



CITY OF EDMONDS

121 5TH AVENUE NORTH • Edmonds, WA 98020 • (425) 771-0220 • FAX (425) 771-0221
HEARING EXAMINER

GARY HAAKENSON
MAYOR

In the Matter of the Application of)
)
City of Edmonds)
)
For Advisory Report per Comprehensive)
Plan, Effect of Plan, Section B Regarding)
Consistency of Eleven Public Projects)
and Related Easements with the City's)
Comprehensive Plan)

NO. ADM20100006

ADVISORY REPORT
TO CITY COUNCIL

SUMMARY OF PROCEDURE

Request:

The Edmonds City Engineer requested an advisory report to City Council addressing the consistency of eleven public projects with the City's Comprehensive Plan. The eleven projects include three stormwater projects, two water projects, two sewer projects, three transportation projects, and one general project.

Jurisdiction:

Pursuant to Ordinance 3780 and the 2008 City of Edmonds Comprehensive Plan provision "Effect of Plan" (at page 2):

No street, park or other public way, ground, place, space, or public building or structure, or utility [whether publicly or privately owned] shall be abandoned, constructed or authorized until the Hearing Examiner has reviewed and reported to the City Council on the location, extent and consistency with the Comprehensive Plan. The Hearing Examiner's report shall be advisory only.

Hearing Date:

The City of Edmonds Hearing Examiner conducted a hearing on the request on February 4, 2010. The decision issues on February 19, 2010 because Monday February 15 was a legal holiday.

Testimony:

The following individuals testified at the November 19, 2009 hearing:

1. Robert English, City Engineer
2. Finis Tupper

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3. Diane Cunningham

Attorney Representation:

Scott Snyder, City Attorney, represented the Engineering Division.

Exhibits:

The following exhibits were offered in the record:

Exhibit 1 Engineering Division Staff Report to the Examiner, dated January 26, 2010, with the following attachments:

Attachment 1 2010 Project List and Easements

Attachment 2 Ordinance No. 3780

Attachment 3 Comprehensive Plan (December 2009)

Attachment 4 2002 Water Comprehensive Plan (including Appendix G)

Attachment 5 2006 Sanitary Sewer Comprehensive Plan

Attachment 6 2003 Stormwater Comprehensive Plan

Attachment 7 Edmonds Drainage Basin Studies, Talbot Park Basin (pages 7-6, 7-7, and map)

SUMMARY OF COMMENTS

This summary should not be considered minutes of the hearing. Only the key points made by the participants are summarized here.

Robert English: Mr. English described the project list at Attachment 1, which lists the Comprehensive Plan and capital facilities projects planned by the City in 2010. He introduced Interim Ordinance 3780, passed by City Council to establish codified procedures to mirror the Comprehensive Plan requirement for a public hearing and advisory report by the Hearing Examiner prior to the projected public projects.

Finis Tupper: Mr. Tupper noted that the attachments listed on page 2 of Staff Report were not all attached to the copies of the staff report made available to members of the public; only some were. Mr. Tupper expressed curiosity as to the propriety of the sequence of having the Examiner issue an advisory report to the City Council on the already adopted Capital Facilities and other plans, when in fact the advisory report of the Examiner should be part of the decision making process [in adopting planning documents]. He asserted that Staff's statement (page 1 of staff report) that the comprehensive plan is not self-executing is absolutely untrue. Finally, Mr. Tupper expressed concern about the citizens of Edmonds paying for the services of an outside

law firm "that isn't and hasn't in the past performed the services and duties as outlined in 10.35 of the Edmonds Municipal Code."

Diane Cunningham: Ms. Cunningham, Planning Administrator, stated that all of the City's comprehensive plan and various planning element documents are on file and available to the public in the planning department. She also noted that all of the items listed as attachments were attached to the City website.

Scott Snyder: Mr. Snyder, City Attorney, offered comments explaining that the City reads the Comprehensive Plan policy as requiring an Examiner hearing and report after adoption of the City's planning documents and prior to construction in order to ensure the scope of work, as advertised in the bidding process and authorized for funding by the City Council, is consistent with the Comprehensive and Element Plans.

FINDINGS

1. The request by the Engineering Division is for review of eleven public projects for consistency with the City's adopted Comprehensive Plan and other planning documents. *Exhibit 1; English Testimony*. The following findings will review each proposed project with the language discussing the projects in the appropriate planning document.
2. Project 1 is the Talbot Road/Perrinville Creek Drainage Improvement and Habitat Enhancement project. The existing 12-inch storm line discharging from the 126-acre drainage basin is undersized, resulting in flooding of several properties on Talbot Road during severe storm events. In addition, Talbot Creek has bare riparian areas and erosion prone areas. The extent, or scope, of the project would involve relocating this storm line down an existing City utility easement in a 30-inch pipe. The Perrinville Creek channel just south of the Burlington Northern Santa Fe (BNSF) tracks would be regraded and a fish migration barrier would be removed. *Exhibit 1, Attachment 1*.
3. The location of Project 1's stormwater pipe placement is in: five added feet of easement width added to the existing easement between 8403 and 8311 Talbot Road; a 105 foot long by 10-foot wide easement across 8311 and 8307 Talbot Road; and a 20-foot long easement area to be added to a 10-foot wide easement in the BNSF right-of-way. *Exhibit 1, Attachment 1; Exhibit 1, Attachment 7, Map*.
4. The described project is consistent with the flood prevention portion of Problems 7, 8, and 9 as identified in the Edmonds Drainage Basin Studies: Shellbarger, Five Corners, North Stream, and Talbot Park Basins document at pages 7-6 and 7-7, as adopted by the 2008 City of Edmonds Comprehensive Plan at page 15. However, problem number 8 recommends stabilization of bare riparian areas and erosion prone areas through planting new vegetation and the project as described omits this feature. *Exhibit 1, Attachment 7, page 7-7; Exhibit 1, Attachment 1; Exhibit 1, Attachment 3*. The City Council may wish to consider requiring revegetation of the regraded stream channel and other existing bare and erosion prone riparian areas.

5. Project 2 is the Perrinville Creek Culvert Replacement at Talbot Road. Department of Fish and Wildlife has indicated that Perrinville Creek could support salmon populations if barriers to fish passage are removed. The extent, or scope, of this project would involve replacing an undersized culvert under Talbot Road that acts as a fish barrier with a structural plate arch incorporating fish passage design, resulting in a larger, fish-passable culvert. The location of Project 2 would be within a 10-foot wide by 10-foot long easement area at 8219 and 8202 Talbot Road. As described, Project 2 would be consistent with the remedies identified to address Problem 2, in Section IX of the 2003 Stormwater Comprehensive Plan (page IX-2), as adopted by the Edmonds Comprehensive Plan at page 15. *Exhibit 1, Attachments 1, 3, and 6.*
6. Project 3 is the 12th Avenue Drainage Replacement project. The extent/scope of the project includes replacing a 10-inch stormwater line conveying runoff from 12th Avenue North with a new 12-inch line. The replacement would be constructed such that it does not cause hillside erosion on the steep slope between 12th Avenue North and Olympic Avenue North. Project 3's location would be within a 10-foot wide (adding four feet of width to an existing six-foot easement) along the entire south property line of 1025 12th Avenue North. As described, Project 3 would be consistent with the goals and recommendations identified in Problem 19 in the 2003 Stormwater Comprehensive Plan (page IX-8), adopted by the City's Comprehensive Plan on page 15. *Exhibit 1, Attachments 1, 3, and 6.*
7. Project 4 is entitled Watermain Replacement. The extent/scope of the project would improve water service and efficiency by replacing mains at four locations: 1) Carol Way east of 6th Avenue North; 2) Skyline Drive north of Main Street and 206th west of Maplewood; 3) Driftwood Lane west of 8th Avenue North; and Hillcrest Place south of Main Street. The locations of watermain replacement would be in easements located at: 1) 702, 613, 621, 623, and 625 Carol Way; 2) 115 & 310 Skyline Drive & Emerald Hills HOA, 21113, 21109, and 21105 Shell Valley Road; 3) 20920, 20910, 20914, 20902, and 20906 Hillcrest Place; and 4) 707 Driftwood Lane. *Exhibit 1, Attachment 1; Exhibit 1, Attachment 4, Appendix G, Project T-10, Map.*
8. As described, Project 4 appears to be consistent with the goals and recommendations regarding maintaining the long-term integrity of the City's water system by replacing one percent of the City's total water lines per year established in Section VI of the City's 2002 Comprehensive Water Plan. The four projects described are identified in the water element capital facilities plan on page VI-7. The 2002 Comprehensive Water Plan was adopted by the 2008 City of Edmonds Comprehensive Plan at page 15. *Exhibit 1, Attachments 3 and 4.*
9. Project 5 is the Five Corners Pump Station Improvements project. The extent/scope of Project 5 would improve the operation and efficiency of the pump station and reservoir. The location of Project 5 would be within a Distribution Easement granted by the City to the PUD to improve power service to the pump station. As described, Project 5 would be consistent with the goals and recommendations for improving efficiency and operations of the station identified in the 2002 Water Comprehensive Plan, which was adopted in the

2008 City of Edmonds Comprehensive Plan at page 15. Project 5 is identified in the list of current water service capital improvements projects. *Exhibit 1, Attachment 1; Attachment 4, pages VI-3 and VI-6, and Appendix G, Project SC-1, Map.*

10. Project 6 is entitled Lift Station 2. The extent/scope of the project would involve replacing and/or upgrading the existing Lift Station 2, including the force main and backup generator. The project is anticipated to improve pump efficiency and operations, reducing annual maintenance costs. Project 6 would occur within a new permanent sewer easement between Moldy Lane and Cary Road; the new easement is necessary to improve access and operation. As described, the project is consistent with the capital improvement project identified as Problem 3 in the 2006 Sanitary Sewer Comprehensive Plan, as adopted by the 2008 City of Edmonds Comprehensive Plan, at page 15. *Exhibit 1, Attachments 1 and 4; Attachment 4, Section VIII, project description map, and Table VIII-2.*
11. Project 7 is entitled "Lift Stations 3, 4, 5, 9, 10, 11, 12, 14, and 15". The extent/scope of this project would involve rehabilitation (rather than replacement) of nine existing lift stations for the purpose of improving pump efficiency and operations, and to reduce annual maintenance costs. *Exhibit 1, Attachment 1.*
12. Project 7 would be located in the permanent sewer easements adjacent to each lift station. The lift stations are located as follows:
 - Lift station 3 is on Northstream Lane, north of Puget Drive, west of Soundview Place.
 - Lift station 4 is off of Talbot Road west of 76th Avenue.
 - Lift station 5 is east of Sunset Avenue and west of 3rd Avenue, north of the City Park.
 - Lift station 9 is off of Sierra Drive, north of 196th Street, west of 80th Avenue North.
 - Lift station 10 is off of Talbot Road north of Olympic View Drive.
 - Lift station 11 is east of 70th Avenue, south of 156th.
 - Lift station 12 is west of 75th Place West, south of Meadowdale Road.
 - Lift station 14 is north of 212th Street on 80th Avenue North.
 - Lift station 15 is west of Meadowdale Beach Road, on 75th Place West.

Exhibit 1, Attachment 5, Section VIII, Capital Improvement Project Description Maps.

13. As described, Project 7 would be consistent with the listed capital improvement projects listed in the 2006 Sanitary Sewer Comprehensive Plan at Table VIII-2, as adopted by the 2008 City of Edmonds Comprehensive Plan on page 15. *Exhibit 1, Attachments 3 and 5.*
14. Project 8 is the 226th Street Walkway Project. The extent/scope of the project would involve construction of 300 feet of seven-foot sidewalk on the south side of 226th Street SW between State Route 104 and 10th Place West. Related improvements would include new ADA curb ramps, storm drain modification, curb and gutter, and minor widening of

226th Street SW. A federal grant was secured to fund both the engineering and the construction of this "missing link" pedestrian facility. As described, Project 8 would be consistent with the Nonmotorized Trans-226th Street SW Walkway Project, identified in the capital facilities project list in the 2008 City of Edmonds Comprehensive Plan. *Exhibit 1, Attachments 1 and 3 (pages 117 and 130).*

15. Project 9 is entitled "Interurban Trail." The extent/scope of the project would involve installation/construction of the final safety and "public enjoyment" enhancements along approximately 1,000 linear feet of the Interurban trail in the Ballinger neighborhood, linking existing trail ends in Shoreline and Mountlake Terrace. This project would complete the interurban trail from Seattle to Everett. Project 9 would be located in an easement to be granted to the City by the PUD within the PUD right-of-way west of 76th Avenue West. As described, Project 9 would be consistent with the capital facilities project description in the 2008 City of Edmonds Comprehensive Plan at page 125. *Exhibit 1, Attachments 1 and 3.*
16. Project 10 is entitled "4th Avenue Corridor Enhancement" and it is part of a capital facilities project called "4th Avenue Cultural Corridor." The extent/scope of the project would consist of developing the affected portion of 4th Avenue with temporary and/or moveable surface elements (possibly including but not limited to surface art, signage, and low-level lighting). The project is intended to create a stronger visual connection between Main Street and the Edmonds Center for the Arts. As described, the project would be consistent with the capital facilities project identified on page 131 of the 2008 City of Edmonds Comprehensive Plan. *Exhibit 1, Attachments 1 and 3.*
17. Project 11 is entitled Edmonds Crossing WSDOT Ferry/Multimodal Facility. The 2010 Project List in the record at Exhibit 1, Attachment 1 does not state the scope of the project proposed for 2010, although the "Easements - Location" column states "WSDOT acquisition of the Lower Unocal property upon DOE certification that it has been cleaned up to acceptable standards." The Edmonds Crossing Project is located generally along the City of Edmonds waterfront between the Edmonds Ferry dock and Marina Beach Park. It is not clear from the 2010 Project list where improvements or work (if any) are proposed to be located in 2010. *Exhibit 1, Attachment 1.*
18. The 2008 City of Edmonds Comprehensive Plan capital facilities project description for Edmonds Crossing lists the project schedule as extending from 2009 through 2015 and projects cost breakdown by year. The 2010 column of the costs breakdown table projects costs or expenditures for engineering & administration and for right-of-way. *Exhibit 1, Attachment 3, page 143.* In order to ensure consistency with the Comprehensive Plan, the City Council may want to ensure that all contracts brought forward for authorization fall within those two cost categories.

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CONCLUSIONS

1. The extent and location of Project 1 were identified in Findings 2 and 3. The City Council may consider requiring revegetation of the regraded stream channel and other existing bare and erosion prone riparian areas within the affected portion of Perrinville Creek to ensure compliance with the Comprehensive Plan. Other than that item, the project as described appears to be consistent with the 2008 City of Edmonds Comprehensive Plan. *Findings 2, 3, and 4.*
2. The extent and location of Project 2 are identified in Finding 5. As described, Project 2 appears to be consistent with the 2008 City of Edmonds Comprehensive Plan. *Finding 5.*
3. The extent and location of Project 3 are identified in Finding 6. As described, Project 3 appears to be consistent with the 2008 City of Edmonds Comprehensive Plan. *Finding 6.*
4. The extent and location of Project 4 are identified in Finding 7. As described, Project 4 appears to be consistent with the 2008 City of Edmonds Comprehensive Plan. *Findings 7 and 8.*
5. The extent and location of Project 5 are identified in Finding 9. As described, Project 5 appears to be consistent with the 2008 City of Edmonds Comprehensive Plan. *Finding 9.*
6. The extent and location of Project 6 are identified in Finding 10. As described, Project 6 appears to be consistent with the 2008 City of Edmonds Comprehensive Plan. *Finding 10.*
7. The extent and location of Project 7 are identified in Findings 11 and 12. As described, Project 7 appears to be consistent with the 2008 City of Edmonds Comprehensive Plan. *Findings 11, 12, and 13.*
8. The extent and location of Project 8 are identified in Finding 14. As described, Project 8 appears to be consistent with the 2008 City of Edmonds Comprehensive Plan. *Finding 14.*
9. The extent and location of Project 9 are identified in Finding 15. As described, Project 9 appears to be consistent with the 2008 City of Edmonds Comprehensive Plan. *Finding 15.*
10. The extent and location of Project 10 are identified in Finding 16. As described, Project 10 appears to be consistent with the 2008 City of Edmonds Comprehensive Plan. *Finding 16.*
11. The extent and location of Project 11 are not established in the 2010 project list and are not explicitly clear from the capital facilities project description of Project 11 in the Comprehensive Plan at page 143. In order to ensure consistency with the Comprehensive Plan, the City Council may want to limit authorization granted for Project 11 to contracts

brought forward within the two cost categories identified in the capital facilities project description on Page 143. *Findings 17 and 18.*

DATED this 19th day of February 2010.

Towell Rice Taylor LLC
City of Edmonds Hearing Examiners
By:

A handwritten signature in black ink, appearing to read "Sharon A. Rice", written over a horizontal line.

Sharon A. Rice



CITY OF EDMONDS

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HEARING EXAMINER

OFFICE OF THE HEARING EXAMINER CITY OF EDMONDS, WASHINGTON

GARY HAAKENSON
MAYOR

In the matter of the Request of)
)
Robert English, City Engineer,)
City of Edmonds Engineering Division)
)
For Consistency Review of Eleven Projects)
with the Comprehensive Plan)

Case No. ADM20100006

Advisory Report

I, Sharon A. Rice, the undersigned, do hereby declare:

- That I am a partner in the firm of Toweill Rice Taylor LLC, which maintains a professional services agreement with the City of Edmonds, Washington for the provision of Hearing Examiner services, and make this declaration in that capacity; That I am now and at all times herein mentioned have been a citizen of the United States, a resident of the State of Washington, over the age of eighteen (18), and competent to be a witness and make service herein;
- That on February 19, 2010 I did hand-deliver a copy of the Advisory Report in No. ADM20100006 to the following individuals at the first floor reception desk of City Hall at 121 - 5th Avenue North, Edmonds, WA 98020:
 - Edmonds Engineering Division, Attention Robert English
 - Planning, Attention Diane Cunningham, Hearing Examiner Official Record
 - Clerk of the Edmonds City Council
- Courtesy copies of the advisory report were mailed to the following individuals at the addresses listed by first class US mail:

Scott Snyder
Ogden, Murphy, Wallace PLLC
1601 Fifth Avenue, Suite 2100
Seattle, WA 98101-1686

Finis Tupper
711 Daley Street
Edmonds, WA 98202

I hereby declare under penalty of Washington's perjury laws that the foregoing is true and correct:

DATED THIS 19th day of February 2010 at Edmonds, Washington.

Sharon A. Rice, Hearing Examiner for Edmonds, Washington