupation of existing space.
- Development Services Supervisor Kay had a bicycling accident and is out for six weeks.

Chair Wright asked if they have noticed any effects of the end of one-stop permitting. Planning Manager Garrett replied that he has not, but he is not directly involved in that.

Commissioner AuBuchon discussed a presentation by a city engineer on a very interesting park concept of having a mile-long park down the middle of the street.

## **Adjournment**

The meeting was adjourned at 9:45 p.m.

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Richard Wright, Chair