

APPROVED JULY 28th

**CITY OF EDMONDS
PLANNING BOARD MINUTES**

July 14, 2010

Vice Chair Lovell called the meeting of the Edmonds Planning Board to order at 7:00 p.m. in the Council Chambers, Public Safety Complex, 250 – 5th Avenue North.

BOARD MEMBERS PRESENT

Philip Lovell, Vice Chair
Kevin Clarke
Todd Cloutier
Kristiana Johnson
John Reed
Valerie Stewart

STAFF PRESENT

Rob Chave, Planning Division Manager
Gina Coccia, Planner
Brian McIntosh, Parks, Recreation and Cultural Services Director
Rich Lindsay, Parks Maintenance Manager

BOARD MEMBERS ABSENT

Michael Bowman, Chair

READING/APPROVAL OF MINUTES

BOARD MEMBER REED MOVED THAT THE MINUTES OF JUNE 23, 2010 BE APPROVED AS AMENDED. BOARD MEMBER JOHNSON SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

ANNOUNCEMENT OF AGENDA

No changes were made to the agenda.

AUDIENCE COMMENTS

There was no one in the audience to address the Board during this portion of the meeting.

PUBLIC HEARING ON PROPOSED AMENDMENTS TO ECDC 20.110.040(F) RELATING TO MONETARY PENALTIES TO COMPLY WITH CHANGES IN WASHINGTON LAW BY PROVIDING NOTICE TO ALL PENALTY ASSESSMENTS AND ECDC 20.110.040(D) TO CLARIFY APPEAL PROCEDURES TO SUPERIOR COURT (FILE NUMBER AMD20100005)

Mr. Chave pointed out that City Attorney Snyder discussed the proposed amendments previously with the Board, and the outline of the intent of the amendments was provided in his memorandum. The intent is to bring the code language up to date with current Washington State law and Superior Court procedures.

Board Member Reed questioned if the 3rd and 4th “whereas” statements on the second page of the draft ordinance (Attachment 2) are really necessary. He suggested that these may no longer be accurate statements. Mr. Chave said the language was contained in the original interim ordinance that was adopted by the City Council. If the Board recommends that the content of the proposed amendment is appropriate, the City Attorney would update the ordinance before it is forwarded to the City Council.

Vice Chair Lovell said he read through Mr. Reedy's history on line and found that it did not have much bearing on the proposed amendment. Mr. Chave agreed that Mr. Reedy raised a number of issues that are not directly related to the proposed amendment.

Board Member Stewart asked if the first step in the process is a notice of violation. She pointed out that, as currently proposed, a penalty would be imposed immediately without an administrative hearing and the fine would accrue for each day the violation continues. She asked if the City would return the money retroactively if person was found to be in compliance. Mr. Chave said there are a number of steps that allow a person to challenge a dispute before a notice of violation is issued. A notice of violation would only be issued if a person has not taken any action and there is a clear indication that a violation has occurred. Most all violations are resolved before a situation reaches the point of a notice, and it is extremely rare for a situation to reach the stage where penalties are assessed. Board Member Stewart said she assumes the proposed amendments would make it practically impossible for a situation similar to Mr. Reedy's to occur again.

Board Member Reed requested feedback from the City Attorney to indicate he is comfortable that the existing code and the proposed amendments would adequately address the issues raised by Mr. Reedy. Mr. Chave said that if the Board feels the provisions in the ordinance make sense, they could forward them to the City Council with a recommendation of approval. In addition, they could request a short response from the City Attorney to determine if other amendments may be necessary based on Mr. Reedy's memorandum.

Board Member Johnson asked if Mr. Reedy's 30-page memorandum would be considered part of the public record. Mr. Chave said his memorandum would be forwarded to the City Council as part of the record that is attached to the Board's recommendation. Vice Chair Lovell summarized that the key point of Mr. Reedy's memorandum is that the procedures set forth in the development code need to be followed more closely. If that had been done, the situation could have been avoided.

Board Member Clarke observed that the public hearing is the opportunity for citizens to put their opinions relative to a matter on the record. He suggested the Board consider the written memorandum as well as the public testimony provided during the hearing and move forward with a recommendation to the City Council. Board Member Reed recalled that Mr. Reedy's email indicated that he was submitting the memorandum because he was unable to attend the public hearing. Mr. Chave pointed out that none of Mr. Reedy's written comments argue against the proposed amendments. He may have some additional issues that Mr. Snyder can respond to at a later date.

No members of the public expressed a desire to participate in the hearing. Therefore, the public hearing portion was closed.

Board Member Johnson stated that she just received Mr. Reedy's 30-page memorandum tonight and has not read his testimony. She suggested the Board continue the discussion at their next meeting to allow the Board to thoroughly read Mr. Reedy's written testimony and solicit additional feedback from the City Attorney. Based on the information provided by the City Attorney at the last meeting, as well as the comments provided by Mr. Chave relative to Mr. Reedy's memorandum, Vice Chair Lovell suggested the Board moved forward with a recommendation that the City Council adopt the ordinance. Accompanying the recommendation could be a request that the City Attorney review Mr. Reedy's memorandum to ensure there are not other issues that need to be addressed by additional amendments. Board Member Reed clarified that Mr. Reedy was not questioning the proposed amendments. His comments were more related to how the procedures were handled in his case. If additional amendments are necessary, the Board could deal with them as a separate action.

BOARD MEMBER REED MOVED THAT THE BOARD FORWARD THE PROPOSED AMENDMENTS TO ECDC 20.110.040(f) AND ECDC 20.110.040(D) TO THE CITY COUNCIL WITH A RECOMMENDATION OF APPROVAL AS SUBMITTED, WITH ADDITIONAL CONSIDERATION FOR REVISING THE ORDINANCE BASED ON THE COMMENTS MADE DURING THE DISCUSSION. BOARD MEMBER CLOUTIER SECONDED THE MOTION. THE MOTION CARRIED 5-0 WITH BOARD MEMBER JOHNSON ABSTAINING.

DISCUSSION OF STAFF RECOMMENDATIONS FOR CHANGES TO THE STREET TREE PLAN

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Mr. McIntosh advised that in response to City Council concerns regarding removal and replacement of street trees, particularly in the downtown and specifically at the corner of 4th and Dayton, the Council requested an opportunity to review of the Street Tree Plan, which was held on May 26, 2009. The agenda item concluded with the City Council recommending changes to the Street Tree Plan to better reflect current practices in removing and replanting trees, specifically the caliper of replacement trees. It was recognized that the process to implement the amendments would be to first review and hold a public hearing with the Planning Board.

Mr. McIntosh reviewed that the question of replacing or retaining the mature trees at 5th and Dayton was discussed several times throughout the late summer and fall of 2009. At the suggestion of the Public Works Director, it was agreed to review the entire Street Tree Plan in the next year, beginning with staff review. He reviewed the proposed timeline, which includes the Planning Board's initial review of staff recommendations for changes to the plan on July 14th, and a public hearing before the Board on August 11th. The City Council would review the proposed changes on August 24th and conduct a public hearing on September 21st. It is anticipated the proposed amendments would be included as part of the 2010 Comprehensive Plan amendments. He advised that the proposed plan was reviewed by the Parks Maintenance Manager, Public Works staff and the Community Services Director who has a background in landscape design. He reviewed the proposed amendments as follows:

- **Page 119 – Implementation:** Concern was raised about the need to replace every tree, even if healthy, just to provide uniformity. To address this concern staff is recommending the first bullet be replaced with “When streets and sidewalks are reconstructed, consider existing trees individually in regard to health of the tree and suitability for the site. Consider all reasonable alternatives to removal of existing trees that do not jeopardize the successful completion of the project. Undergrounding of overhead wire could occur simultaneously if species compatibility exists.”
- **Page 120 – Downtown Plan:** The City Council requested that the language be changed to better reflect the City's current practices. Sometimes it is not possible to plant the recommended 3-inch caliper tree due to site conditions, and 2 and 2½-inch caliper trees are used instead. The recommendation is to change “minimum 3-inch caliper” to “minimum 2-inch caliper.” However, he noted the City would still plant the largest caliper tree that is appropriate for the site.
- **Page 121 – Street Tree Map:** Staff is proposing that two types be removed from the list of potential species because they have been discovered to grow too tall. They are recommending that “Chanticleer Pear” be replaced with “Urbanite Ash” and “Katsura Tree” be replaced with “Corsum Linden.”
- **Page 122 – Gateway to Edmonds:** Again, as per the Council's recommendation, the proposed amendment would change “3-inch caliper” to “2-inch caliper.”
- **Page 123 – Key Routes:** Once again, staff is proposing to change “3-inch caliper” to “2-inch caliper.”
- **Page 124 – Tree Planting Procedures:** Staff is proposing that the 3rd sentence in Paragraph 3 be eliminated. He explained that while it was common practice to install a few perforated pipes sloping downward into the soil from each tree pit and to provide pea gravel drainage trenches under the tree pits so roots would be encouraged to grow downward, the practice is no longer recommended by the International Society of Arboriculture because it often causes root rot that reduces structure and stability of the tree. In addition, staff is proposing that the “tree planting with grate” details on Page 13 be modified to match this new procedure.
- **Page 124 – Spacing:** Staff is recommending that language be added at the end of this bulleted item to read, “In some cases, spacing may need to be increased, dependent upon tree species and its branching characteristics, in relation to the businesses or residences adjacent to the planting.” This amendment would give the City more leeway, particularly in retail areas where property owners may over prune to provide better exposure to their businesses.
- **Page 125 – Maintain the Following Maintenance Clearances:** Placing periods in front of the numbers in this section gives the wrong message. Staff is proposing that the periods be removed from the each of the numbers.

- **Page 127 – Recommended Street Trees, Small/Medium Narrow Trees:** Staff is recommending that “Amanagawa Cherry” be eliminated from the chart because it is seen as not a good tree and the City should consider new hybrids. In addition, staff is recommending that the species be added to the list of prohibited street trees on Page 129 or perhaps on the list of species that are approved with reservation.
- **Page 128 – Medium/Large Narrow Trees:** Staff is recommending that “Columnar Sargent Cherry” be eliminated. The roots of this tree species use so much water that surrounding vegetation has difficulty surviving. Staff is also recommending that this species be added to the list of prohibited street trees on Page 129 or perhaps on the list of species that are approved with reservation.

Board Member Clarke referred to the proposed addition to Page 124, which references the businesses or residences adjacent to the planting. He observed that a business is an enterprise that is different than a structure, and a residence references a structure. He questioned if the proposed amendment would actually address issues related to the physical characteristics of commercial buildings relative to tree plantings as a separate item from what actually goes on inside the buildings. For example, his office is located in a three-story building at the southwest corner of 2nd and Main Streets. There is a tree right on the corner that literally looks like it is eating the building alive. Obviously, it will block some people’s view. He questioned how the City would measure view blockage versus blocking a storefront sign. Mr. McIntosh explained that there is quite a bit of grey area as to who is responsible for maintaining the trees. Staff receives requests on a daily basis to go out and look at problem trees. While it is very difficult to remove a street tree, the Public Works and Parks Maintenance staff does the best they can to prune trees and get them away from the buildings. He explained that staff has the responsibility of maintaining about 260 trees within the rights-of-way in the downtown area, and it is difficult for them to keep up. In addition, they are saddled with situations where inappropriate species were planted in some locations. The intent of the Street Tree Plan is to ensure that when trees are replaced, they are replaced with species that work well for the site.

Board Member Clarke questioned if language should be added to reference the building structures, themselves. He said he would like to see recognition of the building improvements, with the businesses and residences as separate components. Mr. McIntosh suggested it would be better to have more general language since the type of business housed in a structure could change over time. Board Member Clarke agreed and suggested they eliminate the concept of a business and focus on the concept of a physical building improvement. Mr. Chave suggested the language be changed to read “in relation to planned uses adjacent to the planting.” Board Member Clarke agreed that would address his concern.

Board Member Reed observed that the City Council’s recommended actions suggest that the reference to “3-inch caliper” on Page 124 should also be changed to “2-inch caliper.” However, this change was not made. Mr. McIntosh agreed the change should be made. Board Member Reed suggested that rather than using the term “minimum 2-inch caliper” perhaps it would be more appropriate to use “preferred 3-inch caliper, but not less than 2-inch caliper.” This would still communicate that a larger tree would be desirable if possible. Mr. McIntosh noted that this is already the City’s standard. However, he agreed the language could be changed to make this clearer. Mr. Chave observed that the standards not only apply to public plantings, but to plantings on private property, as well. He agreed that the change recommended by Board Member Reed would be appropriate.

Vice Chair Lovell said he attended the City Council meeting at which they discussed potential amendments to the Street Tree Plan. He referred to the 1st paragraph on Page 120, which states that “preservation of existing landmark trees and specimens of significant size and age is encouraged on both public and private properties as long as they are healthy and any negative impacts on utilities and sidewalks can be reasonably managed.” He recalled that the Council’s discussion centered on the 5th and Dayton issue where the sidewalk was heaving significantly as a result of tree roots. The Public Works Department was planning to remove the entire line of trees, and the City Council questioned the need to do so. They suggested other alternatives. He asked if staff is confident the proposed amendments would cover these situations in the future. Mr. McIntosh said this will remain a subjective issue that must be decided by City staff.

Vice Chair Lovell referred to the proposed amendment on Page 119, which he interprets this to mean that utilities should be placed underground if the root balls of the street trees do not interfere. He suggested the language should be amended to make the intent more clear. Mr. Lindsay said the language was intended to apply to situations where an entire block of street

trees is going to be replaced, which is the best time to underground utilities. It is intended to emphasize the possibility of underground utilities.

Board Member Clarke inquired if there is a mechanism for allowing public input when staff is recommending that a historic tree be replaced because it is creating an unsafe situation. Mr. McIntosh said staff does a really good job of posting their intentions related to tree removal. If there is a public concern, they hear about it right away, and the issue is discussed further. However, the proposed language would not provide a public hearing process for each tree that is proposed to be removed. He noted that the City does not currently designate landmark and historic trees, but staff is cognizant of the value of the trees. There must be a viable reason to support the removal of a tree. Board Member Reed asked if the code requires the City to post a notice before a tree is removed. Mr. McIntosh said he believes it is voluntary rather than required.

Board Member Reed suggested the language should emphasize that the preferred method is to preserve mature trees whenever possible. He suggested additional emphasis be added to the first paragraph by changing it to read “preservation of existing trees, particularly landmark trees and specimens of significant size . . .” This would emphasize the City’s goal of preserving trees whenever possible. He further suggested the City do everything possible to make sure people know when a tree is going to be removed. Often they do not take note of the posted notices, and they are not aware that a tree is going to be removed until it is already gone.

Board Member Johnson asked if the City has a program for identifying landmark trees. Mr. McIntosh answered that the City has not yet initiated a comprehensive identification program. She recalled that the Board is currently working to come up with indicators to identify what is of sustainable value in the City, and one discussion focused on trees of significant size or historic character. She suggested they may want to coordinate these two efforts.

Board Member Johnson referred to Page 118, which identifies a City goal of recommending underground power lines in the downtown core and in the smaller retail/commercial centers. While this is an admirable goal, she questioned how it would be accomplished. She recalled that it would have cost \$1 million to put the utilities underground along the 220th Street Corridor. She suggested the concept be considered as the City does planning for neighborhood activity centers in the future. She also questioned whether the City has the ability to make recommendations to the Washington State Department of Transportation regarding Highway 99. Mr. McIntosh clarified that the goal implies that the City would consider underground utilities whenever they do construction. Board Member Reed suggested that perhaps the City could offer developers incentives for providing underground utilities.

Board Member Stewart said she compared the Edmonds Street Tree Plan with plans from the Cities of Shoreline and Seattle. She also referred the plan to Laura Spehar, the leader of the Community Backyard Wildlife Habitat Project, which recently received certification. She said it is important to pay attention to the ecological functions of trees. Whenever possible, consideration should be given to native species, which use less water and are easier to care for. She reminded the Board that one of the goals of the Climate Action Plan and the Community Sustainability Element is to reduce water consumption 30% by 2020. She hoped that after the first few years, the street trees would be able to sustain themselves with rainwater.

Board Member Stewart pointed out that the vision in the Street Tree Plan does not adequately address the ecological services that trees provide such as mitigating for stormwater, cleaning pollution out of the air, and providing habitat for wildlife. Because Edmonds is a certified community by the National Wildlife Federation, she hopes that this concept can be added as a goal in the plan. She reminded the Board that the Stormwater Management Plan encourages the use of low-impact development strategies, and trees have a part in this effort. Mr. McIntosh agreed that the vision of the Street Tree Plan should address the ecological benefits of trees.

Board Member Stewart referred to a technology called “silva cells,” which are like stacked milk cartons with grates all the way around them. They are placed underneath sidewalks and allow pipes and roots to grow through them. This technology was used at the Mountlake Terrace Park and Ride to allow rainwater to be absorbed. Trees of a larger caliper can be planted using this technology. She urged the City to consider new technologies, including pervious sidewalks and flexible sidewalk seams. She concluded by stating that when there are safety issues related to trees near sidewalks, it would be appropriate to allow the public to be part of the decision. She advised that the City of Shoreline’s Street Tree Plan includes a great cost/benefit analysis chart of each species and how much dollar value it provides as far as energy savings, cleaning the air,

stormwater runoff, etc. It is quite striking how things stack up when looking at costs versus the ecological service benefits. The City will get their money back and more if they plant trees that last longer.

Board Member Stewart requested feedback about why staff is proposing an amendment that would allow the City to consider 2-inch caliper trees rather than 3-inch caliper trees. Mr. McIntosh answered that sometimes 3-inch caliper trees of certain species are not available. In these situations, the City does the best they can to get the larger trees. Board Member Stewart recalled there was a suggestion of forming a nursery within the City, but the City was unable to identify a location. Mr. McIntosh said not only do they not have a space for a nursery, the City also does not have the predictability to purchase trees and allow them to grow before they are actually planted along the street.

Board Member Stewart asked if the City has a street tree fund that accepts private donations from citizens. Mr. McIntosh answered affirmatively. Board Member Stewart suggested the plan incorporate the language from the National Wildlife Federation with regard to the use of fertilizers and pesticides. She asked if the City has an inventory for street trees. Mr. McIntosh answered that no inventory has been done to date. Board Member Stewart encouraged the City to move in that direction. She noted that Shoreline has developed a street tree inventory. They also provide a planting strip along their sidewalks, which is more functional than the grate system.

Board Member Stewart agreed to share additional comments and observations with staff as to how the plan could be strengthened further. Mr. McIntosh announced that the entire Streetscape Plan would be updated in 2012 and would involve numerous opportunities for public input.

Board Member Clarke pointed out that the document uses terms such as “overhead power lines,” “overhead wires,” etc. He suggested that a single term be used consistently throughout the document. Mr. McIntosh agreed and suggested that the correct term would be “overhead utilities.”

Vice Chair Lovell asked if the proposed amendments outlined in the staff’s memorandum would be incorporated into the plan before the public hearing. Mr. McIntosh answered that prior to the public hearing, the existing plan would be updated to reflect the proposed amendments, as well as the additional changes recommended by the Board. The changes would be clearly identified. Mr. McIntosh noted that a public hearing has been scheduled for August 11th.

DISCUSSION ON ZONING FOR THE MEADOWDALE BEACH AREA ANNEXATION (FILE NUMBER AMD20090002)

Ms. Coccia said the purpose of this discussion is to consider what the appropriate zoning designation for the Meadowdale Beach area would be if it is annexed into the City. She noted that for the last few years, the neighborhood has expressed an interest in becoming a part of Edmonds, and the City Council accepted their 10% Notice of Intention last fall. At that time, the City Council acknowledged that the City would require the simultaneous adoption of zoning for the proposed areas to be annexed. She advised that, at this time, staff is recommending an RS-8 zoning designation, which would provide a fairly consistent match with current setbacks and would result in few non-conforming lots. However, it would be appropriate for the Board to analyze the existing site conditions and provide additional feedback for staff regarding the appropriate zoning designation. Vice Chair Lovell summarized that the Board is being asked to confirm that, based upon a staff study, RS-8 is the appropriate zoning designation for the area. Ms. Coccia explained that the Planning Board would hold a public hearing in the future and then determine what zoning designation is appropriate for the area.

Vice Chair Lovell referred to the last two sentences in the Staff Report, which point out that all R-zoned properties in the County have a maximum building height of 30 feet and all R-zoned properties in Edmonds have a maximum building height of 25-feet. He asked for more information about the height of the existing homes and whether they would conform to the City’s 25-foot height limit. Ms. Coccia answered that the City does not have this information, but they are typical one and two-story homes that were built in the 1960’s and 1970’s. She observed that while the height limit in Edmonds is lower than the County’s height limit, their setbacks are larger. Vice Chair Lovell summarized that if the area were to annex into Edmonds, the property owners would be subject to all of the RS-8 zoning provisions. Ms. Coccia agreed. However, existing development that is inconsistent with the RS-8 zoning provisions would be grandfathered as legal, non-conforming uses.

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Board Member Stewart said she visited the subject properties, which are located in a nice area with a lot of vegetation and some view of the water. She asked staff to share the pros and cons associated with the annexation for both the City and the property owners. Mr. Chave said the annexation request was submitted by the residents, so they apparently believe there are advantages to annexation. He explained that, historically, many areas in unincorporated Snohomish County have Edmonds addresses because their mail goes through an Edmonds post office, and many of them want to retain their current addresses rather than being part of Lynnwood. He said he assumes the residents also like the services provided by the City of Edmonds. He explained that this area is not part of the City's urban growth area so an interlocal agreement with Lynnwood would be required before the area could be annexed into the City. The Comprehensive Plan would also have to be amended. He noted that the residents have already turned in their petition to annex, but the issue is more complicated because the properties have not been designated in the Comprehensive Plan as an area for future annexation. Board Member Stewart asked if property taxes would increase as a result of annexation. Mr. Chave said the last study indicated that the City's property taxes are lower than those of the County, but the City has more utility taxes. The taxes would remain nearly the same. He noted that annexation would only have a minimum impact on the City's tax revenue, and the added service costs would be negligible. However, the City believes the annexation would be a good government proposition because it would take in a remaining island of unincorporated land that should be part of a City.

Board Member Cloutier observed that RS-8 zoning is the closest to the current RS-9600 based on standards. However, comparing the standards to what is actually built may paint a completely different picture. He asked if RS-10 would be more consistent. Mr. Chave said RS-10 is more similar to the RS-12 zoning designation and setback requirements are substantially higher. The RS-8 zoning designation is a lot closer to the existing County zoning and would logically create fewer problems when property owners want to do minor additions or remodeling. He noted that the City's single-family residential standards are much tighter, and typically this is a problem in annexed areas. Generally, the City adopts the zoning that is the next level down from the County's existing zoning since the setback requirements would be more similar. Board Member Johnson noted that some of the lots have irregular shapes, and she questioned the potential for short plats if the property is annexed and zoned as RS-8. Mr. Chave said this is not likely to occur. He noted that the properties at the northern end have slopes that will restrict this type of development activity.

Board Member Reed said he would support an RS-8 zoning designation. However, he observed that all of the adjacent properties in Edmonds are zoned RS-12 and RS-20. He commented that the City's height limit is 25 feet measured from the four corners, plus additional height for a pitched roof. He questioned if the County's height limit is a maximum of 30 feet. Mr. Chave said the City's code only allows a height greater than 25 feet if a structure is located on a slope. There is no provision for additional height to accommodate a pitched roof.

Board Member Reed asked if the property owners in the subject area have talked to property owners to the south. Mr. Chave pointed out that the properties directly south are part of the City of Lynnwood. The subject property is currently part of unincorporated Snohomish County. Board Member Johnson asked if the subject properties represent the full extent of the unincorporated island. Mr. Chave said that portions of the park would remain part of Snohomish County, as well as a few isolated residential areas.

Board Member Clarke referred to the three lots located on the east side of 158th Place Southwest (6627, 6629 and 6705) and the two lots on the east side of 68th Avenue West (15727 and 15719). He said that, visually, the lots appear they are large enough to be subdivided into several lots. He suggested it would be helpful for the City to give guidance up front as to how they would view the lots since this decision could have an impact on how the lots are assessed. Mr. Chave said these types of decisions are generally left up to the individual property owners. Generally, the City does not do proscriptive zoning studies to advise property owners of their potential rights. Board Member Clarke said that in his professional experience, if the land area is sufficient to allow more than one building lot, the property owner must prove to the County that it is unbuildable or they will assess for two lots. Mr. Chave said individual property owners can request a letter from the City indicating the number of buildable lots. Because there are so few lots in question, Board Member Clarke said it may be worthwhile to research the situation.

Ms. Coccia asked if Board Member Clarke would recommend the zoning be higher than RS-8 if it is determined that some of the lots could be subdivided. Board Member Clarke said compatibility is an issue of concern. A higher zoning designation would have greater restrictions and more legal, non-conforming lots would likely be created. If a property is identified as

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non-conforming, big issues come up when an owner wants to make improvements or changes. He observed that because of the irregular platting that has occurred in some neighborhoods in the City, there has been significant hostility amongst neighbors. There can be significant impacts to surrounding properties when lots are allowed to subdivide as a result of the zoning change that occurs with annexation. He suggested they must carefully balance all of the concerns. Ms. Coccia reminded the Board that the public would be invited to comment on any subdivision applications that are submitted. Mr. Chave pointed out that the difference in size between the current RS-9600 zoning and the proposed RS-8 zoning is small enough and the lots are large enough that the lots could be subdivided with either designation.

Board Member Clarke agreed with Board Member Reed that the adjacent properties that are part of Edmonds are zoned differently than the proposed RS-8. Therefore, the City would not be criticized if they were to zone the subject property using the same pattern. Mr. Chave referred to the zoning map and noted that there are small sections of RS-8 sprinkled throughout the northern portion of the City. He suggested that the plotting pattern of the subject properties is different enough to merit a different zoning designation.

Board Member Clarke said that prior to the annexation of his neighborhood, the response for emergency service from the County was terrible. They would have done anything to annex into a City that could provide faster response. He summarized that taxation is not typically an issue; those who are interested in annexation are seeking better service and the opportunity to elect their own local government representatives.

DISCUSSION ON CONDITIONAL USE PERMITS FOR HOME OCCUPATIONS (FILE NUMBER AMD201000016)

Ms. Coccia explained that when home occupation applications are submitted to the City, various departments review the proposed scope of work and how it complies with applicable City codes. As long as a proposed business meets the criteria in ECDC 20.20, the Planning Division can sign off on the business license application as it relates to the zoning standards. Businesses that cannot meet all the basic home occupation criteria must change their proposal to meet the code or apply for and obtain a conditional use permit. She noted that the standard fee for a home occupation business license is \$100. However, if a conditional use permit and public hearing is required, the fee for the process jumps to about \$1,500.

Ms. Coccia said the chief complaint heard by staff about home occupation requirements is the fee. She suggested one option for addressing the concern is to change the process so that home occupations that require more review are handled as staff-approved conditional use permits rather than a conditional use permit requiring Hearing Examiner review. This would reduce the fee to about \$500. She noted that administrative conditional use permits are also used for accessory dwelling unit permits and tree cutting permits. Public notice would still be required and a permit could be conditioned, but the decision would ultimately be made by staff.

Ms. Coccia said another option would be to streamline the permitting of home occupations that should logically fit within neighborhood settings by clarifying the standards for approvable home occupations. For example, home occupations that have only a single off-site employee or not more than one customer coming to the site per hour could be permitted as part of a normal home occupation review.

Ms. Coccia suggested the Board review the current codes and processes related to home occupations, compare them to other jurisdictions, and determine if an administrative conditional use review process would be more appropriate than a conditional use permit that requires a public hearing at three times the cost. She noted that the City Council's Community Services/Development Services Committee has recommended further discussion about streamlining the process and keeping it simple. Staff is seeking feedback from the Board in order to proceed toward a public hearing proposal.

Vice Chair Lovell requested more information about the breaking point where staff determines a conditional use permit would be required. Mr. Chave referred to ECDC 20.20.010 (A), which outlines the criteria used to evaluate a home occupation application. If an application does not meet all of the criteria, a conditional use permit would be required. ECDC 20.20.010(B) identifies the criteria used to evaluate conditional use permits. He observed that it would be difficult for many home occupations to strictly comply with all of the criteria.

Board Member Stewart reminded the Board that based on the Community Sustainability Element, the City is trying to create a more favorable environment for home occupations. She hopes the regulations can be made more flexible. Mr. Chave said music teachers and accountants are good examples of typical home occupations that receive little or no objection from adjacent property owners. These could be approved via an administrative conditional use permit process. However, the City has had enforcement problems with home occupations that employ multiple people such as real estate offices. These types of home occupations could require a conditional review and public hearing before the Hearing Examiner. The key is to establish a threshold such as one visitor per hour or a certain number of clients per hour. He suggested the threshold be tied to the typical traffic that is generated by a single-family home, which is about 10 trips per day.

Board Member Johnson said the current code language contains a provision that says if you have evidence of even one visitor, the business license could be revoked. She asked how many licenses have been revoked for this reason. Mr. Chave said he could not think of a situation of this type. The most common case is that a home occupation license would be denied for this reason. He noted that very few home occupation applications have been sent to the Hearing Examiner. He said he suspects that many home occupations are “flying under the radar” and have not created a problem in the neighborhood.

Board Member Stewart said that given the current economy and City goals related to sustainability, they need to make it possible for people to work out of their home. She suggested that limiting the clients to one per house may be too restrictive. Perhaps a better approach would be to allow no more than one car per hour. Mr. Chave cautioned that it is important to hold down the scale of home occupation uses to a reasonable level and to avoid negative impacts such as noise. He observed that more and more people are working from home a certain number days a week rather than going into the office. Home occupation regulations that are too restrictive do not encourage flexible work hours, etc. Ms. Coccia said Attachment 2 is a matrix comparing the City’s current regulations with those of other jurisdictions in the region. She noted that most of them allow one non-family employee or customer.

Board Member Clarke said he finds it extremely frustrating that he lives in a neighborhood that has covenants, conditions and restrictions that prohibit commercial uses from being conducted inside the homes, but the City has taken the position that it will not interpret private covenants. As part of the proof of application, an individual should be required to prove that there are no private restrictions on the property that prohibit home occupations. Even though people read the title and understand the restrictions when they purchase their property, they often break the rules knowing that the only way to enforce the requirement is for a neighbor to sue. He said it is unfair for the City to allow a use that is not legally permitted by the covenants associated with the property. Mr. Chave reminded the Board that the City does not enforce private covenants.

Board Member Johnson asked if the City has an enforcement process for home occupations. Mr. Chave answered affirmatively, but the City does not enforce private covenants. Board Member Clarke suggested that his concern could be addressed if the criteria for a home occupation permit requires an applicant to prove there are no private restrictions or conditions that prohibit home occupations. Mr. Chave agreed to solicit a response from the City Attorney regarding this issue.

Board Member Clarke said he knows of a situation in his neighborhood where a home occupation cannot meet any of the criteria in ECDC 20.20.010(A). The business transports recreational vehicles with a large capacity pick up truck which is often parked in front of his living room window. The use violates several covenants such as storage of recreational vehicles, but it is being permitted by the City. Across the street from him is an electrician who parks his commercial vehicle on his property. In subdivisions with small lots and very little setback requirements, these types of uses can be very imposing to surrounding property owners. He suggested they look more carefully at the code requirements rather than simply making them broader. He further suggested that staff provide examples so the Board can determine whether or not the criteria is adequate to address most situations in the City. Mr. Chave suggested the Board invite the Code Enforcement Officer to participate in the discussion. He observed that Board Member Clarke’s concerns are more nuisance issues than problems with the home occupation provisions.

Board Member Johnson said she learned a lot about the home occupation provisions by reading the Staff Report. She learned that in her particular neighborhood a piano teacher went through the process to obtain a conditional use permit, yet

another neighbor was illegally operating a business that has many people coming and going. She stressed that education and enforcement issues must be addressed.

Board Member Cloutier observed that cost is the number one factor that discourages people from applying for the necessary home occupation permits. He suggested that if the financial cost were lower and the guidelines were clearer, more people would submit applications for the required permits. This would allow the City to have a better understanding of what is going on and they could start to see the correlation between approved home occupations and the associated uses to identify necessary changes. A proper checklist would be helpful to applicants, as well. He summarized his belief that the City should do what they can to encourage applications to be submitted. Mr. Chave said it would be less costly for the City to have a simpler process rather than increasing enforcement.

Board Member Reed asked if every home occupation is required to obtain a permit. Ms. Coccia said they are required to obtain a business license through the City Clerk's office. However, a conditional use permit would only be required if the use cannot meet the criteria set forth in ECDC 20.20.010(A). Board Member Reed said he found the document confusing because the word "permit" is used over and over again, and it is not meant to refer to a document, but to what is allowed. He suggested the term be changed to "allowed" if it is not talking about an actual permit. Board Member Reed said it is important to preserve the sanctity of neighborhoods in the City, but it is also important to encourage opportunities for economic development. He said he finds the current regulations to be too tight, but he is not sure how far they should be loosened. Mr. Chave suggested a discussion with the Code Enforcement Officer would be helpful in this regard.

Board Member Clarke observed that with changes in technology, companies are downsizing their office space and having their employees work from home. As the economic base evolves to a service employment base, they will see more and more of these situations. Board Member Johnson said it is important for the City to encourage people to have their businesses at home legally. They should encourage them to apply for the correct licenses and permits. This can be done by having reasonable rules that allow them to work without impacting the neighborhood. Technology and economic circumstances have changed significantly since the current code language was written 17 years ago. She suggested the Board could be creative and come up with code language that allows an administrative process that can readily adapt to current situations. This would also avoid situations where people have to either go before the Hearing Examiner for a conditional use or operate the home occupation without the required permits.

Ms. Coccia pointed out that delivery services such as UPS, Federal Express, etc. cannot be regulated by the City. The deliveries referred to in the code language are related to those that require vehicles larger than a standard UPS truck. She noted that more and more people are trying to operate web-based businesses from their home. They don't have products stored in their homes, but they coordinate the shipment of merchandise from one site to another.

Board Member Stewart said another reason to encourage home businesses is that they want to reduce the number of vehicle trips to reduce emissions. One positive step is to encourage home occupations so people do not have to drive to work. She encouraged the Board to keep this positive aspect in mind. The code language should be flexible, yet also protect the character of the neighborhoods. She expressed her position that if she lived in a neighborhood with covenants, she would like the City to honor the requirements. Board Member Johnson expressed her belief that the existing code requirements are so restrictive that they force people to disobey or ignore them.

Board Member Clarke inquired if any consideration is given to the street patterns. Trucks associated with home occupations could create circulation issues. While some residential neighborhoods have free flowing traffic and capacity for street parking, most residential plats do not have wide enough streets to accommodate on-street parking, particularly for large vehicles. Ms. Coccia agreed and said that the Engineering Department reviews conditional use applications and provides feedback regarding traffic. Mr. Chave said the code could probably include rules that accomplish the same thing. For example, home occupations above a certain threshold could be required to locate on a collector or arterial streets.

The Board agreed that the next step would be to discuss their issues and concerns with the Code Enforcement Officer, and then provide direction to staff to develop a proposal. Staff agreed to provide some alternatives for the Board to consider when they continue their discussion. Vice Chair Lovell summarized that the goal of the proposed amendments is to make the process simpler without requiring Hearing Examiner review. Mr. Chave said that rather than requiring a Hearing

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Examiner review, a conditional use application could be a staff decision with notice. He noted that most business licenses do not require notice, but another alternative would be to require notice only for businesses that propose to have people coming to the home. He summarized that staff supports an amendment that would move away from automatically sending home occupation applications to the Hearing Examiner since this is a costly process.

Board Member Clarke asked about the penalty for operating a home occupation without a license. Mr. Chave said it becomes a code enforcement issue. There is no automatic monetary penalty. The person would be required to apply for a business license, and the City has the ability to increase fees up to five times for violations. If the situation is the result of an inadvertent mistake, they do not assess a higher fee. But if they know that a person blatantly violated the permit requirement, a higher fee would be assessed. Board Member Clarke said that if they are going to make it easier to obtain a home occupation permit, they should also increase the penalty for those who try to avoid the permit requirement.

REVIEW OF EXTENDED AGENDA

The Board did not provide any comments regarding the extended agenda.

ELECTION OF PLANNING BOARD OFFICERS

BOARD MEMBER STEWART NOMINATED BOARD MEMBER LOVELL AS CHAIR OF THE BOARD. BOARD MEMBER CLOUTIER SECONDED THE NOMINATION. THE NOMINATION WAS APPROVED UNANIMOUSLY, WITH BOARD MEMBER LOVELL ABSTAINING.

BOARD MEMBER LOVELL NOMINATED BOARD MEMBER REED AS VICE CHAIR OF THE BOARD. BOARD MEMBER CLARKE SECONDED THE MOTION. THE NOMINATION WAS APPROVED UNANIMOUSLY.

PLANNING BOARD CHAIR COMMENTS

Chair Lovell did not provide any comments during this portion of the meeting.

PLANNING BOARD MEMBER COMMENTS

Board Member Reed announced that the public/private Washington State Ferry Partnership's deadline for proposals for the lot adjacent to Skippers was June 30th, and no proposals were received for an overhead crossing in exchange for the lot. The appraisal of the property was approximately \$1.5 million and was based on a statement from the bank that they received two offers of \$1 million for the Skippers property. It was determined that the best option is to hold the property until the economy improves. He said he would like the City to work with the Washington State Department of Transportation and Burlington Northern Santa Fe to create a walking avenue from downtown to the waterfront that does not go in front of the ferry.

Board Member Clarke advised that his employment requires a lot of travel that he has no control over. This has resulted in his absence from a number of Board meetings. He said he reviews the Commission materials that are distributed for each meeting. He said he loves being part of the Board and appreciates the opportunity to work with such a talented group of people. He indicated he does not intend to resign at this time. He observed that when he first joined the Board, previous Board Member Guenther missed several meetings for work related responsibilities, yet Mr. Rutledge never commented on his absences. He suggested that Mr. Rutledge appears to have a personal issue with him.

Board Member Clarke recalled previous comments made by Al Rutledge regarding the issue of naming parks and putting up plaques to recognize people who submit potential names for parks. He explained that Mr. McIntosh has worked diligently to try and communicate the issues surrounding Mr. Rutledge's concerns. The bottom line is that the park naming policy is very specific, and both times the committees followed the letter of the law. They have named two parks after individuals rather than groups of people. When Hickman Park was named and dedicated, there was a ceremony that recognized individuals

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outside of the plaque that was put at the park permanently. There never was any intention at the Planning Board or City Council to create a plaque.

Board Member Johnson announced that Stevens/Swedish Hospital would make a presentation at the Citizens Economic Development Commission Meeting on July 21st at 6:00 p.m. They would also make a presentation before the City Council on August 3rd. Members of the Board and citizens are invited to attend.

Board Member Cloutier reported that he recently attended a meeting of the Cascade Land Conservancy, which is starting a “complete streets” ordinance movement in Edmonds. He noted that many of the elements associated with the “complete streets” concept are already contained in the Streetscape Plan. The City of Edmonds has had a long and positive relationship with the Cascade Land Conservancy. Their goal is to create a community-driven ordinance to identify how they want their streets to accommodate the right mix of pedestrians, bicycles, and other vehicles. There are numerous example ordinances available from other cities in the region, as well as King County.

Board Member Cloutier announced that Shoreline Solarfest is scheduled for July 17th at the Shoreline Community College.

Chair Lovell asked if Board Member Reed received his notes from the retreat. Board Member Reed answered affirmatively.

Board Member Stewart thanked Board Member Bowman for his leadership on the Board.

Board Member Clarke recommended the Board and staff be more proactive in looking for opportunities to enhance the medical district around Steven’s Hospital. So many other communities are being proactive to accommodate medical facilities because they are great employers and a community asset. The Stevens/Swedish Hospital decision will be very important for the community. The City is in a unique geographic location to provide services if they can show a willingness to look at alternatives for development opportunities. He referred to what the communities near Children’s Hospital have done to accommodate the facility’s expansion. Edmonds has an opportunity to put something positive forward to show the City really wants to have a major medical employer in the area.

ADJOURNMENT

The Board meeting was adjourned at 9:48 p.m.

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