

Approved January 9, 2008

## CITY OF EDMONDS PLANNING BOARD MINUTES

December 12, 2007

Chair Guenther called the meeting of the Edmonds Planning Board to order at 7:00 p.m. in the Council Chambers, Public Safety Complex, 259 – 5<sup>th</sup> Avenue North.

### **BOARD MEMBERS PRESENT**

Cary Guenther, Chair  
John Dewhirst, Vice Chair  
Janice Freeman  
Judith Works  
Don Henderson  
Michael Bowman

### **STAFF PRESENT**

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

### **BOARD MEMBERS ABSENT**

Jim Young (excused)  
John Reed (excused)

### **READING/APPROVAL OF MINUTES**

**BOARD MEMBER HENDERSON MOVED THAT THE BOARD APPROVE THE MINUTES OF NOVEMBER 28, 2007 AS SUBMITTED. BOARD MEMBER FREEMAN SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.**

### **ANNOUNCEMENT OF AGENDA**

The Board agreed to switch Item 7a (File Number AMD-07-13) and Item 7b (File Number AMD-07-6). The remainder of the agenda was accepted as presented.

### **AUDIENCE COMMENTS**

There was no one in the audience who expressed a desire to address the Commission during this portion of the meeting.

### **CODE RE-WRITE PROJECT UPDATE AND TOPICAL DISCUSSION**

Mr. Bowman advised that after discussions with the City Attorney, staff determined the best course of action is for him to finish with the amendments to Chapter 20, and then they will go out for a contract for a consultant to help them complete the remainder of the updates. He reported that the City Attorney, Scott Snyder, will be having surgery that would require him to be immobilized for 23 hours a day for the next four to seven weeks. However, he anticipates that after a few weeks, he should be able to resume his work on the code language. In the meantime, Zach Lell, an attorney from Mr. Snyder's Office, would work with the staff.

**DISCUSSION REGARDING EDMONDS COMMUNITY DEVELOPMENT CODE CHAPTER 17 (NUISANCE)**  
**(FILE NUMBER AMD-07-6)**

Mr. Bowman advised that he and Mike Theis, the City's Code Enforcement Officer, met with Mr. Lell to review the work the Planning Board previously completed for amendments to Chapter 17.60. Mr. Lell strongly recommended the nuisance standards be removed from the Edmonds Community Development Code (ECDC) and placed in the Edmonds City Code (ECC) since they are related more to public safety than to land use issues.

Mr. Bowman explained that many of the nuisance items that were originally proposed for ECDC 17.60 were moved to ECC 6. However, those that are related to land use issues would be moved to ECDC 20 as part of the performance standards. He referred the Board to the updated language for ECC 6 and noted that the City Council would most likely hold a public hearing on the proposed amendments since they are substantive. The Planning Board is not required to review the amendments and provide a recommendation to the City Council.

Board Member Henderson referred to ECC 6:30.040, which would require property owners to eliminate noxious weeds and thistles. He pointed out that if the language is approved as written, the City's Parks Department could be required to remove all the noxious weeds and thistles from park property if someone were to complain. He suggested this could utilize a significant amount of the park maintenance budget.

Board Member Works referenced ECC 6.10.020 and asked who the City's health officer is. Mr. Bowman answered that the City contracts with the Snohomish County Health Department for this service. He explained that this section was modified to clearly define who the health officer is. It was also cleaned up so the health officer would no longer be responsible for dealing with nuisances.

Mr. Bowman said the Mr. Lell recommended that standards related to vehicles in residential zones and abatement issues could be addressed in ECDC 17.60. Another option would be to put this information in the zoning code, which could make the zoning code a bit messy. Staff recommends the standards be placed in ECDC 17.60.

Vice Chair Dewhirst referred to Section 17.60.010.B and inquired if the language in this section would also address concerns related to light pollution in the sky. Mr. Bowman noted that the language in this section was taken from the current code, and it would not address the issue of light pollution in the sky. Vice Chair Dewhirst reminded the Board that many people have expressed concern about minimizing light pollution. Chair Guenther recalled that he previously provided information to the Board regarding the topic of dark skies and light pollution. Board Member Freeman suggested this issue should be addressed by the City as they consider opportunities for requiring green and sustainable development.

Mr. Bowman recommended the Commission place this topic on their work list for the future. However, he encouraged them to not postpone the currently proposed language while they work through the issue. Board Member Freeman suggested that even if the City of Edmonds has to lead the way, they should move forward to address the concerns. Chair Guenther agreed with Mr. Bowman that the Board should wrap up their review of ECDC 17.60 with the changes proposed by staff and then consider the light issue at a future time. Mr. Bowman agreed to pass the concern on to the Mayor's Climate Control Committee as a topic of future discussion.

Vice Chair Dewhirst referred to Section 17.60.010.H.1 and noted that a heavy wire fence would not obscure storage materials from view. Mr. Bowman pointed out that this language is from the current code. Vice Chair Dewhirst suggested the language be changed to read, "All storage shall be located more than 20 feet and be screened from the street right-of-way line and shall be enclosed with a . . ."

Next, Vice Chair Dewhirst requested clarification of Section 17.60.040.C. Mr. Bowman explained that if a property owner cannot park a recreation vehicle as per the other standards in the section, then it must be parked off site, except when loading, etc. Vice Chair Dewhirst asked if the term "side or rear yard" actually means within the setbacks or just the side and rear yard. Mr. Bowman clarified that the purpose of this section is to get recreational vehicles out of the setback areas. Vice

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Chair Dewhirst suggested the third sentence be changed to read, "If the recreational vehicle cannot be stored as described in 17.60.040.E.1 or in a side or rear yard setback due to site constraints, the recreational vehicle shall be parked off-site during those extended times when not in use.

Board Member Works referenced Section 17.60.010.A and asked if the City has always allowed noise up to 60 decibels until 11:30 p.m. at night. Mr. Bowman answered that these are adopted standards that are measurable and regulated by the Puget Sound Clean Air Act. Board Member Works suggested these standards be reviewed again when the Board considers clean and sustainable options.

Board Member Freeman referred to Section 17.60.010.G, which states that no waste products shall be exposed to view from eye level from any property line. She suggested this might be difficult to enforce. Mr. Bowman concurred and suggested the last sentence be eliminated.

Board Member Henderson referred to Section 17.60.010.F and asked if this standard is monitored by the Puget Sound Air Quality Board, too. Mr. Bowman explained that if a complaint is filed related to smoke, the City calls in the Puget Sound Air Quality Board to investigate. Board Member Henderson suggested that perhaps the words, "in accordance with standards from the Puget Sound Air Quality Board." Should be added. That way, if the standards are made stricter at some point in the future, the City won't have to revise their code language. Mr. Bowman agreed to work with Mr. Lell to insert this language.

Mr. Bowman referred the Board to Section 17.70, which includes a new section related to temporary storage units. He explained that while temporary storage units can become nuisances to some people, they are valid uses that people need and the City's code must provide for them.

Mr. Bowman explained that the City's current code requires a property owner to obtain a conditional use permit in order to place a temporary structure on site, and the permits are only good for two years. He expressed his belief that the fees to the Hearing Examiner exceed the value of what the property owner is typically trying to do. He said staff believes permits for temporary structures could be handled administratively, and this would allow the costs to be more in scale with what an applicant is trying to do. Staff is proposing a change to Section 17.70 to allow staff to administratively review and approve temporary structure permits. If someone wants to appeal the permit, they could do so to the Hearing Examiner of the City Council. The Board concurred with staff's recommendation.

Mr. Bowman agreed to bring back an updated draft of Section 17.60, incorporating all the changes identified by the Board, prior to scheduling a public hearing.

**DISCUSSION REGARDING EDMONDS COMMUNITY DEVELOPMENT CODE CHAPTER 20 (PROCEDURES) (FILE NUMBER AMD-07-13)**

Mr. Bowman referred the Board to the matrix he and Mr. Chave prepared to outline the City's current list of project permit applications and the review, decision making, and appeal process for each. He invited the Board to review the document and provide feedback and guidance to staff as they prepare to write new code language for ECDC 20.

Mr. Bowman recalled that when the Board discussed ECDC 20 on a previous occasion, the majority appeared to be in favor of moving towards a process where the Hearing Examiner would handle the majority of quasi-judicial applications, with closed record reviews and appeals going straight to Superior Court. He pointed out that there are certain permit applications in which the City Council must make the final decision, but most of the other quasi-judicial permit applications could be handled by the Hearing Examiner. He advised that final plat applications cannot be handled by the Hearing Examiner because the City Council has to accept the dedications and easements associated with the final plat approval. While development agreements could be reviewed by the appropriate body, the final decision must also be made by the City Council.

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Mr. Bowman advised that if the Board decides they want the City Council to stay in the quasi-judicial decision making process, another option would be to allow for a closed record review by the City Council, but require that all testimony be presented to the City Council in writing. Using the current process, the City Council actually takes oral testimony, and it is difficult to keep the closed record hearing clean and ensure that no new testimony is provided. The problem could be solved by only allowing written arguments to be submitted to the City Council. This would make it easier for the City Attorney and staff to manage the record and make sure that only admissible evidence is entered into the record. Mr. Bowman asked the Board to provide direction on whether or not conditional use permits and variances should be appealable to the City Council. He also questioned if appeals to ADB decisions should be heard by the City Council.

Mr. Bowman recognized that the Board just received the matrix, so staff does not expect them to make decisions now. But he asked them to think about the direction they want to go. Whatever they decide, they must provide information in the record that goes to the City Council to support their recommendation. He noted that once the actual chapter has been put together, a public hearing would be scheduled before the Planning Board.

Chair Guenther recalled that the Board previously went on record as being in favor of getting the City Council out of the quasi-judicial decision making process as much as possible. However, feedback from the community is that they still want a lot of City Council involvement. He said he would be in favor of passing quasi-judicial issues on to the Hearing Examiner whenever possible. When it is not possible, he would be in favor of a written closed record review by the City Council. Board Member Works agreed with Chair Guenther. The current process is so disorderly that it is difficult to know what's going on sometimes. She concluded that it doesn't do any party good to have such a loose situation when reviewing appeals. Anything the City can do to make the process more orderly and protect the City Council at the same time would be appropriate.

Board Member Freeman agreed with Chair Guenther and Board Member Works. She noted that many citizens want the City Council to make the final decisions because they feel a group of people (City Council) would make a better decision for the community than a single-person (Hearing Examiner) would. However, she expressed her concern that the public has a tendency to undermine the process by expecting City Council Members to agree with them because they voted for them. She felt that changing the process to make it more orderly would be appropriate to prevent situations where the City Council takes actions that are not supported by law. She suggested that maybe it would be appropriate to have the City Council make the final decision, but base their decision on written testimony only.

Mr. Bowman suggested they present both concepts by the public and hold a hearing to find out what the public has to say. Perhaps the City Attorney could outline good, viable options the Board could consider. He said he has talked with the City Attorney at length about the benefits of doing closed record hearings in writing because it saves time on the part of staff, the City Council, and the applicant; and it forces appellants to write down their arguments.

Board Member Henderson felt the Board should push the concept of leaving the City Council out of the quasi-judicial decision making process because their function should be passing statutes and policy for the City. Citizens who don't like the Hearing Examiner's decision could petition the City Council to change the policy or statute rather than argue a specific proposal before the City Council.

Mr. Bowman reminded the Board that amending ECDC 20 is a legislative matter so they can voice their opinions or support for a particular position. They also have the ability to talk to citizens regarding the issue. He suggested that it is likely the Board will receive a lot of public input regarding this particular section.

Vice Chair Dewhirst noted on the matrix that lot combination permits and sign permits would go right from a staff decision to Superior Court. He questioned why there would be no opportunity to appeal these permits to the Hearing Examiner, similar to a lot line adjustment. Mr. Chave explained that lot combination permits are a right so they only require an administrative decision with no opportunity for appeal except to Superior Court. Mr. Bowman said the City does not typically receive appeals for sign permits. Mr. Chave agreed and added that sign permits are usually handled as part of a building permit.

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Vice Chair Dewhirst questioned why master plans were not included in the list of project permit applications. Mr. Chave answered that a master plan could be done either through a Comprehensive Plan amendment or associated with a change of zoning where the zoning authorizes a master plan to be done. The City does not have a floating master plan process.

Board Member Freeman suggested that staff spell out the acronyms used in the matrix upfront.

Vice Chair Dewhirst questioned why the matrix does not outline a process for reasonable accommodation permits. Mr. Bowman said that reasonable accommodation permits are staff decisions, and the City doesn't have a choice about whether to approve or deny the requests. The City is required to review reasonable accommodation requests and approve them on a case-by-case basis to address the applicant's personal needs. While the City is required to send notices out to neighboring property owners, appeals would go straight to Superior Court. Mr. Bowman agreed to outline this process on the matrix.

Mr. Bowman advised that staff would work to rewrite the language in ECDC 20 and bring it back to the Board, along with an updated matrix, for another review prior to scheduling a public hearing.

Vice Chair Dewhirst asked how long it would be before the City has a consultant on board to work on the code re-write project. Mr. Bowman answered that because of the value of the project, City Council approval of the contract would be required. It is anticipated that a contract could be finalized in January. Once a consultant is on board, staff would outline the current status of the objectives they are trying to achieve. The next step would be to develop a work program and schedule.

Vice Chair Dewhirst reminded staff of the Board's desire to implement green and sustainable elements into the code as part of the re-write process. Mr. Bowman agreed that these elements could be added as part of the project. He explained that the project would be completed in phases. The first phase would be reformatting and reorganizing the existing document. Once the formatting has been agreed upon, they could start working on adding things. This would allow them to work with a clean copy.

#### **UPDATE ON DESIGN STANDARDS FOR DOWNTOWN RETAIL CORE (BD1)**

Mr. Chave recalled that the City Council forwarded a set of proposals to the Planning Board regarding design review and design standards for the Downtown Retail Core (BD1 zone). The Architectural Design Board (ADB) has completed its review of the proposals, and the Board can now begin its review with the intent of developing a recommendation for the Council's consideration. He noted that because the proposal would ultimately result in a set of code recommendations, a public hearing would be required. He advised that the ADB minutes are not available for Planning Board Review at this time, but he prepared a preliminary summary of their discussion and conclusions.

Mr. Chave reported that the ADB understood that the proposed new standards would be applied to the BD1 zone only, which they felt would be appropriate. They generally liked the standards as proposed, but they did tweak and clarify some of the language. He reviewed the ADB's comments related to the Historic Preservation Commission's (HPC) recommendations as follows:

- **Purpose Section.** No changes or comments were made to this section.
- **Renaming the BD1 Zone.** The ADB suggested using something like "Historic Center of Edmonds" rather than "Heritage Center." They felt the latter term was too vague.
- **Threshold for Design Review.** The ADB concurred with the idea that SEPA should not necessarily be the trigger for ADB review. They felt a lower threshold would be more appropriate. However, they didn't have a specific recommendation on what the new threshold should be.
- **Design Review Process.** The ADB suggested the HPC should review and prepare a recommendation on projects proposed within the BD1 zone. In addition, a representative or representatives from the HPC could present their

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recommendations to the ADB during the ADB review meeting. The ADB did not support adding HPC members to the ADB as voting members.

- **Applications for ADB Review.** The ADB pointed out that the list of required application materials would be consistent with the ADB's current submission requirements.
- **Demolition.** The ADB did not recommend any changes to this section.
- **Incentives.** The ADB supported the idea that buildings on a historic register or city-approved historic survey (e.g. the recently completed BOLA Survey of the downtown area) could opt to deviate from any of the BD1 design standards if the property owner received a "Certificate of Appropriateness" from the HPC. In other words, the "historic" buildings would have an alternate design approval process available to them through the HPC.
- **HPC Participation in the Process.** The ADB agreed the HPC should participate in the review process when historic structures are involved. They did not provide any comments related to this section.

Mr. Chave reported that the ADB also reviewed the proposed Design Guidelines for Building Design, and made some minor editing comments. None of the changes would alter the substance of the guidelines. He advised that, at this point, no particular action is necessary on the part of the Board. Staff would incorporate the ADB's changes into an updated draft for the Board to consider in January. The next step would be to review the document and prepare for a public hearing in early 2008. He said HPC would meet on December 13<sup>th</sup> to review the ADB's recommendations, and staff could invite them to send a representative to participate when the final ADB report is presented to the Planning Board.

Mr. Bowman expressed his belief that allowing design review for historic properties to go to the HPC for a Certificate of Appropriateness is a good idea and could result in an incentive to encourage property owners to list their properties on the Edmonds Register of Historic Places in order to avoid the ADB review process.

### **REVIEW OF EXTENDED AGENDA**

Chair Guenther noted that this is the Board's last meeting in 2007. He said he is still trying to confirm a date for Stevens Hospital to present their master plan to the Board. Mr. Bowman said staff has invited Stevens Hospital to provide a report on their master plan. He said he would try to contact the representative, as well.

Chair Guenther reminded the Board that they have until December 21<sup>st</sup> to submit their comments related to the Parks Comprehensive Plan to Mr. McIntosh.

### **ELECTION OF 2008 OFFICERS**

**BOARD MEMBER WORKS NOMINATED BOARD MEMBER GUENTHER AS CHAIR OF THE BOARD FOR 2008. BOARD MEMBER FREEMAN SECONDED THE NOMINATION. THE NOMINATION WAS UNANIMIOUSLY APPROVED.**

**BOARD MEMBER DEWHIRST NOMINATED BOARD MEMBER BOWMAN AS VICE CHAIR OF THE BOARD FOR 2008. BOARD MEMBER WORKS SECONDED THE NOMINATION. THE NOMINATION WAS UNANIMIOUSLY APPROVED.**

### **PLANNING BOARD CHAIR COMMENTS**

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

**APPROVED**

### **PLANNING BOARD MEMBER COMMENTS**

Board Member Henderson referred to the series of emails the Board received related to the fiber optic work Verizon Wireless is doing in the City. Mr. Bowman advised that Verizon Wireless provided a report to the City Council on the status of their program. He encouraged the Board Members to read the City Council Minutes from December 4, 2007. He reported the wiring will be both above and below ground. He referred to the citizen complaint and explained that Verizon is following all code requirements. Unfortunately, the code does not require underground wiring in all areas. Verizon will not likely underground the wiring unless required to do so because it costs more to go that route.

Vice Chair Dewhirst thanked Board Member Freeman for all her work over the last several years. He noted that this is her last meeting. He said she has been a valuable member of the Board and has brought up good issues. Board Member Works agreed. Board Member Freeman said she has enjoyed the last 5½ years immensely. She offered her help throughout the coming years if the Board has a need.

Mr. Chave announced that Mr. Bowman would be moved from alternate to full member. Mr. Mestres, a current ADB Member, will become the new Planning Board alternate. Mr. Mestres said he is looking forward to participating on the Board as they work on important issues for the City.

### **ADJOURNMENT**

The Commission meeting was adjourned at 8:25 p.m.

**APPROVED**