

**CITY OF EDMONDS  
PLANNING BOARD MINUTES**

**June 11, 2014**

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Chair Cloutier called the meeting of the Edmonds Planning Board to order at 7:04 p.m. in the Council Chambers, Public Safety Complex, 250 – 5<sup>th</sup> Avenue North.

**BOARD MEMBERS PRESENT**

Todd Cloutier, Chair  
Neil Tibbott, Vice Chair  
Bill Ellis  
Philip Lovell  
Carreen Rubenkonig  
Valerie Stewart (arrived at 7:35 p.m.)

**STAFF PRESENT**

Rob Chave, Planning Division Manager  
Kernen Lien, Senior Planner  
Shane Holt, Development Services Director  
Karin Noyes, Recorder

**BOARD MEMBERS ABSENT**

Daniel Robles (excused)  
Ian Duncan (excused)

**READING/APPROVAL OF MINUTES**

**VICE CHAIR TIBBOTT MOVED THAT THE MINUTES OF MAY 28, 2014 BE APPROVED AS SUBMITTED. BOARD MEMBER ELLIS SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.**

**ANNOUNCEMENT OF AGENDA**

The agenda was accepted as presented.

**AUDIENCE COMMENTS**

**Natalie Shippen, Edmonds**, noted that she submitted written comments earlier in the day regarding the Westgate Plan and form-based zoning, but wanted to read them to the Board so they could be included in the minutes. She observed that incentive zoning is the sweeping code changes adopted by cities with serious problems such as those in the rust-belt, the run-down areas of Seattle, and suburban towns seeking identity like Lynnwood, Mountlake Terrace and Shoreline. In successful, popular Edmonds a form-based code and incentive zoning are solutions looking for a problem. The main topic the Planning Board should discuss is what problems in Edmonds are to be solved by replacing the successful, long-time existing code. She asked the Board to answer the following questions:

- Question 1: Can the original height limits of 25 feet for residential and 35 feet for commercial (with no bribes for this and that) be retained and still meet the goals listed on Pages 1 and 2 of the Westgate Plan dated May 14, 2014? If the answer is no, she asked them to explain which goals can't be met and why. She pointed out that one of the goals is to establish a flexible regulating system (i.e. replace the existing code) that creates quality public spaces by regulating building placement and form. She questioned why quality public spaces can't be created under the existing zoning code.

- The argument is made that the Growth Management Act requires greater density in Edmonds, and increased height limits make that possible. Therefore, the proposed zoning is justified. Has the Planning Board ever objectively discussed different ways to increase density? For example, they could rezone commercial or single-family zones to multi-family. Is it the Board's opinion that only increased height limits will produce increased density?
- Why does the Board believe that approval of incentive zoning and the form-based code before them won't produce more buildings like the Compass pair? The Mayor's office negotiated a "flexible" development agreement that produced the existing Compass warehouses, and the proposal the Board is being asked to endorse simply formalizes his authority. What has changed to prevent more Compass buildings?
- Washington State Ferries plans to operate four, 144-car ferries daily on the Edmonds/Kingston run by 2030, and that will almost double the volume of ferry traffic through Westgate. What specific measures has the Board considered to address this growing problem?

### **CONTINUED WORK ON WESTGATE PLAN AND FORM-BASED CODE**

Mr. Chave advised that the intent of this discussion is for the Board to arrive at a set of recommendations for the City Council. He recommended that the Board consider and take separate action on each of the following items:

- Comprehensive Plan Text Amendment (Attachment 1), which is intended to incorporate the Westgate Plan into the goals and objectives of the Comprehensive Plan.
- Community Development Code Text Amendment (Attachment 2), which would create a new zoning classification of Westgate Mixed-Use (WMU) and provide additional design criteria that would apply to the new zone.
- Zoning Map Amendment (Attachment 3), which would replace the existing Neighborhood Business (BN), Commercial Business (BC) and Commercial Business – Edmonds Way (BC-EW) zoning at Westgate with the new WMU zoning.

Mr. Chave referred to Attachment 6, which contains a list of the criteria the Board must consider when making decisions related to Comprehensive Plan and Development Code (zoning) amendments. The criteria should be discussed by the Board when making a recommendation to the City Council.

Mr. Chave advised that the code language highlighted in Attachment 2 show a number of technical corrections that are intended for clarification. It also includes helpful language changes that assist the code in being clearer to implement. None of the changes alter the purpose or way in which the code works. He also advised that a code amendment contained in Attachment 2 references the Edmonds Green Factor Tools that are contained in Attachment 4. These tools would be adopted into the code by reference.

Mr. Chave recalled that, at the May 28<sup>th</sup> hearing, numerous people testified about the need to protect the existing slopes and vegetation to help buffer the commercial area from the surrounding residential properties. He referred to the map showing "Westgate Protected Slopes" (Attachment 5), which attempts to provide greater definition in order to protect existing slopes and vegetation that help buffer the commercial area from the surrounding residential properties. The map provides specific contour lines, tied to topography, that define the limit of the developed area within the commercially-zoned properties of the WMU zone, and a cleaned-up version would be inserted into Page 30 of the draft code (Attachment 2). He explained that, as per the proposed map, development activity would not be allowed to intrude into the slopes beyond the contour lines, which are intended to be closer to where existing development is located. The goal is to not take away from what people are able to do on their properties, but ensure that buildings do not encroach further into the sloped areas than is already the case.

Mr. Chave said another issue that warrants additional consideration is the property identified as Lot 23105 in the southeast quadrant, which was the topic of some discussion at the last public hearing. A contract rezone was approved for the property in 1985, requiring that the 45-foot natural area be retained. The question before the Board is whether the newly adopted zoning should reflect the earlier agreement and require a 45-foot setback, or should the setback be 30 feet as shown on the map of contour lines. He expressed his belief that because the Westgate Plan will allow for more intense development on the site, it would make sense for the zoning to respect the condition that was put in place in 1985 and push the setback line back an additional 15 feet to protect the slope and vegetation.

Board Member Ellis asked if the proposed zoning amendment would override the contract rezone that was approved in 1985. Mr. Chave answered that the zoning amendment would replace the previous zoning. Because the contract runs with the zoning, if the zoning goes away, the contract would go away, as well.

Board Member Ellis asked if staff has any sense of whether or not the proposed contour lines would be sufficient to preserve the integrity of the slopes. Mr. Chave said that is the intent. While development would be allowed into the slope to some degree, the bulk of the slope would be retained based on the proposed contour lines.

Board Member Lovell asked staff to explain the elevation classes that are identified on the Westgate Protected Slopes Map. Mr. Chave said the green areas indicate where buildings in the commercial zone would be visible from residential properties on top of the slope. A 25-foot building would be visible from the areas identified in green, a 35-foot building from areas identified in orange, and a 45-foot building would be visible from properties identified in blue. He summarized that, the taller the buildings, the more visible they would be from the higher elevations. Board Member Lovell pointed out that the map assumes there are no trees when, in fact, most of the sloped areas are vegetated. Mr. Chave said the contour lines are intended to ensure that sufficient trees are retained on the slopes to provide a buffer.

Vice Chair Tibbott asked what the building setback would be for the commercial properties. Mr. Chave said the contour lines are intended to identify the building setback requirement. If the contour line is closer to the property line, a 15-foot standard setback would apply.

### **Comprehensive Plan Amendment (Attachment 1)**

Board Member Lovell commented that the Board has reviewed the proposed changes on previous occasions. He said he particularly supports the proposed language in C.2 and C.9, related to encouraging mixed-use development in a walkable community center and encouraging the development of a variety of housing choices to residents of all economic and age segments. Some members of the public have expressed concern about increasing density to accommodate residents and meet the requirements of the Growth Management Act. However, the real intent of the proposed amendments is to create a flexible system of zoning that accommodates a greater variety of housing options to meet the needs of the aging population, younger residents, and others who want to live, work and shop close to where public transportation is available. The proposed language provides flexibility to allow housing options in conjunction with retail, whereas the current BN zoning only allows residential uses in the form of single-family homes. It is not feasible or realistic for any of the property owners at Westgate to consider tearing down retail establishments to develop single-family homes. The proposed language will address this concern by allowing a mixture of multi-family residential and commercial development.

Board Member Ellis said his only concern about the proposed Comprehensive Plan amendment is that it opens an area that has been commercial for a long to a variety of residential uses. While the Board recognizes that is the type of development the City wants to encourage, it is also possible the change will allow the area to become more residential and less commercial. While he does not believe that will happen, it needs to be recognized as a possibility.

Vice Chair Tibbott said the proposed amendment reflects the Board's discussion to date, and he is grateful for staff's hard work putting it together. However, he still remains concerned about walkability in the Westgate area after development occurs. While the traffic study indicated that traffic impacts would not be significant at the intersection of SR-104 and 100<sup>th</sup> Avenue West, he cannot help but think that especially pedestrian traffic will be impacted with more residential space in the area. At some point, the City will need to give specific consideration to encouraging pedestrian-friendly and other modes of transportation within the quadrants, perhaps through additional incentives.

**BOARD MEMBER STEWART ARRIVED AT THE MEETING AT 7:35 P.M.**

Mr. Chave referred to Page 8 of the proposed Development Code Amendment (Attachment 2), which identifies where particular building types could be developed. Generally, the types of residential uses allowed at Westgate are targeted around the periphery of the property, with the more intense commercial uses in the central area. In fact, a certain amount of commercial space would be required in the central core area. Because the proposed code would allow more intense development, there would be opportunities for additional commercial development in addition to residential development. Board Member Ellis thanked Mr. Chave for this helpful observation. The point is that the proposed zoning represents what

the City would like at Westgate, recognizing that the City does not have control over the type of development that will actually occur.

Board Member Lovell pointed out that the proposed changes would not prevent more drugstore or bank development. Mr. Chave agreed, but clarified that development would look different because more pedestrian connections, amenities and open spaces would be required.

Board Member Lovell recalled that some members of the public have expressed concern that introducing more residential development in the area would push retail uses out, and he does not think that would be the case given the property's location and existing development. Mr. Chave agreed that the area is not likely to convert to a residential area. The Comprehensive Plan's intent is to introduce opportunities for residential development in the mix of uses, which is a common trend in nearly all communities.

Chair Cloutier recalled that one of the Board's primary goals was to provide flexibility to land owners. While the proposed language includes mandates for open space and amenities, it does not overly constrain landowners. Rather than specifying how each piece of land should be used, it provides direction on how each development could be placed. This will prevent the area from being developed into one large apartment block. He said he does not believe the proposed changes would push out existing development, and he supports the Comprehensive Plan amendment as written.

**BOARD MEMBER LOVELL MOVED THAT, BASED ON THE FINDINGS RELATED TO THE CRITERIA FOR CONSIDERING COMPREHENSIVE PLAN AMENDMENTS (ATTACHMENT 6), THE BOARD FORWARD A RECOMMENDATION TO THE CITY COUNCIL FOR APPROVAL OF THE PROPOSED COMPREHENSIVE PLAN AMENDMENT (ATTACHMENT 1) AS PRESENTED. CHAIR CLOUTIER SECONDED THE MOTION. THE MOTION CARRIED 4-0, WITH BOARD MEMBERS STEWART AND RUBENKONIG ABSTAINING.**

Board Member Rubenkonig explained that she respects the four-year process in which the Board tackled the issue. Because she is a new member of the Board, she was not able to become familiar enough with the Board's past work to participate in the vote. She supports the Board's decision, but does not feel she should vote at this time.

Board Member Stewart said she abstained from the vote because she was late to the meeting and was not able to hear the Board's previous discussion. However, she expressed support for the proposed Comprehensive Plan amendment.

#### **Edmonds Community Development Code (ECDC) Amendments (Attachment 2)**

Mr. Chave said Attachment 2 outlines proposed amendments to Chapters 16 and 22. Chapter 16 outlines the allowed uses, and the bulk of the design related requirements are contained in Chapter 22.

Chair Cloutier asked where the Westgate Protected Slopes Map would be inserted into the development code. Mr. Chave answered that the map would be inserted into ECDC 22.110.070.C (Line 32 of Page 30).

Board Member Lovell referred to the map in ECDC 22.110.010.B (Page 7), which identifies the parcels that are limited to two stories in height, as well as those that are eligible for the potential fourth story height bonus. He recalled that there was significant community concern about the height of buildings and how the adjacent residential properties would be impacted. He suggested that the map also identify the properties that are limited to three-story development. The Board concurred and Mr. Chave agreed to make this change.

Board Member Lovell said some concern has been expressed about the loss of family-oriented amusement and entertainment type facilities in the City. It has been suggested that perhaps the development code for Westgate could include some incentives to encourage this type of use. Mr. Chave pointed out that, as currently proposed, amusement establishments would be allowed in the WMU zone as a conditional use. One option would be to change the table to eliminate the conditional use permit requirement and allow amusement establishments as outright permitted uses. He reviewed that a conditional use permit requires a public hearing before the Hearing Examiner. Generally, uses that require a conditional use permit have more activity than a normal business, and the conditional use permit process allows the City to place conditions on uses to mitigate their impacts. Chair Cloutier pointed out that the term "amusement establishment" is not defined in the code.

Board Member Ellis said he is satisfied with Table 16.110.010, as written, which requires a conditional use permit for amusement establishments. This allows the City to have some review to make sure the proposed development fits with the goals of the Westgate Plan. It is also important to allow the public an opportunity to review and comment on this type of use. Mr. Chave said the assumption is that conditional uses will be permitted, but the City will examine the particulars of the activity to determine if additional requirements are needed to reduce impacts. Chair Cloutier summarized that the majority of the Board supports Table 16.110.010 as written, which would neither encourage nor discourage the use, but would provide a process to make it happen.

Board Member Rubenkonig requested clarification that the map in ECDC 22.110.010.B (Page 7), which identifies properties that are eligible for the fourth story height bonus, is the same as the map that was provided at the May 28<sup>th</sup> hearing. Mr. Chave answered that the steep slope line was changed, but the numbers remain the same.

Board Member Stewart reminded the Board that the Comprehensive Plan calls for encouraging the development of a variety of housing choices available to residents of all economic and age segments (Goal C.9). She expressed concern about eliminating the requirement for at least 10% small-sized development in ECDC 22.110.000 (Line 4 on Page 6). Mr. Chave explained that the language Board Member Stewart referenced is in the purpose section. Because the requirement is included in the housing section of the code, it was removed from the purpose section. Board Member Lovell questioned how the 10% requirement would be applied to smaller developments with commercial on the ground floor and residential units above. Mr. Chave said the requirement would be based on the number of residential units in the development.

Board Member Stewart referred to ECDC 22.110.010.C.1 (Lines 2 through 8 on Page 10) and questioned the requirement that front yard trees in row house developments be no more than 1.5 times the height of the porch and that frontage landscaping at the street/sidewalk interface be no more than 1.5 times the height of the house. ECDC 22.110.010.C.6 (Lines 24 through 29) also restricts tree height in side-court mixed-use developments. She reminded the Board that trees provide a function of shade and reduced energy costs. She questioned if it is necessary to significantly restrict tree size. She expressed her belief that it would be clearer to regulate the height of trees by using a specific height limit because houses and porches differ in height and design.

Board Member Ellis questioned the need to regulate the height of trees at all. He doubts a property owner would plant trees that are out of scale with his/her development. He cautioned against micromanaging the vegetation plan. Chair Cloutier pointed out that landscaping is considered part of the building envelope, and trees that are too large can impact adjacent properties. He suggested that tree height should be limited, but the code should allow flexibility in the types of trees that are planted. The majority of the Board recognized the need to limit the height of trees to minimize impacts to adjacent property owners. They agreed that the height limit for front yard trees should be set at 15 feet, and the height limit for trees near the sidewalk or travel way should be set at 30 feet. They directed staff to apply this standard for all the building types identified in the proposed code language. Board Member Ellis asked if existing trees would have to be removed if they are taller than the height limit allowed for the front yard. Mr. Chave answered that existing trees would be allowed to remain on the site, regardless of their height.

Board Member Stewart also referred to ECDC 22.110.010.C.2 (Lines 7 and 8 on Page 12), which requires that courtyards be connected to the public way and/or to each other, and that the connecting spaces be at least 10 feet wide. She questioned if 10 feet is sufficient enough width to serve the intended purpose. Mr. Chave pointed out that the requirement would not limit the width to 10 feet, but it would require at least 10 feet.

Board Member Stewart asked if the Green Factor Tools contained in Attachment 4 were provided by the Green Futures Lab. Mr. Chave answered affirmatively. Board Member Stewart asked if Attachment 4 would be incorporated into the code language. Mr. Chave said the intent is to adopt Attachment 4 by reference. Providing a reference would allow the information to be accessed via the City's website. Board Member Lovell expressed concern that the Green Factor Tools are complicated. Mr. Chave agreed and noted that staff would provide examples and help developers through the process.

Vice Chair Tibbott asked if the 45-foot setback requirement for the property identified as Lot 23105 would be incorporated into the actual code language. Mr. Chave answered that it would be identified on the Westgate Protected Slopes Map. Vice Chair Tibbott pointed out that increasing the setback requirement for this property could help address some of the adjacent

neighbor's concerns about privacy, particularly given that the area is heavily vegetated. He questioned if changing the setback requirement would be sufficient, or if the height limit should also be reduced to 25 feet. The entire bank is fairly low and the only buffer is the bank and vegetation.

Board Member Rubenkönig asked if the current contract rezone that applies to Lot 23105 is attached to the parcel or the building. Mr. Chave said the parcel is bound by the contract rezone at this time, and any redevelopment would have to comply with the 45-foot setback requirement. However, the proposed zoning would supersede the contract rezone and reduce the buffer width to just 30 feet. Board Member Rubenkönig asked if the City frequently makes zoning changes that supersede previously approved contract rezones. Mr. Chave said it has occurred on occasion. Board Member Rubenkönig voiced her opinion that it would be a poor move to change the setback for this property to something less than what was identified in the contract rezone. The remainder of the Board agreed that the map should be altered to change the setback line from 30 feet to 45 feet regardless of the contour of the site.

Vice Chair Tibbott said ECDC 22.110.070.B (Line 1 on Page 30) makes reference to opportunities for landscaped roof parks. He noted that, as currently proposed, green roofs are a type of amenity that can be used to get the fourth story height bonus. He asked if green roofs should be required in situations where development would be within close proximity to residential units. Board Member Stewart pointed out that green roofs, as identified in the Green Factor Tools, are different than roof parks. Roof parks are intended to be useable spaces that people walk on and enjoy. Green roofs are intended to perform stormwater functions and provide insulation for the rooftop and not necessarily for public access. She appreciates that roof parks have been identified as a type of amenity space; not only are they useable, but they are attractive, as well. Board Member Lovell said it is fairly likely that a three-story, mixed-use development would be of a wood frame design, which is not structurally suitable for either roof parks or green roofs. Typically, these uses require a steel or reinforced concrete design.

**BOARD MEMBER LOVELL MOVED THAT THE BOARD FORWARD THE PROPOSED AMENDMENTS TO ECDC 16.110 AND 22.110 (ATTACHMENT 2) TO THE CITY COUNCIL, WITH A RECOMMENDATION OF APPROVAL AS WRITTEN AND WITH THE FOLLOWING CHANGES:**

- 1. IN THE FIGURE ILLUSTRATING HEIGHT LIMITS ON PAGE 7 (ECDC 22.110.010) INSERT DISTINCT LIMITATIONS FOR EVERY PARCEL, INCLUDING THE PROPERTIES THAT ARE LIMITED TO THREE-STORY DEVELOPMENT.**
- 2. ON THE MAP THAT WILL BE INSERTED INTO ECDC 22.110.070 (PAGE 30) TO ILLUSTRATE THE BUILT-TO LINES, ADJUST THE LINE FOR LOT 23105 (SOUTHEAST QUADRANT) TO BE 45 FEET, WHICH IS CONSISTENT WITH THE CONTRACT REZONE THAT WAS APPROVED FOR THE PROPERTY IN 1985.**
- 3. THROUGHOUT THE DOCUMENT, CHANGE THE SCALE OF TREES TO BE A MAXIMUM HEIGHT OF 15 FEET IN THE FRONT YARD AND 30 FEET FOR TREES THAT ARE LOCATED NEAR THE SIDEWALK.**

**BOARD MEMBER STEWART SECONDED THE MOTION, WHICH CARRIED 5-0, WITH BOARD MEMBER RUBENKONIG ABSTAINING.**

### **Zoning Map Amendment (Attachment 3)**

Mr. Chave explained that Attachment 3 illustrates the zoning changes necessary to incorporate the new WMU zoning. He emphasized that the rezone proposal only involves properties that are currently zoned commercial. No residential properties would be rezoned as part of the current proposal.

Mr. Chave advised that, since the Board's last discussion, staff learned of an anomaly in the southeast quadrant where the existing commercial zone has a triangular shape and the commercial boundaries intrude into the residential lots. Although the current zoning has been in place for more than 20 years, he felt it would be appropriate to resolve the issue now that it has been called to the City's attention. He explained that more research into county and City records is needed to learn more

about the history of why these lots are zoned the way they are. If an error was made on the zoning map, the map can be corrected when it is presented to the City Council as part of their review of the Westgate Plan and zoning. If the zoning is not an error, then a separate action, including more research and a public hearing, would be needed to rezone the property to address the problem. In that case, the City Council would likely deal with the Zoning Map Amendment using the current boundaries, and then take action at a later date to address these specific properties.

Board Member Lovell requested more information about Lot 9601, which is currently zoned BC-EW. Mr. Chave explained that, as proposed, the current BC-EW zone would be replaced with the new WMU zone. The current 45-foot height limit would be replaced with a 35-foot height limit.

**VICE CHAIR TIBBOTT MOVED THAT, BASED ON THE FINDINGS RELATED TO THE CRITERIA FOR CONSIDERING REZONES (ATTACHMENT 6), THE BOARD FORWARD A RECOMMENDATION TO THE CITY COUNCIL FOR APPROVAL OF THE PROPOSED ZONING MAP AMENDMENT (ATTACHMENT 3) AS PRESENTED, WITH THE UNDERSTANDING THAT THERE WILL BE AN AMENDMENT BASED ON FURTHER RESEARCH. BOARD MEMBER ELLIS SECONDED THE MOTION. THE MOTION CARRIED 5-0, WITH BOARD MEMBER RUBENKONIG ABSTAINING.**

THE BOARD TOOK A BREAK FROM 8:45 TO 8:52.

**REVIEW OF POTENTIAL CODE AMENDMENTS DEFINING “LOTS OF RECORD” AND ESTABLISHING A PROCESS FOR DETERMINING “INNOCENT PURCHASER” (FILE NUMBER AMD20140001)**

Mr. Lien explained that, typically, legal lots are created via the subdivision process and the property boundaries are clearly spelled out. However, some properties have been further subdivided over the years absent the subdivision process. The City cannot issue building permits for properties that were not legally created through the subdivision process. To preface his comments he referred to the following sections of the Edmonds Community Development Code (ECDC):

- ECDC 20.75.180 states that, *“No building permit, septic tank permit or other development permit, shall be issued for any lot, tract or parcel of land divided in violation of this chapter unless the applicant for such a permit has applied to the hearing examiner and obtained a ruling that the public interest will not be adversely affected, thereby; provided, however, the prohibition contained in this section shall not apply to an innocent purchase.”*
- ECDC 20.55.010 defines “lot,” as *“A single tract of land legally created as a separate building site with frontage on a street or access easement. For purposes of this code, adjoining lots under common ownership, which were created without subdivision or short subdivision approval from applicable city or county governments, shall be considered as one lot.”*

Mr. Lien provided an example of a subdivision that was recorded in 1915. Since the original subdivision, just one short plat has been approved in the area, but numerous parcels were created outside of the subdivision process and may not be legal lots. He noted that there are several areas throughout the City where this problem exists. As properties are redeveloped, he suspects more issues will come up and it will be important to have a clear definition for what a legal lot is. A related issue that is being considered as part of the code amendment is “innocent purchaser,” which is someone who unknowingly purchases an illegal lot.

Mr. Lien referred to Attachment 1, which outlines the proposed code amendments and reviewed each of the changes as follows:

- In **ECDC 21.55.010**, the first sentence in the definition of “lot” would be changed to read, “A fractional part of divided lands having fixed boundaries, being of sufficient area and dimension to meet minimum zoning requirements for width and area. The term shall include tracts and parcels.” Mr. Lien advised that this definition was taken from the State’s definition (58.17.02). The last two sentences of the existing definition would remain unchanged.
- In **ECDC 21.55.015**, a new definition would be added for “lot of record.” Mr. Lien said this is a new term that would take the place of “legal lot.” As currently proposed, a “lot of record” means a single tract of land meeting any one of the

criteria listed. He briefly reviewed the criteria. Chair Cloutier pointed out that Criteria i, ii, and v are basically the same and could be combined. He also suggested there is no need to include the date of July 3, 1956, which is when the City of Edmonds adopted its first subdivision ordinance. On the other hand, he agreed that Item vi is more complicated and the dates are important. Mr. Lien advised that Item vi was taken from Snohomish County's code and the dates are important. However, he pointed out that Item xi.d should be changed by eliminating everything after the word "plat."

- **ECDC 20.75.180** would be changed to read, "No building permit, septic tank permit or other development permit shall be issued for any lot unless: 1) the subject property is a lot of record as defined in 21.55.015; or 2) the property owner is determined to be an innocent purchaser in accordance with 20.75.080.A."
- **ECDC 20.75.180.A** outlines a process for determining the status of an innocent purchaser. As currently proposed, an owner of property could obtain a "lot of record" status for a parcel that does not meet the "lot of record" definition if he/she meets all the criteria listed in the section. The criteria was drafted by the City Attorney and includes the following:
  1. *The applicant did not have actual notice regarding the subdivision of the property.*
  2. *The purchase price of the parcel is consistent with an arm's length transaction.*
  3. *The owner did not purchase the property from a relative.*
  4. *At the time of purchase, there was some existing deed, record or survey showing the subject parcel as a separate lot;*
  5. *And the parcel had a separate tax ID parcel number prior to the purchase of the property by the applicant.*

In addition to the five criteria listed above, Mr. Lien advised that Item A.6 states that the "innocent purchaser" status may be approved subject to conditions of approval requiring the applicant to make improvements to the property that would likely have been required by the City had the property been properly subdivided.

Mr. Lien recalled that last time the Board discussed including additional exceptions to address situations where the property owner of an illegal lot does not qualify as an "innocent purchaser." One of these exceptions was if the City had previously issued a development permit for the property. The City Attorney has advised against including additional exceptions as they could set up an incentive for property owners to avoid the subdivision process.

Vice Chair Tibbott asked Mr. Lien to summarize the particular benefits to property owners who are recognized as "innocent purchasers." Mr. Lien referred to the example he shared earlier. The City cannot issue development permits for properties that are not "lots of record." He suspects a number of the parcels in the example he shared have changed hands. If the person is determined to be an "innocent purchaser," it would basically change a lot that was created outside of a subdivision process into a "lot of record" so the City can issue a building permit. Vice Chair Tibbott summarized that it would be a benefit to both the property owner and the City to have the status of the lots solidified.

Board Member Rubenkonig asked if the proposed language would require legal documents to be filed with the County if and when a property is deemed a "lot of record." Mr. Lien answered that staff would issue a determination, but the language does not require that the decision be recorded on the County's record. Board Member Rubenkonig suggested this be a requirement so that future property owners do not have to go through a similar process. Chair Cloutier pointed out a property's legal status has no implication on its future sale, but building permits cannot be issued for illegal lots. Mr. Chave said that, in these situations, a property owner would have to go through the process of becoming an "innocent purchaser." Once a property is determined to be "lot of record," the status will continue with the property into perpetuity, regardless of how many times it is sold. Subsequent owners would not be required to go through the process again.

Board Member Rubenkonig questioned how a purchaser would know that a property is a "lot of record." Mr. Lien said it would be recorded on the building permit, but the City could also require the applicant to record the status with the county. That way, anyone who does due diligence before purchasing a property would find the information. Board Member Rubenkonig requested information from the City Attorney about the best way to record the status of a "lot of record." Again, Mr. Chave suggested that recording the property's status with the County would make more sense than simply noting it on the site plan, which might not be kept and passed on to the new owner.

Board Member Ellis questioned the benefit of requiring an applicant to record a lot's status on the property description or title. Whether a lot is developable or not is not an element of the title. This information needs to be discovered by a prospective buyer's due diligence. Mr. Lien clarified that, as discussed, the information would not be recorded on the actual property title. It would be filed as a separate document that is part of the County's record for that parcel. Board Member Ellis said he is not in favor of requiring the City to file a document to certify that a property has been classified as a "lot of record." This should be a requirement of the property owner.

The majority of the Board supported the idea of requiring the applicant to file a document with Snohomish County when the status of a lot is changed from illegal to a "lot of record." They also pointed out that Item A.6 is not one of the criteria for establishing a "lot of record." They agreed that the section should be reformatted to change Item A.6, to Item B and then add the requirement that documents be filed with the County as Item C.

Board Member Rubenkonig asked staff to describe the review process for Type II decisions. Mr. Lien said Type II decisions are staff decisions that require a public notice. Property owners within 300 feet of the subject property would receive notice of the proposed action, and the public would be given an opportunity to provide comments before a decision is made. In Type II decisions, staff can impose conditions to help mitigate potential impacts.

Board Member Rubenkonig asked if the City Attorney has provided input on the proposed amendments. Mr. Lien answered that staff worked with the City Attorney to draft the proposed language.

The Board scheduled a public hearing on the draft amendments for July 23, 2014.

#### **CONTINUED DISCUSSION ON HIGHWAY 99 ZONING**

Mr. Chave advised that this is a continuation of the Board's May 14<sup>th</sup> discussion about potential zoning text changes for the General Commercial (CG) and CG2 zones along Highway 99. He reviewed that, at their last meeting, the Board directed staff to prepare draft amendments that would remove the second story commercial requirement and streamline parking standards. He referred to the draft code amendments for Edmonds Community Development Code (ECDC) 16.60 (Attachment 1 of the Staff Report), which outlines some ideas for potential code amendments that can serve as a guide for the Board's continued discussion. He specifically reviewed the following ideas:

- Eliminate **ECDC 16.60.010.C**, which is the general prohibition of residential uses on the first and second story of any structure.
- The table in **ECDC 16.60.020.A** could be amended to change the setback requirement on Highway 99. The current four-foot setback was intended to accommodate car dealerships. The Board could consider establishing a larger setback for other uses while retaining the four-foot setback for car dealerships. However, this is a housekeeping item and is not an urgent matter. The Board could address it as part of the current amendment process or postpone it until a later time.
- Two options were provided for potential amendments to **ECDC 16.60.020.B**. Option 1 would delete the entire section, thus removing the setback requirement entirely. This would allow developers to decide what the mix of uses should be. Option 2 would scale back the area/dimensional minimums for commercial space. A certain amount of commercial use would still be required, but it could be configured however the owner wishes.

Vice Chair Tibbott asked if there is a danger that significant commercial space would be lost if the commercial requirement were eliminated entirely. Mr. Chave expressed his belief that adding residential development along Highway 99 would likely make commercial development more desirable. Vice Chair Tibbott observed that eliminating the commercial requirement would allow a property to be developed as entirely residential.

- Two options were also provided for potential amendments to **ECDC 16.60.030.B**. Option 1 would provide a flat parking rate rather than the current parking standard that varies according to the individual use. Option 2 would have a variable parking rate based on whether the property fronts only on Highway 99 as opposed to other streets. The logic is that a property fronting only on Highway 99 might have less of a concern about spill-over parking into the surrounding neighborhoods. He noted either option could also include a provision that would allow developers to conduct project-

specific studies to determine the appropriate required parking for the development rather than using the parking table provided. The study would be completed and paid for by the proponent and must demonstrate that the anticipated parking demand can be accommodated on site. For example, an applicant could demonstrate that a lesser amount of parking is needed because of a project's close proximity to a bus rapid transit station or because there are opportunities for shared parking.

Mr. Chave encouraged the Board to consider a flat standard, at the minimum. He explained that there are numerous small businesses along Highway 99 with a lot of movement and change. It is difficult for staff to track the parking requirements as uses changes. The Board agreed it would be appropriate to eliminate the use-specific parking standards. However, before recommending approval of Option 1, they requested more information to support the flat rate number proposed by staff. Mr. Chave explained that staff has researched parking standards from other jurisdictions, particularly those related to high-density development. He agreed to share the information that has been collected to date.

Board Member Rubenkönig pointed out that the proposed alternative (parking study) could address situations where good transit service is available to support a lower parking standard. Mr. Chave agreed.

Vice Chair Tibbott asked if the proposed changes would apply to the Harbor Square property, which is also zoned CG. Mr. Chave said the Harbor Square property was zoned CG through a contract rezone, which identifies specific requirements for the site. He agreed to research the property further to determine how it could be impacted by the proposed changes.

Vice Chair Tibbott expressed concern that a standard parking requirement could result in situations where there is insufficient parking to accommodate future uses. Mr. Chave said it is highly likely that parking will be part of any future purchase decision. If a developer provides too few parking spaces in an attempt to squeeze in as much building as possible, it will be difficult to sell and/or lease the property in the future. He summarized that it is within everyone's best interest to provide ample space for parking to accommodate future uses, particularly for properties along Highway 99 where there is no opportunity for spill over parking. Again, he noted that the proposed table specifies a greater parking requirement for properties that do not front on Highway 99 to lessen the chance that overflow parking will impact the adjacent neighborhoods. He observed that, historically, developers have provided more parking than is needed. The current parking standards are based on the maximum parking need during the year, which is typically at holidays. As a result, many of the older developments have seas of parking that is underutilized most of the year and results in heat islands and excess stormwater runoff. The trend is for more transit-oriented development, shared parking, etc., and the proposed changes are intended to facilitate these concepts. The Board agreed to present both options for parking at the public hearing.

The Board scheduled a public hearing on the proposed changes to the CG and CG2 zones on July 23<sup>rd</sup>.

### **DIRECTOR/PLANNING MANAGER REPORT**

Ms. Hope provided a brief summary of her written Director's Report, specifically noting the following:

- Implementation of the Strategic Action Plan continues to move forward, and the consultant will present the 1<sup>st</sup> quarterly report to the City Council on June 24<sup>th</sup>.
- The City is currently working with applicants to process development permits for the Swedish Hospital Expansion and the Post Office Mixed Use Building.
- Governor Inslee recently announced this year's "Smart Communities" awards for outstanding projects across the state. Edmonds is being recognized as a merit winner for its Strategic Action Plan. The award will be formally presented at the Association of Washington Cities Conference.
- At their upcoming retreat on July 9<sup>th</sup>, the Board will discuss the Comprehensive Plan Update in more detail.
- The Tree Board has selected a consultant (Elizabeth Walker) to help develop a tree code for consideration before the end of the year.
- Another City (Stanwood) is opting to join the Alliance for Housing Affordability, which requires a second amendment to the City's Interlocal Agreement.
- The Edmonds Arts Festival is scheduled for June 13<sup>th</sup> through 15<sup>th</sup>.

- The Mayor's Town Hall Meeting is scheduled for June 12<sup>th</sup> in Perrinville.

### **REVIEW OF EXTENDED AGENDA**

Chair Cloutier reviewed that the June 25<sup>th</sup> meeting agenda will include a discussion on the 2015 Comprehensive Plan Update, and the Board's retreat is scheduled for July 9<sup>th</sup>. On July 23<sup>rd</sup>, the Board will conduct public hearings on Highway 99 zoning and legal lot issues and potential code amendments. The July 23<sup>rd</sup> agenda could also include some Development Code rewrite and Comprehensive Plan update items.

Chair Cloutier advised that the main topic of discussion for the Planning Board's retreat will be the Development Code rewrite, and Board Members have identified additional agenda items, as well. Board Member Lovell recalled that, in the past, the Board has realistically been able to cover two or three topics at their retreats. Vice Chair Tibbott commented that retreat meetings offer an opportunity for Board Members to get to know each other, particularly those that are new on the Board. The Board agreed that the list of agenda items should be narrowed down to just a few, and they agreed to finalize the retreat agenda at their June 25<sup>th</sup> meeting.

### **PLANNING BOARD CHAIR COMMENTS**

Chair Cloutier did not provide any comments.

### **PLANNING BOARD MEMBER COMMENTS**

Board Member Ellis said he appreciates hearing a report from the Development Services Director. However, he suggested it would be appropriate to schedule the report at the beginning rather than the end of the Board meetings. The remainder of the Board concurred.

Vice Chair Tibbott said he looks forward to the upcoming retreat. Besides being an informal meeting, it offers a time for members to dialogue more with each other. He cautioned against overloading the schedule so much that there is no ability for the Board Members to have constructive dialogue.

Board Member Stewart said she is excited that the Board finally forwarded a recommendation to the City Council regarding the Westgate Plan and form-based zoning.

Board Member Rubenkönig thanked the Board Members for encouraging her participation on the Board. She recognized how much they are trying to help her on the steep learning curve.

### **ADJOURNMENT**

The Board meeting was adjourned at 10:00 p.m.