

APPROVED APRIL 25TH

**CITY OF EDMONDS
PLANNING BOARD MINUTES**

April 11, 2012

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

BOARD MEMBERS PRESENT

Philip Lovell, Chair
Kevin Clarke
Todd Cloutier
Bill Ellis
Kristiana Johnson (arrived at 7:06)
John Reed
Neil Tibbott

STAFF PRESENT

Rob Chave, Development Services Director
Jen Machuga, Planner
Karin Noyes, Recorder

BOARD MEMBERS ABSENT

Valerie Stewart, Vice Chair

READING/APPROVAL OF MINUTES

BOARD MEMBER REED MOVED THAT THE MINUTES OF MARCH 28, 2012 BE APPROVED AS AMENDED. BOARD MEMBER TIBBOTT SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

ANNOUNCEMENT OF AGENDA

The agenda was accepted as presented.

AUDIENCE COMMENTS

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

PUBLIC HEARING ON POTENTIAL AMENDMENTS TO THE HOME OCCUPATION REGULATIONS RELATED TO URBAN FARMING IN EDMONDS COMMUNITY DEVELOPMENT CODE (ECDC) 20.20. THE AMENDMENTS FOCUS ON ELIMINATING THE REQUIREMENT FOR A TYPE II CONDITIONAL USE PERMIT, WHILE RETAINING CERTAIN CRITERIA THAT THE URBAN FARM MUST MEET (FILE NUMBER AMD20120002)

Ms. Machuga explained that the code currently requires a Type II Conditional Use Permit to establish urban farming within the City. It was recently brought to the City's attention that there may be a conflict between this requirement and State law regarding peddling of produce (RCW 36.70.090). To address this conflict, the City Attorney is recommending that the conditional use permit requirement be eliminated for urban farming, but still require the use to comply with certain reasonable regulations that would not have the effect of prohibiting the activity. She referred the Board to the City Attorney's memorandum (Attachment 3), which explains the issue further.

Ms. Machuga reviewed that at their March 28th meeting, the Board expressed their desire to change the code requirements related to urban farming to be consistent with state law as recommended by the City Attorney. They also requested that the language be amended to eliminate redundancies.

Ms. Machuga referred to the draft revisions to ECDC 20.20 (Attachment 1). She explained that as per the draft language, urban farming would be a permitted secondary use in all residential zones. In order to establish an urban farm, applicants would be required to submit site plans showing how visitors would be accommodated without creating traffic hazards. Applicants would also be required to submit statements of how they would meet the requirements of the home occupation chapter. She advised that the current home occupation chapter (ECDC 20.20) allows signage. However, it may be appropriate to limit urban farm signs to a maximum of four square feet and require that they be removed at the end of each day.

Board Member Clarke referred to the letter submitted by Michael Mearns dated February 27, 2012 (Attachment 5), which discusses the concept of neighbors bringing produce grown in other locations to an urban farm to exchange. He asked if the proposed code revisions would address this type of use. He suggested there is a difference between someone producing something and making it available to individuals who do not reside on the property versus creating a market where people bring things from off site to exchange and/or sale. Chair Lovell recalled that the Board discussed Mr. Mearns' letter at their last meeting. It was agreed that the draft language does not provide for community supported agriculture (CSA).

Chair Lovell asked if a permit would be required as part of the staff review. Ms. Machuga answered that applicants would have to provide materials showing how they comply with the code, but no permit would be issued and there would be no fee. Board Member Cloutier asked what would happen if staff finds that the application submitted by the applicant does not satisfy the code requirements. Ms. Machuga answered that staff could ask questions of the applicant or request additional information. She said the City Attorney has advised that it would be appropriate to have some regulations for urban farms rather than leaving it completely open. She summarized that RCW 36.70.090 states that the City cannot require a permit for peddling of produce, but it does not prohibit the City from establishing some regulations for urban farming, as long as the requirements are reasonable and do not prohibit the farms from operating.

Michael Mearns, Edmonds, clarified that a CSA is defined by the United States Department of Agriculture (USDA) as: *"a community of individuals who pledge support to a farm operation so that the farmland becomes, either legally or spiritually, the community's farm, with the growers and consumers providing mutual support and sharing the risks and benefits of food production. Typically, members or "share-holders" of the farm or garden pledge in advance to cover the anticipated costs of the farm operation and farmer's salary. In return, they receive shares in the farm's bounty throughout the growing season, as well as satisfaction gained from reconnecting to the land and participating directly in food production."* Mr. Mearns explained that, in most cases, a CSA refers to a subscription service to purchase a box of produce each week. CSA's have nothing to do with land sharing.

Mr. Mearns said he did not create a list of cities that allow urban farming because there are too many, including Detroit, Minneapolis, and Seattle. He encouraged the City to become part of the national and international trend. The current system of agricultural with large farms and companies is not working. Young people want more local sources of produce, and one way to accomplish this is to support local urban farms by removing the conditional use permit requirement.

Chair Lovell asked Mr. Mearns to share his thoughts regarding the issue of signage. Mr. Mearns said he does not anticipate that local urban farmers will want to have large, neon signs for their stands. However, he felt it would be appropriate to allow farms to have small scale signs, such as sandwich board signs. Board Member Cloutier asked if Mr. Mearns felt a 4-square foot sign would be adequate. Mr. Mearns agreed that it would be an adequate size, given that urban farms can be located in residential neighborhoods. He said he used a sandwich board sign last year to advertise his stand.

Board Member Johnson asked Mr. Mearns about their 2011 hours of operation. Mr. Mearns answered that their stand was only open one or two days a week from about 12:00 to 4:00 p.m. He reminded the Board that many residents attend the Edmonds Summer Market on Saturdays throughout the summer months. He said he does not have a problem with the proposal to limit the hours of operation for urban farms, since people are not typically interested in purchasing produce after 9 p.m. anyway.

Board Member Tibbott asked how many urban farms would likely locate in the City. Mr. Mearns said he definitely has the support of his neighbors, and there are others who want to establish urban farms, as well. He said that many of their customers are older people who grew up with local farms. However, the younger generation is also open to the idea of urban farming. He said he recently made a presentation at Edmonds Community College regarding urban farming, and he has met with others who are interested in starting farms, as well. Many people live on small lots in Edmonds and do not have adequate space for large gardens. As an alternative, these people could plan small gardens and then share their produce amongst the neighbors.

Melissa Mearns, Edmonds, said the proposed amendments represent a great opportunity for the City to get behind the small urban farm movement. She said the current conditional use permit fee is not in the spirit of supporting small-scale agriculture, and the fee is quite a bit of money considering how much their garden can bring in each year. She said their goal is to encourage more people to farm on their own.

THE PUBLIC PORTION OF THE HEARING WAS CLOSED

Chair Lovell reminded the Board that, at their last meeting, they discussed that the maximum sign size for non-motorized mobile vending units should be 10 square feet, and the signs would have to be removed at the end of each day. He said the City could apply this same standard to urban farms, but a 10-square foot sign may be too large given that urban farms will be located in residential neighborhoods.

Board Member Tibbott suggested that the sign allowance for urban farms should be consistent with what is allowed for similar uses throughout the City. Ms. Machuga pointed out that signs associated with home occupations in residential zones are limited to 4 square feet. Allowing larger signs for urban farms would require sign code amendments. She recommended that signs for urban farms should be limited to 4 square feet in size to be consistent with other signs allowed for home occupations. She suggested the sign issue could be addressed by adding the following language to ECDC 20.20.020.B: “These permits are not required for a sign on a display utilized for the sale of produce associated with an urban farm as provided for in ECDC 20.20.010.C.2.b.

Board Member Johnson said that, within the last few years, she has observed people setting up produce (fresh fruit) for sale at the corners of 9th and Walnut and 9th and Main. On one occasion she noticed that City police stopped the activity. She asked staff to explain how the City could prohibit this type of use in light of RCW 36.70.090. Ms. Machuga said state law allows peddlers to sell produce they gather, even if it is gathered in a location outside of the City. The City’s current conditional use permit requirement is in conflict with state law. Board Member Johnson suggested that staff inform the City officials that peddling of produce is allowed in the City by state law. Board Member Cloutier advised that ECC 4.12.030 allows food peddlers in the City right-of-way without a license as long as they are not selling meat, poultry, shellfish, or dairy products. These items are addressed in a different set of regulations.

Board Member Tibbott asked if the proposed amendments for urban farming would be in conflict with any of the provisions in the home occupation code (ECDC 20.20). For example, ECDC 20.20.010.A.3 prohibits the use of power tools. Ms. Machuga clarified that home occupation uses that meet the criteria in ECDC 20.20.010.A are permitted outright in residential zones. ECDC 20.20.010.B provides criteria for reviewing home occupations that require a conditional use permit. She suggested the language should be changed to make it clear that urban farms must meet the criteria in ECDC 20.20.010.B, as well. This could be done by replacing “this section” with “ECDC 20.20.010.B” in ECDC 20.20.010.C.2.a.

Board Member Clarke asked if urban farms would have to meet health code requirements. Mr. Chave said the City does not inspect food service operations and enforce the health department’s requirements. It is the Snohomish County Health Department’s responsibility to enforce health code requirements. They likely have thresholds and rules that apply, but they are not found within the City’s code.

BOARD MEMBER CLOUTIER MOVED THAT THE BOARD FORWARD THE PROPOSED AMENDMENT TO ECDC 20.20 TO THE CITY COUNCIL WITH A RECOMMENDATION OF APPROVAL AS PRESENTED BY STAFF AND AMENDED AS FOLLOWS:

- **AMEND ECDC 20.20.010.C.2.a BY REPLACING “THIS SECTION” WITH “ECDC 20.20.010.B.”**

APPROVED

- **AMEND ECDC 20.20.020.B BY ADDING A SENTENCE AT THE END TO READ, “THESE PERMITS ARE NOT REQUIRED FOR A SIGN ON A DISPLAY UTILIZED FOR THE SALE OF PRODUCE ASSOCIATED WITH AN URBAN FARM AS PROVIDED FOR IN ECDC 20.20.010.C.2.b.”**

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

REVIEW OF EXTENDED AGENDA

Mr. Chave advised that the agenda for the April 25th meeting will include a discussion on amendments to provide expanded notice requirements for street vacations and a presentation on the draft Westgate Subarea Plan and form-based zoning by the University of Washington students. He said discussions regarding bed and breakfast regulations and the Shoreline Master Program would likely be postponed to the May 9th meeting. A public hearing on amendments to the mobile vending unit regulations has also been tentatively scheduled for May 9th. Chair Lovell recalled that Mr. Lien agreed to update the draft mobile vending unit regulations as per the Board’s comments and present a new draft to the Board for further review and discussion prior to the hearing. Mr. Chave said this information could be available at the April 25th meeting, as well.

The Board discussed that Edmonds Strategic Plan and Visioning Retreats are scheduled for April 24th, May 22nd, and June 26th. Because of these additional meetings, the Board agreed to cancel their May 23rd meeting. Board Member Reed reminded the Board that a public open house has been scheduled for May 3rd to review the input received during the Strategic Plan charrettes. Mr. Chave explained that this would be a drop-in public meeting, and Board Members are encouraged to attend at some point during the evening. Board Member Cloutier noted that the Strategic Plan calendar indicates that the Planning Board would conduct a public hearing on the Strategic Plan on June 27th. Chair Lovell agreed to contact Stephen Clifton to clarify the Strategic Plan schedule.

Chair Lovell recalled that the Board has received a lot of information regarding the Westgate Subarea Plan and the concept of form-based zoning. He suggested the Board Members review this information in preparation for the presentation on April 25th. He noted that the information is available on line. Mr. Chave agreed to provide the Board Members with a list of the documents that have been provided to date.

Board Member Johnson expressed concern about scheduling the Westgate Subarea Plan presentation on April 25th when the Board will not have another opportunity to discuss the issue for several months. She said she would prefer the Board finish their work on some of the more minor issues that are before them before starting this larger project. Mr. Chave explained that the April 25th meeting would be a fairly intensive work session where the Board would ask questions and identify additional information they want staff to provide for future discussions. He said he anticipates the Board would continue their discussions regarding the Westgate Subarea Plan in either May or June.

Mr. Chave said an introduction to the Port of Edmonds Master Plan is tentatively scheduled for June 13th. He said the Port is hoping to complete the environmental review process and obtain Port Commission approval of the master plan by the end of May. June 13th is the earliest potential time for the plan to come before the Board for review. He explained that it may be possible to postpone the Port’s presentation because the plan is a proposed Comprehensive Plan amendment that must be heard before the end of the year.

PLANNING BOARD CHAIR COMMENTS

Chair Lovell said he sent emails to Stephen Clifton, Community Services Director, and City Council President Peterson regarding the Board’s desire to improve communications between the Board and City Council. He advised that the Board would like to provide briefings to the City Council on a once a month basis. He reported that Mr. Clifton indicated support for the idea, but he has not heard back from City Council President Peterson.

PLANNING BOARD MEMBER COMMENTS

Board Member Clarke requested guidance from staff about how Board Members should conduct themselves when attending public meetings and speaking to individuals about planning issues. Mr. Chave explained that Board Members should feel free to discuss legislative items outside of Planning Board Meetings. However, they should make it clear that their comments

are their own and not the collective position of the Board. To avoid conflict of interest and/or appearance of fairness issues, he cautioned that the Board Members should avoid commenting on or discussing issues that could potentially come before them as quasi-judicial. For the benefit of the new members, the Board asked staff to schedule a training session on ethics and law related to quasi-judicial issues.

Board Member Clarke expressed concern about the City Council's decision to not have Planning Board representation on the Citizens Economic Development Commission (CEDC). Chair Lovell recalled that the Board previously discussed their concern that, as per the adopted ordinance, the CEDC would include a representative from the Edmonds Port Commission and the City Council, but not from the Planning Board. Mr. Chave reminded the Board that when the CEDC was established, there was discussion about coordinating between the CEDC and the Planning Board. However, the City Council did not identify a formal Planning Board position on the CEDC. He said he would expect the coordinating (liaison) arrangement to continue as it has in the past. Board Member Reed emphasized that the neither the Port nor the City Council representative would be voting members of the CEDC, and the Board's liaison would not have voting privileges, either. Chair Lovell referred to the memorandum from Stephen Clifton, in which he indicated that he expects the Board liaison would continue to attend CEDC meetings.

The Board agreed that Board Member Johnson would continue to be their liaison to the CEDC. Board Member Johnson said that because the CEDC would not meet in April, she would forward the members an email inviting them to attend the Planning Board's May 9th public hearing or submit written comments regarding the proposed code amendments related to mobile vending units.

ADJOURNMENT

The Board meeting was adjourned at 8:17 p.m.

APPROVED