

CITY OF EDMONDS

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DEVELOPMENT SERVICES DEPARTMENT • PLANNING DIVISION

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BEFORE THE HEARING EXAMINER FOR THE CITY OF EDMONDS

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Phil Olbrechts, Hearing Examiner

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RE: Seabrook Estates

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Preliminary Plat

**FINDINGS OF FACT, CONCLUSIONS
OF LAW AND FINAL DECISION**

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PLN20140061

14

INTRODUCTION

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The applicant is proposing a seven lot preliminary plat for a 2.15 acre parcel located at 860 Caspers Street. The proposed preliminary plat is approved subject to conditions.

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ORAL TESTIMONY

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Kernen Lien, Edmonds planner, summarized the proposal. In response to public comments he noted that the height of the homes would be allowed up to 25 feet. He identified how the City measures height and noted height would be measured from the current elevations of the site. In response to questions from the examiner, Mr. Lien clarified that the building footprints in the plat map are just demonstrative and doesn't commit the applicant to building in any specific location. Jennifer Lambert, Edmonds Public Works, noted that Public Works authorizes private access roads when only a small number of homes are served. She noted that the decision to allow private access tracts is based upon staff policy.

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Ry McDuffy inquired why the setback is 25 feet from Caspers Street for Lot 5. He noted that the rear yard should be on the western property line since access was off the private road. Mr. Lien noted that setbacks are based upon the location of the street and the rear yard is located opposite the street. Since the northern property line

1 is along a street (Caspers), the setback is the street setback set at 25 feet. If the
2 private road were used to define the yards, it would be a flag lot. The definition of
3 street is for public roads, so the rear yard would be based upon the public street, not
4 the private street. In order to provide for more developable setbacks, Mr. Lien and
5 Mr. McDuffy agreed to place landscape tract north of Lot 5 to make the setback ten
6 feet from the landscape tract.

7 Alvin Rutledge testified that he has volunteered at the adjoining food bank for several
8 years. He was concerned about construction traffic driving through the area because
9 it wasn't safe. Vehicles have to drive through two yellow lines making a left turn into
10 the subdivision coming down 9th. Traffic impact fees should be paid by the builder.
11 He was also concerned about people breaking into the construction site. He also
12 noted that parking is limited on Davis Street.

13 Susan Bradley inquired about the location of proposed sidewalks. Ms. Lambert
14 responded that all sidewalks would be constructed within city right of way. Ms.
15 Bradley noted that it is difficult to be careful of pedestrians on the 9th avenue
16 crosswalk because you're busy watching oncoming traffic when turning down into 9th
17 from Caspers.

18 Mr. Fineforck inquired whether utility poles on the property would remain above
19 ground. Ms. Lambert responded that the existing poles would stay above ground and
20 that new utility lines would be placed underground. If the existing poles are not
21 serving any property, they will be required to be removed. Mr. Fineforck asked if the
22 homes would be obscuring any views. The applicant responded that the homes would
23 be built according to the height limits of city code. Mr. Fineforck also noted that a
24 crosswalk located across 9th Ave N isn't visible to vehicles turning right from Caspers
25 down 9th and for this reason isn't safe. Once the crosswalk does become visible,
vehicles speed up to beat pedestrians from blocking their path. Mr. Fineforck noted
he walks the crosswalk several times a week and has almost been hit several times.

Ms. Lambert noted that during review of the civil plans the traffic engineer will
review the safety of the crosswalk. She isn't sure if the development creates enough
traffic to enable the City to require safety improvements. The route for construction
vehicle traffic will be dictated during civil review and safety would be a
consideration.

The applicant noted that trees will be removed from the northeastern corner of the
project parcel, which should significantly improve site distance at the Casper/9th
intersection. During civil review the applicant will also see if a gap can be
incorporated into the double yellow striping of 9th to allow for left turns into the
project, an issue that was raised by Mr. Rutledge.

EXHIBITS

Ex. 1 Staff report with attachments 1-15

1 Ex. 2 Email from Michael Gongliewski dated 4/9/15

2 Ex. 3 Email from Julie Gongliewski dated 4/9/15

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5 **FINDINGS OF FACT**

6 **Procedural:**

7 1. Applicant/Owner. The property owner is Edmonds United Methodist
8 Church. The applicant is Select Homes.

9 2. Hearing. The Hearing Examiner conducted a hearing on the application
10 on April 9, 2015 at 3:00 p.m. at the Edmonds Public Safety Complex in the Council
11 Chambers.

12 **Substantive:**

13 3. Site/Proposal Description. The applicant is proposing a seven lot
14 preliminary plat for a 2.15 acre parcel located at 860 Caspers Street. The subdivision
15 will be accessed off 9th Avenue North with all of the houses in the development
16 fronting a private access tract.

17 The following table summarizes the dimensions of the proposed lots:

	Required Lot Area	Proposed Gross Area (sq. ft.)	Proposed Net Area¹ (sq. ft.)
Lot 1	12,000	12,132	12,132
Lot 2	12,000	12,259	12,259
Lot 3	12,000	12,996	12,996
Lot 4	12,000	12,867	12,867
Lot 5	12,000	12,419	12,419
Lot 6	12,000	12,398	12,398
Lot 7	12,000	12,201	12,201

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22 4. Characteristics of the Area. The site is located within a single-family
23 residential neighborhood just north of the downtown area of Edmonds (Ex. 1,
24 Attachment 11). The subject property and the surrounding properties are all zoned
25 RS-12 (single-family residential; 12,000 square foot minimum lot size). The property
directly to the west of the site contains the Edmonds United Methodist Church while
the rest of the properties around the site are developed with single-family residences.
An existing house on the subject property is proposed to be removed.

1 5. Adverse Impacts. There are no significant adverse impacts created by the
2 proposal. Impacts are more specifically addressed as follows:

3 A. Critical Areas. The subject property was reviewed and inspected by staff for
4 critical areas as defined by ECDC 23.40 under CRA20140106 and it was
5 determined the site does not contain any critical areas (Attachment 12). There
6 is no evidence to the contrary in the administrative record.

7 B. Views. Adjoining neighbors expressed concern over the loss of views. The
8 property does contain a field, however it is unclear what views would be
9 adversely affected by the proposal. At any rate there are no City regulations
10 that specifically regulate impact on views, other than to require that impacts to
11 views be minimized. In the absence of any specific guidelines, the applicant
12 should have a reasonable opportunity to develop their property just as the
13 neighbors did with their property. The applicant is limited to a 25 foot
14 building height by the RS-12 zoning district, which is a legislative
15 determination of what height is reasonable for this area. Any view impacts
16 created by the proposal that conform to the 25 foot height limit must be
17 considered nonsignificant for purposes of project mitigation.

18 C. Recreation. Concerns were raised about the loss of recreational use of the
19 field located on the project site. The field is privately owned and its loss
20 cannot be considered a project impact. The project applicant can only be
21 made to mitigate impacts it creates by development of the proposal. The loss
22 of a use that the applicant voluntarily provided to the community cannot be
23 considered such an impact.

24 D. Street. The safety of the 9th/Casper intersection and associated crosswalk is
25 the impact of greatest concern associated with this development. As testified
by several people, the crosswalk south of the 9th/Casper intersection isn't
immediately visible to persons turning down from Casper because of both
sight obstructions and complicated turning movements. The intersection is
also composed of angles and turn lanes that create what appear to be
complicated turning movements. As recognized by staff, the applicant can
only be made responsible for their proportionate share of safety
improvements, such as potentially adding additional crosswalk signage, re-
designing the intersection and/or relocating the crosswalk. *See Benchmark
Land Co. v. City of Battle Ground*, 146 Wn.2d 685, 49 P.3d 860 (2002). It is
also recognized that the removal of trees at the northeastern portion of the
project site as proposed by the applicant will likely improve significantly on
the sight distance issues at the 9th Ave/Casper intersection. The conditions of
approval will require engineering staff to examine the safety issues at the
intersection and crosswalk and to impose any reasonable mitigation measures
upon the development that are consistent with the proportionate share impacts
of the development.

1 No other transportation/street impacts are reasonably anticipated given the
2 small scale of the development and the City code requirement for payment of
3 transportation impact fees for proportionate share impacts to the City's
4 transportation system. The project area already has fully developed public
street frontage improvements and sidewalks and the like will be required to be
replaced in the conditions of approval as recommended by engineering staff in
Ex. 1, att. 17.

5 E. Grading. The proposal minimizes grading because all the proposed residences
6 will gain access via the proposed private drive shown as Tract 999 on the
7 preliminary plat map, and the future home sites generally conform to the
existing topography.

8 F. Hazardous Conditions. The staff report notes that there are no known
9 hazardous conditions, such as flood plains, steep slopes, or unstable soil or
10 geologic conditions at the project site. Given that there is no evidence to the
contrary, the staff finding is taken as a verity.

11 6. Adequacy of Infrastructure and Public Services. As conditioned by this decision,
12 adequate infrastructure will serve development as follows:

13 • Drainage: The city's drainage standards impose detailed requirements that
14 mandate that the development maintain pre-development off-site stormwater flow
15 volumes and velocities. Consequently, no adverse impacts to adjoining properties are
16 anticipated. A preliminary drainage assessment, Ex. 8, has been completed for the
17 project and reviewed by engineering staff. This preliminary assessment helps assure
18 that the general preliminary plat design can accommodate the stormwater facilities
19 necessary to control drainage and more detailed engineering and construction of
required improvements will be installed prior to approval of the final plat. All new
impervious surfaces must be connected to an onsite storm system as required by the
Engineering Requirements (Attachment 17).

20 • Transportation: All of the proposed lots will front the access Tract 999, which
21 will not be a highway, arterial or collector street. Tract 999 will enter the site from 9th
22 Avenue North which is a minor arterial according to the City's Comprehensive
23 Transportation Plan. The other street and possible access point to the subject site is
24 Caspers Street, which as a section of State Route 524 is a major arterial. With Tract
999 taking access from 9th Avenue North, and having all of the proposed residences
fronting Tract 999, transportation impacts are minimized.

25 • Parks and Open Space: According to ECDC 20.75.090, before or concurrent with
the approval of the final plat of any subdivision, the subdivider shall dedicate land,
pay a fee in-lieu of dedication, or do a combination of both, for park and recreational
purposes. With the adoption of Ordinance 3934 in 2013, park impacts are now
addressed through the assessment of park impact fees in accordance with Edmonds

1 City Code (ECC) Chapter 3.36. No park dedication or fees are required with the
2 subdivision. Park impact fees will be assessed with issuance of the future building
3 permits on the new lots consistent with ECC 3.36.

4 • Water and Sewer: The environmental checklist reveals that water and sewer
5 service will be provided by the City of Edmonds. The staff report does not identify
6 whether there is adequate capacity to serve the proposed development, but given its
7 small scale it is safe to presume that is the case. Water and sewer general facility
8 charges imposed by City code will ensure that the proposal will pay its fair share of
9 capital costs to the City's sewer and water infrastructure.

10 • Schools and Sidewalks: The proposal is served by adequate schools and has safe
11 walking conditions to and from school. The subject property is primarily served by
12 three area schools: Edmonds Elementary, College Place Middle School, and
13 Edmonds-Woodway High School. The subject site is located within a one mile radius
14 of Edmonds Elementary and therefore is not served by bus for that school. The
15 Edmonds School District provides a map with suggested walking routes for Edmonds
16 Elementary School (Attachment 24). From the subject site the suggested walking
17 route is along 9th Avenue North to Hindley Lane and then along a pedestrian path to
18 the school. Sidewalks exist along this entire route. The bus stop for College Place
19 Middle School and Edmonds-Woodway High School is located at 9th Avenue North
20 and Mountain Lane which is directly east of the subject site across 9th Avenue North.
21 Sidewalks exist to the bus stop.

22 CONCLUSIONS OF LAW

23 Procedural:

24 1. Authority of Hearing Examiner. ECDC 20.01.003 provides the Hearing
25 Examiner with the authority to hold a hearing and issue a final decision on
preliminary subdivision applications, classifying them as Type III-B applications.

Substantive:

2. Zoning Designation. The subject property is zoned Single-Family
Residential (RS-12).

3. Review Criteria and Application. Chapter 20.75 ECDC governs the
review criteria for subdivisions. Relevant criteria are quoted below and applied
through corresponding conclusions of law.

ECDC 20.75.085(A): *Environmental*.

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

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

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

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

14 4. The criterion is satisfied. As determined in Finding of Fact No 5, as conditioned
15 there are no significant adverse environmental impacts associated with the project and
16 there are no environmental resources on or near the site. Impacts to trees and native
17 vegetation are addressed through compliance with the City's native vegetation
18 retention standards, ECDC 23.90.040(C), as discussed at pages 2-3 of the staff report.
19 As further determined in Finding of Fact No. 5, the proposal minimizes grading
20 through use of a shared private access tract to serve all proposed lots. As determined
21 in Finding of Fact No. 5, there are no adverse view impacts created by the proposal
22 and the project site has no hazardous conditions. A preliminary drainage plan was
23 submitted with the preliminary plat, Ex 8 and as determined in FOF No. 6 the
24 proposed drainage facilities have been determined to be adequate.

25 ECDC 20.75.085(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.

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

3 5. The criterion quoted above is met. As determined in the staff report, all
4 proposed lots meet the dimensional requirements of the RS-12 zoning district.
5 Each lot contains a buildable area as is readily evident from the plat map, Ex. 1, att.
6 5, and the fact that the project site is flat without any environmental constraints. As
7 discussed in the summary of testimony of this decision, there was an issue raised
8 during the hearing as to whether Lot 5 was buildable due to a 25 foot setback along
9 the northern property line, but the conditions of approval remedy this situation by
10 allowing the addition of a landscape tract to the north of Lot 5, which will allow for
11 a reduction in the setback. The proposed lots do not front on any highways,
12 arterials or collector streets. As noted in Finding of Fact No. 5, sidewalks provide a
13 continuous walking path from the proposed subdivision to Edmonds Elementary,
14 the only school to which subdivision children would have to walk. The conditions
15 of approval, requiring implementation of the recommended engineering conditions
16 Ex. 1, att. 17, require replacement of the sidewalks along the street frontage of
17 Caspers and 9th Ave, thus assuring safe pedestrian connections to off-site amenities
18 and facilities. The staff report and engineering conditions don't identify any
19 sidewalks for the interior private access road, however, the design drawings, Ex. 1,
20 att. 6, do show a road cross-section that appears to at least propose a five foot
21 shoulder along the private access road.

22 **ECDC 20.75.085(C): Dedications.**

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

25 2. *Only the city council may approve a dedication of park land to satisfy the*
 requirements of ECDC [20.75.090](#). The council may request a review and written
 recommendation from the planning advisory board.

 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.

 6. Per the City Engineering Division requirements, Ex. 1, att. 17, no dedications are
 required.

ECDC 20.75.085(D): Improvements.

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

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

7 *a. ECDC Title [18](#), Public Works Requirements;*

8 *b. Chapter [19.75](#), Fire Code, as to fire hydrants, water supply and access.*

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

11 11. The project has undergone extensive review by the community
12 development director, the public works director (specifically engineering) and Fire
13 District No. 1. A number of improvements have been recommended as a result of
14 this review and they have been incorporated into the conditions of approval (via
15 requiring compliance with Ex. 1 att. 17) and have been found to provide for adequate
16 public infrastructure in FOF No. 6. Further, since RCW 58.17.110 (applicable to
17 short plats via RCW 58.17.060) mandates that preliminary short plats may not be
18 approved absent a finding of adequate infrastructure, the criterion above is broadly
19 construed to require the findings required by RCW 58.17.110 and those findings are
20 made as detailed in FOF No. 6.

21 **ECDC 20.75.085(E):** *Flood Plain Management. All subdivision proposals shall*
22 *comply with the criteria set forth in the Edmonds Community Development Code for*
23 *flood plain management.*

24 12. This project is not in a Flood Plain Management area.

25 **DECISION**

All subdivision criteria are met and the subdivision is approved as proposed in Ex. 1
att. 5 and 6 and as described in this decision, subject to the following conditions:

1. This application is subject to all applicable requirements contained in the Edmonds Community Development Code (ECDC). It is the responsibility of the applicant to ensure compliance with all applicable requirements.
2. The applicant is responsible for obtaining all local, state, and/or federal permits or approvals applicable to the proposal.
3. Any tree cutting on the site must be consistent with the requirements of ECDC 18.45. A tree cutting plan shall be submitted and approved with the civil

1 plans for removal of trees impacted by the subdivision improvements. Any
2 tree cutting proposed on the site that is not a hazardous situation and/or not
3 necessary as part of the subdivision improvements shall be reviewed at the
4 time of building permit application review or through the appropriate land use
5 permit application and review process. All trees that are to be retained during
6 the development process must be protected according to the performance
7 standards found in ECDC 18.45.050.H. If during construction it is realized
8 that certain trees that were planned to be retained will be damaged due to the
9 construction activities, replacement may be required per ECDC 18.45.050.F.

4. Prior to recording, the applicant must complete the following requirements:

a) Civil plans must be approved prior to recording. In completing the civil plans, The following items must be addressed:

- 10 (1) Complete the Engineering Division conditions listed “Required
11 as a Condition of Subdivision” on Attachment 17.
- 12 (2) The applicant must submit a plan that shows how the project
13 complies with the 30% native vegetation requirement of ECDC
14 23.90.040.C. See section III.C.2 of this staff report for further
15 direction regarding the native vegetation plan.
- 16 (3) Tract 999 shall be striped or signed no parking.
- 17 (4) Blue reflective markers for the hydrants shall be installed.

b) Make the following revisions to the plat:

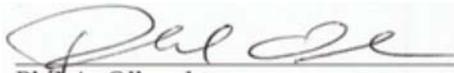
- 18 (1) Add to the face of the plat: “Conditions of approval must be
19 met and can be found in the approval for the short subdivision
20 located in File No. PLN20140061 in the City of Edmonds Planning
21 Division.”
- 22 (2) Include a statement on the face of the plat stating the
23 following: “The site is subject to the 30% native vegetation
24 requirements of ECDC 23.90.040.C. All lots shall retain and/or
25 establish native vegetation as detailed in the native vegetation plan
approved by the City of Edmonds. This plan may be modified by
the property owner(s) with approval by the Planning Division.”
- (3) Indicate the locations of all new easements, and provide
easement descriptions and maintenance provisions for all new
easements.
- (4) If setbacks are to be included on the plat, confirm that setbacks
are shown consistently with Section III.E.3 of this report and add
the following statement to the face of the plat: “Setbacks shown
are for reference only and vest no right.”
- (5) Indicate the gross and net areas of each lot on the final plat.
- (6) Include on the plat all required information, including owner’s
certification, hold harmless agreement, and Development Services
and Public Works director’s approval blocks.

c) Make sure all documents to be recorded meet the Snohomish County Auditor’s requirements for recording.

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- 5. Submit an updated copy of the title report (short plat certificate) with the documents proposed to be recorded. The title report must be prepared within 30 days of submittal for final review.
- 6. Submit two copies of the documents to be recorded for the Planning Division and Engineering Division’s approval. Once approved, the documents must be recorded with the Snohomish County Auditor’s office.
- 7. After recording the plat, the applicant must complete the following:
 - a) Complete the Engineering Division conditions listed “Required as a Condition of Building Permit” in Attachment 17.
- 8. The proposed preliminary plat may be modified by the addition of a landscape tract located north of Lot 5 as approved by staff in order to reduce the setback requirements applicable to the northern property line of Lot 5.
- 9. City engineering staff shall review the safety issues identified in this decision regarding the Casper/9th Avenue intersection and the associated cross-walk located just south of the intersection (see Finding of Fact No. 5(D)). To the extent found necessary, staff shall impose reasonable proportionate share mitigation to address any safety problems found in the review.

Dated this 23rd day of April 2015.


Phil A. Olbrechts

City of Edmonds Hearing Examiner

Appeal Right and Valuation Notices

A party of record may submit a written appeal of a Type III-B decision within 14 days of the date of issuance of the decision. The appeal will be heard at a closed record review before the City Council according to the requirements of ECDC Chapter 20.07.

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