ORDINANCE NO. 3982

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING PORTIONS OF THE EDMONDS COMMUNITY DEVELOPMENT CODE TO MODIFY THE DEFINTION OF "LOT" (ECDC 21.55.010), DEFINING "LOT OF RECORD" (ECDC 21.55.015) AND ESTABLISHING A PROCESS FOR DETERMINING "INNOCENT PURCHASER" (ECDC 20.75.180 AND 20.01.003).

WHEREAS, the Edmonds Community Development Code has provisions against issuing development permits for lots created outside of the subdivision process; and

WHEREAS, the Edmonds Community Development Code contains no definition of a "lot of record"; and

WHEREAS, an "innocent purchaser" may be allowed to develop a lot pursuant to RCW 58.17.210 and ECDC 20.75.180, and

WHEREAS, the Edmonds Community Development Code contains no process or criteria for establishing an innocent purchaser, and

WHEREAS, the Edmonds Planning Board forwarded a recommendation to the City Council with proposed amendments for definitions of lot, lot of record, and an innocent purchaser process and criteria after a public hearing held on July 23, 2014, and

WHEREAS, after considering the Planning Board's recommendation at a public hearing held on September 16, 2014 the City Council finds the proposed amendment in the public interest; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF EDMONDS, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Amendment to Section 21.55.010 Lot. Section 21.55.010 of the Edmonds Community Development Code, definition of "Lot," is hereby amended to read as follows (new text is shown in underline; deleted text is shown in strike through):

21.55.010 Lot.

Lot means ~~a single tract of land legally created as a separate building site with frontage on a street or access easement.~~ a fractional part of divided lands having fixed boundaries, being of sufficient area and dimension to meet minimum zoning requirements for width and area. The term shall include tracts or parcels. For purposes of this code, adjoining lots under common ownership, which were created without subdivision or short subdivision approval from applicable city or county governments, shall be considered as one lot and subject to the regulations contained herein. The terms of this section shall apply regardless of whether the individual adjoining lots meet current zoning requirements. (See also, Corner Lot, Flag Lot, Interior Lot, and Irregular Lot.)

Section 2. Amendment to Chapter 21.55 ECDC "L" Terms. A new Section 20.55.015 of the Edmonds Community Development Code, untitled "Lot of record," is hereby added to read as follows (new text is shown in underline):

21.55.015 Lot of record.

"Lot of record" means a single tract of land meeting any one of the criteria listed below.

A. Platted lots:

1. Any lot whose boundaries were establish in a recorded plat or short plat.
2. Any lot whose boundaries were establish in an unrecorded short plat approved by the City of Edmonds between July 3, 1956 and march 19, 1974 (not all short plats were required to be recorded).
3. Any combination of two or more lots shoring a side lot line as depicted in the following recorded plats:
   a. City of Edmonds
   b. Brackett's First Addition
   c. Gephart's First Addition
   d. Kellogg's Plat of Edmonds
   e. Albert B. Lord's Grandview Addition
4. Any lot established by Snohomish County prior to the property's being annexed into the City of Edmonds and:

a. whose boundaries were established by transfer of ownership before September 12, 1972, and the lot met all zoning and subdivision requirements in effect at the time of its creation.

b. whose boundaries were established between August 19, 1969 and September 12, 1972 by county approved short plat but not recorded with the County Auditor's Office.

c. whose boundaries were established on or after September 12, 1972 by county approved and recorded short plat.

d. whose boundaries were established by county approved and recorded formal plat.

B. Unplatted lots:

1. Lots created by deed prior to July 3, 1956

2. Lots created through court order, will and testament, or other process listed as exempt from platting requirements by RCW 58.17.035, 58.17.040 or through an exemption from platting regulations provided by law at the time of creation of the parcel.

3. Lots that have been recognized through a previous lot determination review as legal lots.

Section 3. Amendment to Section 20.75.180 Violation - Permits. Section 20.75.180 of the Edmonds Community Development Code, entitled "Violation - Permits," is hereby amended to read as follows (new text is shown in underline; deleted text is shown in ~~strike through~~):

20.75.180 ~~Violation – Permits~~ Development of Lots Not Divided According to this Chapter.

No building permit, septic tank permit or other development permit, shall be issued for any lot~~, tract or parcel of land divided in violation of this chapter unless the applicant for such a permit has applied to the hearing examiner and obtained a ruling from the hearing examiner that the public interest will be not adversely affected thereby; provided, however, the prohibition contained in this section shall not apply to an innocent purchaser for value without actual notice.~~ unless: 1) the subject property is a lot of record as defined in 21.55.015; or 2) the property owner is determined to be an innocent purchaser in accordance with 20.75.180.A. Where this section

authorizes a lot to be developed even though such lot does not meet the definition for "lot of record" in 21.55.015, any development on said lot shall comply with the City's development regulations, including, any applicable development regulations regarding non-conforming lots.

A. "Lot of record" status for innocent purchasers. An owner of property may obtain "lot of record" status for a parcel that does not meet the "lot of record" definition. To obtain this status, the applicant must submit an affidavit with sufficient supporting documentation to demonstrate that:

1. The applicant did not have actual notice regarding the subdivision of the property in question. If the applicant had knowledge of the subdivision (e.g. knowledge that two parcels in question were once part of the same parcel), but not of its illegality, the innocent purchase status may not be granted;

2. The purchase price of the parcel is consistent with an arm's length transaction;

3. The owner did not purchase the property from a relative;

4. At the time of purchase, there was some existing deed, record or survey showing the subject parcel as a separate lot; and

5. The parcel had a separate tax ID parcel number prior to the purchase of the property by the applicant.

B. The innocent purchaser status may be approved subject to conditions of approval requiring the applicant to make improvements to the property that would likely have been required by the city had the property been properly subdivided, unless it is determined that such improvements have already been constructed.

C. An affirmative determination of innocent purchaser and "lot of record" status shall be recorded with the county auditor.

Section 4. Amendment to Section 20.01.003 Permit type and decision framework. Section 20.01.003 of the Edmonds Community Development Code, entitled "Permit type and decision framework," is hereby amended to read as follows (new text is shown in underline):

20.01.003 Permit type and decision framework.

A. Permit Types.

TYPE I	TYPE II	TYPE III-A	TYPE III-B	TYPE IV-A	TYPE IV-B	TYPE V
Zoning compliance letter	Accessory dwelling unit	Outdoor dining	Essential public facilities	Final formal plats	Site specific rezone	Development agreements
Lot line adjustment	Formal interpretation of the text of the ECDC by the director	Technological impracticality waiver for amateur radio antennas	Design review (where public hearing by architectural design board is required)	Final planned residential development		Zoning text amendment; area-wide zoning map amendments
Critical area determinations	SEPA determinations		Shoreline substantial development, shoreline conditional use, shoreline variance			Comprehensive plan amendments
Shoreline Exemptions	Preliminary short plat		Conditional use permits (where public hearing by hearing examiner is required)			Annexations
Minor amendments to planned residential development	Land clearing/grading		Variances			Development regulations
Minor preliminary plat amendment	Revisions to shoreline management permits		Home occupation permit (where public hearing by hearing examiner is required)			
Staff design review, including signs	Administrative variances		Preliminary formal plat			
Final short plat	Land use permit extension requests		Preliminary planned residential development			
Sales office/model (ECDC 17.70.005)	Guest house					
	Innocent Purchaser Determination					

B. Decision Table.

	PROCEDURE FOR DEVELOPMENT PROJECT PERMIT APPLICATIONS (TYPE I – IV)						LEGISLATIVE
	TYPE I	**TYPE II**	**TYPE III-A**	**TYPE III-B**	**TYPE IV-A**	**TYPE IV-B**	**TYPE V**
Recommendation by:	N/A	N/A	N/A	N/A	N/A	Planning board	Planning board
Final decision by:	Director	Director	Hearing examiner	Hearing examiner/ADB	City council	City council	City council
Notice of application:	No	Yes	Yes	Yes	Yes	Yes	No
Open record public hearing or open record appeal of a final decision:	No	Only if appealed, open record hearing before hearing examiner	Yes, before hearing examiner to render final decision	Yes, before hearing examiner or board to render final decision	No	Yes, before planning board which makes recommendation to council	Yes, before planning board which makes recommendation to council or council could hold its own hearing
Closed record review:	No	No	No	Yes, before the council	No	Yes, before the council	
Judicial appeal:	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Section 5. Severability. If any section, subsection, clause, sentence, or phrase of this ordinance should be held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 6. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum and shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title.

APPROVED:

MAYOR DAVID O. EARLING

ATTEST/AUTHENTICATED:

CITY CLERK, SCOTT PASSEY

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY _____
JEFFREY B. TARADAY, CITY ATTORNEY

FILED WITH THE CITY CLERK:	November 14, 2014
PASSED BY THE CITY COUNCIL:	November 18, 2014
PUBLISHED:	November 23, 2014
EFFECTIVE DATE:	November 28, 2014
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SUMMARY OF ORDINANCE NO. 3982

of the City of Edmonds, Washington

On the 18th day of November, 2014, the City Council of the City of Edmonds, passed Ordinance No. 3982. A summary of the content of said ordinance, consisting of the title, provides as follows:

> AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING PORTIONS OF THE EDMONDS COMMUNITY DEVELOPMENT CODE TO MODIFY THE DEFINTION OF "LOT" (ECDC 21.55.010), DEFINING "LOT OF RECORD" (ECDC 21.55.015) AND ESTABLISHING A PROCESS FOR DETERMINING "INNOCENT PURCHASER" (ECDC 20.75.180 AND 20.01.003).

The full text of this Ordinance will be mailed upon request.

DATED this 19th day of November, 2014.

CITY CLERK, SCOTT PASSEY