



# CITY OF EDMONDS

## BEFORE THE HEARING EXAMINER FOR THE CITY OF EDMONDS

Phil Olbrechts, Hearing Examiner

RE: Salish Crossing

Conditional Use Permit and  
Design Review  
(PLN20140072 and  
PLN20140073)

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

### INTRODUCTION

The applicant requests conditional use permit and design review approval for the construction of a 1,500 square foot retail pavilion with associated drive-through. The new building will be located in the northeast corner of the Salish Crossing development located at 190 Sunset Avenue South. The application is approved subject to conditions.

### TESTIMONY

Kernen Lien, City of Edmonds planner, summarized the proposal. In response to examiner questions, he noted that City engineering staff determined there would be no queuing onto public roads. He also noted that the project site well exceeds City parking requirements. ADA parking spaces will be addressed during building permit review. Landscaping will help screen the drive-through. The code isn't clear about when new landscaping is triggered for existing projects so staff looks for an improvement over existing conditions. The conditions of approval require that mechanical equipment be screened with landscaping. A gate is required as a condition of approval because the comprehensive plan requires consideration of adjoining railroad use.

### EXHIBITS

Ex. 1: Staff report with Attachments 1-16.

1 Ex.2: Staff power point presentation.

## 2 FINDINGS OF FACT

### 3 Procedural:

- 4 1. Applicant. Salish Crossing LLC.
- 5 2. Hearing. The Hearing Examiner conducted a hearing on the subject  
6 application on April 23, 2014 at 3:00 pm in the Council Chambers of the Edmonds  
7 Public Safety Complex.

### 8 Substantive:

- 9 3. Site and Proposal Description. The applicant requests conditional use  
10 permit and design review approval for the construction of a 1,500 square foot retail  
11 pavilion with associated drive-through. The new building will be located in the northeast  
12 corner of the Salish Crossing commercial site located at 190 Sunset Avenue South (Ex. 1,  
13 Attachment 3).
- 14 4. Characteristics of the Area. The project site is located in the northeast corner  
15 of Salish Crossing. The subject property is occupied by approximately 43,000 square feet of  
16 commercial buildings and is currently being redeveloped. A new museum recently received  
17 approval to be located in one of the buildings and the site will also contain a number of  
18 restaurants and a distillery. State Route 104 and the Washington State ferry holding lanes are  
19 located along the east side of the development. A Washington State Department of  
20 Transportation parking lot is located just north of the site and the Port of Edmonds Harbor  
21 Square development is located on the south side across Dayton Street. To the west is the  
22 Amtrak and Sounder Train Station and the railroad tracks.
- 23 5. Adverse Impacts of Proposed Use. There are no significant adverse  
24 impacts created by the project that are relevant to the permits under consideration.  
25 Specific impacts are addressed as follows:
- A. Traffic. The proposal will not change any access point to the Salish  
Crossing development. Trip generation is computed to be negative in the  
applicant's traffic generation report, Ex. 1, att. 9, because a portion of the  
development was demolished less than a year ago. Consequently no  
traffic impact fees are likely to be required during building permit review.  
City engineering have also reviewed the applicant's queuing analysis and  
concluded that the proposal will not generate any queuing back up onto  
public roads.
- B. Critical Areas. There are no critical areas on site except for a mapped  
liquefaction hazard area, which is considered a critical area pursuant to ECDC

1 23.40 and 23.80. The liquefaction hazard will be addressed with building permit review.

2 C. Compatibility. The proposal drew no adverse written comment or public  
3 testimony. The drive through portion of the building will be screened by  
4 landscaping as will all mechanical equipment as required by the conditions  
5 of approval. The proposal has also gone through design review. Since the  
6 proposal is surrounded by intense commercial, public and transportation  
7 use as outlined in Finding of Fact No. 4, no compatibility problems are  
8 anticipated.

9 D. Parking. Parking for the proposal far exceeds City parking requirements.  
10 Pursuant to ECDC 17.50.010.C, all new buildings within the downtown business  
11 area shall provide parking at a flat rate of one parking stall for every 500 square  
12 feet of gross floor area. The new retail pavilion at 1,500 square feet would need  
13 to provide 3 parking spaces. With this new development, taken in total the Salish  
14 Crossing site will contain approximately 45,000 square feet of commercial  
15 structures. At one parking space per 500 square feet of gross floor area, 90  
16 parking spaces would be required. After this development there will be 264  
17 parking spaces at the Salish Crossing Site.

## 18 CONCLUSIONS OF LAW

### 19 Procedural:

20 1. Authority of Hearing Examiner. ECDC 20.01.003 provides that the  
21 Hearing Examiner will hold a hearing and issue a final decision on conditional use  
22 permit applications. Design review is consolidated before the Examiner for a hearing  
23 and final decision as required by ECDC 20.01.002(B).

### 24 Substantive:

25 2. Zoning Designations. The subject property is designated as Community  
Business (BC).

3. Permit Review Criteria. ECDC 16.50.010(C)(6) requires a conditional use  
permit for drive in businesses in the BC zone. The criteria for a conditional use  
permit are governed by ECDC 20.050.010. The criteria for general design review are  
set by ECDC 20.11.020 and 20.11.030. Staff findings regarding compliance with  
ECDC 20.11.030, p. 13-15 of the staff report, are adopted and incorporated by this  
reference as if set forth in full. All other applicable criteria are quoted below and  
applied through corresponding conclusions of law.

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

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

2 4. The proposal is consistent with the comprehensive plan. The staff report  
3 analysis of the comprehensive plan, located at Section VIII of the report, is adopted  
4 and incorporated by this reference as if set forth in full.

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

9 5. The proposal meets all applicable zoning requirements. The staff report  
10 analysis of Zoning Ordinance compliance, located at Section X of the report, is  
11 adopted and incorporated by this reference as if set forth in full. The purpose of the  
12 BC zone is also served by permitting retail uses that serve the entire community.

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

16 6. As determined in Findings of Fact No. 5, there are no significant adverse  
17 impacts associated with the proposal. For this reason, the proposal is not found to be  
18 detrimental to the public health, safety and welfare and not detrimental to nearby  
19 private property or improvements.

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

7. The conditional use permit shall run with the land for a drive-through  
business.

## DECISION

The conditional use permit and general design review applications meet all applicable  
criteria for the reasons outlined above and are approved, subject are to the following  
conditions:

1. The applicant is responsible for seeking and obtaining all other required local,  
state and federal permits.

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- 2. 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.
- 3. Approval of the design review phase of the project does not constitute approval of the improvements as shown on the submitted plans.
- 4. All mechanical equipment and other utility hardware on the roof, grounds or buildings should be placed on the west side of the building and screened to mitigate view impacts from street level. Screening could include the use of architectural elements, landscaping and/or fencing. Screening should be effective in winter as well as summer.
- 5. The six parking stalls directly west of the building shall be designated and marked as “employee parking only.”
- 6. The trash enclosure abutting the northwest corner of the existing building shall include a rolling gate across the west side of the structure.
- 7. The conditional use permit for a drive-through business shall be transferable to subsequent property owners.

DATED this 12<sup>th</sup> day of May, 2015.



Phil A. Olbrechts

City of Edmonds Hearing Examiner

**Appeal Right and Valuation Notices**

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