

**APPROVED AUGUST 12<sup>th</sup>**

**CITY OF EDMONDS  
PLANNING BOARD MINUTES**

**July 28, 2010**

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Chair Lovell called the meeting of the Edmonds Planning Board to order at 7:00 p.m. in the Council Chambers, Public Safety Complex, 250 – 5<sup>th</sup> Avenue North.

**BOARD MEMBERS PRESENT**

Philip Lovell, Chair  
John Reed, Vice Chair  
Kevin Clarke  
Kristiana Johnson  
Valerie Stewart

**STAFF PRESENT**

Rob Chave, Planning Division Manager  
Mike Clugston, Planner  
Karin Noyes, Recorder

**BOARD MEMBERS ABSENT**

Todd Cloutier

**READING/APPROVAL OF MINUTES**

**VICE CHAIR REED MOVED THAT THE MINUTES OF JULY 14, 2010 BE APPROVED AS AMENDED. BOARD MEMBER JOHNSON SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.**

**ANNOUNCEMENT OF AGENDA**

Chair Lovell added a briefing by Board Member Johnson relative to the most recent activities of the Citizens Economic Development Commission (CEDC) to the agenda as Item 8a. The remainder of the agenda was accepted as presented.

**AUDIENCE COMMENTS**

**Roger Hertrich, Edmonds,** reported that at their last meeting, the City Council discussed the Board's recommendation regarding flexible thresholds for State Environmental Policy Act (SEPA) review. It was pointed out that, as proposed, an 18-unit planned residential development (PRD) would not require SEPA review. He suggested that SEPA review may help identify additional problems that would not show up as part of the PRD review. He expressed his belief that the Board's recommendation would not receive favorable support from either the public or the City Council. When the Board works in contrast to the position of the general majority of the City Council, it casts a negative light on their efforts. He encouraged them to work more within the philosophy portrayed by the City Council.

**PUBLIC HEARING ON PROPOSED UPDATES TO LAND USE PROCEDURES CONTAINED IN THE EDMONDS COMMUNITY DEVELOPMENT CODE (ECDC) CHAPTERS 20.01 THROUGH 20.08, EXCLUDING 20.05. (FILE NUMBER AMD 20100013)**

Mr. Clugston reviewed that the Board discussed the proposed updates at their meetings of April 14<sup>th</sup> and 28<sup>th</sup>, as well as at a public hearing on June 9<sup>th</sup> when they decided to postpone their recommendation. While they were generally satisfied with the proposed updates to the Title 20 procedures, they wanted to revisit the question of City Council involvement in land-use permit appeals. At this time, staff is proposing the following options for the Board's consideration: retain the code changes approved by the City Council in 2009, which removed the Council from most appeal proceedings, or affirm the interim zoning ordinance approved by the City Council in 2010, which reinstated the Council's role in appeals.

Mr. Clugston referred to Attachment 2, which is the permit matrix (ECDC 20.01.003.A) that was approved by the City Council in 2009. He also referenced Attachment 3, which is the entirety of the Title 20 updates. The matrix (Attachment 2) includes a proposal to change all Type III-B action to Type III-A action, which would eliminate the City Council's role in appeals associated with certain types of applications (shoreline substantial development, conditional uses, variances, preliminary formal plats, and preliminary planned residential developments). He reminded the Board that in early 2010, the City Council adopted an interim ordinance that changed these types of actions back to Type III-B, which requires appeals to go before the City Council rather than Superior Court. If the Board desires to affirm the interim ordinance, they could recommend that the matrix be updated to identify the actions as Type III-B.

Mr. Clugston advised that staff is also proposing that the "draft environmental impact statement (EIS) currently identified as a Type III-B action be removed entirely. He explained that a draft EIS is not a land-use permit, but rather a factual document used in support of making a land-use permit decision. There is no decision for the Hearing Examiner to make related to a draft EIS. In addition, there are separate statutory requirements that a lead agency must follow for a draft EIS review and appeal. These are fully described in ECDC 20.15A, which adopts WAC 197-11-535 and allows for the option of a public hearing on the EIS and outlines the hearing process. Vice Chair Reed asked if the proposed change related to the draft EIS would still be applicable if the Board recommends affirming the interim ordinance. Mr. Clugston answered that staff is recommending that the draft EIS be eliminated from the matrix regardless of the action the Board takes. Board Member Clarke questioned if it would be appropriate for the Board to take action on the proposed changes to SEPA separate from their action related to who hears the appeals. Mr. Chave suggested the Board focus their discussion on whether or not the City Council should continue to hear certain Type III appeals. The other recommended changes would be applicable to both alternatives. He expressed his belief that the Board could address all the changes in a single action.

Chair Lovell referred to the matrix (ECDC 20.01.003) and noted that, as currently drafted, essential public facilities are the only actions in the Type III-B column. Mr. Clugston noted that the matrix approved by the City Council in 2009 included both essential public facilities and architectural design review as Type III-B actions. In the proposed update essential public facilities would remain as Type III-B actions, and architectural design review was changed to "design review where public hearing by Architectural Design Board is required." Essentially, the requirement would remain the same.

Board Member Stewart pointed out that the language on Pages 35, 38 and 40 requires that written submittals be single-sided. She reminded the Board of the City's current effort to become more sustainable and recommended that this decision be left up to the person producing the documents and not be a City requirement. She advised that the City of Seattle has a program for cutting the amount of paper used by their government by encouraging people to produce double-sided documents. She suggested this is something the City of Edmonds should do, as well. Mr. Clugston agreed the language could be changed so that single-sided submittals would not be required. He said the intent of the proposed language was to ensure the submittals were legible. Chair Lovell inquired if there are legal requirements for single-sided documents. Mr. Chave answered that Superior Court may require single-side documents, but the City does not. The Board agreed that if there are no legal requirements for single-side documents, the language should be changed as proposed by Board Member Stewart. Staff agreed to research Superior Court requirements, and then make the appropriate changes to the proposed language.

Chair Lovell reviewed the rules and procedures for the public hearing and then opened the hearing.

**Roger Hertrich, Edmonds**, reminded the Board that three City Council candidates indicated that one of their main desires was to have the appeal process go back to the City Council, and the public elected these individuals. He referred to the interim ordinance and emphasized that the City Council has given the Board clear direction about what they want. Therefore, he questioned the need to go through the entire process again. While members of the Board may have a passion to prove the City Council wrong, the City Council has clearly voiced their philosophy to the public and the Board. He expressed concern that it costs appellants a lot of money to hire an attorney to go to Superior Court, and it is less costly to present appeals to the City Council. If the City Council makes a error, the Superior Court will have an opportunity to correct the error. He recalled a recent situation in which the City incurred a significant expense when someone appealed a decision to the Superior Court. He summarized that the City Council and the public have clearly expressed their opinions, and the Board should recommend language that is representative of the interim ordinance. They need to understand that citizens want protection for their neighborhoods. They want to be able to present their appeals to the City Council. He disagreed with previous Planning Board comments that City Council members are young and inexperienced. He pointed out that two

Council Members are attorneys, and the rest of them are very knowledgeable. He does not believe they will make unwise decisions because they will listen to the recommendations provided by their legal counsel.

**THE PUBLIC HEARING WAS CLOSED.**

Board Member Johnson stated that, as an individual, she would prefer a closed record appeal to the City Council. However, as a Planning Board Member, she needs to give considerable weight to the recommendations provided by the staff and City Attorney, who have spoken in favor of appeals going to Superior Court. Because this is a deeply divided issue, she asked that the Board's recommendation include a suggestion that the City Council take advantage of whatever opportunities there are from legal and planning professional organizations and other resources to more fully explore the issue.

Board Member Stewart asked if there is a record of how many members of the public have spoken in favor or against the City Council hearing appeals. She said she is currently undecided on the matter. Having read more thoroughly the language that a citizen must sort through and understand in order to present a case effectively, she worries about those who do not have the financial means to get the support they need to carry appeals through the process. However, she also agreed with Board Member Johnson that it is important to consider the counsel provided by staff and the City Attorney regarding potential exposure to the City if the City Council were to make an error in judgment.

Vice Chair Reed said he is not aware of a tally of citizens who are for or against the issue. Nor does he recall a significant amount of public comment at any of the Board's more recent discussions in April or June. He recalled that when the issue came before the Board in late 2008 and 2009, he was the lone vote against the proposed change to take the City Council out of the appeal process, and he still supports this position for the following reasons:

- Two remands were reversed when sent back to their source. In addition, three appeals were affirmed by the City Council and only one was reversed and the Hearing Examiner's decision was changed.
- Data shows that the City Council's costs for hearing appeals were \$175,000, which is less than \$20,000 per appeal. The average cost for all cities in the region was \$57,000 per appeal.
- Perhaps the City Council's understanding of land-use issues is enhanced when they conduct an appeal hearing as a closed record review, and this can facilitate the changes that need to be made.
- Appeals to the City Council are less costly than those to Superior Court. The latter can cause citizens to give up, and developers often have a distinct advantage. Perhaps it would be appropriate for the City to designate an ombudsman who could help citizen through the appeal process.
- ECDC 20.07.005 has been updated so that appeals can only be submitted in writing. Therefore, opportunities for oral argument that was taking place in appeals before the City Council has been eliminated. Appellants can only add new pieces of information that were not known when the original hearing took place.
- The financial gain to the City from developers can lead to interpretations supportive of approval and sometimes restrictions might be overlooked or compromised.
- The City Attorney is very adept at keeping people on track, and appeal hearings are well managed.
- There were at least two lawsuits that were pursued after decisions, and in both cases, the City's decisions were determined to be at fault. These were costly to the City.

Board Member Clarke agreed with the points articulated by Vice Chair Reed. He explained that until 1995, his neighborhood was part of unincorporated Snohomish County. One of their significant frustrations with being situated at the south end of the County was they felt they had little representation in their local government. When the neighborhood was annexed into the City of Edmonds, they felt totally different. He noted that since annexation, there have been some land use actions that involved zoning changes, etc. Most of their community felt that the locally-elected officials were fair and took time to understand their concerns. On the other hand, he said he can appreciate staff's recommendation and the work they do to implement the land-use regulations. He disagreed with Mr. Hertrich's sweeping generalization that three individuals ran their campaigns based on this issue. He said he does not remember any candidates who had this issue as a major campaign focus. These individuals may have been voted into office for a number of unrelated reasons. He noted that because Mr. Hertrich was the only citizen who participated in the public hearing, perhaps it is not a burning issue for the public at this time. However, he said he plans to support Vice Chair Reed's balanced and rational approach.

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Board Member Lovell recalled that the City Attorney made a very strong recommendation that these types of decisions should not be made by the City Council. While he is very sensitive to the comments made tonight, including those related to the new structure of the City Council and their capabilities, he would ask that, at a minimum, they recommend the City Council once again consider the advice of the City Attorney regarding appeals.

Board Member Clarke said he has watched a neighborhood go through the appeal process at the Superior Court level, and it is a costly and time-consuming effort. It is also very unfair to the common citizens who feel they have been wronged. He suggested that sometimes the balance needs to tip to the individual property owners. They are talking about property rights, land use issues, quality of life, and protection of neighborhoods. He recalled Vice Chair Reed's earlier comment that the cost of each hearing before the City Council is not significant. He suggested that sometimes they need to err on the side of protecting the taxpayers and allowing their voice to be heard without spending a huge amount of money. He agreed it would be helpful for the City Attorney to once again share his thoughts at the City Council's hearing regarding the proposed amendments.

Board Member Johnson said she would like to know more about the legal risks that City Attorney Snyder has talked about previously, as well as experiences of other jurisdictions that have gone through the process. She suggested the Board recommend the City Council pursue this information in a construction way. Chair Lovell agreed the Board could recommend the City Council research the issue further before rendering a final decision.

**VICE CHAIR REED MOVED THE BOARD FORWARD ATTACHMENT 3 TO THE CITY COUNCIL, AFFIRMING ALL OF THE RECOMMENDED CHANGES WITH THE FOLLOWING EXCEPTIONS:**

- **THAT THEY AFFIRM THE INTERIM ZONING ORDINANCE APPROVED BY THE CITY COUNCIL IN 2010, WHICH REINSTATED THE CITY COUNCIL'S ROLE IN APPEALS.**
- **THE "DRAFT ENVIRONMENTAL IMPACT STATEMENT" BE ELIMINATED FROM THE TYPE III-B COLUMN IN THE MATRIX (ECDC 20.01.003.A).**

**BOARD MEMBER CLARKE SECONDED THE MOTION.**

Board Member Clarke said is interesting to observe that someone could run for City Council and lose by popular vote, but still be appointed by the current City Council to fill vacant positions. He suggested that democracy is fickle, and sometimes the public speaks out of both sides of their mouth. He agreed this is not a clear issue, but the Board has tried to give their best perspective.

**THE MOTION CARRIED 3-1, WITH BOARD MEMBER JOHNSON VOTING NO AND CHAIR LOVELL ABSTAINING.**

Vice Chair Reed suggested that when the Board's recommendation is forwarded to the City Council, it should be accompanied with a suggestion that rather than moving through the issue quickly, the Council should carefully consider the new information provided to the Board, as well as the comments made by Board Member Johnson that they explore all the implications as part of an on-going process for dealing with land use issues. Mr. Clugston said that based on further research, staff would make the appropriate language adjustments related to "single-document" submittals before the proposal is submitted to the City Council.

**PUBLIC HEARING ON PROPOSED AMENDMENTS TO THE EDMONDS COMMUNITY DEVELOPMENT CODE (ECDC) 18.05 AND 20.50 CLARIFYING DEFINITIONS AND PROCESSES FOR REGULATION OF WIRELESS TELECOMMUNICATION FACILITIES**

Mr. Clugston summarized that the City Council asked the Planning Board to review and strengthen siting requirements for wireless facilities on utility poles located in unzoned rights-of-way. However, in the Board's previous discussions in April and June it became apparent that there were opportunities to tighten the siting requirements for wireless facilities on zoned parcels, as well. He reminded the Board of the City Attorney's counsel that the City cannot regulate wireless facilities on the basis of health effects. However, there are a variety of changes proposed to both chapters to tighten siting and aesthetic

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review criteria. He reminded the Board that they previously discussed six proposed changes to ECDC 18.05 and three to ECDC 20.50. He specifically noted that four new sections have been proposed: site selection criteria ECDC 220.50.002), priority locations (ECDC 20.50.004), siting priority on public property (ECDC 20.50.006, and co-location (ECDC 20.50.008). He explained that the intent was to encourage co-location of providers on existing support structures, as well as setting forth a prioritization standard indicating where the City prefers wireless facilities to be located. He noted that, as proposed, siting wireless facilities on single-family residential zoned parcels would be the location of last resort and could only occur as provided for in an engineering analysis of coverage gaps (ECDC 20.50.004.H). He advised that, as per the City Attorney's recommendation, the standards for micro (ECDC 20.50.010), mini (ECDC 20.50.020) and macro (ECDC 20.50.030) facilities were updated to clarify location requirements on non-conforming structures. As per previous discussions, he recalled that siting small panels on existing structures, particularly in RM zones, is something the City wants to encourage. He recalled that at their last discussion, Board Member Stewart asked staff to include language in ECDC 20.50.000 to address environmental impacts. He noted that the latest draft adds the phrase "and minimize environmental and wildlife impacts to the extent provided by Federal law."

At Board Member Clarke's request, Mr. Clugston shared the City's current definition for "PUD Transmission Poles as "poles which are carrying 50 kV or greater power lines." (see ECDC 18.05.000A.9). Board Member Clarke also requested a definition for "light standard" or "light pole," and pointed out that there are wireless facilities located on light standards within the City. He noted the proposed language does not address these situations. He asked if the City has standards for radio cameras. Mr. Chave answered that because stop light cameras are located within City rights-of-way, City approval would be required, but there are no regulations for cameras located on private properties.

Chair Lovell asked if all the changes referenced in the June 9<sup>th</sup> Planning Board minutes were incorporated into the current draft. Mr. Clugston answered affirmatively and referred the Board to Attachment 2.

Chair Lovell briefly reviewed the rules and procedures for the public hearing and then opened the hearing.

**Richard J. Busch, Busch Law Firm, PLLC, Issaquah, Washington**, said he was present on behalf of AT&T Wireless to talk about their existing facility at 546 Alder Street that is located on top of the Commodore Condominiums. He said he was also present as the president of the Northwest Wireless Association, which is a non-profit business association serving the wireless industry. They travel to various jurisdictions in the area to share ideas for designing wireless codes. He explained that it is difficult to draft a code that addresses all issues yet remains consistent.

Mr. Busch advised that AT&T has been unable to locate a permit for their wireless facility that is currently located on top of the Commodore Condominiums, and staff cannot find a permit, either. Staff has requested that AT&T submit an application that indicates the facility is compliant with current code requirements. As part of their application, AT&T filed a request for a code interpretation. He explained that if the code is interpreted the way AT&T believes it should be, the site and design would be compliant with the City's current code or could be brought into compliance. He commented that a representative from AT&T was to have attended the Board's July 9<sup>th</sup> public hearing to share their recommendations, but there was confusion about the hearing date. He apologized for coming to the Board at this late time with comments and recommendations for changes. He shared a PowerPoint presentation with the Board and emphasized his belief that new technology will continue to catch on, users will want to make a receive calls where they are, additional antennas will be needed in order to provide this service, and the antennas must be visible in order to provide the best coverage. He suggested that design of future cell sites will depend upon coverage objectives; usage volumes; height of trees, buildings, hills and other obstructions; height of antennas relative to obstructions; number of technologies/antennas/cables installed at site, antenna distance from pole, and co-location on existing sites. He explained that any time one of the factors is changed, the design of the site must be changed, as well.

Mr. Busch shared examples of wireless facilities that were designed to integrate well onto existing sites. He explained that characteristics of well-designed sites include: existing infrastructure or less obvious new sites, antennas mounted close to the support structure, colors that are the same as the infrastructure or surroundings, replacement diameters that are at least two times less than the original structure, and replacement structure heights that are equal to the separation requirement plus the height of the antenna arrays.

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Mr. Busch referred to the current AT&T facility that is located on top of the Commodore Condominiums. He explained that the antenna is 7 feet tall and is located at the center of the roof. No one has complained about the antenna, which has been in place for approximately three years. However, it is not consistent with the City's current code because it is too tall. He expressed his belief that this is the type of integrated facility the City should encourage, since it is less obtrusive than a 30-foot extension on an existing utility pole. He said he understands that views are important in Edmonds, and he suggested that existing roof tops are the best place for wireless facilities to provide the necessary coverage. He specifically referred to diagrams in the current and proposed code that provide examples of less-intrusive types of facilities. One specifically calls out rooftop-mounted panel antennas as something that is desirable in the City. Therefore, he recommended the language in ECDC 20.50.030.E be changed to read:

*“Macro facilities shall comply with the height limitation specified for all zones, except as follows: Omni-directional antennas may exceed the height limitation by 15 feet, or, in the case of nonconforming structures, the antennas may extend 15 feet above the existing structure. Panel antennas **with an area of not more than 580 square inches each** may exceed the height limitation **by 7 feet, or** if affixed to the side of an existing building and architecturally blends in with the building. Placement of an antenna on a nonconforming structure shall not be considered to be an expansion of the nonconforming structure; provided, however, that where . . . .”*

Mr. Busch explained that if the proposed change is approved, AT&T would have the ability to modify the facility to be code compliant. He further recommended that this same language be applied to the development standards for micro facilities (ECDC 20.50.010.C) and mini facilities (ECDC 20.50.020.E). This would allow micro, macro and mini facilities to extend above a rooftop in any zone except single-family residential. He suggested that rooftop-mounted equipment would likely be more favorable to citizens than facilities mounted on PUD poles.

Next, Mr. Busch referred to the proposed new language for ECDC 20.50.004, which provides an order of priority for locating new personal wireless service facilities. He suggested that rather than a sequence of priorities, the categories could be lumped together into an equal hierarchy starting with co-location on existing infrastructure. He expressed his belief that co-location is the least obtrusive option in most all cases. He recommended the following prioritization:

1. Co-location without any increase in height for the structure.
2. Co-location where additional height is necessary.
3. A new structure as a replacement for an existing structure.
4. A new structure all together.

Mr. Busch referred to staff's earlier remark that the City cannot regulate wireless facilities based on health issues. He referred to proposed language that prohibits antennas adjacent to dwelling spaces. He said his understanding is that the City wants to keep the antennas away from residential areas for health reasons, and this requirement would violate the Telecommunications Act. Board Member Johnson referred to ECDC 20.50.020.B, which states that mini facilities may be located on buildings and structures; provided that the immediate interior wall or ceiling adjacent to the facility is not designated residential space.” She recalled that this requirement was intended to address the fall line. Mr. Busch said if that is the City's intent, they could require the facilities to be setback from residential dwellings by a certain distance. However, if the purpose of the language is to keep antennas away from residential dwellings, the requirement could be contrary to the Telecommunications Act. He noted that the same language is used in ECDC 20.50.010.B and ECDC 20.50.030.B.

Board Member Clarke asked how long Mr. Busch has worked in the wireless communications field. Mr. Busch answered that he has been doing this work since 1986. Board Member Clarke asked Mr. Busch if he anticipates that future changes in technology will result in a need for more flexible codes because the facilities will need to be taller and larger, or will technology be such that the facilities may be smaller and less intrusive. Mr. Busch said he believes there will be more and more devices and more people will use them for their home phones. Customers will demand capacity and antennas that are located nearby. He anticipates the height of the new facilities will come down and they will be integrated into the residential communities on existing power poles or another type of less-intrusive structure. Board Member Clarke asked Mr. Busch to share how he anticipates the growing demand for coverage would be accommodated when there are no places to co-locate in public spaces. Mr. Busch said it is difficult to provide good coverage in Edmonds because of the topography and because the majority of the City is zoned and developed as residential. The neighborhoods will have to accommodate structures

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where the various facilities can be co-located. Carriers will look hard to put the facilities on existing structures rather than installing new ones. Board Member Clarke asked if it is standard practice for providers to paint structures so they do not reflect light, or if this something the City's code should address. Mr. Busch suggested that language could be added to the City's code to allow staff to use their discretion to address the issue. He noted that different neighborhoods have different preferences. However, his personal opinion is that the facilities should be painted a dark color so they do not reflect sunlight.

Chair Lovell requested Mr. Busch submit his entire PowerPoint presentation to staff to become part of the public record.

**Mark Cooper, Edmonds**, said he has been a resident of Edmonds for 50 years and has seen and experienced many changes both within the City and surrounding areas. He has no expectation that life in Edmonds will stay the same forever. Situations change, and technology, when applied in its proper place, can benefit everyone. However, when used and applied improperly it can create numerous problems that future generations are left to deal with. He said he could cite numerous examples within the very recent history of the City where the use of technology, without realizing its potential impact, is being dealt with today. He stressed how the choice to install any type of wireless communication antenna within a residential zone is a mistake and the wrong direction for the City. He said he has voiced his concerns to the City Council and Mayor over the last year, and he feels many other citizens feel strongly regarding the matter, as well. He invited Planning Board Members to drive down 96<sup>th</sup> Avenue, which is currently staked out as the future site of a new wireless facility. As a result of the new facility, his neighbor would have a 12' x 6' vault grate in her front yard. He explained that the PUD cannot install the pole in their initial location because the conduits are too big and would encroach into the neighbor's driveway. In order to relocate the pole, they need an easement from him to provide for the guy wires for the additional height of the pole. The initial easement request on his property was to be 5' by 40'. He said he refused the PUD's first request. He pointed out that the microwave antenna that will be installed on the pole has not been brought up at any public meeting, and the issue has not been resolved as part of the permit process. No one in the neighborhood is a Clearwire customer, and he does not believe there is a need or a situation of last resort for the pole to be located where it is currently proposed.

**Pat Meeker, Edmonds**, said she was pleased to see that the proposed language would make residential zones the very last choice for wireless facilities. She questioned why wireless facilities should even be allowed in totally residential neighborhoods. She asked how the Board members would like a similar facility installed in their own neighborhoods. She cautioned that is what could happen if they are allowed in residential zones. She summarized that she supports all of the comments made by Mr. Cooper. She suggested there would have been additional neighbors in attendance if they had known about the hearing.

**Nick Byer, Edmonds**, said he concurs with Mr. Cooper's comments, as well. He referred to Board Member Clarke's earlier question about whether new technology would result in smaller facilities. He pointed out that an 11' by 7' vault is being constructed in his neighbor's yard, not to mention a new tower. This is new technology, and it is not getting smaller in size. He summarized that when it comes to coverage, he gets fine coverage from his T-Mobile phone with an antenna at the QFC. He referred to the list of priorities for location and suggested that it would be easy for carriers to skip to the last priority and place a new structure in a residential area as long as they can provide a study to support their proposal. He suggested the proposed language is too vague.

**Joe Van Mieghem, Edmonds**, said he lives in the neighborhood where Clearwire is proposing to install a new wireless facility. He noted that he and his wife have two small children, and they moved to Edmonds to raise their family. When Clearwire announced to the neighborhood that they were going to start the planning phase, the neighborhood came together to voice their concerns. At the neighborhood meeting where the representative from Clearwire announced the plan, everyone in the neighborhood voiced that they were adamantly against it. Even though there is a demand for cell phones and various internet services, it is important to note that the cell phone businesses are very successful right now. The carriers need to be more sensitive to the citizens. While the carriers are putting pressure on the City to allow more facilities, they must consider the community's concerns, as well. He suggested they slow the process down and consider opportunities to place the facilities on commercial properties. He expressed concern that a significant wireless facility is going to be located in a single-family residential neighborhood. He questioned how the carrier got to the "last resort location."

**Tom Myers, Edmonds,** said he is Mr. Van Mieghem's neighbor, and he also has small children. He said he, too, is concerned about how a carrier can get from the top priority all the way to a single-family residential zone. He noted there are antennas in a variety of locations surrounding his neighborhood (a water tower about six blocks away from his home and several antennas located 100 yards south of his home on Edmonds Way). With the proximity of existing facilities, he questioned the need to use a single-family zone for another one. He suggested the proposed criteria be changed to clearly disclose how a carrier would get to the "last resort location." He encouraged the Board Members to drive down 96<sup>th</sup> Avenue West and view the area that has been staked out for the new facility.

**THE PUBLIC PORTION OF THE HEARING WAS CLOSED.**

Chair Lovell inquired if staff is aware of the project that is moving forward on 96<sup>th</sup> Avenue West. Mr. Clugston said he is aware of the proposal, but he has not personally visited the site. He clarified that ECDC 18.05 deals with facilities that are placed on PUD poles or possibly light standards. These structures are located within the unzoned rights-of-way. In the priority of location section (ECDC 20.50.004) the first choice would be to place antennas and towers on public properties, and the second choice would be within public rights-of-way and on existing structures.

Mr. Clugston acknowledged that the Board received a lot of new information from participants in the public hearing, and staff has not had time to review the proposed language submitted by Mr. Busch. He recommended the Board postpone their recommendation to allow time to adequately consider all of the public comments, as well as the option of allowing wireless facilities to be co-located on light standards in addition to PUD poles. He concluded that staff does not believe the current draft language completely addresses all of the new information and issues presented by the public. Chair Lovell agreed it would be appropriate for the Board to consider potential revisions given the new information provided by the public. He noted that while the neighbors on 96<sup>th</sup> Avenue West have drawings of Clearwire's project, neither Mr. Chave nor Mr. Clugston have reviewed the documents. He cautioned that if the Board does not discuss the neighborhood's concerns prior to their recommendation to the City Council, they will present their same issues at the City Council's hearing.

Mr. Clugston referred to ECDC 18.05.030.B.2 and noted that as currently written, only micro facilities can be located on top of PUD poles. However, there has been a request that the Board also considering allowing macro and mini facilities. He added that ECDC 18.05.030.B.3 indicates that when pole replacement occurs in rights-of-way adjacent to single-family zoned neighborhoods, the new poles must be wooden rather than metal.

Board Member Clarke reminded the Board that State law requires the City to approve a proposed location if it is determined necessary. He asked how wireless carriers negotiate with private property owners for the necessary easements. Do the carriers have the right to locate wherever the study shows is the best location, and the property owners must accommodate the facility. Mr. Chave emphasized that the industry prefers to co-locate. If there is already a place for a carrier to co-locate, it is reasonable to assume their request would be approved. He reminded the Board that it is difficult to provide adequate service to all areas in Edmonds because of the topography and tall trees that exist. The City is in a difficult position. They cannot regulate based on health concerns and they cannot prohibit facilities because there has to be coverage. All the City can address is prioritization and aesthetics. The points about co-location are well taken and staff will review the language. In the past the City has tried to discourage very large towers in residential zones and encourage co-location on existing facilities in public areas. However, over the past few years, the PUD has started putting up very large poles in place of existing utility poles, and changes were subsequently made in ECDC 18.05 to require that the replacement poles must be similar in size and scale to the existing poles.

Chair Lovell suggested that sometimes engineers tend to exaggerate in terms of what they can and cannot do in order to advantage another factor such as cost. He suggested it is fine for the City to regulate location based on aesthetics, co-location, prioritization of location, etc. However, as a viable community, they must force the engineers to come forward with the truth and the best solution for everyone involved.

Board Member Clarke advised that he lives in a heavily concentrated residential area that has poor cell phone service. To be competitive in today's world, it is important to be able to communicate around the clock anywhere you are located. Providers are trying to eliminate those areas where service is not adequate. The Board should be forward thinking as they

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review how the proposed language will impact the people who live and work from their homes. At the same time, they need to protect the neighborhoods. He said he does not see a need for the Board to rush their recommendation to the City Council.

Board Member Johnson thanked the citizens who live on 96<sup>th</sup> Avenue West for bringing their issues to the Board's attention. She also thanked Mr. Busch for his constructive comments, which included:

- The code should address light standards, as well as utility poles.
- The coloring should generally be the same as the structure, building or existing rooftop.
- Macro and mini facilities should be allowed on rooftops up to seven feet. (see his recommended language on a Page 6).
- Co-location should be the first consideration in the prioritization of sites.
- The language proposed in ECDC 20.50.010.B, ECDC 20.50.020.B and ECDC 20.50.030.B may be inconsistent with FCC requirements if it is based on health reasons. She noted the Board did not discuss this language based on health reasons. Their concerns were related to aesthetics.

Vice Chair Reed recalled that a few years ago, Barbara Tipton and others from her neighborhood were present to talk about a similar issue. They ended up working out a solution with the PUD. He asked if the neighborhood on 96<sup>th</sup> Avenue West has had an opportunity to meet with representatives of Clearwire. He observed that the Board must balance wireless technology and neighborhood protection. At a future workshop, he would like more input from AT&T's representation, but also from Clearwire. He felt it would be helpful for the public to participate in the discussion, as well.

The Board agreed to schedule a continued discussion on September 8<sup>th</sup>, with an additional public hearing to follow. They further agreed they would like more information from Mr. Busch, as well as input from the public. Board Member Stewart said it would be helpful for staff to provide a map of the City indicating the locations of existing wireless facilities. She suggested it would also be appropriate to invite representatives from other carriers to share their thoughts about what the future holds and what would be ideal for them. The code language needs to balance the needs of the carriers and the residential neighborhoods. Chair Lovell said he would try to invite an electrical engineer who is familiar with wireless facilities to attend their September 8<sup>th</sup> discussion. Mr. Chave invited the members of the audience to sign up on the paper at the back of the room so staff could notify them of future Board discussions and the public hearing.

#### **UPDATE OF MOST RECENT ACTIVITIES OF THE EDMONDS CITIZENS ECONOMIC DEVELOPMENT COMMISSION (CEDC)**

Board Member Johnson reported on her attendance at the July 21<sup>st</sup> CEDC meeting at which Mr. Chave made a presentation regarding a potential project in conjunction with the University of Washington Green Futures Lab to come up with a special district plan for the Five Corners and Westgate Commercial Centers. She referred to a document that was distributed at the CEDC meeting and noted that staff also provided a copy for each of the Board Members. Also at the meeting, Stephen Clifton, Community Services/Economic Development Director, presented a proposed strategic planning process initiative. She asked that staff forward copies of this information to the Board, as well. Representatives from the Stevens/Swedish Hospital transition team were also present at the meeting to provide an update regarding the transition plan. They will also provide an update to the City Council on August 3<sup>rd</sup>. It was announced that the 1<sup>st</sup> Annual Edmonds International Film Festival will be held October 20<sup>th</sup> through 24<sup>th</sup>. For the past few years, the event has been held in Sandpoint, Idaho, but has now been moved to Edmonds.

Chair Lovell said he also attended the CEDC's July 21<sup>st</sup> meeting. He explained that the special district plan for the Five Corners and Westgate Commercial Centers would be done by a consortium of University of Washington graduate students, professors, and some staff members. Mr. Chave added that the project would be conducted through a series of classes and students would be enlisted to do the project starting in the fall through the middle of 2011. Once they have completed their recognizance work, they plan to conduct design charettes to engage the community in the process. The goal is to come up with a vision for what the community would like to see happen in these two commercial centers. The end result would be a template that could be used in other neighborhood planning efforts in the future.

Mr. Chave advised that the CEDC members were very excited about the planning project for the Five Corners and Westgate Commercial Centers, and they have put out a strong endorsement to the City Council. The City's Development Services

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Budget could fund the majority of this work through savings in professional services due to development activity being down this year. He expressed his belief that it is fairly important to make sure whatever designs are approved are actually feasible. He explained that a marketing study would require additional funding from the City Council, and he is scheduled to present the request on August 3<sup>rd</sup>. If the City Council supports the study, staff anticipates that a committee consisting of the CEDC's land use committee and one or two Planning Board Members would be formed to help run the project through.

Chair Lovell said the CEDC also discussed the need to hire a consultant to help them through the visioning and strategic planning process. He noted that this project would be long-term and involve a lot of opportunities for public input. The consultant costs are estimated to be between \$85,000 and \$150,000. Mr. Chave noted that this work would be closely related to issues the Board would be working on because the strategic plan would become a bridge between the budget tools and the long-range Comprehensive plan. The Board would be expected to participate in some way. Board Member Stewart asked if branding would be a part of the strategic plan and visioning process. Mr. Chave answered that it could be one element of consideration, but it has not been identified as a specific purpose of the project. Board Member Johnson noted that the CEDC's Tourism Committee has talked about branding and how to represent Edmonds.

Board Member Clarke cautioned against the City spending money on a market study given the current economic environment. A study of this type would tell the City nothing meaningful except that future development is not economically feasible. He said he has experience with these types of studies in the region; they are complex studies even in a solid economic environment, and right now they are dealing with a commercial real estate market that is close to the depression era. He noted that a market study indicated that the post office property was valued at \$100 per square foot, but it actually sold for \$60 per square foot. Using this type of information in any financial report would be misleading. He summarized his belief that a market study at this time would be a waste of City resources. They must recognize that no developer could put together a project proposal that is financially feasible. A study based on established rents, land values and construction costs would be of no value to the City.

Mr. Chave pointed out that Board Member Clarke's comments are based on the assumption that someone would swoop in and buy up property for development. However, it is important to keep in mind that there are long-term property owners in these locations that may be very interested in redeveloping their properties. Board Member Clarke disagreed and said redevelopment is either economically feasible or it is not. If a property does not have a market value in relationship to the market economics, redevelopment will not be feasible. He summarized that there is not enough market data to provide trends to give a clear picture, and it will take a long time for the situation to reverse itself. Therefore, it would be wrong for the City to invest resources to study these issues at this point in time. Vice Chair Reed said that, on the other hand, they cannot stop planning because the market situation is bad. Even if the plans are not currently financially feasible, they need to discuss what is best for these two areas in the long term. Board Member Clarke cautioned there is a difference between a plan and a financial analysis based on price points that do not exist.

Board Member Stewart said she can see both points of view. She agreed with Vice Chair Reed that the City must continue planning for the future. However, she is concerned that dollars would be spent on something that cannot be realized for a long time. She personally felt the City should look for ways to make the best of their existing inventory to become more viable. They should move forward with the planning and visioning process, but they should not spend a lot of money on something they cannot act on for a while.

Board Member Johnson said her understanding is that the market research for the Five Corners and Westgate Commercial Centers is proposed to be done by a separate contract if feasible. The main thrust of the study is a long-term land-use plan that would be done with the help of students from the University of Washington. A potential economic analysis would be a secondary consideration. Board Member Clarke suggested they delay the market research portion of the study because the timing is not good right now. A market study would merely indicate that no redevelopment is feasible at this time. Board Member Johnson suggested this would be an appropriate discussion to have at a joint CEDC/Planning Board meeting. She pointed out that the owner of a property at Five Corners recently informed the CEDC of his desire to redevelop the property, and he would like the City to provide direction as to what they want.

## **REVIEW OF EXTENDED AGENDA**

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Chair Lovell advised that a public hearing on the proposed changes to the Street Tree Plan is scheduled for the August 11<sup>th</sup> agenda. A public hearing on the Meadowdale Annexation Zoning and a public hearing on the Capital Facilities Plan are scheduled for August 25<sup>th</sup>. A public hearing on the Highway 99 Parking Standards is scheduled for September 8<sup>th</sup>.

The Board discussed the option of cancelling their second meeting in August, which they typically do to accommodate vacation schedules. However, due to their current work load, they agreed to hold both meetings in August.

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

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

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

Vice Chair Reed announced that the Levy Committee would have their first meeting on July 29<sup>th</sup> from 6:00 to 8:00 p.m. on the third Floor of City Hall. He noted that was appointed to participate on the committee. He anticipates the committee would focus on both budget and revenue issues. Hopefully, they will receive information on the work that was done by the previous 48-member levy committee. Chair Lovell agreed to forward his information to Vice Chair Reed.

Board Member Stewart reported that she and Board Member Cloutier met with Mr. Chave to discuss sustainability indicators. They focused on indicators related to the Storm and Surface Water Comprehensive Plan and the Water Systems Comprehensive Plan, which were both recently reviewed by the Planning Board. Their goal is to establish indicators that will have meaning and will be easy to identify. Mr. Chave suggested they also focus on transportation sustainability indicators since they recently reviewed the Transportation Element, as well. She noted that this effort will dovetail with the efforts of the Mayor's Climate Protection Committee.

#### **ADJOURNMENT**

The Board meeting was adjourned at 9:50 p.m.

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