



CITY OF EDMONDS

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DEVELOPMENT SERVICES DEPARTMENT • PLANNING DIVISION

BEFORE THE HEARING EXAMINER FOR THE CITY OF EDMONDS

Phil Olbrechts, Hearing Examiner

RE: Prestige Care Skilled Nursing Facility Conditional Use Permit and Design Review (PLN20130075 and PLN20130076)	FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL DECISION
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INTRODUCTION

The applicant has applied for a conditional use permit and design review to construct a new skilled nursing facility to replace an existing nursing care facility located at 21008 76th Avenue West. The applications are approved with conditions.

TESTIMONY

Mike Clugston, associate planner, summarized the staff report.

In response to examiner questions about where the added building area will be located (as compared to the current building area), Peter Carletti, project architect, testified that attachment 6(L) shows the outline of the existing building and noted that the new building will be built closer to the property lines and will add a basement. He noted that the fire department wanted to maintain fire access in the front of the building and that the parking area would stay largely the same. The building generally takes up the same footprint with extensions into the north, east and west

1 existing setbacks. Mr. Carletti noted that historically parking has been adequate at
2 the site and that the new proposal will result in a reduction in the number of beds.
3 The new building fits in much better aesthetically with the surrounding neighborhood
4 than the existing 1950s style building.

5 Alvin Rutledge, citizen, testified that the new building sites in the vicinity can be a
6 source of crime and that should be watched. He also inquired as to when the existing
7 building would be demolished and how patients would be transferred out of the
8 existing facility. He noted that the transport of the patients could be a liability issue
9 for the City.

10 Paul Rasmussen, a representative of the applicant, noted that the patients of the
11 existing facility have already been moved out. The facility has been empty since May
12 2013. Prestige Care took over the facility in 2004 and decided that the facility could
13 not feasibly be rehabilitated and had to be replaced instead. Construction for the
14 facility will probably start in late July or August with demolition a little earlier. The
15 new facility will have 28 completely private rooms, 26 semi-private rooms that share
16 bathrooms and 3 additional semi-private rooms for bariatric treatment.

12 EXHIBITS

13 The staff report and attachments 1-13 identified at page 2 of the staff report was
14 admitted at hearing as Exhibit 1.

17 FINDINGS OF FACT

18 Procedural:

- 19 1. Applicant. Prestige Care, Inc.
- 20 2. Owner. Prestige Care, Inc.
- 21 3. Hearing. The Hearing Examiner conducted a hearing on the subject
22 application on March 27, 2014 at 3:00 pm in the Council Chambers of the Edmonds
23 Public Safety Complex.

23 Substantive:

- 24 3. Site and Proposal Description. The applicant has applied for a conditional use
25 permit and design review to construct a new skilled nursing facility to replace their
existing facility at 21008 76th Avenue West.

1 The existing building is 32,000 square feet in area and accommodates 89 beds. The
2 existing building was built in 1964. The newly proposed building will be 48,385
square feet and will accommodate 80 beds.

3 The Architectural Design Board held a public meeting and reviewed the design of the
4 proposed redevelopment on March 5, 2014. The minutes from that meeting are
5 included as Attachment 10. The ADB recommended approval of the proposal subject
to conditions that are adopted by this decision with the incorporation of a minor
revision recommended by staff (see p. 3 of staff report).

6 4. Characteristics of the Area. North and east of the subject site are multifamily-
7 zoned and developed parcels. To the south, around the intersection of 76th Avenue
8 and 212th are small businesses on parcels zoned Neighborhood Business (BN).
9 Edmonds-Woodway High School is at the southwest corner of the intersection. To
the west are single- and multi-family zoned and developed parcels.

10 5. Adverse Impacts of Proposed Use. There are no significant adverse
11 associated with the proposal. This is to be expected since (1) the use will stay the
12 same but will involve fewer beds, (2) the project site is already fully developed with
13 the existing building, and (3) design standards applicable to the new building are
14 much more stringent than those that were in place in 1964 when the existing building
15 was constructed. Although the area of the building will be increased by about 50%,
16 the increase in size will likely not be noticeable to any significant degree since a large
17 amount of this added space will be located in a new basement. The overall building
18 footprint will stay largely the same with the parking area staying in the same location
19 with no significant alteration to its size. The proposal has gone through the rigors of
20 Edmonds design review so its overall design is likely to be a significant aesthetic
21 improvement over the existing building. Since the proposed use will accommodate
fewer beds traffic generation is not likely to increase and the public facilities serving
the currently existing building should be adequate to serve the new building. A
skilled nursing care facility is a fairly benign use that does not create any significant
noise, vibration or odors and it should prove to be fully compatible with the
surrounding multi-family and commercial uses. A number of medium-sized trees will
be removed as part of the project but new landscaping will be installed. Much of the
site will be covered with impervious surface (roof, drive aisles, parking lot, etc.) but
all stormwater generated from the development will be managed on the site
(Attachment 6n) and will be subject to the City's stormwater control standards.

22 23 **CONCLUSIONS OF LAW**

24 **Procedural:**

25 1. Authority of Hearing Examiner. ECDC 20.01.003 provides that the
Hearing Examiner will hold a hearing and issue a final decision on conditional use
permit applications. ECDC 20.01.002(B) requires consolidation of design review
permits with the hearing examiner review of the conditional use permits.

1 **Substantive:**

2 2. Zoning Designations. The subject property is zoned Residential
3 Multifamily (RM-2.4).

4 3. Permit Review Criteria. A conditional use permit is required for the
5 proposed skilled nursing home because ECDC 16.30.010(C)(4) requires a conditional
6 use permit for convalescent and rest homes in the RM-2.4 zone. The scope of the
7 redevelopment triggers State Environmental Policy Act (SEPA) review; therefore,
8 design review by the Architectural Design Board (ADB) is required by ECDC
9 20.11.010(A). The criteria for a conditional use permit are governed by ECDC
10 20.050.010. The criteria for general design review are set by ECDC 20.11.020 and
11 20.11.030. All applicable criteria are quoted below and applied through
12 corresponding conclusions of law.

13 **ECDC 20.050.010:** *No conditional use permit may be approved unless all of the
14 findings in this section can be made.*

15 *A. That the proposal is consistent with the comprehensive plan.*

16 **ECDC 20.11.020 Findings.**

17 *The board shall make the following findings before approving the proposed
18 development:*

19 *A. Criteria and Comprehensive Plan. The proposal is consistent with the criteria
20 listed in ECDC 20.11.030 in accordance with the techniques and objectives contained
21 in the urban design chapter of the community culture and urban design element of the
22 comprehensive plan. The city has the obligation to provide specific direction and
23 guidance to applicants. The urban design chapter has been adopted to fulfill the city's
24 obligations under Washington State case law. The urban design chapter shall be used
25 to determine if an application meets the general criteria set forth in this chapter. In
the event of ambiguity or conflict, the specific provisions of the urban design chapter
shall control.*

4. The proposal is consistent with the Comprehensive Plan. The ADB staff
report analysis of the comprehensive plan, located at Section G, is adopted and
incorporated by this reference as if set forth in full.

ECDC 20.05.010(B): Zoning Ordinance. *That the proposed use, and its location, is
consistent with the purposes of the zoning ordinance and the purposes of the zone
district in which the use is to be located, and that the proposed use will meet all
applicable requirements of the zoning ordinance.*

1 **ECDC 20.11.020(B):** *Zoning Ordinance. The proposal meets the bulk and use*
2 *requirements of the zoning ordinance, or a variance or modification has been*
3 *approved under the terms of this code for any duration. The finding of the staff that a*
4 *proposal meets the bulk and use requirements of the zoning ordinance shall be given*
5 *substantial deference and may be overcome only by clear and convincing evidence.*

6 5. The staff report analysis of Zoning Ordinance compliance, located at
7 Section H of the ADB staff report, is adopted and incorporated by this reference as if
8 set forth in full.

9 **ECDC 20.05.010(C):** *Not Detrimental. That the use, as approved or conditionally*
10 *approved, will not be significantly detrimental to the public health, safety and welfare,*
11 *and to nearby private property or improvements unless the use is a public necessity.*

12 6. As discussed in Finding of Fact No. 5, there are no significant adverse
13 impacts associated with the project. As a consequence, the proposal will not be
14 significantly detrimental to the public health, safety and welfare or to nearby
15 properties or improvements.

16 **ECDC 20.05.010(D):** *Transferability. The hearing examiner shall determine whether*
17 *the conditional use permit shall run with the land or shall be personal. If it runs with*
18 *the land and the hearing examiner finds it in the public interest, the hearing examiner*
19 *may require that it be recorded in the form of a covenant with the Snohomish County*
20 *auditor. The hearing examiner may also determine whether the conditional use permit*
21 *may or may not be used by a subsequent user of the same property.*

22 7. The conditional use permits shall run with the land, but has to maintain the
23 proposed design and use.

24 **Note:** In order to avoid redundancy between the Findings of Fact and Conclusions of
25 Law below, the Conclusions of Law below will contain mixed findings of fact and
law.

ECDC 20.11.030(A): *Building Design. No one architectural style is required. The*
building shall be designed to comply with the purposes of this chapter and to avoid
conflict with the existing and planned character of the nearby area. All elements of
building design shall form an integrated development, harmonious in scale, line and
mass. The following are included as elements of building design:

1. *All exterior building components, including windows, doors, eaves, and parapets;*

8. The proposal uses a variety of exterior elements which contribute to an attractive,
residential feel for the building (Staff Report Attachments 6b & 6c).

ECDC 20.11.030(A)(2): *Colors, which should avoid excessive brilliance or*

brightness except where that would enhance the character of the area;

9. No brilliant colors are proposed (Attachment 6b).

ECDC 20.11.030(A)(3): *Mechanical equipment or other utility hardware on the roof, grounds or buildings should be screened from view from the street level;*

10. Rooftop mechanical equipment is proposed to be screened by a parapet (Attachment 6e). A transformer and hot box are shown on Attachment 6a adjacent to 76th Avenue West but these must either be moved, buried, screened or painted in order to minimize their visual impact. Trash and recycling facilities are screened and buffered near the southeast corner of the parking lot, interior to the site.

ECDC 20.11.030(A)(4): *Long, massive, unbroken or monotonous buildings shall be avoided in order to comply with the purposes of this chapter and the design objectives of the comprehensive plan. This criterion is meant to describe the entire building. All elements of the design of a building including the massing, building forms, architectural details and finish materials contribute to whether or not a building is found to be long, massive, unbroken or monotonous.*

a. In multifamily (RM) or commercial zones, selections from among the following or similar features are appropriate for dealing with this criterion:

i. Windows with architectural fenestration;

ii. Multiple rooflines or forms;

iii. Architecturally detailed entries;

iv. Appropriate landscaping;

v. The use of multiple materials;

11. The proposed building is not long, massive, unbroken nor monotonous. A variety of forms, materials, colors and details contribute to an attractive, residential feel for the building (Attachments 6b – 6d). As depicted in the project elevations, the design involves multiple rooflines, architecturally detailed entries, the use of multiple materials and extensive landscaping.

ECDC 20.11.030(A)(5): *All signs should conform to the general design theme of the development.*

12. No signs have been specifically proposed. All signage must meet the requirements of ECDC 20.60 and should use similar materials to those used throughout the rest of the development.

ECDC 20.11.030(B): *Site Treatment. The existing character of the site and the nearby area should be the starting point for the design of the building and all site treatment. The following are elements of site treatment:*

1 *1. Grading, vegetation removal and other changes to the site shall be minimized*
2 *where natural beauty exists. Large cut and fill and impervious surfaces should be*
3 *avoided.*

4 13. Because the site is nearly level, grading will be minimal. A number of
5 medium-sized trees will be removed as part of the project but new landscaping will be
6 installed. Much of the site will be covered with impervious surface (roof, drive aisles,
7 parking lot, etc.) but all stormwater generated from the development will be managed
8 on the site (Attachment 6n).

9 **ECDC 20.11.030(B)(2):** *Landscape treatment shall be provided to enhance the*
10 *building design and other site improvements.*

11 14. A variety of native trees, shrubs and groundcovers are proposed around the
12 building and within the parking lot which will enhance the building design and other
13 site improvements (Attachment 6g). These areas will be watered by an automatic
14 irrigation system.

15 **ECDC 20.11.030(B)(3):** *Landscape treatment shall be provided to buffer the*
16 *development from surrounding property where conflict may result, such as parking*
17 *facilities near yard spaces, streets or residential units, and different building heights,*
18 *design or color.*

19 15. The proposed landscaping will serve to soften the building facades and access
20 drives while screening the parking lot and trash facilities.

21 **ECDC 20.11.030(B)(4):** *Landscaping that could be damaged by pedestrians or*
22 *vehicles should be protected by curbing or similar devices.*

23 16. Vegetation adjacent to the access drives and in the parking lot area will be
24 protected by curbing.

25 **ECDC 20.11.030(B)(5):** *Service yards, and other areas where trash or litter may*
accumulate, shall be screened with planting or fences or walls which are compatible
with natural materials.

17. The trash enclosure at the southeast corner of the parking lot will be fenced and
screened with vegetation (Attachments 6a & 6g).

ECDC 20.11.030(B)(6): *All screening should be effective in the winter as well as the*
summer.

18. Plantings will consist of evergreen and deciduous trees and shrubs that will
provide year-round screening and interest.

ECDC 20.11.030(B)(7): *Materials such as wood, brick, stone and gravel (as opposed*

1 to asphalt or concrete) may be substituted for planting in areas unsuitable for plant
2 growth.

3 19. The proposed landscape plan does show a 'dry stream bed' extending from the
4 sidewalk to access drive north of the southern drive entrance (Attachment 6g). It is
5 unknown whether this area is unsuitable for plant growth but there is a similar rock
6 feature on the existing site which provides interest (Attachment 2).

7 **ECDC 20.11.030(B)(8):** *Exterior lighting shall be the minimum necessary for safety
8 and security. Excessive brightness shall be avoided. All lighting shall be low-rise and
9 directed downward onto the site. Lighting standards and patterns shall be compatible
10 with the overall design theme.*

11 20. The type and location of the proposed lighting will result in very low intensities at
12 the site boundary but sufficient lighting in the parking and drive aisles (Attachments
13 6h – 6j).

14 **ECDC 20.13.000:** *The landscape requirements found in this chapter are intended for
15 use by city staff, the architectural design board (ADB) and the hearing examiner in
16 reviewing projects, as set forth in ECDC 20.11.010. The ADB and hearing examiner
17 shall be allowed to interpret and modify the requirements contained herein; provided
18 such modification is consistent with the purposes found in ECDC 20.10.000.*

19 21. As discussed in the ADB staff report, p. 18, the applicant falls short of meeting
20 Type V landscaping area requirements. The applicant proposes 17.5 square feet of
21 landscaping per parking stall and Type V landscaping requires 20.65 square feet per
22 stall. Staff has determined that despite this small discrepancy, the proposed
23 landscaping still meets the intent of the landscaping requirements because the parking
24 lot is still well screened and provides for landscaping islands in the interior of the site.
25 The findings of staff on this issue were approved by the Architectural Design Board.
For this reason, the Type V landscaping as proposed is considered to meet the intent of
the codes and the proposed modification is approved as authorized by ECDC
20.13.000 above.

DECISION

The conditional use permit and associated design review (PLN20130075 and
PLN20130076) are approved, subject to the following conditions:

1. The transformer and hotbox shown at the street front along 76th Avenue West shall be buried or relocated to the interior of the site and screened. If an alternative location cannot be found and the utility company requires the transformer or hotbox to be at the street, the feature shall be screened, painted and/or camouflaged in order to minimize its visual impact.

- 1 2. The Applicant shall work with the Parks Department and Engineering
2 Division to identify an appropriate street tree for the Type IV landscaping
3 island adjacent to 76th Avenue West.
- 4 3. The Applicant must apply for and obtain all necessary permits. This
5 application is subject to the requirements in the Edmonds Community
6 Development Code. It is up to the Applicant to ensure compliance with the
7 various provisions contained in these ordinances.
- 8 4. The colors and materials will be generally consistent with those shown in the
9 rendering presented at the Architectural Design Board meeting (Attachment
10 6b). If they are found by staff to not be generally consistent, the materials will
11 be brought before the Board for additional review.
- 12 5. The conditional use permit for the skilled nursing facility (PLN20130075)
13 shall run with the land as long as the conditions of approval continue to be
14 met and the approved design (PLN20130076) and use (PLN20130075) are
15 maintained.

16 Dated this 9th day of April 2014.

17 
18 Phil A. Olbrechts

19

20 City of Edmonds Hearing Examiner

21 **Appeal Right and Valuation Notices**

22 This land use decision is final and subject to closed record appeal to the City Council
23 as authorized by ECDC 20.01.003. Appeals must be filed within 14 days of the
24 issuance of this decision as required by ECDC 20.07.004(B). Reconsideration may
25 be requested within 10 calendar days of issuance of this decision as required by
ECDC 20.06.010.

Affected property owners may request a change in valuation for property tax purposes
notwithstanding any program of revaluation.

DECLARATION OF MAILING
Conditional Use Permit and Design Review
PLN20130075 and PLN20130076

I, Phil Olbrechts, make the following declaration:

1. I am a resident of the State of Washington, over the age of 18 years, not a party to this action, and competent to be a witness herein.

2. On the 9th day of April, 2014, I mailed, via First Class U.S. Mail, a true and correct copy of the FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL DECISION on the above captioned matter to the following:

Alvin Rutledge
7101 Lake Ballinger Way
Edmonds, WA 98020

All six addresses identified at p. 6 of the Mike Clugston staff report of the above-captioned matter.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

EXECUTED at Granite Falls, Washington, this 9th day of April, 2014.



Phil A. Olbrechts

