



CITY OF EDMONDS

121 5TH AVENUE NORTH • EDMONDS, WA 98020 • (425) 771-0220 • fax (425) 771-0221

HEARING EXAMINER

MIKE COOPER
MAYOR

In the Matter of the Application of)	NO. ADB2010-54
)	NO. CU2010-53
Dale Pinney on behalf of)	
Columbia Bank)	FINDINGS, CONCLUSIONS,
)	AND DECISION
For Design Review and)	
a Conditional Use Permit)	
_____)	

SUMMARY OF DECISION

The request for design review approval and a conditional use permit (CUP) to allow drive through teller lanes at a proposed new Columbia Bank building at 96xx Edmonds Way in Edmonds, Washington is **GRANTED** subject to conditions.

SUMMARY OF RECORD

Request:

Dale Pinney, on behalf of Columbia Bank (Applicant), requested design review approval and a CUP to allow drive through teller lanes at a proposed new Columbia Bank building at 96xx Edmonds Way in Edmonds.

Hearing Date:

The City's Hearing Examiner conducted an open record hearing on the request on October 7, 2010.

Testimony:

At the open record hearing, the following individuals presented testimony under oath:

1. Gina Coccia, Planner, City of Edmonds
2. Dale Pinney, First Western Development Svcs, Inc., Applicant Representative
3. Alvin Rutledge

Exhibits:

At the open record hearing the following exhibits were admitted into the record:

Exhibit 1 City of Edmonds Planning Division Staff Report & Recommendation to the Architectural Design Board, dated September 8, 2010, with the following attachments:

1. Zoning and vicinity map

2. Land use application
3. Criteria statement
4. Plans and Elevations
5. SEPA DNS & Environmental Checklist
6. ECDC 20.13 Landscaping Requirements
7. Comprehensive Plan Urban Design: General Objectives
8. Public Notices
9. Public Comment Letter: James Martin

- Exhibit 2 Sign Plan
- Exhibit 3 Proposed Site Plan Alternate A, submitted September 15, 2010¹
- Exhibit 4 Applicant's photos
- Exhibit 5 ADB's redlined landscape plan
- Exhibit 6 Applicant's revised landscape plan
- Exhibit 7 Staff Report to the Hearing Examiner, dated September 28, 2010, with the following attachments:
- A. Draft ADB meeting minutes, September 15, 2010
- B. Notice of public hearing
- Exhibit 8 Correspondence from Dale Pinney, Applicant representative, dated October 4, 2010, with attached executed access easement, witnessed September 24, 2010
- Exhibit 9 Preliminary Geotechnical Engineering Report, dated July 18, 2010

Upon consideration of the testimony and exhibits submitted, the Hearing Examiner enters the following findings and conclusions:

FINDINGS

1. The Applicant requested design review approval and a CUP to allow drive through teller lanes at a proposed new Columbia Bank building at 96xx Edmonds Way in Edmonds.² *Exhibit 1, Attachment 2; Coccia Testimony.*

¹ The alternate site plan was required to address site traffic flow in the event that the shared access easement was not obtainable; however, the shared access easement was in fact obtained and the alternate site plan is not needed. *See Exhibit 8; Coccia Testimony.*

² The subject property is known as Lot 10 of the K. Elise Plat and as Tax Parcel Number 00937900001000. *Exhibit 7, page 2.*

2. The subject property has a Community Business Edmonds Way (BC-EW) zoning designation. Service businesses such as banks are allowed in the BC-EW zone without permits, but a conditional use permit is required to operate a drive-in business the BC-EW district. *Edmonds Community Development Code (ECDC) 16.50.010.C.6*. The project's scope of work triggered review pursuant to the State Environmental Policy Act (SEPA), which in turn triggered design review by the Architectural Design Board (ADB). Because design review is consolidated with CUP review pursuant to ECDC 20.01.002.B, the ADB evaluated the project for compliance with applicable design criteria and forwarded a recommendation to the hearing examiner. Both requests will be decided in the instant decision. *Exhibit 7, pages 1-2; Coccia Testimony*.
3. The 1.1-acre subject property is undeveloped. It is predominantly flat with a steep slope in the northern portion. The steep slope was evaluated and determined to be a landslide hazard area pursuant to Title 23.80 of the City's critical areas ordinance. The parcel is bare except for the slope which is vegetated with non-native shrubs. Some existing trees along the northwest and eastern site boundaries would be retained. The site is not within shoreline jurisdiction. *Exhibit 7, page 3*.
4. Parcels to the east share the site's BC-EW zoning designation, while parcels west are zoned Neighborhood Business (BN). Edmonds Way is State Route 104, which is considered to be a Principal Arterial. The site is surrounded by commercial uses along Edmonds Way, some of which include drive-in uses, including a car wash, a bank, gas stations, and a drive-in pharmacy. There is a single-family residential neighborhood to the north, separated from the site by the steep slope. Directly across the street, parcels are zoned with multifamily designations. *Exhibit 7, page 3; Exhibit 1, Attachment 1*.
5. The project consists of a new 4,000 square foot bank building, three drive through teller lanes, parking for 20 cars, a retaining wall at the base of the slope, and approximately 2,000 cubic yards of cut and 800 cubic yards of fill. The Applicant asserted that the drive-in function generally aids the flow of traffic by reducing transaction time, helping people move quickly through the corridor. The Applicant has caused a mutual access easement onto Edmonds Way to be created at the shared boundary with the adjacent (currently undeveloped) parcel, minimizing driveway interruptions on the arterial. *Exhibit 1, Attachments 3 and; Pinney Testimony; Exhibit 8*.
6. The property has a Comprehensive Plan designation of "Edmonds Way Corridor". Applicable Comprehensive Plan land use goals and policies for the project include:

Goals for the Edmonds Way Corridor. The Edmonds Way Corridor consists of portions of Edmonds Way between the 100th Avenue West intersection and Highway 99. This corridor serves as a key transportation corridor, and also provides a key link between Edmonds and Interstate 5. Established residential areas lie on both sides of the corridor. An established pattern of multiple family residential development lies along much of the corridor, while small-scale businesses can be found primarily near intersections. A major concern is that the more intensive development that occurs

along the corridor should not interfere with the flow of traffic or intrude into adjoining established communities.

- F.1. Permit uses in planned multiple family or small-scale business developments that are designed to minimize contributing significantly to traffic congestion.
- F.2. Provide for transit and pedestrian access to development.
- F.3. Use design review to encourage the shared or joint use of driveways and access points by development onto SR-104 in order to support the movement of traffic in a safe and efficient manner. Site access should not be provided from residential streets unless there is no feasible alternative.
- F.4. Use design review to ensure that development provides a transition to adjacent residential neighborhoods. For uses in transitional areas adjacent to single family neighborhoods, use design techniques such as the modulation of facades, pitched roofs, stepped-down building heights, multiple buildings, and landscaping to provide designs compatible with single family development. Make use of natural topography to buffer incompatible development whenever possible.

Exhibit 1, pages 3-4, as excerpted from the 2009 City of Edmonds Comprehensive Plan, page 75.

- 7. Additional Comprehensive Plan goals and policies apply to development on sites with steep slopes:

Goals for soils and topography are provided to show how development on steep slope or hazardous soil conditions should preserve the natural features of the site, in accordance with the following policies:

- C.1.a. Grading, filling, and tree cutting shall be restricted to building pads, driveways, access ways and other impervious surfaces.
- C.1.b. Grading shall not jeopardize the stability of any slope, or of any adjacent property.
- C.1.c. Only minimal amounts of cut and fill on hillsides exceeding 15% slope should be permitted so that the natural topography can be preserved. Fill shall not be used to create a yard on steeply sloped property.
- C.1.d. Fill and excavated dirt shall not be pushed down the slope.

Exhibit 1, page 4, excerpted from the 2009 Comprehensive Plan, page 79.

- 8. The ADB concurred with Planning Staff's analysis that the project would comply with the Comprehensive Plan's Urban Design chapter with recommended conditions. The ADB modified and included the recommended conditions in its recommendation to the

examiner. Staff's analysis, in the record at Exhibit 1, pages 4-5, is incorporated in this finding by this reference. *Exhibit 1, pages 4-5; Exhibit 7, Attachment A, page 9.*

Zoning

9. The BC-EW zone requires a 15-foot setback adjoining any residentially zoned parcels. The required setback must be landscaped with trees and ground cover permanently maintained by the owner of the BC lot. A six-foot minimum height fence, wall or solid hedge shall be provided at some point in the setback. Maximum base building height allowed is 35 feet. *ECDC 16.50.020.A and .0.0.E.*
10. The site's north lot line abuts an R-8 zone, triggering the 15-foot building setback from the northern lot line. As proposed, the nearest structure to the north lot line would be the retaining wall at the foot of the steep slope, set back approximately 50 feet from the boundary. Compliance with structure height restrictions would be ensured through the building permit process. *Exhibit 1, page 6; Coccia Testimony; Exhibit 1, Attachment 4.*
11. The Applicant commissioned a professionally prepared preliminary geotechnical engineering report to address the proposal in relation to the on-site slope and the conceptual feasibility of the retaining walls. The geotechnical report stated:

The preliminary plans for the project indicate that a short retaining structure will be required adjacent to the drive through lanes and a taller retaining structure will be required at the back of the east parking lot. The maximum anticipated retaining structure height is on the order of 8 to 10 feet at the rear of the parking lot. The retaining structures will be constructed at the toe of a slope which ascends to the north and becomes a steep slope outside the proposed building area. The maximum slope behind and within the area of influence of the currently envisioned retaining structures is slightly flatter than 30%.

Based on these slopes and the reported geotechnical conditions, it is our opinion that the proposed project is feasible from a geotechnical standpoint and that the proposed retaining structures would be successfully designed and constructed on this site. We anticipate that gravity walls constructed of large modular blocks ... can be used for the anticipated retaining structures provided that wall heights remain at or below currently proposed levels.

Exhibit 9.

12. Banks must provide one parking stall for every 200 square feet of gross building area. *ECDC 16.50.020.B.4.* At 4,000 square feet, the bank requires 20 parking stalls, which have been provided. *Exhibit 1, page 7; Exhibit 1, Attachment 4.*

Design Review

13. The proposal is subject to General Design Review. *ECDC 20.11.010.* Because the project also includes quasi-judicial land use review, design review has been consolidated with CUP review, both to be decided by the hearing examiner. Planning Staff presented the design review application with a recommendation to the ADB, which body made

recommendations for alterations to the project and a final recommendation to the examiner. Planning Staff's analysis of applicable design objectives, in the record at Exhibit 1, pages 7-8, as modified by the ADB's recommendation in the record at Exhibit 7, Attachment A, page 9, are adopted and incorporated in their entirety in this finding. Some details of design review analysis will be specifically called out in the findings that follow. *Exhibit 1, pages 7-8; Exhibit 7, Attachment A; Coccia Testimony.*

14. After review, the ADB recommended approval of the proposed design with several conditions:
- Either an easement shall be obtained to allow access over the adjacent property to the west or the project will need to be revised to meet code. If the revision is substantial, then the project may need to go before the ADB once more for review.
 - The street tree species shall be reviewed and approved by the Parks Department for compliance with the Street Tree Plan.
 - Additional "Type II" landscaping shall be provided near the east property line in accordance with ECDC 20.13.030.
 - Additional landscaping in and around the parking lot shall be provided in accordance with ECDC 20.13.030.
 - Grading shall be minimized in north portion of the site to the maximum extent feasible and verified through a geotechnical report that is compliant with the critical areas ordinance (Title 23 ECDC) as well as Section 20.11.030.B.1 ECDC and the Comprehensive Plan.
 - The 25-foot tall light poles shall be replaced with low-rise light poles (sheet A1) consistent with ECDC 20.11.030.B.8.

Exhibit 7, Attachment A.

15. The Applicant addressed ADB's concerns at the land use hearing on October 7th. The shared access easement was executed and provided at hearing. The Applicant indicated an intention to be guided by the Parks Department with regard to street tree species. The initially proposed 25-foot light poles have been replaced with 20-foot poles to address the ADB's concerns regarding a more "human scale" development and minimizing light impacts to nearby development. *Exhibit 8; Pinney Testimony.*
16. Regarding site grading: the volume of grading proposed results from the natural difference in elevation on-site, with the east end being three to five feet higher than the west end. After consideration of several alternative designs, the proposal selected would retain the slope in an undisturbed condition behind a retaining wall and would grade the flatter portions of the site to the required level. The proposed parking lot would keep a five percent grade change, in order to minimize slope impacts. *Exhibit 7, Attachment A; Pinney Testimony.*

Landscaping

17. Type I landscaping is required to separate significantly different land uses, such as a drive through bank facility and single-family residential development. *ECDC 20.13.030.A; Exhibit 1, page 8.* Type II landscaping is required along the site's east and

west boundaries between the project and uses that are similar to the proposal. *ECDC 20.13.030.B.*

18. Type I landscaping would normally be required along the northern boundary abutting the R-8 area; however, the significant slope there already provides a dense sight barrier. Required additional plantings would have to be placed either at the top or the toe of the steep slope. At the top, they could affect slope safety. At the toe, they would offer minimal to no sight barrier benefit. *Exhibit 1, page 8; Coccia Testimony.*
19. The slope, and other portions of the site, are densely vegetated with Himalayan blackberry and Scotch Broom, non-native invasive species that remain green much the year. In the original landscape plan, the Applicant proposed to retain much of the existing non-native greenery to serve the purposes of vegetation and slope stabilization.; *Coccia Testimony; Exhibit 4, Site Photos.*
20. The ADB objected to the retention of the non-native blackberry and Scotch Broom for the purpose of satisfying Type I or Type II landscaping requirements and provided a redlined copy of the original landscape plan with suggested alternative landscaping. *Exhibit 7, Attachment A, pages 7-8; Exhibit 5.*
21. The Applicant submitted a revised landscaping plan that addressed the ADB's concerns. Changes include removal of significant portions of the non-native species and replacement with lawn, landscape beds including shrubs, and additional trees. *Exhibit 6; Exhibit 7, page 5; Coccia Testimony.*
22. Addressing the Type II landscaping required along the east and west site boundaries, Planning Staff noted that trees may not be appropriate along the shared access easement. Existing mature trees along the eastern boundary would be retained, but are located in a utility easement over which the Applicant doesn't enjoy total control. In the revised landscape plan, additional plantings were provided along the eastern site boundary near Edmonds Way. *Exhibit 1, page 8; Coccia Testimony; Exhibit 6.*
23. The street trees indicated on the landscape plan are not the species indicated in the Edmonds Street Tree Plan. Street tree species must be approved by the Parks Department. *Exhibit 6; Exhibit 7, pages 3, 5.*

General Findings

24. The City of Edmonds was designated lead agency for review of the project's impacts pursuant to the State Environmental Policy Act (SEPA). After evaluating the application materials and the Applicant's Environmental Checklist, the City issued a Determination of Non-Significance on August 27, 2010. No appeals were filed. *Exhibit 1, Attachment 5; Exhibit 7, page 2.*
25. The proposal was considered by the City's Engineering and Building Divisions, Public Works and Parks Departments, and the Fire District. The City's Engineering Division noted that the proposed western driveway was located partially off-site. All reviewing

departments noted that compliance with specific development standards and codes would be reviewed during the building permit process. The Applicant addressed the Engineering Division's concern by obtaining the easement in the record. *Exhibit 7, page 2; Exhibit 8.*

26. Planning Staff recommended approval of the CUP with conditions. Regarding the issue of CUP transferability, Planning Staff recommended that the drive through lanes be transferable to future owners of the site, as the corridor is characterized by several drive through uses and the instant review would adequately protect surrounding uses against foreseeable drive through impacts. *Coccia Testimony; Exhibit 7, page 6.*
27. Notice of application and public hearing was posted, mailed to neighboring property owners within 300 feet, and published in The Herald, consistent with the notice provisions of ECDC 20.03. *Exhibit 7, page 2; Exhibit 1, Attachment 8; Exhibit 7, Attachment B.*
28. At the hearing, public comment focused on concerns about parking, traffic flow, and safe pedestrian access. *Rutledge Testimony.*
29. Staff noted the nearest cross walk is at 96th. *Coccia Testimony.*

CONCLUSIONS

Jurisdiction:

The Hearing Examiner has jurisdiction to hear and decide CUP requests pursuant to ECDC 20.100.010.A.3 and 20.05.010. The Examiner has jurisdiction to decide design review applications when such items are consolidated with quasi-judicial matters also before the Examiner, pursuant to ECDC 20.01.002.B.

Criteria for CUP Review:

Pursuant to ECDC 20.05.010, the Hearing Examiner may not approve a CUP unless the following findings can be made:

- A. That the proposed use is consistent with the comprehensive plan;
- B. Zoning Ordinance. That the proposed use, and its location, is consistent with the purposes of the zoning ordinance and the purposes of the zoning district in which the use is to be located, and that the proposed use will meet all applicable requirements of the zoning ordinance;
- C. Not Detrimental. That the use, as approved or conditionally approved, will not be significantly detrimental to the public health, safety and welfare, and to nearby private property or improvements unless the use is a public necessity;
and

- D. Transferability. The hearing examiner shall determine whether the conditional use permit shall run with the land or shall be personal.

Criteria for Design Review:

Pursuant to ECDC 20.11.030, in order to obtain general design review approval, the decision making body must be able to enter findings that Applicant has demonstrated compliance with the following:

- A. Building Design. No one architectural style is required. The building shall be designed to comply with the purposes of this chapter and to avoid conflict with the existing and planned character of the nearby area. All elements of building design shall form an integrated development, harmonious in scale, line and mass.
1. All exterior building components, including windows, doors, eaves, and parapets;
 2. Colors, which should avoid excessive brilliance or brightness except where that would enhance the character of the area;
 3. Mechanical equipment or other utility hardware on the roof, grounds or buildings should be screened from view from the street level;
 4. Long, massive, unbroken or monotonous buildings shall be avoided in order to comply with the purposes of this chapter and the design objectives of the comprehensive plan. This criterion is meant to describe the entire building. All elements of the design of a building including the massing, building forms, architectural details and finish materials contribute to whether or not a building is found to be long, massive, unbroken or monotonous.
 - a. In multifamily (RM) or commercial zones, selections from among the following or similar features are appropriate for dealing with this criterion:
 - i. Windows with architectural fenestration;
 - ii. Multiple rooflines or forms;
 - iii. Architecturally detailed entries;
 - iv. Appropriate landscaping;
 - v. The use of multiple materials;
 5. All signs should conform to the general design theme of the development.
- B. Site Treatment. The existing character of the site and the nearby area should be the starting point for the design of the building and all site treatment.
1. Grading, vegetation removal and other changes to the site shall be minimized where natural beauty exists. Large cut and fill and impervious surfaces should be avoided.
 2. Landscape treatment shall be provided to enhance the building design and other site improvements.
 3. Landscape treatment shall be provided to buffer the development from surrounding property where conflict may result, such as parking facilities near yard spaces, streets or residential units, and different building heights, design or color.
 4. Landscaping that could be damaged by pedestrians or vehicles should be protected by curbing or similar devices.

5. Service yards, and other areas where trash or litter may accumulate, shall be screened with planting or fences or walls which are compatible with natural materials.
6. All screening should be effective in the winter as well as the summer.
7. Materials such as wood, brick, stone and gravel (as opposed to asphalt or concrete) may be substituted for planting in areas unsuitable for plant growth.
8. Exterior lighting shall be the minimum necessary for safety and security. Excessive brightness shall be avoided. All lighting shall be low-rise and directed downward onto the site. Lighting standards and patterns shall be compatible with the overall design theme.

C. Other Criteria.

1. Community facilities and public or quasi-public improvements should not conflict with the existing and planned character of the nearby area.
2. Street furniture (including but not limited to benches, light standards, utility poles, newspaper stands, bus shelters, planters, traffic signs and signals, guardrails, rockeries, walls, mail boxes, fire hydrants and garbage cans) should be compatible with the existing and planned character of the nearby area.

Conclusions Based on Findings:

1. As conditioned, the proposal would be consistent with Comprehensive Plan goals and policies related to the Edmonds Way Corridor, to development of slopes, and to the general urban design goals. The bank would be accessible via the Edmonds Way sidewalk. The mutual access easement would reduce driveways onto the arterial, reducing traffic impacts. The proposal retains undisturbed and makes use of the existing slope to buffer the residential uses to the north. The Applicant has worked with a geotechnical firm, architects, and the ADB to retain as much of the existing natural topography intact as possible, focusing site improvements on the flattest portions of the property. As revised and with conditions, the project would be consistent with the applicable goals and policies of the Comprehensive Plan. *Findings 2, 3, 5, 6, 7, 8, 11, and 16.*
2. The project would be consistent with the purpose and the development standards of the BC-EW zone. Pursuant to ECDC 16.50.005, the purpose of the BC – EW zone is to reserve areas for those retail stores, offices, service establishments and amusement establishments which offer goods and services to the entire community and to ensure compact, convenient development patterns by allowing uses that are operated chiefly within buildings. Banks are allowed in the BC-EW zone, and drive through lanes are allowed upon CUP approval. As proposed and conditioned, the project would comply with the BC-EW's setback, building height, parking, landscaping, and other applicable development standards. *Findings 3, 5, 9, 10, 11, 12, 17, 18, 19, 20, 21, and 22.*
3. As conditioned, the proposal would not be detrimental to the public health, safety, or welfare and would not have adverse impacts on surrounding uses. The revised

landscaping proposal in the record at Exhibit 6 satisfies the intent of the City's landscaping code. The building and revised landscaping plan would enhance the appearance of the vacant graveled site. The height of the steep slope, the mature trees and additional landscaping, the retaining walls, and overall site design would shield the residential district adjacent to the north and existing commercial uses to the east and west from the new commercial activities. A condition of approval would restrict the light poles to 20 feet in height, limiting off-site impacts. The retaining wall structures have been determined to be preliminarily feasible as proposed and the project is not anticipated to have any impact on slope stability. The City's reviewing agencies reviewed the proposal and had minimal comments or concerns, other than street tree selection. The project was reviewed pursuant to SEPA and a DNS was issued. Compliance with all building, engineering, street tree, and fire requirements would be ensured through building permit review. *Findings 3, 4, 5, and 26.*

4. Conditional use approval should be transferable to future uses on-site. The specific impacts of a bank with drive through lanes were reviewed prior to this decision, but there are many other types of drive through businesses on the corridor, uses with differing traffic patterns, volumes, and overall activity levels. A future change to a different type of drive through business is not anticipated to have greater impacts than the other existing and permitted drive through uses in the vicinity, given the location of the site. *Findings .*
5. The project was thoroughly reviewed for compliance with design review criteria by both Planning Staff and the ADB, and both recommended design review approval with conditions. The Applicant significantly altered the landscaping plan to address design concerns raised by the ADB. The Examiner concurs that appropriate design elements have been implemented such that design review requirements are satisfied. Any discretion regarding the selection of the street tree species should be left to the Parks Department. *Findings 3, 5, 6, 7, 8, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, and 23.*

DECISION

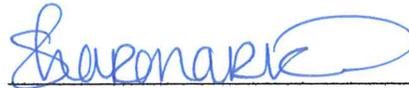
Based on the preceding findings and conclusions, the request for design review approval and a conditional use permit (CUP) to allow drive through teller lanes at a proposed new Columbia Bank building at 96xx Edmonds Way in Edmonds, Washington is **GRANTED** subject to the following conditions:

1. The selection of the street tree species shall be reviewed and approved by the Parks Department for compliance with the Street Tree Plan.
2. Grading shall be minimized in the north portion of the site to the maximum extent feasible and may be verified through a geotechnical report that is compliant with the critical areas ordinance (ECDC Title 23) as well as ECDC 20.11.030.B.1 and the Comprehensive Plan.
3. The light poles on-site shall be limited to 20 feet in height.
4. This conditional use permit shall be transferable to subsequent property owners.

5. By this condition, the Applicant is advised that the design review approval granted herein shall be subject to the time limits established at ECDC 20.12.090.
6. By this condition, the Applicant is advised that the conditional use approval granted herein shall be subject to the time limits established at ECDC 20.05.050.C.

DECIDED this 21st day of October 2010.

Toweill Rice Taylor LLC
City of Edmonds Hearing Examiners
By:



Sharon A. Rice



CITY OF EDMONDS

121 5TH AVENUE NORTH • EDMONDS, WA 98020 • (425) 771-0220 • fax (425) 771-0221

HEARING EXAMINER

MIKE COOPER
MAYOR

RECONSIDERATION AND APPEAL

The following is a summary of the deadlines and procedures for filing requests for reconsideration and appeals. Any person wishing to file or respond to a request for reconsideration or an appeal should consult the relevant ordinances and/or contact the Planning Division of the Development Services Department for further procedural information.

REQUEST FOR RECONSIDERATION

ECDC 20.06.010 contains the procedures for requesting reconsideration of a Hearing Examiner decision. Requests for reconsideration must be filed with the City Planning Director within 10 calendar days of the Hearing Examiner's decision no later than 4:30 p.m. on the last business day of the reconsideration period. Only parties of record (i.e., the applicant, any person who testified at the open record hearing on the application, any person who individually submitted written comments on the application, or the City of Edmonds) may file a request for reconsideration. The grounds for reconsideration are limited to errors of procedure, errors of law or fact, errors of judgment, or the discovery of new evidence that was not known and could not in the exercise of reasonable diligence have been discovered. Reconsideration requests must contain the information specified in ECDC 20.06.010(D) and be accompanied by the required filing fee.

APPEALS

Pursuant to ECDC 17.50.090(A)(3) and ECDC 20.19.050, appeals may be taken from the hearing examiner's decision to the city council under the provisions of Chapter 20.07 ECDC. An appeal must be filed within 14 days after the issuance of the hearing body's written decision. The city council's decision on appeal shall be final. A request for reconsideration is not a condition precedent to an appeal. Judicial appeals must be filed within 21 days from the date of the city's final decision in a given matter pursuant to the procedures established in the Land Use Petition Act.

EFFECT OF REQUEST FOR RECONSIDERATION ON APPEAL DEADLINE

The timely filing of a request for reconsideration stays the Hearing Examiner's decision until such time that the Hearing Examiner issues a decision on reconsideration, and the appeal period commences on the date of issuance of the decision on reconsideration.

LAPSE OF APPROVAL

ECDC 20.05.020(C) states: "Time Limit. Unless the owner obtains a building permit, or if no building permit is required, substantially commences the use allowed within one year from the date of approval, the conditional use permit shall expire and be null and void, unless the owner files an application for an extension of the time before the expiration date."

NOTICE TO COUNTY ASSESSOR

The property owner may, as a result of the decision rendered by the Hearing Examiner, request a change in the valuation of the property by the Snohomish County Assessor's Office.

