

APPROVED OCTOBER 9TH

**CITY OF EDMONDS
PLANNING BOARD MINUTES**

September 25, 2013

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 – 5th Avenue North.

BOARD MEMBERS PRESENT

John Reed, Chair
Valerie Stewart, Vice Chair
Todd Cloutier
Ian Duncan
Neil Tibbott
Madeline White, Student Representative

STAFF PRESENT

Rob Chave, Development Services Director
Rob English, City Engineer
Jeff Taraday, City Attorney
Karin Noyes, Recorder

BOARD MEMBERS ABSENT

Kevin Clarke (excused)
Bill Ellis (excused)
Philip Lovell (excused)

READING/APPROVAL OF MINUTES

BOARD MEMBER TIBBOTT MOVED THAT THE MINUTES OF SEPTEMBER 11, 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

There was no one in the audience.

PUBLIC HEARING ON CAPITAL FACILITIES PLAN (CIP) ELEMENT UPDATE FOR 2014 – 2019 TO THE CITY'S COMPREHENSIVE PLAN AND THE CAPITAL IMPROVEMENT PROGRAM (CIP) FOR 2014 – 2019. THE PROPOSAL UPDATES THE CITY'S CAPITAL FACILITEIS PLAN TO INCLUDE IMPROVEMENTS, ADDITIONS, UPGRADES OR EXTENSIONS OF CITY INFRASTRUCTURE SUCH AS TRANSPORTATION, PARKS AND STORMWATER ALONG WITH OTHER PUBLIC FACILITIES NECESSARY TO IMPLEMENT THE CITY'S COMPREHENSIVE PLAN (FILE NUMBER AMD20130012)

Mr. English explained that the CFP and CIP are different documents and have different purposes. The CIP is used as a budgeting tool and includes both capital and maintenance projects. The CFP is mandated by the Growth Management Act and is intended to identify longer-term capital needs (not maintenance) to implement the City's level of service standards and

growth projections. The CFP must be consistent with the other elements of the Comprehensive Plan, and it can only be amended once a year. He provided a graph to illustrate how the two plans overlap. He advised that the CFP is comprised of three sections: general, transportation and stormwater. The CIP has two sections related to general and parks projects, and each project is organized by the City's financial fund numbers. He specifically highlighted the following projects:

Fund 112 – Transportation

- **The Main Street Project** between 5th and 6th Avenues was completed in late 2012. This project incorporated the “complete streets” concept that the City Council adopted several years ago. When designing or rehabilitating a street, it is important to consider access for pedestrians, bicycles and vehicles. As part of this project, the street was narrowed a bit and traffic calming measures were incorporated. The sidewalks were widened to provide a better pedestrian experience, and a mid-block pedestrian crossing was placed at the middle of the project to facilitate pedestrians crossing the street to access both sides of the block.
- **The 5th Avenue Overlay Project** from Elm Way to Walnut Street is currently in process to replace the curb ramps to bring them into compliance with the Americans with Disabilities Act (ADA) requirements. The top two inches of the surface will be ground off and the entire street will be repaved. New water lines were installed in this location a few years ago, and the project will replace the patch that was put in the street at that time.
- **Four Signal Cabinets** will be replaced. The old cabinets are becoming obsolete and it is difficult to find parts to keep them operational.
- **The Five Corners Roundabout Project** is scheduled to start construction in early 2014. Staff is currently completing right-of-way negotiations for two parcels.
- **The 228th Street Corridor Improvement and Phase 3 of the SR-99 Lighting Projects** have been combined, and the goal is to go out to bid in 2014. The 228th Street Corridor Improvement Project will provide the missing link between SR-99 and 76th Avenue. It will provide Snohomish County with a new access route to the south bound ramp of Interstate 5 and improve circulation by taking some of the congestion off of 220th Street.
- **The 212th Street and 76th Avenue Intersection Improvement Project** is in the design phase, and right-of-way acquisition will start soon. The project will improve the level of service, but is two years away from construction. The City does not have the actual construction funding, but it plans to apply for a grant in the spring of 2014.
- **The Sunset Avenue Walkway Project** will be grant funded, and design work will begin for a walkway or trail along the west side of Sunset Avenue. The project will incorporate the “complete streets” concept. The new walkway or trail will provide pedestrian access and improve the connection to the ferry terminal and other walking routes that go along the waterfront. There is currently no construction funding, but the project has a lot of potential to provide access to pedestrians and bicyclists while still maintaining vehicular access.
- **Sidewalk improvements on 238th Street, 15th Street and 236th Street** will be funded by grants the City received from the Safe Routes to School Program. The projects are planned for 2014.
- **The 3rd Avenue ADA Curb Improvement Project** will bring the street into compliance with ADA requirements.
- **School Zone Flashing Beacons** will be installed in five locations near schools. These projects will be funded by a grant from the Safe Routes to School Program, as well.
- **The SR-104 Corridor Study** was added to the CIP at the request of the City Council. The 2013 CIP identified \$50,000 for the project, but it has not been started yet. Staff is currently working to define the scope of work for the study, which will get started in 2014.
- **An Alternatives Study to resolve conflicts at the Dayton and Main Street railroad crossings** will start in 2014. The goal is to provide safe access to the waterfront.
- **The Transportation Plan** was last updated in 2009. The City will begin the next update in 2014, with the goal of completing the project in 2015.

Fund 421 – Water Utility

- In 2013 the City replaced **9,500 feet of water main**. The City Council approved a Water Main Replacement Program as part of the 2010 Comprehensive Plan update. This annual update program has allowed the City to replace water mains in a proactive fashion to maintain the system.
- **Three pressure reducing valves (PRVs)** were installed in 2013. These valves control the water pressure within the City.
- In 2014, the City will **overlay approximately 2,000 lineal feet of roadway** that has been affected by waterline installation.

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- Approximately **10,000 lineal feet of water main** will be replaced in 2014 and **two additional PRV stations** will be added.

Fund 422 – Stormwater Utility

- The **Edmonds Marsh/Shellabarger Creek Feasibility Study** was started more than a year ago, and the feasibility portion has been completed. The study will continue in 2014 with additional survey work within the marsh looking at restoration opportunities. The City has submitted a grant application for additional funding to continue the work started by the feasibility study.
- The **Dayton Street and SR-104 Drainage Alternative Study** was started in 2012 and looks at options for resolving the drainage problems at the intersection. One option is to install a lift station to pump the water out of the intersection and into Puget Sound.
- The **Public works Yard and Pile Cover Project** was completed in 2013. The covers protect materials that were previously exposed to rain and stormwater runoff.
- The **Lake Ballinger Model Improvement Project** will provide hydrologic modeling for Lake Ballinger and the Weir. The City is working with Mountlake Terrace, Lake Forest Park and Lynwood to mitigate some of the flooding issues that have occurred over the last several years in this location.
- The **238th Street Drainage Improvement Project** has received grant funding for a sidewalk between 100th and 104th Avenues. The stormwater fund would be used to install a storm drain as part of the sidewalk project.
- The **Perrinville Creek High Flow Reduction and Retrofit Study** will start in late spring of 2014 and will be funded by a grant from the Department of Ecology (DOE). The goal is to reduce the storm flow that hits the Perrinville system and causes significant erosion in the lower stretches of the creek.
- The **Vector Waste Handling Facility** at the Public Works Yard will be upgraded to improve how the City handles the waste from the trucks that clean the catch basins, etc.
- **Pre-design work for the Shellabarger Creek and Dayton/SR-104 Projects** will move forward in 2014.

Fund 423 – Sewer Utility

- **Nine Lift Stations will be rehabilitated** in 2013. The stations were in much need of upgrade and repair, both from a pump system component and an electrical and communications standpoint. The project started in early 2013 and eight of the stations have been completed. The City is currently in the process of completing the ninth station. Overall construction costs for this project will be about \$4.2 million. The lift stations are a key component of keeping the City's sewer system functioning properly.
- Also in 2013 the City **replaced 300 feet of sewer main on 224th Street** where there were problems with overflow during high peak events. This project should resolve the problem.
- The **Sewer Comprehensive Plan** is in the final stages of completion and was presented to the City Council on September 24th. It was previously presented to the Planning Board for review, and it is now ready for final approval from the City Council.
- The **Cured-in-Place Pipe Project (CIPP)** will start next month. This is a process where the existing sewer pipes can be rehabilitated by installing a liner. This is a more cost-effective and efficient approach for maintaining the system than replacement.
- The Sewer Comprehensive Plan calls for an **on-going maintenance program for maintaining and upgrading the sewer system on an annual basis.**

Fund 125 – Parks Improvement

- The **International District Improvement Project** included a combination of lighting and banners. The City is planning to host a ribbon cutting ceremony for the project in October.
- The **Mathay Ballinger Park Improvement Project** was completed in 2013.
- The City has started the design phase of the **City Park Renovation Project**, which will include a water spray park and incorporate "green" design elements.
- The City continues to make progress on the **4th Avenue Cultural Corridor Project** by providing wayfinding signs.
- Money was set aside in 2013 for the **Woodway High School Athletic Complex** and the City has received grant funding to begin the design work. Additional funding has been set aside in 2014 so the project can continue.
- The **Boiler at Yost Pool** was replaced in 2013, and additional work is still needed in 2014 to properly maintain the facility.

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- The Parks Fund will provide some funding for stormwater improvements associated with **Edmonds Marsh and daylighting Willow Creek.**
- Funding is identified to implement the improvements identified in the **Marina Beach Park Master Plan.**

Mr. English summarized that the draft CFP and CIP were presented to the City Council's Planning, Parks and Public Works Committee on September 10th. Staff was scheduled to present the two plans to the entire City Council on September 24th. However, due to time constraints, the presentation was postponed to October 1st. A public hearing before the City Council has been scheduled for November 1st.

Chair Reed recalled the significant storm that occurred three weeks ago and noted that the City received several claims for damage from property owners. He said the City of Everett has indicated they would compensate property owners for flood damage that occurred because the existing stormwater system was unable to handle the flow. He asked if the City of Edmonds would do the same. Mr. English commented that the City of Everett's offer is ambitious and will likely result in significant payments. The recent storm was considered a "100-year event" as far as intensity and amount of water. The City's stormwater system is designed to handle only so much flow, and no system is designed to handle "100-year storms" on a continual basis. While the City found some points where improvements could be made, it does not have the ability to retrofit the entire system to handle significant storms on a frequent basis. From the City's standpoint, they will consider each situation on a case-by-case basis and make the best repairs they can, but the system can only handle so much flow. He said he does not anticipate the City will offer to compensate property owners for damage.

Chair Reed asked if the CFP's financial picture has started to improve now that the economy appears to be getting better. Mr. English said it depends on the fund and the type of project. Utility funds come from rate capital, which provides a continual stream of revenue and does not fluctuate based on economic conditions. There are also grant opportunities, but most require the City to have matching funds and he does not foresee a significant increase in the amount of grant dollars available. The Real Estate Excise Tax (REET) revenue is tied to the economy and the assessed value of homes. As the economy improves, he would expect to see more REET funding available for transportation. The gas tax is the main source of funding for transportation projects. As people are using less gas, he does not anticipate that this funding source will significantly improve.

Roger Hertrich, Edmonds, expressed concern about the lift stations that were installed in 2013. These large steel structures were installed in neighborhoods without any type of buffering. He expressed his belief that projects of this type should require Architectural Design Board (ADB) review, and the City should have some design criteria that must be met.

Mr. Hertrich pointed out that none of the neighbors on Sunset Avenue have been invited to participate in the design phase of the Sunset Avenue Sidewalk Improvement Project. This project was started at the City Council level and the Engineering Department moved it forward when grant funding came available. He noted that the property owners near Five Corners were not invited to participate in the early design process for the new roundabout, either. Once grant funding was obtained, the Engineering Department moved forward with designs without consulting with the neighboring property owners. He suggested that the City should always invite the property owners most impacted by a project to participate in the design process as early as possible.

Mr. Hertrich observed that, as currently proposed, the track would be eliminated to accommodate the new athletic facility at the old Woodway High School site. He noted that many people use the track on a regular basis for exercise. Also, because the Edmonds School District indicated they did not want a pool on the site, the site was eliminated as a potential location for the aquatic center even though there is adequate room on the subject property to accommodate the use. He expressed his belief that the City should consider opportunities for more than just athletic fields on this site.

Mr. Hertrich said he is a member of the Economic Development Commission and serves on the Tourism Subcommittee that has been studying the idea of providing public restrooms in the downtown. He noted that the proposed CIP and CFP do not identify restrooms as a potential future project. He expressed his belief that restrooms are essential for economic development in the downtown and waterfront areas.

Mr. Hertrich advised that the lift station project was reviewed by the Hearing Examiner, who required the Engineering Department to address the impact that construction noise would have on neighborhoods.

Mr. Hertrich said his personal interest right now is Edmonds Way and SR-104. While he believes a study is appropriate, he felt it would be insufficient and generally conclude that the Department of Transportation does not believe there is a traffic problem. He pointed out that there are currently backups on Edmonds Way as a result of ferry traffic, and constructing new buildings right up to the sidewalk will make the situation worse. He suggested the City should focus on keeping the traffic moving through the area and providing a safe turn lane for people to enter the shopping centers, etc. When dealing with the Westgate Plan, it is important to involve people who have knowledge of traffic planning. Allowing structures to be built right up to the sidewalk will make it economically impossible to widen the street if needed in the future.

Mr. Hertrich observed that the multimodal facility is not included in either the CIP or the CFP at this time. He recalled that citizens fought hard a number of years ago to get an alternative site for the ferry terminal because there was a natural hill to provide access from the UNOCAL site over the railroad tracks. Now he understands that Mayor Earling is proposing to include funding in the 2014 budget to study options for placing a tunnel under the tracks to provide access to the waterfront. He expressed his belief that the City should go back to the original multimodal facility proposal to provide access over the tracks. He expressed his belief that having a highway move through the downtown would eliminate the ability to tie the downtown and waterfront together. He summarized that the City needs to do thoughtful planning, and he hopes his comments will create some activity towards good planning.

THE PUBLIC PORTION OF THE HEARING WAS CLOSED.

Mr. English agreed with Mr. Hertrich that it is important to plan for the future, and he noted that the multimodal facility project is included in the CFP. He emphasized that no tunnel has been proposed for inclusion in either the CIP or the CFP. However, the alternative study would look at options to potentially solve the at-grade connections at Main and Dayton Streets.

Mr. English advised that the Five Corners roundabout has been included in the CIP for a number of years, and the City recently received grant funding to move the project forward. He also explained that the City is just completing survey work for the Sunset Avenue sidewalk project, which is the first step in establishing a pre-design. The public will be invited to participate in the process once preliminary designs are available.

Vice Chair Stewart said she supports the idea of considering the old Woodway High School site as a potential location for an aquatic center. She suggested that Mr. Hertrich attend the meetings of the Parks Recreation and Open Space (PROS) Planning Team. The Parks, Recreation and Cultural Services Director is open to having more participants enter the discussion and express their ideas and concerns. She announced that community workshops are scheduled for October 16th and 17th to discuss the process for updating the PROS Plan. She urged Mr. Hertrich and others to attend one or both of these events.

Board Member Tibbott asked staff to provide more insight into the lift stations. He agreed that they are unsightly. Mr. English pointed out that it is necessary to maintain access to the front of the structures, and there are also requirements for clearance. Each station had different screening requirements based on negotiations with adjacent property owners. Some stations have plants to buffer the visual impact of the equipment, and fences were used, as well. Board Member Tibbott asked if the lift stations needed to be that tall, and Mr. English answered that the height was needed to house the equipment necessary for the station to operate. He noted that the project did not go before the ADB for review.

Chair Reed recalled public restrooms were identified as a high priority in the citizen survey that was done for the Strategic Plan. He suggested that restrooms should be incorporated into the CFP and CIP at some point. Mr. English said that the issue of restrooms could be addressed as part of the PROS Plan that is currently being updated. Once included in the PROS Plan, public restrooms could be added to the CIP.

Vice Chair Stewart noted that the CIP identifies a number of sidewalk improvements near schools. However, some will not take place until 2016 or 2017. She expressed her belief that projects that improve safety for children should be high priorities. She recalled that at the recent PROS Team meeting, research was given that indicated parents and children would walk up to a mile to school if there was safe pedestrian access. Mr. English agreed that pedestrian access, particularly for children, is very important. He said the City would continue to seek grant funding for these projects.

APPROVED

Chair Reed commented that the timing on the first stop light after Westgate as you head out of town towards Interstate 5 has changed significantly. The length of time that cars are held up on SR-104 to allow cross traffic seems too long. He asked if the City or State controls the timing of this light. Mr. English answered that the City likely has control over the timing of the light, and he agreed to look into the matter.

Vice Chair Stewart requested more information about the funds set aside for waterfront acquisition. She recalled that at the last PROS Team meeting there was discussion about how wonderful it would be to have a continuous walkway along the beach. Mr. English noted that these are park issues that would be better addressed by the Parks, Recreation and Cultural Services Director.

Board Member Tibbott said his understanding is that many of the capital projects related to transportation will be grant funded. He asked how the City would fund the maintenance projects. Mr. English agreed that many of the transportation capital improvement projects will be grant funded, and many will require the City to provide matching funds that will come from gas tax revenue. The City's current policy is that any REET revenue over \$750,000 will be used for transportation projects. As the REET fund improves, there may be some additional funds for preservation work. Board Member Tibbott asked if the City has considered other options for funding such as tax levies or bonds. Mr. English answered not at this point.

Board Member Tibbott asked if the park survey would help inform the CIP or CFP. Mr. English answered that the park survey will tie into the PROS Plan update and will result in potential changes to the CIP and CFP in coming years. Vice Chair Stewart announced that the draft PROS Plan should be available for public review by December 1st.

CHAIR REED MOVED THAT THE BOARD FORWARD THE CAPITAL FACILITIES PLAN (CFP) TO THE CITY COUNCIL WITH A RECOMMENDATION IT BE INCORPORATED INTO THE COMPREHENSIVE PLAN. HE FURTHER MOVED THAT THE BOARD FIND THE PLAN IS CONSISTENT WITH THE COMPREHENSIVE PLAN, IS IN THE PUBLIC INTEREST, IS NOT DETREMENTAL TO THE PUBLIC HEALTH, SAFETY OR WELFARE, AND WILL MAINTAIN THE APPROPRIATE BALANCE OF USES WITHIN THE CITY. VICE CHAIR STEWART SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

CHAIR REED MOVED THAT THE BOARD FORWARD WITH CAPITAL IMPROVEMENT PLAN (CIP) TO THE CITY COUNCIL WITH A RECOMMENDATION OF APPROVAL. BOARD MEMBER CLOUTIER SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

Chair Reed commented that when the City Council considers the two plans, the Board would like them to take note of the public comment and the Board's discussion as they move forward to final approval.

DISCUSSION ON WHETHER TO INCLUDE A DEFINITION OF "REASONABLE ECONOMIC USE" WITHIN THE CITY'S CRITICAL AREAS REGULATIONS (FILE NUMBER AMD20130009)

City Attorney Taraday advised that he recently made a recommendation to the City Council that the definition of "reasonable economic use" be deleted from the Critical Areas Ordinance (CAO). This recommendation led to Interim Ordinance 3931 that was adopted by the City Council on July 2nd. The task before the Planning Board now is to consider the change for permanent adoption or to come up with another recommendation for the City Council to consider.

City Attorney Taraday explained that when the CAO is applied to a property in such a manner that no reasonable economic use is allowed, a property owner can apply to the City for a reasonable use exception. This is very common in jurisdictions throughout the State, and the State's model CAO actually contains a very similar process and sets forth criteria that is almost word for word the same as the criteria in the City's reasonable use exception. The biggest difference is the City's definition for "reasonable economic use" and the example that is provided. The definition and example essentially suggested that if a person owns a single-family residential lot, some type of single-family residential development must be allowed on the lot in order to allow for the reasonable economic use of the property. He expressed his belief that this is not an accurate statement of the law. He said the case law interpretation constitutes what ultimately covers whether or not reasonable economic use has been completely deprived from a property.

APPROVED

City Attorney Taraday advised that there are numerous examples in case law of instances where a very severe land-use restriction was imposed but did not constitute a taking because there was still some other economic use that could be made of the property even if it was not the property owner's preferred choice. He said each situation must be reviewed on a case-by-case basis. It is important to consider the property owner's reasonable return on investment. For example, a property might be purchased at a steep discount because it is almost entirely wetland and the buyer and seller made the assumption that it would be difficult to develop. This information would be relevant to determine whether or not a taking has occurred when the City informs a property owner, upon application, that he/she must comply with the CAO and a 3,000 square foot house would not be allowed.

Going forward, City Attorney Taraday recommended that, rather than presuming that each single-family residential lot is entitled to a residential home, they should eliminate the definition and example for "reasonable economic use" and consider each situation on a case-by-case basis, taking into account factors set forth in case law, the impact to the property owner, etc. He said the interim ordinance implements his recommendation. The matter before the Board is whether or not they want to recommend the City Council make the interim ordinance a permanent change to the code.

Board Member Duncan asked if someone purchasing the Harbor Square property for \$30,000 would have the assumption that the entire property could be developed as zoned. City Attorney Taraday pointed out that the Harbor Square site is not entirely impacted by the critical area. Cost of land would not likely be a factor because there would still be significant economic value in both the existing improvements and what could be redeveloped based on existing code. His understanding is that the property owner would have plenty of non-impacted real estate that could be developed in full conformance with the City's code. He said his previous analogy was not intended to imply that the more you pay for a property, the more you should be able to develop. Mr. Chave added that property cost is just one factor when deciding the reasonable economic use of a property. He cautioned that the "reasonable economic use" provision should not be a protection against foolish investment.

City Attorney Taraday advised that eliminating the definition for "reasonable economic use" does not mean there won't be circumstances where one would be able to clear the hurdle and establish that they are entitled to develop the property. Each situation would be considered on a case-by-case basis because of the various factors that must be considered. He explained that, under the current code, the Hearing Examiner makes the decision of "reasonable economic use" and the decision can be appealed to the City Council. The proposed amendment would not change this process. If there is a dispute, the issue would still be resolved by the Hearing Examiner, with an appeal to the City Council.

Board Member Tibbott asked if there are some areas where the City is focusing on improving the critical areas and other areas where they are content to maintain the critical areas at their current levels. For example, would the City be open to allowing a residential property within a critical area to be redeveloped. City Attorney Taraday pointed out that the proposed amendment would not have any impact on this type of situation. Redevelopment within an existing footprint would be addressed by a separate section of the CAO.

Board Member Duncan summarized that the proposed amendment would strengthen the City's position to deny a use. City Attorney Taraday agreed that it would make it a bit easier for the City to deny a variance request for a single-family home by removing the apparent presumption in the definition that reasonable economic use equals a single-family home. The proposed change would provide a broader lens through which the City could look at what is considered a reasonable economic use.

The Board concurred that the proposed amendment should be scheduled for a public hearing as soon as possible.

WORK SESSION ON PROPOSED AMENDMENTS TO TITLE 23 OF THE EDMONDS COMMUNITY DEVELOPMENT CODE (ECDC) TO BRING THE CRITICAL AREAS REGULATIONS INTO CONSISTENCY WITH BEST AVAILABLE SCIENCE. IN EXCHANGE FOR BUFFER ENHANCEMENT, THE PROPOSAL WOULD ALLOW FOR DEVELOPMENT WITHIN THE ALREADY DEVELOPED FOOTPRINT AND WITHIN AREAS PHYSICALLY SEPARATED AND FUNCTIONALLY ISOLATED FROM THE CRITICAL AREA (FILE NUMBER AMD20130010)

APPROVED

Mr. Lien recalled that the Board held a public hearing on the proposed amendment on August 14th, followed by a lengthy discussion on August 28th. He reviewed that the purpose of the proposed amendment is to bring the existing Critical Areas Ordinance (CAO) into more consistent compliance with the Best Available Science (BAS) Report that was developed with the 2004 CAO Update. The main change has to do with how development in previously developed buffers is characterized. The BAS Report talks about “developed footprint” and the CAO limits it to “structures” as opposed to “development within a previously developed footprint. He added that a related issue has to do with “physically separated and functionally isolated” buffers that are separated from the critical area via a road or some other obstruction and do not provide any benefit to the critical area.

Mr. Lien reminded the Board that the City Council adopted an interim ordinance, which was used as the Planning Board’s working draft. The Planning Board discussed additional modifications such as changing all references to “structures” to “development proposals.” They also discussed requiring enhancement and what the criteria and thresholds for the enhancement should be. In addition, the Board made changes to the buffers and setbacks. Once again, Mr. Lien reviewed hypothetical examples to illustrate how the proposed amendments would be implemented. He also reviewed code language from other jurisdictions and noted the following:

- Many jurisdictions say that if a buffer area is physically separated and functionally isolated from a wetland by a roadway, the buffer area simply ends where the pavement begins with no buffer on the other side. If the roadway is within 50% of the standard width of the buffer, no other buffer reduction would be allowed as part of the improvement.
- Some jurisdictions require professional reports to determine whether or not a buffer is physical separated and functionally isolated from a critical area, while others leave it up to the Director to make the decision.
- Some jurisdictions distinguish between the types of separation. For example, a roadway or railroad would be considered a physical separation but trails and sidewalks would not.
- Most jurisdictions do not require any enhancement for development in physically separated and functionally isolated buffers. Other may require an additional buffer and enhancement if an impact would occur on the other side of the physical separation as a result of development.
- Some jurisdictions have code language that talks about expanding impervious surfaces and others just structures.
- Many jurisdictions allow expansion outright without any enhancement as long as the area of impervious surface is not expanded. If the area is paved with impervious surface, the buffer ends where the pavement starts.
- Some jurisdictions have limits on the expansion. For example, they do not allow expansion towards the critical area, but expansion is allowed on the opposite side of the structure. Some limit the square footage of the expansion.
- Some jurisdictions require enhancement in order to develop within the existing footprint, and some even provide a specific enhancement ratio.
- Some jurisdictions require developers to retrofit the impervious surface to meet the current stormwater requirements.

Mr. Lien advised that, like most jurisdictions, the City of Edmonds does not have a ratio for buffer enhancement. However, they do have a 1:1 ratio for wetland enhancement. Another option for buffer enhancement would be retrofitting stormwater equipment to better manage stormwater. He specifically asked the Board to provide feedback about whether or not the City should require enhancement, especially in previously developed areas where there may or may not be impact to the buffer. Should they establish a threshold, for example requiring enhancement for development over 1,000 square feet? If so, the Board should provide direction regarding enhancement criteria.

Mr. Lien referred to an email from Vice Chair Stewart sent out regarding a letter she received from Bill Lider, PE, CESCL, Lider Engineer, PLLC, regarding potential enhancement options. Mr. Lien noted that the vast majority of the options were stormwater related, and the City’s Stormwater Engineer has prepared a response.

Chair Reed noted that the solution to address issues at City Park is the proposed amendment related to buffers that are “physically separated and functionally isolated.” The buffer area is separated from the critical area by a roadway. Mr. Lien cautioned the Board not to focus solely on the City Park and American Brewing Company projects when reviewing the proposed amendment. Mr. Chave said these two applications were referenced to provide an illustration of the two situations.

Mr. Lien quickly reviewed the proposed City Park Project and reported that a critical area report has determined that the buffer is physically separated and functionally isolated from the critical area. While some jurisdictions simply end the buffer

where the pavement starts, the City's definition of buffer is "designated area immediately next to and part of a stream that is an integral part of the stream or wetland ecosystem." If a buffer is on the opposite side of something that blocks the critical area, it would not be considered an integral part of the stream or wetland ecosystem. He summarized that the City's definition captures the concept of physically separated and functionally isolated and specifically applies to the park project.

Mr. Lien advised that some City Council Members expressed concern about the definition of "impervious surface," which includes materials such as gravel and packed earthen material. After further discussion with the two City Council Members and the City Attorney, it was recommended that rather than changing the definition for "impervious surface," which is tied to the State's stormwater code, a better approach would be to amend the definition for "footprint of development" to read, "the area of the site that contains legally established rooftops, surfaces, paved with concrete asphalt, brick tile and other similar materials, but not including gravel and packed earthen material or any impervious surface." He noted that gravel and packed earthen material is included in the State's definition of "impervious surface." If that is not something the Board wants to include, they could recommend adoption of the alternative definition for "footprint of development." He emphasized that the alternative definition has not been included in the Board's working draft.

Chair Reed also referred to the American Brewing Company's proposal to add a silo outside of the existing footprint of the building. Mr. Lien briefly reviewed the proposed project. He explained that, prior to the interim ordinance, the silo would only be allowed as an addition to an existing structure. A separate structure within the previously developed area would not have been allowed. He explained that the proposed amendment in the working draft would allow development within a previously developed area, as long as it does not expand the impervious surface area or provide any greater impact to the critical areas. However, wetland enhancement would also be required.

Mr. Lien explained that a lot of the Best Available Science done on critical areas, streams, and wetlands is conducted in rural areas that are largely undeveloped. However, the BAS Report found that the City is developed out, and a way to improve wetlands is to require enhancement in exchange for allowing development in previously developed areas. He specifically noted that in many places at Harbor Square, the buffer is non-existent or minimal. In exchange for allowing a silo and cooler in an area that is currently paved, the City could require some enhancement in the buffer around the marsh. The long-term goal is to improve the critical area.

Mr. Lien reminded the Board that one criterion for allowing development in previously developed buffer areas and buffer areas that are physically separated and functionally isolated is that it does not do any more harm to the critical area. Chair Reed asked if the proposed amendments would accomplish this goal. Mr. Lien said that a study would be required to determine whether or not a buffer is physically separated and functionally isolated. However, a study would not be required to identify a previously developed footprint, but an applicant would be required to submit an enhancement plan, prepared by a qualified professional, to document that the proposed enhancement would provide greater function over what currently exists. He reminded the Board that changes to the enhancement standard were made in the working draft. Rather than requiring "greater or equivalent function over the standard buffer or the current condition," the working draft requires "greater or equivalent function over the current condition." He explained that, in many situations, it would be impossible for an applicant to provide greater function than a 200-foot buffer; and as per the BAS Report, the City's goal is to improve the critical area buffers in the long run.

Mr. Lien said staff is specifically seeking feedback from the Board about what the enhancement requirement should be. One option is a 1:1 ratio that would require the applicant to enhance a portion of the wetland buffer equivalent to the amount of buffer that would be developed. He reminded the Board that there are issues with drainage and stormwater at Harbor Square, and there have been flooding issues. Another option is to require the applicant to improve the stormwater that flows from the site into the marsh.

Chair Reed pointed out that the American Brewing Company's project would be limited to just the far side of the paved area behind the building, and the silo would be located very close to the building. Mr. Lien pointed out the location of the proposed new silo and cooler. Chair Reed asked if the proposed amendment would allow either the American Brewing Company or another applicant to redevelop all of the currently paved area. Mr. Lien answered that development would be allowed anywhere within the previously developed footprint, but buffer enhancement would be required.

Chair Reed asked if the gravel area located near the marsh on Harbor Square property would be considered part of a “previously developed footprint.” Mr. Lien answered that, as currently proposed, gravel would be considered impervious surface per the State’s Stormwater Code. He reminded the Board of the concern raised by City Council Members and the proposed new definition for “developed footprint” that does not include “gravel.” Chair Reed pointed out that beyond the gravel parking area is a paved walkway that extends out to the marsh. He asked if the current working draft would allow redevelopment to occur all the way to the marsh in this location. Mr. Lien reminded the Board that the contract rezone for Harbor Square requires a 25-foot setback from the marsh. Regardless of whether or not the site has been previously developed, no development would be allowed within 25 feet of the marsh. Chair Reed noted that in the draft Shoreline Master Program, the Board recommended a 50-foot setback in this location.

Board Member Tibbott asked at what level an expert would be called in to examine a development idea. Mr. Lien answered that the CAO calls out when a report by a qualified professional would be required. As currently proposed, a report from a qualified professional would be required to determine if a site is physically separated and functionally isolated from the wetland. For development within the developed footprint, the qualified professional would have to prepare an enhancement plan that demonstrates that the proposed enhancement would provide greater function over current conditions. Board Member Tibbott asked if the code identifies a threshold for when a qualified professional would be required. Mr. Lien answered that the allowed activity provisions in each of the CAO sections identify thresholds for when a full-blown critical areas report would be required. However, the proposed language does not currently include a threshold for when a critical area report would be required for development within the previously developed footprint.

Board Member Tibbott asked if something as small as a bird house or a dog shelter within the previously developed footprint would require a critical area report by a qualified professional. He explained that the code is not always black and white, and staff must make some judgment calls regarding the threshold. He said it is not likely that staff would require a critical areas report for bird houses that are intended to bring species into the wetland. However, doghouses and temporary structures would likely exceed the threshold and a report would be required. Mr. Lien specifically asked the Board to provide direction on whether or not the proposed amendment should include a threshold for when enhancement is required.

Board Member Duncan asked if the proposed amendment includes a provision for performance and maintenance of the required buffer enhancement installations. Mr. Lien said the CAO includes specific requirements for mitigation plans, which includes monitoring an enhancement for three years to make sure the plants are alive and thriving. The City would not monitor the enhancement beyond three years, but it is supposed that the area would be stable after the three-year period. Board Member Duncan specifically referred to the buffer area at Harbor Square that is now being used as a gravel parking lot. Mr. Lien reminded the Board that the gravel parking area was established before the CAO was adopted. Board Member Duncan stressed the importance of including performance and maintenance standards in the code language.

Board Member Duncan expressed his belief that the smaller projects would be better served to pay into a fund to do some real hydrological improvements. Mr. Lien recalled that the Board discussed establishing a fee-in-lieu-of program at their last meeting, but staff pointed out that implementing this concept would be more complicated than staff considered for the proposed amendment. He recommended that it would be more appropriate to consider this option when the City updates its CAO in 2015 as required by the Growth Management Act.

Vice Chair Stewart observed that the intent of the proposed amendment is to allow redevelopment in buffer areas that have been previously developed as long as the amount of impervious surface is not increased. However, ECDC 23.90.040 appears to allow development within stream buffers that increases the footprint of development or impervious surface. She stressed that she is opposed to allowing development that increases the amount of impervious surface in buffer areas. Mr. Lien explained that the expansion of impervious surface is something that is already allowed in the code. Although the code (ECDC 23.90.040) allows expansion of the developed footprint with stream buffers, applicants must locate such additions in accordance with the sequencing outlined ECDC 23.90.040.D.4. He further explained that the proposed amendment has to do with whether or not the expansion would be limited to additional structures or applicable to all development proposals. In addition, the proposed amendment would allow for development in buffer areas that are physically separated and functionally isolated from the critical area, with the idea that impervious surface in these locations would not impact the critical area. He emphasized that enhancement would also be required.

Vice Chair Stewart expressed concern that if the City allows more impervious surface without requiring rainwater to be treated on site or to infiltrate where it falls, more stormwater runoff would be added to the mix. She suggested that if the City allows increased impervious surface as proposed in the amendment, there should be strict provisions on how to infiltrate rainwater using things like green roofs, rain gardens, and other low-impact development techniques. Although the City is not yet required to adopt the Low-Impact Development Technical Guidance Manual for Puget Sound (December 2012 Edition), she suggested the City should require applicants to utilize the tools outlined in the manual in exchange for an increase in impervious surface. If these tools are used to handle the rainwater that comes down on the new hard surfaces, the City would not be adding to the stormwater that is already on the ground. She also felt that an enhancement plan should be required for development within buffers that are physically separated and functionally isolated from the critical area. She summarized that she is not suggesting the City deny property owners the ability to increase impervious surface, but they need to make sure that rainwater is infiltrated on site using the most progressive low-impact development tools available.

Mr. Lien explained that the City has stormwater requirements in place and encourages low-impact development. The City currently uses the Rain Garden Handbook for Western Washington Homeowners on sites with less than 2,000 square feet of new or replaced impervious surface. He summarized that other regulations are also applicable when adding new impervious surfaces. Vice Chair Stewart noted that these new techniques are simply encouraged, but not required by the City at this time. If a buffer has already been degraded by development, the least the City can do is not allow any more stormwater runoff degradation to occur. Mr. Lien emphasized that, as per the current code, development within a previously developed footprint or in a buffer that is physically separated and functionally isolated must not increase the impact to the critical area and/or buffer. He agreed the City should not allow development that will further degrade the critical area. The goal is enhancement of the critical area, and improved stormwater control could be one enhancement option.

Vice Chair Stewart referred to the letter from Bill Lider, PE, CESCL, Lider Engineer, PLLC, which she forwarded to the Board Members. She explained that Mr. Lider, as well as the SnoKing Watershed Council, has recommended that cities adopt the 2012 edition of the Department of Ecology's Stormwater Management Manual for Western Washington. Mr. Lider also recommended the City adopt the December 2012 edition of the Low-Impact Development Technical Guide Manual for Puget Sound. She suggested that the City require applicants to comply with the requirements outlined in these two documents. She further recommended that the City should adopt any future stormwater manual approved by the Department of Ecology within 30 days of its release. This would enable the City to keep current. She summarized that the City has done badly in the past by not understanding or knowing enough about the functions of wetlands and why the buffer areas are so critically important to the hydrologic function and ecosystems that wetlands support. She encouraged the City to do whatever they can to make sure the wetlands are not impacted more severely by using the most recent, up-to-date technology and manuals available. She suggested that the City establish a 2:1 enhancement ratio. While she recognized that enhancement is costly, there are funding opportunities available to property owners. For example, WIRA 8 has funding to help property owners along streams that have anadromous fish to enhance buffers that have been encroached upon. The Salmon Relief Fund might also have funding to help property owners comply with the CAO requirements, and also offer technical guidance for developing and implementing enhancement plans. She suggested the City take a stronger stance to recover what has been lost.

Vice Chair Reed asked if it would be wise to reference specific manuals in the CAO since they are updated frequently. Mr. Lien cautioned against referencing a specific manual in the draft amendment. He explained that the City is not required to update its stormwater code until 2016, and it is actually scheduled for completion by 2015. He noted that the concepts in the two documents referenced by Vice Chair Stewart are specifically related to stormwater, and should not be included in the CAO. However, the code could list potential enhancement options to mitigate for development in the previously developed footprint or a physically separated and functionally isolated buffer.

Vice Chair Stewart suggested that perhaps the City could require enhancement for development that extends beyond 10% of the development footprint. Mr. Lien suggested that a square-foot threshold might be a better approach, since a percentage threshold would be based on the size of the existing structure and could equate to a large development. Mr. Lien said the threshold for the City's stormwater requirement is 2,000 square feet of new impervious surface added since 1977.

Vice Chair Stewart pointed out that, as per the current definitions, even new pervious surfaces are considered impervious. Mr. Lien explained that, generally, impervious pavements are used to mitigate for stormwater. The current code offers a percentage reduction for using pervious pavement, which is not the same as a forested condition. Vice Chair Stewart

expressed her disappointment that a developer would not also get credit for using pervious pavement when calculating the amount of buffer enhancement required.

Mr. Lien referred to the alternative definition for “footprint of development,” which does not include gravel, packed earthen material or pervious surface. That means a pervious pavement driveway would not be considered part of the footprint of development. Chair Reed asked if the code includes a definition for “impervious” and “pervious.” Mr. Lien answered that a definition for “pervious” can be found in the stormwater code. Rather than redefining the terms “pervious” and “impervious” in the CAO, Mr. Chave suggested that using a definition for “footprint of development” would be a better approach. It is best to avoid conflicting definitions with those contained in the stormwater code.

Mr. Chave cautioned that most critical areas issues do not involve commercial areas. Most occur on single-family residential properties where very small projects are proposed. Setting the threshold high would potentially allow a lot of development to occur without any enhancement requirement. He reminded the Board that the overall intent of the CAO is to allow minor improvements in exchange for improving the situation through enhancement over time. If the City does not require adequate enhancement, nothing will be accomplished. Most of the intrusion into the critical areas has already occurred.

Chair Reed asked if the City could require applicants to demonstrate that the critical area would not be negatively impacted. Mr. Chave answered that the CAO includes a provision that allows the City staff the discretion to require a study if there are questions about whether the proposed construction activity would create additional disruption to the critical area.

Vice Chair Stewart referred to handout #E72, which outlines the City’s requirements for stormwater management, drainage system design, and erosion and sediment control requirements. She noted that this handout defines the term “pervious surface” as “any surface that allows the entry of water into the ground as it would occur in nature.” She asked if this definition could be applied to all elements of the code, or must it be redefined for each one. Mr. Chave clarified that “pervious surface” is only addressed in the context of the stormwater code and not included in any other section of the code. However, lacking another definition, that is the one City staff would refer to.

Chair Reed advised that a public hearing on the proposed amendment has been tentatively scheduled for November 13th. He suggested that staff provide alternatives for addressing the threshold issue, as well as options for meeting the enhancement requirement. Rather than a public hearing, the Board could continue their discussion on November 13th. Mr. Lien agreed that schedule would be acceptable. The interim ordinance was adopted in August and will not expire until February. The Board agreed they wanted to hold an additional work session in November, with a public hearing in December or January.

Chair Reed asked the Board to provide specific direction on the two alternative definitions for “footprint of development.” Mr. Lien reminded the Board that the interim ordinance includes a definition for “impervious surface.” If the definition for “footprint of development” is added to the CAO, the definition for “impervious surface” could be deleted and the City could simply rely on the definitions in the stormwater code for both “pervious surface” and “impervious surface.” The Board agreed that would be the appropriate approach. However, they asked staff to include both options for the definition of “footprint of development” for their continued discussion.

Mr. Lien explained that the interim ordinance defines “footprint of development” as the “legally established impervious area.” Impervious includes materials such as gravel and packed earthen materials, which was a concern for some City Council members. The question before the Board is whether or not they want to consider gravel and/or packed earthen materials as part of the footprint of development. Board Member Duncan asked if a deck would be considered pervious or impervious surface. Mr. Lien replied that the stormwater code addresses decks. Decks are considered pervious if they are constructed of wood materials that allow water to flow through and the ground below is dirt. Solid decks that do not allow water to flow through would be considered impervious. Mr. Chave summarized that it would all depend on the type of deck and the materials located underneath.

Mr. Lien advised that the terms “pervious” and “impervious” are used throughout the CAO. Definition for the two terms are found in the stormwater code and do not necessarily need to be included in the CAO. Vice Chair Stewart suggested that perhaps the CAO should include a reference to where definitions for “pervious” and “impervious” can be found in the stormwater code.

APPROVED

At the Board's next discussion on November 13th, Mr. Lien agreed to provide options for thresholds, definitions, enhancement ratios and enhancement requirements. Board Member Duncan asked if there is any scientific basis for establishing a 1:1 enhancement ratio. Mr. Lien agreed to research this issue further and report back to the Board. Board Member Duncan asked it would be possible to tie the enhancement requirement to a percentage of the overall project budget. Mr. Chave answered that the enhancement requirement must be based on science rather than economics.

REVIEW OF EXTENDED AGENDA

Chair Reed reviewed that the October 9th agenda will include a review of the telecommunications code, a work session on the Westgate Plan and form-based code, and a public hearing on the proposal to limit certain office uses from locating in business spaces along designated ground floor street frontages within the downtown BD1 zone. The October 23rd agenda will include a parks and recreation quarterly report, a discussion on the Parks, Recreation and Open Space Plan update, and a review of the park naming policy. On November 13th, the Board will continue their discussion on proposed amendments to the Critical Areas Ordinance, with an anticipated public hearing on the amendments in December. A public hearing on amendments to the critical areas reasonable use provisions and the City Council's interim zoning ordinance will be scheduled sometime in November and December, as well.

Chair Reed advised that the Board's next quarterly report to the City Council is scheduled for January 6th.

PLANNING BOARD CHAIR COMMENTS

Chair Reed reported on his attendance at the September 18th Economic Development Commission (EDC) meeting where representatives from Swedish Edmonds Hospital presented their plans for a \$63 million renovation that will include a parking garage and a reconfigured entry area. The EDC discussed how the hospital project would enhance economic development in the Highway 99 area, but the hospital representatives did not have a lot to say about this aspect of the proposal. Also at the EDC meeting, Commissioner Senderoff, a member of the Land-Use Subcommittee, reported on the comments he made at the last Planning Board meeting regarding the proposal to limit certain office uses in the BD1 zone. He also reported on the content of the Board's discussion on the matter. In addition, Commissioner Faires made it clear that the Port of Edmonds would not be coming back to the City with a new proposal for the Harbor Square Master Plan in the foreseeable future.

Chair Reed advised that in his presentation of the Board's quarterly report to the City Council, he mentioned the committee that was formed to discuss potential zoning changes on Highway 99, which is made up of members from the Highway 99 Task Force, Planning Board, and EDC. Council President Petso asked if a City Council Member had been invited to participate, as well. Mr. Chave explained that the interim committee is a temporary group that initially got together to figure out who would take the lead. The decision was that the Highway 99 Task Force would take the initial lead, but a few members of the EDC and Planning Board would be invited to attend the meetings. He pointed out that a few members of the City Council also serve on the Highway 99 Task Force. He emphasized that the purpose of the group is to coordinate between the various groups.

PLANNING BOARD MEMBER COMMENTS

Board Member Tibbott encouraged the citizens of Edmonds to drive carefully around schools, especially as darker hours are approaching.

Vice Chair Stewart noted that the rain garden workshop that was held last week was a huge success. The focus of the workshop was how to build your own rain garden, and over 60 people were in attendance. There is a lot of continued interest beyond the workshop, and there will be some follow up.

Vice Chair Stewart reminded the Board that Aaron Adelstein, the Master Builders Association of King and Snohomish County's Director of Built Green, will make a presentation on the Built Green Program at the next Mayor's Climate Protection Committee meeting on Thursday, October 3rd, at 9:15 a.m. in the Fireside Room at City Hall. Planning Board Members are invited to attend.

APPROVED

Vice Chair Stewart announced that Andrew Dannenberg, MD, MPH, will speak on “Creating Healthy Communities” at the Livable Snohomish County Summit and County Council Candidate Forum on Saturday, October 12th. She advised that she heard Mr. Dannenberg speak on a previous occasion, and she encouraged the Board Members to attend the free presentation as it may broaden their perspective of their role as planners on the Board.

Chair Reed reminded the Board of the Candidate’s Forum that is scheduled for September 30th in the Council Chambers. The event is sponsored by the Chamber of Commerce and will include candidates for City Council, Port Commission and School Board. He also referred the Board to the live interviews done by myedmondsnews.com.

ADJOURNMENT

The Board meeting was adjourned at 9:42 p.m.

APPROVED