

**CITY OF EDMONDS  
PLANNING BOARD MINUTES**

**November 10, 2010**

Chair Lovell called the meeting of the Edmonds Planning Board to order at 7:02 p.m. in the Council Chambers, Public Safety Complex, 250 – 5<sup>th</sup> Avenue North.

**BOARD MEMBERS PRESENT**

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

**STAFF PRESENT**

Rob Chave, Planning Division Manager  
Mike Clugston, Planner  
Gina Coccia, Planner  
Karin Noyes, Recorder

**READING/APPROVAL OF MINUTES**

**BOARD MEMBER STEWART MOVED THAT THE MINUTES OF OCTOBER 27, 2010 BE APPROVED AS AMENDED. BOARD MEMBER CLARKE SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.**

**ANNOUNCEMENT OF AGENDA**

Chair Lovell added three items to the agenda under New Business: Planning Board Guidelines, Planning Board Student Representative, and Planning Board Vacancies.

**AUDIENCE COMMENTS**

No one in the audience expressed a desire to address the Board during this portion of the meeting.

**PUBLIC HEARING ON HOME OCCUPATIONS (ECDC 20.20) – A PROPOSED CODE AMENDMENT THAT ADDRESSES THE ISSUES OF PERMIT TYPE, PROCESS AND COST, INCLUDING THE DEGREE THAT CUSTOMERS, EMPLOYEES OR SIGNAGE SHOULD BE PERMITTED FOR HOME OCCUPATIONS IN RESIDENTIAL ZONES. (FILE NUMBER AMD20100016)**

Ms. Coccia reviewed the attachments in the Staff Report as follows:

- Attachment 1 – Draft Code Amendments
- Attachment 2 – Planning Board Meeting Minutes of October 13, 2010
- Attachment 3 – Public Hearing Notice
- Attachment 4 – Map of Arterial and Collector Streets

Ms. Coccia recalled that on May 11<sup>th</sup> the City Council's Community Services/Development Services Committee directed staff to work with the Planning Board to amend the home occupation code language. The intent of the proposed changes is to streamline the home occupation permit process, reduce fees to small business owners, support home-based work as a way for the City to be more sustainable, and preserve the residential character of the neighborhoods. The Planning Board

discussed the proposed amendments previously on July 14<sup>th</sup> and October 13<sup>th</sup>. The purpose of tonight's hearing is to solicit public comment regarding the proposed amendments. At the conclusion of the public hearing and the Board's deliberation, staff would invite the Planning Board to forward a recommendation to the City Council for action. She noted that the Home Occupation chapter (ECDC 20.20) was last revised 17 years ago under Ordinance 2951.

Ms. Coccia reviewed the current definition for "home occupation" and explained that the current process requires a person who wants to operate a business out of their home to submit an application for a home occupation business license, which carries a fee of \$100. A conditional use permit would also be required for any business that does not meet all of the home occupation criteria. A conditional use permit costs \$1,550 and requires a public hearing before the Hearing Examiner. The proposed amendments include evaluating whether an administrative conditional use permit, which costs \$585, would be equally as effective. Ms. Coccia further explained that, as per the current code, a home occupation shall be permitted if it meets the following criteria:

- Is carried on exclusively by a family member residing in the dwelling unit.
- Is conducted entirely within the structures on the site without any significant outside activity.
- Uses no heavy equipment, power tools or power sources not common to a residence.
- Has no pickup or delivery by business related commercial vehicles (except for the U.S. Mail) which exceeds 20,000 pounds gross vehicle weight.
- Creates no noise, dust, glare, vibration, odor, smoke or other impact adverse to a residential area beyond that normally associate with residential uses.
- Does not include any employees outside of the family members residing at the residence, including but not limited to persons working at or visiting the subject property.
- Meets all performance criteria established pursuant to ECDC 17.60.010.

Ms. Coccia reported that staff researched how home occupations are regulated in other jurisdictions and learned the following:

- **Shoreline** allows one non-family employee to visit the site.
- **Lynnwood** allows one customer per hour and no employees or vehicles are permitted on or near the site.
- **Mercer Island** has no land use process for home occupations. Their regulations are complaint driven.
- **Woodinville** allows limited customers and employees.
- **Mukilteo** allows one employee.
- **Edmonds** allows no employees and no customers.

As discussed earlier by the Commission, Ms. Coccia said staff is proposing two new definitions:

- **Urban Farming** – A home occupation for urban farming is defined as the display or sale of edible farm products or fresh produce grown on site. Selling products that are produced off site would not be permitted.
- **Artist Studio** – A home occupation for an artist studio is defined as the display or sale of hand-made products (artwork) that are produced on site. Items or artwork created off site would not be included in the definition.

Ms. Coccia referred to Attachment 4, which is a map identifying all of the collector and arterial streets in the City. She explained that staff considered options for mitigating potential traffic impacts associated with home occupations. The current code requires a conditional use permit for home occupations that include employees or customers. Conditional Use Permit applications are heard by the Hearing Examiner, and the fee is \$1,550. If the goal is to ensure that customers and employees visiting a home occupation do not create a significant impact to the surrounding neighborhood, another option is to allow one employee outright if the home occupation is located on an arterial or collector street. Ms. Coccia asked that the Board consider the following questions:

- What types of businesses would they notice if they were a neighbor or passerby?
- What types of impacts are important in a neighborhood setting?
- How could the code be rewritten so that neighbors do not notice an impact to their residential quality of life?

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- How should the City regulate home occupations?
- What are the differences between visits from employees and customers?
- A home occupation is a permitted secondary use in single-family zones. The primary use is still residential. How much should the permits cost?

To help the Board review the above questions, Ms. Coccia shared examples of how the proposed code language would be applied in various scenarios:

- **Scenario 1 – A Massage Therapist with Customers.** This home occupation would be permitted outright on Olympic View Drive because it is a minor arterial. However, if the use were located on Talbot Road, an administrative conditional use permit would be required. The cost of the conditional use permit would be \$585, and a public notice would be required. The administrative decision would be appealable to the Hearing Examiner.
- **Scenario 2 – Urban Farmer.** This type of home occupation would be allowed to have customers in excess of one vehicle per hour if located on 196<sup>th</sup> Street. The application would be reviewed through the business license process as long as a site plan can demonstrate that sufficient parking would be available. The regulations would be the same if the home occupation were located on Bowdoin Way.
- **Scenario 3 – Accountant and One Employee, Occasional Customers, and Signage.** If this type of home occupation were located on 220<sup>th</sup> Street, it would be permitted outright as a secondary use, but the commercial sign would require a conditional use permit. If the home occupation were located on Olympic Avenue, an administrative conditional use permit would be required for employees, customers and signage.

Ms. Coccia advised that the Board still needs to consider whether employees should be permitted the same as customers. They should also discuss whether commercial signs should require an administrative conditional use permit. She requested specific feedback regarding the following proposed changes:

- Allowing home occupations on arterials and collectors to have a single employee and/or one customer per hour. If the Board feels this is appropriate, the draft proposal must be revised to reflect the change.
- Otherwise requiring staff-approved conditional use permit for home occupations seeking customers, employees, and/or signage in residential areas not on a collector or arterial street. Staff could evaluate the proposal to ensure that there is adequate parking for customers/employees and that the signage is appropriate in scale and design. This would help protect the neighborhood from degradation by vehicles parking off site or by indiscreet signage, while saving the business owner extra time and \$965 in permitting fees.
- Allowing urban farmers and artist studios as long as a site plan, which is submitted with the business license application, can sufficiently reflect that the site should be able to accommodate additional vehicles (more than the two required for the primary residential use) in order to reduce impacts to the neighbors.
- Allowing commercial wall signage through a home occupation staff-approved conditional use permit and subsequent building permit. Currently, one would have to apply for review by the Hearing Examiner in order to have signage. However, section 20.20.020.B of the current draft proposal could be clearer on the process for obtaining a commercial sign.

In response to Chair Lovell's request for clarification, Ms. Coccia explained that, as per the current code, home occupations are permitted as secondary uses if they meet all the criteria in ECDC 20.20.010.A. Only a business license (\$100) would be required. Home occupations that do not meet all of the criteria are required to obtain a conditional use permit (\$1,550). As per the draft proposal, applicants would be required to obtain an administrative conditional use permit (\$585) if the use does not meet all of the criteria. The application would only go before the Hearing Examiner for review if an appeal to the administrative conditional use permit is filed. She noted that administrative conditional use permits cost much less than a conditional use permit that is heard by the Hearing Examiner.

Chair Lovell referred to the matrix comparing the home occupation requirements for various jurisdictions. He noted that Woodinville has a process that costs \$5,305. Ms. Coccia noted that the matrix was actually included as part of the October 13<sup>th</sup> Staff Report. She explained that a planner from Woodinville was unable to clearly explain their complicated process, and he noted that no one actually applies for this particular permit. Vice Chair Reed reminded the Board that setting fee

amounts is not within their purview. Ms. Coccia clarified that if the Board recommends approval of the amendment to change home occupation permits from Type IIIB (Hearing Examiner) to Type II (Administrative) decisions, the cost would be reduced from \$1,550 to \$585. Vice Chair Reed emphasized that the proposed amendment does not identify a fee amount.

Vice Chair Reed referred to Section 20.20.010.A, which lists the criteria a home occupation application must meet in order to be permitted outright without a conditional use permit, and noted that only a business license would be required for these uses. Section 20.20.010.B outlines the process for reviewing home occupation applications that do not meet the criteria found in Section 20.20.010.A. He noted that Type II (administrative) decision are appealable to the Hearing Examiner. He questioned why the proposed language calls out the type of permit (Type II) rather than using the term administrative conditional use permit. Mr. Chave explained that staff tries to use the permit type reference wherever possible to avoid confusion in the code. However, the matrix in ECDC 20.02 identifies Type II decisions as staff approved conditional use permits that are appealable to the Hearing Examiner.

Board Member Stewart referenced Sections 20.20.101.A.9, 20.20.010.B.5 and 20.20.020.C.3, which are inconsistent in how they describe the number of vehicles and/or people allowed to visit a home occupation. She reminded the Board that one goal of the proposed amendments is to minimize potential traffic impacts to neighborhoods. She also reminded them of the City's Community Sustainability Element, which encourages alternative modes of transportation. She suggested the real intent is to limit the number of vehicle trips to a home occupation, and not the number of people. Therefore, she recommended the language in these three sections be changed to be consistent and to make the intent clear. The remainder of the Board concurred.

Board Member Johnson suggested the Board consider following the example provided by Mercer Island, which regulates the employees and customers on a complaint basis. She recalled that at a previous meeting, the City's Code Enforcement Officer, Mike Thies, indicated that he does not go out and count the number of visitors that come to a home occupation. Instead, issues are addressed on a complaint basis. She referred to the map provided in the Staff Report (Attachment 4) to identify collector and arterial streets in Edmonds. She noted that the functional classification map in the packet is out of date. It is updated and adopted in 2009 as part of the Transportation Element. Bowdoin Way is actually a collector street, and there are areas on 220<sup>th</sup> Street Southwest where parking is not allowed. Therefore, staff's theory that the impacts would be less on arterial and collector streets that have higher functional classifications is illogical because there is an inverse relationship between land use and mobility. The higher the functional classification, the less likely there will be adequate on-street parking space to serve a home occupation. Since the home occupation code is enforced on a complaint basis, she suggested it would be appropriate to provide a qualitative measure that speaks about impacts to the residential neighborhood quality and addresses what actually occurs in the City. For example, to maintain a neighborhood quality, no more than two on-site vehicles at a time may visit the home occupation during business hours.

Mr. Chave explained that qualitative standards are difficult to implement because there is no consistency and predictability. The City cannot tell someone that a home occupation is acceptable in one neighborhood and not another. Some residents may feel a home occupation fits into the neighborhood and some will not. The notion of limiting visitors to one per hour for home occupations is intended to keep traffic volumes commiserate with what is expected for a single-family residence (10 trips per day). Because there is already more traffic on collector and arterial streets than typical neighborhood streets, staff believes it would be appropriate to allow one visitor and one employee per hour without requiring an administrative conditional use permit. He summarized that the issue is less about available parking and more about traffic and the overall level of activity. He noted that a home occupation would be required to provide three off-street parking spaces regardless of the type of street it is located on.

Board Member Johnson observed that allowing one visitor per hour could potentially triple the number of trips per day for a single-family residence. From her personal experience, she believes that some types of home occupations, such as a piano teacher, would not create significant impacts, even if located on cul-de-sacs. She reminded the Commission that the City's intent is to encourage and promote home occupations.

Board Member Clarke observed that it is challenging to have flexible codes that recognize different social and economic trends. Originally, the City consisted of the urban downtown core, with the occasional merchant living above his/her shop. This morphed into suburbia where residential neighborhoods were developed outside of the urban areas. The single-family

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neighborhoods were designed for residential uses and did not allow business uses. In many cases, the infrastructure is very residential in character and designed to be residential friendly to allow children to play risk free, etc. Residential development on arterial and/or collector streets is a different type of arrangement and these property owners recognize that the volume and speed of traffic is much different.

Board Member Clarke observed that residential neighborhoods have changed in recent years. It is not uncommon for electricians, plumbers, etc. to park their vehicles in residential neighborhoods. They either work from an office in their home, or they bring their vehicles home after work. He has also observed situations where truck drivers actually park their rigs in residential neighborhoods. Ms. Coccia emphasized that large trucks are not permitted to park in residential neighborhoods. Trucks that are under 20,000 pound gross weight are allowed. A conditional use permit would be required for a home occupation to park larger vehicles. Board Member Clarke agreed but noted that the code is only enforced on a complaint basis. He suggested that the weight of a vehicle has no relationship to its nuisance value. He noted that the impacts are the same whether a person works out of their home and commutes to various jobs or works from a different location and brings the vehicle home in the evenings. Therefore, the standards should be consistent for both types of uses. As proposed, only an electrician who works out of his/her home would be required to obtain a business license. Ms. Coccia pointed out that a business license is required for all home occupations. Board Member Clarke agreed but noted that is the only distinguishing factor between the two uses. The nuisance or size of the vehicle would likely be the same in both cases.

Board Member Clarke also referred to a situation where a single-family property owner works on cars as a commercial enterprise. Ms. Coccia noted that this would not meet the criteria for a home occupation unless the activity takes place within an enclosed structure. Mr. Chave explained that an individual would be allowed to work on a car on his property without obtaining a business license, as long as he/she does not accept payment for the work. If they receive payment for their work, a business license would be required. He agreed that the impact to the neighborhood would be the same in both situations.

Board Member Clarke expressed his belief that a subdivision with only one way in and out and with no clear street pattern is not really appropriate for commercial vehicles. Sometimes even mail carriers have difficulty getting through because there is no parking available on the streets. When there are open ditches, narrow streets, and very little on-street parking, it will be a real challenge for commercial vehicles to safely maneuver. He referred to the Capital Hill and Green Lake neighborhoods in Seattle where it is difficult to drive a car through much less park on the street because many of the single-family residential structures are now rented out to numerous individuals. He concluded that the home occupation standards must be balanced with what is going on in the community.

Vice Chair Reed recalled the Board's previous discussion about the nuisance regulations, which is a separate set of regulations that deal with some of the issues raised by Board Member Clarke regarding parking and how many people can live in a single-family residential unit. The nuisance ordinance is enforced on a complaint basis.

Chair Lovell said Board Member Clarke's point is well taken that there is a delicate balance between the rights of an individual private property owner and mitigating impacts of certain uses on the surrounding property owners. Mr. Chave said this issue is one reason staff introduced the idea of allowing home occupations on arterial and collector streets to have one employee without requiring a conditional use permit. He referred to Section 20.20.010.B.7, which states that three on-site parking spaces must be provided if visits to the site are made by either an off-site employee or customer. The standard off-site parking requirement for single-family residential development is two spaces per unit.

Ms. Coccia noted the Board's discussion has focused on how the amendments would be applied in single-family zones, but they should keep in mind that, as proposed, the home occupation section would also apply in multi-family zones.

**Michelle Noble, Edmonds**, said she has been a massage therapist for 13 years and moved to Edmonds 1½ years ago, just a few months before her first child was born. Some people can argue that she should have checked the code first, but she assumed she would be allowed to operate a massage business out of her home. Now that she is ready to go back to work, she discovered she would not be allowed to do so unless she obtains a conditional use permit at a cost of \$1,550, which is prohibitive for her family at this time. She said she is glad the Board is considering changes that make home occupations more achievable in Edmonds.

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Ms. Noble referred to Board Member Clarke's earlier comments about how residential and commercial areas have changed over the years. She said the current trend is towards home occupations that allow people to live and work in the same structure. She said she understands that traffic and signage are issues of concern, and that the small town charm of the community should be preserved. However, having the ability to obtain needed services from her neighborhood makes for a rich community. She said she hopes her business can be part of that. She said it would be difficult for her to get back into her business if she has to rent space outside of her home. She noted that she has space to park at least four cars on site, and she anticipates she would see up to five clients, three to four days per week. She suggested that since there is already a process in place for reviewing business licenses, it should not cost significantly more for staff to look at the factors associated with her home occupation and approve a conditional use permit to allow her to serve one customer at a time.

**Dr. Jonathan Bannister, Executive Director, Non-Profit Pacific Northwest Budo Association**, said he is a four-year resident of Edmonds. He stated his full support for the changes proposed by staff related to home occupations. The proposed amendments are a move in the right direction. He also went on record as support the provision that home occupations visitors should be locate don arterial and collector streets. He said he was opposed to home occupation signage in excess of 24" x 48" in single-family residential zones. He said he supports the proposal that home occupations be allowed one customer per hour, but that one additional off-street parking space must be provided. He said he feels the hours of operation should match the noise ordinance restrictions that apply to any other type of activity in single-family residential zones (8 a.m. to 10 p.m.)

Mr. Bannister explained that he has been a Japanese martial and cultural arts instructor for 27 years and has won numerous awards from arts organizations and civic leaders for his efforts to promote the arts and friendship between the people of the United States, Canada and Japan. He said he currently teaches two days a week at the Spartan Center in Shoreline, primarily the peaceful art of Aikido and a non-combative martial discipline of laido (Japanese swordsmanship). He also offers specialty classes in bonsai, Japanese traditional flower arranging, and Japanese brush calligraphy. Up until two years ago, he had a thriving school in Seattle, which graduated 74 black belts and introduced thousands of students to the beautiful traditional culture of Japan. However, he was forced to close his school due to the economic downturn, and he remains only partially employed. He said his students continue to train as best they can in recreation department classes in Shoreline, and they have managed to remain dedicated to their arts. Their small club continues to field artists who win awards and recognition in both national and international events.

Mr. Bannister said he is dedicated to the personal mission of sharing the arts that have given him so much joy with the community. Japanese martial and cultural arts offer wonderful recreational opportunities, as well as fostering a social and civic mission that encourages character development, harmonious cooperation, peaceful conflict resolution, global citizenship, and abiding appreciation for natural and artistic beauty. He said he would like to support his small club of dedicated members by offering private instruction in his home in Edmonds. He explained that the scope of his endeavor would be something akin to that of a music teacher. Individual instruction would be offered at a rate of one person per hour. His home is connected to an arterial street, and they would require no signage. In addition, there is ample off-street parking and the facility is modern and up to code. Also, the formal cultural arts are practiced in relative silence, and he can foresee no negative impacts to the neighborhood.

Mr. Bannister summarized that he is eager to bring his life-long experience in Japanese cultural arts to Edmonds in the form of a home occupation. He attempted to apply for a Type III-B Conditional Use Permit last year, but he was advised that the application would cost \$1,500. Because their club is a non-profit that has been starved nearly to death during the recessions, they do not have the resources to put in to the application process. Cultural arts education is not able to command high rates for instructional services. With their limited student base, it would take nearly a year to recoup such an expense. He said he wants to obtain the property permits, and he strongly supports the proposal to offer Type II administration conditional use permits to small home occupations such as he envisions. The \$585 cost would be more manageable and would allow them to recoup the investment in a few months.

THE PUBLIC PORTION OF THE HEARING WAS CLOSED.

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Vice Chair Reed recalled that the Board has discussed the proposed amendments on two previous occasions, and they received good input from the public. He expressed his belief that the Board should be able to formulate a recommendation to the City Council at the conclusion of their discussion unless they want to make significant changes.

Chair Lovell complimented staff for doing a good job of preparing draft language for the public hearing. He suggested the Board forward a recommendation of adoption to the City Council, with the recommendation that they consider reducing the fee for an administrative conditional use permit to \$200. This would be similar to the fee charged by other jurisdictions for similar types of permits. He expressed his support for the proposed amendments given the economic conditions and the fact that the City is trying to promote home occupations as an element of sustainability.

Board Member Cloutier suggested that before a motion is made to forward the amendments to the City Council, the Board should address the questions raised by staff. He summarized that the Board previously agreed that the language should be consistent as it relates to customers and vehicles. He suggested it would be appropriate to allow one vehicle per hour and then let common sense be the enforcement. The Board agreed that Sections 20.20.010.A.9, 20.20.010.B5, and 20.20.020.C.3 should all be changed to read, "visits from customers in excess of one vehicle per hour."

Vice Chair Reed referred to Board Member Johnson's earlier recommendation and explained that one reason to set limits is to give people an idea of what the City expects. If the City does not have any qualifications, they will be stuck with what they get. Limiting customers to one vehicle per hour communicates to citizens regarding the amount of additional traffic that would be allowed. It provides guidance to people who want to establish home occupations. Board Member Cloutier pointed out that, in the end, code enforcement is complaint driven.

Board Member Johnson said she is not opposed to some quantifiable measures, but those proposed in the draft amendments are not logical and not enforceable. The measures should be more directly tied to the residential nature of the neighborhood. She recommended the language be based more on current reality, which is that the code is enforced on a complaint-driven basis. If a home occupation is found to be incompatible with a neighborhood, people should be invited to contact the City to share their concerns, which could be defined in terms of nuisances or impacts. Unless you can actually measure what you are trying to regulate, it does not seem like a good way to go. Chair Lovell expressed his belief that removing the limit on the number of vehicles per hour would be counterproductive. Board Member Johnson countered that if the City wants to encourage the regulation of home occupations, they should take out this measure and replace it with a measurable standard that is fair and can be applied consistently and equally. Chair Lovell observed that if the language does not specifically limit the number of vehicles per hour, the City would not have the ability to address complaints they receive about a home occupation creating too much traffic.

Board Member Johnson recalled that Mr. Thies previously indicated that the majority of complaints the City receives regarding home occupations are related to contractors and landscapers who have employees that tend to congregate at the start of the work day. He also discussed that homeowners could have Tupperware parties out of their homes, but they cannot be distributors unless they obtain a business license. She referred to Section 20.20.020.C, which lists the types of uses they want to avoid. She suggested that this section could be used as a basis for determining the appropriateness of a home occupation permit.

Chair Lovell shared his belief that limiting customers to one vehicle per hour would set a reasonable benchmark for measurement. If the City does not have something to measure against, staff will not have clear direction as to what they are trying to create. He noted that Section 20.20.020.C is a list of reasons for denial, and he presumes that this same list could be used as a basis for revoking a home occupation permit. However, he felt it would be unreasonable to allow a neighboring property owner to cite Item C.3 (more than one vehicle per hour) as a reason to revoke a permit just because occasionally the vehicles coming to the business overlap. Board Member Johnson said that, currently, the code does not allow a home occupation to have any vehicles, customers or employees associated. This is too strict, and the current proposal should be revised to address complaints the City receives most frequently.

Board Member Stewart summarized that Board Member Johnson is suggesting a subjective approach related to residential quality. The problem with that approach is that everyone has a different perception of quality and what they want to occur

on their neighborhood street. It is important to have guidelines to serve as a benchmark so staff can base their ruling on the code requirements.

Board Member Clarke suggested the issue is not as simple as the proposed amendments make it seem. The home occupation regulations apply to both single-family and multi-family residential zones, and some condominium and neighborhood associations have private covenants that prohibit business uses. People who purchase homes in these developments have an expectation that the covenants will be enforced. He expressed concern about allowing certain types of uses in all residential zones, when they are specifically prohibited by some neighborhood covenants. Mr. Chave agreed that some private covenants run counter to what the City's code allows, but this is not something the City can regulate. The City does not enforce private covenants.

Board Member Clarke also expressed concern that if home occupations are allowed in multi-family residential zones, there could be, in theory, home occupations in most or all of the condominiums in a development. Mr. Chave agreed that would be true as per the current proposal. He advised that the Board could decide that the rules for home occupations in multi-family residential zones should be different than those for single-family residential zones. For example, because a higher density is already allowed and traffic is more significant, they could restrict home occupations in the multi-family residential zones from having customers.

Ms. Coccia requested the Board consider the following points as they continue their discussion:

- Is it necessary to allow both customers and employees outright, and what are the differences between these two types of visitors? She recommended the Board include the provision that allows employees or customer visits outright if a home occupation is located on an arterial or collector street. This provision was not included in the current proposal because it had not yet been discussed by the Board.
- What is the importance of signage to the business owner and the impacts to the neighbors? The current code does not allow commercial signage in single-family residential zones without a conditional use permit. Perhaps commercial signs should be prohibited in order to maintain the residential character of the neighborhood. Mr. Chave recalled that, at their last meeting, the Board discussed that it would be appropriate to allow commercial signage for home occupations, as long as it is no greater than 4 square feet in size. This would be consistent with the size of residential signage already allowed by code in single-family residential zones. Ms. Coccia noted that this concept was incorporated into the draft proposal.
- If the Board is unhappy with the threshold proposed by staff (arterial and collector streets), they could require an administrative conditional use permit for all home occupations. If this were the case, staff would review all home occupation permit applications. Those that would not have employees or customers would be approved outright.

Board Member Clarke said he is concerned about allowing wall signs in single-family residential zones. He also asked if the code would allow the signs to be illuminated. Mr. Chave explained that the current code requires a conditional use permit for commercial signs in single-family residential zones, and the content is limited to business identification. The single-family residential zone allows residential signage of up to four square feet in size and the content is not regulated. Board Member Stewart expressed her belief that it is not in keeping with the character of the residential neighborhood to allow commercial signage. She expressed her belief that signage would not really be necessary in a residential community.

Vice Chair Reed pointed out that the words "conditional use permit" should be deleted from the first sentence of Section 20.20.020.C. Mr. Chave agreed.

Board Member Johnson asked staff to explain the fee associated with a business license to operate an artist studio or urban farm as a home occupation. Ms. Coccia answered that an applicant would apply for a business license, which has an associated fee of \$100. The home occupation permit request would be reviewed by staff as part of the business license process. If an application meets all of the criteria in Section 20.20.010.A, staff would approve the permit without a conditional use permit. The total cost of the permit would be \$100. If an application does not meet the criteria in Section 20.20.010.A, an administrative conditional use permit would be required at a cost of \$585.

Board Member Cloutier voiced his belief that it would be appropriate to allow home occupations to have one employee, regardless of whether it is located on an arterial/collector street or not. He felt it would be no different than having someone

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visit a single-family home. He also said he is comfortable that staff's proposal to allow one customer per hour without a conditional use permit if the home occupation is located on an arterial or collector street would adequately address traffic issues. He suggested that Section 20.20.010.A.6 be changed to read, "Does not include more than one employee outside of the family members residing at the residence." To address the Board's concern about the definition of "family," Mr. Chave advised that the code defines "family" as "related individuals or up to five unrelated individuals." He noted that this definition is based on the Federal Fair Housing Law requirements.

Board Member Johnson said she does not want to tie the "one customer per hour" provision to the type of street it is located on. She shared her experience with an artist studio that is located off Talbot Road. The owner has a long driveway and sufficient parking space to accommodate customers without impacting the neighbors. Board Member Cloutier pointed out that, as proposed, art studios and urban farmers would be allowed one customer per hour regardless of location.

Board Member Johnson suggested the Board eliminate Section 20.20.010.A.9, which requires an administrative conditional use permit for home occupations with customers that are not located on arterial or collector streets. She reminded the Board of their desire to encourage home-based businesses, and having a lower fee would be a step in the right direction. The remainder of the Board concurred.

Board Member Cloutier suggested that small commercial signs be allowed for home occupations because he felt traffic would be reduced if people could easily locate their destination without having to circle back around. He felt that a limitation of 4 square feet in size would be sufficient to identify a business. He recommended the word "wall" be removed from the first sentence in Section 20.20.020.B to read. The majority of the Board concurred. Mr. Chave advised that he would double check the code to make sure illuminated signs are prohibited in residential zones.

Board Member Cloutier noted that the Board previously agreed to change the threshold for requiring a conditional use permit. Therefore, staff's third question is no longer an issue. Home occupation applications that do not meet the criteria in Section 20.20.010.A (as modified) will be required to obtain an administrative conditional use permit, which would provide an opportunity for public input regarding the application.

Board Member Clarke recalled staff's earlier request for direction regarding temporary structures associated with home occupations. Ms. Coccia said her comments were related to an urban farmer type of home occupation, in which the business owner sets up a small stand to sell items they produce on site. Mr. Chave pointed out that permits would not be required for temporary stands, and they would not have to meet the setback requirements. However, they would have to be taken down each night. He noted that these standards are found in the "temporary structure" section of the code. Permanent structures would only be allowed if the structure can meet all of the requirements of the zone.

**VICE CHAIR REED MOVED THAT THE BOARD FORWARD THE PROPOSED AMENDMENTS TO ECDC 20.20 (HOME OCCUPATIONS) TO THE CITY COUNCIL AS REVISED WITH A RECOMMENDATION OF APPROVAL. BOARD MEMBER CLOUTIER SECONDED THE MOTION.**

Board Member Johnson recalled that when the Board initially discussed the proposed amendments, they talked about several exceptions to the rule, one being the annual artist tour and art sales that result in more than one customer per hour. She asked what the City's positions would be on these types of events. Ms. Coccia noted that these uses are temporary and sponsors do not typically apply for a business license. Therefore, the City does not regulate the uses. Chair Lovell agreed that these types of events would not be construed as home occupations. Instead, they would be one-time events.

**THE MOTION CARRIED UNANIMOUSLY.**

Chair Lovell recommended the Board forward a recommendation to the City Council asking them to consider reducing the administrative conditional use permit fee, which is currently set at \$585. Mr. Chave explained that fees are set at an amount that allows the City to recover their administrative costs. A Hearing Examiner process is more costly than a staff decision, but there is a cost associated with staff decisions, as well.

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**CONTINUED DISCUSSION ON PROPOSED AMENDMENTS TO ECDC 18.05 AND 20.50 CLARIFYING DEFINITIONS AND PROCESSES FOR REGULATION OF WIRELESS TELECOMMUNICATION FACILITIES (FILE NUMBER AMD20100004)**

Mr. Clugston reviewed that the Board has been working on this project since April 2010 and has held multiple meetings on the topic, the most recent being October 13<sup>th</sup>. He reminded the Board that the initial goal was to provide some additional criteria for siting and visual impact. However, it later became apparent that the current regulations were largely outdated and a new starting point was needed. As part of this process, a new framework was offered by Rich Busch, Attorney and President of the Northwest Wireless Association (Attachment 2), which encourages co-location of wireless facilities on existing structures and buildings as the first siting option and steps through different siting options with the last option being the installation of a new monopole, if allowed in the zone. The Board also discussed additional design standards for facilities including antennas, coax cables and conduit, and equipment cabinets. He referred the Board to the new draft language (Attachment 3), which attempts to incorporate the new ideas into the work already done by the Board. He briefly reviewed the new sections (20.50.090, 20.50.100 and 20.50.110) that were added to provide standards for building-mounted, structure-mounted and ground-mounted facilities. A new section was also added (20.50.040) to specifically describe things the City does not want to allow in any zone such as guyed and lattice towers. In addition, monopoles would not be allowed in residential zones, within rights-of-way, in public and open space zones, or in the Downtown Waterfront Activity Center.

Chair Lovell referred to a recent article published in *THE EDMONDS BEACON* and *THE ENTERPRISE* lambasting the City Council and Planning Board for the monstrous wireless facilities that were put up recently in the City. He said his understanding is that these structures were installed by licensed professionals who submitted design plans to the City for approval, and City staff reviewed the applications based on the current code provisions. The City did not have the ability to deny the structures because engineering standards dictate that they are required in order to provide adequate coverage. He summarized that other than being able to ameliorate the public by providing for enough advance notice and an opportunity for public input about the impacts of the installation alternatives, there is not a lot the City can do. He noted the articles indicate there is no process in the City that could have prevented the two installations from occurring. Mr. Clugston clarified that the City has had wireless facility regulations in place since 1996, and the two proposals in question received permits based on the current code. He reminded the Board that the goal is to simplify the process, make the standards more understandable, bring the standards up to date with current technology, and provide an opportunity for public input. The best they can hope for is to minimize the impacts.

Mr. Chave explained that while the City can choose the options that are available, they cannot structure the code in such a way that it eliminates a provider's ability to install facilities to provide needed service within the City. He recalled that, historically, the City decided they did not want monopoles in single-family residential neighborhoods, and that is why they allow small installations on existing utility poles. However, this type of installation often requires a slight extension of the existing pole in order to provide adequate separation. The code was amended previously to clarify that utility pole installations need to resemble the previous poles, and this requirement is further clarified in the language proposed by staff. Mr. Clugston added that that integrating requirements for utility pole retrofits will require additional work with the Engineering division. There are specific permitting and licensing requirements for right-of-way work that need to be addressed. This work will appear in a future draft.

Vice Chair Reed summarized that the Board's goal is to minimize the impacts in residential neighborhoods, acknowledging there are some facilities that cannot be eliminated. It is important to help the public understand the City's limitations.

Board Member Clarke also referred to the letters submitted to the local newspapers regarding two recent wireless facility projects. He asked if the two facilities that are the subject of the articles would be permitted based on the new proposed language. Mr. Clugston said there is no proposal to change how the City deals with these types of projects. He reminded the Board that a previous amendment provided clarification of the requirement that the new poles must resemble the previous poles. They can be slightly taller, but they must look similar. Chair Lovell added that the City does not have the ability to prohibit these types of facilities, but they can minimize their impacts. Board Member Clarke summarized that the letters indicate inaction on the part of the Board and City Council, and that the Board is listening to the commercial community and not the citizens, which is not the case. He said it is important to make it clear that the City cannot prohibit what was built in these two locations now or in the future. These uses are allowed by Federal law. Chair Lovell noted that, as per the

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proposed new language, the two projects would have at least required a more laborious public process. The applicants would have had to prove that their proposals offered the only viable solutions. If that is found to be the case, the best the City can do is lessen the impacts to the neighborhood as much as possible. Mr. Chave recalled Mr. Busch's earlier statement that the wireless providers would like the City to be more lenient than what is currently being proposed. Therefore, it is fair to say that the Board is not going as far as the industry would like them to.

Mr. Clugston specifically invited the Board to provide feedback on the following:

- The current code allows for whip antennas to exceed height by 6 and 15 feet, regardless of whether they are on a conforming or nonconforming building. Should antennas attached to buildings be allowed extra height above the maximum height of the zone? If so, how much? Should the same apply to nonconforming buildings? Should only whip antennas be allowed the exemption and not panel or dish antennas? What about a "top hat" installation like at 546 Alder Street?
- Should building mounted antennas be camouflaged with screening or simply painted to match or some combination depending on whether the antenna is flush-mounted to a wall or placed on top of a building? If extra height is allowed, should the facility be camouflaged with a structure or painted to match the background on which it will be viewed?

Board Member Johnson said that her answers to the above questions would depend on other factors. She expressed her belief that the Harbor Building's rooftop antennas at the corner of 2<sup>nd</sup> Avenue South and Main Street are unsightly. When she visited the various wireless facility sites, the layperson criteria seemed to be whether or not the facility could be seen. Mr. Clugston agreed that the goal is to get roof-mounted equipment out of the view of the pedestrian, but his first question is more related to height. Board Member Johnson observed that the higher the building, the less visible the antenna will be from the street. Mr. Chave noted that the downtown area is an exception to this rule.

Board Member Stewart expressed her belief that antennas attached to the side of a building tend to be less noticeable because they can be camouflaged. Putting them on top of buildings on the hillside and in the downtown can be problematic, unless they are very thin. Mr. Clugston referred to the three whip antennas that are currently located on top of the building at 546 Alder and noted that from a short distance back, all three are visible, as is the top hat enclosure, but from a further distance, they are not as noticeable.

Board Member Cloutier said it would be helpful to know the height needed to meet industry standards. For example, it would be pointless to have a City standard that only allows roof antennas to be six feet in height when the industry standard requires a greater height. He said it would also be helpful to identify the risks and benefits of allowing one large antenna versus numerous smaller antennas. Mr. Clugston said he does not anticipate the providers would be able to give him a clear cut answer to these questions because technology changes quickly. He agreed to research ordinances from other jurisdictions to see how they address these issues.

Board Member Clarke asked if providers are required by code to remove facilities that are functionally obsolete. Mr. Clugston answered that the current code has language about discontinuance of use, and the proposed new language expands upon this concept.

The Board agreed to review the draft documents and prepare for a continued discussion on January 12<sup>th</sup>.

### **PLANNING BOARD GUIDELINES**

Mr. Chave suggested that before the Board takes action to formally adopt the Planning Guidelines, they should be reviewed and updated. He invited the Board Members to provide feedback, and staff would provide an updated draft for their consideration in early 2011.

### **PLANNING BOARD STUDENT REPRESENTATIVE**

Chair Lovell referred the Board Members to the draft information letter, guidelines and application that were prepared by the subcommittee (Chair Lovell and Board Member Stewart). Board Member Stewart advised that the guidelines came from the

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American Planning Association, and they are used in similar student representative programs throughout the United States. She noted that, as proposed, applicants must be between 16 and 25 years of age and live in Edmonds. They would be required to have some course work in social studies or United States history or the equivalent, and they must be available to attend meetings on the 2<sup>nd</sup> and 4<sup>th</sup> Wednesdays of each month. Their function would be to read and study materials, research issues, and prepare to provide comments during Planning Board Meetings. The student representatives would not be voting members of the Board, and the subcommittee is recommending the term be one academic year. Mr. Chave suggested that students not be invited to participate in quasi-judicial processes since they would not have specific training on how to deal with ex parte communications.

Ms. Stewart referred to the proposed application form, which is similar to the Planning Board Member application. She noted that the application would require references and finalists would likely be interviewed by the Planning Board. Board Member Clarke suggested, and the remainder of the Board concurred, that the students should be invited to write a short essay about why they want to serve on the Planning Board and why they believe they are qualified. Board Member Stewart reported that she contacted people at both Edmonds Woodway High School and Meadowdale High School regarding this opportunity, and the response was overwhelmingly positive. They indicated they have high-qualified individuals who would likely be interested in the opportunity. She advised that the City Council's process for selecting a student representative is less formal than what the subcommittee is proposing. The program would provide many benefits to both the students and the Board Members. She concluded that there are interested students waiting to apply, and she hopes the Board can select a candidate by the end of December.

The Board discussed whether the program should be available to both high school and college-age students. While Board Member Stewart said she has not contacted the community colleges at this point, the Board agreed it should be available to both age groups. Board Member Stewart suggested that in order to select a representative by the end of the year, they should focus on the high school students at this time. The program could be expanded in the future to include other groups (community colleges, home school students, etc.).

The Board accepted the proposed application and guidelines and directed the subcommittee to move forward with the selection process. They agreed the term should be one academic year starting in September. However, they agreed to start January 1<sup>st</sup> rather than waiting until the new academic year. Board Member Stewart agreed to formalize the application and guidelines and forward them to the two high schools. Chair Lovell agreed to contact the City Council President to learn more about the City Council's process for selecting student representatives. A subcommittee (Board Member Stewart and Vice Chair Reed) was formed to review the applications and narrow them down to a few students to be interviewed. The subcommittee would also solicit recommendations from the high school representatives, and Mr. Chave reminded them to emphasize the residency requirement. The Board continued to discuss the process for making their final decision, and Mr. Chave cautioned them not to make the process too elaborate or difficult. They agreed to discuss the process further at their next meeting.

### **PLANNING BOARD VACANCIES**

Mr. Chave reported that both of the applicants who were scheduled to be interviewed by the City Council on November 16<sup>th</sup> withdrew their applications. The positions must be advertised again. Chair Lovell emphasized that the Planning Board Guidelines need to be updated to clearly define the term "quorum," particularly during times when there are a limited number of Board Members.

### **REVIEW OF EXTENDED AGENDA**

Mr. Chave reminded the Board that they would elect new Planning Board officers at their December 9<sup>th</sup> meeting. He agreed to check on term expirations, as well.

**BOARD MEMBER CLOUTIER MOVED THE BOARD ELECT 2011 OFFICERS NOW. BOARD MEMBER CLARKE SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.**

### **ELECTION OF PLANNING BOARD OFFICERS**

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**BOARD MEMBER REED NOMINATED BOARD MEMBER LOVELL AS 2011 CHAIR OF THE PLANNING BOARD. BOARD MEMBER CLOUTIER SECONDED THE NOMINATION. THERE WRE NO OTHER NOMINATIONS SO NOMINATIONS WERE CLOSED. THE BOARD UNANIMOUSLY ELECTED BOARD MEMBER LOVELL AS CHAIR OF THE PLANNING BOARD FOR 2011 (BOARD MEMBER LOVELL ABSTAINED).**

**BOARD MEMBER CLOUTIER NOMINATED BOARD MEMBER REED AS 2011 VICE CHAIR OF THE PLANNING BOARD. BOARD MEMBER JOHNSON SECONDED THE NOMINATION. THERE WERE NO OTHER NOMINATIONS SO NOMINATIONS WERE CLOSED. THE BOARD UNANIMOUSLY ELECTED BOARD MEMBER REED AS VICE CHAIR OF THE PLANNING BOARD FOR 2011 (BOARD MEMBER REED ABSTAINED).**

The Board agreed to review and update the Planning Board guidelines at their fist meeting in January. Staff agreed to research the issue of quorum and provide additional guidance. Mr. Chave invited Board Members to email their comments to staff.

#### **PLANNING BOARD CHAIR COMMENTS**

Chair Lovell did not have any items to report during this portion of the meeting.

#### **PLANNING BOARD MEMBER COMMENTS**

Board Member Stewart distributed a flyer announcing the panel discussion, “Go Green Edmonds: Promoting Sustainability Through Green Building and Green Practices on Wednesday, November 17<sup>th</sup>, from 1:10 to 8:15 p.m. in the Brackett Room of Edmonds City Hall. All Board Members are invited to attend the event, which will follow the regular Edmonds Citizens Economic Development Commission Meeting. The conversation is designed to stimulate the ecology and economy of Edmonds. The following four panelists have been invited to participate:

- Nick Harrwich, Green Building and Smart Growth Manger for Sustainable Connections in Bellingham, LEED AP, CSBA
- Patti Southard, King County “Green Tools” Program Director and Creative Director for EcoConsumer Program
- Yvonne Kraus, O’Brien & Company, Project Manager, LEED AP CSBA
- Cate O’dahl, Editor and Special Publication Services, Education and Outreach

Board Member Clarke thanked his fellow Board Members and staff for making his experience on the Board over the past year enjoyable. He said he appreciates the opportunity to serve the community and learn from his fellow Board Members. He said he is thankful to be part of the Edmonds community.

#### **ADJOURNMENT**

The Board meeting was adjourned at 9:54 p.m.

**APPROVED**