

PLANNING BOARD MINUTES

January 23, 2002

Chair John Dewhirst called the regular meeting of the Planning Board to order at 7:00 p.m. in the Council Chambers, Public Safety Complex, 250 – 5th Avenue North.

PRESENT

John Dewhirst, Chair
Jim Crim, Vice Chair

Virginia Cassutt
Beverly Lindh
Joanne Noel
Cary Guenther

ABSENT

STAFF PRESENT

Steve Bullock, Associate Planner
Arvilla Ohlde, Parks and Recreation
Manager
Karin Noyes, Recorder

APPROVAL OF MINUTES

MOTION BY MR. CRIM, SECONDED BY MS. LINDH, TO APPROVE THE MINUTES OF DECEMBER 12, 2001 AS SUBMITTED. MOTION CARRIED, WITH MR. CRIM ABSTAINING.

MOTION BY MS. LINDH, SECONDED BY MR. CRIM, TO APPROVE THE MINUTES OF JANUARY 13, 2002 WITH THE FOLLOWING CORRECTIONS:

1. PAGE 1, DELETE MR. WITENBERG'S NAME FROM THE LIST OF THOSE PRESENT, AND INDICATE THAT MR. CRIM IS THE VICE CHAIR.
2. PAGE 1, SECOND LINE UNDER "APPROVAL OF MINUTES," CHANGE "ATTEND" TO "ATTENDING."
3. PAGE 4, THIRD PARAGRAPH FROM BOTTOM, CHANGE FIRST WORD TO "MS."

MOTION CARRIED, WITH MS. CASSUTT AND MS. NOEL ABSTAINING.

ANNOUNCEMENT OF AGENDA

No changes were made to the proposed agenda.

REQUESTS FROM THE AUDIENCE

There was no one in the audience to address the Board during this portion of the meeting.

PARKS AND RECREATION QUARTERLY REPORT

Arvilla Ohlde, Parks and Recreation Manager, reported on the following items:

- The interlocal agreement with the Snohomish County Council has been completed, which initiates the beginning of discussions with the Edmonds School District to request purchase of the Chase Lake Elementary property for a neighborhood park in the Esperance Community. She noted that this is a 7.4 acre piece of property, and only minor development would be required. She also noted that neighborhood parks were identified as a need in the Comprehensive Park, Recreation and Open Space Plan.
- The Comprehensive Park Plan was completed and adopted by the City Council in December.
- The public urban design project is continuing to progress. A preliminary broad draft was presented to staff, and they are working with the consultant to provide input. The introduction of the project will be presented to the City Council Community Services Committee on February 12 and to the Planning Board on February 13. The plan will also be presented to a group of downtown merchants, chamber representatives and others, as the public process is started. She noted that both the Planning Board, as well as the Architectural Design Board, would hold public hearings regarding this issue.
- The professional services scope of work and contract for the completion of a traffic circulation and access study for City Park will go before the City Council for approval on February 5. She pointed out that the Council requested that prior to continuing with the Master Plan element of a two-way road at City Park, the City's traffic engineer should conduct a study to analyze the circulation and access proposals for the two-way circulation verses one-way circulation. If the Council accepts the two-way circulation concept, the Master Plan would not have to be amended, but if they decide upon a different type of circulation plan, the Master Plan would have to be amended.

Ms. Cassutt inquired why the two-way road circulation was proposed in the Master Plan. Ms. Ohlde advised that studies found that the one-way road continually circles the parking, which causes confusion. It was found that the number of cars exiting the site was greater than those entering. The conclusion was that people were accessing the site through the designated exit. She noted that there is also a traffic safety issue at the exit onto Third Avenue. The City Council's decision regarding whether or not Pine Street should be open will also have a bearing on City Park.

- The 2001 Legislature established, through HB1836, the setting up of a task force to recommend revenue options to address the ever going need for funding the operations and maintenance of municipal park systems. She referenced the task force report that was provided to each Board member, and briefly described the groups that were represented on the task force.
- The City Council Retreat draft agenda includes a request from Councilman Orvis regarding the 1st and 2nd quarter Real Estate Excise Tax Fund (REET). She noted that on October 17, 2001 the City Council approved an action that provides that these funds not be used for the Anderson Center Improvement Project and that they continue to be used for parks and recreation acquisition and development purposes. However, if the City Council were to change their current policy, they could jeopardize the completion of the acquisition and development recommendations.
- A Coastal Zone Management Grant will be submitted to the Department of Ecology to assist with matching grant funds to complete the Master Plan for the Union Oil Marsh. She said it is anticipated that the plan could be very costly and a matching grant would assist in the funding of this project. She said the goal of the project is to identify the resources on the Union Oil Marsh site that need to be protected as future development on adjacent properties occurs.
- On December 20, 2001 the City of Edmonds purchased Marina Beach Park. The City now owns seven waterfront park sites along the shores of Puget Sound. She said she hopes to hold a ribbon-cutting event on the site in the near future.

Ms. Lindh inquired if Edmonds, Mountlake Terrace and Lynnwood could possibly get together to form a metro park district as was discussed as part of the legislative proposal that was presented by Ms. Ohlde. Ms. Ohlde explained that in order for an area to qualify for the park district program there must be a city that has more than 100,000 residents because the legislation has been written fairly specific.

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Mr. Dewhirst asked about the possibility of forming a partnership with the City of Lynnwood for South County Park improvements. Ms. Ohlde explained that in the past, Lynnwood has not expressed an interested in entering a partnership. However, this appears to be changing, and staff is hopeful that a partnership can be used at some point in the future.

Ms. Lindh inquired regarding the progress of the bulkhead project. Ms. Ohlde reported that staff has been working with the consultant and the two people who have opposed the project to come up with new calculations. Once these were done, they worked with the consultant to design the project based on the new numbers. The project is now nearly ready to present to the two individuals soon, and then it will go to the City Council for approval to go forward with the permit application. Ms. Ohlde explained that if the project goes lower than the high water line, many permits would be required. When the project was redesigned, the goal was to pull the project back to the high water mark so that only a permit from the Fish and Wildlife Department would be required, instead of one from the Corps of Engineers, as well. She said she is optimistic that the City will have the necessary permits to allow them to construct the project starting in September.

CONTINUED REVIEW OF PROPOSED NEW “BR” BUSINESS AND RESIDENTIAL MIXED USE ZONE AND POTENTIAL REZONE OF PROPERTIES IN THE VICINITY OF STEVENS HOSPITAL/EDMONDS-WOODWAY HIGH SCHOOL

Mr. Bullock referred the Board to the modified proposed language and noted that the underlined language represents what was added since the last meeting. He briefly reviewed the changes, and noted that a map of the area was also provided to locate the high-rise overlay boundary, as well.

Ms. Lindh referred to Item 3c on Page 3, and inquired if this would mean there would be no maximum density requirement. Mr. Bullock advised that this is related to how many dwelling units a particular property can have built on it. There is not a limit on the maximum number of units, but this will be controlled by the parking, height and setback requirements.

Mr. Crim requested clarification of the height language in the hi-rise overlay. Mr. Bullock advised that the hi-rise language applies only to those areas labeled as CG on the map. In this zone, there is no limit on the height of development if a conditional use permit is approved. The Hearing Examiner would review the proposal based on the same criteria that is provided at the bottom of Page 3 and top of Page 4.

Mr. Crim felt that the information to the public should clearly indicate that the proposal would not create a new height limit throughout the entire area, but simply provide a buffer between what is already identified as hi-rise and the residential developments. He suggested that perhaps this document should also describe the lack of limitations in the CG-2 zone as an education tool for the public. . Mr. Dewhirst noted that the draft document would be sent to everyone on the mailing list, with an explanation that this is the direction the Board is heading. Ms. Cassutt agreed with Mr. Crim that a cover letter should be provided to make it clear that the hi-rise area is already there.

Mr. Dewhirst referred to the second paragraph on Page 3. The first line references the term “R-zoned property” and then the next line references the term “RS zone.” He inquired if these two references should be consistent. The Board agreed that the term “RS zone” should be changed to “R-zoned property.” Mr. Bullock referred to the note provided at the end of this section by Mr. Chave stating that he retained the across-the street provision for the RS zone only. However, the Board agreed that being more stringent would be the prudent way to go.

Mr. Dewhirst referred to Section 3.D on Page 3 and suggested that the last line be changed to read “shall be provided continuously along the setback.” The Board concurred.

Mr. Dewhirst pointed out that while this is not the last time the Board will review the draft ordinance, the draft that is provided to the public would shape the public’s response. The letter that accompanies the draft ordinance would be very important in shaping the public’s understanding of the proposal, as well. Ms. Noel recalled that on a previous occasion the Board discussed the need to provide some type of picture illustrations to describe the impact of the proposed language. The

Board agreed that volumetric conceptual drawings of possible building heights as compared to the existing hospital structure should be provided.

Mr. Crim said the Board needs to be diligent to make it clear that the new zone is only proposed for the area identified on the map, and not City wide. The Board agreed, and asked that they be given an opportunity to review the cover letter before it is attached to the draft ordinance and sent out to the public.

REVIEW OF PUBLIC INFORMATION MATERIALS FOR PUBLIC HEARING ON ARCHITECTURAL DESIGN BOARD (ADB) REVIEW PROCESS

Mr. Dewhirst said that he talked with Mr. Chave about his concern with having a public hearing on this issue at the next meeting when the Board just received the new draft flow chart and explanations at tonight's meeting. Staff agreed with his concern, and the new extended agenda that was handed out postponed the public hearing on this issue until February 27 to allow the Board members the opportunity to review the information provided over the next few weeks and discuss their issues at the next meeting.

THE BOARD TOOK A FIVE-MINUTE BREAK TO 7:40 P.M. WHILE MR. BULLOCK WENT BACK TO THE OFFICE TO GET THE MATERIALS PERTAINING TO THIS ISSUE.

Mr. Bullock provided each of the Board members with a flow chart of the proposed design review process, along with an attached explanation of each of the steps in the process. He briefly reviewed each of the steps as follows:

1. **Conceptual Design:** This is solely the applicant's responsibility. During this step, the property becomes available for development, and a potential developer considers different options for developing the property, and narrows down those options to a couple of preferred proposals. The City has no responsibility during this step of the process. However, the applicant may call staff and ask questions regarding density and setback requirements, etc.
2. **Pre-Application Meeting with the City:** This is a preliminary meeting between the applicant and the potential interested departments within the City to identify critical issues that likely will be associated with their project. The applicant would be required to provide a survey of the property and some conceptual ideas. Departments typically involved will be building, public works, fire, parks and planning, etc. Issues to be addressed will include utility capacity, design standards to be used, zoning requirements and improvements that may be required.
3. **ADB Public Workshop:** The ADB will hold a public workshop/meeting to consider the one or more preferred development proposal the applicant creates in the conceptual design step. This workshop would require notice and the general public would have an opportunity to give input about things they consider to be key issues related to the site and development on the site.
4. **Summary/Suggestions:** This is the product of the ADB Public Workshop. The ADB will give feedback to the applicant about what the critical or important compatibility issues are related to that particular site. They will also give feedback about how the proposed project meets or should meet the Design Guidelines that apply to the project.
5. **Detailed Design:** This step is again the sole responsibility of the applicant. They must take the feedback from the pre-application meeting and the ADB workshop and incorporate it into their detailed design.
6. **Application to the City:** the applicant will make a formal design review application for the City to review the detailed design of their development.
7. **Staff Review and Report:** Upon receiving an application for formal design review, the City will provide notice of a formal application and announce a comment period by which any interested party can indicate their support or opposition. City staff will review the proposal for compliance with City codes. The Planning staff will also review how

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the project complies with the direction of the design guidelines and the previous direction of the ADB. SEPA review will also be completed at this time.

8. **ADB Design Decision:** The ADB will review the final plans submitted by the applicant and any comments submitted during the comment period and make a decision as to whether the project complies with the design guidelines. Although this decision will be made at a public meeting, it will not be a public hearing and no testimony will be accepted at this time. Any desire to have the ADB consider a particular point of view or opinion will need to be submitted to the Board in writing during the comment period.
9. **Appeal:** The ADB's decision on these matters will be final unless the design review is a part of a consolidated application that is going on to the Hearing Examiner for a final decision with other discretionary permits or if the Board's decision is appealed. The appeal of an ADB decision currently goes to the City Council. The current review of the design review process may identify a more appropriate forum for an appeal of a design review decision. He suggested that perhaps both SEPA and ADB appeals should go to the Hearing Examiner, so that both appeals go to the same place. Appeals to the Hearing Examiner decision would go to court.

Mr. Crim noted that at the ADB Design Decision step in the process, only staff and the ADB would be allowed to speak. Mr. Bullock said that the applicant would also be allowed to interact with the ADB because they have the burden of proof that the application meets the code requirements. Mr. Crim suggested that because of the appearance of being unfair to the public, perhaps the applicant should not be allowed to speak at that meeting, either. He suggested that the plans and application presented could speak for themselves, and the staff could answer any questions the ADB might have regarding the project.

Mr. Bullock said the applicant has always had the opportunity to speak at these types of meetings, but that he would check with the City Attorney for further direction. Mr. Dewhirst suggested that if there are some specific questions about something that is unclear, the applicant could be allowed to answer. However, he agreed with Mr. Crim that if the applicant gets a chance to speak and the public does not, it would appear as a violation of the appearance of fairness rules. Mr. Bullock explained that at this step in the process, the ADB's decision is intended to be a stamp of approval on the direction that has already been given to the applicant. Therefore, it might be appropriate to not allow the applicant to provide testimony. Mr. Dewhirst suggested that unless the public hearing is open then there would be no opportunity for the applicant to speak. The ADB's final decision process is not a public hearing forum.

The Board continued to discuss whether or not the applicant should be allowed to participate in the design decision portion of the process. Mr. Guenther questioned how an applicant would be able to address his issues regarding the ADB's recommendations if he is not allowed to speak at this meeting. He said that if the intent is to make the process more user-friendly, they should not require an applicant to appeal the ADB's decision just to be able to express his issues. Mr. Guenther said there needs to be a forum to allow the applicant to clear up issues with the ADB before a decision is made. Mr. Dewhirst felt that if the applicant does not agree with the staff report, he could provide written comments just like anyone else is required to do. This would make it a level playing field for both the applicant and the public. Any outstanding issues could be addressed in that manner.

Mr. Crim inquired at what point the applicant would have an indication of the staff's evaluation. Mr. Bullock answered that the staff report would come out at the end of Step 7 before the application goes to the ADB for final review and decision. Mr. Bullock said staff would send out a report of their analysis of the proposal a week before the ADB's meeting. Mr. Dewhirst suggested that Step 7 should state that staff will prepare a report evaluating the project and provide a recommendation as to whether the design meets the code requirements or not. Mr. Bullock agreed and added that it might be helpful to require the report to be prepared prior to the comment period so that the applicant and the public would all have the exact same report to respond to. They could all provide written comments during the posted comment period. The Board concurred.

Mr. Dewhirst said these kinds of details in the written description of each process would be very important. He suggested that the term "require notice" in Step 3 should be explained. Also, the term "notice of formal application" in Step 7 should be explained.

Mr. Guenther inquired if there are areas in the design guidelines and SEPA review that overlap. Mr. Bullock explained that when the City has codes that dictate and describe how things should happen, they do not use the SEPA process to impose additional requirements. They use SEPA to cover issues that are not addressed in the code. The design guidelines address most of the issues that might be potential SEPA conditions and usually a Determination of Non-Significance is issued. However, when a Mitigated Determination of Non-Significance is issued, an additional comment period on top of the appeal period is required. This needs to be charted out for the design review process. The intent is to develop a system where SEPA and the design review process go hand-in-hand. Mr. Guenther inquired if appeals related to both SEPA and the design review could be heard by the Hearing Examiner. Mr. Bullock answered that these could both be heard by the Hearing Examiner at the same hearing.

Mr. Crim asked about the time line for the Board to complete their review of this issue, hold a public hearing, and forward a recommendation to the Council. Mr. Dewhirst explained that the changes will be made to the text as discussed and the Board will review the updated draft at the next meeting. The issue is scheduled as a public hearing on February 27, 2002. He suggested that as the Board members review the document and have comments, they should contact staff as soon as possible.

Mr. Dewhirst suggested that after the document explaining each of the design review steps is rewritten, staff should specifically point out when and how the public will have an opportunity to provide comments during the review process. Ms. Noel suggested that perhaps it would be better to have the public comment period come after the public workshop, when the issue is fresh on everyone's minds. Mr. Bullock noted that as soon as an application is filed with the City, the public could start providing their written comments. However, there will also be a few officially posted comment periods to identify specific times when the public can provide either written or verbal comments. The Board agreed that it is important to identify when the public comment period begins and ends.

Mr. Crim referred to the flow chart of the current process. He noted that staff has not shown that there is a formal hearing before the ADB at this time, nor when the public can provide their comments. He suggested that these opportunities be clearly identified so that the public can understand the differences between the existing and proposed review processes.

Mr. Dewhirst inquired if a person would have to be an official part of the record in order to appeal the ADB's decision. Mr. Bullock answered affirmatively, but noted that this would include any one who has been involved in the process by submitting a letter, those who have attended or provided testimony at a public workshop, as well as adjacent property owners. For clarification, the Board asked that the dashed box identifying the public comment period be extended under the diamond shape identifying the ADB/Workshop (Step 3).

PROPOSED NEW AMENDMENT TO ECDC 20.91.030 TO AUTHORIZE A PROCEDURAL CONTINUANCE DURING THE CITY COUNCIL'S CONSIDERATION OF A PARTICULAR ZONING ACTION

Mr. Bullock explained that from time to time, a request is made to the City Council to continue a public hearing on a zoning matter. If a request is made in advance of a scheduled meeting, it may be desirable to grant the continuance, and to do it in such a way that the parties are not inconvenienced. Currently, as a formality, even if a continuance is granted, the parties must appear at the scheduled meeting anyway, even though the item is being continued. The proposed code amendment would establish the procedure and criteria in the code so that the Council President could grant a continuance for "good cause." This code amendment would formalize the code provision adopted by the Council as an interim zoning amendment on November 27, 2001.

The Board members agreed that the proposed code amendment should move forward. It was scheduled as a public hearing on February 13, 2002.

REVIEW OF EXTENDED AGENDA

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The Board reviewed their extended agenda for the next few meetings. Mr. Bullock advised that Mr. Cobb has indicated that his client would like to make a minor amendment to their contract rezone. This is a small request and if the public hearing on the other rezone is postponed, staff would like to schedule this item on the February 13, 2002 agenda, instead. The Board agreed. In addition, the February 13 agenda will include a public hearing on the ADB process and reports on the public urban design project and adult entertainment.

Mr. Dewhirst noted that the retreat would be postponed until the Council appoints the two new Board members.

Mr. Dewhirst reported that at the Council meeting last week, the historical preservation committee made a presentation. A public hearing will be held regarding the creation of a committee and then the Board will begin to work on the other half of the project.

Ms. Lindh inquired when the design guidelines would be addressed by the Board again. Mr. Dewhirst recalled that the Board agreed to hold the design guidelines until the ADB review process had been considered so that they could review both at the same time to make sure they are compatible before sending a recommendation on to the Council. Mr. Bullock advised that perhaps the Board could hold one last public hearing on both items together on April 30. He noted that while most of the issues related to the design guidelines have been resolved, the Board did not make a decision regarding the issue of which items would require staff or ADB approval because they felt this was tied directly to the design review process. Perhaps the last public hearing could focus specifically on this issue.

PLANNING BOARD CHAIR COMMENTS

Mr. Dewhirst said that he will be having his monthly meeting with the Mayor on January 28, and the Board members should provide their comments and issues to him as soon as possible.

The Board discussed the recent situation surrounding the Board's interview of potential candidates for the Planning Board vacancies. It was noted that the Mayor would interview all of the candidates and make a recommendation to the City Council for appointment.

Mr. Dewhirst said he would like to discuss the basic rules and operations of the Planning Board at the next retreat.

PLANNING BOARD MEMBER COMMENTS

Mr. Guenther advised that he would be absent from the next meeting.

THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE BOARD, THE MEETING WAS ADJOURNED AT 8:40 P.M.

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