

**APPROVED FEBRUARY 9<sup>TH</sup>**

**CITY OF EDMONDS  
PLANNING BOARD MINUTES**

**January 12, 2011**

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Chair Lovell called the meeting of the Edmonds Planning Board to order at 7:02 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  
Todd Cloutier  
Kristiana Johnson  
Valerie Stewart

**STAFF PRESENT**

Mike Clugston, Planner  
Karin Noyes, Recorder

**BOARD MEMBERS ABSENT**

Kevin Clarke

**READING/APPROVAL OF MINUTES**

**VICE CHAIR REED MOVED THAT THE MINUTES OF DECEMBER 8, 2011 BE APPROVED AS AMENDED. CHAIR LOVELL SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.**

**ANNOUNCEMENT OF AGENDA**

No changes were made to the agenda.

**AUDIENCE COMMENTS**

There was no one in the audience.

**CONTINUED DISCUSSION ON PROPOSED AMENDMENTS TO EDMONDS COMMUNITY DEVELOPMENT CODE (ECDC) 18.05 AND 20.50 CLARIFYING DEFINITIONS AND PROCESSES FOR REGULATION OF WIRELESS COMMUNICATION FACILITIES (File Number AMD-2010-0004)**

Mr. Clugston referred the Board to the following attachments to the Staff Report:

- **Attachment 1** – Draft Regulations dated November 10, 2010
- **Attachment 2** – Excerpts from the November 10, 2010 Planning Board Meeting Minutes
- **Attachment 3** – Email from Richard Busch dated December 2, 2010
- **Attachment 4** – Email from Richard Busch dated January 12, 2010

Mr. Clugston recalled that the Board has been working on the Wireless Communication Facilities Regulations for quite some time. An initial public hearing was conducted in July 2010, and the Board decided to rework the draft regulations based on the comments received. He explained that the purpose of tonight's discussion is to review the draft regulations and provide

feedback to staff in preparation for another public hearing. He specifically invited the Board to provide feedback related to Sections 20.50.090 and 20.50.100, where further direction related to height and size is still needed.

Chair Lovell complimented staff for doing a great job of putting together the draft regulations. He reminded the Board that there is very little the City can legally do to prevent wireless facilities. However, the proposed language would enable the City to require proper application submittals and notification and limit the associated visual and environmental impacts. It does a good job of accommodating the requirements of the law, the providers and the residents. The document is easy to read and provides clear direction to applicants regarding project submittals and design.

Board Member Stewart agreed that staff did an amazing job, paying close attention to details. She referred to **Section 20.50.050.N.1** and suggested the word “may” in the first sentence should be changed to “shall” to make the language stronger. Vice Chair Reed said he had the same thought. Chair Lovell pointed out that **Section 20.50.050.N.2** provides specific direction regarding the type of screening and landscaping required.

Board Member Johnson said she would support the language being more specific for requirements applicants are expected to follow. However, she questioned how much latitude staff would like to have in determining where, when and how the landscaping and screening should be conducted. As the Board visited existing wireless facility sites throughout the City, they observed that each installation was unique. Therefore, applying one standard evenly across the board may have some undesirable results. Board Member Stewart agreed that there must be flexibility, and perhaps changing “may” to “shall” would strengthen staff’s position to address unique circumstances. Board Member Johnson invited staff to comment on whether they would prefer rigid requirements or more flexibility to apply their own judgment.

Board Member Johnson referred to the memorandum from Mr. Clugston (green), which outlines four options for building-mounted antennas. She noted that the term “must” was used in two of the four options. She said she is unclear about how much flexibility staff needs, especially in light of recent emails the Board received from Mr. Busch about current technology (Attachments 3 and 4). Mr. Clugston suggested that using the word “should” in place of “may” in **Section 20.50.050.N.1** would address staff’s need for flexibility.

Board Member Stewart also referred to **Section 20.50.060.H.1** and suggested that the word “may” in the first sentence should also be changed to “shall.” Mr. Clugston explained that rather than allowing the third party expert to be selected via a mutual agreement between the applicant and the City, staff is proposing that the language be changed so selection of the third party expert would be at the discretion of the City. The Board concurred with this proposed change.

Chair Lovell referred to **Section 20.50.010.E** and recalled that at their last meeting, the Board collectively agreed that there should be an opportunity for the public to comment on wireless facility applications and that sufficient notice should be given so citizens can organize themselves to attend public meetings. He suggested that 45 days would be a reasonable time period for this to occur within the 90-day time frame for approving the permit. Mr. Clugston pointed out that **Section 20.50.010.E** is intended to provide a general definition of the timeline, which is more specifically defined in **Section 20.50.080.A.1**. He noted that some changes must be made to be consistent with recent Federal Communications Commission (FCC) rulings, and staff has been working with the City Attorney to incorporate the required changes.

Board Member Cloutier pointed out that **Section 20.50.100.F** would require applicants to host information meetings prior to submitting applications for wireless communication facilities located on structures within unzoned City of Edmonds rights-of-way adjacent to single-family residential zones. Mr. Clugston clarified that, as currently written, an applicant must verify that an information meeting has been held before the application can be deemed complete. Chair Lovell pointed out that an information meeting prior to application submittal would allow a carrier to address public concerns prior to submitting a final design.

Mr. Clugston clarified that **Section 20.50.100.F** refers specifically to utility pole retrofits. He explained that the pre-application meeting requirement was instituted as a result of the Seaview utility pole installation. However, it is important to keep in mind that, with the exception of Planned Residential Developments (PRD), no other City permit requires a pre-application meeting. He said that while he understands the initial intent, he is not clear on the benefits of a pre-application meeting. He explained that public notice is already required for any Type II, III, or IV permit application. He recommended

that utility pole retrofits be classified as Type II Permits, which would not require a pre-application meeting. An applicant would submit a proposal based on current code requirements. The City would issue a notice to property owners within 300 feet of the project, inviting them to submit written comments during the actual permit process.

Chair Lovell inquired if an applicant would be required to tweak a design to address concerns raised by the public as part of the public comment period. Mr. Clugston clarified that staff would review each application based on the design standards in the code. Approval would be granted if staff determines an application is consistent with code standards. Staff could deny the application or require an applicant to redesign a project based on a public comment that identifies an inconsistency with the code. However, it is misleading to suggest that applications that are deemed consistent with code standards can be denied based on public dislike.

Board Member Stewart expressed her belief that written comments do not carry the same weight as comments that are provided during a public meeting. Requiring a pre-application meeting would allow the public to have their say in a fashion that is strong enough for the applicants to clearly understand their concerns. Wireless facilities can impact a neighborhood for a long time, and the providers need to at least have an opportunity to hear the public's concerns and hopefully attempt to address them.

Board Member Johnson observed that not only would a pre-application meeting benefit the citizens, it would also allow applicants an opportunity to clearly understand neighborhood concerns before spending significant time and resources preparing an application. Mr. Clugston pointed out that if appropriate design standards are adopted, applicants will know exactly what they need to do. All applicable design standards must be satisfied before a project can be approved, so it behooves applicants to pay careful attention to the requirements. Again, he reminded the Board that pre-application meetings are not required for any other type of application except PRDs.

Board Member Stewart asked how much additional time is required for an applicant to go through a pre-application meeting. Mr. Clugston answered that pre-application meetings should not take a significant amount of time. However, they must be held before an application is submitted, so the time required would be in addition to the City's 90-day timeline for processing the permit.

Mr. Clugston suggested that another option would be to make utility pole retrofits a Type III Permit. He explained that, as currently proposed, monopole installations would be Type III permits that require a public hearing before the Hearing Examiner. However, he reminded the Board that the proposed language was designed to make the permit process for monopoles more difficult to discourage their use. On the other hand, the City wants to encourage building-mounted antennas so only a building permit would be required. Because utility pole retrofits would be located on existing structures, they are more favorable than monopoles, but less favorable than building-mounted antennas. That is why staff believes a Type II Permit would be appropriate.

Board Member Cloutier expressed concern that requiring pre-application meetings for utility pole retrofit applications may give the illusion that the public has the ability to influence an application. While public comments can provide scrutiny to make sure applications meet all code requirements, staff does not have the ability to deny an application that meets all code requirements just because the neighborhood does not like it. He summarized that if adequate design standards are adopted, it should not make a difference whether public comments are written or oral. He suggested that **Section 20.50.100.F.1** be eliminated. Instead, structurally-mounted wireless communication facilities (utility pole retrofits) should be classified as Type II Permits, requiring a public notice but no public hearing or pre-application meeting.

Board Member Stewart said she would support this proposed change because it would be consistent with the City's other permit processes. The public would still have an opportunity to submit written comments. The City is limited in their ability to control wireless facilities. If an application meets the code requirements, the project must be approved regardless of public dislike. Board Member Cloutier agreed that the public notice process provides an opportunity for more public scrutiny to make sure an application meets the code requirements, but it does not allow public input to vote down an application that meets all code requirements.

**APPROVED**

Board Member Johnson asked how the Type II review process would have been applied to previous utility pole retrofit applications in Seaview and Westgate. She recalled that one significant concern related to the Westgate installation was the lack of choice as to where the pole was located. She questioned if the proposed language would provide opportunities to consider alternative locations that work better for the neighborhoods. Mr. Clugston replied that the proposed new language establishes a priority for location. He specifically referred to **Section 20.50.070**, which identifies the application requirements. As proposed, applicants would be required to submit a project description including a design narrative, technology description and co-location analysis. Applicants would be required to consider opportunities for co-location first. The next option would be utility pole retrofits. Monopoles would only be allowed as a last resort. Applicants would also be required to provide current coverage maps to identify the coverage gaps, and proposed coverage maps to identify how a proposed installation would fill the gap. These three items will be important to show that carriers have done their homework. If it is determined that a utility pole retrofit is the best possible option, the City would not have the ability to exclude them from a neighborhood.

Chair Lovell referred to **Section 20.50.040.B** and asked how the City would handle situations where an applicant provides proof that one or more of the prohibitions would preclude them from providing adequate coverage. Mr. Clugston said cities handle these situations in a variety of ways. He suggested the City handle these cases through a variance process.

Chair Lovell referred to **Section 20.50.050.J** and asked if the City would have the ability to enforce this requirement if lighting is required by the FCC. Mr. Clugston noted that only towers over 200 feet in height are required to provide lighting. However, if this issue were to come up, it could be dealt with through the variance process. Chair Lovell also referenced **Section 20.50.050.B.1** and asked if the requirement to build mounts capable of accommodating at least one other carrier would infringe on private property rights. Mr. Clugston answered no.

Vice Chair Reed recognized that the items in **Section 20.50.010.A** were not intended to be a list of priorities. However, he suggested that Item 1 be moved before Item 2. The remainder of the Board concurred. Vice Chair Reed also referred to **Section 20.50.020.A** and suggested that the first sentence conflicts with the third sentence. The Board agreed to eliminate the first sentence of this section and replace it with the third sentence. Vice Chair Reed also suggested that acronyms be spelled out the first time they are used in each section.

Vice Chair Reed referred to **Section 20.50.140.A.4**, and questioned why a property owner would be responsible to pay for the removal of an abandoned facility. Mr. Clugston pointed out that property owners are held liable for wireless facilities that are placed on their property, so they should be responsible for their removal, as well. Property owners should address the issue of removal as part of the contract they sign with the provider. The Board agreed that the proposed language is appropriate, and landowners could seek a remedy with the carrier they signed a contract with.

Mr. Clugston referred to **Section 20.50.090** and explained that the City's current code allows whip antennas to exceed the height limit by 6 to 10 feet regardless of whether they are located on a conforming or nonconforming building. He asked the Board to provide direction about whether extra height above the maximum height of the zone should be allowed for antennas attached to buildings. If so, how much, and should the same apply to nonconforming buildings? He referred to Mr. Busch's email (Attachment 3), which indicates that whip antennas are no longer used.

Mr. Clugston noted that local jurisdictions handle the height question for building-mounted antennas in different ways. To facilitate the discussion, he referred the Board to the four options he provided in the staff report to address the issue. He suggested that while height is a particular issue in the Downtown Activity Center, it is not such a concern elsewhere in the City. He suggested the Board could consider two different requirements: one for the Downtown Activity Center and another for the remainder of Edmonds. He reminded the Board that the current code allows a height exception for church steeples, elevator penthouses, chimneys, vent pipes, etc. If the Board agrees to allow additional height for wireless facilities in the downtown, should they be camouflaged? Another option would be to allow antennas on sides of buildings, chimneys, etc. but none would be allowed to stick out straight on top of a building. He suggested the City Council would likely feel very strongly that they do not want to see any extra height in the downtown area, but this approach could conflict with current technology and FCC requirements.

**APPROVED**

Board Member Cloutier said the first principle to keep in mind is that the City must enable coverage. The question is how to provide coverage while meeting the rest of the community goals. He reminded the Board that they requested information about industry standards for size and shape of wireless antennas and learned that a 4G antenna would be approximately five feet tall. A maximum height of 6 feet would be the minimum height necessary for this type of antenna to be mounted on top of a building. However, a slightly greater height would allow the antenna to be set back from the edge of the building, making it less visible from the street. He observed that if antennas cannot be placed on the top of buildings, many more would have to be placed on the sides of buildings to provide the same amount of coverage.

Board Member Johnson suggested that Option D be eliminated as a possible choice. Board Member Cloutier agreed unless the City recognizes that multiple installations on the sides of buildings would be required to provide the same coverage as a single roof-top antenna. Vice Chair Reed agreed that more antennas would be required if mounted on the sides of buildings, but side-mounted antennas tend to be less visible because they are easier to camouflage.

Vice Chair Reed pointed out that the code also allows decorative structures on top of buildings to extend up to five feet above the stated height limit for the zone. Mr. Clugston emphasized that this provision only applies to structures in the BD zones. Vice Chair Reed observed that there are already buildings that have deck railings, elevator penthouses, etc. that extend beyond the allowed height limit. These types of structures should be used to accommodate the taller wireless facilities. There are also very tall light poles near the ferry holding lanes, which would be an excellent location for a wireless facility.

After further discussion, the Board decided it would be appropriate to divide **Section 20.50.090.B** into two sections: one for the Downtown Activity Center and another for the rest of the City. They agreed to the following language:

- Downtown Activity Center – All antennas must be flush mounted and not protrude above the building or chimney, regardless of whether it conforms to the height requirement of the zone, and be camouflaged or painted to match. For buildings below the height limit, antennas may be built to the maximum height of the zone provided they are screened and camouflaged to match the existing structure. (Option 1)
- All Other Areas of the City – Allow taller antennas up to 9 feet tall if they are well integrated or if they are designed to look like common rooftop structures such as chimneys, vents, stovepipes, etc.

Mr. Clugston requested direction from the Board regarding **Section 20.50.090.C** related to the height limit for equipment enclosures. Chair Lovell pointed out that equipment enclosures can vary in size from four to eight feet. Mr. Clugston pointed out that equipment enclosures can also be placed inside a building rather than on the rooftop. Because the current code does not allow a height exception for any other type of rooftop equipment, he cautioned against allowing a height exception for wireless facility rooftop enclosures. The Board concurred and agreed to eliminate the last sentence of the section.

Mr. Clugston referred to **Section 20.50.100.B** and reminded the Board that a 15-foot vertical separation is required for wireless facilities located on utility poles. Additional height would be required in order to attach a wireless facility on top of an existing 25-foot tall utility pole. The Board agreed that an additional height of six feet should be allowed.

Board Member Johnson questioned how the City would deal with nonconforming antennas, such as the one on top of the Commodore Condominiums at 546 Alder Street. Mr. Clugston answered that AT&T's facility at 546 Alder Street has not been permitted by the City so it must be removed. Antennas that become nonconforming as a result of the new code language would be allowed to continue. It is anticipated that, over time, these facilities would be removed and/or replaced with new technology that meets the new code requirements.

The Board directed staff to update the draft language and present it to the Board for review on February 9<sup>th</sup>. They further directed staff to schedule a public hearing for February 23<sup>rd</sup>.

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

**APPROVED**

Chair Lovell announced that two public meetings have been scheduled for the Westgate and Five Corners Study Area Projects. The Westgate meeting is scheduled for January 25<sup>th</sup> from 6:30 to 8:30 p.m. in the Brackett Room of Edmonds City Hall. The Five Corners meeting is scheduled for January 26<sup>th</sup> from 6:30 to 8:30 p.m. in the Plaza Room of the Edmonds Library Building. The Board agreed to cancel their regular meeting of January 26<sup>th</sup> so Board Members could attend the public meeting related to Five Corners.

The Board tentatively scheduled a retreat for February 2<sup>nd</sup>. February 16<sup>th</sup> was identified as an alternate date.

Chair Lovell announced that Mr. Chave and Mr. Clifton have invited two members of the Planning Board and two members of the Citizens Economic Development Commission (CEDC) to meet with them to prepare a year-end report for the City Council.

Vice Chair Reed suggested that because the CEDC and Planning Board have not worked together on any projects this year, perhaps it would be appropriate for the Board to prepare a separate report outlining not only projects related to economic development, but all 2010 projects. They could start with the outline prepared by Board Member Johnson related to economic development activities, and then add other items the Board accomplished in 2010. Board Member Johnson agreed that would be appropriate and suggested that the report could be used as a stepping off point for identifying 2011 goals and projects. She suggested the Chair and Vice Chair discuss the Board's 2011 agenda with Mr. Chave in preparation for continued Board discussion at their retreat.

The Board agreed it would be appropriate for the year-end report to include other items the Board accomplished in 2010 in addition to those related to economic development. They further agreed to continue their discussion regarding the year-end report and the 2011 agenda at their retreat. Board Members were invited to forward their ideas for economic development to Board Member Johnson.

Board Member Johnson advised that at the December CEDC Meeting, she announced that the Planning Board would discuss the year-end report at their retreat. The Chair of the CEDC inquired if it would be appropriate for him to attend the retreat, as well. Chair Lovell agreed to work this out with the CEDC Chair and Mr. Chave.

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

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

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

Board Member Stewart inquired regarding the status of the vacant Planning Board positions. Chair Lovell reported that the Planning Board positions have not been posted on the City's website. However, Ms. Cunningham indicated she would pursue the issue on behalf of the Board.

Board Member Johnson announced that Mr. Clifton is currently working to reorganize and update the City's website, using the City of Bellingham's website as a model.

#### **ADJOURNMENT**

The Board meeting was adjourned at 9:07 p.m.

**APPROVED**