

APPROVED OCTOBER 14TH

**CITY OF EDMONDS
PLANNING BOARD MINUTES**

September 23, 2015

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

BOARD MEMBERS PRESENT

Neil Tibbott, Chair
Todd Cloutier
Carreen Rubenkönig
Daniel Robles
Valerie Stewart
Nathan Monroe

STAFF PRESENT

Jen Machuga, Planner
Karin Noyes, Recorder

BOARD MEMBERS ABSENT

Philip Lovell, Vice Chair (excused)
Matthew Cheung (excused)

READING/APPROVAL OF MINUTES

BOARD MEMBER STEWART MOVED THAT THE MINUTES OF AUGUST 12, 2015 BE APPROVED AS AMENDED. BOARD MEMBER RUBENKONIG SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY, WITH BOARD MEMBER CLOUTIER ABSTAINING.

ANNOUNCEMENT OF AGENDA

The agenda was accepted as presented.

AUDIENCE COMMENTS

No one in the audience indicated a desire to address the Board during this portion of the meeting.

DEVELOPMENT SERVICES DIRECTOR REPORT TO PLANNING BOARD

No report was available for the Board's review and discussion.

PUBLIC HEARING ON FILE NUMBER PLN20150034 – A PROPOSAL BY RDJ GROUP LLC TO REZONE THE EASTERN PORTION OF THREE EXISTING SINGLE-FAMILY LOTS OF RECORD ADDRESSED 16404 AND 16414 – 75TH PLACE WEST AND 16420 – 76TH AVENUE WEST FROM SINGLE-FAMILY RESIDENTIAL (RS-20) TO SINGLE-FAMILY RESIDENTIAL (RS-12)

Chair Tibbott explained that the purpose of the open record hearing is for the Planning Board to address the rezone application (PLN20150034) to rezone portions of the property located at 16404 and 16414 – 75th Place West and 16420 – 76th Avenue West from RS-20 to RS-12. He opened the public hearing and read a script that outlined the rules and procedures for

the hearing. He emphasized that members of the public who would like to speak at any future appeal on the matter would need to testify during the hearing to preserve their ability to participate in the future. He reminded the Board of the Appearance of Fairness Doctrine and asked if any member of the Planning Board has engaged in communication with opponents or proponents regarding the subject of the hearing outside of the hearing process. All of the Board Member answered no. Next, Chair Tibbott asked if any of the Board Members had a conflict of interest or believes that he/she cannot hear and consider the application in a fair and objective manner, and all of the Board Members answered no. Lastly, he asked if anyone in the audience had an objection to any of the Board Members participating as a decision maker in the hearing, and no objections were made.

Chair Tibbott explained that because the Planning Board is making an evidentiary record that may be relied upon in the future, it is important that they ask any and all questions of speakers during the hearing. One of the most important purposes of the hearing is to ensure that all relevant facts are brought to light through the process. Upon Chair Tibbott's direction, everyone who planned to testify at the hearing affirmed that the testimony he/she would provide would be the truth, the whole truth and nothing but the truth.

Ms. Machuga reviewed that the subject application was submitted by Ron Johnson on behalf of RDJ Group LLC, and the request is to rezone the eastern portion of the three existing single-family lots of record (16404 and 16414 – 75th Place West and 16420 – 76th Avenue West) from RS-20 to RS-12. She explained that, pursuant to Edmonds Community Development Code (ECDC) 20.01.003, site-specific rezone applications are Type IV-B decisions, which require a public hearing before the Planning Board. The Planning Board will forward a recommendation to the City Council, and the City Council will make the final decision on the proposal.

Ms. Machuga referred the Board to the Staff Report and its eight attachments, which were added to the record as Exhibit 1. She also referred to the Environmental Checklist, which was added to the record as Exhibit 2. She noted that copies of the Environmental Checklist were provided to each Board Member prior to the start of the meeting and were also emailed to them earlier in the day.

Ms. Machuga provided an aerial photograph of the subject site, which contains six tax parcels that comprise three lots of record. Each of the three lots of record is developed with an existing single-family home and associated improvements. She also provided a zoning map showing that the western side of the property is currently zoned RS-12 and the eastern side is currently zoned RS-20. She explained that the proposal is to rezone the eastern RS-20 portion of the site to RS-12 so that the entirety of all three lots would be within the RS-12 zone. She provided a map of the original Meadowdale Beach Plat, which initially subdivided much of the northern end of Edmonds in 1904 and reserved a street right-of-way running north/south along the section line separating Sections 7 and 8. She also provided historic zoning maps from 1964 and 1981, which show that the transition between the RS-12 and RS-20 zones was established along this same section line to reflect the location of the intended street right-of-way. However, following subsequent divisions of property in the area of the subject site and the development of 76th Avenue West/75th Place West, the northern portion of the street right-of-way established as part of the Plat of Meadowdale Beach was shifted to the east so that it no longer runs along the section line between Sections 7 and 8. The portion of the street right-of-way that was shifted east was later developed as 75th Place West and the initially reserved section of 76th Avenue West was vacated. Because the eastern portion of the subject site extended to the east across the section lines, the site was actually split between the RS-12 and RS-20 zones.

Ms. Machuga reminded the Board that rezone applications must be reviewed for compliance with the criteria specified in ECDC 20.40. She referred to the Staff Report, which provides detailed information about how the proposed rezone meets the criteria and provided the following summary:

- 1. Comprehensive Plan.** The Comprehensive Plan designation for the subject site is “Single-Family – Resource,” which includes the RS-12 and RS-20 zones as compatible zoning designations. Therefore, the proposal to rezone the eastern portion of the subject site from RS-20 to RS-12 would be consistent with the Comprehensive Plan.
- 2. Zoning Ordinance.** The proposal would eliminate the split-zoning designation on the subject site, which would clean up the zoning map and get the zoning lines consistent with the parcel and right-of-way lines. The proposal would not change the zoning of the subject site away from single-family residential and appears to be consistent with the purposes of the Zoning Ordinance.

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3. **Surrounding Areas.** Rezoning the external portion of the site would result in very little external change from existing conditions. The subject site contains three lots of record and is developed with three existing single-family residences and associated improvements. It would continue to be developed as such.
4. **Changes.** The rezone would cause the boundary between the RS-12 and RS-20 zones to follow the existing right-of-way and parcel lines instead of following the section line that cuts through the middle of the subject site.
5. **Suitability.** The site contains three lots of legal record that are developed as single-family residential homes. The proposal would facilitate the applicant's desire to redevelop the northernmost lot because the setback requirements would be different. However, the rezone is not necessary to do so.
6. **Value.** It does not appear that there will be much of an impact to the public health, safety and welfare since the site is already developed with three existing single-family residences. While the applicant would realize some increased value due to greater flexibility in the side setback requirements, the desire to redevelop the lot (16404 – 75th Place West) would not be prohibited without the rezone. The rezone would simply clear up the existing split-zoning situation.

Ms. Machuga advised that at Determination of Nonsignificance (DNS) was issued on September 8th, and the appeal period ended on September 22nd. No appeals were received. She also reported that a Notice of Application was issued for the proposal on August 27th and a Notice of Public Hearing and State Environmental Policy Act (SEPA) Determination was issued on September 8th. No public comments have been received.

Ms. Machuga noted that the application materials include documents signed by the property owners agreeing to a limitation on the height of future structures built on the property addressed 16404 – 75th Avenue West. She emphasized that the proposed rezone is not a contract rezone and does not include any additional height restrictions that would be enforced by the City. The standard height limit for both the RS-12 and RS-20 zones is 25 feet, and any private agreements made by the property owners for further limitations on the height of future structures on the subject site would be privately enforced and would not be enforced by the City.

Based on the findings of fact, analysis, conclusions and attachments to the Staff Report, Ms. Machuga recommended the Board make a recommendation to the City Council to approve the rezone request as presented.

Ron Johnson, Shoreline, indicated he is an architect representing the applicant for the rezone proposal. He thanked Ms. Machuga for her thorough Staff Report that supports the proposed rezone application and said he did not have any additional information to add. He agreed to answer any remaining questions the Board Members might have.

Chair Tibbott invited members of the audience to come forward and participate in the public hearing, but no one expressed a desire to do so and the public portion of the hearing was closed. He invited the Board Members to ask clarifying questions of anyone who testified.

Board Member Stewart asked Ms. Machuga to refresh her memory of the setback requirements in the RS-12 and RS-20 zones. Ms. Machuga advised that the street (25 feet) and rear (20 feet) setbacks are the same for both zones. However, the RS-12 zone requires a 10-foot side setback on both sides and the RS-20 zone establishes a minimum 10-foot side setback, but the two sides have to add up to 35 feet.

Chair Tibbott asked the square footage requirement for lots in the RS-12 and RS-20 zones. Ms. Machuga answered that the RS-12 zone requires that lots be a minimum of 12,000 square feet, and the RS-20 zone requires a minimum of 20,000 square feet. Chair Tibbott asked if the rezone to RS-12 would offer the potential for subdividing any of the three lots. Ms. Machuga responded that, individually, none of the lots would be large enough to subdivide. However, it would be possible to combine the three lots for subdivision purposes to potentially achieve a higher density. Chair Tibbott summarized that, even if the lots are combined, the net result would not be more than one or two additional lots and the traffic impacts would be minimal. Board Member Cloutier reminded the Board that this is a separate issue that would be addressed if and when a subdivision application is submitted.

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Board Member Stewart referred to the aerial photograph that provides an overview of the lots and their location in their respective zones. She reviewed that the applicant is proposing that the historic right-of-way line between Sections 7 and 8 should no longer be used as the demarcation between the RS-12 and RS-20 zones. Ms. Machuga explained that, ideally, the changes in zoning happen along property lines or right-of-way boundaries instead of in the middle of a property, which is the case for the subject site.

Board Member Stewart reviewed that, historically, the properties to the north were zoned RS-20. She recalled that when the Board recently reviewed the Critical Areas Ordinance, it was pointed out that the RS-20 zoning was needed for some parts of the City to protect the native habitat and steep slopes. She said she does not believe the proposed rezone is imperative, and it would seem better to have enough room to maintain the existing native trees. She said she recently drove by the subject site to take note of the existing trees and native habitat that currently exists. Although she recognized that the Board is not being charged with considering a specific development proposal, it is important to ensure the protections that are afforded by the RS-20 zone are not eliminated if the property is redeveloped under RS-12 zoning. Mr. Johnson indicated that the existing habitat on site would not change whether the property is zoned RS-12 or RS-20. Board Member Stewart pointed out that, when redevelopment occurs, any trees or native growth that is within close proximity to the footprint of the new structure would be disturbed to the point of no longer being viable. Mr. Johnson advised that a sewer easement runs through the middle of the property, which prohibits development towards the water beyond a certain point. He said the City's Engineering Department is not interested in moving the sewer line and the applicant is not interested in paying for its relocation. Therefore, it will remain a major element that limits the use of the property.

Board Member Stewart summarized that if the entire property is rezoned to RS-12, the side setback requirements would be more accommodating to provide additional area for the footprint to expand. Mr. Johnson explained that the applicant's use of the site is already limited by the sewer line, and RS-12 zoning would allow him to do more on the remaining property. He also pointed out that the code requires that properties in the RS-20 zone have a minimum width of 100 feet, and the subject property is only 80 feet wide. He summarized that the subject site has all of the characteristics of an RS-12 zone, but for whatever reason, the zoning is split. The applicant believes that RS-12 zoning is a better match for the property. Ms. Machuga clarified that lot width is not the same as frontage width. Lot width is measured with a circle. In the RS-20 zone, a circle that is 100 feet in diameter would have to fit onto the lot; the lot does not have to have a frontage width of 100 feet.

Board Member Robles asked if the owners of the adjacent lot to the north (16340 – 75th Place West) were notified proactively of the proposed rezone action. He noted that this is the only property that would be impacted by the proposed change. Mr. Johnson answered that he did not proactively notify the property owner to the north, but he did meet with the property owner directly to the east of the northern most portion of the subject site. Ms. Machuga explained that the City mailed a Notice of Application and a Notice of SEPA Determination to all property owners within 300 feet of the subject site, and a sign was posted on the subject property. Notices were also published in *THE EVERETT HERALD* and at the Library, Development Services Department and Public Safety Building. Board Member Robles asked if notices were mailed to property owners or occupants. Ms. Machuga answered that the notices were mailed to property owners. The notice that was posted on the property was intended to draw the attention of those living nearby.

Chair Tibbott summarized that, based on the notices that were sent out and posted, there have been no appeals or public comments. Therefore, he assumes that people living in the vicinity of the subject parcels are okay with the proposed rezone.

Board Member Rubenkönig said it was her understanding that the three parcels had been developed under RS-12 zoning because the majority of the land is already RS-12. Ms. Machuga said Snohomish County records show that the existing residence on the northern lot (16404 – 75th Place West) was constructed in 1952 before the City's first zoning ordinance was adopted. Mr. Johnson advised that the southern corner of the house is within 12 feet of the property line and the northern side is between 25 and 30 feet from the property line. Board Member Rubenkönig pointed out that the current setbacks would meet the requirements of the RS-20 zone. Ms. Machuga advised that the middle home (16414 – 75th Place West) was constructed in 2001 consistent with the RS-20 setback requirements, and the southernmost home (16420 – 76th Avenue West) was constructed in 1909 with an addition in 2000. No zoning restrictions were in place when the original home was built. Based on the current zoning, staff would apply the RS-12 setbacks to the portion of the lot that is zoned RS-12 and RS-20 setbacks to the portion zoned RS-20.

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As previously stated, Board Member Rubenkönig observed that no development would be allowed westward of the sewer easement. Mr. Johnson clarified that development would be allowed westward of the sewer easement, but a structure cannot be placed on top of the easement. Given the current setback requirements and the easement, the development footprint would be very small. Ms. Machuga agreed that it would not be possible to build on top of a sewer easement, and it is not likely that the sewer line would be relocated in the future. However, the sewer easement should not be an effective measure for determining where the zoning line should be.

Board Member Rubenkönig said that some communities consider the side of a structure that faces the water to be the front yard. She asked if the City could consider this option. Ms. Machuga clarified that rather than front yard setbacks, the City calls them street setbacks, meaning that the setback is measured from the edge of the right-of-way or the easement serving five or more properties regardless of which direction a house is oriented or where the front door is. The water is not a factor in determining where the street setback is. The rear setback is the most opposite in distance from the street property line.

Board Member Rubenkönig asked if the majority of properties along 75th Place West and 76th Avenue West are zoned RS-12 or RS-20. She suggested that when determining the correct zoning for the subject site, it would be helpful to view it in context of a larger area. Ms. Machuga displayed the City's zoning map for the area, and pointed out that the properties immediately to the south are zoned RS-12, with RS-20 zoning to the north and east. The railroad tracks and Puget Sound are located to the west. She concluded that there is a mixture of RS-12 and RS-20 zoning along 76th Avenue West.

Board Member Rubenkönig asked if it would be possible for the applicant to do a contract rezone that is administratively approved by staff. Ms. Machuga emphasized that all rezone applications, regardless of size, must come before the Board for a public hearing and recommendation to the City Council. Building permits can be administratively approved if they meet all of the zoning requirements, and no public hearing is necessary.

Board Member Rubenkönig said it is her understanding that the Board is to consider the rezone application, only. Any proposed future use of the parcels should not be part of the Board's consideration at this time. Ms. Machuga agreed that the Board is not reviewing a development proposal at this time. However, they can consider the potential implications the rezone could have on the subject site, as well as surrounding properties. The owners of the northern property want to redevelop and will likely do so whether the rezone is approved or not, but there is no site-specific development proposal at this time.

At the request of Board Member Cloutier, Ms. Machuga stated the six criteria the Board must consider when reviewing the merits of the proposed rezone as follows:

- A. Comprehensive Plan.** *Whether the proposal is consistent with the Comprehensive Plan.*
- B. Zoning Ordinance.** *Whether the proposal is consistent with the purposes of the zoning ordinance and whether the proposal is consistent with the purposes of the proposed zone district.*
- C. Surrounding Area.** *The relationship of the proposed zoning change to the existing land use and zoning of surrounding or nearby property.*
- D. Changes.** *Whether there has been sufficient change in the character of the immediate or surrounding area or in the city policy to justify the rezone.*
- E. Suitability.** *Whether the property is economically and physically suitable for the uses allowed under the existing zone and under the proposed zoning. One factor could be the length of time the property has remained undeveloped compared to the surrounding area and parcels elsewhere with the same zoning.*
- F. Value.** *The relative gain to the public health, safety and welfare compared to the potential increase or decrease in value to the property owners.*

As there were no further questions from the Board, Chair Tibbott closed the testimony portion of the hearing and invited the Board to begin its deliberations.

Chair Tibbott summarized that it appears the proposal is completely consistent with the six criteria outlined above, and there would be very little or no impact to the surrounding areas. The request for input and the opportunity to appeal the SEPA Determination was offered to surrounding property owners and citizens, in general, and no one came forward with concerns. The proposed rezone is an opportunity to clean up the split zoning that occurred when the right-of-way alignment was

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reoriented towards 75th Place West. The proposed change would represent a benefit to the property owners and the City. He suggested the Board move forward with a recommendation of approval.

BOARD MEMBER CLOUTIER MOVED THAT THE BOARD ADOPT THE FINDINGS OF FACT, ANALYSIS, CONCLUSIONS AND ATTACHMENTS CONTAINED IN THE STAFF REPORT AND FORWARD A RECOMMENDATION OF APPROVAL TO THE CITY COUNCIL FOR THE REZONE REQUEST FROM RS-20 TO RS-12 (FILE NUMBER PLN20150034). BOARD MEMBER RUBENKONIG SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

REVIEW OF EXTENDED AGENDA

Ms. Machuga announced that a public hearing on the 2016 – 2021 Capital Improvement Plan and Capital Facilities Plan is scheduled for October 14th. Also on October 14th, will be an update on the Development Code rewrite and a discussion about parking issues.

PLANNING BOARD CHAIR COMMENTS

Chair Tibbott reported that he provided a summary to the City Council of the Planning Board's activities for the past quarter on September 22nd, and it was well received. During his report, he voiced concern that the City Council's public hearing on the Marina Beach Master Plan followed too closely behind the Planning Board's hearing on the same item. The minutes from the Board's hearing were not available to the City Council, so they had to rely only on the video recording and not the written record, which often provides substantially more clarity than the video. The City Council agreed to make sure future hearings are scheduled far enough apart to address this concern.

PLANNING BOARD MEMBER COMMENTS

Board Member Cloutier thanked City staff for their preparation for the public hearing, which made the process easier and clearer.

Board Member Cloutier reported on his recent attendance at a public meeting at the Edmonds Library related to oil and coal train traffic through Edmonds. Approximately 125 people were in attendance and topics of discussion included climate solutions, the collapse of the entire coal market, and the public safety impacts of increased rail traffic. It was emphasized that, regardless of political orientation, increased rail traffic has decreased access to the waterfront and there is no viable solution for providing emergency access to the retail businesses, restaurants, large marina, dive park and community/senior center at this time. Concern was also discussed that, because oil has such a low flash point, a derailment would likely result in a fire that would require a mandatory evacuation. At this time, there is no viable plan in place to combat a fire other than letting it burn out. He said the presentations were followed by a question and answer session where concerns were raised about the lack of emergency access to the waterfront, the noise and vibration associated with coal trains, additional signals that will be needed if train traffic increases, no viable plan for emergency response if a train derails, and the impact to global climate change caused by burning more fossil fuels.

Board Member Cloutier acknowledged there is nothing the Board can do directly to impact the situation. However, as they discuss future planning issues, they should consider the impacts so they are not making unrealistic assumptions on past data related to rail traffic and land uses. He reminded the Board that the City is undertaking a study of alternatives for the waterfront to help mitigate the access issues, but the study will not address the public safety issue related to fire.

Board Member Stewart suggested that Board Members help get the word out that a public hearing before the City Council on the Critical Areas Ordinance Update is scheduled for October 6th. She said she was hoping that an informative article could be published in *THE EDMONDS BEACON* or *MY EDMONDS NEWS* so the public is aware of the changes that are proposed and how they might affect critical areas and their properties.

Board Member Robles reported that he met with a representative from the Snohomish County Public Utility District (PUD) to discuss the PUD's objective of cutting down trees around power lines (those identified with orange markings). This

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meeting was in response to his observation that orange marked trees far exceed what the City is considering allowing per the draft tree code.

Board Member Rubenkonig thanked Chair Tibbott and staff for the excellent approach to the quasi-judicial hearing. Reading a script to outline the process was helpful, and she hopes it becomes the standard for future quasi-judicial hearings to ensure they are done correctly and the process is clear to the Board and the public. The staff's guidance allowed the Board to make a well-founded recommendation.

ADJOURNMENT

The Board meeting was adjourned at 8:15 p.m.

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