CITY OF LYNNWOOD
PLANNING COMMISSION MINUTES
January 22, 2015 Meeting

Commissioners Present:  Staff Present:
Chad Braithwaite, Vice Chair  Paul Krauss, Comm. Devt. Director
Maria Ambalada  Todd Hall, Senior Planner
George Hurst, Second Vice Chair  Michelle Szafran, Associate Planner
Doug Jones
Michael Wojack

Commissioners Absent:  Other:
Richard Wright, Chair  Councilmember Van AuBuchon

Call to Order

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

Approval of Minutes

1. Approval of Minutes of the December 11, 2014 Special Meeting

Motion made by Commissioner Wojack, seconded by Commissioner Jones, to approve the minutes as presented. Motion passed unanimously (6-0).

2. Approval of Minutes of the December 11, 2014 Regular Meeting

Motion made by Commissioner Wojack, seconded by Commissioner Jones, to approve the minutes as presented. Motion passed unanimously (6-0).

Citizen Comments

Ted Hikel, 3820 – 191st Place SW, Lynnwood, WA 98036, commented that the door for people with disabilities in front of City Hall has been locked in the past and is locked tonight. He has brought this up to City Council, but expressed frustration that it is not consistently open for meetings.

He spoke against using shipping containers in residential zones. He prefers Edmonds’ approach to prohibiting these in residential areas even if they are modified. He feels they are inappropriate in residential areas.
Public Hearing


Staff Presentation:

Director Krauss reviewed the background on this item. Last fall the City was approached by a potential EPF that was seeking to locate in the City. While they may or may not come forward with a proposal to do so, staff realized that the City never adopted an ordinance dealing with EPF’s. In order to be in compliance with the Growth Management Act (GMA) it is necessary to have an ordinance in place. Staff felt that the ordinance Mukilteo has in place is a fairly good model for Lynnwood to use. He explained to the Commission that the City doesn’t have the option of saying no to EPF’s. What they can do is try to get them sited as optimally as possible and get whatever impacts there are mitigated.

Director Krauss commented that Sound Transit had some comments about the draft which were included. The most significant change was to make sure that EPF’s go through a public hearing process when they come to the City. At the suggestion of Sound Transit, staff kept the local-serving EPF’s as Conditional Use Permits (CUP’s). Those would go through the CUP process which has a hearing in front of the Hearing Examiner. Larger, more regional-serving services would go through a Development Agreement process. This would be a contract between the applicant and the Council. The adoption of a Development Agreement requires a public hearing in front of the City Council.

Director Krauss clarified that there are no specific applications pending, but staff believes Sound Transit will come forward for the EPF siting process soon. Staff is recommending that the Planning Commission ultimately recommend that the Council adopt the EPF ordinance in order to be prepared to deal with these matters when and if they come forward.

Commission Questions:

Commissioner Ambalada noted there are two elements to be considered – regional and local. She asked why Snohomish County Tomorrow is involved in this process.

Mr. Hikel objected to this meeting’s hearing process which he said did not follow the required public hearing procedures. He stated that comments and questions from the commissioners were not appropriate at this time. Director Krauss acknowledged they did not have the official script tonight, but noted that this hearing was not regarding any specific use or property. He solicited any conflict of interest issues from the Commission. None were raised.
Commissioner Wojack asked about the definition of EPF’s. He asked about situations in which organizations might deem themselves EPF’s such as tent cities. Director Krauss acknowledged that this can happen. He said that the Growth Management Hearings Board heard cases on this subject, mostly in the 1990’s. He noted there is a separate ordinance that deals with tent cities. He pointed out that the ordinance also provides for EPF’s that are non-governmental, but fit the criteria.

Commissioner Ambalada asked if mobile home parks can be classified as EPF’s. Director Krauss did not think so, but noted there are already zoning provisions in the City for mobile home parks so they wouldn’t need an EPF ordinance to be sited. Commissioner Ambalada expressed concern that the mobile home park ordinance isn’t strong enough in the event that an owner wanted to sell. Director Krauss clarified that the EPF ordinance would not alter the relationship between the property owner and tenants that the Commission is concerned about.

Commissioner Jones stated that a siting process is required by law and will eventually save the City money. Director Krauss agreed it is a possibility that the City could get sued if they don’t have an EPF siting process. Additionally, if the City is in violation of the state law there could be implications with receiving state funding.

Vice Chair Braithwaite opened the public hearing at 7:25 p.m. He and Director Krauss discussed the procedures for the public hearing.

Public Testimony:

Duane Huskey, Planning and Development Services Manager, Alderwood Water and Wastewater District, 3626 – 156th Place SW, Lynnwood, WA 98087, stated that they consider their major facilities EPF’s and they are not sure if they are going to be regional or local. He noted that they are not in the City, but are in the Urban Growth Area so this is a concern for them. He stated that he and Lauren Balisky would distribute a letter outlining their concerns. He referred to an issue paper that Renton put out on elevated, water storage tanks. He clarified that the Water District’s siting locations are pretty specific. They need to be either at the top of the hill or at the low point. Also, when they do a facility they spend a number of years doing research, planning, studying, and engineering. Having a Hearing Examiner tell them they need to consider an alternate site would not be good. He asked for clarification about the noise regulations and size issues. He apologized they were not able to meet with staff this week, but offered to meet with them another time soon to discuss this.

Commissioner Ambalada commended the Alderwood Water District for the good job they do. She asked Mr. Huskey if they see any kind of problem in the future that would affect their services. Mr. Huskey replied that the concern now is if they
become a regional facility under this law the siting issues become more complicated and less certain.

Director Krauss referred to Mr. Huskey’s concerns about noise and said he had noticed they have two versions of the code. There is a version that was prepared and went out with legal notice. There is another version that was edited in response to comments received from Sound Transit which is not included in the packet. The edited version struck the noise issue and some other things. He recommended continuing the public hearing to the next meeting and holding it open so the corrected version of the ordinance can be considered.

Commissioner Larsen asked if known EPF’s will be mapped in some way. He commented that Alderwood Water and Wastewater District (Alderwood) has wellheads in our area and all throughout the county. He doesn’t know how big an issue this might be. Director Krauss replied that staff has not had an opportunity to review Alderwood’s concerns in detail. He commented that the City regularly processes similar utility improvements in the City for its own utilities using existing provisions of code. Most of the utility infrastructure is either approved outright as a permitted use or is listed as a conditional use and goes through that process. He noted that larger facilities might not comply with the zoning code, but the EFP ordinance gives a new mechanism to review those. Other large-scale projects include things like highways, Sound Transit, Community Transit, light rail stations, and transit centers.

Lauren Balisky, Alderwood Water and Waste Water District, Utility Planner, 3626 – 156th Street SW, Lynnwood, WA 98087, offered to answer any questions the Planning Commission might have of Alderwood.

Ted Hikel, 3820 – 191st Place SW, Lynnwood, WA, 98036, spoke in support of rejecting negative impacts of the Growth Management Act. He noted the City Council is on record rejecting that Sound Transit’s operations and maintenance facility be sited in the City of Lynnwood. He commented that Lynnwood is a small city, and the County is already impacting the future of the City with extremely high-density, multi-family development just north and east of the City. He urged the Planning Commission to be careful what they ask for or approve because they just might get it. He thanked Commissioner Wojack and Commissioner Ambalada for bringing up the question of what else this allows because you just don’t know. He then noted that the conduct of public hearings is clearly set out in the RCW and the LMC. He doesn’t believe tonight’s process meets these requirements for a public hearing especially when Director Krauss mentioned the fact that the ordinance that was in the packet is not the ordinance that the Planning Commission will be asked to consider. He objected to this being a valid public hearing.

Director Krauss clarified that the Ordinance that is in the packet is the current one, but there was also a redlined copy that would have showed the changes
made since the last time this was reviewed. That is the one that is not in the packet.

Commissioner Comments and Questions:

Commissioner Wojack asked if any current EPF’s in the MUGA (Municipal Urban Growth Area) would be grandfathered in. Director Krauss affirmed that they would be grandfathered in.

Commissioner Ambalada asked if there was property and money to accommodate these EPF’s. Director Krauss clarified that the City would not be advancing any EPF’s. Agencies like Sound Transit would acquire the property they need, clear it, and put it in. He referred to the Operations and Maintenance Facility for Sound Transit which the City opposed. That issue played out in the political process and the environmental review process at a regional scale long before they would have had to make an application as an EPF. The City was successful in that instance, and ultimately Bellevue was selected as the location. However, if they decided it was going to be in Lynnwood, the City could not refuse because it’s an EPF. He commented that there is ample opportunity for the City to have a role in the process as they did in that situation.

Commissioner Hurst asked staff if they would be reviewing Alderwood’s letter and meeting with them prior to the next public hearing. Director Krauss affirmed that they would since they have a collaborative relationship with Alderwood. Staff will also be bringing the redlined copy of the ordinance next time and will use the public hearing script.

Seeing no further public testimony, Vice Chair Braithwaite noted that the public hearing would be continued until February 12, 2015.

Work Session

1. Code Amendment: Shipping containers in Residential Zones (CAM-002289-2014)

Associate Planner Michelle Szafran reviewed the background on this ordinance. Per the direction of the Planning Commission, staff has considered both the City of Mountlake Terrace and the City of Edmonds’ regulations for shipping containers. The City of Edmonds requires a design review process. Mountlake Terrace does not require design review, but requires that any structure in excess of 12 feet in height or 200 square feet in area shall feature exterior siding similar in appearance to and compatible with the building materials of the primary structure. The primary issue remains whether the bulky, industrial appearance of shipping containers will be consistent with the visual character of residential properties. The revised proposal allows the use of containers, but restricts them by size, location, appearance and number. Staff feels that the revised draft
Ordinance would be more restrictive than the City of Mountlake Terrace and less restrictive than the City of Edmonds. Staff feels that the current proposal achieves a reasonable balance regarding the use of shipping containers upon residential property.

Commissioner Jones spoke in support of the Ordinance, but expressed several concerns. Starting on line 211 of page 51 it doesn’t state the height restrictions of 12 feet which are listed in the staff report. He recommended clarifying that. He spoke against the architectural consistency requirement because he feels this basically says they need to have a shed. Additionally, he expressed concern that on lots that are a half-acre or more only one of these would be allowed, but someone who builds a shed could have as many as they want.

Commissioner Ambalada asked about safety precautions for children (such as locking mechanisms) with shipping containers. Associate Planner Michelle Szafran was not sure if that would be part of the Building Code. She noted there would still be a building permit approval required.

Commissioner Hurst asked if they are concerned at all about where these containers come from. He wondered if the age of the containers or the type of paint used on them would be factors to consider. He also asked if they should be fumigated and if any type of footing or foundation would be required. Director Krauss replied that the Building Code requires that the structures have an appropriate connection with the ground. Staff has no idea where the containers come from or the condition they are in, but they are definitely an industrial structure that would be used as an accessory structure on residential properties.

Commissioner Wojack stated that none of his neighbors want shipping containers allowed in residential areas. He asserted that they are not reusable. Based on his research, the average shipping container is made in Malaysia and costs $3,000 for a 40-foot container. It is coated with a preservative that when removed by sandblasting gives you about 1,000 pounds of hazardous waste. The wood used in the base is a hard wood from Malaysia and is impregnated with chemicals to protect the wood. He commented that putting a roof and siding on them could not cover up the fact that it is a shipping container. He reviewed some of the historical uses of shipping containers as houses and noted that most banks will not finance these for use as houses. He spoke against allowing these at all in residential areas.

Commissioner Hurst asked where Commissioner Wojack got his information. Commissioner Wojack replied it was from two companies that build homes from shipping containers. He commented that the initial cost of materials is 40% cheaper, but installation costs a lot more because the work requires skilled tradespeople with experience working work with shipping containers.
Commissioner Larsen asked what size accessory structures the City allows now. Staff replied that it is 120 square feet without a permit. Director Krauss replied that there is also a lot coverage requirement.

Commissioner Jones asked if houses built out of shipping containers are currently allowed. Staff replied they could be allowed. Commissioner Jones noted that there are companies out there that are manufacturing and selling new shipping containers as sheds. He wondered if those would be covered under this code. Associate Planner Szafran thought the definition would clarify that. Director Krauss commented that it is very difficult to write a code that deals with people determined to work around it. There are a number of cities that just outlaw these outright which was staff’s initial recommendation to the Planning Commission based on what they thought the Council was asking for. He noted that it is still early in the evolution of alternative uses of shipping containers. He reviewed some of the ways these are being used elsewhere and that in Seattle’s Wallingford neighborhood there are several new homes that appear to have used shipping containers or something similar. He reiterated that the reason staff brought this to the Planning Commission was the result of concerns heard at a Council meeting that the example in the City was an abusive one. It was intrusive in the neighborhood and didn’t look good regardless of whether or not it was being used for legal purposes.

Commissioner Jones referred to the existing 40-foot shipping containers in the City and asked if those would be grandfathered in. Director Krauss confirmed that they would be, but the code would prevent new ones. Commissioner Jones asked if there is any way of getting those out legally. Director Krauss replied that there is not. They are privately owned; they have a building permit, they are now properly secured and wired. There is nothing from a code standpoint that the City can do to cause the removal of permitted containers already in the City.

Commissioner Larsen said he wouldn’t want to just focus on the looks. He doesn’t like how they are being used in Wallingford, but he thinks people have a right to freedom of expression. In terms of the way the City operates, he commented on the difficulty and possible toxicity of removing these containers by future homeowners. These structures are very difficult to deal with once they are installed.

Commissioner Hurst commented that a 10’ x 20’ container is 5,000 pounds. This would be an issue to get out of your backyard. He spoke against using these in residential areas. Vice Chair Braithwaite spoke in support of modern architecture, but commented on the importance of preventing eyesores in people’s backyards and impacting neighbors. He spoke in support of a very restrictive ordinance like what Edmonds has.

Director Krauss pointed out that staff initially brought forward an ordinance that prohibited shipping containers in residential areas. Tonight they brought forward
an ordinance as requested by the Planning Commission that allows shipping containers with some mitigation. He requested direction from the Planning Commission about where to go now.

Commissioner Larsen said that after further review of the issue he was not in favor of allowing these in residential zones. Commissioner Ambalada said she was supportive of allowing them in residential zones as a less expensive alternative form of housing with architectural design such as in San Francisco. Director Krauss commented that they are only talking about whether or not to allow these as accessory structures in residential areas. Commissioner Hurst spoke against allowing shipping containers to be used as accessory structures.

Commissioner Jones spoke in favor of allowing shipping containers to be used as accessory structures. He likes the City of Edmonds’ ordinance which allows them, but requires design review. However, since this would create more work for staff he recommended allowing them as the ordinance suggests. Commissioner Wojack spoke against allowing these since most of his neighbors are against them, but recommended reviewing this again in a few years to see how the industry may have evolved. Vice Chair Braithwaite concurred with Commissioner Wojack. Director Krauss summarized that based on those comments, they would revert to the original ordinance, which prohibits shipping containers to be used as accessory structures in residential areas, and proceed to a public hearing.

2. Comprehensive Plan: Draft Implementation Element

Deputy Director Corbitt Loch introduced this item. He commented that this Element contains mainly housekeeping edits. This is the last of the Elements that Community Development is preparing although there are still three others coming in the next month or two from other departments – the Transportation Element, the Capital Facilities Element, and the Economic Development Element. He thinks that all of the edits will be available for review by the first meeting in March.

Commissioner Hurst referred to page 57, lines 19 and 24, and suggested this should say "three" basic tools. Staff concurred.

Commissioner Jones commented he likes the way this is put together. He thanked staff for their work.

Vice Chair Braithwaite referred to page 67, Strategy I-7.5 (annexations), and asked if this is a different policy than the City has had before. Deputy Director Loch said it was a rephrasing of language that occurs later on in the document and is not a policy change. Vice Chair Braithwaite asked if this is a policy that they want to continue. He wondered if they should modify it to state something like, "... if it’s consistent with the City’s budget." Director Krauss agreed that
they could add some definition to it because the City would not proceed with it unless it made sense financially, politically, from a service standpoint, etc. He indicated he would look into this more, but commented that in principle this is a policy the City wants to continue. The Council has had periodic discussions about it; it’s just a matter of the timing. Vice Chair Braithwaite then referred to Strategy I-8.8, item 5 (comprehensive plan amendments), and suggested it would be more appropriate to say “shall be” instead of “should be.” Deputy Director Loch noted the two words are used interchangeably in the Plan. He suggested that comprehensive plan policies primarily use “should”, and Zoning Code regulations use “shall.”

Other Business

1. 2014 Annual Report

Deputy Director Loch introduced this item, noting it is a requirement that a report be provided to the City Council annually.

Motion made by Commissioner Jones, seconded by Vice Chair Braithwaite, to approve the Annual Report and forward it to the City Council. Motion passed unanimously (6-0).

Council Liaison Report

Councilmember AuBuchon reported that he has been reappointed as Council Liaison to the Planning Commission for 2015.

Director’s Report

Director Krauss stated that staff is gearing up to handle the growth spurt the City is anticipating. Deputy Director Loch stated he will look into how to unlock the ADA doors in front of City Hall so those doors can be unlocked for future meetings.

Commissioners’ Comments

None

Adjournment

The meeting was adjourned at 8:37 p.m.

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Richard Wright, Chair