

APPROVED JANUARY 28th

**CITY OF EDMONDS
PLANNING BOARD MINUTES**

January 14, 2009

Chair Bowman 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

Michael Bowman, Chair
Cary Guenther
Judith Works
Jim Young
John Reed

STAFF PRESENT

Rob Chave, Planning Division Manager
Duane Bowman, Development Services Director
Karin Noyes, Recorder

BOARD MEMBERS ABSENT

Phillip Lovell, Vice Chair

READING/APPROVAL OF MINUTES

BOARD MEMBER WORKS MOVED THAT THE MINUTES OF DECEMBER 10, 2008 BE APPROVED AS PRESENTED. BOARD MEMBER YOUNG SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY. WITH BOARD MEMBER REED ABSTAINING.

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.

ADMINISTRATIVE REPORTS

Mr. Chave reported that Mayor Haakenson is in the process of interviewing candidates for the two vacant Planning Board positions. However, he is not sure when his recommendation would be presented to the City Council for confirmation. Mr. Bowman announced that the City Council would complete their interviews of candidates for the vacant City Council position on January 17th. They are scheduled to make a decision on January 20th.

DISCUSSION ON INTERIM ORDINANCE DEALING WITH SHORT-TERM RENTALS IN SINGLE-FAMILY ZONES

Mr. Bowman explained that the City recently ran into an issue where a property owner was renting out a large house in a single-family residential neighborhood for parties, conferences, and weddings on a daily, weekly or monthly basis. Problems with noise, parking and traffic have been associated with this use, and neighbors have contacted the City on numerous occasions requesting that enforcement action be taken. The issue was turned over to staff, who determined there was no code language or standards to deal with short-term rental situations. As a result, an interim zoning ordinance was presented to the

Community Services/Development Services (CS/DS) Committee of the City Council for review, and the committee forwarded the document to the City Council for discussion. He advised that the CS/DS Committee also requested staff to do research to see if the proposed ordinance would impact other properties. In their research, staff found four vacation rental homes in Edmonds. They are located in the downtown area and typically rent for a week at a time.

Mr. Bowman said the City Council adopted Interim Zoning Ordinance 3702 and set a public hearing date of December 16th. The adopted interim ordinance set a minimum rental standard of seven days. He reported that at the December 16th public hearing, the City Council not only received public input from neighbors living near the large house in question who supported the 7-day minimum requirement, but also from others who were seeking to increase the minimum number of days for short-term rentals. For example, an owner of a tri-plex on Sunset Avenue indicated that he rents his units out on a vacation website and would like to continue the use.

Mr. Bowman pointed out that, typically, rental homes in single-family residential neighborhoods are leased on a 6 or 12-month lease basis, and sometimes on a month-to-month basis. This is what most people who purchase homes in single-family neighborhoods expect. Concern was expressed that allowing rental homes in single-family neighborhoods to be leased on a short-term basis could result in the neighborhood becoming a type of "hotel district." While the City Council adopted an interim ordinance calling for a 7-day minimum, they forwarded the issue to the Planning Board for further review and a recommendation of what standards, if any, should be permanently adopted.

Mr. Bowman reported that City Council Member Bernheim provided examples of other cities on the east coast, primarily resort areas, that allow homes in single-family neighborhoods to be rented out on a short-term basis. For example, Kitty Hawk is a community consisting mostly of large rental houses that people lease by the week or month. He noted that while their zoning regulations actually prohibit the use, it continues because it is so prevalent and no one has raised an issue. The town of Bar Harbor has developed a very convoluted process of registering the units, and owners are required to obtain a license before leasing their property on a short-term basis. Their ordinance also bans short-term rentals in some neighborhoods.

Mr. Bowman referred to the court case that was forwarded by Board Member Reed to staff and the City Attorney. He cautioned that this case would not really be applicable to the current discussion because it dealt with private, restrictive covenants, which are enforced differently than City ordinances. He explained that the case was related to a single-family development on San Juan Island, which had covenants that restricted the use to residential. When a property owner started renting his property out on a short-term basis, another party to the covenants brought enforcement action against him. Although the rental property owner had obtained a conditional use permit to allow the use, a lawsuit was filed against him by the other homeowner. The original Superior Court decision was that short-term rental should not be allowed because it is a commercial rather than a residential use. However, the Appellate Court determined that even though the property was being rented on a short-term basis, it was still considered a residential use. Furthermore, the court determined that the covenants were not specific enough. As a result, much of the record regarding the intent of the original covenants was thrown out.

Mr. Chave summarized that in the San Juan Island court case, the court concluded that the covenants, themselves, did not draw a bright line between residential and commercial uses. The homeowners' association adopted a policy to define this difference, but the court determined that as long as the property was used for residential purposes, the length of the lease did not really matter. He said this same situation applied to the City of Edmonds prior to adoption of the interim ordinance. The original code did not define when a rental situation would be considered a business rather than a residential use. Mr. Bowman agreed to forward a copy of this court case to each of the Board Members.

Mr. Bowman explained that when staff first looked at the issue, they determined that while the City cannot prohibit property owners from renting their single-family residential properties, they could regulate the commercial uses that are allowed to occur. However, the City did not have any standards to apply to short-term rental situations. The interim ordinance gives the City some control until they figure out what they want to do on a long-term basis.

Chair Bowman said he often goes on vacation with other families, and they typically rent a large home in a residential neighborhood. Issues related to noise, parking, and traffic are taken care of by the city's zoning ordinance. He said he does not believe short-term rentals would become an issue as long as there are adequate regulations in place. Mr. Bowman

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suggested that residents of single-family neighborhoods would argue that they purchased homes in a single-family zone, and that is the type of use they expect to occur. Chair Bowman inquired if the City can legally prohibit a property owner from renting out his property on a short-term basis. Mr. Bowman answered affirmatively and added that the City also has the ability to allow short-term rentals in some areas of the City but not others.

Board Member Young pointed out that the examples provided by City Council Member Bernheim represent communities that rely on short-term rental situations as a mainstay of their economy, which is not the case for Edmonds. He expressed his belief that people who purchase homes in single-family neighborhoods have an expectation that they will have some kind of relationship or at least familiarity with the people who live on either side. He said he believes that allowing short-term rentals to occur in single-family residential neighborhoods could have a significant negative impact on the surrounding property owners. He said Ocean Shores does not allow short-term rentals in single-family neighborhoods because they want to fill up the hotels and preserve their residential areas. He pointed out that the City receives revenue from the hotel/motel tax, but property owners who rent their homes on a short-term basis are not required to pay this tax.

Board Member Works asked if rooming houses are allowed in single-family residential neighborhoods. Mr. Bowman answered that a single-family residential property owner can rent a home to five unrelated people, and this would be considered a family based on the City's current definition. But there can only be one kitchen area. He emphasized that the interim ordinance did not change this provision. The intent of the ordinance was to set a minimum rental time.

Chair Bowman expressed concern that the issue was raised because of one bad situation, but the use has occurred in the City on a regular basis for quite some time. However, unless someone complains to the City, no enforcement action would be taken. He summarized that the purpose of the interim ordinance was to provide City staff with a mechanism for enforcing situations when complaints are issued.

Board Member Guenther suggested that the length of the lease term is the basic focus of the interim ordinance, not whether or not the use is residential or commercial. He said that for most of Edmonds, a 30-day minimum lease term would be appropriate. However, he would like to consider the option of allowing short-term leases to occur in some areas of the City. Mr. Bowman agreed that the Board could identify areas of the City where short-term rentals would be appropriate and should be allowed, particularly in the downtown and waterfront areas. Board Member Works expressed her belief that short-term rentals would be a more appropriate activity for multi-family zones, not single-family zones. Perhaps the City could even encourage developers to construct condominiums for vacation rentals that could be managed more as a business.

Board Member Young recalled that the Board previously discussed provisions for allowing people to conduct business in single-family zones (home business chapter of the Development Code). He reminded the Board that the City established a policy to discourage commercial situations in single-family neighborhoods where cars come and go on a regular basis. It was determined that home businesses would be compatible with single-family neighborhoods as long as they did not result in customers and traffic. He suggested this same type of policy be applied to short-term rental uses. He pointed out that people who are using a home for recreational purposes tend to come and go on a much more frequent basis than someone who is living in the home on a permanent basis. He expressed his belief that a 30-day minimum lease time would be consistent with the City's other policies related to single-family zones. However, he agreed the situation might be different in some of the City's multi-family zones.

Mr. Chave suggested the Board also consider whether time shares and/or house exchanges should be handled differently. He noted that, in these situations, people do not actually pay rent to use the house. They are considered guests. Board Member Young clarified that this is not really the issue before the Board. From the testimony provided in the packet, the public is concerned about how short-term rental uses impact single-family residential neighborhoods. Mr. Chave pointed out that the neighborhoods' concerns were actually related to the business or commercial aspect of the short-term rental situation. Mr. Bowman pointed out that the City did have the ability to stop commercial activities such as conventions, weddings, etc. However, the property owner continues to rent the unit on a short-term basis, and the situation often develops into a party of some type. While the Police Department can control issues related to noise, the City did not have the ability to restrict short-term rentals until the interim ordinance was adopted.

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Board Member Reed asked if the City received any complaints associated with short-term rental situations prior to the recent situation. Mr. Bowman answered that he is not aware of any complaints. Board Member Reed asked staff to share information about the types of business and commercial uses that are allowed to occur in single-family residential zones. Mr. Bowman answered that the City allows home occupations, which requires the person to own or rent and live in the home. A range of activities would be allowed as long as they take place within an enclosed building. The uses are regulated via the business license requirement. Board Member Reed inquired if bed and breakfast uses are allowed in single-family residential zones. Mr. Bowman answered that they are not allowed, but property owners can rent rooms to boarders.

Board Member Reed suggested that requiring a minimum 30-day lease may be too restrictive. As long as people are not bothering others by renting their homes on a short-term basis, it should be allowed to occur. Mr. Bowman pointed out that if the City does not have an ordinance in place, they would not be able to enforce situations when complaints are filed.

Board Member Works expressed her belief that if a home is rented out on a weekly basis, it should be considered a business and should not be allowed to occur in single-family zones where there is an expectation of privacy without a lot of traffic. Short-term rental situations could become intrusive in single-family zones. However, she once again stated that it would be appropriate to allow this type of use to occur in multi-family or commercial zones.

Board Member Young suggested the Board focus on dealing with the single-family zones first. He once again reminded the Board that the City has established a policy of maintaining the character of the single-family neighborhoods. He expressed his belief that single-family zones should require a minimum 30-day lease. He pointed out that the City offers hotels and motels for short-term stays. He recognized that unless someone was to complain to the City, the City would not likely know whether or not a house is being used for short-term rentals. However, as a policy, he recommended the City establish a 30-day minimum. Board Member Guenther concurred, but cautioned that a longer lease term would not necessarily guarantee quality renters. Board Member Young agreed, but pointed out that a 30-day minimum lease requirement would grant the City the ability to enforce problem situations as they are reported. Board Member Works pointed out that a 30-day minimum requirement would also be consistent with the City's Comprehensive Plan goals related to preserving single-family residential neighborhoods. On the other hand, it would represent a reasonable time period for property owners who want to rent out their homes.

Board Member Reed inquired if there are alternative ways to control party situations besides requiring a minimum 30-day lease. Mr. Bowman answered that the City already has regulations to deal with noise issues, etc. They also have tools to deal with the issue of commercial use of a residential property. However, if the City allows property owners to rent out their properties on a short-term basis for a residential type use, the City would not be able to adequately address problems situations that come up. Board Member Young expressed his belief that a 30-day minimum requirement would handle the situation because most people do not sign 30-day leases. Instead, they sign 6-month or 12-month leases. On the other hand, the limitation would allow a property owner to rent out a home for a month at a time. The majority of the Board agreed that a 30-day limitation would be the appropriate approach to consider.

Mr. Bowman explained that the next step in the process is to conduct a public hearing on the issue. He suggested the Board advertise the hearing on the proposed zoning regulations related to short-term rentals for February 11, 2009, using a 30-day time frame in the draft language. This would allow the Board to take public testimony and forward a recommendation to the City Council as soon as possible. The Board concurred. Mr. Bowman advised that all members of the public who participated in the public hearing before the City Council or submitted written comments regarding the interim ordinance would be notified of the Planning Board hearing. He said he would also research how time shares and house sharing could be impacted by the proposed ordinance.

Board Member Young observed that the Board has had some good discussion about the possibility of allowing short-term rentals in some areas of the City. However, this is a more complex issue that should be dealt with separately. He suggested that the proposed ordinance should deal with only the single-family zones. Mr. Bowman pointed out that the interim ordinance only applies to single-family zones. He explained that the City must adopt a permanent ordinance within six months of the date the interim ordinance was adopted by the City Council. Therefore, the City Council would like the Board to forward their recommendation as soon as possible.

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UPDATE ON VISION 2040 REGIONAL STRATEGY

Mr. Chave announced that the regional plan, Vision 2040, was adopted by the Puget Sound Regional Council (PSRC) in April of 2008. He explained that the new plan has a longer-range planning horizon than the current plan adopted under the Growth Management Act (GMA), which runs to 2025. He advised that the purpose of the discussion is to update the Board on the implications of the Vision 2040 Plan for Edmonds planning priorities over the next several years. He said the process is to adopt the regional plan and then develop polices that apply to all four counties in the region. Then each county would be required to adopt county-wide policies that are consistent with the regional vision. In Snohomish County, this effort would be under the direction of Snohomish County Tomorrow. He reported that discussions are already underway at the Snohomish County Tomorrow level on how to update the County-wide policies to be consistent with the plan. However, there is some debate within the county about the timelines and process that would be followed.

Mr. Chave pointed out that Edmonds' current Comprehensive Plan was last updated in 2005 and goes out to the year 2025. The new regional plan goes out to 2040, which is a longer horizon and identifies much greater growth for the City to consider. He recommended that the City plan to update their Comprehensive Plan in 2010 and 2011 to be consistent with the regional plan regardless of whether Snohomish County chooses to do the same. He explained that the City plan will need to be consistent with the regional plan since the Regional Planning Authority approves transportation dollars and projects. If the City's plan is not consistent, they would not have access to this funding. In addition, the City should avoid being in a position of having a weak defense if they are challenged regarding consistency with the regional vision.

Mr. Chave said staff would likely recommend the Comprehensive Plan be updated to extend out to at least 2030. However, if there is not a county-wide effort to determine how the various jurisdictions fit within the regional vision, it would be up to the City to figure out where Edmonds fits into the regional strategy. He noted that the Vision 2040 analysis grouped local jurisdictions into various categories, and Edmonds was identified as a "larger city." He noted that while the projected growth may not be a lot different from what Edmonds has experienced, there is an end to the amount of growth Edmonds can accommodate based on their current codes. The City would have to find some additional capacity going forward, which might not be a significant challenge if anticipated challenges occur on Highway 99 to include opportunities for mixed-use development.

Board Member Guenther inquired if the City would be required to rezone some single-family zones to multi-family in order to meet the new growth targets. Mr. Chave answered that this would not necessarily be required. He noted that changes could occur in the neighborhood centers such as Five Corners, Firdale Village, etc. resulting in more capacity for residential development. These changes could lessen the pressure to change existing single-family zones to multi-family elsewhere in the City. He reminded the Board that the City's position has been to increase infill opportunities and capacity within strategic areas so they do not have to allow multi-family development to intrude into the single-family neighborhoods. He said he hopes the City stays with this strategy, which would require them to strategically think about where this growth could go.

Board Member Reed referred to Page 23 of the Vision 2040 document. While the percentage of growth identified for larger cities would be greater than the 2025 numbers, he recalled that the initial numbers that were considered by the PSRC were much larger. Mr. Chave said several options were discussed by the PSRC. In the end, the growth figures for larger cities were tempered as opposed to what some of the options originally indicated.

Chair Bowman asked staff to share information about how the PSRC came up with their projected growth numbers. Mr. Chave explained that the process is very complicated. The Washington State Office of Finance Management does 20-year projections that are used for various things, and the GMA actually ties growth management planning to the State projections. The State numbers are actually accounting numbers and do not give projections for individual jurisdictions. GMA says that counties, as individual entities, must ensure that their cities are able to accommodate a growth that is somewhere in the range identified. He said the PSRC also does projections that are consistent with the State, but the models are different. Their models and estimates are more fine grained and supersede those done by the State. The PSRC's projections are directly tied to transportation planning in order to figure out where growth is going to occur. The City's transportation plan must go out to at least 2030 in order for the City to be eligible for Federal and State transportation funds. He explained that since the GMA was adopted, the PSRC has made a much stronger effort to tie transportation and land use issues together. The

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transportation plan is supposed to support and be consistent with local land use planning. There is regional criteria that ties the dollars to regional planning goals such as emphasizing centers and developing multi-modal transportation opportunities. He summarized that the regional plan has a direct influence on the federal and state dollars that local jurisdictions are able to obtain.

Mr. Bowman announced that at the recent Highway 99 Task Force meeting, a property owner presented the concept of creating a new CG zone for properties inside the designated Highway 99 Activity Center that are not zoned commercial but are more transitional in nature. This new zone could help the City meet their future growth targets by accommodating more residential development. Mr. Chave pointed out that, historically, the City has focused their efforts on transportation corridors rather than larger, mixed-use urban centers. Much of the transportation funding is reserved for urban centers. The City must consider the trade offs. If they don't want the growth, they won't get the transportation dollars.

Mr. Chave said that while updating the City's Comprehensive Plan will be difficult, it will be easier than if the higher density scenarios had been chosen for Edmonds. He said the Board would likely start getting involved in the process near the end of 2009. For the majority of 2009, the Board would focus on re-writing the Development Code and Transportation Plan. He noted that the City did not receive any citizen requests for Comprehensive Plan amendments, so the majority of the 2009 amendments would focus on transportation issues and updating the City's Capital Facilities Plan.

REVIEW OF EXTENDED AGENDA

Mr. Chave requested that the Chair and Vice Chair of the Planning Board meet with him and Brian McIntosh, the Parks, Recreation and Cultural Services Manager, to outline an extended agenda.

PLANNING BOARD CHAIR COMMENTS

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

PLANNING BOARD MEMBER COMMENTS

Board Member Reed apologized for missing the last meeting due to illness. He commended the Board for asking good questions of Mr. Shapiro and conducting a good discussion. He asked if the Board really did chastise Mr. Shapiro previously for having too many drawings. Board Member Young said the Board's previous comments were more related to the fact that Mr. Shapiro provided numerous nebulous artist renderings, but not enough technical drawings and diagrams to help the Board understand the proposed concepts.

Board Member Reed inquired if the Planning Board would be able to get through their 2009 work items if one meeting every month is dedicated to park-related issues. Mr. Chave explained that, historically, there were plenty of park-related issues for the Board to consider, and Mr. McIntosh has indicated that some fairly significant park projects would be moving forward in 2009.

Board Member Reed observed that the multi-modal situation has changed quite a bit as a result of the new master plan direction adopted by Washington State Ferries. He noted that the City's current Comprehensive Plan references the multi-modal transportation center 27 times. If funding is not available and the project is cancelled, he suggested the Comprehensive Plan should be updated to reflect the change. He also suggested the Board discuss this issue at their next retreat. Mr. Bowman agreed the City may have to review their Comprehensive Plan in relationship to the Edmonds Crossing project. At this time, the project is still on the books and technically has funding. However, he recognized that Washington State Ferries has indicated they would not have funding for terminal expansion or improvements for decades.

Board Member Young noted that this would be his last year of serving on the Board. He recalled that he has represented the Board on the Highway 99 Task Force for several years, and he suggested the Board appoint a new representative in the near future. Chair Bowman indicated his willingness to serve as the Planning Board Representative on the Highway 99 Task Force starting immediately. Mr. Bowman advised that the group meets every other month, and the next meeting is scheduled for February 9th from 4:30 to 5:30 p.m. in the Fournier Room of City Hall. At the next meeting, the group would discuss a

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draft proposal to create a new CG3 zone. Mr. Bowman agreed to add Chair Bowman to the email list so he could receive notification of future meetings.

It was noted that John Dewhirst is no longer a member of the Board, and he was serving as the Board's representative on the 4th Avenue Arts Corridor Group. Board Member Guenther said he has also serves as a member of the group, although he was unable to attend the last few meetings. He indicated that he still plans to participate in the group as a Board representative.

ADJOURNMENT

The Board meeting was adjourned at 8:32 p.m.

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