

PURCELL & ADAMS, PLLC

ATTORNEYS
7127 196th Street SW
Suite 201
Lynnwood, WA 98036

Office (425) 774-0444
Facsimile (425) 771-2711
Email: dpurcell@purcelladams.com

DOUGLAS W. PURCELL

June 26, 2013

HAND DELIVERED

Mr. Kernen Lien, Senior Planner
City of Edmonds, Planning Division
122 – 5th Avenue
Edmonds, WA 98020

RECEIVED
JUN 26 2013
DEVELOPMENT SERVICES
COUNTER

Re: PLN20130022, 50 Pine Street, Edmonds, Rebuttal on APL20130004

Dear Mr. Lien:

Attached is the rebuttal of the Appellant, Christie Cufley, et al, to the information provided by Richard E. Gifford, PLLC, on June 21, 2013, as an initial statement, the Appellant relies primarily upon the provisions of the filed appeal to proceed before the Council and is, in this rebuttal, addressing only specific issues raised by Mr. Gifford.

This appeal concerns Building 10 of the Point Edwards development. Building 10 has always been envisioned as a compatible component of the development as it has been developed over the course of the last 10+ years. The 9 buildings already developed consist of three story condominium units containing approximately 261 condominium units. The buildings are stepped down the steep hillside from a location just below the proposed location of Building 10 and, as such, have significant facade facing toward the West and North, but which facade appears to conform to the slopes of the hillside. The lot upon which Building 10 is to be placed is at the very apex of the development. It is proposed to be five stories in height with 85 units and a 74 parking stall surface parking. As such, it will loom over the Point Edwards development and be of a very different character with the prior development. Building 10 will be the most prominent and visually strongest component of the view of Point Edwards from the Edmonds Bowl and otherwise. It will stand high above its Pine Street location due to height calculation manipulations and will be a major shift or change in the nature of the Point Edwards development.

While the long and convoluted history of this project has been well documented in the record, it is important to note that this appeal is taken from a decision made on a new application filed in 2013 in order to provide some procedural benefits to the applicant and the City. Thus, the applicant, having taken advantage of the new application process to avoid other potential procedural defects, cannot now be heard to argue that former determinations of the Architectural Design Board (“ADB”) are binding on the current situation. Nor is the prior approval in 2006 of affirmative precedential value.

The thrust of the reply by the applicant is articulated on the first page of his submittal as follows: "Appellants arguments essentially are expressions of personal opinion or interpretation and repetitions of staff advisory comments to the ADB, not factual showings." *Applicant Reply, Page 1*. That statement is not correct. The thrust of Appellant Cufley, et al's position is that the ADB did not do its job on May 15, 2013, when it approved the applicant's submittal without taking into consideration a number of issues which it was required to undertake and without determining or making findings upon a number of other issues.

Matters not considered include:

"The ADB should review the proposed Building 10's roof design to determine if the roof design is sufficiently modulated to be granted the additional 5 feet and be granted an overall height limit of 40 feet." *Record 0008*.

"The ADB must determine if the proposal is consistent with the criteria listed in ECDC 20.11.030 in accordance with the techniques and objectives contained in the Urban Design chapter of the Edmonds' Comprehensive Plan." *Record 0008*

"It is up to the Architectural Design Board to determine whether the Project is consistent with the Urban Design Guidelines. Staff feels the overall design elements of the building are consistent with the guidelines, but that the building's layout with respect to being designed to take existing topography into account and scale with respect to the rest of Point Edwards is not consistent with design guidelines. With the staff recommended condition that the eastern portion of the building be stepped down to conform with site topography as was originally proposed for Building 10 in 2002, staff feels the proposal would be consistent with the Urban Design Guidelines and other design guidelines in the City's Comprehensive Plan." *Record 0017*.

The contention of the Appellant that none of these or the other steps required of the ADB were taken in its deliberations on May 15, 2013.

A. The Board Inappropriately Relied Upon the Determinations Made at the December 19, 2012 Hearing.

On December 19, 2012, the ADB continued a public hearing for the purpose of re-configuring Building 10. The Board at that time issued a set of proposed "guidance" to the applicant:

"A. The Architectural Design Board reviewed a previous iteration of Building 10 at a public hearing during the December 19, 2012 ADB meeting (Attachment 7) under file number PLN20120040. The ADB moved that the public hearing be continued to a future date and that the applicant modify the design proposal for building 10 as follows:

1. The design of Building 10 should be more consistent with the other development approved and constructed at Point Edwards under the Point Edwards Master Plan.
2. Additional landscaping should be provided along the rockery or in the parking lot along the south side of the surface parking lot.
3. The applicant should take into consideration the following design elements present in the existing Point Edwards buildings: residential fenestration, broad overhangs, more human scale, distinction between floor-to-floor heights, and Pacific Northwest elements and materials.”
Record 0010.

As previously noted, this is a new application. The December 19, 2012 hearing and its aftermath are not precedential. However, it is clear from many of the comments made by the Board during their discussion on May 15, 2013 that they considered many of the matters to be off the table.

Board Member Walker: ...“I feel like we were all pretty much in agreement last time with the very specific things that we asked them to do in terms of changing building size, that wasn’t mentioned.” *Tr. at Page 28.*

Board Member Gunter: “I also agree that back in December there was no mention of bulk. We agreed that it met the zoning code as far as height, but I see its inappropriate now to talk about pulling the floor out of the east side of that. I don’t think that’s part of the discussions...I feel like, you know, the whole discussion about height should not be a topic tonight.” *Tr. at Page 28.*

As indicated by the above, the Board was apparently confused and felt it had previously determined certain issues with regard to height and bulk. And, as a consequence, it did not undertake the correct level of analysis to the issues that were to be addressed.

B. The Board did not properly review the December 19 design criteria.

Even if the Board felt that it was bound by the design criteria from December 19, 2012, as staff correctly points out on page 14 (Record 0017), the applicant by the May 15, 2013 hearing had complied with conditions 2 and 4 of the December criteria above, but did not, in staff’s option, address either 1 or 3 relating to consistency with other development approved and constructed at Point Edwards or with regard to more human scale as provided in Paragraph 3. In fact, the staff stated the applicant’s changes to the previous design reviewed under PLN20120040 (December 19th) had improved the connections in overall design of the building with the rest of Point Edwards development, but the scale of Building 10 is out of character with the rest of Point Edwards development in the overall topography of the site. Record 0011.

Thus, at least in the interpretation of the staff and the clear language of the design criteria issues from the December 19, 2012 meeting, bulk and size of the property was an issue to be directly addressed.

2. The Board Did Not Sufficiently Consider and In Fact Refused to Consider Height and Roof Modulation Issues Despite the Fact that Such Issues Were Directly Raised by the Staff Report.

The Urban Design guideline which is frequently repeated throughout the record as it relates to roof modulation and bulk of buildings is stated as follows:

ECDC 20.11.030A states that the building shall be designed to “...avoid conflict with the existing and planned character of the nearby area. All elements of building design shall form an engraded development of harmonious scale, line and map...long, massive, unbroken or monotonous buildings shall be avoided in order to comply with the purposes of this chapter and with the design objectives of the comprehensive plan.”

In evaluating the modulation aspect of the roof in this particular case, the ADB should take into account that aspect of whether the roof modulation is sufficient to meet Urban Design guidelines. Because of the location of Building 10, the roof modulation is of major importance. As regards a “streetscape” rooftop modulation, the facade of Building 10 as it meets the “height criteria” is sufficiently high so that there is no visual impact on persons walking along Pine Street. On the other hand, the massive nature of the building as it towers over Point Edwards as follows: “However Building 10 is the last of the Point Edwards development and as such it needs to be viewed in context of the overall Point Edward master plan. Building 10 will crown the Point Edwards development and will stand above the rest of the existing Point Edwards buildings.” (Record 0011)

When viewed from a distance, the roof modulations proposed by the applicant will disappear into a relatively flat roof line, creating from the view corridors looking down towards Point Edwards, a “long, monotonous building.”

3. Conclusions and Requested Relief.

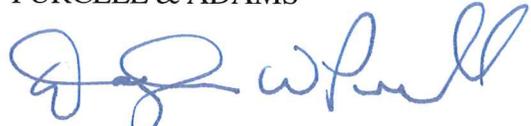
As previously described, the Cufley Appellants continue to rely on the proposals and appealable topics as described in great detail in their appeal.

In addition, this argument is addressed primarily to the failure of the ADB to address a number of very important issues which it had the responsibility to address in connection with the approval or disapproval of the applicant’s project. It was clear from the 2 ¼ pages of deliberation in the public hearing and on the Point Edwards project is that the Board misunderstood its role in resolving the issues which were before it and, as a result, may or may not have reached inappropriate conclusions because of its failure to consider various aspects of the project. The singular most important component to be addressed and which has been a consideration since the beginning of the Point Edwards project is the failure of Building 10 to conform to the master plan as originally proposed and the components of the development as the properties have developed. The Appellant requests that the Council return the application to the Architectural Design Board with specific instructions to consider and make findings as to the

sufficiency of the roof modulation to avoid running afoul of the Urban Design standard related to monolithic buildings, reconsideration and findings related to the overall size of the building and/or design modifications which will reduce the visible size of the building and which will bring it into conformance with the rest of the Point Edwards development.

Respectfully submitted by:

PURCELL & ADAMS



Douglas W. Purcell, Attorney for
Appellant Christie Cufley, et al

DWP
Cc: Client