

**CITY OF EDMONDS  
PLANNING BOARD MINUTES  
September 28, 2005**

Chair Young called the regular meeting of the Planning Board to order at 7:03 p.m. in the Council Chambers, Public Safety Complex, 250 – 5<sup>th</sup> Avenue North.

**BOARD MEMBERS PRESENT**

James Young, Chair  
Janice Freeman, Vice Chair

Cary Guenther  
Judith Works  
Jim Crim

**BOARD MEMBERS ABSENT**

John Dewhirst  
Virginia Cassutt

Don Henderson

**STAFF PRESENT**

Rob Chave, Planning Division Manager  
Jennifer Gerend, Economic Development Director  
Don Fiene, Assistant City Engineer  
Damon Roth, Stormwater Engineer  
Karin Noyes, Recorder

Board Members Dewhirst, Cassutt and Henderson were excused from the meeting.

**READING/APPROVAL OF MINUTES**

**BOARD MEMBER WORKS MOVED TO APPROVE THE REGULAR MEETING MINUTES OF SEPTEMBER 14, 2005 AS CORRECTED. BOARD MEMBER FREEMAN SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.**

**ANNOUNCEMENT OF AGENDA**

Mr. Chave advised that the computer system in the meeting room was unavailable for the staff's use. Therefore, the Engineering Division staff went back to their office to make overhead transparencies to use during their presentation. He suggested, and the Board concurred, that Ms. Gerend should make her presentation regarding the Highway 99 Corridor (Item 7a on the agenda) prior to the Engineering Division's report (Item 5a on the agenda).

**AUDIENCE COMMENTS**

There was no one in the audience.

**REVIEW OF ADDITIONAL ZONING CHANGES TO IMPLEMENT THE COMPREHENSIVE PLAN**

Ms. Gerend advised that she was present to provide an update on various activities going on related to economic development in the Medical/Highway 99 Activity Center and along the Highway 99 Corridor. Staff has been working to coordinate studies that will be useful to the Planning Board's future work, and there are some great new opportunities for potential redevelopment in the area.

Ms. Gerend reported that in September, the City Council reviewed a proposal for the signal study. They selected Perreet Engineers and much of the work has already been done. Their report follows up some observations made in the reports that were previously prepared by Makers and Burke Associates. From a commercial real estate perspective, signaled intersections make properties along Highway 99 more appealing for businesses because of the improved ability to make left hand turns. She said staff has already started to identify possible funding sources for signals and a study would be completed this winter.

Ms. Gerend advised that staff is currently working on an updated Streetscape Plan, and a written report would be provided to the Board at their next meeting. The plan will consider issues specific to Highway 99 such as gateway treatments, way finding, etc. She said she recently submitted an application for a \$376,000 Transportation Enhancement Program grant for streetscape improvements for the Edmonds International District, which was one of the districts called out in the two studies. She said she worked with Frances Chapin to identify some initial improvements that could be made to create a visual district feel in this area. They already know the application received a very favorable score from the Puget Sound Regional Council and ranked second highest in Snohomish County. A committee is reviewing the applications to determine which ones should move on to the State and then the Federal level. She explained that the grant would provide funding for some decorative street lighting, gateway treatment, public art to signal the International District, treatment for the median at 76th Avenue, etc.

Ms. Gerend reported that on September 6<sup>th</sup> the City Council held a public hearing regarding the interim ordinance that would prohibit new storage facilities, ground floor residential and mobile home parks in the General Commercial (CG) and General Commercial 2 (CG2) zones. She pointed out that the Funtasia site at 220<sup>th</sup> Street and Highway 99 (6½ acres) has been sold, and the new owner, the Behar Company, has expressed interest in constructing a mixed-use development on the property. They are also interested in working with the Highway 99 Task Force and plan to attend their October meeting.

Ms. Gerend advised that the Highway 99 Task Force last met on September 19<sup>th</sup>, and they plan to be very active in the month of October. She further advised that the Highway 99 Task Force would update their memorandum to the Board dated May of 2004 to provide more specific feedback on the BR, BR2, CG and CG2 zones before the Board's November 9<sup>th</sup> discussion about additional zoning changes to implement the Comprehensive Plan for the Highway 99 Activity Center.

Board Member Freeman asked if the sale of property at 220<sup>th</sup> Street and Highway 99 included the automotive store site, as well. Ms. Gerend answered affirmatively. She pointed out that the entire corner is part of the CG2 or "high rise" node. The developer is interested in constructing a mixed-use development with the potential of retail, office and residential uses all being located together.

Board Member Freeman recalled that at a previous City Council Meeting, a citizen made a request for a handicapped crossing somewhere in the location of 220<sup>th</sup> Street and Highway 99. Ms. Gerend said this citizen was actually referring to the area near 76<sup>th</sup> Avenue, but a handicap crossing has not been incorporated into future plans.

Chair Young asked when a decision regarding the City's Transportation Enhancement Grant application would be made. Ms. Gerend said the Puget Sound Regional Council met on September 28<sup>th</sup>, so hopefully, the City will hear soon about which projects will go on to the State level for consideration. She said her understanding is that most of the projects that are sent to the State eventually end up being selected. Chair Young pointed out that the Transportation Enhancement Program is part of the recently approved Federal Transportation Bill, which continued the funding for the program.

Chair Young asked Ms. Gerend to provide her view of the impacts to potential development along Highway 99 as a result of the current land use patterns. He pointed out that, currently, there are numerous situations of small lot ownership, and the Highway 99 Task Force has expressed concern that this might stall future development efforts. He said that while Highway 99 is a great location for a business, it is often difficult for business owners to have enough money to consolidate properties into large parcels, and the ownership along the corridor is chopped up. Ms. Gerend reported that the City is seeing more lot consolidation occur naturally along Highway 99 because it is one of the few areas that has enough space for larger businesses. She expressed her belief that the market would continue in this direction, and adding additional signals would force more consolidation because property owners would not be allowed to have driveways near signalized intersections. In

addition, she suggested that the interim ordinance that was recently considered by the City Council would further encourage retail and revenue generating uses that are economically stronger.

**PRESENTATION BY THE EDMONDS ENGINEERING DIVISION ON STORMWATER STANDARDS AND REVIEW PROCEDURES RELATED TO SINGLE-FAMILY DEVELOPMENT (e.g. how impervious surfaces are treated on single-family lots)**

Damon Roth, Stormwater Engineer, said he was present at the request of the Board to answer their questions regarding how the City deals with impervious surfaces in single-family residential developments. He pointed out that “impervious surfaces” are defined as “constructed hard surface areas that prevent or retard entry of surface water into soil. Some examples of impervious surface include concrete, asphalt, rooftops, gravel, brick, patios, storage areas, oiled or packed earth, solid decks, etc. He advised that impervious surfaces could result in increased peak flows, which increases the potential for flooding and stream bank erosion if the water moves too quickly. In order to reduce this impact, the City requires detention or infiltration of stormwater. However, due to soil conditions, infiltration is limited to only a few areas within the City. In all other cases, the City requires a detention system in the form of underground storage so the water can be released at a natural rate.

Mr. Roth advised that in July of 1977 the City of Edmonds adopted new regulations regarding impervious surfaces. Because of grandfather laws, the City determined that impervious surfaces constructed prior to 1977 would not be required to provide a detention system. However, any new construction and reconstruction after 1977 would be required to comply with the new requirements. As per the new regulations, development with impervious surface of less than 2,000 square feet would not require any drainage control. For development with impervious surface of between 2,000 and 5,000 square feet, a detention system would be required, and the design would have to be based on a City handout. A detention system that is designed by a professional engineer would be required for developments with impervious surface of greater than 5,000 square feet. In addition, the City may require water quality treatment.

Mr. Roth explained that, at this time, the City does not limit the amount of impervious surface coverage on single-family properties. He noted that limiting impervious surface coverage could increase groundwater recharge, reduce downstream erosion, limit water quality impacts, and encourage low-impact development. However, implementation of a rule of this type could be difficult to regulate and police. He further explained that there is no good way of knowing how many lots would be in nonconformance with a regulation of this type since people tend to add impervious surfaces to their lots over time without City permits.

Mr. Roth recalled that the Board asked the question of how the City could prevent impacts to adjacent property owners. He explained that if the impervious surface on a residential property is less than 2,000 square feet, the City would not be able to prevent impacts to adjacent properties. These situations could only be addressed through a civil litigation process between the property owners. If there is more than 2,000 square feet of impervious surface on a property, the City could require that the drainage be retained and channeled to a different location to prevent impacts to adjacent properties.

Mr. Roth said the Board also asked for more information regarding how the issue of impervious surfaces is connected to the stormwater utility fee. He explained that single-family and duplex customers pay a flat stormwater fee, regardless of the amount of impervious surface on their property. The stormwater fee for all other customers is determined by the amount of impervious surface on their property.

Board Member Freeman pointed out that the plastic property owners place on the ground around their shrubs to prevent weeds from growing should also be considered impervious surface. Mr. Roth agreed but noted that the typical property owner would not request a City permit to do this work. While the plastic would prevent water from entering the soil, in most cases the plastic is covered by bark or mulch, which helps to retain some of the stormwater runoff. While water would still run off quicker in these situations, the City does not have a way of addressing this type of use.

Board Member Freeman asked if the City would be promoting alternatives to impervious surface. Mr. Roth answered that, at this time, the City is not actively promoting alternatives and there are no real incentives for people to use other types of

materials. However, it is likely the City would promote alternatives somewhat as part of public education requirements of the new Phase 2 National Pollution Discharge Elimination System (NPDES) regulations.

Board Member Crim asked what percent of the City has till soil underneath it. He pointed out that once the water hits the till soil, it will not go down into the ground any further. Based on soil maps, Mr. Roth estimated that about 85 percent of the City has till soil underneath it.

Chair Young requested an update on the new NPDES mandate from the Environmental Protection Agency and the State's Department of Ecology would be expected to administer the new program. Mr. Roth explained that the NPDES requirements have occurred in two phases. The first phase required all cities with a population of greater than 100,000 to comply with the new requirement a few years ago. Phase 2 would require all communities with a population of greater than 10,000 to comply. While the Phase 2 requirements should have been in place in 2003, the State Department of Ecology is still in the preliminary draft stage. It is anticipated that a final draft would be issued in October, with final adoption of the new permit requirements in the spring of 2006. He briefly reviewed that the new NPDES requirements would address the following categories: public education, public involvement, construction site administration, erosion prevention, operations and maintenance of the system, and illicit discharge.

Mr. Fiene explained that Phase 2 of the NPDES permit is part of the Clean Water Act that was originally enacted in the 1970's. He said he saw firsthand the positive impact the act had on the Potomac River. However, the City will need to do additional work to determine how the new permit requirements relate to stormwater, and that is why the City recently hired Mr. Roth as their new stormwater engineer.

Chair Young asked if the City's current regulations are consistent with the Federal requirements. He expressed his concern that the City does not have any control over the amount of impervious surface allowed on a property since it rains nine months a year in the area. He asked if this policy would conflict with the City's Critical Areas Ordinance. Mr. Fiene explained that the Critical Areas Ordinance dictates buffer areas, and impervious surface would not be allowed within the buffer areas. However, for single-family properties that are not located within a critical area, there would be no limitation on the amount of impervious surface allowed. However, he reminded the Board that the City would require detention systems for developments with more than 2,000 square feet of impervious surface.

Chair Young asked if the City's baseline regulation for properties with impervious surface of greater than 2,000 square feet would require a stormwater detention system that would discharge runoff at no greater rate than what occurred on the site in its pre-developed state. Mr. Fiene answered that the City regulates the rate of stormwater flow based on 2, 10 and 100-year storm events. Detentions systems must be designed to release water at a pre-development rate for each of those events. Mr. Roth explained that 2, 10 and 100-year storm events are statistical storms. This means that in any given year, there would be a 50 percent chance that a 2-year storm event would occur, a 10 percent chance that a 10-year storm event would occur, and a 1 percent chance that a 100-year storm event would occur. These statistical storm events are used by cities to attempt to match the natural discharge that would happen if the property were in a pre-developed state, but there is no way to completely match what would happen.

Chair Young pointed out that stormwater runoff is a sensitive issue for the Seattle Transportation Department. The new NPDES permit requires them to replace the detention systems to meet the new requirements every time they replace a concrete roadway. Now they no longer replace the concrete streets because the cost of doing so has more than doubled as a result of the NPDES requirements.

Chair Young recalled that the Board is currently considering the issue of setback and what types of uses should be allowed in a setback area. His understanding of the current code is that a property owner could build a sport court on the property line. As long as the impervious surface on the property is less than 2,000 square feet, no drainage system would be required. The only recourse an adjacent property owner would have would be to take the issue to court. Mr. Fiene pointed out that State law does not require detention unless a residential property has more than 5,000 square feet of impervious surface, so the City's requirement is more restrictive. He advised that the City does not plan to change this as a result of the NPDES requirements. However, there will be additional requirements for properties with more than 5,000 square feet of impervious

surface. He pointed out that if the City were to change their regulation to only include properties with impervious surface of greater than 5,000, they would not apply to very many residential lots in the City.

Mr. Fiene explained that the Phase 2 NPDES permit requirements are lengthy and will likely include monitoring requirements. The illegal discharge element will also be significant. However, the City is ahead of the game by adopting an ordinance and they have also followed up on complaints of people who illegally dump materials. But as the City gets further into the permit phase, they will have to implement a program that proactively finds out where the illegal discharges are occurring throughout the City, and this will be very time consuming. It is likely that stormwater rates would go up in the future to pay for the additional costs associated with the NPDES permit.

**FURTHER REVIEW AND DISCUSSION ON DEFINITION OF "SETBACK" AND CLARIFICATION OF WHAT STRUCTURES/BUILDINGS CAN BE PLACED IN SETBACKS (FILE NUMBER CDC-05-5)**

Mr. Chave recalled that at their last meeting, the Board agreed to examine performance standards for setbacks to see if such a system could better deal with the variety of setback issues that have been discussed. They also agreed to look into the idea of using a property owner based negotiation system to allow adjustments of setbacks within specified parameters. He reported that staff has been working on a system that would employ all of these elements, but their ideas are still very preliminary. Much more staff work must be completed to further evaluate how various types of structures or uses fit into the scheme. Staff must also evaluate how setbacks interact with various types of streets and easements. He referred the Board to the table that was provided to illustrate how the new setback system could work, and he asked that the Board provide feedback that would help staff move forward.

Mr. Chave said that as staff prepared the table, it became apparent that the Board should also consider impervious surface when discussing setbacks, depending on the size of the lot. It may be appropriate, especially for the larger lots that typically have associated critical areas, to set a maximum standard for the amount of impervious surface allowed on a property.

Mr. Chave said the table breaks up the different types of uses and structures that typically occur in setbacks into two categories: passive and active. Active uses typically involve more activity and noise than passive uses. It is, therefore, more likely that active uses would have a greater impact on adjacent property owners. The table further differentiates between active and passive use structures that are less than and greater than 30 inches in height, as well as those that are greater than 8 feet high. Since passive use structures that are less than 30 inches above grade would probably be the least problematic structures if locating within a setback, they would be permitted outright. Structures that are greater in height can be more problematic so the City must be more careful about permitting them to occur within the setback areas.

Mr. Chave said the concept illustrated in the table allows flexibility and keeps the whole concept simple. It gives the Board an option for potentially allowing some types of uses and structures in a setback area through a negotiated process. He noted that adoption of performance based setback standards would be a much different system than the City currently uses. While the new program would be specific, it would also allow flexibility.

Board Member Crim expressed his belief that the new setback standards should incorporate regulations to address impervious surfaces. Mr. Chave agreed. He pointed out that, right now, many types of impervious surfaces are not included in the total amount of lot coverage. Lot coverage only deals with roofs, decks, accessory structures, etc., but it does not include driveways, sport courts and such. He suggested that one option would be to address impervious surfaces as part of the lot coverage requirements for a property. Another option would be to deal with impervious surface as part of the setback requirements. For example, a use within a setback could be permitted based on location and how much impervious surface there would be. He said that in his experience, however, impervious surface is better dealt with as a lot coverage issue than a setback issue. Impervious surface can be much more critical if located within the setback areas. It is also much more of a concern on smaller lots.

Board Member Crim asked who would negotiate with the property owners. Mr. Chave said this has still not been determined. The negotiations would take place between two adjacent property owners, and then the final agreement would be filed with the City and recorded on the property. The City staff would check to make sure all of the City's standards have

been met before accepting a negotiated agreement. Once filed with the City, future property owners would be notified of the agreement.

Board Member Works asked how the City would maintain control if property owners are allowed to negotiate agreements. Mr. Chave said that if the City doesn't have control there would be no way for people to know what has been agreed to. The general thought is that the City would set the parameters for negotiation, and as long as property owners stay within those parameters, their agreements would be approved by the City. Again, he said the City would keep a record of setback agreements so that prospective future property owners could be informed of previous agreements associated with a property. Board Member Works asked what standing a new neighbor would have if he/she did not feel the agreement was appropriate. Mr. Chave said this must all be laid out as part of the ground rules that would be established.

Board Member Works pointed out that on the table provided by staff, decks are identified as passive uses that are less than 30 inches high. Therefore, they would be permitted within a setback area. She noted that sometimes decks are used to a greater level than what would be considered passive. She expressed her concern that a performance based setback standard could end up being worse than the standards the City already has because it is difficult to envision all of the unintended consequences of allowing neighbors to negotiate agreements. Mr. Chave said the Board should also consider whether the negotiation process would allow the neighbors to set conditions, recognizing that the conditions would not be enforced by the City.

Chair Young said his understanding and experience is that part of the purpose of setback requirements, at least in single-family areas, is to provide some space between structures on two adjacent properties to allow for air, light and quiet. Secondly, and maybe almost as important, is the issue of public safety. He suggested that there must be some minimum amount of space between structures for public safety access. He does not believe the City should allow property owners to construct permanent buildings along the property line that are greater in height than the City's fence regulations would allow. This would help address the issue from a public safety standpoint.

Mr. Chave expressed his belief that setback requirements were never intended to address the issue of peace and quiet. For example, a grassy backyard could be used everyday for children to play rugby, and the activity could extend right up to the property line. He suggested that setbacks are more related to air, light and space, and it would be difficult to say that setbacks really influence noise. Chair Young agreed but said there are still plenty of reasons for keeping structures and uses out of the setback areas.

Board Member Freeman suggested that the setback regulations should prohibit storage and garden sheds from being placed right on property lines since people often use these structures to store flammable materials. She said there have been numerous instances where sheds of this type have caught on fire ignited adjacent homes, too.

Chair Young suggested the Board consider a concept that would establish a 5-foot wide safety buffer around a property. This space would be distinguished as separate from the setback area. As a matter of public safety, no structures or uses would be allowed within this area. He pointed out that fire departments typically like separation between buildings so they can easily obtain emergency access. Rather than creating a separate section of the code to deal with the safety buffer area, Mr. Chave suggested that it be included as part of the setback standards so citizens have a clear understanding of what rules apply.

Board Member Freeman pointed out that rear setbacks do not always abut each other. Keeping a 5-foot safety buffer around the rear and sides of each property would be appropriate. This would eliminate the problem of neighbors not having the same rear setback requirements.

Chave agreed that a 5-foot safety buffer would be one option the Board could consider to help mitigate some of the concerns. As the Board considers this option further, they may even decide to move away from the concept of performance based setback standards. The setback standards could be changed, instead, to only apply to larger things that are more problematic.

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Board Member Guenther said it is important that the active uses be kept away from property lines and out of setbacks as much as possible. Hazardous materials should be kept from the property lines, as well. He agreed that the Board should further explore the concept of creating a 5-foot safety buffer.

Board Member Works pointed out that the chart should be corrected to indicate that active use structures that are greater than 30 inches but less than eight feet above grade within a setback could be negotiated, but notice to adjoining neighbors would be required (N2).

Mr. Chave said that before the Board's next meeting, he would contact the Fire Department regarding safety issues and the concept of creating a 5-foot buffer around the perimeter of a property. He pointed out that the smallest setback requirement in a single-family zone in the City is five feet for the RS-6 zoned properties. Board Member Crim said he believes a 5-foot safety zone should be established around the perimeter of a property regardless of what zone.

Mr. Chave said the Board also needs more information about the logic for street setbacks because the different street configurations make the complex setback definitions difficult and confusing to interpret. He pointed out that more variance applications are filed as a result of the setback requirements than for any other City requirement. Therefore, it would be worthwhile for the Board to take the time to address all of the different issues now. He advised that the City Council recently discussed the variance issue, and they seem to support keeping hard and fast rules for variances. If anything, they want to make variances stricter in terms of interpretation. This means the Board's consideration of setbacks and structures will become very important. If variances are difficult to obtain, the City must make sure the setback requirements are reasonable and allow flexibility on single-family properties.

Chair Young suggested that the Board have two separate discussions; one regarding the 5-foot safety buffer and another regarding the setback regulations. Mr. Chave cautioned that holding a public hearing on the 5-foot safety buffer concept without having a clear understanding of how it would relate to setbacks would be confusing to the public. He felt combining a discussion about the two issues would be more appropriate.

The Board agreed that it would be helpful to have information from the Fire Department and the Building Department regarding the safety issues associated with setbacks. They also requested that staff update the draft table to incorporate the Board's discussion. In addition, staff was asked to gather additional ideas from the Engineering Department regarding impervious surface.

### **DISCUSSION OF PORT MASTER PLAN**

Mr. Chave reported that the Port recently submitted their updated Master Plan to the City with a request that the Comprehensive Plan be amended to incorporate their changes. He advised that the Port's Master Plan would be considered by the Board as part of the next round of Comprehensive Plan amendments that won't be adopted until next year. The Master Plan document was provided for the Board's information, and the issue would be scheduled on their extended agenda. A public hearing on the Master Plan would likely be conducted early in 2006. The Board agreed that prior to the public hearing, the Port's Executive Director should be invited to present the Port's updated Master Plan to the Board.

### **DISCUSSION OF RECENT NEWSPAPER ARTICLES RELATED TO BIG HOUSES BEING CONSTRUCTED ON SMALL LOTS**

Board Member Freeman referred to a newspaper article she recently read regarding big houses being constructed on small lots. The article indicated that because of the high cost of land, in order to get loans to pencil out, houses have to be larger too. She asked Mr. Chave to clarify this concept further.

Mr. Chave suggested the Board review the City Council minutes in which the City Attorney provided an explanation about the ratio of value of land to structure. He explained that in the past, land value compared to structure value was small. Now

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land is at least half the typical value of a new home. As land prices get higher, lenders want to see a certain value for the house, and as land values keep rising, the structure values must go up also.

Board Member Crim said this seems to be a nationwide trend, and there is not a lot the City can do to change the situation. Mr. Chave agreed, but he noted that many people have expressed concern about this trend happening in their neighborhoods. The City Attorney provided some comments about variances related to historic properties and using them as an incentive to retain existing housing stock.

Chair Young noted that the City of Edmonds limits the lot coverage on a 6,000 square foot lot to 35 percent, and he felt this limitation should remain intact in order to preserve the character of the neighborhoods.

Board Member Crim said that while many residents of Edmonds do not want change to occur, they fail to realize that change is going to occur regardless of what the City does. The challenge is to manage the change in such a way as to retain the character of the City. He agreed with Chair Young that retaining the 35 percent lot coverage limitation could help the City keep houses more affordable. Mr. Chave pointed out that this would only be true for the smaller lots.

Mr. Chave advised that in the draft 2006 City Budget, Mayor Haakenson proposed funding for a consultant to rewrite the development code over a two-year period. This rewrite will consider all kinds of issues. If the consultant funding stays in the 2006 budget, they will be able to start the work sometime next year.

#### **REVIEW OF EXTENDED AGENDA**

Mr. Chave recalled that at the Board's next meeting, they would once again discuss the downtown plan and changes to Title 20. Staff would have some new materials and options for the Board to consider for the downtown.

#### **PLANNING BOARD CHAIR COMMENTS**

Chair Young did not provide any comments during this portion of the meeting.

#### **PLANNING BOARD MEMBER COMMENTS**

Board Member Freeman said that while she and her husband were out sailing along the Canadian Border, they picked up *THE BOATING JOURNAL*, which contained an article about the City of Edmonds. The article was complimentary of the Port of Edmonds and the marina and the downtown. It talked about the pleasures of the traditional American small town sidewalk shopping district, but noted that there were more storefront vacancies this year than they observed on their previous visit to downtown Edmonds. She summarized that Edmonds now has international fame for their vacant storefronts. She asked that the article be passed on to the City Council for their information.

#### **ADJOURNMENT**

The meeting was adjourned at 8:40 p.m.

**APPROVED**