

APPROVED JULY 27TH

**CITY OF EDMONDS
PLANNING BOARD MINUTES**

July 13, 2011

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
Neil Tibbott

STAFF PRESENT

Carrie Hite, Parks, Recreation and Cultural Services Manager
Kernan Lien, Planner
Jen Machuga, Planner
Karin Noyes, Recorder

BOARD MEMBERS ABSENT

John Reed, Vice Chair (excused)
Valerie Stewart (excused)

READING/APPROVAL OF MINUTES

BOARD MEMBER CLARKE MOVED THAT THE MINUTES OF JUNE 22, 2011 BE APPROVED AS AMENDED. BOARD MEMBER JOHNSON SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

ANNOUNCEMENT OF AGENDA

No changes were made to the agenda.

AUDIENCE COMMENTS

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

PARKS, RECREATION AND CULTURAL SERVICES UPDATE

Ms. Hite said Edmonds is an incredible community, and she feels fortunate to be the Parks, Recreation and Cultural Services Director. She advised that she was present to report on recent and current park projects. She would also report on her research related to levy considerations for parks, business in parks, and park impact fees.

Park Project Update

- **Edmonds Interurban Trail.** Ms. Hite explained that the Interurban Trail Project will complete the missing link of the regional trail through Edmonds. The trail will head north on 76th Avenue West from the new section in Shoreline on SR-104, continue to the old rail corridor at McAleer Way and follow the corridor to 228th Street Southwest, where it will connect with the new southern terminus of the Mountlake Terrace trail. She reported that in 2009 the City secured grant funding of \$577,000 from the Recreation and Conservation Office (RCO), along with a federal grant

in the amount of \$500,000 from the Congestion Mitigation and Air Quality (CMAQ) Program. The City also received a federal grant of \$250,000 in 2002. The costs of the project are being funded by the grants, the 412 Utility fund and the REET 125 Fund. She announced that the City Council has awarded a construction contract to Trimaxx Construction, Inc., and they are currently mobilizing and surveying the project area. They hope to start the project on Monday, with an official groundbreaking ceremony on Tuesday, July 18th at 10:00 a.m. She further reported that the City was able to add elements to the design late in the process such as pervious pavement to improve stormwater control. They have a great construction management firm (Perteet Engineering), and they have identified a schedule for completing the project before the weather window ends, recognizing that they may be required to delay a portion of the project until next spring.

Chair Lovell asked if provisions will be made at the intersection that crosses SR-104 to make it safer. Ms. Hite said there are no specific provisions in the design plans to address this intersection other than the existing crosswalk, which the bikers already use. Chair Lovell recommended that the signage provided at the intersection should be clearly legible from the other side, which is not the case with the current signage. Ms. Hite made note of this concern.

Board Member Clarke informed Ms. Hite that Mr. Mathay's family owned a sawmill on the hillside west of the proposed trail. He recalled that in the early 1960's, there were three generations of Mathays in the local area, and the first generation still lived in the log cabin that was constructed next to the old sawmill. When Mr. Mathay's grandson, a builder, constructed a subdivision to the west of the trail, he donated the park land that is known as Mathay Ballinger Park to Snohomish County. He observed that there is nothing in the park to recognize this history. Ms. Hite advised that the Interurban Trail would include interpretive signs, which could incorporate this history. There would also be a kiosk located where the trail spurs off to Mathay Ballinger Park, and this would also be a good location to provide historic information.

- Yost Pool. Ms. Hite reported that prior to opening this year, the pool was completely replastered and new race lines were added. In addition, a new ADA lift was provided for accessibility. The City also revamped the pool programming by adding more classes and increasing the temperature of the pool to accommodate more morning classes. She advised that their business goal is to increase revenues so the pool can eventually operate at a zero net loss. She pointed out that while the Capital Improvement Program (CIP) identified \$120,000 for the upgrades, the total cost of the project came in at about \$115,000. She said the City received a great bid from the contractor. Instead of replastering just 60% of the pool, they did the whole pool for the same amount. The work should last for 8 to 10 years. However, the boiler needs to be replaced in the near future at an estimated cost of \$80,000. Staff is researching more energy-efficient ways to heat the pool.

Chair Lovell recalled that he participated on the committee that conducted the aquatics center analysis, which indicated that the City would never be able to operate an aquatics facility at no net loss. The study indicated that 80% to 90% would be the best return possible. Ms. Hite acknowledged that the City would only be able to reach this goal if they include the programming costs but not the capital costs. She recalled that at her previous job in Kirkland, she was able to manage the Peter Kirk Pool, which is very similar to Yost Pool, for a net gain of \$50,000 each year. She said she hopes that they can eventually break even on Yost Pool.

Chair Lovell asked if the City Council has given any indication of their intentions to pursue a new aquatics center in Edmonds. He said he does not foresee the City having the necessary funding to construct and support a new facility in the near future. Ms. Hite answered that she has discussed the aquatics study with the City Council, and she anticipates there will be more discussion about the option in the future. She emphasized that the citizens are very interested in having a year-round aquatics facility in Edmonds. The current thought is that Yost Pool would continue to operate for the next 6 to 8 years, during which time the City Council could have some thoughtful discussions about future options.

- 76th Avenue West/75th Place West Walkway and Haines Wharf Park. Ms. Hite reported that this project was completed last fall, and they are currently in the process of negotiating with the contractor to close the it out. They are planning to have a formal dedication this fall.

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- Former Woodway High School Development. Ms. Hite reported that a lot of community effort has gone into potential plans to use this site for sport fields. Three local community project requests were submitted to the State Legislature in recent years, but none were funded. The School District has set aside \$500,000 to help jump start the project, and a new committee has been formed to secure additional funding. The School District has indicated their plans to continue to work with the communities of Edmonds, Lynnwood and Mountlake Terrace regarding this concept. There have also been preliminary discussions with the Hospital Commission, which dedicates funding for capital projects, as well. Board Member Johnson pointed out that the Citizens Economic Development Commission's (CEDC) Tourism Subcommittee is very interested in pursuing opportunities for away game tournaments in Edmonds. She encouraged Ms. Hite to discuss this issue with Mr. Yamamoto, the chair of the Tourism Subcommittee.
- Edmonds Marsh. Ms. Hite reported that the City recently applied for grant funding through the Salmon Recovery Funding Board (SRFB) for a feasibility study for enhancements and daylighting of Willow Creek. She advised that the goal of this project is to identify what would be necessary to rehabilitate the marsh and restore its function. It is believed that restoring the marsh would not only protect salmon, but would improve the stormwater conditions in the area. Chair Lovell pointed out that the Shoreline Master Program (SMP), which is currently being updated, would have some impact on the marsh. He encouraged Ms. Hite to discuss this issue with Mr. Lien to make sure the SMP is consistent with the Parks, Recreation and Cultural Services Department's plans for the marsh.
- Petanque Courts. Ms. Hite reported that the City recently worked with the Petanque Club to secure a Hubbard Foundation grant to construct two additional courts. The courts have been completed, and the ribbon cutting ceremony is scheduled for July 16th at 10:00 a.m.
- Underwater Park. Ms. Hite advised that citizens have raised concerns about the large number of buoys that are used to manage the Underwater Park. She explained that, at this time, the City does not have certified divers on staff, so the park is actually maintained by a volunteer group. She agreed with the concerns raised by citizens regarding the large number of buoys, but she also understands that buoys are needed for navigation and safety within the park area. She advised that she is working with the local stewardship group and a plan is currently in place to decrease the number of buoys and improve their visual impact. Board Member Tibbott asked if it is possible to design buoys that are more aesthetically pleasing. Ms. Hite answered that the City does not have a budget for the park, and the volunteer group actually makes the buoys. They have a plan for improving their appearance.
- Wayfinding Sign Program. Ms. Hite reported that the City has adopted a master program for wayfinding signage. She agreed to forward the Board Members a copy of the new plan for their information. The goal is to eventually replace all wayfinding signs to be more uniform in design. All new signs will be consistent with the standards identified in the master sign program. Board Member Tibbott asked if the master sign program would also be applied to the gateway signs that are placed at the entrances to the City. Ms. Hite answered affirmatively. She noted that it will take some time before all the signs have been replaced with the new design.
- SR 99 International District Enhancements. Ms. Hite reported that this project is being funded by \$662,000 in grant funding, and staff anticipates the project will start in early 2012 with a completion date of June 2012. She noted that the design work and bid documents should be completed by mid fall.
- Cultural Heritage Tour. Ms. Hite explained that this project is being funded by a matching Preserve America Grant (\$24,000) from the National Park Service. The project should be completed by the end of 2012.
- Dayton Street Plaza. Ms. Hite announced that the plaza design and bid documents have been completed, and the project will go to bid in 2012 once it has been determined that sufficient REET funding is available. She noted that the City has secured \$32,500 in grant funding for the project. The plaza would be located outside of the old public works storage facility. The goal is to create a community gathering place. She agreed to forward a copy of the plaza design to each of the Board Members.

- SR-104 Mini Park. Ms. Hite advised that the parks crew recently made significant landscaping improvements at this mini park and the large “Standing Wave” sculpture has been moved to its permanent intended location at the north end of the Sound Transit platform at Railroad Avenue and Main Street. The concrete pad where the sculpture was previously located will be used by the Arts Commission to exhibit sculptures through a loan exhibit program that is currently being developed. It is anticipated that the art pieces would change every two years.
- Recreation. Ms. Hite announced that the summer programs are in full swing. In addition, the City joined the First Lady’s “Let’s Move” initiative, which is dedicated to solving the problem of obesity within a generation. They are seeking funding for this program from the Hospital Commission.

Board Member Clarke asked if the City has evaluated the success of the dog park near Marina Beach. Ms. Hite answered that citizens are very pleased with the park, but there have been incidents in the past six months where dogs have run onto the train tracks and been injured or killed. After an incident occurred just two weeks ago, the City decided to place a fence at the south end of the park with a gate for pedestrian access to the beach when the tide is out. The fence will prevent dogs from accessing the tracks and should reduce the City’s liability. She noted that the dog park would also be part of future discussions about daylighting Willow Creek because the creek runs through the dog park. Options include screening and/or rerouting the creek or relocating the dog park.

Board Member Clarke expressed concern that many citizens disregard posted signs stating that dogs are not allowed at most parks in Edmonds. Of particular concern is that people do not clean up after their dogs. He asked if the City has a mechanism for addressing this issue, particularly in the play areas. Ms. Hite agreed this is a common issue in parks, regardless of the signage provided. Additional staff is required to enforce the “no dogs in park” rule. She said she knows of communities who have successfully used an extensive education campaign that encourages citizens to police the situation. However, she acknowledged that even a program of this type would require extensive staff time. She said maintenance staff has been encouraged to remind citizens of the rules when they see violations.

Board Member Johnson recalled that at a hearing earlier in the year regarding dogs in parks, a 10-year-old suggested the City allow one dog in each park to chase away the geese that make such as mess, particularly at his Pine Street Park sports field. Ms. Hite said that some communities use dog patrols to chase away geese.

Levy Considerations for Parks

Ms. Hite reported that as part of their levy discussions, the City Council asked her to analyze the City’s current parks system and identify deficiencies. She identified a number of items that need attention, which were listed in a preferred maintenance package she presented to the City Council. She particularly noted that because the parks maintenance budget has minimal supply/repair funds and limited staff capacity, there have been maintenance issues in the parks that have been continually deferred. This is leading to the degradation of the park system. She specifically noted the following:

- Play Structure Maintenance. Ms. Hite explained that play structure replacement is funded by the REET Fund, but relying on these funds for ongoing park issues has not been effective. Playgrounds are not usually competitive for grant funding, so they tend to get de-prioritized in the CIP and have been delayed too long. She recommended that dedicating funds every year just for playgrounds would be a much more effective strategy to ensure efficient use of staff time and playground safety. She suggested the City should replace at least one play structure per year on a rotating schedule, and the estimated replacement cost is between \$100,000 and \$200,000 each. She said there are currently at least six pieces of equipment that need to be replaced as soon as possible. She recommended to the City Council that playground structure replacement could be one of the items funded by the potential levy. She concluded that while staff works hard to ensure the playgrounds are safe, they are not as interactive as they once were. Chair Lovell asked about the anticipated lifecycle of play equipment. Ms. Hite said that many of the wooden play structures are 20 to 25 years old, and their life cycle is actually closer to 15 years if they are maintained properly. The newer steel and/or powder coated structures have a longer life cycle.
- Restroom Improvements. Ms Hite advised that all park restrooms have been deferred in maintenance items.

- Gateway Signs and Entrances. Ms. Hite noted that most of these facilities have not been replaced in years, and some are barely functional. The City has started replacing the signs one by one, but it is a slow process.
- Parking Lot and Asphalt Pavement Improvements. Ms. Hite said that if funds were available, staff would like to fix holes, protrusions and tripping hazards more efficiently and ensure the safety of the park system on a regular maintenance schedule. These projects include park pathways and sport courts.
- Turf and Drainage Issues. Ms. Hite pointed out that the City's sport fields are below standard, and they don't have the root integrity they need to withstand more use. Lack of funding makes it impossible to do more in-depth turf building. Staff is always looking for more sustainable options that do not require as much maintenance. Chair Lovell referred Ms. Hite to Board Member Stewart's written comments about using permeable surfaces for the sport fields. Ms. Hite said she received a copy of Board Member Stewart's comments.
- Tree Pruning. Ms. Hite advised that tree pruning is a continual issue and takes a tremendous amount of staff time to ensure safe and well-shaped trees for everyone to enjoy. There is currently no budget to fund a tree pruning program, so when problems are identified the City must take funds from another program to hire a contractor to perform the work. She said she would like the City to fund an ongoing tree pruning program rather than just responding to situations on a complaint basis. In response to Chair Lovell's inquiry, Ms. Hite advised that the City does have an arborist on staff. Chair Lovell suggested that rather than hiring a separate contractor as problems arise, it would behoove the City to either hire a staff person who has expertise in tree pruning or enter into a seasonal contract with someone to perform the work. Ms. Hite agreed that would be the most cost-effective approach if the City had the necessary funding, but the City currently has a hiring freeze in place, and the Parks Department is currently working with two fewer seasonable staff members. Chair Lovell summarized that trees are important to the citizens of Edmonds, and sooner or later the City will have to create a positive and productive program for their maintenance.

Board Member Clarke referred to comments made at earlier meetings by Board Member Stewart about establishing a way for members of the community to gift monies to the City for specific projects, which could include tree pruning. Ms. Hite agreed this is an excellent idea, and trust funds have already been established for the flower program, the Beach Ranger program and Yost Pool. However, they do not have a separate trust fund for tree maintenance and pruning at this time. She suggested the City could consider soliciting the help of the Northwest Parks Foundation, which is a local group, to implement this type of program. Board Member Johnson noted that the City also has a program that allows private individuals to donate money to purchase street trees and benches, and a plaque located at the Frances Anderson Center identifies those who have donated to the programs. Ms. Hite summarized that there are various opportunities for citizens to contribute to public programs.

Business in Parks

Ms. Hite advised that she and Mr. Lien recently had a discussion with the City Council's Community Services/Development Services Committee regarding the issue of business in the parks, and they are scheduled to come before the committee again in July to discuss the topic further. She noted that local jurisdictions throughout the country have implemented business models for their parks. City staff is researching options for creating a sustainable approach for maintaining the level of service in their parks. Options include the following:

- Charging a Non-Resident Fee for Recreation. It is common for jurisdictions to charge up to 20% more for classes, rentals, etc. to participants who do not live in the City and do not contribute to the tax base that subsidizes the services. Based on the current non-resident usage rate, this option could result in up to \$75,000 of additional revenue each year.
- Recreational and Food Vendors in Parks. Currently, the City allows concessions in parks, but the permit process is lengthy and cumbersome. The City could simplify the code and establish a Request for Bid process that is equitable and fair. The City could review the bid proposals and select vendors based on factors such as impact upon users, impact upon park neighbors, cost versus benefit, and financial cost to the City.

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- Dive Permits and Dive Park Parking Fee. The Underwater Park attracts approximately 20,000 visitors each year, mostly from out of town. While instituting an entrance fee would increase the City's liability risk for the park, they could institute a permit and/or parking fee to visit the park. This would allow the City to maintain the "dive at your own risk" status of the park.
- Fee for Parking at Waterfront Parks. This strategy has been instituted across the nation, and most recently in Washington State.

Chair Lovell asked if staff is actively pursuing these options. Ms. Hite answered that the options were presented to the City Council's Community Services/Development Services Committee, and she is seeking input from the Board before presenting the concepts to the full City Council for discussion. Chair Lovell said he supports all of the above mentioned options, particularly the concept of charging for parking at waterfront parks. He said most jurisdictions with waterfront parks already charge people to park. Board Member Tibbott concurred. He agreed with Ms. Hite that charging a fee to use the dive park may open the City up to additional liability, but charging a parking fee would allow the City to harness some additional revenue from non-residents who use the park.

Board Member Johnson pointed out that the CEDC is interested in identifying options for creating more revenue for the City. She suggested Ms. Hite also seek their feedback. She also pointed out that the City has a Parking Committee, which is headed by the City's Traffic Engineer, Bertrand Hauss.

Park Impact Fees

Ms. Hite reported that a City Council Member asked her to explore the issue of park impact fees. She advised that she had experience with this concept in her previous position as Deputy Director of Parks and Community Services for the City of Kirkland, and she has already had one discussion with the City Council regarding the topic. Discussions will continue on August 23rd.

Chair Lovell said his experience with impact fees is that they must be related to the level of impact a project has on a particular service or infrastructure. It would be very difficult for the City to charge an impact fee to a developer at Harbor Square to fund upgrades to Yost Pool. However, the developer could be charged a fee to address specific environmental and infrastructure impacts that are directly associated with the project. Board Member Johnson referred to the last paragraph on the first page of Ms. Hite's memorandum related to park impact fees, which states that impact fees must directly benefit the new development and cannot be used to correct existing deficiencies in public facilities. Although much of Edmonds is built out, she expressed her belief that there are still opportunities to implement an impact fee program. Board Member Cloutier agreed that an impact fee program is important, particularly as the City allows more intense development to occur.

Board Member Ellis asked if it is possible to tie impact fees directly to the infrastructure needs. Ms. Hite said there is methodology that would tie impact fees directly to the City's Comprehensive Plan, which projects the impact of anticipated future growth on the current level of service. The City's adopted Parks, Recreation and Cultural Service Plan identifies a service level of a park within a ½ mile radius of all residential development. However, the City does not currently meet this level of service. As additional development occurs in the future, the City will need to address this issue. She said staff anticipates that a park impact fee could raise approximately \$600,000 for park maintenance over a six-year period.

Old Mill Town Project Design

Ms. Hite advised that the Floretum Garden Club worked on some early designs for the courtyard last year, and staff has worked with the club to consider some redesign options to satisfy the City's planning documents and guidelines and to address some of the community's concerns. She advised that the City contracted with Barker Landscape Architects to help with the design, and a design committee was formed with participants from various groups and leaders in the community. The final design was unanimously approved by the design committee.

Ms. Hite briefly reviewed the proposed design, which includes elements such as raised bed gardens, artistic elements, a water feature, seating areas, and a small stage for performers. The goal was to integrate the park area into Old Milltown. She noted that the bank that currently owns the Old Milltown structure has agreed to allow the City to incorporate their boardwalk into the plaza design, and there is potential for private outdoor seating if a portion of the building is occupied by a restaurant use. She noted that, as proposed, the two cherry trees would be removed since one is 80% diseased and the other is about 50% diseased. The committee decided against designing the courtyard around the two trees that would have to be removed within the next 3 to 5 years. Flower bowls and street trees would be added along the sidewalk to compensate for the trees that would be removed. The committee felt this would allow them to accentuate the seating space and preserve the sight lines for the businesses to be seen from the street.

Board Member Clarke asked if the storefront facades along the proposed park area have historic significance. Ms. Hite answered that although some people think they have historic significance, they were actually added in the 1970's and were not part of the original development. She noted that the Old Milltown development was originally a gas station and auto repair shop.

Board Member Clarke observed that, as per current code, the owner of Old Milltown could decide to redevelop the portion of the site that fronts along the proposed new park with a new building that sits right at the property line. This would eliminate the boardwalk that is identified in the proposed plan. Ms. Hite agreed that is a possibility, but she suggested the park could be easily redesigned to accommodate the change. Board Member Clarke said it is important for the City to consider the redevelopment potential that would allow the Old Milltown property to be redeveloped with a building that abuts the park's eastern boundary, which would significantly alter the character of the plaza area. He noted that the current zoning does not require the building to be setback from the property line. Board Member Johnson noted that the value of the proposed new park is as a public plaza. She agreed with Ms. Hite that while it has been designed based on current conditions, the design could be easily adapted if the conditions change at some point in the future.

Member Clarke suggested the City consider an access easement agreement with the adjacent property owner that would allow a portion of the boardwalk to be used for common area associated with the plaza in exchange for allowing pedestrian access to the businesses via the park. He cited the South Lake Union projected as an example of how the City could implement an effective easement agreement. Board Member Tibbott suggested the easement agreement include the requirement that the boardwalk be maintained as part of the plaza area. He suggested it would behoove the adjacent property owner to cooperate with the City to ensure continued access to the businesses through the park. Ms. Hite agreed to explore opportunities for a public/private agreement to avoid the worst case scenario pointed out by Board Member Clarke. Board Member Clarke noted that the bank that owns the adjacent properties has changed ownership so this may be a good time to approach them about a possible easement agreement.

Chair Lovell thanked Ms. Hite for her hard work and dedication and the degree of detail she has gotten into in her short time with the City. He asked if Ms. Hite is seeking the Board's support for the concepts she presented or if she would like the Board to forward a specific recommendation to the City Council. Ms. Hite said the purpose of her presentation was to solicit input from the Board before presenting the concepts to the full City Council. It would be great to have the Planning Board's support as she moves forward with her presentations. The Board agreed to support the concepts put forth by Ms. Hite, and they asked that she provide a similar presentation to the CEDC, particularly on those items related to economic development.

Board Member Clarke asked if Burlington Northern Santa Fe's (BNSF) ownership goes all the way from the tracks to the western curb cut along Sunset Avenue. He noted there are benches in this area and he is curious as to who actually owns the property. Ms. Hite said she is currently exploring this issue. She said she believes the City owns at least a portion of this property, and the area is maintained by the Parks Department. A survey of the area would be done as part of the City's project to add a bike lane along Sunset Avenue.

Board Member Ellis questioned why the Parks Department is responsible for maintaining the street trees in the downtown, as well as the benches and garbage cans, etc. Ms. Hite said she is also researching this issue. She noted that while the Parks Department is currently responsible for maintaining street trees in the downtown, the street trees in other areas of Edmonds are maintained by the Public Works Department. The Parks Department is also responsible for maintaining the grounds at the fire stations and other public buildings. Board Member Ellis said that when he was asked about a potential levy to fund

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City operations, he did not have a clear understanding of the Parks Department's maintenance responsibilities. He suggested that requesting a levy to maintain parks is a lot different than requesting a levy to perform functions that are unrelated to the parks.

Board Member Clarke asked Ms. Hite to thank the City's two horticulturists who do such a great job maintaining the City's flower beds. Even in inclement weather, they care for the beds as if they were their own.

THE BOARD RECESSED THE MEETING AT 8:45 P.M. THE MEETING WAS RECONVENED AT 8:53 P.M.

PUBLIC HEARING ON POTENTIAL AMENDMENTS TO THE OUTDOOR DINING REGULATIONS OF ECDC 17.75 (File Number AMD20110005)

Ms. Machuga reminded the Board that they discussed preliminary ideas for updating the outdoor dining regulations at their May 25th meeting. She explained that under the current code, outdoor dining is permitted outright as a secondary use for an additional 10% of the interior seating or 8 seats, whichever is greater. However, a conditional use permit is required for businesses that wish to provide outdoor dining in excess of the 10% or 8 seats. A conditional use permit for outdoor dining is currently reviewed by the Hearing Examiner as a Type III-A decision. She recalled that on May 25th the Board and staff discussed the possibility of revising the review process for outdoor dining. They specifically discussed hours of operation, noise, parking and screening. Following their discussion, the Board asked staff to return for a public hearing with draft language allowing outdoor dining outright unless the outdoor dining area is adjacent to a residentially-zoned property in which case a Type II administrative conditional use permit would be required. The Board suggested that outdoor dining be allowed within all zones that are currently specified within ECDC 17.75, as well as adding the Planned Business (BP) zone. While not discussed on May 25th, upon further review of the City's regulations, staff found it would also be appropriate to add the Firdale Village Mixed Use (FVMU) zone to the outdoor dining regulations. She said the Board also asked staff to compile a list of zoning restrictions applicable to outdoor dining within each business and commercial zone so the Board could determine whether additional standards or limitations are necessary to be placed within the outdoor dining regulations to address concerns over noise, screening, etc.

Ms. Machuga referred the Board to the draft revisions to the outdoor dining regulations (Attachment 2) as well as a summary of their research on current zoning restrictions related to outdoor dining such as restrictions on hours of operation and setback/buffer requirements from adjacent residentially-zoned properties (Attachment 3). A table of recently approved conditional use permits for outdoor dining was included in the Staff Report as Attachment 4, and the minutes of the May 25th Planning Board meeting were included as Attachment 5.

Ms. Machuga reminded the Board that the main purpose for revising the outdoor dining regulations was to address property owners' concerns about being required to go before the Hearing Examiner for a conditional use permit at a cost of approximately \$1,500. As currently proposed in Attachment 2, outdoor dining would be permitted outright if located no closer to residential property lines than the closest portion of the building and if closed between the hours of 11:00 p.m. and 7:00 a.m. A Type II Conditional Use Permit (administrative review) would be required if the outdoor dining is located closer to a residential property line than the closest portion of the building and if the outdoor dining would be open between the hours of 11:00 p.m. and 7:00 a.m.

Board Member Ellis pointed out that recent conditional use permits for outdoor dining have restricted the hours to 10:00 p.m. Ms. Machuga agreed that two of the conditional use permits restricted the hours of operation to between 10:00 p.m. and 7:00 a.m. The other permit allowed clean up to take place until 11:00 p.m. While the proposed language would restrict outdoor dining after 11:00 p.m., the Board could change the time as appropriate. She said if the language is adopted as drafted, then the three businesses that obtained conditional use permits would be allowed to keep their outdoor dining open until 11:00 p.m. Ms. Machuga explained that the time restriction was set by the Hearing Examiner as part of the conditional use permit. Board Member Johnson said she noted this inconsistency between the recent conditional use permits and the proposed language, as well. She suggested that the proposed language be changed to be consistent with the recent conditional use permits. She said she would support language that would allow service until 10:00 p.m. and clean up until 11:00 p.m. Board Member Ellis concurred.

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Ms. Machuga referred to Attachment 3 and noted that the zoning code requires a conditional use permit in the Neighborhood Business (BN) and Planned Business (BP) zones for businesses that are opened between the hours of 11:00 p.m. and 6:00 a.m. The Five Restaurant and Bistro is located in the BN zone, and this is likely why the Hearing Examiner placed the time limit on the conditional use permit. She noted that the conditional use permit application for outdoor dining was accompanied by an application for later hours on Friday and Saturday nights. They received a conditional use permit to be open until 2 a.m. inside the restaurant, but the outdoor dining area is required to close at 10:00 p.m., with cleanup being completed by 11:00 p.m.

Board Member Tibbott inquired if the proposed language would address the issue of noise associated with outdoor dining. Ms. Machuga answered that it would not. If a conditional use permit is required, the Board should provide specific standards related to noise if they do not believe the noise ordinance adequately addresses the issue. She emphasized that, regardless of the permitted hours of operation, the outdoor dining use would still be required to meet the noise ordinance.

Ms. Machuga advised that since the last meeting, ECDC 17.75.030, which talked about requirements for restaurants with non-conforming seating, was removed from the proposed language. She noted that the zoning code no longer limits the number of seats a restaurant can have, so this language is unnecessary. She also referenced Attachment 3, which provides information about the landscaping and setback requirements for the commercial zones. She noted that a 15-foot setback is required when a commercial zone abuts a residential zone. However, the level of landscaping required varies depending on the zone.

Ms. Machuga provided four examples of how the proposed language would be applied to commercial properties that abut residential zones. She identified the required 15-foot setback area where no outdoor dining would be allowed, clarifying that some commercial zones require a larger setback from adjacent residential properties. She also identified the portions of property located between the building and the setback area where a conditional use permit would be required for outdoor dining. She pointed out that buildings developed closer to the street front would have less opportunity for outdoor dining as an outright permitted use than buildings that are setback from the street front. She questioned if it is fair to require a conditional use permit if a property has been developed to comply with the current design standards rather than setting the building further back on the lot. She emphasized that no conditional use permit would be required for outdoor dining on properties that are not located adjacent to residential zones.

THE PUBLIC HEARING WAS OPENED. THERE WAS NO ONE IN THE AUDIENCE TO PARTICIPATE SO THE HEARING WAS CLOSED.

At the request of Chair Lovell, Ms. Machuga clarified that, as currently proposed, an outdoor dining area would be permitted outright as long as it is no closer to the adjacent residentially-zoned property line than the existing building. Board Member Cloutier said that requiring a conditional use permit for outdoor dining to extend to the setback line does not make sense given that the code already allows a building to be constructed up to the setback line in a commercial zone. He suggested that as long as the setback and landscape buffer requirements can be met, the outdoor dining should be permitted.

Ms. Machuga clarified that, as currently proposed, no conditional use permit would be required for outdoor dining on properties that are completely surrounded by commercial zoning. Requiring a conditional use permit when a commercial property is located adjacent to a residential property would allow staff to address issues such as noise and screening as part of their administrative review. She pointed out that while new construction is required to meet the landscape requirements outlined in the code for the setback areas, existing construction may not provide adequate landscaping to screen the outdoor dining from residential uses. The Board may want to require some type of additional screening requirement for these situations.

Board Member Cloutier suggested that when a commercial property is located adjacent to a residential property, outdoor dining could be a permitted use as long as the property owner upgrades the landscaping to meet the current landscaping requirement. Ms. Machuga pointed out that the landscape requirements are different, depending on the types of zones (See ECDC 20.13.030). Board Member Cloutier suggested that a landscape buffer should be required between a commercial property with outdoor dining and an abutting residential property, but that no additional landscaping should be required between two commercially-zoned properties without outdoor dining.

APPROVED

Board Member Johnson reminded the Board that the City Council has stated their desire to encourage outdoor dining because it supports economic development and makes the City livelier. As long as the outdoor dining use does not impact neighboring properties, it should be allowed as an outright use.

Board Member Clarke observed that requiring a landscape buffer that is not necessary could place an undue burden on commercial property owners. Ms. Machuga agreed that Board Member Cloutier's recommendation would require a property owner located adjacent to a residential zone to update the landscaping to be consistent with the current code requirements in order to obtain a permit for outdoor dining. Board Member Clarke questioned if it would be necessary to bring the landscaping along the entire setback up to code standards or just that portion that separates the outdoor dining from the residential property. Board Member Cloutier agreed that staff should have some discretion when deciding the appropriate amount of landscaping that should be required when a property is located adjacent to a residential zone. Ms. Machuga cautioned that if the code language states that the entire landscape buffer must be brought into compliance with the code; staff would not have the latitude to modify the requirements on a case-by-case basis.

Board Member Clarke asked if the recent conditional use permits for outdoor dining required the property owners to bring the landscaping into compliance with the current code. Ms. Machuga answered that Five Restaurant and Bistro was required to provide additional landscaping, but they were not required to bring it into full compliance with the code. They have constructed an enclosure around their outdoor dining area to screen it from adjacent properties. Scotts Bar and Grill constructed a covered outdoor dining area and changed the parking areas so they were required to meet the current landscape standards. Panera Bread is new construction that is required to meet all of the current landscape requirements. Board Member Johnson asked if any of the three businesses are located adjacent to a residential zone. Ms. Machuga answered that neither Panera nor Scotts Bar and Grill are located adjacent to residential zones. Mr. Lien added that the Five Restaurant and Bistro has screened their outdoor dining area from a residential use that is located on a commercially-zoned lot. None of the properties are located adjacent to residential zones.

Chair Lovell reminded the Board that the purpose of the proposed amendment is to simplify the conditional use permit process by making it a staff decision rather than a hearing examiner decision. The Board previously discussed that it would be appropriate for staff to review applications that require a conditional use permit, which would only occur when a commercial property is located adjacent to a residential property. He said it appears the Board is supportive of allowing staff to make a judgment as to what degree of landscaping should be required. Board Member Johnson added that the purpose of the landscaping is to provide a buffer between the outdoor dining and the residentially-zoned properties, and staff should be allowed some discretion when reviewing applications.

Board Member Ellis cautioned that the intent is to simplify the process so staff can review applications based on the current code requirements without the responsibility of having to place conditions on the permit. As proposed, a staff review would replace the Hearing Examiner review when a conditional use permit is required. He questioned if the proposed change would allow staff the same discretion as the Hearing Examiner to alter the landscape requirements and/or place conditions on the use. Ms. Machuga explained that the code specifically gives the Architectural Design Board and the Hearing Examiner the discretion to change the landscaping requirements, but staff does not have this same discretion.

Board Member Cloutier suggested the code be amended to allow outdoor dining in all commercial zones that are adjacent to residential zones outright as long as the current landscape requirements can be met. If the landscape buffer is insufficient, the property owner must either meet the landscape requirement or screen the outdoor dining area. This would result in some type of barrier between the outdoor dining and the adjacent residential uses. Ms. Machuga pointed out that the Board would need to provide additional direction to staff as to what would be considered appropriate screening for an outdoor dining area.

Board Member Ellis pointed out that the current code allows outdoor dining of up to 10% of the interior seating or 8 seats, whichever is greater, as a permitted use, and no screening would be required. Board Member Johnson observed that screening may not be appropriate in all outdoor dining situations. For example, screening may not be desirable where a scenic view is an amenity. However, if they want to allow staff discretion, they must provide sufficient direction to enable staff to make appropriate decisions based on the circumstances.

APPROVED

Ms. Machuga suggested it would be helpful to provide a definition for “outdoor dining.” This would provide a clear distinction between public plaza or gathering areas and outdoor dining areas that are used exclusively by a restaurant.

Again, Board Member Ellis reminded the Board that the purpose of the proposed amendment is to make outdoor dining a permitted use without a conditional use permit. He pointed out that most outdoor dining uses will not be located adjacent to residential zones. He suggested they adjust the code to address the majority of the situations and then deal separately with the unusual situations where a commercial property is adjacent to a residential property. The Board agreed that if a site complies with the current landscaping requirements along the full property line when adjacent to a residentially-zoned property, outdoor dining would be a permitted use regardless of the number of seats. Outdoor dining would be allowed in all commercial zones that do not border residential zones, and no additional landscaping would be required. When a commercial property is adjacent to a residential property and does not meet the landscape requirements, outdoor dining would be limited to 10% of the interior seating or 8 seats, whichever is greater. An alternative to the landscape requirement would be to screen the outdoor dining area.

The Board discussed the hours of operation. Again, Ms. Machuga pointed out that regardless of the hours of operation, outdoor dining would still be subject to the noise ordinance. Board Member Johnson suggested that the hours of operation should be consistent with the previously issued conditional use permits, as well as the City’s current noise ordinance. The Board agreed that outdoor dining should not be permitted between the hours of 10:00 p.m. and 7:00 a.m. However, they agreed it would be appropriate to allow a restaurant to clean the outdoor dining area until 11:00 p.m.

The Board directed staff to update the draft code language to provide a definition for the term “outdoor dining.” They further directed staff to change the language as follows:

- If a commercial property is completely surrounded by commercially-zoned properties or right-of-way, outdoor dining for any number of people would be permitted outright.
- If a commercial property is adjacent to a residentially-zoned property and complies with all the current landscape requirements for the setback along the shared property line between the commercial and residential zones, outdoor dining would be permitted outright.
- If a commercial property that is adjacent to a residentially-zoned property does not comply with the current landscape requirements for the setback along the shared property line, the outdoor dining area would need to be screened with a six-foot tall hedge or fence. If properly screened, the use would still be permitted outright without a conditional use permit.
- If a commercial property that is adjacent to a residentially-zoned property does not comply with the current landscape requirements, does not provide adequate screening around the outdoor dining area, or wants to extend the hours of operation, a conditional use permit would be required from the Hearing Examiner.
- Outdoor dining of up to 10% of the interior seating or 8 seats would be an outright permitted use without bringing the landscaping up to the current code standards or screening the outdoor seating area.

BOARD MEMBER CLOUTIER MOVED TO CONTINUE THE PUBLIC HEARING ON POTENTIAL AMENDMENTS TO THE OUTDOOR DINING REGULATIONS OF ECDC 17.75 (File Number AMD20110005) TO AUGUST 10, 2011. BOARD MEMBER ELLIS SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

SHORELINE MASTER PROGRAM UPDATE

Due to the lateness of the hour, this discussion was postponed until July 27th.

REVIEW OF EXTENDED AGENDA

The Board did not comment on the extended agenda.

PLANNING BOARD CHAIR COMMENTS

APPROVED

Chair Lovell announced that Board Member Tibbott agreed to judge the sculpture contest, which is sponsored by the Parks, Recreation and Cultural Services Department.

PLANNING BOARD MEMBER COMMENTS

None of the Board Members provided comments during this portion of the meeting.

ADJOURNMENT

The Board meeting was adjourned at 10:35 p.m.

APPROVED