



PLANNING COMMISSION MINUTES

7:30 PM June 14, 2018
City Hall Annex

1. CALL TO ORDER

Chairperson Veltkamp called the meeting to order at 7:30pm.

2. ROLL CALL

Members Present: Faber, Scott, Templeton, D. Veltkamp and G. Veltkamp
Members Absent: Kok with notice.

Staff Present: Gudde, Planning Director; Samec, City Planner

3. APPROVAL OF MINUTES

A. May 10, 2018 Minutes

Templeton motioned to approve the May 10, 2018, Planning Commission minutes as submitted. Seconded by Scott, and the motion passed 4-0.

4. DECLARATION OF CONFLICT

None of the Commissioners reported any conflict of interest of ex-parte contact.

5. PUBLIC HEARINGS

A. LP #18-01, Berryman Estates, 1331 E Badger Road, Lynden

D. Veltkamp opened the public hearing.

Gudde reviewed the Staff Report dated May 17, 2018. The request is for a Long Plat application requesting to subdivide approximately 11.38 acres into 39 residential lots within the RS-72 and RM-2 zones. 26 lots are zoned residential single-family and 13 lots are zoned multi-family. The northern 300 feet of the property is zoned multi-family RM-2 and the southern portion is zoned for single family development RS-72.

The proposed plat meets requirements of the code. No special exceptions requested.

Continued discussions between the City and the property owner will occur regarding the water rights associated with the well. The City does have interest in the well.

Templeton questioned the amount of lots within a plat that only has one way in and one way out. Gudde stated that this question was discussed, however, life and safety felt that a secondary access was not needed as there are roadways on three sides of the plat. In addition, there is also a trail in which the neighborhood could be accessed if needed.

Faber asked if Arneson had plans to berm the north property line? Arneson replied, yes, there will be a three-foot berm along East Badger Road. Gudde stated that there is not a code requirement to install a berm. Given the large 100-foot setback requirement to E Badger Road, there should not be a noise concern.

Marlin Arneson / Berryman Estates LLC, 8808 Line Road, Lynden

Arneson is the Agent / property owner. Arneson stated that this has been a long process. The plat is very straight forward. Larger lots, larger streets than what is currently in East Lynden.

David Ellingson, Compass Point Survey Group, 523 Front Street, Lynden

Ellingson is the Applicant / Land Surveyor on record for the proposed Long Plat and is in favor of the plat as submitted.

Templeton addressed the TRC Report and asked why there was a discrepancy between the number of lots between that report and the application? The TRC report indicated 39 and the application indicates 40. Staff replied, the number of lots was adjusted so that no lots had split zoning.

Faber asked for clarification regarding multi-family setbacks on property restricted to single family use. The applicant is requesting that Lots 8, 9, 16, 17, and 33-35 (located within the RM-2 zone) be restricted to single family construction but be subject to RM-2 setbacks. The Commission discussed the differences in setbacks between the two zones. Gudde will verify with legal whether a plat can act as a tool to vary setbacks specifically requiring RS-72 setbacks on RM-2 zoned lots that are restricted to single family development? After discussion the Commission agreed that it was fine the way it was proposed.

Faber asked Arneson why he would restrict some of the RM zoned lots to single family development? Arneson indicated that he was not interested in multi-family on those lots and does not want congestion and a lot of traffic. Faber stated that the City is always looking for opportunities to increase density. Arneson feels that high density could bring more police activity and that is not what he wants. Arneson stated that he has always intended this development to consist of large nice lots similar to Berryland Estates.

Gudde asked Ellingson, in his experience, what are his thoughts on the zoning? Understanding the Lynden code, setbacks go with the zoning not with the use. Staff agreed.

There was brief discussion regarding the safety of Aaron Drive. The Commission agrees that Aaron Drive needs to be striped.

Scott motioned to close the Public Hearing. Seconded by G. Veltkamp and the motion passed 4-0.

No further discussion. The Commission is pleased with the plat design.

Faber motioned to approve the Berryman Estates Long Plat #18-01, as submitted, according to the findings, conditions and recommendations of the Technical Review Committee Report dated May 17, 2018. Seconded by Scott, and the motion passed 4-0.

B. Revision to LMC Chapter 19 regarding Accessory Structure Setbacks and Covered Patios/Decks

D. Veltkamp opened the public hearing.

Gudde addressed her memo dated June 14, 2018.

Accessory Structure Setbacks.

The Planning and Public Works departments have had on-going discussions amongst staff and with residents regarding the required setbacks for accessory structures which do not require a building permit.

Gudde stated that setbacks serve a purpose. They allow for proper maintenance of buildings and fences and reduce the potentially negative affects a building structure could have on an adjoining property (shading, views, rainwater runoff). Setbacks can also be considered wasted space especially when yard space is at a premium on a small lot.

Enforcement of accessory structure setbacks on buildings under 120 square feet is difficult for two reasons. One, it does not require a permit and the City does not have an opportunity to comment on or inspect setbacks before the structure is built. Therefore, enforcement would come only if someone complained about the structure after it has been constructed. Secondly, there are many structures throughout the City which do not comply with setback regulations.

The issue of shed setbacks has been discussed with the Community Development Committee twice over the last year with resident participation as well as the City Building Official and administration.

Based on input, Staff has created the following language:

A detached accessory structure or tool shed, which requires a building permit per LMC 15.04, may not be built closer than five feet to the side or rear property line including property lines abutting alleys. Structures which do not require a building permit per LMC 15.04 are recommended to be setback from adjacent property lines with adequate distance to be properly maintained. Stormwater discharge from structure roofs onto adjacent properties is not permitted.

There has also been discussion about an educational campaign so that people are aware of the rules well before they build. An idea was to place a sticker on an electrical panel at time of final occupancy that informs the homeowner that permits are required for fences, accessory structures etc. The Commission was supportive of this idea.

Templeton asked, in the redline document, the word recommended is used? Should it not say must, shall etc? Gudde stated that it is not ideal to use “recommended” when writing code but, including it at least highlights the maintenance issue. Gudde stated that Staff does not look for these violations, they are brought to our attention and in some cases residents say that they will bring in a list of 30 other violators around the City.

Faber asked if we could begin enforcing the buildings under 120 square feet from this point forward, with the existing non-compliers grandfathered in? Templeton stated, isn't it our job to enforce the code? Gudde stated that enforcing shed setbacks across the City would require an inordinate amount of time and with only one code officer a difficult task. Enforcing only properties that get complaints is extremely uneven enforcement. Templeton stated, if there are obvious code violators out there, the Code Enforcement Officer should deal with them one by one and not worry about someone bringing in a list of 30 violators.

The Commission further discussed the language proposed and chose to strike the words “are recommended” as they felt that was not strong enough. Even though the City is not wanting to enforce those buildings, homeowners should be respectful of their neighbors and be able to adequately maintain building and area around it.

Covered Patios and Decks

Gudde stated, many single-family homes are built up to or very near the permitted rear setback to maximize the footprint of the structure and provide space at the front of the lot for parking. In most instances this rear setback is 30 feet. Although the code allows for decks and patios, the building setback prohibits roof structures to cover encroach into the rear setback. Given the climate of the Pacific Northwest, many homeowners are disappointed to learn that they are not able to extend a roof structure over their outdoor living spaces. To facilitate the year-round use of backyards, a revision to the standards is proposed which would allow roof extensions of the house to encroach within 18 feet of the rear property line. In most cases this would result in 12 feet of covered patio or deck. Enclosing this space with walls would not be permitted.

The Commission thinks this is a good idea.

Code is drafted so that the rear encroachment of patio coverings is consistent with the code related to raised decks and patios. Gudde asked the Commission for feedback related to this. Specifically, if the setback should be based on half of the rear setback required in each zone instead of 18-feet? Faber said no, if that were the case lots that only require a 15-foot setback would be allowed to build an accessory structure within 7 ½ -feet of the property line and that is too close.

Templeton asked if arbors are permitted? Staff replied yes, as long as it does not have a cover on it.

There was discussion regarding adding language that the covered deck / patio may not be enclosed.

The Commission agreed that the existing section regarding uncovered decks and patios should remain as is, and that a separate letter be created that specifically talks about covered patios

Scott motioned to close the public portion of the hearing. Seconded by Faber, and the motion passed 4-0.

The Commission chose to prepare two separate motions, one for the accessory structures and one for covered patios and decks.

Faber motioned to approve the Amendment to Title 19 regarding Accessory Structure Setbacks as follows: *A detached accessory structure or tool shed, which requires a building permit per LMC 15.04, may not be built closer than five feet to the side or rear property line including property lines abutting alleys. Structures which do not*

*require a building permit per LMC 15.04 ~~are recommended~~ to be setback from adjacent property lines with adequate distance to be properly maintained. Stormwater discharge from structure roofs onto adjacent properties is not permitted. **Seconded by G. Veltkamp and the motion passed 4-0.***

Faber motioned to approve the Amendment to Title 19 regarding Covered Patios and Decks as presented as follows:

Decks and patios are permitted to be covered provided that

- 1. The roof structure remains open on 3 sides, and**
- 2. Does not encroach within 18-feet of the rear property line or within the side yard setbacks of the under lying zone, and**
- 3. Does not exceed the permitted lot coverage of that zone.**

Seconded by Templeton, and the motion passed 4-0.

E. COMMISSIONER'S CORNER

Templeton stated that Kok Road is changing and Fairview Court and Fairview Drive is taking a beating with all of the truck/construction traffic. Please be conscious of the neighborhood and any upgrades/repairs that may be needed.

The next Planning Commission Meeting is scheduled for July 12th, however, there are no new development applications, therefore the meeting will be cancelled.

At the August 9th Planning Commission Meeting we may revisit the Hearing Examiner topic. The September meeting will bring two Comprehensive Plan Amendment Applications.

Brief discussion regarding Pepin Creek. Staff is working very hard on this project. Gudde stated that we are looking at the financials, zoning options and how to fit it in with the zoning code. There is a lot involved with this project. There will be plenty to look at in September.

Gudde also updated the Commission regarding the old Middle School property.

F. ADJOURNMENT

Scott motioned to adjourn the meeting at 9:40 pm. Seconded by Templeton, and the motion passed 4-0.