

**APPROVED APRIL 24<sup>TH</sup>**

**CITY OF EDMONDS  
PLANNING BOARD MINUTES**

**March 27, 2013**

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

**BOARD MEMBERS PRESENT**

John Reed, Chair  
Valerie Stewart, Vice Chair  
Bill Ellis  
Philip Lovell

**STAFF PRESENT**

Mike Clugston, Senior Planner  
Kernen Lien, Senior Planner  
Jeanie McConnell, Engineering Program Manager  
Phil Williams, Public Works Director  
Karin Noyes, Recorder

**BOARD MEMBERS ABSENT**

Kevin Clarke (excused)  
Todd Cloutier (excused)  
Ian Duncan (excused)  
Neil Tibbott (excused)

**OTHERS PRESENT**

Kristiana Johnson, Edmonds City Council Member

**READING/APPROVAL OF MINUTES**

**BOARD MEMBER ELLIS MOVED THAT THE MINUTES OF FEBRUARY 27, 2013 BE APPROVED AS AMENDED. VICE CHAIR STEWART SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.**

**ANNOUNCEMENT OF AGENDA**

The agenda was accepted as presented.

**AUDIENCE COMMENTS**

**Council Member Johnson** expressed appreciation to the Planning Board for all the thoughtful work they have been doing, especially with regard to the Shoreline Management Program and Harbor Square Master Plan. She also acknowledged the communication that has been going on between the Planning Board and the City Council. The Planning Board's quarterly reports have been very effective in identifying all the issues the Board has been working on and acknowledging the work they do. She said she would continue to attend Planning Board meetings to further improve communications and listen to the Board's discussions. She advised that the next meeting of the City Council's Parks, Planning and Public Works Committee is scheduled for April 8<sup>th</sup> at 4:00 p.m. in the Brackett Room.

**Gary Porter, Edmonds**, said he has lived in Edmonds for ten years. He thanked the Board Members for their service to the citizens of Edmonds. He asked what relevant information the Planning Board could provide regarding the apartment complex that is proposed at 50 Pine Street. Board Member Lovell advised that this project is part of the Point Edwards development. He explained that review of the proposal is outside of the Planning Board's purview, and citizens should contact the Development Services Department for more information. Mr. Lien added that the Architectural Design Board (ADB) conducted a public hearing on the project in December. At that time, the ADB directed the developer to redesign the building to be more consistent with the existing development at Point Edwards. Due to some procedural issues, the

application has been withdrawn, and the applicant has reapplied with a redesigned building that incorporates the guidance provided by the ADB. A new process will start and there will likely be another public hearing before the ADB in May. He emphasized that the project has not been approved.

**PUBLIC HEARING ON A PROPSAL TO REZONE ONE PARCEL (22133 – 76<sup>TH</sup> AVENUE WEST) FROM GENERAL COMMERCIAL (CG) TO GENERAL COMMERCIAL (CG2) AND A PORTION OF ANOTHER PARCEL (22121 – 76<sup>TH</sup> AVENUE WEST) FROM RESIDENTIAL MULTIFAMILY (RM-2.4) TO GENERAL COMMERCIAL (CG2) (FILE NUMBER PLN20130008)**

Chair Reed advised that the purpose of the public hearing is to consider a proposal to rezone one parcel (22133 – 76<sup>th</sup> Avenue West) from contract General Commercial (CG) to General Commercial (CG2) and a portion of another parcel (22121 – 76<sup>th</sup> Avenue West) from Residential Multifamily (RM-2.4) to General Commercial (CG2) in order to correct two errors on the official zoning map. The subject parcels were inadvertently left out of an area-wide CG2 rezone in 1995 due to a mapping mistake, and the proposed rezone will bring the parcels into better alignment with the Comprehensive Plan and the CG2 zoning that has surrounded the parcels since 1995.

Mr. Clugston said the proposal is a City-sponsored rezone of two parcels. He provided an aerial photograph of the vicinity, noting that both parcels are located behind Doug's Mazda, which fronts on Highway 99. The large site (Parcel A) is actually a portion of the Doug's Mazda car dealership. The smaller site (Parcel B) is a portion of the backyard of a single-family residence that was built in 1954. He explained that the current zoning map shows Parcel A as being zoned contract CG2, and it should be contract CG. Parcel B is shown as CG2 and it should be RM-2.4. While the mapping error could be corrected administratively without rezoning the properties, this approach would not address the larger issue that the parcels were clearly left out of a 1995 area-wide rezone due to a mapping error that existed at that time.

Mr. Clugston advised that Parcel A was rezoned from RM-2.4 to contract CG in 1988 (see Attachment 5), but Parcel B was not included in that rezone or any another rezone. Therefore, it should have remained RM-2.4. For some reason, the official zoning map was updated incorrectly in the early 1990s. He referred to a 1992 zoning map (Attachment 6), which showed both parcels as CG2 as opposed to CG and RM-2.4. In 1995, the City reviewed and approved an area-wide rezone that was intended to zone all parcels between 220<sup>th</sup> and 224<sup>th</sup> Streets and 76<sup>th</sup> Avenue and Highway 199 as CG2 (see Attachment 7). Unfortunately, due to the mapping error in the early 1990s, Parcels A and B were left out of the 1995 rezone because it was incorrectly assumed that they were already CG2.

Mr. Clugston said the purpose of the current rezone proposal is to correct mapping mistakes that were made previously. One option would be to administratively change the map to what it should be (contract CG2 for Parcel A and RM-2.4 for Parcel B). However, staff believes it was the City Council's intent in 1995 that all of the properties between 220<sup>th</sup> and 224<sup>th</sup> Streets and 76<sup>th</sup> Avenue and Highway 99 should be zoned CG2. Staff believes the best approach would be to rezone Parcel A from CG to CG2 and Parcel B from RM-2.4 to CG2. Staff recommends approval of the rezone as proposed in the Staff Report.

Board Member Ellis asked if the City has received comments from the owner of the subject property or from surrounding property owners. Mr. Clugston answered no. Board Member Ellis asked if the two properties are owned by the same person. Mr. Clugston answered that both parcels are owned by Doug Ikegami. He said staff has advised Mr. Ikegami of the rezone proposal and he indicated his support.

THE PUBLIC HEARING WAS OPENED. AS NO ONE IN THE AUDIENCE INDICATED A DESIRE TO ADDRESS THE BOARD, THE HEARING WAS CLOSED.

Board Member Lovell recalled that at their February 27<sup>th</sup> study session, the Board discussed that the rezone proposal is straight forward.

**BASED ON THE FINDINGS OF FACT, ANALYSIS AND ATTACHMENTS IN THE STAFF REPORT, BOARD MEMBER LOVELL MOVED THAT THE BOARD FORWARD FILE NUMBER PLN20130008 TO THE CITY COUNCIL WITH A RECOMMENDATON OF APPROVAL AS PRESENTED BY STAFF. VICE CHAIR STEWART SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.**

**APPROVED**

**PUBLIC HEARING ON A PROPOSED CODE AMENDMENT TO INCREASE THE TIME FRAME FOR VALIDITY OF PRELIMINARY SHORT PLAT APPROVAL AS ESTABLISHED IN ECDC 20.75.100 (FILE NUMBER AMD20130002)**

Mr. Lien recalled that the Planning Board discussed this item on February 27<sup>th</sup> and requested that staff return for a public hearing with a proposal that would extend the time frame for preliminary short plat approval to be consistent with the State's time frame for formal subdivision approval. They also asked that the amendment include a provision to address applications that have already expired.

Mr. Lien explained that the State Legislature recently established a seven-year time frame for final approval of formal subdivisions (subdivisions into five or more lots) if preliminary approval is issued on or before December 31, 2014. However, this time frame does not apply to short plats. Instead, State law (RCW 58.17.060) leaves it up to cities to determine the time within which a short plat must be recorded before it expires. Based on the City's current code, preliminary approval of short plats expires after five years, but the City has the ability to make the time frame shorter or longer.

Mr. Lien reported that in January, a citizen approached the City Council with the concern that the current five-year validity of preliminary short plat approval was not long enough, given the recent recession. The citizen asked that the City revise its code requirements to allow seven years for preliminary short plat approval to be consistent with the change in state law related to formal plats. This item was discussed by the Council's Parks, Planning and Public Works Committee on February 11<sup>th</sup>, and the committee felt it would be appropriate to increase the current time frame. They forwarded the issue to the Planning Board for discussion and a public hearing.

Mr. Lien reviewed the draft code language (Attachment 1), which reflects the Planning Board's direction from February 27<sup>th</sup>:

- **ECDC 20.75.100.A** was changed to reference the Revised Code of Washington (RCW) 58.17.140, which is the state's current time frame for preliminary approval of formal subdivisions. By simply referencing the RCW, the City's code will not have to be changed if and when the legislature adopts changes to state law.
- **ECDC 20.75.100.B** was added to outline the time frame for preliminary approval of short plats. As proposed, preliminary short plat approval would expire at the end of seven years if issued on or before December 31, 2013 and at the end of five years if issued on or after January 1, 2014. This mirrors the state provisions for formal plats. However, staff is recommending that the time frame switch back to five years at the beginning of 2014, which is one year sooner than what the state regulations afford to formal subdivisions.
- **ECDC 20.75.107** was added to include a provision for extending the time limit for preliminary short plats that would have expired within the past couple of years, giving them two additional years from the effective date of the ordinance to obtain final approval.

Ms. McConnell explained that the time frame proposed for short plat preliminary approval is slightly different than the time frame outlined in RCW 58.17.140 for formal subdivision preliminary approval. She explained that the City will need to make changes to their stormwater regulations by 2015 in order to meet the Department of Ecology's new permit requirements. Staff is proposing that the extended time frame for short plat preliminary approval should sunset on December 31, 2013 rather than December 31, 2014 so that new applications can be designed and vested in the updated stormwater code when it becomes effective.

Ms. McConnell reviewed that the main purpose of the proposed amendment is to help with those applications that were put on hold due to the economic downturn. She noted that several applications expired over the past two years, many of which had already submitted civil construction plans and were being actively reviewed. However, with the downturn in the economy, some applicants were unable to move forward with the subdivision improvements and their applications expired. The proposed amendment would allow a seven-year timeframe for current preliminary short plat approvals. It would also grant an additional two years to preliminary approval that expired in 2011 and 2012.

Ms. McConnell reminded the Board that the Engineering and Planning Departments are working on changes to the subdivision regulations, and the City Council recently directed staff to reorganize the entire Edmonds Community

Development Code over the next few years. Another reason for establishing a sunset date of December 31, 2013 is to avoid establishing regulations now that will contradict future proposed changes to the code.

Board Member Ellis asked if the extension for expired applications was put forward by the City or if it was the result of a citizen request. Mr. Lien answered that, at the February 27<sup>th</sup> Planning Board Meeting, a citizen suggested that the extension should also apply to applications that expired in 2011 and 2012. As currently proposed, the amendment would give these applicants an additional two years to complete the short plat improvements. The Board directed staff to include this change in the draft amendment.

Board Member Ellis asked how individuals with expired applications would learn about the extension. Mr. Lien advised that the Planning staff would notify all individuals with expired applications if and when the amendment to extend the time frame is adopted. He emphasized that extending the time frame would not require an application to move an expired application forward. Board Member Ellis asked if staff envisions any legal problems associated with reactivating expired preliminary approvals. Mr. Lien advised that the City Attorney has reviewed the proposed language and did not identify any legal concerns.

Vice Chair Stewart asked if the proposed sunset date would cover all of the current applicants who have been waiting for the economy to improve before continuing their project. Ms. McConnell said the proposed seven-year extension would be applicable to all current applications. It would also allow a two-year time frame for all applications that expired in 2011 and 2012. She said the purpose of the revised sunset date is to limit the number of applications that would vest to the existing stormwater code, which will be revised in the near future as required by the Department of Ecology.

**Steve Miles, Edmonds**, said he attended the Board's February 27<sup>th</sup> meeting and was encouraged by their suggestion that Edmonds code should be changed to treat short plats like formal subdivisions and that the time frame for preliminary short plat approval should be extended from five to seven years. He was even more encouraged by the Board's suggestion that the extension could be offered to projects where approval had already expired.

Mr. Miles explained that his preliminary approval for a four-lot short plat expired on January 17, 2013. His proposal would have created four lots from two existing lots. Although he partnered with his neighbor to submit the application, he acted as the lead. He said their first application was submitted in November of 2006, and they received preliminary approval in January 2008 and plan approval in mid-September 2011. However, the September 2011 approval was too late to start in that construction season, and they were left with only 2012 to build prior to expiration. By that time, the economy had completely tanked and the proposed project was worth less than half what it was at the time of application.

Thinking that his situation was not unique, Mr. Miles said he started looking for governmental decisions that might allow them to receive an extension. He was excited to find House Bill 2152, which was unanimously approved by both houses of the Washington State Legislature. The bill extended plat approval to seven years. He said he immediately sent the information to the City and requested an extension. However, he was soon notified that the City's interpretation of House Bill 2152 was that it was not applicable to short plats. While he was devastated and angry, he continued his research by contacting the co-author of the bill, Representative Jan Angel, telling her of the City's denial and the distinction between formal subdivisions and short plats. She offered to write another bill pertaining to short plats, but it would not be done in time to fix his problem.

Mr. Miles said he contacted other local jurisdictions and learned that most had applied the extension to both formal subdivisions and short plats. He wrote to Council Member Buckshnis, hoping she would intervene. He said he could not understand why Edmonds had decided not to include short plats when so many others had. Council Member Buckshnis made several inquiries but ultimately responded with disappointing news. He said he spoke with an attorney who assured him that the distinction between short plats and formal subdivisions had been court tested and he should not challenge the City's decision.

Mr. Miles said he met once more with City staff prior to the expiration date, asking if they would ask a senior person about House Bill 2152, but this effort was unsuccessful, as well. Staff suggested that he submit a performance bond in lieu of completing the improvements in exchange for a one-year extension. However, the bond cost was twice the cost of resubmitting plans and he knew he would not be ready to build this season. Reapplying and repaying would restart the five-

year cycle again, and that is what they planned to do until introduced to Donna Breske. She was able to get the City's attention regarding the issue at hand.

Mr. Miles summarized that he and his neighbor have lived in Edmonds for more than 30 years. They are homeowners, not developers. Their investments in their properties represent a major portion of their assets and long-term security. He said he knows the legislature wrote the new law with no intent to exclude short plats and to provide relief to people exactly like him. He asked the Planning Board to consider a change to the City code that would extend the short plat expiration to seven years and make the extension retroactive for those applications that have already expired. While the economy may not recover in time for him to take advantage of the extension, he asked that they give him the chance the legislature thought they had provided.

**Donna Breske, Snohomish**, said she is a licensed civil engineer working as a private consultant for the past 12 years. She said she first approached the City Council regarding the time frame for preliminary short plat approval on January 22, knowing there other individuals like her client whose approval had expired or would expire soon. She pointed out that the RCW 58.17.140 allows for an extension of up to seven years for formal subdivisions. The RCW also allows local jurisdictions to set time frames for short plats. She expressed her belief that the proposed amendment is consistent with what other jurisdictions are doing, as well. She said she is pleased with the process and the quick time frame the City has followed to move the amendment forward.

Ms. Breske said she recently had a discussion with Ms. McConnell regarding the proposed language for ECDC 20.75.107, which extends the time frame an additional two years for applications that expired in 2011 and 2012. She pointed out that RCW 58.17.130 also has a provision for bonding in lieu of improvements, and the concept is allowed in the City's current code, as well. She explained that this provision is particularly important for individuals who only have two years to complete the application process and build the improvements. The bonding in lieu of provision allows up to one additional year for the applicant to complete construction of the project. She suggested that the following language should be added at the end of ECDC 20.75.107 to help applicants clearly understand the existence of this provision: ". . . unless the applicant has posted a bond in lieu of improvements."

#### THE PUBLIC PORTION OF THE HEARING WAS CLOSED.

Ms. McConnell explained that there is currently a code provision that allows for bonding in lieu of constructing the improvements so an applicant can move forward with recording the short plat. She expressed her belief that because the provision is outlined elsewhere in the code, it might not be appropriate to add the provisions into ECDC 20.75.107, as well. However, staff could solicit input from the City Attorney regarding this option. Again, she reminded the Board that staff will be working on updates to the subdivision code, recognizing that there are sections of the code that do not flow smoothly. This will be accomplished as part of the code rewrite that will take place over the next two years.

Vice Chair Stewart agreed with Ms. Breske that language should be added to ECDC 20.75.107 to make it clear that bonding in lieu of improvements is an option for applicants that are approaching the deadline. Mr. Lien pointed out that bonding in lieu of improvements is addressed in ECDC 20.75.030. He clarified that the proposed amendment would not prohibit an applicant from using this provision. Although not specifically called out in ECDC 20.75.107, it would still be one avenue for final plat approval.

Board Member Lovell asked how an applicant would learn about the bonding in lieu of option. Mr. Lien said that as an application approaches the deadline, staff informs the applicants about the bonding option. Ms. McConnell added that in order to post a bond in lieu of improvements, applicants must have approved civil plans in place and activity must be occurring. Mr. Lien pointed out that Mr. Miles testified that the City offered bonding as one option to continue his application.

Chair Reed suggested that ECDC 20.75.107 could include a reference to ECDC 20.75.030. While he understands staff's viewpoint, he is also sympathetic to land owners and the need to help them understand the process. Again, Ms. McConnell suggested that this issue would be better addressed as part of the City's overall update and reorganization of the development code to make the processes clearer and more concise. She emphasized that the provision is already available to applicants,

and staff discusses the option with applicants who are approaching the deadline. Vice Chair Stewart emphasized her desire to at least include a reference to ECDC 20.75.030 to help citizens who are not knowledgeable about the code.

Board Member Ellis cautioned that changing the proposed language might require an additional public hearing, thus slowing the process. He suggested the Board move the amendment forward as quickly as possible to give relief to applicants. They can clean up discrepancies with regards to references at a later time, as long as staff consistently points out the bonding option when people get close to the deadline. Mr. Lien advised that staff provides a hand out to applicants outlining the bond in lieu of improvements process. Chair Reed advised that adding a reference to ECDC 20.75.030 in order to provide clarity would not require an additional hearing before the Board makes a recommendation to the City Council. An additional public hearing would only be required if the changes are more substantive.

Board Member Lovell said discussions with the staff have satisfied him that most of the code changes associated with the rewrite will involve reorganization to make the document easier to read. The goal is to make it easier to locate code provisions related to any given subject. He said he senses staff's hesitance to insert additional language into ECDC 20.75.107 that already exists elsewhere in the code, and he supports their recommendation. He recommended the Board move forward with a recommendation on the language as currently proposed.

Chair Reed suggested that the Board could forward a recommendation regarding the proposed amendment, with an additional recommendation that the City Council consider adding a reference to ECDC 20.75.030.

Again, Ms. Breske suggested that additional language could be added to ECDC 20.75.107 to reference the bond in lieu of improvements provision found in ECDC 20.75.030.

**BOARD MEMBER LOVELL MOVED THAT THE BOARD FORWARD THE PROPOSED AMENDMENTS TO ECDC 20.75.100 AND ECDC 20.75.107 (FILE NUMBER AMD20130002) TO THE CITY COUNCIL WITH A RECOMMENDATION OF APPROVAL AS PRESENTED. BOARD MEMBER ELLIS SECONDED THE MOTION. THE MOTION CARRIED 3-0-1, WITH VICE CHAIR STEWART ABSTAINING.**

#### **REVIEW OF EXTENDED AGENDA**

Chair Reed advised that the April 10<sup>th</sup> agenda includes a review of Highway 99 initiatives and the status of redevelopment efforts on Highway 99. He recalled that the Highway 99 Task Force provided a report to the Board in 2009, and the Board has also received presentations regarding projects that are taking place in the International District.

Chair Reed said the Board was scheduled to continue their discussions about the Westgate Plan and form-based zoning. However, the discussion was taken off the agenda because an issue was recently raised about whether it would be more appropriate to address both Five Corners and Westgate at the same time. He said that on April 24<sup>th</sup> the Board would continue their review of the Edmonds Way BC-EW and RM-EW zoning classifications. He reminded the Board they will start working soon on the code rewrite and they will likely continue their discussions regarding the neighborhood centers, as well.

Chair Reed reported that he and Vice Chair Stewart will meet with Mayor Earling on March 29<sup>th</sup> to discuss Planning Board priorities. City Council Member Petso will be unable to attend, but he will seek input from her in advance. He said the goal is to schedule a time when all four can meet on a regular basis to discuss agenda priorities and the work the Planning Board is doing.

Board Member Lovell reported that at their March 20<sup>th</sup> meeting, the Economic Development Commission voted to send a proposal to the Planning Board that would essentially make the BD1 zone primarily retail and restaurant types of uses. They have prepared a draft ordinance for the Board's consideration. Chair Reed agreed to find out more about the status of the EDC's draft ordinance.

Vice Chair Stewart pointed out that "development agreements" are not scheduled on the Board's extended agenda or included in the list of items pending for 2013. She recalled that, at their last meeting, Ron Wambolt suggested that this issue be revitalized. Chair Reed agreed to clarify the status of this issue with the City Council's Parks, Planning and Public Works Committee.

**APPROVED**

### **PLANNING BOARD CHAIR COMMENTS**

Chair Reed advised that he presented the Planning Board's quarterly report to the City Council on March 26<sup>th</sup>, covering everything the Board has done since September. He said he was surprised at how much the Board accomplished in just five months.

Chair Reed reported that questions have been raised about the timing of the Westgate and Five Corners redevelopment plans. He said he would seek input from the City Council to determine the appropriate schedule for the two items.

### **PLANNING BOARD MEMBER COMMENTS**

Vice Chair Stewart referred the Board to several documents that were presented to the City Council by the Edmonds Tree Board. The materials are informative and intended to educate the City Council and others about the value of trees. She suggested the Board Members read the documents for their information. She particularly referred to information from Portland, Oregon, which is a good example of how green infrastructure can relieve aging infrastructures. She summarized that the Tree Board is doing great work in helping the community recognize the value of trees. They are working to implement a heritage tree program, and Edmonds has been distinguished as a "Tree City USA" for three years in a row.

Vice Chair Stewart reported that she met with staff and two City Council Members on March 19<sup>th</sup> to discuss ideas for encouraging private rain gardens in the City. They particularly discussed the 12,000 Rain Gardens in Puget Sound Campaign, which is a joint project sponsored by Washington State University and Stewardship Partners. David Hymel, Rain Dog Designs, was present to share how his business has been successfully installing private rain gardens. Ongoing research identifies the greening affects associated with rain gardens that are properly installed. There has been success in doing community projects where six to eight property owners work together to create functioning rain gardens. A project of this type could become a model for the rest of the City to immitate. She advised that representatives from the campaign will make a detailed presentation to the City Council regarding the benefits of rain gardens. They will also provide extensive training for community projects.

Vice Chair Stewart reported that she was invited to participate on the committee that was established to review proposals from consultants for the Parks, Recreation and Open Space (PROS) Plan and a companion Community Cultural Plan. The committee has narrowed the candidates to three. The finalists will be interviewed on March 29<sup>th</sup>, following which the committee will forward a recommendation to the City Council.

### **ADJOURNMENT**

The Board meeting was adjourned at 8:15 p.m.

**APPROVED**