

CITY OF EDMONDS
PLANNING BOARD MINUTES

September 9, 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
Philip Lovell, Vice Chair
John Reed
Jim Young
Judith Works
Kevin Clarke

STAFF PRESENT

Rob Chave, Planning Division Manager
Jen Machuga, Associate Planner
Noel Miller, Public Works Director
Karin Noyes, Recorder

BOARD MEMBERS ABSENT

Cary Guenther (excused)
Valerie Stewart (excused)

READING/APPROVAL OF MINUTES

Approval of the minutes was postponed until the end of the meeting.

ANNOUNCEMENT OF AGENDA

No changes were made to the agenda.

AUDIENCE COMMENTS

George Murray, Edmonds, advised that he attended a recent Planning Board Meeting at which the Board discussed a long-range vision for the City. He thanked the Board for taking time out of their private lives to work through these very complex issues. He said there is a lot of talent and ability within the group to deal with the issues, and he appreciates their continued efforts to take a long and broad view of the whole of Edmonds and not just the downtown core. He asked that the Board continue to make their decisions in a communal sense as opposed to a commercial sense. He observed that the Planning Board is not responsible for the revenues the City receives or the expenses they incur. Their focus should be on developing the City to make it a good communal location.

Joan Bloom, Edmonds, said that she also attended the Board's workshop on sustainability. She said she was present to raise questions about the proposed contract rezone submitted by ESC Associates. She reported that she and other citizens met with Kiernan Lien, City Planner, and she was surprised to learn that the proposal is not project specific. The applicant is requesting that the height limit be raised.

Mr. Chave explained that the contract rezone application would come before the Board as a public hearing at some point in the future. While they can discuss the process for reviewing the application, they cannot discuss the merits of the proposal at this time. Ms. Bloom said her understanding was that the public comment period was opened on August 28th. Mr. Chave agreed that the public has the ability to submit written comments regarding the proposal to the Planning Division, and these

comments would be incorporated into the record that comes before the Board at an open public hearing. However, all parties need to be present in a public hearing setting in order for the Board to entertain verbal comments.

Ms. Bloom said it is her understanding that the Planning Division can actually make a decision regarding the proposal and forward a recommendation of acceptance or denial to the Planning Board. Mr. Chave explained that prior to the public hearing, the Planning Division staff would conduct a preliminary review and provide a staff report. However, the Planning Board would be responsible for making a recommendation to the City Council, who would make the final decision. At this point, the Board is only accepting written public comments. Once the administrative process has been concluded, the item would be scheduled for a public hearing before the Board and citizens would be invited to provide verbal comments on the proposal.

Ms. Bloom inquired if she could share her concerns with the City Council. Mr. Chave explained that because the proposal is a property-specific contract rezone, the City Council would be required to make a decision based on their review of the established record. The formal public hearing would end at the Planning Board level, so all written and verbal testimony must be submitted to the Planning Board. Again, he explained that written public comments could be submitted at any time prior to the public hearing, and they would be accumulated and encompassed into the record. However, it would be difficult to track verbal comments that are provided at both the Planning Board and City Council meetings prior to the actual public hearing. Therefore, it would be difficult for all parties to have an opportunity to respond to the issues raised.

Ms. Bloom inquired if it would be appropriate for her to write a letter to the editor regarding her concerns. Mr. Chave answered that Ms. Bloom or anyone else can write a letter to the editor, but any written or verbal communication directly with City Council or Planning Board Members prior to the public hearing would have to be disclosed at the start of the hearing as an ex parte communication. He suggested that writing to the City Council at this point in time would be counterproductive since they would be unable to consider the comments until their formal review process commences after the Planning Board has held their hearing and forwarded a recommendation. Again, he advised that citizens could provide written comments to the Planning Division at any time, and they would be attached as part of the record and considered during the Board and Council's review. Once the hearing has been closed, no new written or verbal testimony would be accepted, and the City Council would make the final decision based on the established record (closed record review).

Ms. Bloom inquired if it is possible to forward comments directly to the City Council. Mr. Chave said that comments should be submitted to the Planning Division, and they would be forwarded to the Planning Board and then the City Council. Ms. Bloom expressed her belief that the review process is very confusing. There are many people who want to make comments regarding the proposal, but they don't know when the Planning Board will conduct their hearing. She said she was told that both the Planning Board and the City Council would conduct public hearings. She said she wants to make sure her opinions are heard and her questions are answered. Mr. Chave encouraged her to submit her comments in writing to the Planning Division. Staff would attempt to answer her questions.

Chair Bowman summarized that contract rezone applications are quasi-judicial in nature, and any discussion outside of the formal public hearing would be considered an ex parte communication. If the Board was to continue their discussion with Ms. Bloom, they would all have to disclose the discussion at the public hearing, and they may be encouraged to recuse themselves from the process.

REPORTS/PRESENTATIONS

No reports or presentations were scheduled on the agenda.

PUBLIC HEARING ON 5-YEAR UPDATE TO THE NORTH KING AND SOUTH SNOHOMISH COUNTIES REGIONAL MITIGATION PLAN REPRESENTED BY JAMIE GRAVELLE, EMERGENCY SERVICES COORDINATING AGENCY (ESCA)

Jamie Gravelle, Emergency Coordinator, ESCA, explained that ESCA performs emergency management functions for the City of Edmonds, as well as nine other cities in the area. She advised that the first Regional Mitigation Plan was adopted five years ago with 11 participating members (7 cities and 4 special purpose districts). She advised that the Federal

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Emergency Management Agency (FEMA) requires that the plan be updated every five years. She explained that the purpose of the hearing is to solicit comments from the public and the Board regarding the proposed updated plan. She noted that the public has been invited to comment on both the City of Edmonds portion of the plan, as well as the portion related to the Olympic View Water and Sewer District. Their goal is to make sure the public has as much opportunity as possible to comment on the proposed document.

Ms. Gravelle referred to the draft plan, which identifies programs that have been accomplished by the City in the recent past, as well as those that are in their plans to move forward in the next five years. She specifically referred to the section titled, Hazardous Identification Vulnerability Assessment, which identifies the natural hazards that can occur within the jurisdiction of Edmonds. The plan assesses capital improvement and other plans to identify what the City can do in the future to mitigate the hazards they are most concerned about.

At the request of Board Member Young, Ms. Gravelle explained the significance of the Regional Mitigation Plan. She advised that the plan is a State requirement, and the goal is to identify what local jurisdictions and special purpose districts can do to make the areas within their jurisdictions safer. Taking steps before natural hazards occur can help minimize the impacts. She emphasized that the Regional Mitigation Plan is different than the Emergency Management and Response Plan that activates when a natural disaster occurs.

Board Member Young added that the Regional Mitigation Plan is required to be eligible for FEMA funding for disaster prevention programs and projects. Ms. Gravelle said FEMA's Pre-Disaster Mitigation Fund looks very closely at plans and projects that list a portion for mitigation as opposed to all mitigation and recovery. Vice Chair Lovell inquired if it would be possible for the City to apply to FEMA for assistance for mitigation projects targeted at the City on behalf of a disaster that has occurred before. Ms. Gravelle answered that the Washington State Mitigation Department likes to work with cities ahead of time to develop projects for which grant funding would apply.

Vice Chair Lovell referred to the list of 8 major hazards and noted the two most likely to occur in Edmonds are land slide and soil displacement and severe storms, which may involve flooding. He noted the significant flooding that occurs at the entrance to the Port of Edmonds (intersection of Dayton and SR-104) during heavy storms. He inquired if it would be feasible for the City to apply for funds to mitigate this condition. Ms. Gravelle answered affirmatively. She added that because the Port of Edmonds is one of the Regional Mitigation Plan partners, it may be possible for the City and Port to coordinate the application, which is a favorable approach.

Vice Chair Lovell also noted that land slides and soil displacement is a possibility in the Perrinville area. He observed that most of the development projects in this area would be residential in nature and private property owners or developers would assume a risk of damage due to potential landslides and be required to mitigate as part of their design or address the issue from a recovery standpoint. He noted that the Pre-Disaster Mitigation Fund would only apply to City projects and programs. Ms. Gravelle agreed the funds are intended for cities, special purpose districts and some non-profit organizations. As far as she knows, the funding would not be available to individual property owners when a disaster occurs, but this could depend on the size and scope of the damage. There may be some individual assistance available, but it would be very limited in nature and would not be intended to fill the gap between insurance deductible and when insurance kicks in.

Vice Chair Lovell expressed his belief that the plan is good, but he noted the plan emphasizes there is no funding for implementation. Ms. Gravelle explained that this verbiage was included in the plan to protect the City. Funds have been tight in most jurisdictions, and it is important not to imply that the plan is a promise or a contract. Things change for various reasons, and clearly acknowledging there is not funding available to implement the various elements of the plan puts the City on record that if the State government wants them to do everything that needs to be done, they need to provide funding. Again, she clarified that the plan is not a promise, but the best guess for what the City wants to accomplish.

Chair Bowman pointed out that the second to the last paragraph of Section 2 on Page 25 needs to be corrected. There is an incomplete sentence. He also asked Ms. Gravelle to explain what a LIDAR Map is. Ms. Gravelle answered that a Light Detection and Ranging (LIDAR) Map is an aerial picture of the earth that shows only the contours of the land. Vice Chair Lovell added that it is a laser topographical map.

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Chair Bowman summarized that the Regional Mitigation Plan is required in order for the City to qualify for funding, but there is currently no funding available to implement the plan. Ms. Gravelle clarified that Federal funding is available, but there is no guarantee that City funds would be available to do all of the projects. She noted that a fair number of projects are accomplished by the City on an on-going basis to maintain the codes, ensure that people build to the code to the best of their ability, maintain the rights-of-way, etc. These are the day-to-day things the City is already doing, and grant funding is available for the more substantial projects.

Board Member Clarke referred to the flooding that occurs at the intersection of SR-104 and Dayton Street during heavy storms. He questioned if the State of Washington should share some of this responsibility since the area includes a State right-of-way and a holding lane for the ferry. He inquired if the City has applied for grant funding to correct the problem. Mr. Miller reported that staff is working on the initial analysis of the problem and the Stormwater Comprehensive Plan update would recommend that a flood elevation study be performed for the area. Once the Stormwater Comprehensive Plan is in a more final format, staff plans to have a discussion with the Port of Edmonds and the State of Washington to jointly conduct a flood plane study to identify the issues. Board Member Clarke inquired if Pre-Disaster Mitigation dollars could be used to fund the study. Mr. Miller answered that grant funding from the State would not likely be available, and Federal funding would be limited, as well. He cautioned that grant mitigation funding is typically set aside for high-profile projects. For example, the City received grant funding to seismically upgrade the Frances Anderson Center. When FEMA looks at projects to fund, they typically support projects where all of the planning and research has been completed and development is ready to move forward.

Board Member Young observed that FEMA does not typically fund projects on State highways. In addition, the process is very competitive, and projects that are still in the planning phase do not generally score well against projects that are ready to design and develop. However, he announced there is going to be a call for projects this fall for the Pre-Disaster Mitigation Program, and he inquired if the City plans to submit an application. Mr. Miller said that based on his experience, the City does not have any projects that provide a compelling cost benefit ratio to warrant an application.

George Murray, Edmonds, expressed surprise that the Regional Mitigation Plan did not more adequately address the issues of global warming and rising tidal levels over the next 40 years. He noted it has been documented that tidal levels are expected to rise 4 feet by 2050, and this could have a tremendous impact on the waterfront areas within the City. He suggested this concern needs to be addressed in the plan. Ms. Gravelle agreed that the issue of global warming was not addressed extensively in the proposed plan. However, it was addressed as a secondary issue associated with tides, etc.

THE PUBLIC PORTION OF THE HEARING WAS CLOSED.

Vice Chair Lovell suggested the plan should make some reference to the City's newly adopted Sustainability Program. Mr. Chave agreed that the Sustainability Program should be acknowledged in the Regional Mitigation Plan.

Ms. Gravelle recommended that the Planning Board forward a recommendation to the City Council asking them to support the document being forwarded to FEMA and the State for review. Once this review has been completed, the document would be presented to the City Council for final adoption by resolution.

BOARD MEMBER YOUNG MOVED THE PLANNING BOARD FORWARD THE REGIONAL MITIGATION PLAN UPDATE TO THE CITY COUNCIL WITH A RECOMMENDATION OF APPROVAL. BOARD MEMBER WORKS SECONDED THE MOTION.

Board Member Clarke clarified that the Planning Board is not being asked to recommend approval of the document. Instead, they are being asked to recommend the City Council approve sending it forward to the appropriate government agencies for review. Ms. Gravelle clarified that the document would not come back before the Board for additional review. Once the Board forwards the document to the City Council, the City Council would review it and give direction to forward it to the State and FEMA. Once the State and FEMA have completed their reviews, the document would be brought back to the City Council for formal adoption.

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Board Member Young expressed his belief that the motion was general enough to meet the administrative requirements. It basically states that the Board is comfortable with the document and that they recommend the City Council adopt or approve it at some point in the future after FEMA and the State have reviewed it. Again, Board Member Clarke suggested the motion should not recommend approval at this point, and Board Member Young expressed his belief that any future changes would not likely change the material information and/or intent of the plan.

Mr. Chave said the key word to avoid would be “adoption,” but using the word “approval” would be appropriate since the City Council has to approve the document in order to send it to the State and FEMA for review. Using the word “approval” would in no way indicate the City Council would take final action, but just approve the current draft so it can be moved forward for additional review. In light of Mr. Chave’s explanation, Board Member Clarke withdrew his objection.

Vice Chair Lovell suggested the plan be changed to include some mention of the on-going, long-term concerns related to the area at the intersection of Dayton Street and SR-104. Ms. Gravelle agreed that would be appropriate, and she invited staff to provide some recommended language that could be inserted on Page 71 of the draft document as a “flood mitigation action item.” Perhaps it could also be discussed in the overview section. She emphasized that the City has the ability to update and change the document at any point, and they do not have to wait until the next five-year update.

THE MOTION CARRIED UNANIMOUSLY.

PUBLIC HEARING ON AN ORDINANCE TO AMEND THE EDMONDS COMMUNITY DEVELOPMENT CODE (ECDC) TO ESTABLISH A QUALIFIED BUILDING SETBACK EXEMPTION FOR RESIDENTIAL PROJECTS WITH EXPIRED COUNTY BUILDING PERMITS (FILE NUMBER AMD-09-11)

Ms. Machuga advised that the hearing is on a proposed ordinance amending the ECDC to establish a qualified building setback exemption for residential projects with expired county building permits. She explained that Carla Elder spoke during the audience comment portion of the May 19th City Council meeting stating her concern over an unfinished addition to her residence. In 1993, Ms. Elder and her husband obtained permits from Snohomish County to construct an addition to their home. Ms. Elder’s husband started the work but fell ill and passed away before being able to complete the interior portion of the addition. The property was annexed into the City in 1995, and the Elder’s building permit expired following annexation. Per the annexation agreement, if a County permit expires after annexation, all vesting is lost and a new permit must be obtained from the City that meets current adopted codes. She explained that the Elder’s addition was built in compliance with the County’s setback requirements, but it does not meet current City setback requirements. Following the annexation, the County did not notify the City of the Elder’s expired building permit, and it is unknown how many other properties within annexed areas are facing similar situations.

Ms. Machuga reported that using Ms. Elder’s situation as an example, staff discussed potential options (variance, lot line adjustment, removing a portion of the addition, adopting an amendment to the City’s non-conforming regulations) with the Development Services Council Committee on June 9th. At that time, City Attorney Bio Park noted that the Council could also adopt an interim zoning ordinance. The committee requested that Mr. Park and staff craft an interim zoning ordinance to bring before the City Council. When the ordinance was presented to the City Council on June 23rd, some Council members felt that a public hearing should be held and that the matter should not be resolved by an ordinance. The Council voted to forward the ordinance to the Planning Board for review.

Ms. Machuga recalled that staff presented the Planning Board with a brief history of the proposed ordinance on July 22nd, and the Board directed staff to prepare the ordinance as a permanent ordinance instead of an interim ordinance and to set a date for a public hearing. She referred to the draft ordinance, which would amend the City’s non-conforming provisions and allow for a residential building setback exemption for development projects in areas annexed from unincorporated Snohomish County since 1994 for properties that had valid building permits on the date of annexation but the permits expired prior to final approval. She advised that the ordinance includes provisions that the projects need to be residential in nature, located in residentially zoned areas, meet the setback requirements of the County code in effect on the date of annexation, and be consistent with the plans approved by the County and compliant with all other applicable criteria in the current ECDC, including the current Building Code. She noted that the ordinance includes a provision that it is the applicant’s responsibility to provide the City with evidence that the project was approved by the County. However, it is

unknown whether the County has retained sufficient records to be utilized as evidence of the work that was approved prior to annexation.

Vice Chair Lovell observed that residential homes that were built in unincorporated Snohomish County and later annexed to the City are subject to the non-conforming regulations if they do not meet all of the City's zoning requirements. He referred to Section 17.40.060.A of the draft ordinance and summarized that the proposed language would grandfather any annexed properties for which the permit paperwork was completed prior to annexation even if they do not meet the City's setback requirements. Ms. Machuga pointed out that even if the proposed ordinance is not approved, the current code defines non-conforming structures as structures that met the code at the time they were constructed, but due to annexation they do not meet the current codes. The code allows these structures to be maintained.

Chair Bowman summarized that when the area was annexed, the records relating to the Elder's permit were not transferred to the City. He noted there may be more situations of this type throughout the annexed areas.

Board Member Works pointed out that Section 17.40.060.A specifically references January 1, 1994. She asked if this is the date the first annexation took place. Mr. Chave advised that the series of annexations started in 1994 and continued into 1995. Board Member Works inquired if the proposed language would be applicable to future annexations, too. Mr. Chave noted there are not a lot of areas left to annex into the City, but the code language should apply equally to previous annexed properties and future annexed properties, as long as the situation is the same.

Board Member Clarke expressed concern about situations where records are not transferred as part of a home acquisition and neither the County nor City has records of the permit, either. As written, the ordinance would not be applicable to properties unless adequate information can be provided to support the request. He suggested this burden might be too onerous. Ms. Machuga explained that in the Elder's case, the County failed to transfer the permit documents to the City, but the County does have a record that they granted approval for the addition.

Board Member Clarke recalled that because the Old Woodway Elementary School was located in a single-family residential zone, the Edmonds School District was required to obtain a conditional use permit. When they attempted to do research for a project after the property was annexed into Edmonds, they learned that the County did not have any record of the conditional use permit. If the school district had not had their own set of records, there could have been a problem. He suggested the proposed ordinance needs to provide a method of resolving situations where the records from all parties are gone. When people purchase properties, they don't always know about the annexation processes that took place many years ago. They may not be aware that they cannot finish a particular project because permits have expired, the project does not meet the City's current code requirements, and there is no record of the permit that was issued by the County. Vice Chair Lovell commented that information regarding permits and non-conformance should be identified on the disclosure form that is required for the house sale.

Chair Bowman questioned how the City would know that a permit existed prior to annexation if there is no paperwork on file with the County and the property owner does not have any record of the permit. Ms. Machuga said that if the property owner could not provide documentation that the permit was approved by the County, the City would only have the property owner's word that the project was approved. Board Member Works cautioned that the ordinance should not allow a property owner to merely make an assertion that a building permit was approved prior to annexation. She would like the ordinance to require validation.

Board Member Clarke suggested the proposed language include a provision that allows the Planning Division Manager to look at specific cases and make a judgment call. He said he is sensitive to this issue because he lives in an annexed area and most of his neighbors do not understand that their properties are legal, non-conforming uses.

Board Member Young reminded the Board that the proposed ordinance is not intended to address all properties that are legal, non-conforming uses. Instead, the intent is to accommodate property owners who had work in progress prior to annexation. In his view, the City should honor permits that are active at the time of annexation and were applied for in good faith. He said he supports the proposed language that places the onus on the property owner to provide proof of the County permit. Typically, property owners keep the paperwork associated with building permits at least until the project has been completed.

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The purpose of the proposed ordinance is to recommend policies that could be applied to all annexations that have occurred to date and those that will occur in the future.

Mr. Chave suggested the word “aforementioned” be deleted so the language is clear that the ordinance applies to all past and future annexations. Vice Chair Lovell reminded the Board of their goal to create an ordinance that would resolve the issue forever. The remainder of the Board agreed that the ordinance should be applicable to all annexations both previous and in the future. Board Member Young observed that if the City wants to encourage annexation, they must honor the active permits that are issued in good faith by the County as part of their annexation guidelines. Board Member Clarke noted this is a big concern to those living in Esperance. It is important that the ordinance address future annexations, as well.

Carla Elder, Edmonds, said she is in favor of the proposed ordinance. However, she is not quite clear how her situation would be impacted by the proposed language in Section 17.40.060.A.4, which states that it is the applicant’s responsibility to provide the City with evidence that the project was approved by the County. She said she has a copy of the permit that was issued by the County, as well as copies of the plans that were submitted. However, there is no formal stamp on the documents. She questioned what standard the City would use to determine the appropriate level of proof. Mr. Chave explained that staff typically looks for consistency with all of the available information. If everything lines up in a logical sequence of events, it will be considered sufficient evidence. However, he cautioned that the City staff would not be able to make arbitrary decisions that are not supported by documentation.

THE PUBLIC PORTION OF THE HEARING WAS CLOSED.

CHAIR BOWMAN MOVED THE BOARD FORWARD FILE AMD-09-11 (AN AMENDMENT TO THE ECDC TO ESTABLISH A QUALIFIED BUILDING SETBACK EXEMPTION FOR RESIDENTIAL PROJECTS WITH EXPIRED COUNTY BUILDING PERMITS) TO THE CITY COUNCIL WITH A RECOMMENDATION OF APPROVAL. VICE CHAIR LOVELL SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

THE BOARD TOOK A BREAK AT 8:25 P.M. THE MEETING RESUMED AT 8:32 P.M.

PUBLIC HEARING ON AN AMENDMENT TO THE EDMONDS COMMUNITY DEVELOPMENT CODE (ECDC) CHAPTER 17.35 ALLOWING UP TO THREE “DOMESTIC FEMALE FOWL” ON LOTS IN SINGLE-FAMILY ZONES (FILE NUMBER AMD-09-7)

Mr. Chave referred to the proposed amendment, which was forwarded to the Board by the City Council for consideration. As proposed, the amendment would enable properties in single-family zones to keep a limited number (3) of female fowl to further the Council’s goals of sustainability through encouraging locally-grown and naturally-produced food. He emphasized that the amendment would be limited in scope, focusing on the keeping of a small number of female fowl that would logically have little impact on surrounding properties.

Mr. Chave reminded the Board that they have received a fair amount of public comment regarding the proposed amendment, and they have also received feedback from the Police Department indicating that ECDC 5.05 contains sufficient protection to support the proposed ordinance. He noted the City Attorney has had some experience with these types of issues, and he has suggested that it may be desirable to limit the allowed “female fowl” to certain types. He referred them to the letter from the City Attorney identified in the Staff Report as Attachment 2.

Board Member Works inquired if the current City code would prohibit the slaughter of chickens in single-family zones. Mr. Chave said he is not familiar with the animal control rules, but the Police Department did not identify a concern.

Karen Newsome, Edmonds, said she has been a property owner and resident of Edmonds for more than 50 years. She referred to a flyer she prepared for her neighbors to provide more information about the proposed ordinance. She noted that all of the surrounding cities, including Lynnwood, allow small flocks of chickens (not emus, ostriches, etc.) A flock is more than one, but it does not have to be 100. Three would be an appropriate number for the City. She recalled that many years ago Edmonds adopted language in its code that prohibited fowl of any kind in an effort to phase out the large scale chicken

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businesses that existed in the City at the time. The City wanted to make sure these businesses did not come back because they were noisy and odiferous. She assured the Board that this is not the intent of the proposed ordinance.

Ms. Newsome pointed out that the City of Seattle, which has a sustainable environment, allows up to five chickens. She expressed her belief that chickens are easy to keep clean and they typically have no noise or odor problems. She emphasized that roosters would not be permitted as per the proposed language. She observed that chickens are a great educational tool for children and a great source of organic eggs. Raising chickens can bring people, both young and old, an appreciation for animals and how to care for them properly, which children are usually eager to do. In addition, the small amount of chicken droppings that are produced are great for vegetable gardens in the backyard. She concluded that she likes the idea of maintaining the small town atmosphere of Edmonds, and passing the proposed ordinance would make it a little more family friendly.

Rick Doughty, Edmonds, said he is in favor of the proposed ordinance. He pointed out that slaughtering chickens would not be an issue. Even if allowed, it would not make financial sense to raise chickens to eat. It would be more cost effective to purchase free range chickens from the store. He suggested that allowing up to three domestic female fowl in single-family residential zones would also benefit local businesses. Chicken owners would go to the local hardware stores to purchase supplies for coops and the local feed stores to purchase food and other supplies. In addition, local bookstores could sell books on how to take care of chickens in urban settings, and chickens will sometimes require veterinary care.

Mr. Doughty said he is excited to see the proposed ordinance move forward so the City can take another step toward sustainability. He is also excited about the prospect of having fresh eggs and produce without hormones and antibiotics, etc. He is excited about composting their garden and allowing his children an opportunity to learn responsibility to take care of animals and learn where food comes from. Chickens will really add to their backyard environment. They plan to allow the birds to run free range when they are home and in the coop when they are away. They have a fenced yard, which is necessary for this type of use. He said he is excited about giving three hens a really good life and removing them from an industrialized factory situation where they are kept in fairly inhumane conditions.

Carol Strickland, Edmonds, said she moved from Seattle near Carkeek Park where they had 9 hens and never any roosters. She recommended the proposed language be changed to only allow female chickens and not other types of female fowl. She cautioned against allowing such things as Pea or Guiney Fowl because they tend to be very loud. Because they had nine hens, they were able to share the eggs with their neighbors, and her kids treated them like pets. They were also garden friendly, picking up bugs and slugs. She observed that people who keep chickens cannot ignore them or they get sick and die. They must be knowledgeable about their care and how to keep them away from predators. She expressed her belief that people are very fortunate when their neighbors have hens.

George Murray, Edmonds, said his wife receives fresh eggs from a friend who has chickens. He noted that the artwork at the Walnut Street Café is of hens, and the owner indicated it was done by his 11-year-old daughter because she visited a friend in Portland who had chickens and is enamored with them. He summarized that chickens appeal to children, and they are a good use to allow in single-family zones as proposed.

Robert Newsome, Edmonds, said he would like the Board to recommend approval of the ordinance. He said he has grandchildren in Boise who have a backyard flock and they have a great time picking up the eggs and sitting with the chickens. The chickens are their pets. He said he would like the language to be changed, however, so that only female chickens are allowed and not other types of female fowl. With small flocks (3 or less), noise and smell would not be an issue, and droppings make excellent fertilizer. His children had chickens at times for slaughter, but not eggs, which wouldn't be a good idea in Edmonds. Laying hens are not good to eat. He said his grandfather had a large flock of laying hens that were properly cared for, and noise and odor were never a problem.

THE PUBLIC PORTION OF THE HEARING WAS CLOSED.

Board Member Works expressed concern that because the ordinance specifically states that female domestic fowl would be allowed, it could also include turkeys, ostriches, etc. What the public really wants is to keep chickens. Therefore, she suggested the ordinance be changed to include only female chickens.

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Board Member Works questioned if the code language should be changed to stipulate that an adequate coop must be provided to protect the hens from predators. Ms. Strickland pointed out that predators can kill the hens, so it is important to keep them safe in a coop at night. She said anyone who keeps chickens will know they have to have a coop to keep the chickens safe. Therefore, including additional language in the ordinance would be unnecessary.

Board Member Works said she lives in a Planned Residential Development where the houses are only 10 feet apart. Her bedroom abuts the neighbor's backyard. She expressed concern with allowing chicken coops to be located right outside her window. She questioned if there is a way to structure the ordinance so that chickens are not allowed within the setback areas. Vice Chair Lovell said his main concern about the ordinance is also related to the smaller single-family lots and whether or not the use should be allowed in the setback areas. Mr. Chave explained that the setback requirement is 5 feet on the side and 15 or 20 feet in the rear. Vice Chair Lovell said he assumes people would not put chicken coops in their front yards, but they may want to put them in the side yards and the natural instinct will be to place them in the corner of the lot. He recalled the Board's previous discussion that a chicken coop would meet the definition of a structure and would not be allowed within the setback areas on residential properties. Mr. Chave pointed out that chicken coops would be considered accessory structures that would not be allowed to locate within the setback areas. Vice Chair Lovell expressed his belief that the ordinance should not allow chicken coops within the setback areas.

Vice Chair Lovell observed that while good chicken owners take care of their chickens, there may be situations in which the chickens are not properly cared for and they end up creating unnecessary odor. However, he pointed out that odor, noise and loose chickens will fall under the purview of the animal control officer. While the ordinance does not necessarily have to address these issues, the public should be aware of the rules before they build a temporary or permanent chicken coop in the corner of a lot and within the setback areas. Board Member Reed observed that the memorandum from the Police Department addresses these issues. When complaints are filed and a property owner is found out of compliance, the animal control officer would be responsible for enforcing the rules. Mr. Chave reminded the Board that the regulations would be enforced by two different parties. The number of chickens allowed on single-family residential properties is a use issue that will be handled by the City's Code Enforcement Officer. How the chickens are kept will be addressed by the City's Animal Control Officer.

Chair Bowman recalled that City Council Member Bernheim sponsored the proposed ordinance, and the language he originally proposed specified just chickens. He suggested the ordinance should be clear in this regard. He also expressed his belief that the existing code language would handle the setback and nuisance issues associated with keeping chickens. Therefore, the real issue is whether or not the Board feels it is appropriate to allow single-family property owners to keep up to three female chickens or other varieties of female fowl.

Board Member Young said he would support the proposed ordinance, but he agreed it should be clarified to only include female chickens. Unlike most animals that are allowed in Edmonds, chickens require a structure to keep them safe. While it is not the City's responsibility to regulate how the structure is built, the language should make it clear that any structure associated with the keeping of animals would be subject to the setback requirements. Secondly, he said it is essential that the ordinance clearly be directed towards chickens.

Board Member Young recalled the Board's previous discussion with Council Member Bernheim that the ordinance should make it clear that a person who owns three adjoining single-family lots with only one home would not be allowed to have up to nine chickens. The language should be clear that only three chickens are allowed per occupied single-family lot. Board Member Reed agreed this issue should be adequately and clearly addressed.

Board Member Clarke questioned whether the use of the word "domestic" is necessary. He also agreed that the ordinance should be limited to female chickens rather than female fowl. He questioned if it would be appropriate to include language in the ordinance or a reference to another section in the code to address coop location. For example, coops should not be allowed in front yards and in setback areas. Board Member Young pointed out that coops would be subject to the accessory structure provisions that already exist in the code. Vice Chair Lovell agreed the code would dictate the location of chicken coops, and the City does not need to regulate how a coop is built. Mr. Chave agreed that additional language would be unnecessary, and Chair Bowman suggested that perhaps the ordinance could make reference to the accessory structure code

provisions for information about coop location. Mr. Chave said that while this could be added to the ordinance, the information could also be provided to the public via a handout. Board Member Clarke inquired if the current accessory structure code provisions would allow chicken coops to be placed in front yards. Mr. Chave said coops would not be allowed in setback areas or in the front yard.

BOARD MEMBER WORKS MOVED THE BOARD FORWARD FILE NUMBER AMD-09-7 (AMENDMENT TO ECDC CHAPTER 17.35 ALLOWING UP TO THREE DOMESTIC FEMALE CHICKENS PER SINGLE-FAMILY DWELLING) TO THE CITY COUNCIL WITH A RECOMMENDATION OF APPROVAL WITH THE FOLLOWING AMENDMENTS:

- **THE CODE LANGUAGE SHOULD MAKE IT CLEAR THAT THE AMENDMENT ONLY APPLIES TO DOMESTIC FEMALE CHICKENS AND NOT ALL DOMESTIC FEMALE FOWL.**
- **THE CODE LANGUAGE SHOULD MAKE IT CLEAR THAT ONLY 3 FEMALE CHICKENS WOULD BE ALLOWED PER RESIDENTIAL DWELLING UNIT AND NOT PER RESIDENTIAL LOT.**
- **VERBIAGE SHOULD BE ADDED TO MAKE IT CLEAR THAT COOPS ARE CONSIDERED ACCESSORY BUILDINGS AND DIRECT PEOPLE TO THE PROPER PART OF THE CODE THAT DEALS WITH ACCESSORY BUILDINGS.**

BOARD MEMBER YOUNG SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

The Board agreed that there was no need for the updated language to come back to them before being sent to the City Council. They were confident the City Attorney and staff could make the appropriate adjustments based on the Board's conversation.

UNFINISHED BUSINESS

Mr. Chave reported that the City's application for Energy Efficiency Community Block Grants received initial approval from the Department of Energy and is moving forward for additional review.

NEW BUSINESS

No new business was scheduled on the agenda.

REVIEW OF EXTENDED AGENDA

Chair Bowman announced that he and his wife are opening their second store in Renton in November in a development called The Landing. He met with staff from the City of Renton on two occasions. The City of Renton is looking at opportunities for long-term economic viability and they indicated they would be very willing to speak to the Planning Board about their experience moving their grand vision forward. The Board agreed this would be an appropriate presentation for both the Planning Board and the Citizens Economic Development Commission.

Board Member Reed asked why the Firdale Village Proposal is scheduled to come before the Board for additional review. Mr. Chave reminded the Board that while they recommended approval of the Comprehensive Plan change, the applicant would be required to submit an application for a rezone if and when the City Council approves the Comprehensive Plan change.

APPROVAL OF MINUTES

BOARD MEMBER YOUNG MOVED THAT THE MINUTES OF AUGUST 12, 2009 AND AUGUST 19, 2009 BE APPROVED AS SUBMITTED. BOARD MEMBER WORKS SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY, WITH BOARD MEMBER REED ABSTAINING FROM VOTING ON THE AUGUST 19, 2009 MINUTES.

APPROVED

Chair Bowman reported on an incident that occurred when a City Council Member requested a copy of the draft minutes before they were even made available to the Board members and before they were approved. He spoke to the Mayor about the situation, and it won't happen in the future. Staff has been instructed not to allow anyone to have access to the minutes until they are approved by the Board.

Board Member Reed said there have been times when he knew the City Council discussed a particular topic, and he couldn't attend the meeting. He has requested draft minutes, with the understanding that they had not been approved by the Council. Board Member Young suggested it should be up to the individual boards, commissions and councils to determine whether or not they want to release their minutes prior to approval. He recommended the Board establish a clear policy that they will not disseminate their minutes until after they have been approved.

Mr. Chave pointed out that the Planning Board Minutes are posted on the City's website as soon as the Board's agenda is published. No one typically sees them until they have been made available to the Board Members for review. In the recent situation, the minutes were sent to a City Council Member before they were even forwarded to the Board. The minutes should be released to all members of the public at the same time. Chair Bowman emphasized that the minutes would not be available to the public or anyone else until they have been posted on the website as part of the Board's agenda materials.

PLANNING BOARD CHAIR COMMENTS

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

PLANNING BOARD MEMBER COMMENTS

Board Member Works complimented Ms. Noyes on the minutes that were prepared for the special meeting to discuss environmental sustainability. She did a good job of highlighting the main points.

Board Member Works referred the Board to an article that was published in the August 31, 2009 edition of *THE NEW YORK TIMES* about low-impact development certified buildings and the fact that they are not necessarily energy efficient at all. She suggested staff make copies of the article for each of the Board Members.

Board Member Clarke thanked his fellow Board Members. He said he is learning every day and he appreciate their passion for the work the Board performs. He thanked Ms. Noyes and Ms. Cunningham for their efforts to support the Board, as well. The minutes from the special workshop meeting were well done. He also acknowledged Mr. Chave for working on a holiday to get information out to the Board. No one who works in government should feel like they are taken for granted, and he expressed appreciation for what Mr. Chave does to help the Board perform better.

Board Member Reed apologized for missing the retreat and complemented Chair Bowman and the Board on what was clearly a very productive session. He also reported that his grandson is continuing to recover and is doing better than expected. He thanked the Board Members for their support.

ADJOURNMENT

The Commission meeting was adjourned at 9:42 p.m.

APPROVED