

PLANNING BOARD MINUTES

March 13, 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
Wayne Zahn
James Young

STAFF PRESENT

Duane Bowman, Community Development Director
Steven Clifton, Development Services Director
Rob Chave, Planning Division Manager
Steve Bullock, Associate Planner
Karin Noyes, Recorder

APPROVAL OF MINUTES

MOTION BY MR. CRIM, SECONDED BY MS. CASSUTT, TO APPROVE THE MINUTES OF FEBRUARY 27, 2002 WITH THE TYPOGRAPHICAL CORRECTIONS AS NOTED. MOTION CARRIED UNANIMOUSLY.

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.

REVIEW OF ADB GUIDELINES AND PROCESS—HEARING FOLLOW-UP

Mr. Chave recalled that the Board held a public hearing on this issue at the last meeting and decided to go back and review the process some more. He referred to the large sheet of paper that identifies the current process, the process that was outlined at the public hearing, and two other options provided by staff that incorporate the suggestions and concerns discussed at the public hearing. One of the significant issues discussed at the hearing was the benefit of having a preliminary design review early in the process.

Mr. Chave explained that Option 1 would require a preliminary review meeting that would be a public workshop before the Architectural Design Board (ADB). He recalled the Growth Management Act requirement that there can only be one open

record public hearing. If the ADB were to hold a public hearing on the application, and then the SEPA determination was appealed, the City would end up with a situation where more than one hearing would be necessary. Therefore, staff does not feel it would be prudent for the ADB to hold a public hearing early in the process. The preliminary design review could be done in a public meeting before the ADB, and the public could be allowed to provide comments, but it would not be considered a public hearing. Subsequent to the public workshop, the ADB could issue summary of their issues and findings based on the design guidelines and the issues raised at the public meeting. The applicant could use these findings to develop a full application to the City. The staff would review the application and make a staff decision regarding the proposal. The staff decision would have to be consistent with the adopted design guidelines, the development code and with the findings issued by the ADB at the preliminary design review meeting. An appeal could be filed after the staff decision is issued.

Mr. Chave noted that the Board has yet to make a decision as to what body would hear an appeal. Staff suggests that appeals to design review decisions should go before the ADB, who could hold an open record public hearing. Option 1 would give the ADB an early opportunity to review the project, as well as the final say if an appeal is filed. He said he anticipates that if Option 1 is used, staff would meet periodically with the ADB to review the projects and decisions that have come before them.

Mr. Chave said that Option 2 is similar to Option 1, but staff would hold the public workshop and issue the findings, and the ADB would make the design decision at the end of the process. This could be done by using the public hearing process, similar to what they do now, or the ADB could issue an administrative type of decision. If the ADB would function as a public hearing board, and any appeal would have to be closed record to another body other than the ADB.

Mr. Chave said that both Options 1 and 2 make the preliminary design review mandatory early in the process. He suggested that, with both, the most influence the ADB will have on a project would come during the public workshop. Any design decision would ultimately have to be consistent with the design guidelines and with the findings from the workshop. Therefore, the final decision could be an administrative type decision. A public hearing as part of the final decision process would come too late for new issues to be raised. If the public hearing is used at the end of the review process, all of the problems that have been previously expressed regarding the ADB review would resurface. By that time, the applicant would have invested a significant amount of time and money into the design and it would be difficult and costly to make changes. Mr. Chave expressed his opinion that it would be better if the ADB were to convene the public workshop meeting rather than staff. It is important that the expertise of these individuals be utilized before the project is set in stone.

Mr. Chave said staff also provided a timeline of the current process as well as Options 1 and 2. Staff attempted to make some assumptions as they placed these processes on a time line to compare what would happen with each. He explained that there are some things that happen before a formal application for design review is submitted, and these would be the same for each of the options. The timeline for the remainder of the options would be slightly different. He reviewed each of the estimated timelines. He noted that the key difference between the existing process and the proposed new options is that there is no public notice requirement later in the process because the notice would be done early on and there would be no public hearing prior to a decision being issued. While this could potentially shorten the latter half of the process, it could add a little time up front for notice of the public workshop. He reminded the Board that the timeline is very schematic. For example, sometimes the SEPA appeal and public comment periods can overlap a little bit.

Mr. Chave recalled that at previous meetings the Board has discussed the idea of leaving the pre-application meeting as an optional step in the design review process. Staff recommends that if an applicant is asking for some type of design departure from the design guidelines, perhaps the pre-application meeting should be mandatory in these cases.

Ms. Lindh inquired how long the current process takes on average. Mr. Chave answered that the difficulty in flowcharting a timeline for the design review process is that certain phases have the ability to vary in length, depending on many factors. However, he said that on average, it takes between three to four months for a project to go through the current design review process and receive approval. He added that the 120-day timeline would start after an application is deemed complete. However, staff is considering a new program that would allow them to determine whether or not an application is complete at the time it is submitted, rather than requiring an applicant to wait for a response from the City.

Mr. Dewhist inquired which of the two options provided by staff would require the least amount of staff time. Mr. Chave said that in terms of substantive review, there are no differences. However, Option 2 would require the most staff time and effort for notice requirements if the ADB ends up holding a public hearing. Option 2 is a little bit more streamlined because the public meeting is moved so that it occurs earlier in the process.

Mr. Crim inquired if the ADB would have the ability to appeal a final decision made by staff (Option 1) if they do not feel that staff followed the findings made by the ADB at the preliminary workshop. Mr. Chave said the final decision would be made by staff in coordination with the ADB. If the staff and ADB are working off the same guidelines there may be situations where the interpretations are not the same, but in general, the staff's decision would be based on the design guidelines and the findings provided by the ADB. If the ADB is charged with monitoring the design guidelines and making recommended changes, they could work with staff to sort out interpretation issues that arise.

Mr. Chave introduced Stephen Clifton, Edmonds Development Services Director, and Duane Bowman, Edmonds Community Development Director. He noted that each would share their views of the subject based on their experience with design review in other jurisdictions.

Mr. Clifton said that while working for the City of Redmond, he presented applications to the design review board. He also worked on a contract to prepare a design review background paper for the City of Olympia to kick off their design review program. In addition, he served for three years on the Seattle Design Review Board and wrote the design guidelines for the City of Federal Way. All of these experiences involved significant discussion about the role of design review boards in the process.

Mr. Clifton said that based on his experience and the comments he has received from developers, he would recommend that the design review come as early in the process as possible. The developers have expressed their concern that they spend time and money to put together a design application only to have it shot down late in the process by the design review board. He said the City of Federal Way chose to take an administrative approach where applications are reviewed by the staff, and the staff provides comments and suggestions to the applicant. This helps the applicant minimize the discrepancies between the architects and planners.

In his experience with serving on a City of Seattle Design Review Board, Mr. Clifton said he found it helpful to have the design review occur early in the process. Developers would come before the board and propose refined design drawings and the board would give their opinion based on a set of adopted design guidelines. At this time, the City's ADB does not have a good set of design guidelines to use to make their decisions. However, this document is in the process of being created. He explained that the design guidelines help the application process flow more smoothly. The applicant can use them as a guide as they design a project, and then the design review board uses them as they review the proposal and create their findings. The City of Seattle's preliminary design review meeting is done in a workshop style, and the public is invited to attend and provide their comments. The applicant presents plans and an exchange of ideas and suggestions takes place between the applicant, the public and the staff. This enables the applicants to clearly understand the concerns before the design progresses to a more detailed stage.

Mr. Clifton said that, in his opinion, Option 1 would be the best approach for design review because it allows the ADB to share their thoughts early in the process as to whether or not the application meets the design guidelines. It also allows any appeals to the staff's final decision to come back to the ADB for further consideration.

Mr. Dewhirst inquired if Mr. Clifton has heard complaints from developers regarding the current design review process. He recalled that at the public hearing, the developers who provided comments seemed to feel that the current process is appropriate. Mr. Clifton answered that he finds this very surprising based on how many people have come to the City with complaints. He said that in his experience, the complaints usually center around the process moving too slowly, and he did not feel the City could do anything to address all of these concerns.

Mr. Crim inquired if Mr. Clifton has read the design review guidelines that are currently being proposed. Mr. Clifton said he has read them, and they seem to be pretty well written. He said he did have some concerns that were incorporated into the

draft document. He felt that the interaction between the proposed design guidelines and a revised process like Option 1 would work well.

Mr. Bowman agreed with the comments provided by Mr. Clifton regarding the need for the ADB review to come early in the process. He said he feels that the design guidelines will be a benefit to the development community, staff and the community as a whole. Over time, as the ADB, staff and developers work with the new document, the developers will begin to have a clear understanding of what is expected. He agreed with Mr. Clifton that Option 1 seems to be the best process. He said that when he worked with the ADB many years ago as a staff member, one of the significant complaints was that a developer could get so far down the process and then have your application denied by the ADB. Having the design review with the ADB up front and early in the process brings value to the applicant's project and gives the public and the ADB an opportunity to voice their concerns at the beginning instead of the end of the review. He said that Option 1 would allow this to happen, but at the same time, the design appeal would be reserved for the ADB because the early design review would not be a public hearing. He said he does not think that appeals to design review decisions will happen on a regular basis because the applicants will find that as they work with the staff and the ADB early in the process there will not be huge issues raised at the end.

Mr. Bowman said he is an advocate of having staff issue a notice of application completion at the counter when the application is turned in rather than requiring that the applicant wait for this notification. If the applicant submits everything that is identified on the checklist, then the application can immediately be considered complete. The City can always ask for more information while doing the review. Once this opportunity is available, the design review time can be reduced by about four weeks.

Mr. Dewhirst said that his major concern is that the citizens of Edmonds are so trained to expect a public hearing during the design review process. Another concern is that if someone does not like a decision that is made, they would be required to pay a fee to file an appeal. This puts the onus on the citizens, and he is not sure that is the proper way to go. Mr. Bowman explained that if the preliminary design review takes place at the beginning the design review process, the public would have an opportunity to provide their comments as to whether or not the proposed project is consistent with the design guidelines. Since the public would be allowed to participate in the preliminary review, perhaps they should have to pay a fee in order to appeal an application. This helps eliminate frivolous appeals. He said the public has the right to participate in the process, but if an applicant goes through the review process and meets the requirements of the design guidelines and the code, then any citizen who appeals the project should have to pay a fee to do so. Option 1 would allow appeals to be heard by the ADB in an open record public hearing, unless a SEPA appeal is filed, as well. In that case, the appeal would be heard by the Hearing Examiner.

Mr. Chave explained that the way the design review process is set up now, the public hearing is held at the end of the review process, and it tends to become an adversarial situation because people have not had a chance to provide input into the process until the designs are completed. Option 1 would allow the public to be heard early in the design review process when the design can be influenced. Mr. Dewhirst said that in his experience at other jurisdictions, having the ADB hold a preliminary design review workshop early in the process helps eliminate a lot of the adversarial conflicts, and the process ends up moving faster.

Mr. Bowman said the design guidelines would help the ADB and the developer by guiding them through the design review process. The ADB could be charged with maintaining the design guidelines. By taking authorship of the document, they would have more interest in making sure they are corrected when problems arise.

Mr. Guenther noted that the public has had a significant opportunity to comment regarding the proposed design guidelines that will be used by developers and architects to design projects. Hopefully, the design review workshop will focus on design issues rather than zoning issues, etc. He said that if he were doing a project in Edmonds, he would want to have input from the ADB up front. After the workshop, he would expect to receive findings indicating whether or not the project is consistent with the design guidelines. He would take the findings and recommendations from the ADB and incorporate them into his design so that the project could move forward.

Mr. Clifton said that Option 1 should work quite well once the design guidelines are understood by the staff, developers and architects, and the community. It will take a while for these people to fully understand what is expected in the community, and it will be real important to separate the criticism about the process from the lack of understanding the design guidelines. He suggested that after the process and guidelines are used for several months, the design review should begin to run more smoothly. Mr. Chave agreed, and added that it would be critical for the staff and ADB to meet frequently to review projects and the design guidelines to come to a common interpretation as to how the design guidelines should be applied.

Mr. Guenther emphasized that it is important that the feedback from the ADB to the developer after the preliminary meeting be done in a timely manner. He noted that Option 1 would allow 3 days after the meeting for this feedback to be available. Mr. Bowman said one of the key issues is to make sure that when the ADB has their discussion, they are very clear with the applicant and the staff about their issues so that the feedback can be produced quickly.

Mr. Young said that it appears from the flow chart that after the ADB renders their design decision, that is the last time they consider a project. The record is closed for further testimony. Any appeal is done on a closed record basis. He said he feels it is appropriate that the open record public hearing be held at the ADB level, because they are much more prone to distinguish between non-applicable testimony and applicable testimony that is related to the design of the project. He said he would like the ADB to be responsible for establishing the record on which any appeals are going to be heard. If they do not render the final decision and make a recommendation instead, they would not be able to establish an official record on the project. He said the ADB is the only Board in the City that has specific professional requirements, and they have the ability to build a record that should stand up to appeals. He concluded that he would like to leave the current process in place and allow the ADB to use the new design guidelines to review projects and establish a record on which future decisions can be made.

Mr. Chave explained that if the design appeal is done at the ADB level as proposed in Option 1, the ADB would have the ability to establish the public record. Mr. Crim noted that the staff decision identified in Option 1 would have to comply with the design guidelines and the limits established by the ADB at the public workshop. Mr. Chave agreed that the ADB would be involved in the decision-making process up front by providing findings to the staff. They would also be able to be involved at the end of the process if a staff decision is appealed.

Ms. Lindh inquired when an applicant would be able to exercise their ability to utilize the flexibility allowed in the guidelines. Mr. Chave answered that at the public workshop the applicant would need to clearly identify how they would deviate from the guidelines and what tradeoffs they would be willing to offer. The applicant needs to make these requests clear to both the public and the ADB. If an applicant is asking for a departure from the guidelines, they could even be required to do a pre-application meeting with the staff so that staff can compare the departure with the design guidelines to make sure it is consistent with what is allowed. This would allow the staff to clarify issues before the public meeting instead of springing these departures on everyone at a public meeting—especially if the ADB is required to issue their findings within three days of the meeting. Mr. Chave said staff could create some type of submission list requesting that the applicant identify how they would depart from the guidelines and what tradeoffs are being offered.

Mr. Young inquired how Mr. Clifton feels that a change from the current process to Option 1 would result in a better quality of product. Mr. Clifton answered that, hopefully, the animosity that exists between the public, the developer and the ADB would be reduced if the developer has a clear understanding, up front as to what the ADB and public's concerns are. If the applicant is able to discuss these issues early in the process, it will eliminate hard feelings and financial risks for the developer, and the applicant will have a clear understanding of the ADB and public's concerns. Mr. Young inquired how this issue would be resolved just by making the preliminary review mandatory as opposed to optional as it is now. He inquired how this would give the public an opportunity to express their concerns and how it would ensure a better product. Mr. Clifton said that in the current process, the preliminary review is optional, and proposed Option 1 would make it mandatory. He would hope that Option 1 would result in a better product because the new design guidelines would be administered by the Board and the staff. Once everyone is familiar with the guidelines, they should provide a significant benefit. He said he feels it is better for developers to receive ADB comments up front rather than later in the process. About 99 percent of the developers he has spoken with want to have design review comments given to them up front before they put a lot of money into a project.

Mr. Young said he is not convinced that the current review process could not provide the same benefits if an applicant takes advantage of the optional pre-application meeting with the staff and the preliminary review with the ADB. If an applicant does not take advantage of these opportunities, then it would be his fault if the application were denied later on. He said that Option 1 appears to have taken the step that used to be optional and made it mandatory, and he is not sure that will endear the City to the development community any more than giving them the option of having a fairly convivial preliminary review. Most developers will listen to what adjacent property owners have to say and have frequently turned adversarial relationships into positive ones. He suggested that if the current process is not broken, he does not see any reason to fix it by replacing it with another option. He said he would like the ADB, as a professional board, to establish the record on which any appeals will be made.

Mr. Clifton stressed that while Federal Way, a fast growing community, was trying to revamp their permit process, they had developers, both large and small, telling them that they wanted to have as much information up front as possible so that they could make investment decisions early on. He said he takes these comments seriously, despite hearing from some that the system is not broken and should not be changed. He said he believes that having the ADB review early in the process would benefit everyone. Ms. Cassutt noted that the Cedar River Study indicated that the ADB review should occur early in the process, and the Council has given the same direction.

Mr. Chave recalled that the developers who attended the public hearing at the last meeting indicated their belief that the public workshop or preliminary review early in the process would be good. There was some opinion expressed that the optional preliminary review is okay because developers take advantage of the opportunity. However, the City has very few applicants who utilize the preliminary review opportunity. Mr. Crim expressed his opinion that the decision on whether to use the preliminary review opportunity or not should not be left up to the applicant. It should be a mandatory requirement of the design review process.

Mr. Dewhirst recalled that at the public hearing some developers expressed their concern about the amount of detail that would be required for the public workshop. He said there seemed to be a misconception that the City would require an applicant to provide a sophisticated set of drawings early in the process. He suggested that it might help the developers clearly understand the intent of the public workshop if the City were to put together a checklist to clearly identify what they expect an applicant to be able to communicate at the preliminary meeting. Mr. Clifton agreed that very clear and specific requirements need to be prepared to identify what needs to be submitted for the preliminary meeting. This would not, however, prevent a developer from submitting more refined drawings. Mr. Crim said many of the citizens who attend the public workshop meetings would probably expect that a lot of detail would be provided, and it could take time to educate them as to the requirements, as well.

Mr. Clifton said that at the time a developer submits an application, most have already come up with fairly detailed designs for consideration. Mr. Chave added that only a site plan is required for the pre-application hearing, but he suggested that perhaps it would be appropriate to also require elevation drawings, etc. He noted that more information would be required if an applicant is seeking a departure from the design guidelines.

Mr. Bowman emphasized that if an appeal to a staff decision is filed, the ADB would need to establish a good record of the open public hearing. If their decision is appealed, the Council would need to hold a closed record review of the application. He said that Option 1 would give the best opportunity to establish the record. If there is no SEPA appeal, the ADB would hold the hearing for the appeal. If there is a SEPA appeal, the City would be bound to have the Hearing Examiner hold the open record hearing. His decision would be based upon all of the information gathered to date.

Mr. Chave summarized that the Board has already held a public hearing on the process, as well as two on the design guidelines. If there is a consensus from the Board as to what process they would like to see drawn up, the staff could integrate this into code language along with the design guidelines so that they could be presented as one package for a final hearing.

The Board concurred, with the exception of Mr. Young, that revised Option 1 should be prepared in code language for the public hearing. Mr. Dewhirst suggested that staff write up a paragraph for each of the steps in Option 1 to describe each. They should also revise the graphic illustration to show the ultimate appeal process if there is a SEPA appeal. He said he

likes the chart showing the current process and the options. It is going to be very important that the whole issue of timing is well delineated. It might also behoove the staff to clearly identify the benefits of the proposed new process. Mr. Crim said the staff also needs to look at the first two pages of the introduction to the design guidelines and perhaps make a draft of the submittal documents required for the public workshop preliminary review. Mr. Dewhirst suggested that the explanation of each step in the process should also include a definition for the term "required for departure." In addition, Mr. Crim said it needs to be clear that the staff's final decision must be based on the ADB findings and conclusions, the design guidelines and the code requirements.

The Board agreed to schedule the public hearing for the design guidelines and the design review process on the April 24, 2002 agenda. Mr. Dewhirst said he would like the issues to be advertised to the public separately, even though the hearings would be held at the same time. He also suggested that the Board should take separate action on each issue.

THE BOARD RECESSED FOR A 10-MINUTE BREAK AT 8:30 P.M.

BUILDABLE LANDS REPORT

Mr. Chave referred the Board to the background information that was provided by the staff. He explained that most of the information is from the State and talks about the requirements of the buildable lands program. An important point to make is that the City has a September 1 deadline to at least complete an initial analysis. Staff is attempting to combine this analysis with the 2002 Comprehensive Plan review. As part of this analysis, the City must determine the amount of buildable lands available in Edmonds and what changes are necessary to accommodate the requirements of the Growth Management Act.

Mr. Chave advised that staff would be providing additional maps and information related to the City's development capacity and the kinds of development that has taken place in the City since the Comprehensive Plan was adopted in 1995. He explained that the County and its cities are charged with the responsibility of coming up with a plan for distributing the population growth by matching the growth with the development capacity of the various jurisdictions. Edmonds cannot decide on its own what their population growth capacity will be. This has to be done collaboratively with the other jurisdictions in the County to balance the urban and rural growth.

Mr. Chave advised that the buildable lands analysis would be aimed at identifying the City's capacity and growth compared to the original projections and assumptions. They will be looking at some of the assumptions that were originally made when the Comprehensive Plan was adopted, and determine what the current capacity is and whether adjustments need to be made to the City's regulations, policies or Comprehensive Plan.

Mr. Chave referred to the maps that were prepared by interns to provide an inventory of properties in each zone of the City. He said staff has started the process of determining the existing capacity of each and how much more growth can be accommodated. He also referred the Board to the census data that was provided. The staff used the census maps to compare 1980 to 1990, 1990 to 2000 and 1980 to 2000. Mr. Dewhirst inquired regarding the reason for the drop in density in some areas. Mr. Chave said he expects this is because some of the capacity was lost when residential units are converted to office or other types of uses.

Mr. Chave advised that staff would provide county-wide information for the next meeting. He noted that for the southwest urban growth area, which includes Edmonds, the County is indicating that the population growth matches projections within a few percentage points. However, this will fluctuate area by area, and Edmonds still needs to determine if there is something they can do to encourage local growth. He concluded by stating that the buildable lands analysis will be critical for the City to use as a tool when working with the County and its jurisdictions to determine the amount of capacity that is available in the City and what the projected population growth should be.

Mr. Dewhirst agreed that the buildable lands analysis is important. He said the State will assign Snohomish County a certain amount of population to accommodate. Then the County must distribute this population through the various jurisdictions. This document will support the City throughout this process.

Mr. Zahn inquired how the buildable lands analysis process would impact zoning. Mr. Chave replied that as the City does the buildable lands analysis they may find that some of the zones need to be adjusted or a new zoning designation created to accommodate more growth capacity. The analysis will also note what the City has already done to increase their capacity such as lifting the cap on multi-family development in the BC zone, making accessory dwelling units more feasible, changing the parking ratio requirements to be more in line with national standards, etc.

REVIEW OF EXTENDED AGENDA

Mr. Dewhirst reviewed that there are two public hearings scheduled on the March 27, 2002 agenda related to historical preservation and to the Capital Improvement Program. Mr. Chave advised that staff would provide an updated extended agenda soon.

The Board decided to replace their regularly scheduled meeting on April 10, 2002 with a Planning Board Workshop. The meeting would be located in the City Hall Great Room starting at 7:00 p.m.

The Board reviewed that the April 24, 2002 meeting would be advertised as a public hearing on the design guidelines and design review process. Staff would provide information regarding the design guidelines and review process at the Board's next meeting.

Mr. Dewhirst requested that Board members contact him as soon as possible with agenda item ideas for the Planning Board Workshop on April 10.

Mr. Zahn requested that staff provide the Board with 3-D topographical maps of the City. Mr. Chave said the City could provide an aerial map, but 3-D maps are beyond the City's capacity at this time. Ms. Lindh noted that the Comprehensive Plan has a topographical map of the City. Mr. Chave advised that staff would provide Mr. Zahn with a copy of the new draft version of the Comprehensive Plan Map which is more detailed. Mr. Zahn also requested a map identifying the CIP projects.

PLANNING BOARD CHAIR COMMENTS

Mr. Dewhirst had no comments to provide during this portion of the meeting.

PLANNING BOARD MEMBER COMMENTS

None of the Board members had any comments to provide during this portion of the meeting.