

EDMONDS CITY COUNCIL APPROVED MINUTES

September 3, 2002

Following a Special Meeting at 6:30 p.m. for an Executive Session regarding a real estate matter, the Edmonds City Council meeting was called to order at 7:00 p.m. by Mayor Haakenson in the Council Chambers, 250 5th Avenue North, Edmonds. The meeting was opened with the flag salute.

ELECTED OFFICIALS PRESENT

Gary Haakenson, Mayor
Dave Earling, Council President
Jeff Wilson, Councilmember
Michael Plunkett, Councilmember
Lora Petso, Councilmember
Dave Orvis, Councilmember
Richard Marin, Councilmember
Deanna Dawson, Councilmember

STAFF PRESENT

David Stern, Chief of Police
Duane Bowman, Development Serv. Director
Stephen Clifton, Community Services Director
Peggy Hetzler, Administrative Services Director
Rob Chave, Planning Manager
Steve Bullock, Senior Planner
Meg Gruwell, Senior Planner
Scott Snyder, City Attorney
Sandy Chase, City Clerk
Jana Spellman, Senior Executive Council Asst.

1. APPROVAL OF AGENDA

Change to
Agenda

COUNCIL PRESIDENT EARLING MOVED, SECONDED BY COUNCILMEMBER ORVIS, TO ADD AGENDA ITEM 4(A): REPORT ON BIDS OPENED JULY 30, 2002 FOR THE 76TH AVENUE WEST ROCKERY REPAIR SOIL NAIL RETAINING WALL AND AWARD OF CONTRACT TO CONDON-JOHNSON & ASSOCIATES, INC. (\$620,968.06). MOTION CARRIED UNANIMOUSLY.

COUNCILMEMBER MARIN MOVED, SECONDED BY COUNCILMEMBER ORVIS, FOR APPROVAL OF THE AGENDA AS AMENDED. MOTION CARRIED UNANIMOUSLY.

2. CONSENT AGENDA ITEMS

Councilmember Wilson pulled Item B from the Consent Agenda.

COUNCILMEMBER MARIN MOVED, SECONDED BY COUNCILMEMBER ORVIS, TO APPROVE THE BALANCE OF THE CONSENT AGENDA. MOTION CARRIED UNANIMOUSLY. The agenda items approved are as follows:

(A) ROLL CALL

(C) **APPROVAL OF CLAIM CHECKS #57654 THROUGH #57802 FOR THE WEEK OF AUGUST 26, 2002, IN THE AMOUNT OF \$151,564.97**

(D) **ACKNOWLEDGE RECEIPT OF CLAIM FOR DAMAGES FROM JANE DOE (\$1,137.95) *See note below.**

(E) **APPROVAL OF LIST OF EDMONDS BUSINESSES APPLYING FOR RENEWAL OF LIQUOR LICENSES WITH THE WASHINGTON STATE LIQUOR CONTROL BOARD**

Approve
Claim
Checks

Claim for
Damages

Liquor
Control
Board

**Note: The minutes were amended by the City Council on 02-23-2010 to remove the name of the person who submitted the Claim for Damages - Agenda Item 2 (D).*

General
Fund Report

(F) **REPORT ON THE GENERAL FUND AND OTHER SELECTED FUNDS FINANCIAL POSITION FOR THE MONTH ENDING JULY 2002**

Bond
Capital
Projects

(G) **BOND CAPITAL PROJECTS UPDATE**

Item B: Approval of City Council Meeting Minutes of August 27, 2002

Councilmember Wilson indicated he pulled this item from the Consent Agenda in order to abstain from the vote as he was not present at the August 27 Council meeting.

Approve
8/27/02
Minutes

COUNCILMEMBER ORVIS MOVED, SECONDED BY COUNCILMEMBER MARIN, TO APPROVE THE MINUTES OF AUGUST 27, 2002. MOTION CARRIED (6-0-1), COUNCILMEMBER WILSON ABSTAINING. The agenda item approved is as follows:

(B) **APPROVAL OF CITY COUNCIL MEETING MINUTES OF AUGUST 27, 2002**

Electronic
Voting

3. PRESENTATION REGARDING ELECTRONIC VOTING IN SNOHOMISH COUNTY

Carolyn Ableman, Snohomish County Chief Deputy Auditor, demonstrated the touch screen voting machine that would be used in the primary election. She explained the election of 2000 raised issues regarding election law and there is legislation being considered by Congress to establish requirements that would be addressed via the touch screen voting device. She noted the touch screen would be used in polling places only, absentee ballots would continue as they currently exist. She explained the voting device was a standalone machine and was not connected to a network; it had a cartridge that tabulated votes as well as a memory and a paper printout.

Ms. Ableman explained the process at polling places would be similar; sign in and the polling place workers hand the voter a card with a smart chip (rather than a ballot). The voter puts the card in the machine and begins voting. She demonstrated the touch screen voting machine, explaining features on the smart chip eliminated “over-voting” via extra marks on paper ballots, allows “under-voting” (not voting on a person/issue). She noted the smart chip also had a 15 minute time limit. The cards could be reactivated and reused. Ms. Ableman described features to prevent tampering with the machine.

Ms. Ableman explained at the end of the day, the machine would print the results which the poll worker will send along with the cartridge to the elections office. The machine will be sent separately. When the cartridges arrive at the elections office, the results will be tabulated, taking far less time than the current tabulation of paper ballots.

Ms. Ableman advised the touch-screen devices were certified by the Secretary of State Office which has one of the most rigid certification policies in the country including that no new election technology be used unless it had been used in other counties. She noted this device had been used successfully in California and Florida. She explained that because each machine was independent, there was no way to determine how a voter voted. In the event of a recount, the machines are able to produce an image of each ballot cast, in a random order to avoid any connection to voters.

Council President Earling anticipated voters using the machine for the first time may find it intimidating and asked what type of educational opportunities were available. Ms. Ableman advised the device has been displayed throughout the county including at the fair, at senior centers, etc. Further, each polling place will have a voter assistance judge to assist voters.

COUNCIL PRESIDENT EARLING MOVED, SECONDED BY COUNCILMEMBER MARIN, TO REVERSE THE ORDER OF AGENDA ITEM 4 AND 4(A) TO ALLOW THE ITEM REGARDING 76TH AVENUE WEST ROCKERY REPAIR TO BE HEARD PRIOR TO THE CLOSED RECORD REVIEW. MOTION CARRIED UNANIMOUSLY.

76th Ave. W
Rockery
Repair

4. REPORT ON BIDS OPENED JULY 30, 2002 FOR THE 76TH AVENUE WEST ROCKERY REPAIR SOIL NAIL RETAINING WALL AND AWARD OF CONTRACT TO CONDON-JOHNSON & ASSOCIATES, INC. (\$620,968.06).

City Engineer Dave Gebert recalled last week the Council deferred the award of the 76th Avenue Rockery Repair to consider additional issues with regard to access to Lot 23. He recommended the Council appropriate the additional \$371,000 from Fund 112 cash balance for the 76th Avenue West Rockery Repair project and award the project to Condon-Johnson & Associates in the amount of \$620,968.06 for all bid items and direct the City Engineer to withhold notice to proceed for Bid Schedule 2 until the issue of the easement for Lot 23 was resolved.

COUNCILMEMBER WILSON MOVED, SECONDED BY COUNCILMEMBER MARIN, TO APPROPRIATE AN ADDITIONAL \$371,000 FROM FUND 112 CASH BALANCE FOR THE 76TH AVENUE WEST ROCKERY REPAIR PROJECT AND AWARD A CONTRACT TO CONDON-JOHNSON & ASSOCIATES, INC. IN THE AMOUNT OF \$620,968.06 FOR ALL BID SCHEDULES AND ALSO DIRECT THE CITY ENGINEER TO WITHHOLD NOTICE TO PROCEED ON BID SCHEDULE 2 UNTIL THE ISSUE OF THE EASEMENT FOR LOT 23 IS RESOLVED. MOTION CARRIED UNANIMOUSLY.

COUNCIL PRESIDENT EARLING MOVED, SECONDED BY COUNCILMEMBER ORVIS, THAT BY THE CLOSE OF BUSINESS (5:00 P.M.) SEPTEMBER 24, 2002, THE CITY DRAW THE NEGOTIATIONS TO A CONCLUSION WITH THE PROPERTY OWNER OF LOT 23. MOTION CARRIED UNANIMOUSLY.

PRD at
9014 240th
St. SW
File P-02-61
PRD-02-62

4A. CLOSED RECORD REVIEW OF THE HEARING EXAMINER'S RECOMMENDATION TO APPROVE THE APPLICATION FOR A FIVE-LOT PLAT AND PLANNED RESIDENTIAL DEVELOPMENT (PRD) LOCATED AT 9014 - 240TH STREET SW. THE SITE IS ZONED SINGLE FAMILY RESIDENTIAL (RS-8). (Applicant: Lovell Sauerland & Associates, Inc. for Viking Properties, Inc. / File No. P-02-61 and PRD-02-62)

Mayor Haakenson advised this was a quasi judicial hearing and the Appearance of Fairness Doctrine was applicable. He invited Councilmembers to disclose any conflicts of interest or ex parte communications. There were no disclosures. He asked if there were any objections from the audience to any Councilmembers' participation. There were no objections voiced.

Mayor Haakenson advised staff would have eight minutes for their presentation and the applicant would have ten minutes for their presentation.

Senior Planner Meg Gruwell advised that because this was a closed record hearing, the Council's review must be based on the record previously established. She displayed a vicinity map, identifying the site at 9014 240th Street SW. She described the site vegetation and terrain, explaining there was a steep drop on the western property line to the adjacent property to the west, a gentle slope toward 240th street to the north, as well as a mature grove of evergreen trees on the site. She noted there were initially some concerns with critical areas on the site such as the landscape ponds but it now appears they do not qualify as a critical area according to the City's Critical Areas Ordinance. Further, the slope was not high enough to qualify as a critical area under the City's ordinance. Therefore, the site has no critical areas as defined in the Critical Areas Ordinance.

Ms. Gruwell referred to photographs of the existing house and surrounding development, explaining some of the older development was single story; the new development tends to be 2-story. She identified the existing single story house with basement and the four proposed 2-story houses for the five-lot PRD. She explained issues raised during environmental review included erosion and stormwater runoff, particularly

the impact to the property to the west. There were also concerns with the removal of the trees, impact to wildlife habitat as well as a concern with the number of lots in the development.

The Architectural Design Board's (ADB) primary concerns included that the initial plans showed detailing on the front of the houses that were not continued on the sides or rear and recommended the detailing be extended to the sides and rear. The ADB did not have photographs of the existing house or proposed garage and their concerns regarding how the existing house would fit with the proposed 2-story houses are reflected in the ADB's recommendation. The Hearing Examiner made the ADB's recommendations more specific with regard to the existing house, requiring it be painted a color compatible to the new houses and the addition of a gate or arbor to the existing house as an option to help it fit with the new houses.

Ms. Gruwell displayed a site map, identifying the proposed open space tract (Tract 998), explaining the Hearing Examiner's conditions require that the open space tract shall be expanded to include the triangular section south of the rockeries. Due to the amount of property dedicated to open space, the developer proposes modification to standards including the lot area, lot width, and interior setbacks. She noted the exterior setbacks for a PRD were required to meet the standards. The initial request was that Lot 2 and 3 have 40% lot coverage compared to the 35% coverage required by the City's standards. With the Hearing Examiner's condition to include the additional triangular area in the open space tract, he indicated Lots 4 and 5 could also be allowed 40% lot coverage.

Ms. Gruwell stated there were a number of criteria the application must meet to modify the development standards and the application appears to meet the criteria. She noted PRD's must also meet decision criteria and staff and the Hearing Examiner concluded the PRD met the decision criteria. Further, the proposed PRD as modified and with conditions met the criteria for a subdivision. Staff recommends the Council adopt the Hearing Examiner's recommendation to approve the proposed PRD and plat with the conditions as shown in Exhibit 2.

City Attorney Scott Snyder advised Councilmember Petso requested an opinion regarding whether the Council was obligated to make findings related to PRDs as a rezone and if so, what those findings might be. He recalled there was concern regarding PRDs potentially classified as rezones; the issue was then what findings the Council needed to make. By State law, a Council was required to make two basic findings with regard to a rezone, 1) that the requested action was based on a change in circumstances or fosters Comprehensive Plan goals, and 2) be in the public's interest. The City's zoning ordinance contains six general criteria; the ordinance provides that at least those factors should be considered. In reviewing the issue, it appeared for rezones the Council needed to consider those factors to determine whether a rezone should be approved. In the PRD ordinance, there are another set of specific criteria regarding potential findings the Council could make to find public benefit. Mr. Snyder recommended the Council follow the PRD criteria as they were a more specific set of factors. He indicated the Council should always find, for a rezone or PRD, that the application provides a public benefit. He suggested the Council did not need to make the rezone findings contained in the rezone chapter, as the PRD findings would satisfy the criteria.

Regarding the criteria that the Council find changed circumstances or that the application furthers Comprehensive Plan goals, Mr. Snyder noted in the Hearing Examiner's recommendation, he identifies a number of Comprehensive Plan goals that would be fostered via the approval of the PRD. If the Council found the Hearing Examiner's recommendation was based on substantial evidence in the record, the Council could make the findings that 1) the application fosters the Comprehensive Plan goals, and 2) provides a public benefit. He concluded regarding whether the Council needed to make specific rezone

findings, the Council did not and making the foregoing two findings which are consistent with the PRD ordinance would be consistent with the Council's obligation with regard to a rezone.

Councilmember Petso asked how site access, circulation and off-street parking differed under the PRD proposal from a subdivision proposal. Ms. Gruwell answered the applicant has stated that because of the smaller lots, they require a smaller access.

Councilmember Petso asked whether the record contained a calculation of the total square footage of usable open space. Ms. Gruwell advised it was not specified in the record, particularly with the addition of the triangular piece.

Councilmember Petso noted there were limited enforcement capabilities on a private road and questioned why the proposed development included a private road. Ms. Gruwell answered it was the request of the applicant.

Councilmember Wilson asked whether the Code defined usable open space. Ms. Gruwell answered there were examples provided of usable open space. Councilmember Wilson asked whether the proposed project would define and restrict the usable open space from the other open spaces on the property. Ms. Gruwell answered that was not the intent. Councilmember Wilson noted the Code had a requirement for a minimum amount of usable open space and he wanted to ensure that open space was retained as usable open space. Ms. Gruwell referred to ECDC 20.35.060(B)(6), Open Space Requirements, PRDs with five or more lots, at least 10% of the gross lot area shall be developed as usable open space. This includes play areas, gardening spaces and trails. Usable open space may not include critical areas open space except for a trail that complies with the Critical Areas Ordinance. Usable open space may not include the required PRD buffer (critical areas buffer).

Councilmember Wilson asked if the proposed project had a clearly defined area that met the requirement for usable open space under the PRD requirements. Ms. Gruwell answered the trail and the tot lot area met the definition, noting there were some areas "too steep to play ball" to the west of the trail.

With regard to public versus private access, Councilmember Wilson asked whether the City Engineer made a recommendation whether the access should be private or public. Ms. Gruwell did not believe the City Engineer made a specific recommendation regarding public or private access.

Applicant

Steven Michael Smith, Lovell Sauerland & Associates, requested four minutes be retained for rebuttal. He expressed his appreciation to staff for their assistance with this application. He proposed changes to the Hearing Examiner's conditions specifically with regard to the additional open space area, the triangular area on Lots 4 and 5. Mayor Haakenson requested Mr. Smith provide the proposed changes to Mr. Snyder for review.

Mr. Smith referred to the discussion regarding additional open space, explaining the Hearing Examiner believed that to further promote the buffering between the subject property and surrounding areas, the significant trees in the triangular area should be protected as part of the PRD application to promote compatibility with the surrounding area. When that issue arose, it had not been discussed with Viking Properties or staff and the condition recommended by the Hearing Examiner was that the area be included in the open space tract. If that was done, Lot 4 became approximately 4,000 square feet. From a marketability standpoint, it would be preferable for more property in Lots 4 and 5 be retained as originally proposed. Although they understood the importance of retaining the trees and did not object to retaining the trees, he proposed slightly different language, "The triangular section south of the rockeries

located on Lots 4 and 5, shown on Exhibit A, Attachment 6, shall be protected by a no-tree clearing area which shall only allow removal of trees determined to be hazardous.” He noted the City had specific criteria for determining hazardous trees. That condition would apply to development of the lots as well as future construction on the lots. He said this would provide further protection as well as allow Lots 4 and 5 to remain as large as possible.

Mr. Smith referred to the issue of lot coverage addressed in the Hearing Examiner’s recommendation on Lots 2 – 5, suggesting the addition of a condition that Lots 2 through 5 shall be allowed 40% lot coverage.

With regard to the question posed to Ms. Gruwell regarding how the site access differed from a standard subdivision, Mr. Smith explained there was no difference as 20 feet was a standard width street to serve five parcels. The reason the road was proposed to be private was because, in his discussions with the City Engineer, the City did not want a public road that was this small because a dead-end road did not serve the public benefit and it was preferable to have it privately maintained. Mr. Smith stated their interpretation of the total open space versus usable open space with regard to this project was that the entire open space area was usable open space, was accessible by foot and the shade and views would be beneficial to future residents.

Councilmember Plunkett observed Mr. Smith’s proposal to establish a no-tree clearing area appeared to meet the Hearing Examiner’s recommendation. Mr. Smith said this was an idea raised at the Hearing Examiner’s review and when he suggested including that area in the tract, the applicant was not in the room and he did not have an opportunity to consult with the applicant. Mr. Smith explained his initial review indicated there would be little difference; however, later consultations with Viking Properties revealed the marketability of the parcel could suffer by reducing the 5,200-5,300 square foot lot to 4,000 square foot lot and it would be preferable to include the space in the lot with the protection of a covenant.

Councilmember Dawson noted it appeared the second condition would not be appropriate if the first condition were approved because the reason the Hearing Examiner was inclined to allow 40% lot coverage on Lots 4 and 5 was because of the removal of property from Lots 4 and 5 to be added to the open space area. Councilmember Dawson asked if the applicant’s proposal was for one of the conditions. Mr. Smith answered the lot coverage condition could be revised to indicate Lots 2 and 3 would be allowed 40% lot coverage and Lots 4 and 5 would be allowed 40% lot coverage with the extension of the open space tract into those lots. Councilmember Dawson noted the first condition would be to retain lot area for Lots 4 and 5 to make them more marketable. Mr. Smith answered yes. Councilmember Dawson expressed concern with protecting the trees via a covenant versus establishing it as an open space area because tree clearing versus tree topping or tree thinning may be problematic in the future. Mr. Smith noted there were no views in that direction, eliminating the motivation to top the trees.

Councilmember Wilson clarified the proposal for the triangular area was a restriction on removal of the vegetation. Mr. Smith answered the restriction would be on removal of significant trees. Councilmember Wilson asked whether the trees were primarily fir. Mr. Smith answered they were coniferous trees. Councilmember Wilson acknowledged the proposed condition may make the properties more marketable and agreed with Councilmember Dawson’s supposition that if the first proposed condition were approved, the second was unnecessary. Councilmember Wilson suggested any restriction be not only on tree removal but also alteration of the trees to prevent limbing, topping, etc. which may destroy a tree and that prior consent of the City be required before those actions could occur.

Councilmember Wilson also expressed concern with the effect any grading under the tree’s drip line could have on the root structure, ultimately leading to instability or death of the tree. Mr. Smith agreed, noting the rockery is a cut rockery so there will be no grading in the tree area. The original proposal was that the entire triangular area and 5-8 feet from the southern property line be graded to make it a flat yard

area; during the review process with staff, attempts were made to retain the trees and the proposal was to leave the trees at their current grade and drop the rockery to provide a small yard area for those two lots. He did not object to additions to the condition as Councilmember Wilson suggested including there be no significant modifications to the trees without the City's prior consent.

Councilmember Wilson asked the distance from the rockery to the nearest tree, estimating it was 5-10 feet. Mr. Smith agreed. Councilmember Wilson suggested an arborist assist with the rockery design to ensure the installation of the rockery and fill did not have a negative effect on the trees' root structure. This was acceptable to Mr. Smith.

Mayor Haakenson recalled the developer and staff held a neighborhood meeting early in the process. Mr. Smith summarized Development Services Director Duane Bowman determined the developer should have a neighborhood meeting regarding the project and called a meeting regarding the project. Concerns regarding drainage, erosion and removal of trees were addressed at the meeting. He noted the record contained a memorandum from Eric Sundquist (applicant) summarizing the meeting. Mr. Smith indicated his understanding was that the meeting went very well and most neighbors who attended were appreciative the meeting was held.

Mayor Haakenson opened the opportunity for parties of record to provide testimony.

COUNCILMEMBER MARIN MOVED, SECONDED BY COUNCILMEMBER ORVIS, TO EXTEND THE DISCUSSION OF THIS ITEM FOR 15 MINUTES. MOTION CARRIED UNANIMOUSLY.

Janice Noe, 9105 242nd Street SW, Edmonds, identified her property adjacent to the subject property on the southern boundary. She recalled at the Hearing Examiner's review, it was determined that the trees in the boundary area would not be retained according to the proposed plan. She indicated that was the reason the Hearing Examiner recommended that area be included in the open space area. Her concern was the liability associated with the trees falling in a windstorm or due to development on the property.

Ms. Noe indicated she and her husband attended the neighborhood meeting where the developer, Eric Sundquist, fielded questions from neighbors regarding the plans, when construction would begin, amount of disturbance, what would stay and be removed, how the site would be managed during construction, how the addition of new utilities would be managed without stress to current users, number of trees to be removed, the price range of houses, etc. She also attended the Hearing Examiner's review due to her concern regarding the impact the development would have on the neighborhood. She summarized many of her concerns remain regarding the amount of density proposed for the property which would change the character of the neighborhood. She urged the Council to follow the guidelines in the PRD ordinance. She agreed with the Hearing Examiner's condition to include the rockery area in the open space area, noting although not considered a critical area, the open space area was very steep.

Steve Noe, 9105 242nd St SW, Edmonds, pointed out the mature grove of trees on the back of their property and in the proposed PRD and wanted as many trees as possible to be retained. He expressed concern regarding the impact the development would have on the neighborhood from increased traffic, decreased water pressure, runoff, soil removal, etc. He objected to the PRD siting five houses on land previously occupied by one home on a heavily forested lot. The average lot size in the area was ¼ to 1 acre, making the PRD the most densely populated area in the neighborhood. He noted their lot was one acre housing two people; the proposed PRD would house 15 people on the same amount of land, changing the character of the neighborhood forever. He referred to other large lots in the area that were part of the original subdivision. He noted a great deal of development had occurred in the area in the past six years, commenting that as development occurs, wildlife and birds are restricted to smaller areas. He

noted that to accommodate five homes on the one acre parcel, many old fir trees would be removed. The remaining trees on his property would be at risk without the protection of the other trees. He sought permanent protection of the trees, rather than leaving it up to the development process. He requested the Council concur with the Hearing Examiner recommendation that the grove of trees be preserved.

Mr. Smith declined to offer any rebuttal.

Ms. Gruwell clarified it was Council policy that if a road served five or more lots, the Council wanted it to be public and if the road provided access to four or fewer lots, it was to be private. She noted Lot 1 obtained access directly from 240th; therefore, the road would provide access to only four lots. If the Council wished to include the proposed conditions, she suggested more detail be provided such as requiring that a tree be determined to be hazardous by a Certified Arborist and requiring replacement with 1-2 native trees of a size that meets ECDC 20.12.015.

Councilmember Orvis asked whether there were any restrictions on trees in a standard subdivision. Ms. Gruwell answered one of the review criteria for a subdivision was that an asset which would include trees, be protected. She noted it was not so specific that staff could preserve all trees and in the past staff has requested trees be preserved and applicants have had that overturned. She noted a standard subdivision had less protection for trees than a PRD.

Councilmember Orvis recalled staff indicated the slopes were not high enough to qualify as a critical area. He asked what options a developer had with regard to slopes in a standard subdivision such as changing the grade, etc. Ms. Gruwell answered if staff recommended trees be preserved in a standard subdivision, the language was to protect the trees through construction and future homeowners could “do whatever they liked.” Mr. Snyder explained although the City had a land clearing/tree cutting code, it specifically exempted single family lots of one or two lots and undeveloped lots not capable of being further subdivided. Councilmember Orvis noted whereas in a PRD, the restrictions could still apply. Mr. Snyder agreed, by placing conditions or restrictions on the face of the plat.

Councilmember Petso noted the report of the neighborhood was written by the applicant. She asked whether that was the intent of further neighborhood meetings or would the report of neighborhood meetings be authored by staff. Mr. Bowman answered under the current ordinance, the neighborhood meeting was optional but he has required it for PRDs. The meeting was conducted by the applicant and a staff person attended to facilitate questions regarding the code. It was the applicant’s meeting to explain the project to the neighborhood and get feedback. He noted the minutes prepared by the applicant accurately depicted what transpired at the meeting.

Councilmember Petso asked if the triangular area on the south was not included in the open space, what buffering would the PRD offer on the south border between Lot 4 and the existing neighbors. Ms. Gruwell answered that because it was to be private land on Lots 4 and 5, the trees although preserved by the developer, would be subject to the future owner’s wishes.

Councilmember Petso asked if the same applied to the area to the right of Lot 5 on the east border as no buffer was provided in that location, only the setback. Ms. Gruwell answered there was a standard setback in that area. Councilmember Petso referred to the concept in the ordinance regarding perimeter buffering of PRDs, asking whether there was any perimeter buffering on Lot 5. Ms. Gruwell answered it would be whatever landscaping the owner preferred; at this point it was proposed to be grass.

Councilmember Wilson recalled the record indicated the property could be subdivided into five lots or developed as a PRD and the applicant chose the PRD route. Ms. Gruwell agreed. Councilmember Wilson recalled under a standard subdivision, the access road would be excluded before determining the

amount of land available to calculate the number of lots. Ms. Gruwell agreed. Councilmember Wilson asked whether the property could be subdivided into five lots. Ms. Gruwell answered it was possible with 40,000 square feet and decreasing the size of the access, possibly creating odd shaped lots. She noted there would be 297 square feet for an access easement over the amount of property required for five lots at 8,000 square feet each. She noted the lots could be developed with “flags” to access each lot from the access easement.

Councilmember Plunkett inquired how the Council would adopt the proposed revisions. Mr. Snyder advised with direction from Council, he could work with staff to develop language for a condition that would be presented to the Council at a future meeting for formal adoption.

Councilmember Plunkett asked whether the proposed PRD increased the zoned density. Ms. Gruwell answered it would not.

Councilmember Dawson clarified the proposed PRD did not increase the zoning in the area; a rezone was not required in order to construct this many houses on the parcel but the PRD would result in more houses on a parcel than there were traditionally in that neighborhood. Ms. Gruwell agreed. Councilmember Dawson clarified the applicant would not need to pursue this process to subdivide the property into five parcels under the existing zoning. Ms. Gruwell agreed.

With regard to the condition proposed by the applicant for a no-tree clearing easement versus including the triangular space in the open space area, Councilmember Dawson asked whether there was any difference in the protection provided for the trees, enforceability, etc. Mr. Snyder answered regardless of whether the condition was placed on Tract 998 as open space or on individual lots, it would be contained on the face of the plat, would be in the chain of title of either all property owners or the owners of the specific lots. The protection would be the same, the City’s enforcement obligation and responsibilities would be the same, and the City’s remedies would be civil and the same in both situations. He noted the property owners would be provided notice of the restrictions. The only difference would be any proceedings would be against the homeowners’ association rather than a lot owner.

Councilmember Dawson asked whether there was any benefit to the neighbors of having the triangular area included in Lots 4 and 5 rather than the open space. Mr. Snyder answered not from a legal standpoint and it would depend on the individual personalities of those involved.

COUNCIL PRESIDENT EARLING MOVED, SECONDED BY COUNCILMEMBER MARIN, TO EXTEND THE DISCUSSION OF THIS ITEM FOR 15 MINUTES. MOTION CARRIED UNANIMOUSLY.

Council President Earling noted although he too was concerned with density, it was clear the applicant could develop five houses in this area. Although much of the neighborhood consisted of larger lots, he pointed out the area was zoned 8,000 square feet. Council President Earling referred to a list of concerns raised by the neighbors and asked whether the developer had attempted to address the issues that were raised. Ms. Gruwell answered with the developer’s intent and the City’s requirements, the concerns would be addressed.

Council President Earling expressed interest in pursuing the language proposed by Councilmember Wilson for additional protection of the trees. He noted the Noes’ testimony was to caution the Council to ensure development occurred correctly. He asked what scrutiny would be done to ensure the developer’s obligations were fulfilled. Ms. Gruwell answered inspections would occur during construction, and a final approval was required at the conclusion of the project.

Council President Earling asked whether an agreement would be established with the homeowners' association for maintenance of the road. Ms. Gruwell answered yes.

Councilmember Petso calculated that the total lot area, less five 8,000 square foot lots, left only enough property for an access easement 100 feet into the property which would reach only approximately the second lot. Given that constraint, she questioned whether five houses could be developed on the property via a subdivision and how would they be accessed.

Mayor Haakenson referred to page 29 of the Council packet which lists the parties of record as Janice & Steve Noe, Viking Properties, S. Michael Smith, and Tracy Whitcombe; however, in reviewing the records there was testimony from Paul Burns (page 5 of the Council packet) who was not listed as a party of record. Mayor Haakenson reopened audience comments to allow Mr. Burns to provide testimony.

Paul Burns, 8928 240th Street SW, Edmonds, commented on development that has occurred in that area. He was uncertain whether the City had adequately defined the parameters for development of a PRD, noting there were a lot of gray/undefined areas that needed to be considered. This was an area of typically large lots and it was densely treed. He referred to a nearby development where the trees were removed and three houses constructed and problems that were encountered with the contractor, drainage, stormwater management, etc. He urged the Council to consider the potential ramifications of this type of development. He concluded five homes were excessive for this parcel.

Mr. Smith declined to offer any rebuttal.

Councilmember Plunkett referred to Mr. Burns' reference to gray/undefined areas, noting the area was zoned as 8,000 square foot lots which did define the zoning. Mr. Burns asked how many PRDs had been constructed in Snohomish County.

Councilmember Petso referred to a requirement for a PRD to provide safer, more efficient site access, on-street circulation and off-street parking. She recalled when she asked what difference there was regarding the access, on-street circulation, and off-street parking, the answer was that there was no difference between the PRD and a standard subdivision. Therefore, she concluded this requirement had not been met. She agreed with Mr. Burns that there were areas that were undefined in the ordinance such as the definition of usable open space other than it included play areas, garden spaces and trails and did not include critical areas. One element that had not been defined was whether it needed to be publicly accessible to be usable. She noted the proposed open space was not accessible to the public. Her definition of usable open space was that it be accessible to the public and her intent was not that usable open space, which provided a benefit to the public, would be accessible only to the homes in the development. The PRD ordinance required buffering, however, there was no apparent buffering for the south property line and no buffering between Lot 5 and the east property line.

Councilmember Petso noted that although there may be a public benefit provided via developing the property in a manner that preserved trees, she would not support the Hearing Examiner's recommendation as the applicant had not met the requirements regarding access, on-street circulation and off-street parking.

COUNCILMEMBER PLUNKETT MOVED, SECONDED BY COUNCILMEMBER ORVIS, FOR ADOPTION OF THE HEARING EXAMINER'S RECOMMENDATION WITH THE TWO MODIFICATIONS AS PROPOSED BY THE APPLICANT SUBJECT TO THE LANGUAGE BEING RETURNED TO THE COUNCIL FOR FINAL APPROVAL.

Councilmember Dawson indicated she would not support the motion because the applicant agreed if his first condition were approved, the second would not be appropriate because Lots 4 and 5 would not need the 40% lot coverage. Her concerns were more with the PRD ordinance that did not require further protections. She noted the City was in the process of revising the PRD ordinance and recalled Councilmember Petso and she expressed interest in establishing a moratorium on PRDs until the revisions could be made, however, the remainder of the Council did not support establishing a moratorium. Until further clarification was added to the PRD ordinance, she agreed there were some gray areas. She preferred the PRD which provided some protection either via including the triangular area in the open space or as part of Lots 4 and 5.

Councilmember Dawson proposed the motion be adoption of the Hearing Examiner's recommendation with one of the applicant's two revisions. Councilmember Dawson suggested Lots 2 and 3 be allowed 40% lot coverage and language providing protection for the treed area.

Mayor Haakenson asked Mr. Snyder to address the moratorium referred to by Councilmember Dawson, asking whether it would have affected this application. Mr. Snyder answered it could have, depending on the wording. Mr. Snyder explained there were several ways to do moratoriums – on applications, on considerations, etc., although it would be difficult to impact a properly vested application in process.

Councilmember Wilson agreed with the amendment suggested by Councilmember Dawson, noting that if a portion of Lots 4 and 5 were not included in the open space tract, there would be no need for increased lot coverage for those lots. He suggested language to protect the trees, a 6-foot fence to protect the area on Lots 4 and 5 during construction, having an arborist involved in developing the language and designing the retaining walls along Lots 4 and 5 to ensure it did not impact the trees, incorporating specific language regarding alteration of the trees, requiring an arborist certify dead/dying trees, and having an arborist review the plans to ensure the tree roots structures are not damaged.

With regard to the usable open space, Councilmember Wilson suggested language that maintained the usable open space as usable. He noted the intent of the usable open space was not necessarily publicly usable open space but to provide additional space that may not be available via backyards, etc. due to the smaller lot sizes. Mr. Snyder summarized Councilmember Wilson's request was a condition to protect the areas as usable open space to include requirements within the homeowners' covenants to clean, maintain, restore, replace the tot area, etc.

Council President Earling commented this was a good project; the developer has gone out of his way to be cooperative and make additional concessions tonight. In response to the question raised by Mr. Burns regarding whether there were other PRDs, Council President Earling advised there were other examples in the community. He expressed his appreciation to the developer for holding a public meeting regarding the project, noting such meetings often dispel the neighborhood's concerns.

Councilmember Petso reminded the Council that the current PRD ordinance requires that a PRD provide safer and more efficient site access, on-site circulation, and off-street parking. She noted this was not addressed by the proposed project because, as admitted by the applicant, it did not provide safer and more efficient site access, on-site circulation or off-street parking as compared to a subdivision.

Mayor Haakenson restated the motion as follows:

ADOPT THE RECOMMENDATION OF THE HEARING EXAMINER TO APPROVE THE PROPOSED PRD PLAT WITH THE CONDITIONS INCLUDED IN THE HEARING EXAMINER'S CLARIFIED REPORT AS WELL AS THE MODIFICATIONS IN THE FORM OF

AN AMENDMENT THAT WAS STATED EARLIER AND WOULD BE PROVIDED IN THE FORM OF A WRITTEN ORDINANCE FOR COUNCIL APPROVAL.

MOTION CARRIED (6-1), COUNCILMEMBER PETSO OPPOSED.

5. AUDIENCE COMMENTS

Ray Martin, 18704 94th Avenue W, Edmonds, commended Councilmembers Petso and Dawson, noting the citizens of Edmonds were getting their money's worth from them. He urged them to keep up the good work, noting he was particularly discouraged last week when other Councilmembers were defending the funding of a "special interest outfit," the Alliance. He noted the Councilmembers' rebuttal to Councilmember Petso and Dawson's objection to funding a special interest group was weak, recalling Council President Earling's indication that because one of the members of the Alliance was a leader at Edmonds Community College, that put the Alliance above reproach. He objected to Councilmember Plunkett's indication that the Alliance represented the people of Edmonds. He suggested the Council put the request for funding on the ballot. He recalled a popular Mayor in early 1980 favored increasing building heights to 45 feet, a change Mr. Martin indicated that Council President Earling and other Councilmembers were actively considering.

Mr. Martin asked Councilmember Plunkett whether he took money (campaign contributions) from Sundquist Homes and if so, it was not mentioned earlier. Councilmember Plunkett answered the contribution was public information which satisfied the requirement.

Paul Burns, 8928 240th Street SW, Edmonds, suggested the Council visit the proposed site of the PRD and visualize where five homes would be constructed. He concluded this was a quaint piece of Edmonds that the neighbors wanted to preserve.

Steve Noe, 9105 242nd St SW, Edmonds, understood the PRD would allow the developer to maximize his profits while increasing the traffic and density of the neighborhood. He objected to siting five homes on the parcel, which seemed like too many considering the character of the neighborhood.

Janice Noe, 9105 242nd Street SW, Edmonds, voiced her opinion that PRDs represented rezoning by circumstance. She said the Hearing Examiner listened to their concerns and had visited the property. She noted there were issues that have arisen regarding the property and whether it could actually be subdivided into five lots. She pointed out that because the property was on a plateau with a slope to the west, any development on the slope would impact a 3-lot subdivision located in the lowest place in the neighborhood. She supported preserving the trees due to their aesthetic value to the neighborhood.

Roger Hertrich, 1020 Puget Drive, Edmonds, noted Agenda Item 6 had no opportunity for public input. He referred to comments contained in the record regarding signs and comments regarding thresholds, when a project was reviewed by the ADB and when decisions were made by staff. Mr. Hertrich urged the Council to pay particular attention to where appeals went, noting the indication from those appearing before the ADB were that the ADB made good decisions because the members were professionals but there was some concern with staff making design decisions due to the different experience levels of staff members and the lack of design expertise. He directed the Council's attention to page 4 of the Draft 12.6 of the Edmonds Design Guidelines, Review and Approval Process, where the limitation on 25-foot in height was removed. He referred to the boxed section that states, it is the Board's opinion that flexibility is desirable and when an applicant submits a project that meets the code requirements and meets the objectives stated in the Guidelines, the Board would like the ability to approve the project even if it does not meet every dimensional standard. He noted this appeared to indicate there were no definite standards that the developer or decision-makers must adhere to. Without definite standards, decisions were up to

the individuals based on how they felt, who they knew or their expertise but not according to written standards.

Ron Wambolt, 11702 Bella Coola, Woodway, commented Woodway residents were familiar with proposed development of four lots on property traditionally developed with fewer lots. Woodway residents were also familiar with what happened if the project was not approved; the developer can take the municipality to court and likely win because of GMA which requires developments be approved if in accordance with existing zoning which he understood the proposed project was.

Council President Earling objected to Mr. Martin's presumption that he [Council President Earling] supported 45 foot height limits.

Mayor Haakenson declared a brief recess.

Architectural
Design
Review

6. WORK SESSION ON THE RECOMMENDATION OF THE PLANNING BOARD TO APPROVE PROPOSED AMENDMENTS TO TITLE 20 (CHAPTERS 20.10 – 20.14) OF THE EDMONDS COMMUNITY DEVELOPMENT CODE IN ORDER TO ESTABLISH A REVISED PROCESS AND GUIDELINES FOR ARCHITECTURAL DESIGN REVIEW. (File Nos. CDC-00-153 and CDC-01-27)

Planning Manager Rob Chave explained this work session was in preparation for a public hearing to take public testimony regarding the proposed amendments. This amendment process began in 1999 with a report to the Council from Cedar River Associates as a result of a study they did regarding the Architectural Design Board (ADB) process. Cedar River's report included a number of recommendations including that the City needed to consider the timing of design review and that design review needed to be moved to the beginning of the process rather than occur at the end. The Cedar River study also sought a positive role for the ADB and a positive role for design review in general by moving it to the beginning of the process. Cedar River also concluded the City's Design Guidelines were inadequate – too vague, not specific enough, did not provide enough guidance to the applicant, the public or staff.

Another issue raised by Cedar River was the impact on the permit process; too many things seemed to need design review, as well as how the design review fit into the City's permit scheme. Cedar River, as well as the Council, heard frustration from parts of the community over design review and the seemingly needless hurdles to get a project approved. In conclusion, the details of design review were overshadowing the big picture and that design review was not achieving the intent.

To follow up on the Cedar River study, Mr. Chave explained that Cascade Design was hired, who provided a draft set of Design Guidelines to the Council in November 2000. The Guidelines were accepted by the Council and forwarded to the Planning Board for review. The Planning Board held two public hearings on Design Guidelines in 2001. The Planning Board finished their work on Design Guidelines in December 2001; however, the Planning Board found when they completed their work on the Design Guidelines, they needed to consider the design review process; simply changing the Design Guidelines would not be sufficient because the process and Guidelines were interwoven. The Planning Board then began the process of considering the process of Design Review. The Planning Board has now completed their review and have forwarded amendments that would adopt Design Guidelines and a new revised development review process for design in the City.

Mr. Chave explained currently Code Sections 20.10 and 20.12 addressed the Design Review process and the current Guidelines. The proposed amendments would establish new code sections 20.10 through 20.14, with the process and standards for review outlined in 20.10 and the detailed Guidelines in the remainder of the sections. He described the current process, explaining that for major projects that exceeded the SEPA threshold, the applicant submits an application, the ADB holds a public hearing, and

makes a decision. For minor projects that do not exceed the SEPA threshold, the ADB may approve the application via their Consent Agenda. In addition, there are items that the Code requires ADB approval on although they are not a major design issue.

Mr. Chave explained the new process was primarily a change in the threshold. When the Planning Board considered the process, they considered several examples. One of the options was similar to Cedar River's suggestion – moving the ADB review to the beginning of the process in a meeting forum and deferring design decisions to staff at a later point in the process. When the Planning Board held a public hearing on this option and on pointed review by the ADB, the testimony indicated this option would lengthen the process too much. The testimony indicated this upfront design could be accomplished without imposing another public meeting. There was also a concern that if the ADB were taken out of the quasi judicial public hearing, it would diminish the amount of public input. There was little confidence that a preliminary meeting hosted by the ADB, followed by the SEPA process, would give enough meaningful input to the major projects that needed input via a formal public hearing. The Planning Board preferred to maintain the public hearing before the ADB for major projects only. If a project exceeded the SEPA threshold, for example 4,000 square feet of commercial space, over four units in a residential development and 20 parking spaces, or a significant project that would have an effect on the surrounding neighborhood, the public hearing process would be maintained for the ADB. Staff would do all other types of design review.

Mr. Chave explained minor projects, remodels, signs, etc. would be measured against the Design Guidelines and staff would make the decision. The impact this would have on the average developer/business owner/resident was significant in that those type of reviews could be done much more quickly, especially with regard to signs. Signs in the City were currently handled via a two part process, design review as well as a building permit. By allowing signs to be reviewed as a staff decision, signs could be combined with the building permit and business license process and significantly streamlined. Staff's experience in recent years has indicated the greatest degree of frustration has been with small things such as signs. Raising the threshold, taking the small, frustrating things out of the ADB process and shortening the process, would have the largest impact on the perception of the design review process in the City. The Design Guidelines provided more specificity and would allow certain signs to be referred to the ADB if they did not appear to meet the criteria or there were serious concerns with the design.

Mr. Chave noted another significant difference was that even though signs were reviewed by the ADB, neighbors were not informed. The only way minor projects and consent items were advertised was via the ADB agenda; notice was not provided to property owners within 300 feet, etc. The only time the 300 foot public notice requirement was initiated was for major projects. He noted not having ADB review of the small items would not change the public review aspect but would streamline the timeline.

Mr. Chave noted that another significant change was the requirement for a pre-application meeting with staff for major projects. Although pre-application meetings were often held, they were not required. He explained the Planning Board concluded that the combination of the pre-application meeting, streamlining the process and changing the threshold would accomplish Cedar River's goals and retain the public hearing for larger projects that Edmonds residents indicated they wanted retained.

Mr. Chave stated the Planning Board recommended appeals of ADB decisions be to the Hearing Examiner only and then to court. This was an alteration from the current process in which appeals of the ADB's public hearing decision were made to the City Council. He pointed out there have been few ADB decision appeals and he could only recall one in the past five years that had been overturned, involving a sign. Mr. Chave advised other types of code requirements remained the same, height, bulk, etc.

Senior Planner Steve Bullock recalled the Council approved the Design Guidelines drafted by the Cascade Design Collaborative and forwarded them to the Planning Board for consideration and a recommendation regarding how they should apply to the Design Review process. As the Planning Board began reviewing the Design Guidelines and taking public testimony, the Board was most concerned with having the Guidelines being very prescriptive and predictable for the applicant but not result in designs that were too predictable. The Board wanted enough flexibility in the Guidelines to allow qualified architects and designers to develop creative solutions to the Code requirements. He explained the proposed Design Guidelines included objectives as well as specific regulations to implement the objectives. The regulations included “should” and “shall” – shall meaning that item was required and should meaning staff or the ADB would have the ability to potentially approve a proposal that did not meet the letter of the regulation but complied with the overriding objectives of the section. Mr. Bullock cited examples of how “should” and “shall” were used in the regulations.

Mr. Bullock referred to Chapter 20.11 which addressed site design issues, and included subsections regarding retention of significant features such as vegetation and topography, landscape buffers between different uses, vehicular access, parking location and layout, pedestrian connections off-site, garage entry/door location, building entry location, setbacks, open space requirements, building/site identity, weather protection, street trees, lighting, site utilities and signage. He noted signage has been problematic because the existing sign chapter addressed bulk regulations – the size of the sign based on the lot or size of the building but there was little in the code about what signs look like. When the ADB and Planning Board discussed this, they created a matrix regarding different sign styles and sign lighting for different areas of the City. He noted the matrix was included in the Design Guidelines, allowing staff to review the signs against issues the Planning Board and ADB identified. He noted if staff had a concern with a sign, it could be referred to the ADB, but in most instances, the Guidelines provided adequate guidance to staff

Mr. Bullock referred to Chapter 20.12 which addresses building form and included sections regarding height, massing, roof modulation, and wall modulation. He referred to Chapter 20.13 which addresses building façade and includes façade requirements, window treatment, materials, colors, etc. He explained Chapter 20.14 was a restatement of the existing 20.12, the landscape chapter. There were minor changes made to be consistent with the Design Guidelines and provided specific design direction and standards for landscape plans required to be submitted with Design Review applications.

Mr. Chave commented the Planning Board had specific suggestions in its recommendation. The Planning Board’s understanding was that even with the review that has occurred, six public hearings over two years, these were an initial set of guidelines and they expected that changes would be required. Therefore, the Planning Board requested a one year review and that during that one year period, staff proceed with the intent of the guidelines as well as provide a quarterly report to the Planning Board and ADB on problems, issues, etc. that arose. The Planning Board would review any problems and report to the Council regarding the process. The Planning Board recommended this review program be part of the Council’s adoption of the Design Guidelines.

Mr. Chave pointed out that when there was a design departure, the matrix indicated there would be a higher standard of review such as an ADB hearing and more public notice would be required.

Mayor Haakenson advised the recommended action was to set a public hearing to take testimony on the draft Design Review Process and Design Guidelines.

Councilmember Marin expressed his appreciation for the work done by those involved in the process. He suggested the following change to the second sentence in Chapter 20.11.010(B)(2), "If significant trees are cut, outside the building envelope, a one to three replacement is required."

Councilmember Wilson noted the recommended pre-application meeting would be with staff and not the ADB. Mr. Chave answered yes, stating this was primarily due to process. The ADB could not be the preliminary reviewer and the decision-maker.

Councilmember Wilson referred to an earlier public comment expressing concern with the technical ability of staff related to design review and staff making these decisions. He noted a city in California had a pre-application meeting and had an architect on contract to do preliminary design review with staff prior to submittal. He expressed his support for the attention given to site lighting in the proposed Guidelines and providing further specifics. He suggested the Guidelines require a photometric study as part of the submittal as well as specifics regarding site lighting fixtures.

Councilmember Wilson referred to the matrix, asking whether there was a map associated with the matrix. Mr. Chave answered some were Comprehensive Plan designations and others were specific zones. Councilmember Wilson requested the matrix be consistent regarding zoning classifications or mapped areas and suggested a map be provided identifying the areas.

Councilmember Wilson noted the building façade section included a number of objectives, and asked whether there had been any discussion regarding architectural style that should be encouraged or discouraged. Mr. Chave answered the only reference to a style was as it related to historic structures.

Councilmember Wilson supported the proposed process for signs.

Referencing public comment provided to during the Audience Comment Agenda item, Councilmember Petso asked what potential changes the proposed Guidelines could have on height limits. Mr. Chave assured there were no changes to height proposed in the document. Councilmember Petso inquired whether there was any flexibility for height. Mr. Chave answered the document did not address height limits, whether a variance could be obtained for height, etc.

Councilmember Petso referred to a comment that when an applicant submitted an application that met all the code requirements and met the objectives stated in the Guidelines, staff would approve the project even if it did not meet all dimensional standards. She asked whether that amount of flexibility was included in the proposed process. Mr. Chave answered no, the only flexibility in the document was that some of the Guidelines were prescriptive (shall) and others provided some flexibility in the design solution (should). He noted the Guidelines did not change the underlying code requirements for setbacks, etc. He summarized the flexibility allowed was in the design rather than the code requirements.

Councilmember Petso noted in the proposal, appeals of the ADB decision were to the Hearing Examiner rather than Council and asked where staff decisions would be appealed. Mr. Chave answered staff decisions were appealable to the Hearing Examiner followed by appeal to court.

Councilmember Petso acknowledged that although there had not been many appeals, she questioned whether a lower threshold would result in more appeals. Mr. Chave answered this would retain the appeal provisions for issues that would affect people the most (major projects) and any departure from the Design Guidelines would require additional notice so that surrounding property owners would be aware of the proposed change. It was the staff and Planning Board's opinion that the proposed process would retain the review where it was most effective.

Councilmember Petso expressed concern with not having any Council review and asked staff to provide her the page number where the Planning Board discussed that issue. Mr. Chave noted staff could also provide for the public hearing a history of the number of appeals, the outcome, etc.

Council President Earling recalled Mr. Chave indicated there had been six public hearings. He noted those most impacted were the downtown business community, condominium development, mixed use development and asked whether there had been any outreach to them. Mr. Chave responded that notice was provided at the usual posting places as well as display ads and notice was provided to the Chamber of Commerce and the Alliance. A stakeholders group was formed that included a variety of development interests who followed the process very closely and provided specific input.

Council President Earling asked whether the materials provided to the Council included a record of the feedback provided to the Planning Board from the stakeholders' group. Mr. Chave answered Exhibit 4 contained letters, etc. He noted that for the public hearing, staff would supplement the record with any additional information.

Council President Earling advised the public hearing would be scheduled for Tuesday, October 1.

Councilmember Orvis recalled the original Design Guidelines addressed how heights were measured, stepping down the hill. Mr. Chave answered that had been removed.

Councilmember Dawson expressed concern that none of the appeals were to Council and that a significant number of appeals would go from staff to the Hearing Examiner and then to court. She was concerned with elected officials not having an opportunity to review a project. If appeals to the Council did not occur often, she questioned why that process had been eliminated.

7. MAYOR'S COMMENTS

Hot Autumn
Nites Car
Show

Mayor Haakenson reminded the Edmonds Chamber of Commerce's Hot Autumn Nites Classic Car Show would take place Saturday, September 7 from 10:00 a.m. to 5:00 p.m. in downtown Edmonds. He noted there was also a dance scheduled at 6:00 p.m. as part of the event.

9/11
Observance

Mayor Haakenson advised the Edmonds Fire Department and the City would hold a September 11 remembrance next Wednesday at 6:45 a.m. at the Firefighter Memorial at Fire Station 17.

EMS Levy

Mayor Haakenson encouraged citizens to vote their choice for renewal of the EMS levy either via absentee ballot or at the polls on September 17.

8. COUNCIL COMMENTS

Brightwater

Councilmember Petso advised the public of meetings being held by King County regarding the Brightwater conveyance system on September 4 at Courtyard Hall in Country Village in Bothell and September 18 at the Northshore Utility District in Kenmore (7:00 – 9:00 p.m.). She noted that although Edmonds was not the preferred site for Brightwater, the conveyance routes could come through Edmonds and could include two portals, one in the area of Firdale Village and another in the Ballinger Neighborhood. She urged those citizens to keep abreast of the issue and investigate the impact of the conveyance system on the City. She noted if residents were unable to attend the meetings, they could contact King County to receive further information regarding the conveyance routes.

Mayor Haakenson clarified there were no proposed conveyance routes or portals in Edmonds on the preferred route that King County Executive Sims has recommended. The proposed conveyance route was entirely in King County.

Excused
Absence

COUNCILMEMBER MARIN MOVED, SECONDED BY COUNCILMEMBER DAWSON, TO EXCUSE COUNCILMEMBER WILSON FROM THE CITY COUNCIL MEETING OF AUGUST 27, 2002. MOTION CARRIED UNANIMOUSLY.

9. EXECUTIVE SESSION WITH THE EDMONDS PUBLIC FACILITIES DISTRICT BOARD REGARDING A REAL ESTATE MATTER

Executive
Session

At 10:10 p.m., Mayor Haakenson recessed the Council to a 15 minute Executive Session regarding a real estate matter. He advised the Council would adjourn immediately following the conclusion of the Executive Session.