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**BEFORE THE HEARING EXAMINER FOR THE CITY  
OF EDMONDS**

Phil Olbrechts, Hearing Examiner

<p>RE: Key Bank</p> <p>Conditional Use Permit and Design Review (PLN20110061 and PLN20110062)</p>	<p><b>FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL DECISION</b></p>
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**INTRODUCTION**

The Applicant proposes to replace an existing gas station with a new single-story bank building. The proposal requires both conditional use permit and design review approval. The conditional use permit and design review are approved.

**TESTIMONY**

**Staff Testimony**

Gina Coccia, Associate Planner, stated that this project is located in a neighborhood business zone (BN zone). She noted that properties in this type of zone that propose a drive-through (such as a bank with a teller window) require a conditional use permit. City staff reviewed ECDC 20.05.010 and had a public meeting with the Architecture Design Review Board in December to evaluate the design of the proposal. Ms. Coccia commented that staff made a recommendation to the Design Review Board, and the Board then made a recommendation to the Hearing Examiner. She noted that banks are permitted in the BN zone.

Ms. Coccia testified that the bank would be one story, thus it would meet the 25 foot height limit. The setbacks are 8 feet from the north property line and 5 feet from the west property line, which is a new change based on a recent city ordinance that allows the building to be oriented at an angle, according to Ms. Coccia. She stated that the criteria for conditional use permits can be found in ECDC 20.05.010. She noted that the first criterion is that the proposal must be consistent with the city's comprehensive plan. The bank will be pedestrian friendly and will keep lighting

1 abundant in the area. The second criterion is that the proposal must be consistent  
2 with the zoning ordinance, and, she noted, the proposal does meet all requirements  
3 for zoning. The third criterion is that the proposal must not be detrimental to public  
4 health, safety, welfare, and to nearby private property or improvements unless the  
5 use is a public necessity. In this case, Ms. Coccia testified, there are no views in the  
6 neighborhood, and the Edmonds Engineering Division found no significant issues  
7 with the proposal. She noted that both the parking and teller line will be behind the  
8 building so they will not be significant to people driving by the site. She added that  
9 site clean-up would be dealt with under SEPA review. Ms. Coccia explained that the  
10 applicant had commissioned a traffic analysis impact report which was reviewed by  
11 the Edmonds Engineering Division. The fourth criterion is in regard to  
12 transferability; the hearing examiner must decide if the CUP will run with the land or  
13 be personal to Key Bank. The applicant requested the CUP run with the land, and  
14 staff feels the permit should be transferrable to future banks. However, staff believes  
15 if the property was used for other forms of business, such as restaurants, the  
16 conditions would be different, according to Ms. Coccia. She testified that staff  
17 recommends the conditional use permit be approved and made transferrable to future  
18 banks.

11 Ms. Coccia stated that staff made four conditions of approval to the hearing  
12 examiner. She noted the first condition of approval is that the street tree species be  
13 reviewed and approved by the Parks Department for compliance with street tree  
14 planning during the building permit review process and be consistent with other tree  
15 species in the vicinity. This condition was reached during the Architecture Design  
16 Review Board review because the Board wanted to ensure a consistent look for the  
17 neighborhood. She stated the second condition of approval is that height calculations  
18 be required with the building permit application to ensure the 25 foot height limit.  
19 Ms. Coccia commented that the third condition of approval is that the building  
20 should have a stone band around its base with brick above in order to appear  
21 pedestrian friendly. Staff has worked with the applicant for the past six months in  
22 order to create a collaborative design for the building that meets Edmonds unique  
23 style, she said. Ms. Coccia testified that the final condition of approval is that the  
24 CUP be transferrable to future bank businesses, but shall be reviewed for other forms  
25 of business.

21 Upon questioning by the hearing examiner, Ms. Coccia stated that staff found there  
22 would be no queuing impacts because of the project, and no traffic would back up to  
23 Edmonds Way. She noted there was a traffic analysis report conducted dated July  
24 22, 2011 (exhibit 3). Ms. Coccia testified that the stone band around the base would  
25 make the bank look more quaint and less commercial. The applicant had no issue  
with using the stone band.

### **Applicant Testimony**

Joel Howitt, planner for Barghausen Consulting Engineers, stated that the applicant has objections to the conditions of approval set by city staff.

1 Mark Jacobs, traffic engineer, stated he was commissioned to complete a traffic  
2 analysis report for the project. The city of Edmonds criteria would not normally  
3 require a traffic study, but because the site is located on a corner in a major  
4 intersection, the report was requested. He noted that the existing site is used by a  
5 Shell gas station which generates more traffic than the proposed bank would create.  
6 In regard to queuing, Mr. Jacobs testified that he used a worst case scenario  
7 (assuming all customers would use queuing) and found the queues would be  
8 nominal. He noted that fewer people use physical banks because of online  
9 accessibility. The queuing study found that the 95<sup>th</sup> percentile queue would only be  
10 one vehicle. Upon questioning by the hearing examiner, he stated that the queuing  
11 would remain on site and not extend to the roadway.

### 7 **Public Testimony**

8 Troy McGuire, 14302 89<sup>th</sup> Ave SE, stated he is representing the Woos, the property  
9 owners of Chopsticks Restaurant, and the owner of the property behind the  
10 restaurant. He submitted a letter from an attorney about the easement on the Ivar's  
11 property (Exhibit 4). One of the proposed driveways to the bank site would go  
12 through the Ivar's easement to meet Edmonds Way based on the proposal. Thus,  
13 Mr. McGuire said, the people exiting the bank would go through the Ivar's property  
14 to reach Edmonds Way. He stated that the letter to Mr. Woo (exhibit 4) explains that  
15 the easement is owned by Ivar's. He added that this easement should not be used to  
16 accommodate traffic from the new bank. The planned traffic pattern would have  
17 customers go through the drive-through, east through the property, and then  
18 wraparound to the south-end of the property, according to Mr. McGuire. He noted  
19 that the traffic will be impacted more than is planned. Mr. McGuire said that the  
20 parking and traffic flow is bad in the whole area. He noted that, on the southwest  
21 corner property, there is an entrance to the Woo's restaurant, and there is a  
22 possibility for trading parking and entrances here. Mr. McGuire added that the south  
23 exit of Chopsticks is often blocked because of cars sticking out in the way, and  
24 customers are forced to circle around south of the lots.

19 Dave Stow stated he has lived on the hill behind the proposal site for 50 years. He  
20 testified that there is a prominent traffic issue because of the divided roads at the  
21 intersection. According to Mr. Stow, in order to enter Ivar's there is only a small  
22 turn-lane and you are unable to enter through the west off of Edmonds Way (you  
23 have to be coming from the West, not the East). He noted that the street dividers on  
24 100<sup>th</sup> Street prevent access to many businesses in the area, and many accidents occur  
25 because of people attempting to make illegal traffic maneuvers. Ferry and rush-hour  
traffic also increases the problems. He stated that the shared parking (a gym, Ivar's  
restaurant, and fast food) results in heavy traffic and difficulty for cars to pass one  
another. Mr. Stow concluded that the intersection only continues to increase in  
traffic problems, and more needs to be done to address the problem.

### **Staff Testimony**

1 Gina Coccia stated that Mr. McGuire's suggestion of a shared drive-through would  
2 eliminate a large portion of planned landscaping for that area. She testified that this  
3 meeting is focused on the drive-through teller lane. Upon questioning by the hearing  
4 examiner, she noted that she believes the proposed landscaping will help cut down  
5 on the amount of property-line cutting that is done by current traffic.

#### 4 **Applicant Testimony**

5 Joel Howitt stated that the access point to the drive-through is shared by the bank and  
6 Ivar's. The 20ft. access easement that Mr. McGuire referred to is in the center of the  
7 existing Ivar's parking lot, he said. He noted that the applicant's intent is to increase  
8 circulation between the two sites; they do not wish to promote greater amounts of  
9 traffic leaving Chopsticks. Exiting the drive-through facility, the vehicles will most  
10 likely be entering Edmonds Way, according to Mr. Howitt. He added that most  
11 traffic will be retained on site and won't be using the easement across Ivar's.

12 Mark Jacobs stated that he did a site circulation using national data points, as well as  
13 his own data collection. The national data from the early 2000s gave 71pm peak  
14 hour (about 1 car every minute) entering and exiting the site, and the bulk of the  
15 traffic will be on the main state route 104. He testified that the distribution indicates  
16 that 60 percent of the traffic would be exiting onto route 104 (east-west). He stated  
17 that traffic exiting North-south would be around 40 percent. There would be some  
18 site-adjacent traffic, but the number of traffic is nominal, according to Mr. Jacobs.  
19 He commented that east-west traffic would have to turn right out of the property  
20 because west is blocked by a median, but the traffic could then turn left at the next  
21 traffic signal. For traffic coming from the East, Mr. Jacobs said, vehicles would use  
22 the Ivar's entrance. Mr. Jacobs stated he did a safety analysis for the intersection and  
23 found that it was very safe.

#### 17 **Public Testimony**

18 Mr. McGuire stated that there is contaminated soil under the Chopsticks parking lot.  
19 He noted he has witnessed traffic not follow the pattern Mr. Jacobs described. He  
20 asked that the traffic issues at this intersection be addressed before moving forward  
21 with the project.

#### 21 **Applicant Testimony**

22 Joel Howitt noted that the applicant has conducted a traffic impact study and the city  
23 has reviewed it. He stated that the city has approved the project with the results of  
24 this study. Mr. Howitt added that any existing contamination will be cleaned prior to  
25 the construction of the project. Upon questioning by the hearing examiner, he noted  
that the shell station is still in operation.

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## EXHIBITS

Exhibits 1 and 2 identified at page 2 of the 1/17/12 staff report along with all attachments were admitted during the hearing. The following two exhibits were also admitted:

- Ex. 9: 2011 traffic report  
Ex. 10: 5/14/11 letter regarding Ivar's easement

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## FINDINGS OF FACT

**Procedural:**

1. Applicant. The Applicant is Key Bank.
2. Hearing. The Hearing Examiner conducted a hearing on the subject application on January 26, 2012 at 3:00 pm in the Council Chambers of the Edmonds Public Safety Complex.

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**Substantive:**

3. Site and Proposal Description. The Applicant proposes to replace an existing gas station with a new single-story branch building. The proposal requires both conditional use permit and design review approval. The bank building will be located at the corner of Edmonds Way and 100<sup>th</sup> Ave W. The bank building will include a drive thru lane located behind the building. The building will be angled to front both 100<sup>th</sup> Ave W and Edmonds Way. The building features a metal canopy over a paved pedestrian walkway leading to its angled main entrance. Fenestrations in the form of windows and doors are located around the perimeter of the building. Parapets are provided along the roof edges and are capped with a decorative cornice. Exterior materials and colors compliment the finishes in the Westgate Corridor. Exterior building finishes include two shades of brick, cultures stone base, pre-cast horizontal bandings, red fabric awnings, red metal canopy, fiberglass cornice, composite metal panels and aluminum storefront. Mechanical rooftop units are concealed from view by rooftop equipment screens. The roof top units are also located towards the center of the building, so there is reduced visibility from the street level. Architectural delineation includes varying tower projections, red fabric awnings above all windows, horizontal bandings around the perimeter of the building, and a lowered canopy over the drive-thru lanes. Windows providing views into the interior public areas of the bank are shown on the north, west and east facades. A condition of approval will require a stone band around the base of the building with brick above in order to appear pedestrian friendly.

As shown in the landscaping plan, Att. 4 to Ex. 1, the proposal will involve extensive landscaping both along the perimeter of the building and drive-thru lanes as well as the perimeter of the lot. The conditions of approval require that the trees used

1 for the landscaping be consistent with existing trees at the intersection of 100<sup>th</sup> Ave  
2 W and Edmonds Way.

3 4. Characteristics of the Area. The subject property is located in the  
4 Neighborhood Business (BN) zone. The neighborhood surrounding the site consists  
5 of commercial development along Edmonds Way in what is known as the Westgate  
6 neighborhood. An Ivar's restaurant is located on the lot adjoining the subject  
7 property to the east and a Chopsticks restaurant is located on a lot adjoining the  
8 subject lot to the south. An easement on the Ivar's lot, located on west side of the  
9 Ivar's lot running south to north, provides access to Edmonds Way for the subject lot  
10 and the Chopsticks lot. Shopping centers to the west (Bartell's, Starbucks, Safeway),  
north, and east, grocery stores to the north and northwest (PCC and QFC) along with  
numerous neighborhood commercial businesses. A single family residential  
neighborhood (RS-8) surrounds the BN zone. According to the staff report, there are  
many bank buildings planned or in the process of being constructed in the immediate  
vicinity, many of which will have drive-thru teller lanes.

11 5. Adverse Impacts of Proposed Use. There are no significant adverse  
12 impacts created by the project except for some potential private property circulation  
issues, which will be addressed through conditions of approval as discussed below.

13 The design of the bank building and associated landscaping is excellent overall as  
14 evidenced in the detailed elevations and the fact that the Architectural Design Board  
was left with few suggestions for improvement. The project is aesthetically pleasing  
and compatible with surrounding uses and it is also pedestrian friendly. The project  
15 traffic engineer has adequately demonstrated that the drive-thru won't create any  
16 queuing backup into the 100<sup>th</sup> Ave W/Edmonds Way intersection, which would  
otherwise be a major concern.

17 A primary issue of concern to the owner of the Chopsticks property owner and a  
18 nearby residential property owner is conflicts in traffic movements and congestion  
created by the use of an easement that traverses the Ivar's property. It is not entirely  
clear from the record why Key Bank traffic would need to use the Ivar's easement.  
19 The parties did not identify how far east the median on Edmonds Way extends past  
the intersection with 100<sup>th</sup> Ave W nor did they provide any circulation plans that  
20 clearly identifies why motorists would elect to access the Ivar's easement. The best  
21 that can be inferred from the testimony is that the median on Edmonds Way stops  
short of the Ivar's easement and as a result traffic from the east on Edmonds Way can  
22 turn left into the Ivar's easement and that traffic exiting from the easement can turn  
left to travel west. If this is correct, this would certainly be attractive to motorists  
23 from the Key Bank property, since the Bank's only driveway to Edmonds Way is  
right turn only for both egress and ingress.

24 The potential utility of the Ivar's easement to Key Bank customers and the  
25 testimony of Mr. McGuire and David Snow establish a reasonable possibility that  
there may be problems associated with the use of the Ivar's easement. The  
Applicant's traffic engineer, Mark Jacobs, testified that he had looked at the issue and  
that apparently traffic would be minor and that he had concluded that the intersection

1 would be safe. It does not appear that the traffic study prepared by Mr. Jacobs, Ex. 3,  
2 assessed the adequacy of the Ivar's easement to handle the traffic generated by the  
3 project and it is not immediately apparent whether the report assessed the impacts of  
4 the left turns (if they are possible) to and from the access easement in its intersection  
5 with Edmonds Way. The conditions of approval will require staff to determine  
6 whether further analysis and mitigation is necessary to address these issues.

7 Mr. McGuire and Mr. Snow also testified about existing traffic problems  
8 associated with traffic at the Edmonds Way/100<sup>th</sup> Ave W intersection, citing accident,  
9 turning conflicts and circulation problems associated with medians located upon both  
10 roads. The traffic report prepared by the Applicant, Ex. 3, shows that the traffic  
11 generated by the project will not lower the existing level of service below its current  
12 LOS D. Further, the traffic generated by the project will not increase traffic in any  
13 material amount, increasing 2016 intersection capacity utilization from 79.0% to  
14 79.6%. This marginal increase in traffic could not be legally used to justify any  
15 feasible mitigation beyond that already recovered through collection of traffic impact  
16 fees.

## 17 CONCLUSIONS OF LAW

### 18 **Procedural:**

19 1. Authority of Hearing Examiner. ECDC 20.01.003 provides that the  
20 Hearing Examiner will hold a hearing and issue a final decision on conditional use  
21 permit applications. Design review is consolidated before the Examiner for a hearing  
22 and final decision as required by ECDC 20.01.002(B). ECDC 20.11.010(A)  
23 mandates a public hearing for this application because it was not exempt from a  
24 threshold determination as required by the State Environmental Policy Act.

### 25 **Substantive:**

1 2. Zoning Designations. The subject property is designated as Neighborhood  
2 Business (BN).

3 3. Permit Review Criteria. ECDC 16.45.010(C)(2) requires a conditional use  
4 permit for drive in businesses in the BN zone. ECDC 20.10.010(C) requires general  
5 design review for the project. The criteria for a conditional use permit are  
6 governed by ECDC 20.050.010. The criteria for general design review are set by  
7 ECDC 20.11.020 and 20.11.030. All applicable criteria are quoted below and applied  
8 through corresponding conclusions of law.

9 **ECDC 20.050.010:** *No conditional use permit may be approved unless all of the*  
10 *findings in this section can be made.*

11 *A. That the proposal is consistent with the comprehensive plan.*

### 12 **ECDC 20.11.020 Findings.**

1       The board shall make the following findings before approving the proposed  
development:

2       A. *Criteria and Comprehensive Plan.* The proposal is consistent with the criteria  
3 listed in ECDC 20.11.030 in accordance with the techniques and objectives contained  
4 in the urban design chapter of the community culture and urban design element of the  
5 comprehensive plan. The city has the obligation to provide specific direction and  
6 guidance to applicants. The urban design chapter has been adopted to fulfill the city's  
7 obligations under Washington State case law. The urban design chapter shall be used  
to determine if an application meets the general criteria set forth in this chapter. In  
the event of ambiguity or conflict, the specific provisions of the urban design chapter  
shall control.

8       4.       The staff report analysis of the comprehensive plan, located at Section  
9 II(G) of Ex. 1, is adopted and incorporated by this reference as if set forth in full. In  
10 addition it is noted that Policy C(1)(a) of the Urban Design Element encourages the  
reduction of driveways and that the proposal furthers this policy by reducing the  
11 number of driveways from the current use from four to two.

12       **ECDC 20.05.010(B):** *Zoning Ordinance.* That the proposed use, and its location, is  
13 consistent with the purposes of the zoning ordinance and the purposes of the zone  
14 district in which the use is to be located, and that the proposed use will meet all  
applicable requirements of the zoning ordinance.

15       **ECDC 20.11.020(B):** *Zoning Ordinance.* The proposal meets the bulk and use  
16 requirements of the zoning ordinance, or a variance or modification has been  
17 approved under the terms of this code for any duration. The finding of the staff that a  
proposal meets the bulk and use requirements of the zoning ordinance shall be given  
18 substantial deference and may be overcome only by clear and convincing evidence.

19       5.       The staff report analysis of Zoning Ordinance compliance, located at  
20 Section XI(B) of Ex. 2, is adopted and incorporated by this reference as if set forth in  
full.

21       **ECDC 20.05.010(C):** *Not Detrimental.* That the use, as approved or conditionally  
22 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.

23       6.       As discussed in Finding of Fact No. 5, there are no significant adverse  
24 impacts associated with the project except for potential problems with the use of the  
Ivar's easement. The project will be conditioned to address this issue. With this  
25 condition, there are no adverse impacts associated with the proposal so it will not be  
significantly detrimental to the public health, safety and welfare and to nearby private  
property or improvements.

1 **ECDC 20.05.010(D):** *Transferability. The hearing examiner shall determine whether*  
2 *the conditional use permit shall run with the land or shall be personal. If it runs with*  
3 *the land and the hearing examiner finds it in the public interest, the hearing examiner*  
4 *may require that it be recorded in the form of a covenant with the Snohomish County*  
5 *auditor. The hearing examiner may also determine whether the conditional use permit*  
6 *may or may not be used by a subsequent user of the same property.*

7 7. The conditional use permit shall run with the land, but has to maintain the  
8 proposed design and use. In the event of a transfer in user, the Key Bank logo may be  
9 replaced with a similarly sized logo for another bank, but beyond this no changes to  
10 the design would be allowed.

11 **ECDC 20.11.030(A):** *Building Design. No one architectural style is required. The*  
12 *building shall be designed to comply with the purposes of this chapter and to avoid*  
13 *conflict with the existing and planned character of the nearby area. All elements of*  
14 *building design shall form an integrated development, harmonious in scale, line and*  
15 *mass. The following are included as elements of building design:*

16 1. *All exterior building components, including windows, doors, eaves, and parapets;*

17 8. The building features a metal canopy over a paved pedestrian walkway leading to  
18 its angled main entrance. Fenestrations in the form of windows and doors are located  
19 around the perimeter of the building. Parapets are provided along the roof edges and  
20 are capped with a decorative cornice.

21 **ECDC 20.11.030(A)(2):** *Colors, which should avoid excessive brilliance or*  
22 *brightness except where that would enhance the character of the area;*

23 9. Exterior materials and colors compliment the finishes in the Westgate Corridor.  
24 Exterior building finishes include two shades of brick, a base stone band, pre-cast  
25 horizontal bandings, red fabric awnings, red metal canopy, fiberglass cornice,  
composite metal panels and aluminum storefront.

**ECDC 20.11.030(A)(3):** *Mechanical equipment or other utility hardware on the roof,*  
*grounds or buildings should be screened from view from the street level;*

10. Mechanical rooftop units are concealed from view by rooftop equipment  
screening. The roof top units are also located towards the center of the building, so  
there is reduced visibility from the street level.

**ECDC 20.11.030(A)(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*

1 *found to be long, massive, unbroken or monotonous.*

2 11. Architectural delineation includes varying tower projections, red fabric awnings  
3 above all windows, horizontal bandings around the perimeter of the building, and a  
4 lowered canopy over the drive-thru lanes. Windows providing views into the interior  
5 public areas of the bank are shown on the north, west and east facades. A condition of  
6 approval will require a stone band around the base of the building with brick above in  
7 order to appear pedestrian friendly.

8 **ECDC 20.11.030(B):** *Site Treatment. The existing character of the site and the nearby*  
9 *area should be the starting point for the design of the building and all site treatment.*  
10 *The following are elements of site treatment:*

11 *1. Grading, vegetation removal and other changes to the site shall be minimized*  
12 *where natural beauty exists. Large cut and fill and impervious surfaces should be*  
13 *avoided.*

14 12. The site has already been developed and used for a gas station with only a small  
15 amount of landscaping. Beyond the rudimentary landscaping the site is completely  
16 impervious, flat and probably contains no “natural beauty” as contemplated in the  
17 criterion quoted above. According to the environmental checklist, less than 500 cubic  
18 yards of total earthwork will be required for the building replacement. The criterion is  
19 satisfied.

20 **ECDC 20.11.030(B)(2):** *Landscape treatment shall be provided to enhance the*  
21 *building design and other site improvements.*

22 13. Staff and the Architectural Design Board (“ADB”) have determined that the  
23 proposed landscaping complies with the City’s landscaping requirements. The ADB  
24 has recommended a condition, which will be adopted, requiring the proposed trees to  
25 be similar to those in the surrounding area.

**ECDC 20.11.030(B)(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.*

14. The perimeters of both the building and the lot are almost completely landscaped  
except for entrances and driveways. The project is buffered by landscaping from all  
surrounding uses.

**ECDC 20.11.030(B)(4):** *Landscaping that could be damaged by pedestrians or*  
*vehicles should be protected by curbing or similar devices.*

15. Concrete curbs are provided between landscaped areas and parking/driveways and  
pedestrian circulation.

1 **ECDC 20.11.030(B)(5):** *Service yards, and other areas where trash or litter may*  
2 *accumulate, shall be screened with planting or fences or walls which are compatible*  
3 *with natural materials.*

4 16. The proposed trash enclosure is screened with exterior finishes that match the  
5 main building.

6 **ECDC 20.11.030(B)(6):** *All screening should be effective in the winter as well as the*  
7 *summer.*

8 17. Fabric awnings adorn all windows and a large metal canopy is proposed over the  
9 main entrance to the building. Landscaping located at the perimeter of the lot shall be  
10 conditioned to be composed of vegetation that provides screening year round.

11 **ECDC 20.11.030(B)(7):** *Materials such as wood, brick, stone and gravel (as opposed*  
12 *to asphalt or concrete) may be substituted for planting in areas unsuitable for plant*  
13 *growth.*

14 18. As previously discussed, the project is fully landscaped along all perimeters and  
15 as required by City code.

16 **ECDC 20.11.030(B)(8):** *Exterior lighting shall be the minimum necessary for safety*  
17 *and security. Excessive brightness shall be avoided. All lighting shall be low-rise and*  
18 *directed downward onto the site. Lighting standards and patterns shall be compatible*  
19 *with the overall design theme.*

20 19. The staff report to the ADB states that the application provides for several options  
21 on lighting and that further clarification is needed. The minutes of the ADB meeting  
22 on the application and the other documents and testimony in the record do not identify  
23 whether this clarification was ever provided. The conditions of approval shall require  
24 the applicant to provide to staff a specific lighting plan that complies with the criterion  
25 above.

**DECISION**

21 The conditional use permit and general design review are approved subject to the  
22 following conditions:

- 23 1. The street tree species shall be reviewed and approved by the Parks Department  
24 for compliance with the street tree plan during the building permit review process and  
25 be consistent with the vegetation at the intersection of Edmonds Way and 100<sup>th</sup>  
Avenue West. Trees and other vegetation proposed for the perimeter of the subject  
lot shall provide for year-round screening as required by ECDC 20.11.030(B)(6).



**DECLARATION OF MAILING**  
Conditional Use and Design Review  
PLN20110061 and 20110062

I, Phil Olbrechts, make the following declaration:

1. I am a resident of the State of Washington, over the age of 18 years, not a party to this action, and competent to be a witness herein.

2. On the 9th day of February, 2012, I mailed, via First Class U.S. Mail, a true and correct copy of the FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL DECISION on the above captioned matter to the following:

1. **Joel Howitt**  
**Barghausen Consulting Engineers, Inc.**  
18215 72<sup>nd</sup> Avenue South  
Kent WA 98032
2. **Mark Phillips**  
**Key Bank**  
3300 E 1<sup>st</sup> Avenue  
Denver CO 80205
3. **Harry & Rosalie Yourist**  
935 N 175<sup>th</sup>  
Shoreline WA 98133
4. **Vina Anderson**  
**Callison Architects**  
1420 5<sup>th</sup> Avenue #2400  
Seattle WA 98101-2343
5. **Buff Nelson**  
**Nelson Real Estate Management**  
16508 N 79<sup>th</sup> Street  
Redmond WA 98052
6. **David Snow**  
230303 99<sup>th</sup> Ave W  
Edmonds, WA 98020
7. **Diane Cunningham**  
121 5<sup>th</sup> Ave N  
Edmonds, WA 98020
8. **Troy McGuire**  
14302 89<sup>th</sup> Ave SE  
Snohomish, WA 98296

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9. **Mark Jacobs**  
2614 39<sup>th</sup> Ave SW  
Seattle, WA 98116

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

EXECUTED at Granite Falls, Washington, this 9th day of February, 2012.



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Phil Olbrechts