



CITY OF EDMONDS

121 5th AVENUE NORTH • EDMONDS, WA 98020 • (425) 771-0220 • fax (425) 771-0221
www.edmondswa.gov

HEARING EXAMINER

DAVE EARLING
MAYOR

BEFORE THE HEARING EXAMINER FOR THE CITY OF EDMONDS

Phil Olbrechts, Hearing Examiner

Walgreens Conditional Use Permit, Short Subdivision and Design Review (PLN20110076, PLN20110077 and PLN20110078)	FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL DECISION
--	--

INTRODUCTION

The Applicant proposes to replace an existing bowling alley with a Walgreens pharmacy and a drive-through bank. The Applicant also proposes to subdivide the project site into two lots. In order to construct the project, the Applicant has applied for a conditional use permit, short plat approval and major design review approval. All three applications are approved subject to conditions.

This project has generated substantial public opposition. The opposition is based almost entirely on the desire to retain the existing bowling alley. The bowling alley is the only bowling alley in the City of Edmonds and it has provided needed recreational services to all age groups of the Edmonds community for decades. Community concern over the loss of this valuable community asset is certainly understandable. However, the due process and takings clauses of the state and federal constitutions strictly prohibit the City from denying the permit applications in order to preserve the bowling alley. The City is constitutionally barred from compelling the Applicant to bear the burden of providing the Edmonds community with a bowling alley.

It is likely that most opponents already understand that the permitting process cannot be used to preserve the bowling alley. In fact, most of those opponents would

1 probably be uncomfortable with a land use decision making process that enabled City
2 officials to compel private property owners to operate a business on their property
3 whether they wanted to or not; or enabled those City officials to deny land use permit
4 applications on the feeling that a business isn't necessary or couldn't be competitive
5 in the current market. It is recognized that the public hearing for the permit
6 applications of the subject applications served as a forum for project opponents to
7 voice their concerns over the loss of the bowling alley. To the credit of the Applicant,
8 he did not object to the relevancy of these comments, thus enabling all hearing
9 participants to fully express themselves. The comments of the public are summarized
10 in the testimony section below and have also been recorded by the City.

7 TESTIMONY

8 Staff Testimony

9 Kernen Lien, associate Edmonds planner, stated that he would like to submit the
10 traffic analysis report and several more comment letters to the record. The Applicant
11 is proposing to subdivide the subject property into two lots in order to construct a
12 14,490 sq. ft. Walgreens and a 3,300 sq. ft. bank. The proposal includes a single drive-
13 through lane for Walgreens and three drive-through lanes for the bank. The site
14 work will include installation of approximately 19 parking spaces on the newly
15 subdivided property, landscaping, and pedestrian access ways. The proposal will also
16 require work on the adjacent parcel to the west including removing approximately 31
17 parking spaces, installing rain gardens, and providing cross property access linking
18 the proposed project with the existing PCC Market. Additionally, frontage
19 improvements across both parcels will include installing new sidewalks and
20 landscaping including planting of street trees.

21 Mr. Lien noted that there are three permits associated with proposal: a conditional
22 use permit, a major design review, and a short plat. All three permits are
23 consolidated under ECC2001003. The road around the site will be improved, and
24 some parking stalls will be removed to ease access to the property. A 20 ft. retaining
25 wall will be extended for the slope area. Sidewalks will be built throughout the site
to provide connections between the bank, PCC Market, and Walgreens. There are
four types of landscaping associated with the development. Type 1 landscaping is
required along the northern property boundary on top of the hill because of
residential areas. Type 2 landscaping is required on the side to separate between
similar type uses. Type 3 landscaping is required along one side. Type 5 landscaping
is interior landscaping within the parking lot areas. Most of the proposed
landscaping is consistent with the requirements spelt out in the code. The
landscaping plans do divert from code, particularly along the side of the site. Type 2
landscaping requires 10-20 feet on-center with no more than 30 percent deciduous
trees. The current proposal has the trees planted 30 ft. on-center with all the trees
being deciduous. Additionally, under code, type 3 landscaping requires 30 ft. on-
center with 50 percent deciduous trees. However, the current plan has the trees

1 planted at 40 ft. on-center with all being deciduous. The ADB has reviewed the
landscaping and approved the changes.

2 Mr. Lien commented that the bank is proposing 8 ft. setbacks from the Edmonds
3 Way right-of-way. Edmonds passed an ordinance that reduced the setbacks from 20
4 ft. to 8ft along Edmonds Way, but the ordinance expires July 15, 2012. In order to
5 vest to these setbacks, the bank must have a complete building permit application by
6 July 14. There are three parcels that make up the corner where the site is located.
7 All three would require 183 parking spaces. After the development, there will be
8 240 parking stalls. There are several parking agreements between the current
9 businesses on the sites. The most recent agreement was recorded in 2011 and
10 allowed the EEC site (the western most parcel) to have shared parking with the
11 middle parcel (3300) in order to meet the code requirement. The bowling alley has
12 access to 66 parking spaces on the middle lot, but access to those 66 parking spaces
13 ends April 20, 2013. The Wuscher Family Limited Partnership also has access to 66
14 parking lots on the shared space (with no time limit). Staff recommends a condition
of approval requiring an updated parking agreement to ensure the new development
has sufficient parking spaces. Additionally, new sidewalks along Edmonds Way
would be built. These sidewalks would be wider than the current walkways. A 4 ft.
wide planter strip would be crafted between the sidewalk and Edmonds Way with
planter trees. In regard to stormwater, sites that are one-acre or more are required to
use low-impact development techniques. Low-impact development techniques
proposed include new rain gardens and possibly impervious pavement.

15 According to Mr. Lien, the buildings were reviewed by the Architectural Design
16 Board on April 18 and June 6. The buildings will be largely composed of brick. The
17 mass will be broken up by plantings, variations in height, trellises, and large number
18 of windows. Landscaping will be included around the drive-throughs. There will
19 also be landscaping along the retaining walls. There are two landscape plans in the
20 staff report (attachments 16 and 17). The bank moved the entryway to allow more
21 landscape on the corner (a minor change from the first plan). There have been several
22 comment letters received in regard to the proposal. One packet of comment letters
23 included a petition. He noted that people who signed the petition are not
24 automatically parties of record. ECC 20.75.080 lays out criteria for approval for the
25 subdivision including that the proposal be consistent with the subdivision ordinance,
consistent with the comprehensive plan, consistent with the zoning ordinance, and
meets all requirements of the flood plain management. The site is not in the flood
plain. ECC 20.75.085 contains the subdivision review criteria. The criteria include
environmental and street-layout requirements. Improvements for the site are listed
in attachment 22 of the staff report. A detailed analysis of the general findings of the
review criteria is included in the staff report in attachment 12. Staff recommends
approval because the proposal is consistent with 20.75.090 and 20.75.085.

In regard to the conditional use, Mr. Lien testified that no conditional use permit may
be approved unless the proposed use is consistent with the comprehensive plan, is
consistent with the zoning ordinance, and the use is not-significantly detrimental to

1 public health, safety, and welfare. The applicants have requested that the conditional
2 use permit be transferrable for the life of the building. Staff feels the proposal has
3 met the conditions for approval of the permit.

4 Within the building code, ECC 19.00.030 gives "optional vesting" from the
5 Architectural Design Review and explains what an applicant must do to vest at the
6 design review phase, according to Mr. Lien. As part of the vesting requirements, the
7 applicant is required to file a building permit. The applicant has now filed a building
8 permit, and it is under review. The conditional use permit is valid for a year if not
9 acted upon.

10 **Applicant Testimony**

11 Jack McCullough, 701 5th Avenue Seattle, stated the applicant has five witnesses
12 who will be testifying. He noted that Tom Rocco from Seven Hills Properties will
13 be testifying on the goals of the project. The architect for the project will also be
14 testifying. A traffic engineer, Jennifer Barnes, will be testifying, along with a civil
15 engineer, Craig Harris, and a soil engineer. The city issued a determination of non-
16 significance under the SEPA review on May 23, 2012. The appeal period for this
17 review expired on June 13 so that finding is binding.

18 Tom Rocco, 88 3rd St San Francisco, testified that he has been a real estate developer
19 in the western United States for the past 25 years. He has worked on the applicant
20 property for approximately 2 years. The project was proposed to fit with all of
21 Edmond's requirements. No safety or traffic concerns are expected.

22 William Ruecker, Baysinger Partners Architecture, noted that he has designed
23 shopping centers for the past 20 years. The subject site is a redevelopment of an
24 urban site that is fully developed right-now. The current development has no
25 stormwater treatment and lacks low-impact development features. The proposal
redevelops the site to meet all of the current standards. The rear passage along the
back of the site is designed to be an alternate east-west passage if there is
redevelopment of the joining Wells Fargo site. This provides an alternative to east-
west traffic on Edmonds Way. The 8ft. setback puts the buildings closer to the street
to create a more urban environment. The frontage will be completely redone to
include rain gardens, planting strips, and wider sidewalks. The transit network will
allow access to the entire site and provide a safe parking environment. Many
retailers have typical designs they use consistently; however, Walgreens is
attempting to diversify its building designs. The building is designed to be energy
efficient and sustainable. The building is structurally well built and should survive
many years. The bank is a similar type of construction to the Walgreens. The bank
has many windows and is aesthetically-pleasing. The Architecture Design Board
gave unanimous approval on the design. The project will provide safe pedestrian
access, and the buildings are scaled for pedestrians. Awnings will provide rain
protection. Both uses of the buildings are consistent with the city's BN zone. The
existing parcel already fronted the arterial screen on Edmonds Way. The proposal

1 will cut the parcel into two. This proposal is consistent with the standards of the
2 short plat and subdivision process. There is a low-impact design for the stormwater
3 treatment. Currently, the bowling alley is on a parking field with no landscaping, and
4 the parking lot bleeds into the sidewalk with no definition. The proposal will add
landscaping with deciduous trees that will allow more visibility into the site. The
features of the bank were increased in height to better screen the mechanical
equipment on the roof. Additionally, the entryways were placed to face the street.

5 Jennifer Barnes, transportation engineer with Heffron Transportation, testified that
6 she is a licensed civil engineer in Washington and has 20 years experience with
7 traffic engineering. She has conducted traffic impact analysis for both the private
8 and public sector. The traffic impact analysis report conducted by her is included in
9 the staff report. Edmonds guidelines reflect best practice for transportation analysis.
10 The traffic impact analysis was coordinated with Public Works staff to ensure it met
11 all city requirements. The analysis years included the expected year of project
12 completion and five years past that date (2014-2019). All of the analysis was based
13 on the peak traffic congestion hours. The traffic operational analysis showed that,
14 while the project is expected to add some vehicle trips to the roadway network, the
15 resulting additional delay at nearby intersections would be small enough that their
16 overall level of service would not change. The intersections are expected to operate
17 within city standards, with or without the project. No adverse traffic impacts were
18 identified by the report. A detailed queuing analysis was also completed for the
drive-through windows. The analysis showed that the maximum queue for the bank
drive-through would be entirely contained within the bank driveway. The analysis
for the Walgreens drive-through showed that the queue would be entirely contained
in the lane most of the time, but, at the busiest time-of-day, there would be a 15
percent chance that the queue could extend past the lane. However, this extension
would not extend to the adjacent streets. The impact analysis without the project
included the traffic from the bowling alley. The bank queuing used old data and did
not take into account that fewer people are using bank drive-through, resulting in a
more conservative estimate.

19 Craig Harris, civil engineer with AAI Engineering, testified that he is a licensed civil
20 engineer in the state of Washington and has been practicing for 15 years. Most of his
21 experience is with retail developments. On the existing site, stormwater is collected
22 into catch-basins and delivered to the public system in the street. The new proposal
23 divides the site, with one area being the parking field with three rain-garden
24 locations. In these rain-garden locations, the Washington stormwater requirements
25 are met. They have been designed to infiltrate up to a 100-year storm. The rest of
the site's water will be collected and put into under-ground chambers. The water
will be released into the public system at the rate dictated by Edmonds. Some
erosion has occurred due to the current drainage system on the site. None of the
existing site is designed to be infiltrated.

Rob Ward, soil engineer with Geotech Consultants, stated he has been practicing
geotechnical civil engineering for 25 years in the Bellevue area. Currently, there is a

1 40-50 ft. tall bank with an existing 20 ft. retaining wall. The slope is 80-90 percent
2 and was excavated when the bowling alley was built. There are no signs of
3 instability at this point. He noted the presence of dense, native sand from previous
4 excavation. A new section of wall will be built and connected to the existing wall.
5 The new 20-30 ft. wall will be designed to all the new standards, including
6 earthquake protection. The wall is designed to provide greater safety than the
7 current situation. There is a culvert dumping water into a section of the slope
8 causing an erosion problem (destabilizing the hillside). The new design would flow
9 the water away from this section of the slope, increasing the stability. Top-down
10 wall building techniques will be used in the creation of the wall. No slope
11 disturbances due to construction are expected.

7 **Public Testimony**

8 David Dailey noted that various petitions have been submitted with people signing
9 from various locations (not just Edmonds). He is a league bowler at Robin Hood
10 Lanes. Robin Hood Lanes is a recreational facility within Edmonds. The bowling
11 alley is open 107 hours a week; no city recreation center is open as long, according
12 to him. Robin Hood allows around 100 people to compete at a time, while a softball
13 field allows around 34 participants per game. The alley draws 100 or more bowlers
14 throughout the week. The alleys draws people into Edmonds from neighboring
15 cities, and these people spend money at other Edmonds businesses. If Robin Hood
16 Lanes leaves, many bowlers will no longer spend money in Edmonds. Since the
17 bowling alley is a private business, Edmonds' citizens do not have to pay tax dollars
18 to operate the facility. He hopes the application will be rejected.

15 Teri Terrano testified that she is an Edmonds resident. She is a member of a
16 women's bowling league at Robin Hood Lanes. She believes the city needs to
17 address the risks involved with the building proposal. She is concerned about the
18 slope behind the building lots. The slope is close to 90 percent. A buffer of 50 ft. is
19 normally required, but an exception to 10 ft. is required to build what is proposed in
20 the application. She fears that the person responsible with constructing on the slope
21 will not take proper safety measures. In her experience working with insurance
22 claims, she has seen the devastation caused by accidents. On the corner of 9th St, a
23 retaining wall was built incorrectly several years ago. This mistake caused a lot of
24 extra work and safety hazards. Altering an 80-90 percent slope is very risky. There
25 are residential homes sitting on top of the slope that could be put into danger. The
Geotech report states that predicting the future of steep slopes is an inexact science.
Insurance will not cover the homeowners above if a landslide occur.

23 Mark Wuscher commented that his family has owned the land in question for more
24 than 80 years. On behalf of the Wuscher family, he said they have a great respect of
25 the passion of the people for the bowling alley. In 1960, his grandparents leased the
land for 99 years, and the bowling alley was built. The rent stayed the same for the
first 50 years. In 2010, the rent for the bowling alley was adjusted to market value.
Leading up to 2010, the monthly rent was approximately 2,000 dollars, but increased

1 greatly. His family is the beneficiary of the real estate development. After being
2 unable to reestablish a contract with the bowling alley (despite negotiating for
3 several years), his family began looking at other interested parties. Seven Hills
4 Properties approached the Wuscher family with a mutually agreeable business
5 proposition. The design, interior layout, traffic layout, and civil engineering of the
6 new development meet city standards. He asked that the hearing examiner move the
7 proposal forward.

8 Bill Payne said that he is an Edmonds resident. In the tough economic conditions,
9 taxpayers should not turn away new and growing businesses. The Wuscher family
10 attempted to work with the bowling alley, but negotiations did not work out. The
11 new proposal is an allowed use and all city requirements have been met. There is
12 precedent for this type of development within the ECC. This development will
13 increase the city's tax space.

14 Anne-Lise Deering stated that she does not see how the new development will be an
15 asset to the community. She does not think the market is big enough for more drug
16 stores or banks in the community. She believes the bowling alley is an enhancement
17 to the community. Additionally, she noted that other Walgreens being built in the
18 community do not have any landscaping.

19 Bruce Philipp commented that he works for Walgreens and is the district manager
20 for the northern part of the Puget Sound. The new store is designed to be visually
21 appealing and will have easier access with more open aisles. The whole shopping
22 experience will be more comfortable. Walgreens is also working towards creating
23 more sustainable stores, and this new building is a great example. The new
24 "Wellness Model" is hoping to make Walgreens into more of a healthcare provider
25 than just a typical pharmacy. This new building will not be a typical Edmonds
26 drugstore.

27 Bob Shilborg testified that, in his experience as district attorney for Snohomish
28 County, he has seen many building projects and civil work done within the County.
29 He believes that Walgreens should try its new business models in its current stores
30 and does not need to build new ones. The bowling alley is a wonderful recreational
31 program for Edmonds and provides entertainment for all ages. He compared the
32 Walgreens business model to Wal-Mart. He feels the bowling alley owners should
33 be given a chance to bring the building and parking lot up to city standards.

34 Alvin Rutledge stated that he was one of the original bowlers in the 1960s. He noted
35 that city staff and Walgreens representatives met in 2010. After that meeting, there
36 was a code change regarding setbacks. He wants records of who attended the
37 meetings and if the meetings were the cause of the code change. Furthermore, he
38 said that the development should wait for the City Council to pass a code change
39 allowing taller structures so that apartments or other facilities could be built on top of
40 the bank and store. He believes the bank building should be a separate issue from
41 the building of the Walgreens.

1 Jared Ream asked why these two businesses are being built in Edmonds. He noted
2 that there is no place for these new businesses in the Edmonds market. The bowling
3 alley provides much needed entertainment to the citizens. Small businesses help
4 create the special atmosphere of Edmonds. He does not believe the Walgreens will
5 provide the new type of healthcare that the business model suggests.

6 Patrick Lawler stated that he works in Edmonds and bowls at Robin Hood Lanes.
7 He believes tearing down the bowling alley building is the opposite of sustainability.
8 He wishes the current owners of the property would allow the bowling alley owners
9 to purchase the property.

10 Ron Wamblet said he is a resident of Edmonds and spent most of his career in sales
11 and marketing. He does not understand why Walgreens is building a new store in
12 Edmonds where there is no market for it. He thinks Walgreen is attempting to
13 infiltrate Bartell's market in order to keep Bartell's from expanding. He does not
14 bowl but believes there is more of a need for a bowling alley than a drugstore.

15 Troy Pascoe testified that he has worked at Robin Hood Lanes for 30 years. He said
16 that the Wuscher family did not want to sell the property at fair market value. The
17 lease was assessed for 11,000 dollars a month and the bowling alley owners agreed
18 to pay that amount. However, the Wuscher family asked for 20,000 dollars a month.
19 The bowling alley owners offered to match the Walgreens offer, but the Wuscher
20 family said they could not afford it.

21 Harry Shelton commented that he has lived in Edmonds since 1960 and bowls at
22 Robin Hood Lanes. He believes that the ferry traffic will keep people from exiting
23 the parking lot of the new Walgreens. The ferry traffic backs up past 100th St. at
24 times. He noted that the bowling alley gives scholarships to Edmonds students and
25 gives free bowling hours to many children. Walgreens cannot match the community
value of the bowling alley.

Patty Young stated that the bowling alley allows her club to hold a telethon at the
space. Her club has raised over 3,000 dollars from the bowling alley. Kids also
bowl free during the summer. She noted that there are very few options to entertain
kids for free in the area.

Lisa Meyer noted that the "kids bowl for free" opportunity is really unique to Robin
Hood Lanes. The community of Edmonds won't do business with Walgreens
because of this dispute.

Ken Mooney said that Robin Hood Lanes offers an opportunity for kids to learn how
to bowl and compete in leagues. There is no value in another drugstore in the
community.

1 Dallas Jacobs testified that he has worked as a development engineer for 35 years.
2 The public good should be upheld over profit. The Wuscher should have
3 opportunity for public gain, but they should respect civil development and the unique
4 community of Edmonds.

5 Wayne Purser stated that he is a realtor in Edmonds. He understands that the city
6 cannot stop the Wuscher family from choosing to work with Walgreens. However,
7 he asks that the family consider the opportunity that Robin Hood Lanes provides for
8 kids. The bowling alley has a league for children and gives scholarships to local
9 students. The quality of life in Edmonds will be down-graded by the loss of the
10 bowling alley.

11 Louis Minecker commented that over the past 50 years he has bowled at many
12 alleys. Most of these alleys have been shut down over the years. Robin Hood Lanes
13 is one of the few alleys in the area that still does league bowling. There are very few
14 options for bowlers in the area if the alley is shut down. Many memories will be lost
15 if Robin Hood Lanes is torn down. He believes many people will quit bowling if the
16 alley is shut down.

17 **Staff Rebuttal**

18 Kernen Lien, associate planner, testified that within the critical area regulations there
19 are specific criteria for geotechnical special study reports when there are landslide
20 hazard areas. Proposals cannot increase hazard areas beyond pre-development
21 conditions and other critical areas cannot be adversely impacted under ECC.
22 Additionally, 23.80.072 states that the development cannot increase surface water
23 discharge beyond pre-development conditions. The Geotech report (attachment 45)
24 is consistent with the city requirements. The specific findings necessary under the
25 code are made on pages 4 and 5 of the report. The Geotech report was prepared by
the applicant. Staff did no third-party review of the report. Third-party reviews tend
to be utilized when several reports submitted have different findings.

26 **Applicant Rebuttal**

Jennifer Barnes, transportation engineer with Heffron Transportation, stated that the
procedures used to create the traffic impact analysis report were based on Edmonds
guidelines. The worst, congested hour of the week was used to create the analysis
report. The ferry traffic was taken into account in creating the transportation impact
analysis, but specific times of the year were not necessarily distinguished. The city
staff is familiar with the traffic patterns in the city, and the traffic engineers
coordinated with staff.

Rob Ward, soil engineer with Geotech Consultants, said he addressed the sensitive
areas of the site in his report. He felt that the criteria set forth in ECC were met by
the proposed plans. The construction will be inspected by geotechnical engineers to
ensure safety during the building process.

1 Jack McCullough, 701 5th Avenue Seattle, submitted exhibits of previous findings
2 regarding conditional use permits. The SEPA determination of non-significance is
3 final and binding for this proposal. The application form addresses in great detail all
4 of the approval criteria. The applicant accepts the conditions set forth in the staff
5 report as written. The evidence suggests that the proposal will not cause any traffic
6 issues and meets all city traffic standards. Attachment 45 addresses any concerns
7 with the steep slope. Alterations are allowed in environmentally sensitive areas
8 under code. The code states that the use of retaining walls is preferred over graded,
9 artificial slopes. The applicant notes that zoning and land use codes are not
10 appropriate tools for preserving particular businesses. The applicant asks that the
11 hearing examiner act favorably on the application.

12 EXHIBITS

13 Exhibits 1 through 46 identified at page 16-17 of the June 7, 2012 staff report along
14 with the staff report itself were admitted during the hearing. The following exhibits
15 were also admitted into the record during the hearing:

16 Exhibit 47	Letter from John Hines dated June 8, 2012
17 Exhibit 48	Email to Steve Clifton
18 Exhibit 49	Traffic Impact Fee, Edmonds
19 Exhibit 50	Written comments from David Daily
20 Exhibit 51	Written comments from Teri Terrano
21 Exhibit 52	Newspaper article
22 Exhibit 53	Key Bank Decision PNL201162
23 Exhibit 54	Columbia Bank Decision CU201053

24 FINDINGS OF FACT

25 Procedural:

1. Applicant. Tom Rocca, Seven Hills Properties.

1.5 Owner. Wuscher Family, LLP, and Tom Rocca, Seven Hills Properties

2. Hearing. The Hearing Examiner conducted a hearing on the subject application on June 14, 2012 at 3:00 pm in the Council Chambers of the Edmonds Public Safety Complex.

Substantive:

3. Site and Proposal Description. The Applicant proposes to subdivide a property (parcel number 27033600113200) into two lots and construct an approximately 14,490 square foot Walgreens and 3,373 square foot bank. The proposal includes a single drive-through lane for Walgreens and three drive-through

lanes for the bank. Site work will include installation of approximately 19 parking spaces on the newly subdivided property, landscaping, and pedestrian access ways. The proposal will also require work on the adjacent parcel to the west (parcel number 27033600113300) including removing approximately 31 parking spaces, installing rain gardens and providing cross property access linking the proposed project with the existing PCC Market. Frontage improvements across both parcels will include installing new sidewalks and landscaping including planting of street trees.

The proposed drive-through uses require a conditional use permit (PLN20110077), and because the scope of work triggers review under the State Environmental Policy Act (SEPA), design review by the Architectural Design Board (ADB) was required (PLN20110076).

The site is an existing developed parcel with a bowling alley and does not contain any significant vegetation. Currently there is a large grade change along the north and east property lines with an existing retaining wall along the northern property boundary. As part of the proposed project, a portion of the existing retaining wall will be removed. A new retaining wall will be installed along the entire northern project boundary and a portion of the eastern property line. There will be minor re-grading along the eastern property line to bring this area level with the existing developed portion of the site.

A significant amount of new landscaping will be provided in association with the project, including, frontage improvements along Edmonds Way that will include a planter strip between the sidewalk and Edmonds Way, new rain gardens and other interior landscaping within the parking area, and landscaping included around the proposed buildings including a metal trellis on the Walgreens building that will support vines growing up the side of the building. All landscaping that could be damaged by pedestrians or vehicles will be protected by curbs. The landscape islands of the interior parking lot and the perimeter parking are all curbed.

The residential property to the north will be buffered by a 20 foot high retaining wall and landscaping installed along the entire northern property line. Landscaping on the interior parking area will be improved with the installation of rain gardens and additional landscaping. Additionally, frontage improvement along parcels 27033600113200 and 27033600113300 which include widening the sidewalks to approximately 7 feet in width and providing a planter strip between the sidewalk and Edmonds Way will further add in reducing the visual impacts of the parking lots.

The proposed Walgreens building will have two self-contained compactor units located along the north facade of the building. This area will be screened by the building itself and a chain link fence enclosure. The chain link fence should have slates placed within the chain link to sufficiently screen the compactor units from view. The bank building will include a waste and recycling room within the footprint of the building and will be screened by the building itself and an exterior door.

1 The proposed project includes parking lot lighting, building facade lighting, lighted
2 bollards and under canopy lighting which will provide adequate illumination of all
3 areas used by automobiles, bicycles and pedestrians at locations such as building
4 entries, walkways, parking areas and circulation areas. All proposed lighting is the
5 minimum required for safety and security and will avoid excessive brightness. All
6 lighting will be low-rise and directed downward onto the site. All lighting standards
7 and patterns will be compatible with the overall design theme. The applicants have
8 proposed to use taller light standards in order to be consistent with those already
9 existing on the development. However, the proposed 30 foot tall light standards
10 would exceed the height limit in the BN zone (25 feet). In order to be consistent with
11 the design guidelines and the underlying zoning, the light standards can be no taller
12 than the 25 feet.

13 Exhibits 12-21 are composed of building elevations and site plans that were used to
14 assess compliance with the City's design review standards. The factual findings
15 necessary for many of the design review standards have been consolidated into the
16 applicable conclusions of law.

17 4. Characteristics of the Area. The subject property is located in the
18 Neighborhood Business (BN) zone. The neighborhood surrounding the site consists
19 of commercial development along Edmonds Way in what is known as the Westgate
20 neighborhood. Surrounding uses include shopping centers to the south and southwest
21 (Bartell's, Starbucks, Subway, etc.), a bank and service station to the east and grocery
22 stores to the west (PCC and QFC) along with numerous neighborhood commercial
23 businesses. A single family residential (RS-8) neighborhood surrounds the BN zone
24 and a residential area just north of the site sits on a hill overlooking property. There
25 are a few new bank buildings planned or in the process of being constructed in the
immediate vicinity, all of which will have drive-through teller lanes. Access for the
proposed development will remain off both 100th and Edmonds Way (SR-104), the
latter of which is considered a "Principal Arterial."

5. Adverse Impacts of Proposed Use. There are no significant adverse
impacts created by the project that are relevant to the permits under consideration.
Specific impacts are addressed as follows:

A. Loss of Current Bowling Alley. The sole reason for opposing the project
has virtually nothing to do with the Applicant's proposed use, but rather is focused
upon the loss of the bowling alley that currently occupies the project site. Many
persons who testified or provided written comment against the site advocated the
denial of the project applications on the basis that the bowling alley is a valued
community asset. Some commentators pointed out that the community has plenty of
drug stores but only one bowling alley. These may very well be valid and
understandable concerns, but they request a level of government economic planning
and control that far exceeds what local government (or any level of government) can
undertake in land use permitting. The City of Edmonds, like any other local
government engaged in zoning code review, cannot dictate that a property owner

1 continue to operate a specific business or that a property owner may not undertake a
2 new business because there isn't the market for it. The only relevant considerations
3 in this permit review are whether the adverse impacts of the proposal have been
adequately mitigated and whether the proposal will be served by adequate public
services.

4 B. Traffic. As determined in the traffic study, Ex. 44, conducted for the
5 project, the proposal will only create a modest increase in traffic over the current use
6 of the property and this added traffic is well within the level of service levels adopted
7 for the roads that serve the project. Queuing studies have also been done as part of
the traffic analysis and these studies have determined that lines for the drive-through
bank and Walgreens will not extend off the property during peak usage.

8 During the hearing questions arose as to whether the impacts of ferry traffic had been
9 integrated into the traffic impact analysis. The Applicant's traffic engineer noted that
10 ferry traffic had been considered in the traffic study, but not necessarily during peak
11 seasonal ferry use. The traffic study, Ex. 44, states that traffic counts were taken in a
12 couple days in January, which most likely is not at the time of peak ferry use.
13 However, the study does use peak hour traffic volumes to assess level of service
14 impacts and this methodology is standard in assessing level of service impacts. The
15 level of service methodology must be uniformly applied for all development projects
16 in order to ensure that developers are treated equally and proportionately under the
17 City's traffic mitigation requirements. Unless Edmonds requires all developers to
measure peak hour traffic volumes during peak ferry use, the developer's peak hour
measurements must be considered appropriate for this project. Further, the
Applicant's traffic analysis overall appears to be credible and competently derived
and there is nothing in the record to suggest that the failure to use peak hour ferry
traffic volumes departs from standard and professionally accepted level of service
analysis.

18 C. Steep Slopes. During the hearing, Teri Terrano shared concerns over the
19 proximity of the project to the steep slopes on the north side of the project site, noting
20 that residences are located on the top side of the slope and that development will
21 occur within ten feet of the toe of the slope and that the City's critical area regulations
22 require a fifty foot buffer unless waivers are granted by the City. The slopes on the
23 north side of the project do qualify as both a Landslide Hazard Area and an Erosion
24 Hazard Area. The slopes are 80-90% in grade and are approximately 40-55 feet in
25 height. However, the project will in fact significantly improve the stability of the
slope from current conditions by the addition of a retaining wall (there is currently no
retaining wall along the portion of the slope that is behind the bowling alley building)
and the removal of a stormwater drainage point that currently discharges stormwater
across the face of the slope. The Applicant has prepared a detailed geotechnical
report that includes several borings of the project area and detailed recommendations
on ensuring that stability is maintained, including monitoring of slope stability during
construction. The soil borings show that the soils along the slopes are dense to very
dense, glacially consolidated sands. The geotechnical engineer who authored the

1 report was able to conclude that if the recommendations of the geotechnical report are
2 followed the project would be safe as designed under anticipated conditions. There is
3 no evidence to the contrary. The recommendations in the geotechnical report will be
4 made a condition of approval.

5 Ms. Terrano's testimony exposes the fact that a waiver must be granted by the City in
6 order to develop within the 50 foot steep slope buffer. There is nothing in the record
7 that identifies whether this waiver has been granted and the waiver decision has not
8 been consolidated into the applications considered by the hearing examiner. Absent
9 consolidation, ECDC 23.80.070(A)(1)(b) assigns the decision to grant a buffer
10 reduction to the Director of Edmonds Development Services. The conditions of
11 approval will require that a buffer modification be approved by the Director prior to
12 any construction activity within the 50 foot buffer to the steep slopes of the project
13 site.

14 C. Stormwater. As with slope stability, the proposal represents a significant
15 improvement over current stormwater control conditions and as proposed will prevent
16 any adverse stormwater impacts to adjoining properties or the vicinity. The current
17 development has no stormwater treatment and lacks Low Impact Development
18 features. Stormwater is currently simply diverted into the City's stormwater
19 collection system. The proposed stormwater control system includes rain gardens and
20 Low Impact Development techniques. The City of Edmonds Engineering Division
21 has reviewed and approved the preliminary Stormwater Site Plan, Ex. 46. As noted
22 in the Engineering Division comments, Ex. 22, the Applicant has conducted an
23 appropriate feasibility analysis for using Low Impact Development techniques. They
24 have incorporated rain gardens and a limited infiltration facility in the preliminary
25 design. During the final design review stage, the City will perform a detailed review
of the storm water plan to ensure compliance with the City's stormwater regulations.

17 D. Parking. Three parcels make up the development on the northwest corner
18 of Edmonds Way and 100th Avenue North. PCC Natural Market is on the western
19 most parcel, there is a shared parcel that is developed with a parking lot, and the
20 proposed site of the Walgreens and bank buildings is on the eastern most of these
21 three parcels. PCC Market is approximately 35,733 square feet and the proposed
22 Walgreens is 14,490 square feet. ECDC 17.50.020.B.1 requires one space per 300
23 square feet for both PCC and Walgreens which results in 119 required parking spaces
24 for PCC and 48 parking spaces for Walgreens. The bank is proposed to be 3,373
25 square feet and requires one space per 200 square feet or 17 parking spaces. For all
three developments, a total of 184 parking spaces are required. Two-hundred and
forty (240) parking stalls will be available after the proposed development; however,
the parking agreement on the shared parking parcel (3300) should be updated.

Several parking agreements have been recorded on parcel 3300, with the most recent
being recorded under AFN 201103250158 (Attachment 39). The parking agreement
is between three entities: Newkirk Washtex (PCC), the Wuscher Family Limited
Partnership (WFLP), and the bowling alley (represented as the Guenther Entities).

1 Newkirk Washtex has sole use of the 76 parking spaces on parcel 27033600107700
2 and according to the agreement have access to parking on the shared parking parcel
3 (3300) to “satisfy the parking –space requirements of permits and codes applicable to
4 Newkirk Washtex.” Guenther Entities (and their successors) have access to 66
5 parking spaces on the shared parcel, but only until April 30, 2015. The WFLP and
6 their successors have access to at least 66 parking spaces (with no expiration date).

7 The Walgreens will have 8 parking spaces located on its lot after the subdivision and
8 thus need 40 parking spaces from the shared parking lot. The bank site will have 11
9 parking stalls associated with it and will need 6 parking spaces for the shared parking
10 lot. As a condition of approval, the parking agreement should be updated to make
11 clear that the Walgreens and bank have enough parking spaces to meet code
12 requirements for the life of the development.

13 E. Views. According to the staff report no views will be adversely affected
14 by the project and there is no evidence to the contrary.

15 6. Adequacy of Utilities. The record does not contain much information on the
16 adequacy of utility services beyond those identified above, even though that is a
17 major and primary consideration in the review of any subdivision application. See
18 RCW 58.17.110; 58.17.060. The staff report and application note that the subdivision
19 has adequate access to water, utilities and sewerage. There is no evidence to the
20 contrary. Given that the bowling alley has been served by adequate utilities for
21 several decades, more likely than not adequate utilities are available to serve the
22 proposed use as well.

23 CONCLUSIONS OF LAW

24 Procedural:

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

Substantive:

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

3. Permit Review Criteria. ECDC 16.45.010(C)(2) requires a conditional use
permit for drive in businesses in the BN zone. Both Walgreens and the bank have a
drive-in component so the conditional use permit covers both structures. ECDC
20.10.010(C) requires general design review for the project. The criteria for a

1 conditional use permit are governed by ECDC 20.050.010. The criteria for general
2 design review are set by ECDC 20.11.020 and 20.11.030. The Applicant has also
3 requested approval of a short subdivision and that is governed by Chapter 20.75
4 ECDC. All applicable criteria are quoted below and applied through corresponding
5 conclusions of law.

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

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

9 **ECDC 20.11.020 Findings.**

10 *The board shall make the following findings before approving the proposed
11 development:*

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

21 4. The criterion is met. The staff report analysis of the comprehensive plan,
22 located at Section VIII of the report, is adopted and incorporated by this reference as
23 if set forth in full.

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

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

33 **ECDC 16.45.000:** *The BN zone has the following specific purposes in addition to the
34 general purposes for business and commercial zones listed in Chapter 16.40 ECDC:*

1 A. To reserve areas, for those retail stores, offices, retail service establishments which
2 offer goods and services needed on an everyday basis by residents of a neighborhood
area;

3 B. To ensure compact, convenient development patterns by allowing uses that are
4 operated chiefly within buildings.

5 5. The proposal meets all applicable zoning requirements. The staff report
6 analysis of Zoning Ordinance compliance, located at Section X of the report, is
7 adopted and incorporated by this reference as if set forth in full. The purpose of the
BN zone is also served by permitting retail uses that have been expressly reserved for
the BN zone.

8 **ECDC 20.05.010(C):** *Not Detrimental. That the use, as approved or conditionally*
9 *approved, will not be significantly detrimental to the public health, safety and welfare,*
10 *and to nearby private property or improvements unless the use is a public necessity.*

11 6. As determined in Findings of Fact No. 5 and 6, there are no significant
12 adverse impacts associated with the proposal and it will be adequately served by
13 public utilities. The proposal will result in the loss of a valued community asset, the
14 bowling alley, but that loss is not an impact created by the proposal for which the
15 Applicant can be held accountable under land use review. Under the due process
16 and takings clauses of the state and federal constitutions, a land use permit applicant
17 can only be required to mitigate impacts created by the applicant's project. *See, e.g.,*
Burton v. Clark County, 91 Wn. App. 505 (1998). The Applicant's proposal does not
create the need for a bowling alley, so no court would sustain a decision to deny the
applications of this case on the basis that the Edmonds community needs a bowling
alley. Given that the project creates no significant adverse impacts, the criterion
quoted above is met.

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

22 7. The conditional use permit shall run with the land, but has to maintain the
23 proposed design and use. New signage may be approved administratively, consistent
with City regulations.

24 **ECDC 20.11.030(A):** *Building Design. No one architectural style is required. The*
25 *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

1 *mass. The following are included as elements of building design:*

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

3 8. The ADB staff report notes that “[a]ll exterior building elements are harmonious
4 with one another, the overall buildings themselves and integrate with the surrounding
5 commercial development.” The ADB recommended approval of the proposed design
6 based upon the findings of the staff report and did not modify the staff finding on the
7 criterion quoted above. There is no evidence in the record that is contrary to the staff
8 finding. Giving due deference to the expertise of staff and the ADB on this issue, the
9 Examiner adopts the finding of staff and finds compliance with the criterion quoted
10 above.

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

13 9. The criterion is met. Proposed colors include brick in both ebony (gray) and
14 copper (reddish brown) along with stucco in color Brushed Aluminum (gray) and
15 Delaware Puddy (off-white), metal canopies in Bone White metal panel and Blue
16 (PMS 542C) metal trim accents. There are no excessive brilliant or bright colors
17 associated with the proposed development.

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

20 10. As conditioned, the criterion is met. Mechanical equipment has not been shown
21 with the elevation views. A condition of approval should be that all mechanical
22 equipment and other utility hardware on the roof, grounds, or buildings will be
23 screened to mitigate view impacts from street level. Screening could include the use
24 of architectural elements, landscaping and/or fencing.

25 **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
found to be long, massive, unbroken or monotonous.*

11. The criterion is met. Both proposed buildings include numerous features designed
to ensure facades are not long, massive, unbroken or monotonous. These features
include the use of ample glazing, varied rooflines and cornice elements, canopies,
light-shelves, landscaping trellises and changes in material and color. The Walgreens
building will include variations in colors and materials to provide visual interest.
Facades on Edmonds Way and facing the parking lot will include significant glazing
and weather protection at the entry. Facades will be articulated and multiple rooflines
and building forms incorporated in the design. The main entry to the building will be

1 emphasized through a projecting roofline and two-story glazing. Although smaller in
2 height and scale, the adjoining bank building will include similar design elements to
ensure consistency of architectural treatment.

3 **ECDC 20.11.030(A)(5):** *All signs should conform to the general design theme of the*
4 *development.*

5 12. As conditioned, the criterion is met. The Walgreens sign generally conforms to
6 the overall design theme of the building. The signage for the bank is not depicted on
7 the elevation views, other than in a generic manner. The project will be conditioned to
require staff to ensure that the bank sign conforms to the general design theme of the
development.

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 13. The criterion is met. The site is an existing developed parcel and does not contain
15 any significant vegetation. Currently there is a large grade change along the north and
16 east property lines with an existing retaining wall along the northern property
17 boundary. As part of the proposed project, a portion of the existing retaining wall
will be removed. A new retaining wall will be installed along the entire northern
project boundary and a portion of the eastern property line. There will be minor re-
grading along the eastern property line to bring this area level with the existing
developed portion of the site.

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

20 14. The criterion is met. A significant amount of new landscaping will be provided in
21 association with the project, including, frontage improvements along Edmonds Way
22 that will include a planter strip between the sidewalk and Edmonds Way, new rain
23 gardens and other interior landscaping within the parking area, and landscaping
included around the proposed buildings including a metal trellis on the Walgreens
building that will support vines growing up the side of the building.

24 **ECDC 20.11.030(B)(3):** *Landscape treatment shall be provided to buffer the*
25 *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.

15. The criterion is met. The subject property is located within the BN zone as are

1 the properties to the east, west, and south as shown in Ex. 1. The parcels to the north
2 are zoned RS-8. The residential property to the north will be buffered by a 20 foot
3 high retaining wall and landscaping installed along the entire northern property line.
4 Landscaping on the interior parking area will be improved with the installation of rain
5 gardens and additional landscaping. Additionally, frontage improvement along
6 parcels 27033600113200 and 27033600113300 which include widening the sidewalks
7 to approximately 7 feet in width and providing a planter strip between the sidewalk
8 and Edmonds Way will further add in reducing the visual impacts of the parking lots.

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

11 16. The criterion is met. All landscaping that could be damaged by pedestrians or
12 vehicles will be protected by curbs. The landscape islands of the interior parking lot
13 and the perimeter parking are all curbed.

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

17 17. The criterion is met. The proposed Walgreens building will have two self-
18 contained compactor units located along the north facade of the building. This area
19 will be screened by the building itself and a chain link fence enclosure. The chain link
20 fence should have slates placed within the chain link to sufficiently screen the
21 compactor units from view. The bank building will include a waste and recycling
22 room within the footprint of the building and will be screened by the building itself
23 and an exterior door.

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

19 18. The criterion is met. The screening methods proposed include screening by the
20 building itself, locating these areas inside of the building footprint, all of which will
21 provide effective screening in the winter as well as the summer.

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

25 19. The criterion is met. The project is fully landscaped as required by City code.

ECDC 20.11.030(B)(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.*

1 20. The criterion is met. The proposed project includes parking lot lighting, building
2 facade lighting, lighted bollards and under canopy lighting which will provide
3 adequate illumination of all areas used by automobiles, bicycles and pedestrians at
4 locations such as building entries, walkways, parking areas and circulation areas. All
5 proposed lighting is the minimum required for safety and security and will avoid
6 excessive brightness. All lighting will be low-rise and directed downward onto the
7 site. All lighting standards and patterns will be compatible with the overall design
8 theme.

9 **20.75.080:** *A proposed subdivision may be approved only if all of the following
10 general findings can be made for the proposal, as approved or as conditionally
11 approved:*

12 *A. Subdivision Ordinance. The proposal is consistent with the purposes of this chapter
13 (as listed in ECDC 20.75.020) and meets all requirements of this chapter.*

14 *B. Comprehensive Plan. The proposal is consistent with the provisions of the Edmonds
15 Comprehensive Plan, or other adopted city policy, and is in the public interest.*

16 *C. Zoning Ordinance. The proposal meets all requirements of the zoning ordinance, or
17 a modification has been approved as provided for in this chapter.*

18 *D. Flood Plain Management. The proposal meets all requirements of the Edmonds
19 Community Development Code relating to flood plain management.*

20 21. The criterion is met. The subdivision is consistent with the purpose of the
21 subdivision chapter since it will be served by adequate infrastructure and utilities as
22 determined in Finding of Fact No. 5 and 6 and no adverse impacts are created by the
23 subdivision. The proposal is consistent with the comprehensive plan as determined in
24 Conclusion of Law No. 4. The proposal meets all the requirements of the ordinance as
25 determined in Conclusion of Law No. 5. The proposal is not located within a flood
plain management area and is not subject to any flood plain regulations.

ECDC 20.75.085: *The following criteria shall be used to review proposed
subdivisions:*

A. Environmental.

*1. Where environmental resources exist, such as trees, streams, ravines or
wildlife habitats, the proposal shall be designed to minimize significant adverse
impacts to the resources. Permanent restrictions may be imposed on the proposal
to avoid impact.*

*2. The proposal shall be designed to minimize grading by using shared driveways
and by relating street, house site and lot placement to the existing topography.*

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

3. *Where conditions exist which could be hazardous to the future residents of the land to be divided, or to nearby residents or property, such as flood plains, steep slopes or unstable soil or geologic conditions, a subdivision of the hazardous land shall be denied unless the condition can be permanently corrected, consistent with paragraphs A(1) and (2) of this section.*

4. *The proposal shall be designed to minimize off-site impacts on drainage, views and so forth.*

B. Lot and Street Layout.

1. *Lots shall be designed to contain a usable building area. If the building area would be difficult to develop, the lot shall be redesigned or eliminated, unless special conditions can be imposed on the approval which will ensure that the lot is developed properly.*

2. *Lots shall not front on highways, arterials or collector streets unless there is no other feasible access. Special access provisions, such as shared driveways, turnarounds or frontage streets may be required to minimize traffic hazards.*

3. *Each lot shall meet the applicable dimensional requirements of the zoning ordinance.*

4. *Pedestrian walks or bicycle paths shall be provided to serve schools, parks, public facilities, shorelines and streams where street access is not adequate.*

C. Dedications.

1. *The city council may require dedication of land in the proposed subdivision for public use...*

3. *Any approval of a subdivision shall be conditioned on appropriate dedication of land for streets, including those on the official street map and the preliminary plat.*

D. Improvements.

1. *Improvements which may be required, but are not limited to, streets, curbs, pedestrian walks and bicycle paths, sidewalks, street landscaping, water lines, sewage systems, drainage systems and underground utilities.*

2. *The person or body approving a subdivision shall determine the improvements necessary to meet the purposes and requirements of this chapter, and the requirements of:*

a. ECDC Title 18, Public Works Requirements;

b. Chapter 19.75, Fire Code, as to fire hydrants, water supply and access.

1 *This determination shall be based on the recommendations of the community*
2 *development director, the public works director, and the fire chief.*

3 21. The only natural features on the site protected by the City's critical areas
4 ordinance is the steep slope to the north, which as discussed in Finding of Fact No. 5
5 is adequately protected. No other natural features are on the site as it is currently
6 almost fully developed with impervious surface. Grading for the project will be
7 minimal since it is already fully developed and flat except for the slopes on the
8 northern end of the property. The only hazardous conditions on the site are the steep
9 slopes and the Applicant's geotechnical report provides for adequate assurances of
10 stability for adjoining residences as determined in Finding of Fact No. 5. As
11 determined in Finding of Fact No. 5 there will be no significant adverse impacts in
12 relation to views or drainage or any other issues.

13 **DECISION**

14 The conditional use permit, short subdivision and general design review are approved
15 subject to the following conditions:

- 16 1. Where walkways cross vehicular areas, they will be clearly delineated through
17 the use of striping.
- 18 2. The chain link fence should include slats that screen the compactors and tote
19 storage areas from view.
- 20 3. Height calculations are required with the building permit application in order to
21 show that the project meets the 25-foot height limit.
- 22 4. The light standards installed in association with the project cannot exceed 25 feet
23 in height.
- 24 5. In order to vest to the 8-foot street setback from Edmonds Way, the applicant
25 must submit a complete building permit application by close of business on July 14,
 2012.
6. All mechanical equipment and other utility hardware on the roof, grounds or
 buildings shall be screened to mitigate view impacts from street level. Screening
 could include the use of architectural elements, landscaping and/or fencing.
7. An updated parking agreement shall be submitted prior to issuance of a building
 permit that ensures enough parking to comply with City parking standards.
8. The applicant is responsible for seeking and obtaining all other required local,
 state and federal permits.
9. The applicant must apply for and obtain all necessary building permits. This
 application is subject to the applicable requirements in the Edmonds Community
 Development Code. It is the responsibility of the applicant to ensure compliance
 with the various provisions contained in the ordinances.
10. A landscaping plan generally consistent with the landscape plan in Exhibits 16
 and 17 shall be submitted for approval with the development permits.

11. The conditional use permit shall be transferable to subsequent property owners.
12. A storm structure should be placed approximately halfway between the retaining wall and the Edmonds Way right-of-way connection for the pipe draining the runoff from the subdivision to the north of the subject development. This additional catch basin is necessary so City crews can inspect and maintain the City storm system. The system needs to be designed such that there is no surcharging of structures up to a 50-year storm.
13. An easement through parcel II (along the eastern boundary of 27033600113200) shall be granted to the City for this storm system (10 feet wide).
14. All rain gardens should have a defined overflow path such that runoff above the facilities' design capacity does not cause: flooding of a building or an emergency access route, erosion or sedimentation in a waterway, or slope failure.
15. Frontage improvements will be required along Edmonds Way consistent with the improvements required as a condition of subdivision approval.
 - a. Existing sidewalk and curb shall be removed and replaced as required to comply with city requirements and ADA standards.
 - b. A minimum 4-foot wide landscape strip shall be constructed between the curb and sidewalk with street trees planted a 40-feet on center as directed by the City.
16. Prior to recording the subdivision, the applicant must complete the following requirements:
 - a. Civil plans must be approved prior to recording. In completing the civil plans, the applicant must address the following:
 - i. Complete the Engineering Division conditions listed "Required as a Condition of Subdivision in Exhibit 22.
 - ii. Submit civil plans and associated fees to the Engineering Division for review.
 - b. Make the following revisions to the short plat:
 - i. If setbacks are to be included on the final short plat, add the following statement to the face of the short plat: "Setbacks shown are for reference only and vest no right."
 - ii. Add to the face of the short plat: "Conditions of approval must be met and can be found in the final approval for the short subdivision located in File PLN20110078 at the City of Edmonds Planning Division."
 - iii. Include on the short plat all required information, including owner's certification, hold harmless agreement, and City staff approval blocks for the Planning Division and Engineering Division listed in ECDC 20.75.140, as appropriate.
 - c. Make sure all documents to be recorded meet the Snohomish County Auditor's requirements for recording, including all signatures in black ink.
 - d. Submit two copies of the documents to be recorded for the Planning Division and Engineering Division's approval.

1 e. Submit an updated copy of the title report (short plat certificate) with the
2 documents proposed to be recorded. The updated title report must be prepared
3 within 30 days of submittal for final review.

4 17. After the short plat has been recorded, the applicant must complete the
5 Engineering Division conditions listed as "Required as a Condition of Building
6 Permit" on Exhibit 22.

7 18. The proposed development shall implement and comply with all the
8 recommendations of the geotechnical report, Exhibit 45.

9 19. Construction within fifty feet of the steep slopes of the site shall only be permitted to
10 the extent a buffer reduction is approved by the Director of Development Services as
11 required by ECDC 23.80.070(A)(1)(b).

12 20. All signage on the bank building shall conform to the general design theme of
13 development as required by ECDC 20.11.030(A)(5) as determined by City planning
14 staff in advance of the construction of the signs.

15 21. The conditional use permit shall run with the land, but has to maintain the proposed
16 design and use. New signage may be approved administratively, consistent with City
17 regulations.

18 Dated this 28th day of June, 2012.

19 

20 Phil Olbrechts
21 City of Edmonds Hearing Examiner

22 **Appeal Right and Valuation Notices**

23 This land use decision is final and subject to closed record appeal to the City Council
24 as authorized by ECDC 20.01.003. Appeals must be filed within 14 days of the
25 issuance of this decision as required by ECDC 20.07.004(B). Reconsideration may
be requested within 10 calendar days of issuance of this decision as required by
ECDC 20.06.010.

Affected property owners may request a change in valuation for property tax purposes
notwithstanding any program of revaluation.

