AGENDA
Lynnwood Planning Commission
Thursday, July 8, 2010 — 7:00 pm
City Council Chambers, 19100 – 44th Ave. W., Lynnwood WA

A. CALL TO ORDER – ROLL CALL

B. APPROVAL OF MINUTES:
   Meeting of June 24, 2010

C. COUNCIL LIAISON REPORT

D. CITIZEN COMMENTS - on matters not on tonight's agenda.

E. PUBLIC HEARINGS
   None

F. OTHER BUSINESS
   1. 2010 Amendments to the Comprehensive Plan (2010CPL0001).
      ▪ Land Use Element – Review 60:40 Sub-goal.

G. WORK SESSIONS

H. DIRECTOR’S REPORT

I. COMMISSIONERS’ COMMENTS

J. ADJOURNMENT

The public is invited to attend and participate in this public meeting. Parking and meeting rooms are accessible to persons with disabilities. Upon reasonable notice to the City Clerk’s office (425) 670-5161, the City will make reasonable effort to accommodate those who need special assistance to attend this meeting.
**Lynnwood Planning Commission**  
**Meeting of July 8, 2010**

**Staff Report**

**Agenda Item: G-1**  
Personal Services (Home Occupation)  
**Code Amendments** (2010CAM0003)

**Dept. of Community Development — Staff Contact: Gloria Rivera, Senior Planner**

### ACTION

Discussion with possible action to set public hearing on home occupation amendments.

### BACKGROUND

At the April and June Planning Commission meeting, staff presented the Commission with a series of questions regarding home occupations and sought their direction for possible amendments to the current planning code as it addresses home occupations. The issue being addressed focused on the amendment of the code to allow personal services as a home occupation. Staff presented a “draft” code amendment along with alternatives which the Commission might choose to consider. Direction from the Commission at that meeting appeared to direct staff to incorporate the amendments with a draft ordinance to be presented at the July Commission meeting.

In the interim, the planning staff reviewed the amendments with a few minor revisions including specifications regarding access, clarification regarding traffic, evaluation criteria for the Community Development Director, and establishment of exemptions for garage, yard, bake sales, and similar activities not to exceed five per year. Submittal of a building footprint and site plan were added for ease in evaluation of home occupations. Several other minor deletion and additions were proposed.

### COMMENT

The application of additional conditions and enforcement per amendments was discussed by the planning staff. Once the business license and home occupation checklist are completed, they are routed to the city departments for review. Language was added which allows the Community Development Director to apply additional conditions.

Enforcement was an area that could create discrepancies in the city land use review process. At the present time, the application for a home occupation occurs simultaneously with the application for a business license and is included by reference in the business license approval. As proposed, initial enforcement would occur through code enforcement per LMC. 1.40.020. The Community Development Director would still retain the ability to revoke the home occupation. Appeals would be to the Hearings Examiner.
As proposed the code language amendments would read as follows:

A home occupation may be permitted by issuance of a business license, pursuant to LMC Title 5, provided the business complies with this and other applicable sections of the Lynnwood Municipal Code.

A. Area Used. A home occupation may only be conducted in the principal building and not in an accessory building. The area devoted to the home occupation may comprise no more than 25 percent of the area of the principal building. Any extension of the home occupation to the outdoors, including, but not limited to, paving or yards for parking, outdoor storage or activity, indoor storage or activity visible from outdoors (e.g. in an open garage) is prohibited.

B. Access. Access to the space devoted to the home occupation shall be from within the dwelling, not internally “closed off” or separated from the living areas of the home, and not from a separate outside entrance.

C. Employment. No one other than the members of the resident household may perform labor or personal services on the premises, or park at or near the dwelling.

D. Stock in Trade. The processing, storing, and occasional sale of handicrafts made on the premises and other small products is allowed, subject to compliance with other conditions of this title. The display or storage of goods outside the premises or in a window is prohibited.

E. Equipment, Use, and Activities. No equipment may be used and no activities may be conducted which would result in noise, vibration, smoke, dust, odors, heat, glare, or other conditions exceeding in duration or intensity those normally produced by a residential use. Normal residential uses shall be construed as including the above impacts only on an occasional weekend or evening basis (e.g. in connection with a hobby or home/yard maintenance), and not on a daily basis.

F. Traffic. A home occupation shall not generate traffic in excess of normal residential traffic. Normal residential traffic for the purposes of regulating home occupation traffic shall be defined as 10 trips per day and one trip per hour. Delivery services such as the Post Office, UPS, FedEx and similar, which make normal deliveries to residential neighborhoods, shall not be included in the assessment. Trips, whether personal or for business, by residents of the dwelling, shall also not be included. Home occupations that generate traffic or parking, are limited to the hours of 7:00 a.m. to 9:00 p.m.

G. Certain Uses Specifically Prohibited: The following uses are specifically prohibited as home occupations:

1. Automotive repairs or detailing;
2. Small engine and major appliance repair;
3. Boarding, grooming, kenneling, or medical treatment of animals;
4. Contractors’ shops (with the exception of administrative and office functions). Outdoor storage of equipment, materials, or more than one vehicle related to the business is prohibited;
5. On-site sale of firewood;
6. Sheet metal fabrication;
7. Unlicensed or uncertified health care or other physical or personal services administered directly to the client at this location.
Beauty/barber shops and other similar activities having more than one station.

8. Any other use as determined by the Community Development Director with a demonstrated tendency significant potential to violate one or more of the conditions of this section.

H. Signs. Any home occupation sign must meet the residential sign regulations in LMC 21.16.290.

I. Exemptions. The following shall not be regulated under this ordinance: garage sales, yard sales, bake sales, and similar as long as they do not occur more than five times per year per home.

J. Process.

1. Applications. The application for a home occupation permit shall be submitted on a form concurrently with a business license application, and shall be acknowledged by the property owner if other than the applicant. Applications shall include a copy of a site plan showing parking and a footprint for the premises showing access and the square footage of the premises and the square footage allocated to the occupation.

2. Conditions. The Director of the Community Development Department may impose additional conditions to mitigate any potential adverse impacts on the surrounding uses.

3. Business License. A business license shall be obtained from the City’s Clerk’s office and will be maintained. If the license is not maintained, the home occupation approval shall become null and void and a new application shall be required to reestablish the use.

5. Review, Enforcement, and Penalties

a) A violation of any provision of this chapter shall be a civil infraction. Enforcement activities will be conducted pursuant to LMC 1.40.020.

b) A home occupation may be suspended or revoked by the Director of the Community Development Department as an administrative decision. The Director may base his action on:

1. Lack if compliance with the conditions of the permit or its approval, or with the provisions of the development code, or upon finding that the operation of the home business creates a nuisance or hazard, or has been abandoned, or was procured by mistake, fraud or deception.

Staff will give a brief explanation of the code amendment recommendations for Commission review and discussion. The Commission will then be asked for any additional revisions and/or a recommendation to set the amended code for public hearing for public input on the code amendments.

**RECOMMENDATION**

Discuss proposals with a possible setting of a public hearing
ATTACHMENTS

A. Proposed Ordinance
CITY OF LYNNWOOD

ORDINANCE NO. ______

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, AMENDING LYNNWOOD MUNICIPAL CODE SECTIONS 21.42.300 AND 21.43.300, RELATING TO HOME OCCUPATIONS IN THE SINGLE-FAMILY AND MULTI-FAMILY RESIDENTIAL ZONES; AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND SUMMARY PUBLICATION.

WHEREAS, pursuant to Chapters 35A.11 and 35A.63 RCW the City Council of the City of Lynnwood has the authority to adopt ordinances relating to the use of real property located within the City; and

WHEREAS, technology, economic shifts, and entrepreneurship allow and encourage business activities that can be operated out of the home; and

WHEREAS, with the application of appropriate standards it is possible to conduct a variety of business activities from a home without adversely impacting the neighborhood; and

WHEREAS, if appropriately regulated income derived from a home occupations and having more people in a neighborhood during business hours could encourage neighborhood stability and safety; and

WHEREAS, the present zoning code could be construed to be overly restrictive with regards to allowed home occupations; and

WHEREAS, the City of Lynnwood has received a public comment to allow personal services as a home occupations; and

WHEREAS, the City believes that the allowance of personal services as a permitted use incorporating into an updating of this section of the code would be of economic benefit to residents and the community; and

WHEREAS, the Community Development Director may approve with modification an application for a home occupation and withdraw an approval;

WHEREAS, the City Council desires to amend the Lynnwood Municipal Code in order to address these issues and to clarify the intent of Ordinances No. 2466 and No. 2586, respectively; now, therefore

THE CITY COUNCIL OF THE CITY OF LYNNWOOD, WASHINGTON, DO ORDAIN AS FOLLOWS:
Section 1. Sections 21.42.300 and 21.43.300 of the Lynnwood Municipal Code are amended to read as follows:

21.42.300 and 21.43.300 Home Occupations.

A home occupation may be permitted by issuance of a business license, pursuant to LMC Title 5, provided the business complies with this and other applicable sections of the Lynnwood Municipal Code.

A. Area Used. A home occupation may only be conducted in the principal building and not in an accessory building. The area devoted to the home occupation may comprise no more than 25 percent of the area of the principal building. Any extension of the home occupation to the outdoors, including, but not limited to, paving or yards for parking, outdoor storage or activity, indoor storage or activity visible from outdoors (e.g. in an open garage) is prohibited.

B. Access. Access to the space devoted to the home occupation shall be from within the dwelling, not internally “closed off” or separated from the living areas of the home, and not from a separate outside entrance.

C. Employment. No one other than the members of the resident household may perform labor or personal services on the premises.

D. Stock in Trade. The processing, storing, and occasional sale of handicrafts made on the premises and other small products is allowed, subject to compliance with other conditions of this title. The display or storage of goods outside the premises or in a window is prohibited.

E. Equipment, Use, and Activities. No equipment may be used and no activities may be conducted which would result in noise, vibration, smoke, dust, odors, heat, glare, or other conditions exceeding in duration or intensity those normally produced by a residential use. Normal residential uses shall be construed as including the above impacts only on an occasional weekend or evening basis (e.g. in connection with a hobby or home/yard maintenance), and not on a daily basis.

F. Traffic. A home occupation shall not generate traffic in excess of normal residential traffic. Normal residential traffic for the purposes of regulating home occupation traffic shall be defined as 10 trips per day and one trip per hour. Delivery services such as the Post Office, UPS, FedEx and similar, which make normal deliveries to residential neighborhoods, shall not be included in the assessment. Trips, whether personal or for business, by residents of the dwelling, shall also not be included. Home occupations that generate traffic or parking, are limited to the hours of 7:00 a.m. to 9:00 p.m.

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3. Boarding, grooming, kenneling, or medical treatment of animals;
4. Contractors’ shops (with the exception of administrative and office functions).
5. Outdoor storage of equipment, materials, or more than one vehicle related to the business is prohibited;
6. On-site sale of firewood;
7. Unlicensed or uncertified health care or other physical or personal services administered directly to the client at this location. Beauty/barber shops and other similar activities having more than one station.
8. Any other use as determined by the Community Development Director with a demonstrated tendency significant potential to violate one or more of the conditions of this section.
H. Signs. Any home occupation sign must meet the residential sign regulations in LMC 21.16.290.

I. Exemptions. The following shall not be regulated under this ordinance: garage sales, yard sales, bake sales, and similar as long as they do not occur more than five times per year per home.

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1. Applications. The application for a home occupation permit shall be submitted on a form concurrently with a business license, and shall be acknowledged by the property owner if other than the applicant. Applications shall include a copy of a site plan showing parking and a footprint for the premises showing access and the square footage of the premises and the square footage allocated to the occupation.
2. Conditions. The Director of the Community Development Department may impose additional conditions to mitigate any potential adverse impacts on the surrounding uses.
3. Business License. A business license shall be obtained from the City’s Clerk’s office and will be maintained. If the license is not maintained, the home occupation approval shall become null and void and a new application shall be required to reestablish the use.

5. Review, Enforcement, and Penalties
   a) A violation of any provision of this chapter shall be a civil infraction.
   b) A home occupation may be suspended or revoked by the Director of the Community Development Department as an administrative decision. The Director may base his action on:
      i. Lack of compliance with the conditions of the permit or its approval, or with the provisions of the development code, or upon finding that the operation of the home business creates a nuisance or hazard, or has been abandoned, or was procured by mistake, fraud or deception.

Section 2. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 3. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after publication.

PASSED BY THE CITY COUNCIL, the _____ day of July, 2010 and approved by the Mayor this _____ day of July, 2010.

APPROVED:

Don Gough
Mayor

ATTEST/AUTHENTICATED:

______________________________
Vicki Heilman
Assistant Finance Director

APPROVED AS TO FORM:

______________________________
City Attorney

FILED WITH ADMINISTRATIVE SERVICES: _____________
PASSED BY THE CITY COUNCIL: _____________
PUBLISHED: _____________
eFFECTIVE DATE: _____________
ORDINANCE NUMBER: _____________
ACTION

Continue discussions related to preservation of single-family neighborhoods and a proposal to replace the 60:40 unit goal with an 80:20 land area goal.

BACKGROUND

The Municipal Code provides for annual consideration of amendments to the City’s Comprehensive Plan (the annual “docket”). Review of these amendments is a major component of the Planning Commission’s annual work program. Following a Public Hearing on June 10 and June 24, 2010 this amendment was held back for further discussion.

ANALYSIS/COMMENT

Commission requested that staff prepare additional information regarding two aspects of this issue:

- Incentives for conversion of existing multi-family zones to single family
- Adequacy of the 80:20 land area alternative, when coupled with other existing preservation policies, to the 60:40 unit count single-family/multi-family ratio

Incentives for conversion of existing multi-family to single family

Members of the Planning Commission have posed the question if the supply of single-family housing could be increased through a program of “incentives” to encourage conversion of (older, poor condition) existing multifamily development to single-family. The feasibility of such conversions depends upon a number of factors:

- Is there a potential supply of multifamily lots (developed or undeveloped) that could be converted?
- What is the value of these parcels compared to the market rate for single family lots?
• What mechanisms exist to legally provide incentives or subsidies to bridge the
difference in lot price?

In order to get an answer to the first two questions, staff undertook an analysis of
potential “downzone” lots. Three conditions were place on these lots to limit them to the
most likely candidates for conversion and consistent with the brief time available for
analysis:

• Located such that a buffer between the new (converted) single-family areas and
higher-density, typically commercial or industrial, uses.
• In a single ownership, i.e., not condominiums (property acquisition to difficult)
• Condition code (at least for first round of this exercise) below average for age
(FAIR); these properties would be expected to have the lowest improvement
value and greatest potential for conversion.

Twenty-eight of 462 multifamily parcels met the “FAIR” condition test. (Expanding the
candidate list to include average condition or to nominate by improvement ratios was
beyond the scope of this limited analysis) Of these, eighteen were in positions that
allowed maintenance of multifamily buffers between the parcels and
commercial/industrial zones. Land costs for these qualifying lots was assumed to be the
the total assessed value, including improvements, as these improvements are currently
producing income. The average land cost for these 18 parcels was $41/square foot. Next
the potential lot yield for each parcel was computed by dividing the parcel size by 8400.
The average lot cost was $434,594 (RS-8). These lots were then compared to existing
single-family lots with similar locations (within a 300 foot radius of the candidate lots).
The average land value for these 149 SFR parcels was $21/square foot, with an average
lot value of $212,496. The difference between prevailing SFR lot value and candidates
for conversion is $222,098, or about 105%. Actual costs would be somewhat higher, due
to demolition and utility relocation. (Note: these values are based on 2009 assessed
valuations; current market values may be substantially lower.)

This value difference provides a very steep barrier to down-zoning and conversion.
Down-zoning is always controversial. Most down-zoning has been attempted fairly
limited circumstances:
  • depressed areas as part of an urban renewal effort
  • rural areas in an attempt to prevent sprawl
  • urban neighborhood zoned at densities that are greater than current development
Any non-voluntary down-zoning would create significant loss in value to affected
properties. Rental properties would be allowed to continue, but as non-conforming, pre-
existing uses. It is highly likely that such a down-zoning would be challenged as a
regulatory taking.

Voluntary down-zoning would be unlikely without very large “incentives”. Typical
regulatory incentives offered by local government – reduced fees, expedited review,
greater flexibility in lot size or configuration, etc. – would have insufficient value to be
effective. Very few financial incentives are available to Washington local governments.
Cities do not have the legal power to make significant impact on property tax rates or to create tax moratoria, tools employed for redevelopment in other states. Some exceptions to this general rule are possible if the subject property is blighted and falls into a community renewal project under RCW 35.81. Under this scenario, the local government would purchase the property, clear the buildings and prepare the site, and resell the property. The city’s ability to purchase the property would be limited by the need to demonstrate a valid public purpose. However, as the resale value of the down-zoned property would almost certainly be less than the purchase price, this sort of transaction would likely violate Article VIII, 7 of the state constitution (aka “the gift clause.”).

Another regulatory option would be to increase the density allowed in the so-called “down-zoned” area so that land values were more in line with the existing multi-family uses. Provided that sufficient parcel size could be found or aggregated, existing low-end, low-density multifamily islands might be converted to something like cottage housing, with densities similar to RML or SF-4. Were the City to allow rezoning of existing multifamily to these densities, the per-unit lot cost (using the example above) could decrease to around $200,000. The resultant single-family units would not be inexpensive, but could be more affordable than existing single-family stock. The kind of allowable unit and site design for these developments would need to differentiate them from Snohomish County Low-Density Multiple Family (aka LDMR or “air condos”) that have been rejected by the Council as inappropriate for traditional SFR neighborhoods.

**Discussion of proposed revisions to the 60:40 subgoal.**

While Lynnwood’s Comprehensive Plan has always emphasized the importance of preserving single family residential neighborhoods, the formal Single-Family Housing Retention policy first appears in the 2004 Update to the Land Use Element. The policy, stated in a subgoal, reads:

> Assure retention of existing single-family housing, and areas of such housing, through protection from conflict with or encroachment of incompatible land uses or activities, and attempt to reach 60% single-family and 40% multi-family units in the area of the City outside of the City Center Study Area.

Previous reports to the Commission during the current docket cycle have shown that

- Single family units comprise approximately 50% of the City’s housing stock
- Single family neighborhoods comprise about 83% of residentially-zoned land in the City.
- There is limited capacity for new single-family units, and most of that capacity will result from short subdivisions of existing large-lot single family
- Growth of the City through annexation will not increase the percentage of single-family units
- Single family detached units as a percentage of total housing units is at a high-water mark, and will gradually decline in the future.
In order for the City to accommodate its share of future growth in the region, most future housing unit growth will consist of multifamily units. These new multifamily units will likely have a greater diversity in terms of size, value, and tenure (ownership) than current multifamily offerings. These trends are already evident in the unincorporated urban growth area.

The core of the City’s growth policy, while perhaps not well articulated in the Comprehensive Plan, has been to accommodate future growth through redevelopment of commercial areas into mixed-use communities. The first of these major redevelopment areas is the City Center. Appropriately, the City Center was “carved out” from the area covered under the 60:40 policy. The next area to be proposed for this pattern of redevelopment is the Highway 99 corridor. In the unincorporated MUGA, Snohomish County has designated two mixed-use urban centers: Highway 99 at 148th and 164th & I-5. These centers and corridors will provide capacity for the vast majority of forecast growth.

In addition to the designated urban centers, Snohomish County has allowed significant increases in the density of new development in existing single-family neighborhoods, primarily through the use of LDMR or “air condo” developments. The City has opposed this policy, and our future land use plan for the area would eliminate the use of this zone where not already vested. Reductions in housing capacity resulting from these changes must be made up by increased density in new mixed-use communities.

The 60:40 policy is one of several goals, subgoals, and policies with the shared intent of preserving single-family neighborhoods. Preservation of these neighborhoods is seen as essential to maintaining the fabric and identity of the community. As noted above, preserving single family neighborhoods need not be in conflict with increasing the stock of multifamily housing. The 60:40 policy, however, is directly aimed at maintaining the percentage of single family units, not neighborhoods. In order to be consistent with other parts of the plan, over time the ratio would either have to continually be reduced or additional “carve-outs” would need to be added defining areas where the policy does not apply. Staff has proposed an alternative that focuses instead on preserving the neighborhood by establishing a goal of 80% of our residential land remaining in single-family use. Unlike the 60:40 split, the 80:20 split is consistent with current and planned future land use in the City and MUGA.

Like the current 60:40 goal, the 80:20 goal would not be a stand-alone tool for preserving single family neighborhoods. Significant supporting policies include:

- **Policy LU-2.12** No single family residential property (SF) shall be rezoned to any form of multi-family (MF) use; except, in rare instances, and then only upon a showing of clear and convincing evidence of need
- **Policy LU-2.8(f)** Multi-family development of the (multi-family) site will not disrupt or negatively impact adjacent single-family property.
- **Policy LU-2.9(d)** (SF-2 PUD) Site provides a transition between lower density single family development and other uses.
These strong protection and preservation policies are complemented by a limited degree of flexibility in meeting the daily needs of neighborhood residents:

- **Policy LU-6.1(b)** Facilities that serve a single neighborhood should be located in such neighborhoods.
- **Policy LU-7.2** Allow a range of complementary residential and limited neighborhood commercial land uses in existing and developing neighborhoods. Complementary uses include places of worship, child day care, adult day care, and similar institutional uses that provide a residential service and do not cause a substantial impact to adjoining residences. Limited commercial land uses may be allowed where residences are more than convenient walking distance (about one-half mile) from other shopping areas, and may include small retail stores providing convenience goods for residents of the immediate area.

The proposed 80:20 package also includes a new policy related to neighborhood sustainability planning.

- **Proposed Policy LU-7.8** The city will consider the unique requirements for enhancing the sustainability of existing single-family neighborhoods during the development of climate change and sustainability plans.

This new sustainability policy will complement other existing neighborhood and housing policies. As our single family housing stock ages and homeowners begin to adapt to increased costs of fossil fuels and other energy, significant public and private investments will need to be made both in conventional maintenance and deep energy efficiency retrofits. Existing complementary policies include:

- **Policy LU-7.1** Work with affected persons and groups to develop plans and strategies that will improve and stabilize neighborhoods.
- **Policy LU-7.4** Provide for a rental housing inspection program to promote the long-term viability of neighborhoods.
- **Policy H-1.3** Provide opportunities that assist middle-to-low income households in the maintenance and rehabilitation of their homes.
- **Policy H-1.5** Establish a street, trails, and sidewalk improvement program that promotes an effective and safe neighborhood circulation and transportation system.

Over the next three years, staff will continue to build upon our existing climate change and sustainability framework. The first product of this effort will be a Climate Action Plan which will include new goals, policies, and program proposals focused on achieving large gains in residential energy efficiency and reducing automobile dependency. By 2014, our goal is to reshape the Comprehensive Plan around sustainability principles. Policies designed to address and improve the sustainability of single-family neighborhoods will be a cornerstone of that effort.