

City of Lynnwood
PLANNING COMMISSION MINUTES
September 22, 2011 Meeting

Commissioners Present:	Staff Present:
Bob Larsen, Vice Chair	Paul Krauss, Community Devt. Director
Maria Ambalada	Kevin Garrett, Planning Manager
Van Aubuchon	Shay Davidson, Administrative Asst.
Chad Braithwaite	Gloria Rivera, Senior Planner
Doug Jones	
Michael Wojack, Second Vice-chair	
Commissioners Absent:	Other:
Richard Wright, Chair	Councilmember Loren Simmonds

Call to Order

The meeting was called to order Vice Chair Larsen at 7:00 p.m.

Approval of Minutes

1. Meeting of August 11, 2011

Motion made by Commissioner Ambalada, seconded by Commissioner Jones, to approve the August 11, 2011 minutes as presented. Commissioner Larsen indicated he would be abstaining as he was not at that meeting. Motion passed unanimously (5-0).

Citizen Comments

None.

Public Hearings

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.

The public hearing was opened at 7:01 p.m.

Senior Planner Gloria Rivera gave the staff report as contained in the Commission's packet. Planning Manager Kevin Garrett noted that in addition to the staff report, Municipal Code Title 10, Chapter 8 on Nuisances was also included in the packet. This is an ordinance that is already on the books. He pointed out that on item 13, page 3 of 6, one of the definitions of a public nuisance reads: "The keeping, using, maintaining of any pen, stable, lot, place or

premises in which any hog, cattle, or fowl may be confined or kept, in such a manner as to be nauseous, foul or offensive". There is a whole body of law whereby the City has the authority to seek the abatement and the resolution of a public nuisance. This code is intended to deal with problems that arise on properties that create a nuisance for surrounding properties or the City as a whole.

Public Comments:

Diana Jackson, Lynnwood, asked about the process for approval of this ordinance. Planning Manager Garrett explained that the Planning Commission is considering whether or not to forward this to the City Council. The Planning Commission does not take final action; the Council does. There will be a later public hearing in front of the City Council. Ms. Jackson spoke in support of allowing chickens in Lynnwood. She recommended allowing at least five, noting that Seattle allows eight. She feels this makes the City a more livable place. She stated that issues with waste, rodents, etc. are really not big issues. Most people who have chickens care about their chickens and treat them fairly well. On her walks around the city she has noticed more of a problem with the odor of dog waste than chicken waste.

Michelle McGraw, Lynnwood, stated that it is ironic that Lynnwood has its roots in chicken farming and yet residents are not allowed to have chickens under the current ordinance. For health reasons, home-raised eggs are desirable to her family. She is in contact with many residents of Lynnwood who would like to have chickens and some of whom have decided to just put blinders on to whatever ordinances might exist and they currently have chickens. She has educated herself about their upkeep and care and said she would treat them as pets. Her friends in surrounding communities have chicken ordinances that are much more lenient than Lynnwood's is. She spoke in support of the Nuisance Ordinance because there are probably people who would not be responsible pet owners. She spoke in support of allowing five chickens.

Ms. Jackson also spoke in support of the Nuisance Ordinance and agreed that there should not be any roosters.

Seeing no further public comments the public hearing was closed at 7:21 p.m.

Commissioner Comments and Discussion:

Motion made by Commissioner AuBuchon to change the number of chickens allowed from three to five. The motion was seconded by Commissioner Ambalada.

Commissioner Wojack spoke against the motion, noting that five chickens would produce more eggs than most families could use if each chicken laid one egg a day. He stated that he would be okay with four chickens.

Vice Chair Larsen commented that chickens are pretty social and three is a minimum number to him. He expressed concern that so far they have seen no real problems related to this issue. He stated that they have minimal resources now in terms of code enforcement. He thought that what people are really going to do is have more like four, five or six chickens anyway. He did not want to pass an ordinance that makes that activity illegal right away.

Commissioner Ambalada stated that five is reasonable with the economy the way it is. She felt it would help people in the community, especially if they are on a fixed income or have limited resources. She thought that people who have chickens would take good care of them because they would be their source of food.

Commissioner AuBuchon cautioned Mr. Wojack that not all chickens lay an egg every day. He spoke in support of changing the maximum number to five chickens.

Upon a roll call vote, the motion passed (4-2) with Commissioners Ambalada, AuBuchon, Larsen, and Jones voting in favor of allowing five chickens and Commissioners Braithwaite and Wojack voting against the motion.

Commissioner Jones spoke in support of having licensing requirements for chickens. Regarding building codes, he spoke in support of an "easy permit" for a chicken coop. Community Development Director Paul Krauss cautioned against over-regulating this issue. The code enforcement process is predicated upon people calling us when something actually occurs. The City does not typically go out looking for problems. Most people will respond to a letter without having to go to the police. He understands the desire for permitting, but is leery of developing detailed codes. He pointed out that he can't send an inspector out to a property for under \$50 to \$100. He noted that they have a code in place with the ability to enforce if a violation occurs. His recommendation is to assume that most people will try to do the right thing. He commented that their code enforcement staff has been cut and they are trying to deal with just the most grievous situations. Senior Planner Rivera added that the Building Code would automatically kick in at a certain size level. Also, one of the recommendations in their flyer will be that chickens be enclosed so they cannot escape. Commissioner Jones indicated he was fine with those suggestions.

Commissioner Wojack referred to item A which states that, "Chickens shall not be processed on premise. Infected chickens with diseases harmful to humans shall be removed." He wondered if there are any chicken diseases that are also harmful to other pets. Senior Planner Rivera stated that they could add pets, but

she was unaware of any diseases that would be harmful to other pets. Commissioner Wojack stated that there was no need to change it.

Commissioner Ambalada suggested creating flexibility on this particular ordinance. She recommended giving it a trial period and seeing what happens. They can revisit it and tweak it if necessary. Vice Chair Larsen suggested to staff that they report back to the Planning Commission in nine or ten months. Commissioner Ambalada concurred. She noted that in Ballard there is a neighborhood that really enjoys having chickens because they got into some kind of contest on the chicken coops that they built.

Motion made by Commissioner Ambalada, seconded by Commissioner AuBuchon, to approve the ordinance with the amendment allowing five chickens and to send it to City Council with a recommendation for approval. Motion passed (5-1).

2. Outdoor Business Activities Code Amendment (2011CAM0009).
Amendments to Lynnwood Municipal Code Title 21 (Zoning Code) regarding primary and accessory uses of property that are conducted outside of a building or structure.

Planning Manager Garrett stated that they have not received any public comments on this. He pointed out changes from earlier versions as contained on page D2-2 of the packet.

The public hearing was opened at 7:43 p.m. Vice Chair Larsen solicited public comment. Seeing none, the hearing was closed at 7:43 p.m.

Commission Questions and Comments

Commissioner Jones asked about storage containers that have been renovated for freezers or coolers. Planning Manager Garrett stated that the recommendation would be not to allow storage containers as such in a commercial zone. If they can be reconfigured and permitted as an accessory commercial structure, they would not be viewed as a storage container. Director Krauss commented that if the storage container was actually connected to a building and serving a function it would be considered part of the building and would come under the City's Design Review Standards as well as Building and Fire Code. However, he thought that once people tried to bring it up to code standards it would get very expensive and wouldn't make sense to do.

Commissioner AuBuchon commented that he used to do business with a chain out of Canada that used several pre-built pieces of equipment like pie ovens and pizza ovens and walk-in coolers. That may have been what Commissioner Jones was referring to.

Commissioner Braithwaite thought that 50% outdoor seating was more than enough. He asked about the size limit or screening requirements of boats or vehicles offered for sale. Planning Manager Garrett noted the reference to LMC 21.46.210 which deals with screening requirements. Commissioner Braithwaite asked if there is anything that needs to be done as far as obtaining an outdoor liquor license for establishments that sell liquor in their outdoor seating area. Director Krauss explained that the state authorizes all those licensing standards and establishes requirements.

Vice Chair Larsen asked if outdoor seating would be allowed to occur on a sidewalk or a right-of-way. Planning Manager Garrett replied that it would not.

Commissioner Ambalada observed that at Dave's Burgers on 44th Ave W, customers just buy the hamburgers and then get into their car and eat it or they take it to go. She added at worksites where there is construction there are outdoor restaurants, but it is also a one-man operation with no seating area. Workers go to their trucks to eat. Planning Manager commented that she was referring to mobile food trucks and construction sites which is a different issue.

Commissioner Jones asked how Dave's Burgers would fit into this code. Planning Manager Garrett said that Dave's Burgers is actually part of the City Center Zone which has separate rules for outdoor dining. There would be no problem with this in the City Center. Director Krauss added that they are coming through with refinements to the City Center standards which will clarify outdoor dining.

Commissioner AuBuchon asked about the food trucks. Planning Manager Garrett commented that there are separate rules for mobile food trucks. Commissioner AuBuchon asked about outdoor dining at food trucks. Planning Manager Garrett stated that it would be covered under the code that addresses peddlers.

Commissioner AuBuchon asked about stand-up outside dining like Dick's. Planning Manager Garrett said that would be considered outdoor dining whether it's stand-up or sit down.

Commissioner Braithwaite asked about the meaning of page 1, section D regarding play yards or playgrounds. Planning Manager Garrett commented that if he was concerned that this would limit the size he would want to delete that phrase.

*Motion made by Commissioner Braithwaite, seconded by Commissioner Wojack, to delete 21.04.440 Section D, line 38, ". . . **required by State or other regulations** . . ."*

Commissioner Jones asked for clarification on the motion. Planning Manager Garrett explained that the amendment would allow them to have more than the minimum requirement and would not set a maximum limit.

Motion passed unanimously (6-0).

Motion made by Vice Chair Larsen that the Planning Commission approve code changes involving accessory uses of properties that are located outside of a building or structure as amended. The motion was seconded by Commissioner Braithwaite and approved unanimously (6-0).

Other Business

1. Meeting Schedule – Remainder of 2011

- October 13 – Cancel
- October 27 – Regular Meeting
- November 17 – 3rd Thursday. The 2nd and 4th Thursdays both fall on/near holidays
- December 8
- December 22 – Cancel

There was consensus to approve the above schedule.

Work Session

None.

Council Liaison Report

Councilmember Loren Simmonds shared that the Council adopted the Highway 99 Project with one major change a couple of other minor changes. The major change was that the node at 204th Street was deleted in its entirety.

Director's Report

Director Krauss reported the following:

- The Highway 99 Project approval is significant. There were many good comments about where the future of the community lays. This is a step in the direction of changing Highway 99 and taking advantage of Bus Rapid Transit and further urbanization.
- He, Gloria Rivera and Kevin Garrett attended a kick-off conference for a group called Growing Transit-Oriented Communities that Puget Sound Regional Council is hosting under a federal grant that looks to support, advocate and encourage the kinds of development that we are anticipating

along Highway 99. The City is pursuing a Memorandum of Understanding so that Lynnwood can have a seat at the table with that group.

- The City is also working with Sound Transit on the extension of the light rail service to Lynnwood. We are bringing forward a resolution for the Council to consider that would advocate for the option that is being proposed for light rail down I-5. He reviewed pros and cons of the various options.
- Staff has been studying the potential for a City Center station and will be reporting back to the Council and Planning Commission in November on that option.
- The EIS for the Lynnwood High School site is on the verge of being released. Right now the preferred alternative calls for a large retail establishment at the north end of the site (Costco), 400-500 dwelling units and a mix of office and retail space. There will be a public information meeting which is still being scheduled. Staff is hopeful that the proponents – the School District and the developer – can move forward with requests for development approvals in the first quarter of 2012.
- He will be out on medical leave in October for two to four weeks.

Planning Manager Garrett stated that this would be his last meeting with the Planning Commission as his is one of the positions on the layoff list. His last day with the City is scheduled to be October 10. He introduced his wife who had come to the meeting tonight. He expressed thanks to all the people involved in making these meetings happen including current and past staff and Planning Commission members.

Vice Chair Larsen stated that Planning Manager Garrett's competent, consistent professionalism has really been appreciated. There was consensus from the Planning Commission.

Commissioner Ambalada spoke of the importance of continuity, especially with the projects that Planning Manager Garrett has been involved in. She commended his professionalism and leadership. She commented on the cohesiveness and the productivity of the group as a result of his involvement. She noted that he was valuable, irreplaceable and it was a huge loss to the City to let him go.

Adjournment

The meeting was adjourned at 8:20 p.m.

Bob Larsen, Vice-Chair