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

Phil Olbrechts, Hearing Examiner

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| RE: Richard Gifford Conditional Use Permit (PLN20120041) | FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL DECISION |
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INTRODUCTION

The Applicant has applied for a conditional use permit to allow an office within an existing single-family home on a parcel zoned Residential Multi-family (RM-15), located at 23901 Edmonds Way. The application is approved subject to conditions.

TESTIMONY

Mike Clugston, Associate Planner, stated the application is for a conditional use permit to locate an office on a parcel zoned RM-1.5 (multifamily residential). The site is located at 23901 Edmonds Way. In order to approve the conditional use permit, the hearing examiner must find that the proposal is consistent with the comprehensive plan, is consistent with the zoning district, the use will not be significantly detrimental, and establish whether the permit is transferrable. The proposal is in the Edmonds Way Corridor which is zoned for multi-family development and small businesses. Currently, the corridor mostly contains multi-family homes developments, but there is a small engine shop across the street from the proposal site. The existing structure on the applicant site is a single family house that was upgraded in 2010. A conditional use permit is required in the RM-1.5 zone to begin using the site as an office. The proposal is not detrimental to the area. The site has three access points and available parking. The Applicant has asked that the permit run with the land, and staff agrees that the permit should be transferrable. Staff recommends approval of the conditional use permit with the conditions listed in the staff report on page 6. The Department of Engineering reviewed the proposal and had no issue with having three access points.

1 Rick Gifford, 9309 1092nd Place Edmonds, Applicant, stated he has lived in the
2 community since 1990, and he has been practicing law in the area since 1998. A
3 building permit cannot be issued until the conditional use permit is approved. Mr.
4 Gifford would like to move into the property by March. He agrees with the
5 recommendations and conditions set forth in the staff report. The Edmonds Way
6 Corridor is a designated planning area under Edmonds' comprehensive plan. The
subject site abuts a right-of-way that connects Edmonds Way to Aurora Avenue along
the northwest side. The city envisions smaller scale business and commercial uses
along this area of Edmonds Way. The proposed office-use for the subject site
matches this development pattern.

7 Mr. Gifford submitted sixteen photographs that depict the subject site and
8 surrounding areas. The first photo shows the site as it was in 2001, depicting the
9 existing access points. The second photo shows the building as it was before being
10 renovated in 2010. The third photo depicts the building as it currently exists. The
11 fourth photo shows the upgraded building from a different angle. The fifth photo
12 depicts the access points along the north edge of the property. The sixth photo shows
13 the property from the angle facing Aurora Avenue. The seventh photo depicts the
14 southbound exit from the house. The eighth photo shows an existing business located
15 across Edmonds Way from the subject property. The business is an auto-repair shop.
16 Photos nine, ten, and eleven also depict the auto-repair shop and the multi-family
17 homes that surround the shop. Photos twelve and thirteen show another commercial
18 office building 150ft to the north of the applicant property. Photos fourteen and
19 fifteen depict a church and school compound located around the corner from the
20 subject site. The compound runs from 240th St to 238th St. Photo sixteen shows the
subject property with a single residential site to the south. Two of the access points to
the property will be used for exiting. All applicable development standards under the
zoning code are met or will be met in connection with the completion of the remodel.
These standards will be assessed during the building permit process. Traffic impact
fees have been calculated and will be officially set during the building permit process.
The property owners have done extensive renovations to the property to make it an
ideal office space.

21 EXHIBITS

22 The following exhibits were also admitted into the record during the hearing:

- 23 Exhibit 1 Land use application
- 24 Exhibit 2 Applicant's criteria statement (a-d)
- 25 Exhibit 3 Public Notice
- Exhibit 4 Technical Comments
- Exhibit 5 Applicant Written Comments w/ 16 photos

FINDINGS OF FACT

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Procedural:

1. Applicant. Richard E. Gifford.

2. Owner. Steven and Kathryn Hinsch.

3. Hearing. The Hearing Examiner conducted a hearing on the subject application on January 10, 2013 at 3:00 pm in the Council Chambers of the Edmonds Public Safety Complex.

Substantive:

3. Site and Proposal Description. The Applicant has applied for a conditional use permit to allow an office within an existing single-family home on a parcel zoned Residential Multi-family (RM-15), located at 23901 Edmonds Way. The subject site is fairly level and contains mature vegetation and trees on the eastern portion of the property. Typical urban landscaping is also present. The site has three access points to Edmonds Way and these access points will not be modified. The City's public works department has reviewed the access points and has found them to be safe and consistent with applicable City regulations. The site also has four parking spaces.

No significant exterior changes or additions are envisioned for the building at this time but some additional work will be needed to bring the site into compliance regarding parking, accessibility, landscaping and the like, which is being reviewed under the associated building permit (BLD20121075).

4. Characteristics of the Area. The parcels in the general vicinity of the subject site were annexed in the mid-1990s. Uses are typically of a higher intensity along the Edmonds Way arterial and less intense with distance from the road. The subject site is triangular in shape with Edmonds Way adjacent on the west. Adjacent to the north and northwest are several multifamily-zoned parcels developed primarily with multifamily units. One of the multifamily-zoned parcels (23815 E-W) is developed with an office which was established in 1987. North and east of the subject site are single-family zoned and developed parcels. Slightly farther east is a large church and associated buildings. Across Edmonds Way to the west are multi-family zoned parcels immediately along Edmonds Way with single family parcels further west. One Commercial Business-zoned parcel is immediately across Edmonds Way from the subject site currently developed with a small automotive repair shop.

5. Adverse Impacts of Proposed Use. There are no significant adverse associated with the proposal. As summarized in Finding of Fact No. 4 and as depicted in the photographs of Ex. 5, the proposal is fully compatible with the surrounding multi-family and commercial uses along Edmonds Way. The low intensity of the proposed use also serve as an ideal transitional use from the intensity of Edmonds Way and its associated multi-family/commercial uses to the single-

1 family uses located to the east of the project. The proposal will generate negligible
2 traffic and traffic system impacts will be addressed by the collection of traffic impact
3 fees when a pending building permit application is approved. Impacts associated
4 with the proposed law office use should generate minimal noise and light impacts as
5 well.

6 CONCLUSIONS OF LAW

7 **Procedural:**

8 1. Authority of Hearing Examiner. ECDC 20.01.003 provides that the
9 Hearing Examiner will hold a hearing and issue a final decision on conditional use
10 permit applications. ECDC 16.30.010(C)(1) requires a conditional use permit for
11 office use in a multi-family residential zone.

12 **Substantive:**

13 2. Zoning Designations. The subject property is zoned Residential Multi-
14 family (RM-1.5).

15 3. Permit Review Criteria. The criteria for a conditional use permit are
16 governed by ECDC 20.050.010. All applicable criteria are quoted below and applied
17 through corresponding conclusions of law.

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

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

21 4. The criterion is met. The staff report analysis of the comprehensive plan,
22 located at Section VII of the report, is adopted and incorporated by this reference as if
23 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
district in which the use is to be located, and that the proposed use will meet all
applicable requirements of the zoning ordinance.*

5. The proposal meets all applicable zoning requirements. The staff report
analysis of Zoning Ordinance compliance, located at Section VIII of the report, is
adopted and incorporated by this reference as if set forth in full.

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

1 6. As determined in Findings of Fact No. 5, there are no significant adverse
2 impacts associated with the proposal. The property owners have done an excellent job
3 in rehabilitating the single-family home on the property and its conversion from a
4 dilapidated single-family home to an attractive building housing needed commercial
services benefits the Edmonds community and is not significantly detrimental to
public health, safety and welfare.

5 **ECDC 20.05.010(D): Transferability.** *The hearing examiner shall determine whether*
6 *the conditional use permit shall run with the land or shall be personal. If it runs with*
7 *the land and the hearing examiner finds it in the public interest, the hearing examiner*
8 *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.

9 7. The conditional use permit shall run with the land and may be used by
10 subsequent users of the property.

11 **DECISION**

12 The conditional use permit is approved subject to the following conditions:

- 13 1. This application is subject to the applicable requirements contained in the
14 Edmonds Community Development Code (ECDC) and it is the responsibility
15 of the applicant to ensure compliance with the various provisions contained in
these ordinances.
- 16 2. This conditional use permit should be transferable and run with the land.
- 17 3. Applicable traffic impact fees will be collected with the associated building
18 permit.

19 Dated this 25th day of January, 2013.

20 
21 Phil Olbrechts
22 City of Edmonds Hearing Examiner

23 **Appeal Right and Valuation Notices**

24 This land use decision is final and subject to closed record appeal to the City Council
25 as authorized by ECDC 20.01.003. Appeals must be filed within 14 days of the

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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.