

AGENDA

Lynnwood Planning Commission

Thursday, February 25, 2010 — 7:00 pm

City Council Chambers, 19100 – 44th Ave. W., Lynnwood WA

A. CALL TO ORDER

Chair WRIGHT
Commissioner AMBALADA
Commissioner AUBUCHON
Commissioner BRAITHWAITE
Commissioner DAVIES
Commissioner LARSEN, First Vice-chair
Commissioner WOJACK, Second Vice-chair

B. APPROVAL OF MINUTES:

Meeting of January 28, 2010

C. COUNCIL LIAISON REPORT

D. CITIZEN COMMENTS – on matters not on tonight's agenda.

E. MEETING WITH MAYOR GOUGH

F. PUBLIC HEARINGS

None

G. WORK SESSIONS

1. **Meadowdale Gap MUGA Boundaries.** Establishing a boundary between the Municipal Urban Growth Areas (MUGAs) between the cities of Lynnwood and Mukilteo in the Meadowdale Gap – the area generally located west of 52nd Ave. W, south of 148th St. and Norma Beach Road and north of Lunds Gulch.
2. **Permit Processing Procedures Code Amendment.** Consideration of amendments to City regulations for processing and acting action on applications for development permits. Referral from City Council.
3. **Electronic Message Signs Code Amendment (2009-CAM-0004).** Review of zoning regulations for electronic message signs.

H. OTHER BUSINESS

1. **2009 Annual Report of the Planning Commission.**

I. DIRECTOR'S REPORT

J. COMMISSIONERS' COMMENTS

K. ADJOURNMENT

The public is invited to attend and participate in this public meeting. Parking and meeting rooms are accessible to persons with disabilities. Upon reasonable notice to the City Clerk's office (425) 670-5161, the City will make reasonable effort to accommodate those who need special assistance to attend this meeting.

**Lynnwood Planning Commission
Meeting of February 25, 2010**

Staff Report

Agenda Item: G-1
Meadowdale Gap MUGA Boundary
(2009ANX0001)

- Public Hearing
- Informal Public Meeting
- Work Session
- Information
- Miscellaneous

Lynnwood Dept. of Community Development — Staff Contact: Kevin Garrett, Planning Manager

ACTION

Discussion only – no action necessary at this meeting .
Making a recommendation to the City Council on this matter will be scheduled for a future Planning Commission meeting.

BACKGROUND

The Meadowdale Gap is an unincorporated area on the north side of Lund's Gulch that is not included in any city's Municipal Urban Growth Area (MUGA).

Over the last few years, the City has been considering annexing most of the City's Municipal Urban Growth Area (MUGA, or potential annexation area). During discussion of the City's ongoing annexations with County staff, they asked the City (and the City of Mukilteo) to consider annexing an area known as the Meadowdale Gap. This residential area is located south of 148th St. SW, west of 52nd Ave. W and north of Lund's Gulch (see attached map). When the MUGAs were mapped (in 2001-2), this area was not included in the MUGA of either city. Both Lynnwood and Mukilteo could provide municipal services to the area. The City expanded our MUGA into the Meadowdale area in 2007, thereby indicating our interest in annexing all or part of this area. At that time, the City of Mukilteo also indicated an interest in annexing all or part of the Gap. Most of the land in the Meadowdale Gap is developed with single family residences. Stormwater run-off from the southern part of the area flows into Lund's Gulch; run-off from the rest of the area flows into the Puget Sound.

The cities believe that it is their mutual interest as well as that of area residents that we come to an agreement on how to divide and support this area. If this is accomplished, it will be possible to have the agreement recognized quickly by Snohomish County and support annexations to both cities in the near future. Failure to come to such an agreement would result in continued uncertainty for area residents, a protracted and possibly costly dispute that be difficult to resolve and continued status of the area as an unincorporated island that is difficult and expensive for the County to serve.

ANALYSIS/COMMENT

Staff at the two cities have developed a proposal to include half of the Gap in Mukilteo's MUGA and half in Lynnwood's MUGA. That proposal was shown to the Planning Commission at the last work session. Developing that proposal was guided by following principles:

- Generally divide population and land area of Gap evenly between cities;
- Keep residences and local streets providing access to those residences in same city;
- Divide the area in a manner that recognizes existing neighborhoods and their orientation towards both cities;
- Support reasonable and efficient provision of urban services;
- Control any impact to Lund's Gulch through joint review of future development proposals in the Gap;
- Allow Lynnwood to continue its efforts to own and protect parcels comprising the Gulch and potentially for the City to assume responsibility for the County park should that become possible in the future; and
- Equitable sharing of responsibility for maintenance of arterials providing access to the Gap (for example, 148th St. SW).

On January 19, 2010, the City Council referred this matter to the Planning Commission for a recommendation on the boundary.

Thematic maps of the area (terrain/drainage, travel routes, aerial photo and subdivisions) were sent to the Planning Commission earlier this month, along with the decision criteria on annexations for the Boundary Review Board. Please bring these materials to this meeting.

RECOMMENDATION

Discussion only, at this work session.

ATTACHMENT(s)

None

**Lynnwood Planning Commission
Meeting of February 25, 2010**

Staff Report

Agenda Item: G-2
Code Amendment related to Permit
Processes (referral from the City Council)

- Public Hearing
- Informal Public Meeting
- Work Session
- New Business
- Old Business
- Information
- Miscellaneous

Lynnwood Dept. of Community Development

ACTION

Discussion.

BACKGROUND

At the December 10, 2009 Planning Commission meeting, staff introduced the topic of code amendments related to permit processes. The discussion focused on possible municipal code amendments that would change how certain land use applications would be processed.

Detailed background discussion on the topic took place at the Planning Commission's January 28, 2010 meeting. The PowerPoint presentation presented to the Planning Commission at that meeting is attached (Attachment A).

The processes under discussion (see January 28, 2010 Planning Commission packet for more information) include:

1. Variance Appeals;
2. Conditional Use Permit Appeals;
3. Preliminary Plats;
4. Rezones (not concurrent with a comprehensive plan amendment);
5. SEPA Appeals; and,
6. Business License Appeals

Changes to the specific process would generally either:

- Place increased open record public hearing and/or decision-making authority with the Hearing Examiner; and/or,
- Eliminate the City Council's involvement in certain appeal processes and instead direct certain appeals to Court.

At its January 28, 2010 meeting, the Planning Commission requested additional information in response to the following questions:

1. What were the City Council comments at the November 16, 2009 work session when this issue was discussed (and then referred to the Planning Commission); and,
2. Has the City of Edmonds done anything recently with respect to City Council involvement in quasi-judicial land use decisions?

Planning Commission consideration of this topic is in response to City Council direction provided at its (City Council's) November 16, 2009 work session (see Attachment B, November 16, 2009 City Council Staff Report). Following discussion, the City Council referred the matter to the Planning Commission for input/comment

DISCUSSION

The following responds to the Planning Commission's January 28, 2010 questions.

- 1. What were the City Council comments at the November 16, 2009 work session when this issue was discussed?**

The November 16, 2009 City Council work session minutes are attached (Attachment C). The minutes are very brief and do not reflect individual councilmember comments.

During its discussion, however, the City Council did request that certain information be brought back to the City Council including:

1. Planning Commission comments;
2. Information on how nearby cities process similar permits (Attachment D); and,
3. Identification of which quasi-judicial permits the City Council is required to consider.

- 2. Has the City of Edmonds done anything recently with respect to its (City Council) involvement in quasi-judicial land use decisions?**

On January 5, 2010, the Edmonds City Council passed Ordinance No. 3775 (Attachment E). Ordinance No. 3775 is an interim ordinance that restored the City Council's role in hearing closed record appeals of certain land use actions such as conditional use permits, variances and preliminary plats.

A copy of the January 5, 2010 Edmonds City Council minutes (excerpts specific to that discussion) relating to the adoption of Ordinance No. 3775 is attached (Attachment F). As an interim ordinance, Ordinance No. 3775 is valid for six (6) months (unless extended) and the Edmonds City Council is required to hold a public hearing within 60 days of its adoption.

On February 2, 2010, the Edmonds City Council held a public hearing on the interim ordinance. A copy of the Edmonds City Council's *draft* minutes (excerpts related to that discussion) is attached (Attachment G). The draft meeting minutes contain additional rationale for the City's adoption of the interim ordinance.

RECOMMENDATION

For discussion. As directed by the City Council, the Planning Commission comments will be transmitted to the City Council when the issue is brought back to the City Council.

ATTACHMENTS

- A. January 28, 2010 Lynnwood Planning Commission PowerPoint Presentation
- B. November 16, 2009 Lynnwood City Council Work Session Materials
- C. November 16, 2009 City Council Work Session Minutes
- D. Matrix of Other Cities' Processes
- E. City of Edmonds Ordinance No. 3755 (Interim Ordinance)
- F. City of Edmonds January 5, 2010 City Council Minutes
- G. City of Edmonds February 2, 2010 City Council Minute

**Growth Management in
Washington State**

**Framework for Planning and
Permit Decision-Making**

City of Lynnwood
Planning Commission
January 28, 2010

**Washington State
Growth Management Act (GMA)**

- 1990 - Growth Management Act (GMA) enacted (late 1980's period of rapid growth in this Puget Sound region)
 - GMA amended several times since.
-

**Growth Management Act
(RCW Chapters)**

- RCW Chapter 36.70A Growth management -- Planning by selected counties and cities.
 - RCW Chapter 36.70B Local project review. (1995 Amendments)
 - RCW Chapter 36.70C Judicial review of land use decisions. (1995 Amendments)
-

**Growth Management Act
(What it does)**

- Creates the framework and process for how local governments plan growth and development through adoption of local **comprehensive plans** and land use **development regulations**.
- Prescribes certain minimum requirements for **how permits are processed locally**, and how permit decisions may then be appealed to Court.

**Growth Management Act
14 State Planning Goals**

- | | |
|---------------------------|--|
| (1) Urban growth. | (8) Natural resource industries. |
| (2) Reduce sprawl. | (9) Open space and recreation. |
| (3) Transportation. | (10) Environment. |
| (4) Housing. | (11) Citizen participation and coordination. |
| (5) Economic development. | (12) Public facilities and services. |
| (6) Property rights. | (13) Historic preservation. |
| (7) Permits. | (14) Shoreline management. |

**Growth Management Act
Framework**

- Comprehensive Plans** - to set *policy* direction for how a community seeks to manage growth and development.
- Development Regulations** - to implement the plans.
- Permit Processing** - to process permits within defined procedures/time frames.

Growth Management Act Framework

Comprehensive Plan

(Policies)

→ Development Regulations

(Implement & Consistent with Policies)

→ Project Permits

(e.g. Plats, Conditional Use Permits - based on consistency with policies and regulations)

Growth Management Act - Comprehensive Plan (Policies)

Required Comprehensive Plan "Elements"

- Land Use** (distribution of land uses)
- Housing** (accommodate needs of various income levels)
- Capital Facilities** (publicly owned facilities such as water, sewer, parks, fire to support growth)
- Transportation** (levels of service)
- Utilities** (private utilities, gas, electricity, cable)

GMA Definition - Development Regulations

"Development regulations" or "regulation" means the controls placed on development or land use activities by a county or city, ***including, but not limited to, zoning ordinances, critical areas ordinances, shoreline master programs, official controls, planned unit development ordinances, subdivision ordinances, and binding site plan*** ordinances together with any amendments thereto. A development regulation ***does not include a decision to approve a project permit application***, as defined in RCW 36.70B.020, ...".

**GMA - Development Regulations
Relationship to the Comprehensive Plan**

Development regulations under the Growth Management Act are specific controls placed on development or land use activities by a county or city. Such *regulations* must be consistent with comprehensive plans developed pursuant to the act and they must implement those comprehensive plans.

"Implement" in this context has a more affirmative meaning than merely "consistent" (See WAC 365-195-210(5).) "Implement" connotes not only a lack of conflict *but sufficient scope to carry out fully the goals, policies, standards and directions contained in the comprehensive plan.*

**Growth Management Act -
Permitting**

- Statewide Planning Goal (7)

"Permits. Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability."

- GMA amendment (1995) related to permitting - commonly called "Regulatory Reform"

**Growth Management Act -
Permitting**

- Permit decisions are to reflect adopted policy and regulations.
- Permit process is to avoid revisiting decisions made at the plan/regulation level (which is why public involvement is heavily encouraged at the plan/development regulation stage.
- Permit decisions are to be timely.

**Growth Management Act -
Project Permit Defined**

"Project permit" or "project permit application" means any land use or environmental permit or license required from a local government for a project action, including but not limited to building permits, subdivisions, binding site plans, planned unit developments, conditional uses, shoreline substantial development permits, site plan review, permits or approvals required by critical area ordinances, site-specific rezones...but excluding the adoption or amendment of a comprehensive plan, subarea plan, or development regulations except as otherwise specifically included in this subsection.

**GMA – Permitting/Regulatory
Reform Requirements**

Establishes specific requirements for processing permits, including maximum timelines and guidelines on public hearings.

- Only one (1) open record hearing allowed.
- Timelines for final decisions on permits (i.e. 120 days).
- Public hearings related to the same proposal to be combined.

**Open Record Hearing -
Definition**

"Open record hearing" means a hearing, conducted by a single hearing body or officer authorized by the local government to conduct such hearings, that creates the local government's record through testimony and submission of evidence and information..

Quasi-Judicial vs. Legislative actions

- Quasi-judicial actions:
 - Involve the legal rights of specific parties, and the decisions made as a result of such hearings must be based upon and supported by the "record" developed at the "open record" public hearing.
 - Are subject to stricter procedural requirements than legislative hearings.
- Quasi-judicial actions *do not* include:
 - Legislative actions adopting, amending, or revising comprehensive, community, or neighborhood plans or other land use planning documents or the adoption of area-wide zoning ordinances or the adoption of a zoning amendment that is of area-wide significance.

Legal Requirements with Quasi-Judicial Actions

- Appearance of Fairness Doctrine
 - Quasi-judicial hearings/decisions must be fair both in appearance and in fact.
 - Hearings must be procedurally fair, and must appear to be conducted by impartial decision-makers.
 - Violation can result in a court invalidating the decision (new hearing and decision will then need to be made without the disqualified decision-maker.)
- Ex Parte Contact
 - *Ex parte* means "one sided." Ex parte contact involves a one-sided discussion without providing the other side with an opportunity to respond and state their case.

RCW 35A.63.020 Planning agency -- Creation -- Powers and duties -- Conflicts of interest.

"...a code city may create a planning agency and provide for its membership, organization, and expenses. The planning agency shall serve in an advisory capacity to the chief administrative officer or the legislative body, or both,.... If any person or persons on a planning agency concludes that he has a *conflict of interest or an appearance of fairness problem with respect to a matter pending before the agency* so that he cannot discharge his duties on such an agency, he shall disqualify himself from participating in the deliberations and the decision-making process with respect to the matter. ..."

**Proposal for Discussion
(Generally)**

- Places increased open record public hearing and/or decision-making authority on quasi-judicial permits with the hearing examiner and/or,
- Eliminates the City Council's involvement in certain appeal processes and instead direct certain appeals to Court.

**Hearing Examiner System-
(Generally)**

- Appointed officer who acts in a manner similar to a judge and typically is an attorney.
- Professionally trained individual who makes objective quasi-judicial decisions supported by an adequate record.

**City of Lynnwood
Hearing Examiner - (Current Role)**

- Holds (open record) hearing and decides variances.
- Holds (open record) hearing and decides conditional use permits.
- Holds "Public Meeting" on Preliminary Plats (5 or more lots)/recommends to Council (Council holds open record hearing)
- Hears certain State Environmental Policy Act (SEPA) appeals.
- Hears appeals of other non-GMA administrative/staff decisions (i.e. Code Enforcement.)

Specific Proposed Process Changes

1./2. Appeals of Hearing Examiner Variance and Conditional Use Permit (CUP) decisions (hearing examiner holds open record hearing)

Current Appeal Process – City Council
Proposed Appeal Process – Superior Court

Specific Proposed Process Changes (continued)

3. Preliminary Plats (subdivision into 5 or more lots)

Current Process: "Hearing Examiner Informal Public Meeting" who then makes a recommendation to City Council; City Council holds "open record" hearing and decision.

Proposed Process: Hearing Examiner open record hearing and decision. (Appeal to Court)

Specific Proposed Process Changes (continued)

4. Site Specific Rezones (w/o Comp Plan change)

Current Process: "Planning Commission Informal Public Meeting" and then makes a recommendation to City Council; City Council holds "open record" hearing and decision.

Proposed Process: Hearing examiner open record hearing and recommendation to City Council. City Council decision on the "record" developed by hearing examiner (Council takes no new evidence/information)

**Specific Proposed
Process Changes (continued)**

5. State Environmental Policy Act (SEPA) Appeals

Procedural SEPA Appeal (i.e. whether a DNS or mitigated DNS is appropriate)

Current - Heard simultaneously with the public hearing on underlying application for a city permit. If underlying permit application does not include a public hearing, the SEPA appeal is heard by the hearing examiner. (Municipal code says hearing examiner decision on SEPA appeal may be appealed to City Council.)*

Proposed - Hearing examiner, with no further appeal.

* The City's hearing examiner has stated that the current SEPA appeal process is inconsistent with State law. Municipal code allows two local SEPA appeals; Hearing examiner has stated that State law limits local SEPA appeals to one appeal.

**Specific Proposed
Process Changes (continued)**

5. (cont.) Substantive SEPA Appeal (Substantive SEPA appeals relate to the City's use of policies to support/require specific mitigation measures.)

Current Process - Heard by the City Council.

Proposed Process - SEPA appeals combined with the open record public hearing (if one exists) on the underlying permit - primarily the hearing examiner. Hearing examiner also would hear a SEPA appeal if there is no public hearing associated with an underlying permit.

**Specific Proposed
Process Changes (continued)**

**6. Appeal of Business License
(Administrative) Decisions***

Current Appeal Process - City Council Hearing

Proposed Appeal Process - Hearing Examiner Hearing

* Business license approvals/denials are not a GMA action.

Advantages to Process Changes

- Allocate More Time to Council to Focus on Policy Issues.
- More Efficient Development Review Process.
- Reduced Liability Exposure.
- Cost (savings).

Possible Disadvantages of Process Change

- Cost.
- Perception of Council Member's Roles.

CITY COUNCIL ITEM C**CITY OF LYNNWOOD
Community Development****TITLE: Permit Processes: Administrative and Examiner Approvals****SUMMARY:**

The City of Lynnwood Municipal Code (LMC) establishes several processes that involve the City Council in quasi-judicial land use actions. City Council involvement in certain quasi-judicial land use actions is required under State law; others are not.

Involvement in quasi-judicial actions can be time consuming for the applicant, staff, as well as the City Council. The increased time does not necessarily result in improved decisions or projects. Should City Council wish to reduce its time commitment in quasi-judicial land use and other actions not otherwise required by State law - thereby allowing more to be focused on other matters - then an ordinance to that affect could be prepared for consideration.

Such an ordinance, if approved, would direct more responsibility to the Hearing Examiner -- who is legally trained in hearing quasi-judicial applications and in preparing findings to support a decision based on the record and decisional criteria.

ACTION:

None at this work session. An ordinance implementing some or all of the process changes identified in this report can be prepared and brought back for review and consideration by the City Council at a future work session.

BACKGROUND:

The City of Lynnwood Municipal Code (LMC) has several processes that involve the City Council in quasi-judicial land use actions. Quasi-judicial land use actions are permit decisions where the City Council sits as a "judge" and evaluates proposals based on decisional criteria. Examples include plats (subdivisions), site-specific rezones, appeals of variances, etc. Quasi-judicial land use decisions require adherence to legal requirements related to, as examples, the Appearance of Fairness Doctrine and ex-parte contact.

City Council involvement in certain land use actions is required by State law; however, the LMC does involve the City Council in certain permit decisions that it (Council) is not obligated to engage in based on State law.

There are several reasons why a legislative body may wish to minimize its direct involvement in quasi-judicial permit decisions. These include:

Allocate More Time to Focus on Policy Issues

As noted earlier, quasi-judicial hearings/proceedings can be time consuming. Reducing/minimizing time on quasi-judicial land use actions allows local legislative bodies to better concentrate and focus on policy-making responsibilities.

Efficient Development Review Process

Streamlining process creates a more efficient development review process for an applicant. Eliminating processes that are not otherwise required also makes it easier for the City to comply with the Growth Management Act's "Regulatory Reform" requirements. Among those requirements is that final decisions on

land use permits be completed within 120 calendar days of active processing.

It must be noted that such amendments would in no way eliminate a requirement for a public hearing, nor does it affect the need to comply with the SEPA process. The ability of the public to interact with the project would not be compromised.

Reduced Liability Exposure

Streamlining land use processes and/or directing certain actions to the Hearing Examiner potentially reduces local government liability exposure. Public hearings/meetings increase exposure to procedural issues related to the appearance of fairness doctrine and/or ex parte contact. Directing more responsibility to the hearing examiner should provide for more consistent, legally-sustainable rendered quasi-judicial decisions. In addition, as noted earlier, more efficient processes facilitate the City's compliance with regulatory reform requirements. Failure to comply with such requirements exposes the City to liability.

Cost

Removing otherwise optional steps in the permit process reduces City time and costs associated with preparing materials, providing notice and organizing other related information/requirements.

PREVIOUS COUNCIL ACTIONS:

None.

FUNDING:

None.

KEY FEATURES:

The attached table outlines processes that could be modified that primarily provides more direct decision-making authority to the Hearing Examiner. The table identifies the process, summarizes the existing process, and then identifies an alternate process.

In general, the alternate processes would either:

- Place increased hearing and/or decision-making authority with the hearing examiner; and/or,
- Eliminate the City Council's involvement in certain appeal processes and instead directs certain appeals directly to Court.

Specific processes that are identified in the attached table relate to:

- Variance Appeals;
- Conditional Use Permit Appeals;
- Preliminary Plats;
- Rezones;
- SEPA Appeals; and,
- Business license appeals (NOTE: Business licenses are not a quasi-judicial land use action subject to regulatory reform but have been included as a possible amendment since many of the efficiency outcomes are the same.)

To accomplish the above, an ordinance would need to be adopted that amends:

- LMC Chapter 1.35 (Application Processing and Review);
- LMC Chapter 2.22 (Hearing Examiner);
- LMC Chapter 5.04 (Business Generally) (Specifically LMC section 5.04.030 Application for license – Approval or denial – Appeal);
- LMC Chapter 17.02 (State Environmental Policy Act);

- LMC Chapter 19.15 (Administration);
- LMC Chapter 19.20 (Preliminary Plat Procedure); and,
- LMC Chapter 19.25 (Final Plat Application Procedure).

ADMINISTRATION RECOMMENDATION:

For discussion only at this work session. Depending on Council comments, an ordinance can be drafted implementing council direction.

DOCUMENT ATTACHMENTS

Description:

- Permit Process - Existing and Alternates

Type:

Backup Material

1
2
3

Existing and Potential Alternative Permit Processes

Process	Existing Process	Alternative Process
1. Variance Appeals	Appeal of a hearing examiner final decision on a variance is heard by the City Council (further appeals then go to Court.)	Appeal of a hearing examiner final decision on a variance would go directly to Court.
2. Conditional Use Permit (CUP) Appeals	Appeal of a hearing examiner final decision on a conditional use permit is heard by the City Council (further appeals then go to Court.)	Appeals of a hearing examiner final decision on a conditional use permit would go directly to Court.
3. Preliminary Plats	<p><u>Step 1</u> Informal public "meeting" before hearing examiner.</p> <p><u>Step 2</u> City Council Public Hearing (open record hearing). <i>(NOTE: Approval of Final Plats currently rest with the City Council and would continue to do so.)</i></p>	<p>Hearing Examiner open record public hearing.</p> <p>Hearing Examiner renders final decision.</p>
4. Rezones (not concurrent with a comprehensive plan amendment)	<p><u>Step 1</u> Informal public "meeting" before Planning Commission.</p> <p><u>Step 2</u> City Council Public Hearing (open record hearing).</p>	<p><u>Step 1</u> Hearing examiner public hearing (open record hearing). Hearing examiner makes a recommendation to the City Council.</p> <p><u>Step 2</u> City Council action (but no public hearing required).</p>

<p>4. SEPA Appeals*</p>	<p><u>Procedural SEPA Appeal</u> Procedural SEPA appeals (i.e. whether a DNS or mitigated DNS is appropriate) are heard simultaneously with the public hearing on underlying application for a city permit. If underlying permit application does not include a public hearing, the SEPA appeal is heard by the hearing examiner. Municipal code says hearing examiner decision on SEPA appeal may be appealed to City Council.*</p> <p><i>* The City's hearing examiner has ruled that the current SEPA appeal process is not consistent with State law. Municipal code allows two local SEPA appeals; Hearing examiner has ruled State law limits local SEPA appeals to one appeal. This should be rectified regardless of whether other amendments discussed in this memorandum are pursued.</i></p> <p><u>Substantive SEPA Appeal</u> Heard by the City Council. (Substantive SEPA appeals relates to the City's use of policies to support/require specific mitigation measures.)</p>	<p>Removes the distinction between Procedural and Substantive SEPA appeals.</p> <p>SEPA appeals to be combined with the open record public hearing (if one exists) on the underlying permit – primarily the hearing examiner. Hearing examiner also would hear a SEPA appeal if there is no public hearing associated with an underlying permit.</p>
<p>5. Appeals of Denial of Business License Application</p>	<p>Appeal of business license denials requires a city council public hearing. (LMC 5.04.030)</p>	<p>Appeals of business license denials would be subject to Hearing Examiner public hearing/final decision.</p>

1 **MINUTES OF THE WORK SESSION OF THE LYNNWOOD CITY COUNCIL HELD,**
2 **MONDAY, NOVEMBER 16, 2009 AT 7:00 P.M. IN THE CITY COUNCIL CHAMBERS**
3

4 **Attendance:**

5 Mayor Don Gough Councilmember Loren Simmonds
6 Council President Ruth Ross Councilmember Jim Smith
7 Council Vice President Stephanie Wright (Excused) Councilmember Mark Smith
8 Councilmember Ted Hikel Councilmember Lisa Utter

9
10 Council Assistant Beth Morris

11 **Others:**

12 Parks & Recreation Director Sordel Senior Planner Maw
13 Economic Development Director Kleitsch Senior Planner Rivera
14 Public Works Director Franz Community Development Deputy Director Osaki
15 Deputy PW Director Elekes Detention Commander Deppa
16 Fire Chief Olson Community Development Director Krauss
17 Assistant Chief Macke
18

19
20 **Comments and Questions on Memo Items**

21 M-1 Addendum to Interlocal Agreement with Okanogan County for 2010 Jail Services.

22 M-2 Appointments: Confirm Appointments to the Tourism Advisory Committee/Lodging Tax
23 Advisory Committee for 2010

- 24 • No discussion on M-1 and M-2
25

26 M-3 EMS Transport Fee Billing Contract

- 27 • Council Member Simmonds asked that the actual completed contract be provided to the Council
28 before they are asked to vote on it.
29 • Council Member Utter asked that the report the Council previously requested be provided before the
30 vote.
31

32 M-4 Final Approval: Bicycle Route Striping and Signing Project

33 M-5 Interlocal Agreement with Sunnyside Jail for 2010 Inmate Housing

- 34 • No discussion
35

36 M-6 Ordinance and Financial Plan: Minor Amendment to TMC Financial Plan

- 37 • Council Member Simmonds noted that there was no attachment showing the actual numbers. Public
38 Works Director Franz advised that was an oversight and that the only change was the Fund #. Every
39 thing else was the same. This would be in the agenda packet for the 11/23 business meeting.
40

41 M-7 Ordinance for Financial Plan, Bid Award, Consultant Contracts: Hall Lake Water Main
42 Replacement

43 M-8 Ordinance, Financial Plan, Consultant Supplement, WSDOT Construction Agreements: 44th
44 Avenue West Interurban Trail, Bridge Overcrossing and East Trail Extension to 40th Avenue West
45 Project Construction
46

- 47 M-9 Re-appointment of Niniva Tupua to Historical Commission
48 M-10 Recreation Center Renovation and Expansion Project Hazardous Materials Abatement
49 M-11 Resolution: 26th Avenue Street Vacation Hearing Date for Legacy Development
50 M-12 Resolution: 48th Avenue West Block Grant
51 • No discussion on M-7-M-12

- 52
53 M-13 Upgrade Emergency Power Generation at Civic Justice Center
54 • Item was pulled and will be brought back at a date TBD

- 55
56 FYI-1 City Wide Strategic Annexation Space Analysis
57 FYI-2 Police and Court Space Needs Study
58 • Council Member Simmonds asked staff several questions seeking clarification.

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60 **Greenhouse Gas Emission Reduction Targets**

- 61 • Senior Planner Maw delivered a PowerPoint Presentation
62 • Council Q&A

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64 **Permit Processes: Administrative and Examiner Approvals**

- 65 • Community Development Director Krauss accompanied by Community Development Deputy
66 Director Osaki presented an overview
67 • It was the consensus of the Council that this item be sent in its entirety to the Planning Commission
68 for review and recommendations. Staff was directed to include the Planning Commission's report
69 when this item is brought back to the Council.

70
71 **Executive Session, if necessary**

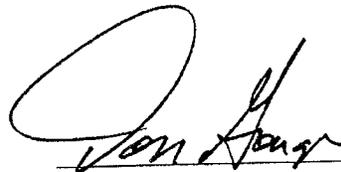
- 72 • None

73
74 **Council President and Council Comments**

- 75 • Scheduling Motion/Approved: Discussion of the budget amendments was placed on both the 11/18
76 and 11/30 work sessions.
77 • Scheduling Motion/Approved: Add two public hearings on ADUs and Permit Timelines to the 12/7
78 Special Business Meeting agenda, along with possible action items under regular business.
79 • Council Member Mark Smith requested a list of all council liaison assignments, both appointed and
80 elected, be provided to all council members including the two newly elected members.

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83 **Adjournment**

- 84 • The meeting was adjourned at 9:52 p.m.

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Don Gough, Mayor

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John Moir

93

John Moir

94

Finance Director

PERMIT PROCESS COMPARISON TABLE

DRAFT

City	Decision Process	Permit Type					
		Conditional Use Permit (CUP)	Full Subdivision (PLT) 1	Rezone (RZN) 1	Variance (VAR)	Environmental Review (SEPA)	Business Licensing
Lynnwood	Permit Decision	HE	HE	PC	HE	Admin	Admin
	1st Appeal	CC	Court	Court	CC	2: CC* or HE**	CC
	2nd Appeal	Court			Court	CC**	
Bothell	Permit Decision	3: HE	3: HE	PC	HE	4	Admin
	1st Appeal	Court	Court	Court	Court		CC
	2nd Appeal						Court
Edmonds	Permit Decision	HE	HE	PC	HE	Admin	Admin
	1st Appeal	CC	Court	Court	CC	HE	CC
	2nd Appeal	Court			Court	Court	
Everett	Permit Decision	HE	Admin	HE	HE	Admin	Admin
	1st Appeal	Court	Court	Court	Court	4	CC
	2nd Appeal					Court	
Mill Creek	Permit Decision	Admin	PC	PC	PC, 5	Admin	Admin
	1st Appeal	CC	CC	CC	CC	CC	
	2nd Appeal	Court	Court	Court	Court	Court	
Mounflake Terrace	Permit Decision	HE	PC	PC	HE	Admin	Admin
	1st Appeal	Court	Court	Court	Court	HE	HE
	2nd Appeal					Court	Court
Mukilteo	Permit Decision	HE	HE	PC	HE	Admin	Admin
	1st Appeal	Court	Court	Court	Court	4	CC
	2nd Appeal						Court
Shoreline	Permit Decision	Admin	Admin	PC	Admin	Admin	Admin
	1st Appeal	HE	HE	Court	HE	HE	HE
	2nd Appeal	Court	Court		Court	Court	Court

Admin = Administrative CC = City Council HE = Hearing Examiner
 PC = Planning Commission (or equivalent)

Note 1: Preliminary decision hearing body; Council passes adopting legislation

Note 2: There are two types of appeals: substantive, which relate to the City’s use of policies to support/require specific mitigation measures, and procedural (such as whether a DNS or MDNS is appropriate).

* Procedural appeals are heard simultaneously with the public hearing on underlying application for a city permit by City Council.
 ** If the underlying permit application does not include a public hearing, the SEPA appeal is heard by the hearing examiner. Municipal code says the hearing examiner decision on SEPA appeal may be appealed to City Council. The City’s Hearing Examiner has ruled that the current SEPA appeal process is not consistent with State law. Municipal code allows two local SEPA appeals; Hearing examiner has ruled State law limits local SEPA appeals to one appeal. This should be rectified regardless of whether other amendments discussed in this memorandum are pursued.

Note 3: Unless delegated by the council to the planning commission or shoreline board, where applicable for specific applications involving new regulations.

Note 4: SEPA review is concurrent with the underlying permit and utilizes the appeal process of the underlying permit.

Note 5: Mill Creek is currently researching amendments to change this to a Planning Board or Hearing Examiner in the future. Variances for yard reductions are determined administratively.

0006.90000
BFP/
01/04/10

ORDINANCE NO. 3775

AN INTERIM ORDINANCE OF THE CITY OF EDMONDS,
WASHINGTON, AMENDING TITLE 20 ECDC REVIEW
CRITERIA AND PROCEDURES TO EXPAND
OPPORTUNITIES FOR CLOSED RECORD
ADMINISTRATIVE APPEALS, AND FIXING A TIME WHEN
THE SAME SHALL BECOME EFFECTIVE.

WHEREAS, Title 20 ECDC was recently amended; and

WHEREAS, during said recent amendment, closed record administrative appeals
before the City Council on quasi judicial matters were limited; and

WHEREAS, the City Council wishes to afford the opportunity for closed record
appeals on quasi judicial matters as it did before the aforementioned amendment; NOW,
THEREFORE,

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

Section 1. Findings. The City Council hereby makes the findings as set forth in
the "WHEREAS" clauses, which are adopted and incorporated herein by this reference in
support of this interim Ordinance.

Section 2. Amended. Subsection ECDC 20.01.003(A) of the Edmonds
Community Development Code is hereby amended to read as follows:

A. Decisions.

TYPE I	TYPE II	TYPE III-A	TYPE III-B	TYPE IV-A	TYPE IV-B	TYPE V
Statement of zoning restriction	Modification to landscape plans	Plat vacations and alterations	Essential public facilities	Final plats	Site specific/ contract rezone	Development agreements
Boundary line adjustments, lot line adjustment, lot combination	Formal interpretation of the text of the ECDC by the director or designated staff	Preliminary planned residential development	Architectural design board review	Final planned residential development		Zoning text amendments; area-wide zoning map amendments
Permitted uses not requiring site plan review	Home occupation permit	Site plan/major amendments to site plans	Shoreline substantial development, shoreline conditional use, shoreline variance			Comprehensive plan amendments
Special use permits	Accessory dwelling unit		Conditional use			Annexations
Minor amendments to planned residential development	SEPA determinations		General variances and sign permit variances			Development regulations
Minor preliminary plat amendment	Revisions to shoreline management permits		Draft environmental impact statement			Master plan
Staff design review	Administrative variances		Preliminary long plats			
Sign permits	Preliminary short plats					
	Land clearing / grading					

Section 3. Amended. Subsection 17.50.090(A)(3) of the Edmonds Community

Development Code is hereby amended to read as follows:

3. Applications for a conditional use permit, or an appeal of a staff decision approving or denying a one-year extension thereof shall be reviewed by the hearing examiner under the same terms and conditions as any conditional use permit utilizing the criteria contained in Chapter 20.05 ECDC and under the procedural requirements contained in Chapter 20.06 ECDC. An application for a two-year extension of a conditional use permit for a temporary parking lot shall be processed in the same manner as an initial application for a conditional use permit for a temporary parking lot and new or changed conditions may be imposed in the course of that process. Decisions of the hearing examiner on granting or extending conditional use permits for temporary parking lots shall be appealable to the city council under the process contained in Chapter 20.07 ECDC.

Section 4. Amended. Section 17.70.010, Other temporary buildings., of the

Edmonds Community Development Code is hereby amended to read as follows:

17.70.010 Other temporary buildings.

Except as provided in ECDC 17.70.030, a conditional use permit shall be required to construct a temporary building in any zone. The permit shall be administratively reviewed by staff and shall be valid for a period of one year; provided, however, that said permit may be extended by the development services director for a single one-year extension upon submittal of a written application prior to the expiration of the original permit. All the requirements of the zoning district shall be met. An appeal of the staff decision granting or denying such a permit or extension shall be reviewed by the hearing examiner in accordance with the requirements for any other conditional use permit under Chapter 20.06 ECDC, with the decision being appealable to the city council under the procedures applicable to any other conditional use permit.

Section 5. Amended. Section 17.75.020, Primary uses requiring a conditional use

permit., of the Edmonds Community Development Code is hereby amended to read as follows:

17.75.020 Primary uses requiring a conditional use permit.

Outdoor dining shall be a primary use requiring a conditional use permit in the BN – neighborhood business zone, BC – community

business zone, BD – downtown business zone, CW – commercial waterfront zone, and CG – general commercial zone, for outdoor seating which exceeds 10 percent of the existing interior seating in the establishment or more than eight seats, whichever is greater. This use shall be established and maintained only in accordance with the terms of a conditional use permit approved by the hearing examiner as a Type III-B decision under the procedural requirements contained in Chapter 20.06 ECDC. At a minimum, the conditions considered for imposition by the hearing examiner may include a restriction on operating hours, location of the outdoor seating, and/or buffering of the noise and visual impacts related to the outdoor dining seating. All seating permitted pursuant to the conditional use permit shall be located outside of public rights-of-way. If outdoor seating is approved under these provisions, no additional parking stalls shall be required for the outdoor dining.

Section 6. Amended. Subsection 17.100.030(B) of the Edmonds Community

Development Code is hereby amended to read as follows:

B. Decisions to approve, condition, deny, review or decline to renew a CUP shall be a Type III-B decision.

Section 7. Amended. Section 20.05.020, General requirements., of the Edmonds

Community Development Code is hereby amended to read as follows:

20.05.020 General requirements.

A. Review. The hearing examiner shall review and decide on conditional use permit applications as Type III-B decisions as set forth in ECDC 20.01.003.

B. Appeals. Appeals of the hearing examiner's decisions shall be to the city council in accordance with Chapter 20.07 ECDC.

C. Time Limit. Unless the owner obtains a building permit, or if no building permit is required, substantially commences the use allowed within one year from the date of approval, the conditional use permit shall expire and be null and void, unless the owner files an application for an extension before the expiration date and the city approves the application.

D. Review of Extension Application. An application for any extension of time shall be reviewed by the community development director as a Type II decision.

E. Location. A conditional use permit applies only to the property for which it has been approved and may not be transferred to any other property.

F. Denial. A conditional use permit application may be denied if the proposal cannot be conditioned so that the required findings can be made.

Section 8. Amended. Section 20.19.010, Conditional use permit required., of the Edmonds Community Development Code is hereby amended to read as follows:

20.19.010 Conditional use permit required.

When a conditional use permit is required by the provisions of Title 16 ECDC relating to the zoning districts, conditional use permit applications for operation of a mini day-care shall be processed as a Type III-B decision utilizing the criteria set forth in this chapter. In addition to the specific criteria set forth herein, the hearing examiner and city council on appeal shall also review the application under the criteria and required findings set forth in Chapter 20.05 ECDC relating to conditional use permits in order to establish that the proposed facility is not deleterious to the immediately surrounding neighborhood nor constitutes a public nuisance. The hearing examiner, or the city council on appeal, may impose reasonable conditions on the approval of the conditional use permit for mini day-care facilities in order to ensure that the criteria of ECDC 20.19.020 are met and that the facility is in harmony with the surrounding neighborhood. The city council's decision on appeal shall be final.

Section 9. Amended. Section 20.19.050, Appeal., of the Edmonds Community Development Code is hereby amended to read as follows:

20.19.050 Appeal.

Appeals may be taken from the hearing examiner's decision to the city council under the provisions of Chapter 20.07 ECDC. An appellant may challenge the imposition of conditions or may elect to challenge a later determination as to whether those conditions have been met. The city council's decision on appeal shall be final.

Section 10. Amended. Subsection 20.20.010(B) of the Edmonds Community Development Code is hereby amended to read as follows:

B. A home occupation which does not meet one or more of the requirements of subsection A of this section may be approved as a conditional use permit (Type III-B decision) pursuant to Chapter 20.05 ECDC and the procedures set forth in Chapter 20.06 ECDC, if the home occupation:

Section 11. Amended. Section 20.55.030, Review., of the Edmonds Community

Development Code is hereby amended to read as follows:

20.55.030 Review.

The hearing examiner shall review and issue decisions on shoreline permits as a Type III-B decision, using the criteria contained in the city shoreline master program, Chapter 23.10 ECDC, the policies of the Shoreline Act and of Chapter 173-14 WAC, or as the same may be amended.

Section 12. Amended. Subsection 20.75.065(D) of the Edmonds Community

Development Code is hereby amended to read as follows:

D. Formal Subdivision Review. The hearing examiner shall review a formal subdivision as a Type III-B decision in accordance with provisions of Chapter 20.06 ECDC.

Section 13. Amended. Section 20.75.070, Formal subdivision - Time limit., of the

Edmonds Community Development Code is hereby amended to read as follows:

20.75.070 Formal subdivision – Time limit.

A decision on preliminary plats of a proposed formal subdivision shall be made within 90 days of the date of filing, unless the applicant agrees to extend the time. Where applicable, additional time needed to prepare and circulate an environmental impact statement shall not be included within said 90 days.

Section 14. Amended. Section 20.85.020, General requirements., of the Edmonds

Community Development Code is hereby amended to read as follows:

20.85.020 General requirements.

A. Review. The hearing examiner shall review variances as Type III-B decisions in accordance with provisions of Chapter 20.06 ECDC.

B. Appeals. Appeals of the hearing examiner's decisions shall be to the city council in accordance with Chapter 20.07 ECDC.

C. Time Limit. The approved variance must be acted on by the owner within one year from the date of approval or the variance shall expire and be null and void, unless the owner files an application for an extension before the expiration and the city approves the application.

D. Review of Extension Application. An application for an extension of time shall be reviewed by the community development director as a Type II decision (Staff Decision – Notice Required).

E. Location. A variance applies only to the property for which it has been approved and may not be transferred to any other property.

Section 15. Amended. Subsection 23.40.210(C) of the Edmonds Community

Development Code is hereby amended to read as follows:

C. Hearing Examiner Review. The city hearing examiner shall, as a Type III-B decision (see Chapter 20.01 ECDC), review variance applications and conduct a public hearing. The hearing examiner shall approve, approve with conditions, or deny variance applications based on a proposal's ability to comply with general and specific variance criteria provided in subsections (A) and (B) of this section.

Section 16. Ordinance to be Transmitted to Department. Pursuant to RCW 36.70A.106, this interim Ordinance shall be transmitted to the Washington Department of Community, Trade, and Economic Development as required by law.

Section 17. Public Hearing. As required by RCW 35A.63.220, this interim Ordinance shall expire six months from the date of adoption, unless sooner repealed or subsequently extended by act of the City Council. In the meantime, as further required by RCW 35A.63.220, the City Clerk is directed to schedule a public hearing on this ordinance within sixty (60) days of its adoption. The City Council may in its discretion adopt additional findings in support of this interim Ordinance at the conclusion of the public hearing. The Planning Board is

required to make a recommendation on the final version of this ordinance to be adopted by the City Council prior to its expiration.

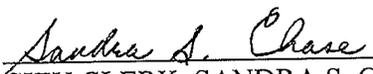
Section 18. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this interim Ordinance.

Section 19. 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.

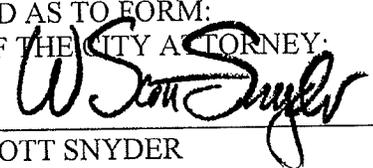
APPROVED:


MAYOR GARY HAAKENSON

ATTEST/AUTHENTICATED:


CITY CLERK, SANDRA S. CHASE

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY 
W. SCOTT SNYDER

FILED WITH THE CITY CLERK:	01-05-10
PASSED BY THE CITY COUNCIL:	01-05-10
PUBLISHED:	01-10-10
EFFECTIVE DATE:	01-15-10
ORDINANCE NO. <u>3775</u>	

SUMMARY OF ORDINANCE NO. 3775

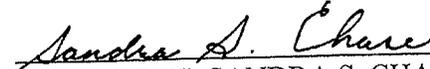
of the City of Edmonds, Washington

On the 5th day of January, 2010, the City Council of the City of Edmonds, passed Ordinance No. 3775. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN INTERIM ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING TITLE 20 ECDC REVIEW CRITERIA AND PROCEDURES TO EXPAND CLOSED RECORD ADMINISTRATIVE APPEALS, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

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

DATED this 6th day of January, 2010.


CITY CLERK, SANDRA S. CHASE

EDMONDS CITY COUNCIL APPROVED MINUTES

January 5, 2010

The Edmonds City Council meeting was called to order at 7:00 p.m. by Mayor Haakenson in the Council Chambers, 250 5th Avenue North, Edmonds. The meeting was opened with the flag salute.

ELECTED OFFICIALS PRESENT

Gary Haakenson, Mayor
Steve Bernheim, Council President
D. J. Wilson, Councilmember
Michael Plunkett, Councilmember
Dave Orvis, Councilmember
Adrienne Fraley-Monillas, Councilmember
Strom Peterson, Councilmember

ALSO PRESENT

Graham Marmion, Student Representative

STAFF PRESENT

Jim Lawless, Assistant Police Chief
Stephen Clifton, Community Services/Economic
Development Director
Brian McIntosh, Parks & Recreation Director
Noel Miller, Public Works Director
Rob Chave, Planning Manager
Frances Chapin, Cultural Services Manager
Rob English, City Engineer
Scott Snyder, City Attorney
Sandy Chase, City Clerk
Jana Spellman, Senior Executive Council Asst.
Jeannie Dines, Recorder

1. ADMINISTRATION OF OATH OF OFFICE TO NEWLY ELECTED OFFICIALS.

Councilmember Plunkett advised this was the beginning of his fourth term, his twelfth year on the Council. He introduced his fiancée Patty Corbin and his daughter, Megan Elder. His daughter administered the oath of office to Michael Plunkett.

Maria Montalvo, Councilmember Peterson's wife, administered the oath of office to Strom Peterson.

Judge Stephen Dwyer administered the oath of office to Adrienne Fraley Monillas. Councilmember Fraley-Monillas recognized several guests in the audience including her sister, mother, aunts, cousins, brothers, son and his father, Snohomish County Council Member Mike Cooper, Representative Marilyn Chase and several friends.

2. RECEPTION IN HONOR OF NEWLY ELECTED OFFICIALS

At 7:10 p.m. Mayor Haakenson recessed the Council to a reception in honor of the newly elected officials.

3. APPROVAL OF AGENDA

Mayor Haakenson requested the addition of two items to the agenda: "Resolution Opposing Commercial Air Passenger and Other Incompatible Air Service at Paine Field Located Within Snohomish County" as Agenda Item 18B, and "Interim Ordinance Amending Title 20 ECDC Review Criteria and Procedures to Expand Opportunities for Closed Record Administrative Appeals" as Agenda Item 18C. It was the consensus of the Council to add the "Resolution Opposing Commercial Air Passenger and Other Incompatible Air Service at Paine Field" to the Consent Agenda as Item 4J.

Councilmember Fraley-Monillas asked whether the legislature was required to fund the ELOTT 1 medical liability, recognizing they had neglected to fund it adequately in the past 3-4 years. Mr. Doubleday agreed it was their obligation but they had not addressed it in recent years and likely would not during this legislative session. He agreed it would become an issue eventually because there was a huge liability. Councilmember Fraley-Monillas commented it was her understanding Senator Keiser planned to propose a bill this session because PERS 1 was also underfunded.

THE VOTE ON THE AMENDMENT CARRIED UNANIMOUSLY.

Council President Bernheim pointed out the State Legislative Agenda could be amended at any time.

THE VOTE ON THE MAIN MOTION AS AMENDED CARRIED UNANIMOUSLY.

17. CITY OF EDMONDS WEBSITE – CITY COUNCIL AND COUNCIL MEMBER WEB PAGES

COUNCILMEMBER PETERSON MOVED, SECONDED BY COUNCILMEMBER FRALEY-MONILLAS TO TABLE ITEM 17. UPON ROLL CALL, THE VOTE ON THE MOTION TIED (3-3), COUNCILMEMBERS ORVIS, PETERSON AND FRALEY-MONILLAS IN FAVOR; AND COUNCIL PRESIDENT BERNHEIM AND COUNCILMEMBERS PLUNKETT AND WILSON OPPOSED. TO BREAK THE TIE, MAYOR HAAKENSEN VOTE IN OPPOSITION. MOTION FAILED.

COUNCILMEMBER WILSON MOVED, SECONDED BY COUNCILMEMBER PLUNKETT, TO POSTPONE AGENDA ITEM 17 SUBJECT TO SCHEDULING BY THE COUNCIL PRESIDENT. MOTION CARRIED UNANIMOUSLY.

Council President Bernheim advised this item would be rescheduled within a short period of time.

18. PRESENTATION OF RESOLUTION THANKING COUNCILMEMBER DJ WILSON FOR HIS SERVICE AS COUNCIL PRESIDENT.

Council President Bernheim read Resolution 1216 thanking Councilmember Wilson for his service as Council President from January through December, 2009. He also presented him with a plaque that expressed appreciation for his service.

18B. INTERIM ORDINANCE AMENDING TITLE 20 ECDC REVIEW CRITERIA AND PROCEDURES TO EXPAND OPPORTUNITIES FOR CLOSED RECORD ADMINISTRATIVE APPEALS, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE

Councilmember Orvis explained the amendments to Title 20 approved by the Council removed Council appeals for certain types of land use decisions including Conditional Use Permits, general variances and preliminary plats. There was a close vote on this issue at the time and he anticipated the balance of the Council had changed on that issue. The interim ordinance would restore Council appeals for those decisions. The interim ordinance requires a public hearing within a short period of time.

COUNCILMEMBER ORVIS MOVED, SECONDED BY COUNCILMEMBER PLUNKETT, TO APPROVE INTERIM ORDINANCE NO. 3775 AMENDING TITLE 20 ECDC REVIEW CRITERIA AND PROCEDURES TO EXPAND OPPORTUNITIES FOR CLOSED RECORD ADMINISTRATIVE APPEALS.

Councilmember Peterson expressed concern that this item was not included on the agenda. He anticipated a public outcry if an interim ordinance were added to the agenda to reduce the public's input; that same outcry would be legitimate in this instance. He preferred not to schedule an interim ordinance as the last item at the end of a lengthy agenda. He did not support the motion.

Councilmember Wilson echoed Councilmember Peterson's concern with regard to process, noting the public had not had an opportunity to review the interim ordinance. There were a number of items in the interim ordinance he did not support and Planning Manager Rob Chave had identified a number of discrepancies in the proposed ordinance. He preferred to postpone adoption of the interim ordinance.

Councilmember Orvis explained he requested on December 16 that this item be added to the agenda and was uncertain why it had not been included. If there was a delay implementing the ordinance, applications could vest under the old rules. He supported the public's right to appeal bad Hearing Examiner decisions, noting the cost of an appeal to court was too high.

Councilmember Wilson recalled his preference as Council President in December was to schedule this on the January 19 agenda to allow both new Councilmembers to vote. He asked whether appeals on an application submitted today would be to the Hearing Examiner or the City Council. City Attorney Scott Snyder answered any pending application would be heard under existing rules. If the Council passed the interim ordinance, any completed application would be subject to the new appeal rules; if the new ordinance were not passed, the application would be subject to the existing requirements. Councilmember Wilson asked whether someone submitting an application vested to the appeal process in place at that time. Mr. Snyder answered an application vested to the ordinances as they exist on the date the application is deemed complete and the fees paid. Mayor Haakenson remarked people were not beating down the door to submit permit applications.

COUNCILMEMBER WILSON MOVED, SECONDED BY COUNCILMEMBER PETERSON, TO POSTPONE THIS ITEM TO JANUARY 19. MOTION FAILED (2-4), COUNCILMEMBERS WILSON AND PETERSON VOTING YES.

COUNCILMEMBER WILSON MOVED, SECONDED BY COUNCILMEMBER PETERSON, TO AMEND THE ORDINANCE TO REQUIRE ALL APPEALS TO COME TO COUNCIL IN WRITING RATHER THAN ORALLY.

Mr. Snyder explained a public hearing would be required within 60 days. Council President Bernheim has raised a number of technical issues and Mr. Chave has also raised a number of issues. He suggested addressing those issues and any others at the public hearing.

Councilmember Peterson asked the impact of an applicant vesting under an ordinance with inconsistencies and possibly incorrect language. Mr. Snyder agreed there was potential for confusion on those applications. Councilmember Peterson recognized the fear was if the Council did not pass the interim ordinance tonight, applicants would attempt to vest under the old Title 20. If the Council passed a bad document, there was an equal chance that applicants would vest under bad language. He did not support the interim ordinance because it was not well written and could cause as many problems as waiting for two weeks.

Councilmember Orvis expressed concern that the amendment would restrict public comment during an appeal, emphasizing the importance of oral argument during an appeal. Requiring all appeals to be in writing would also be impractical as he would make a motion every time to allow public comments.

Councilmember Wilson appreciated Councilmember Orvis' passion, commenting no court of appeal or appeal process allowed new evidence to be heard. The issue was not shutting out the public, noting the public did not have a role in the appeal process. The appellant and the applicant must only address material previously presented to the court of first jurisdiction. Allowing the parties to provide oral argument presented opportunity to accidentally add new information that could color the appeal process. The parties would have the opportunity to provide information in writing which limited the liability

caused by presentation of new information and restricted information to facts presented in the court of first jurisdiction.

Councilmember Orvis commented Councilmember Wilson's amendment would shut out people that might create a liability and would stop everyone from providing oral testimony. He commented there had never been liability created by the public during oral testimony as speakers obeyed the rules. He disagreed there was an issue of liability.

Councilmember Plunkett commented the history of the Council suggested those who spoke at closed record hearings spoke to the record and if they did not, the City had a good track record of preventing their comments. He learned as much or more from the oral argument and needed to hear the public's inflection and passion. He summarized it was good public policy to include the public in the process.

THE VOTE ON THE AMENDMENT FAILED (2-4), COUNCILMEMBERS WILSON AND PETERSON VOTING YES. .

THE VOTE ON THE MAIN MOTION CARRIED (4-2), COUNCILMEMBERS WILSON AND PETERSON VOTING NO.

19. MAYOR'S COMMENTS

Mayor Haakenson provided a reminder that on January 21 at Kamiak High School in Mukilton, the FAA, the consultants hired by the FAA, Snohomish County Council, and County Executive will accept public comment on the EIS on proposed commercial air service at Paine Field.

20. COUNCIL COMMENTS

Council President Bernheim thanked the Council for electing him Council President.

Councilmember Wilson reported Mayor Haakenson and he attended a ceremony at Fire District 1 headquarters welcoming Edmonds. He distributed Fire District 1 sweatshirts to Councilmembers.

Councilmember Fraley-Monillas commented she was very nervous tonight and thanked the audience and Councilmembers for helping her to do her job.

Councilmember Peterson wished everyone a Happy New Year and congratulated Councilmember Fraley-Monillas.

Councilmember Plunkett welcomed Councilmember Fraley-Monillas and congratulated Council President Bernheim and Student Representative Marmion, remarking Mr. Marmion was a third generation Edmonds resident.

Student Representative Marmion remarked the Council meeting was not as boring as everyone said it would be.

21. ADJOURN

With no further business, the Council meeting was adjourned at 11:59 p.m.

EDMONDS CITY COUNCIL DRAFT MINUTES

February 2, 2010

At 6:30 p.m., Mayor Haakenson announced that the City Council would meet in executive session regarding pending litigation. He stated that the executive session was scheduled to last approximately 15 minutes and would be held in the Jury Meeting Room, located in the Public Safety Complex. No action was anticipated to occur as a result of meeting in executive session. Elected officials present at the executive session were: Mayor Haakenson, Councilmembers Orvis, Fraley-Monillas, Plunkett, Bernheim, Peterson and Buckshnis. Others present were City Attorney Scott Snyder, Community Services/Economic Development Director Stephen Clifton and City Clerk Sandy Chase. The executive session concluded at 6:45 p.m.

At 6:47 p.m., Councilmembers Orvis, Fraley-Monillas, Plunkett, Bernheim, Peterson and Buckshnis interviewed Lois Jean Broadway, a candidate for appointment to the Architectural Design Board. The interview was held in the Jury Meeting Room. Mayor Haakenson was also present for the interview. The interview concluded at 6:58 p.m.

The regular City Council meeting was called to order at 7:03 p.m. by Mayor Haakenson in the Council Chambers, 250 5th Avenue North, Edmonds. The meeting was opened with the flag salute.

ELECTED OFFICIALS PRESENT

Gary Haakenson, Mayor
Steve Bernheim, Council President
D. J. Wilson, Councilmember
Michael Plunkett, Councilmember
Dave Orvis, Councilmember
Adrienne Fraley-Monillas, Councilmember
Strom Peterson, Councilmember
Diane Buckshnis, Councilmember

STAFF PRESENT

Gerry Gannon, Assistant Police Chief
Noel Miller, Public Works Director
Rob Chave, Planning Manager
Rob English, City Engineer
Scott Snyder, City Attorney
Sandy Chase, City Clerk
Jana Spellman, Senior Executive Council Asst.
Jeannie Dines, Recorder

ALSO PRESENT

Graham Marmion, Student Representative

1. APPROVAL OF AGENDA

COUNCILMEMBER PLUNKETT MOVED, SECONDED BY COUNCILMEMBER FRALEY-MONILLAS, TO APPROVE THE AGENDA IN CONTENT AND ORDER. MOTION CARRIED UNANIMOUSLY.

2. CONSENT AGENDA ITEMS

Councilmember Plunkett requested Item E be removed from the Consent Agenda and Council President Bernheim requested Item F be removed.

COUNCILMEMBER PLUNKETT MOVED, SECONDED BY COUNCILMEMBER WILSON, TO APPROVE THE REMAINDER OF THE CONSENT AGENDA. MOTION CARRIED UNANIMOUSLY. The agenda items approved are as follows:

5.

PUBLIC HEARING ON INTERIM ORDINANCE NO. 3775 - AMENDING TITLE 20 ECDC, REVIEW CRITERIA AND PROCEDURES, TO EXPAND OPPORTUNITIES FOR CLOSED RECORD ADMINISTRATIVE APPEALS.

Planning Manager Rob Chave explained the Council passed an interim zoning ordinance on January 5 that was intended to revert some of the Title 20 changes approved in mid 2009 to what the code allowed prior to the passage of that ordinance. Subsequent to the passage of the interim ordinance on January 5, staff reviewed the ordinance and identified additional corrections. The Council could re-pass the interim ordinance to correct those items tonight or the Council could forward the issue onto the Planning Board. The advantage of making the corrections tonight was to adopt a correct version of the interim ordinance.

Mr. Chave reviewed the proposed changes:

- Prior to and after the Title 20 changes were made, the short plat approval process was a staff approval with appeal to the Hearing Examiner. Final short plat approval was a staff approval as it was simply checking off that the conditions of the preliminary approval had been met and it had not been sent to the Council for approval. Under the interim ordinance, final short plat approvals go to the Council. This would delay the process as it has existed in the past. The first two items in his memo to the Council would return that process to what has been in effect for a number of years.
- Temporary buildings are a staff approval that goes to the Hearing Examiner on appeal. The interim ordinance provides for an additional appeal process which he anticipated was counter to the intended process.
- The code previously enabled appellants to recover appeal fees. That was advertently omitted in the Title 20 revisions.

City Attorney Scott Snyder explained the first proposed change clarified the Council gave final plat approval on formal plats, subdivision with more than four lots. With regard to appeal fees, Chapter 20.105 previously provided for appeal fees but it referenced Council appeals. When Council appeals were removed, the chapter was revoked. If Council appeals are reinstated, it would be appropriate to reinsert that provision. He referred to the issue Mr. Reidy raised that a citizen was required to appeal a code enforcement action to obtain an administrative hearing. He agreed with his assertion that if the code were not violated, their appeal fee should be returned. He summarized the proposed change would allow the return of the appeal fee to apply to City Council proceedings as it has in the past and to clarify that the appeal fee is also returned in a civil enforcement process.

With regard to temporary buildings, Mr. Snyder explained there was a limit of one appeal; currently it was to the Hearing Examiner. The Council could choose to have the appeal come to the Council but there could not be an additional appeal from the Hearing Examiner to the Council.

Councilmember Orvis clarified temporary buildings or short plats were not appealable to the Council before the Council passed the Title 20 changes. Mr. Chave agreed. Mr. Snyder clarified final formal plats come to the Council with a recommendation. Councilmember Orvis observed the proposed changes would return Title 20 to the process utilized before the original revisions were made. Mr. Chave agreed, noting that was what staff understood the Council's intent to be on January 5. Mr. Snyder pointed out in addition he had included language regarding the City's civil enforcement process which was not addressed in the past but was related to the return of appeal fees. Mr. Chave summarized if the Council approved the revised interim ordinance, staff believed it would reestablish the process that existed prior to June 2009 when the changes to Title 20 were made.

Council President Bernheim asked whether Council adoption of the revised interim ordinance would be subject to another public hearing. Mr. Snyder answered this was the public hearing on the interim

ordinance. The interim ordinance will then be reviewed by the Planning Board for public hearing and returned to the Council with their recommendation. The interim ordinance will only be in effect for approximately five more months.

Mayor Haakenson opened the public participation portion of the public hearing.

Ron Wambolt, Edmonds, commented his position on the interim ordinance was well known. When the Council voted, he requested they state their reasons for or against.

Roger Hertrich, Edmonds, questioned whether the proposed process would allow a final appeal to the City Council of a Hearing Examiner's decision on an appeal of a staff decision. He also questioned who would be allowed to appeal the Hearing Examiner's decision to the City Council, whether it would be staff or the appellant. With regard to returning the fee, he questioned whether the fee paid by an appellant who prevailed at the Hearing Examiner would be returned.

Al Rutledge, Edmonds, reported he has attended numerous Hearing Examiner hearings in the past. He was in favor of a process that allowed an appellant to appeal to the City Council rather than the court. He anticipated this would save money for the City as well as the appellant. He remarked on the requirement to speak at the Hearing Examiner hearing in order to be a party of record.

Betty Larman, Edmonds, spoke in favor of returning to the process where appeals were heard by the City Council.

Hearing no further comment, Mayor Haakenson closed the public participation portion of the public hearing.

Mr. Snyder summarized the interim ordinance would be reviewed by the Planning Board and be returned to the Council for adoption as a permanent ordinance. If the Council wanted to consider broadening the return of appeal fees, he suggested the Planning Board confer with the Planning Department and the Finance Department with regard to the cost. He explained the City incurs costs when decisions are appealed to the Hearing Examiner. If the appeal fee was returned, it was likely the application cost would need to be revised to cover those costs.

**COUNCIL PRESIDENT BERNHEIM MOVED, SECONDED BY COUNCILMEMBER ORVIS,
TO APPROVE THE UPDATED INTERIM ORDINANCE NO. 3783.**

Council President Bernheim acknowledged the intent was to return the process to the way it was. He was concerned with amending ordinances on the fly, such as adding the return of the Hearing Examiner appeal fees. Although he was in favor of it in principle, he was unsure whether it was appropriate to address it along with the return of appeal fees to the Council. He suggested it could be addressed via amendment to Chapter 20.110 where the Hearing Examiner procedures are addressed.

Councilmember Peterson reiterated the concern he expressed on January 5 that the ordinance was hastily written. He agreed interim ordinances were appropriate in some instances but these additional changes were the result of not having a complete process. He planned to vote against the proposed interim ordinance, noting the Planning Board considered this issue in detail previously and recommended the changes via a 6-1 vote. He was frustrated with comments the changes to Title 20 took away the power of the people, emphasizing the importance of a Hearing Examiner and the courts to do things that a part-time Council may not always do correctly. He summarized that was the Planning Board's advice to the Council, the advice of the Association of Washington Cities as well as countless other organizations.

This issue has been thoroughly reviewed by not only Edmonds but other municipalities and changing the procedure was a disservice to the process.

Councilmember Wilson agreed with Councilmember Peterson that the Council was in this position because the interim ordinance was developed on the fly on January 5; if the Council had taken more time, it would not be in this position. Although he supported keeping appeals at Council, he disagreed that the public was being taken out of the process by having appeals heard by the Hearing Examiner. He expressed support for having testimony on closed record appeals provided in writing. He planned to vote against the proposed ordinance.

Councilmember Fraley-Monillas indicated she would support the ordinance because she favored having appeals heard by the City Council. A process where appeals are heard by the Hearing Examiner and then appealed to court created a separation between the haves/haves not; people who cannot afford to appeal to court will lose and those who can afford an appeal to court will win.

Councilmember Plunkett commented when citizens are required to appeal to court, it took citizens out of important land use decisions. He disagreed with the suggestion that the Council should not hear appeals because they did not do it right; the Council has done it right in the past and will do it right in the future. He supported the motion, concluding citizens should have the right to appeal to the City Council.

Councilmember Orvis echoed Councilmember Plunkett's comments and agreed the previous ordinance restricted the public's access to the Council. He commented on the importance of citizens having the friendly, low cost opportunity to appeal to the Council.

Councilmember Wilson pointed out the Council had moved appeals to the Hearing Examiner for other decisions such as PRDs. He recalled Ms. Petso criticized the City in 2002 for moving PRD appeals from the Council to the Hearing Examiner. He recommended the Council address those instances in the future, expressing support for PRD appeals being reviewed by the Council rather than the Hearing Examiner. He expressed concern with a process where some appeals were to the Hearing Examiner and others to the Council, preferring they all be the same.

Councilmember Buckshnis expressed support for the motion. She disagreed it was being amended on the fly as the ordinance had been discussed for quite some time. She supported allowing elected officials to hear citizens' appeals rather than having them heard by the Hearing Examiner and then Supreme Court.

Councilmember Orvis reported the Community Services/Development Services Committee will be considering other areas where appeals could be to the City Council.

MOTION CARRIED (5-2), COUNCILMEMBERS WILSON AND PETERSON VOTING NO. The ordinance adopted reads as follows:

INTERIM ORDINANCE NO. 3783 OF THE CITY OF EDMONDS, WASHINGTON, AMENDING INTERIM ORDINANCE 3775 AND TITLE 20 ECDC, REVIEW CRITERIA AND PROCEDURES, TO EXPAND OPPORTUNITIES FOR CLOSED RECORD ADMINISTRATIVE APPEALS, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

~~**PUBLIC HEARING TO ESTABLISH THE PROCESS TO SURPLUS A PUBLIC WORKS DEPARTMENT UTILITY VEHICLE, THREE (3) PUMP STATION EMERGENCY POWER GENERATORS AND VARIOUS WATER AND WASTEWATER UTILITY EQUIPMENT**~~

Public Works Director Noel Miller explained the Public Works Utilities Division currently owns equipment that is no longer useful to the utilities. He displayed a list of the assets. RCW 35.94.040

**Lynnwood Planning Commission
Meeting of February 25, 2010**

Staff Report

Agenda Item: G-3
Zoning Code Amendment - Changing
Electronic Message Board Signs
(09CAM0004)

- Public Hearing
- Informal Public Meeting
- Work Session
- Business
- Information
- Miscellaneous

Lynnwood Community Development Dept.

ACTION

Continued discussion.

BACKGROUND

At its December 10, 2009 and January 14, 2010 meetings, the City of Lynnwood Planning Commission discussed changing electronic message board signs, how such signs are currently regulated under existing Lynnwood Municipal Code and ways in which such signs might be further regulated. Planning Commission consideration of changing electronic message board signs is in response to a request by the City Council to have the issue discussed by the Planning Commission and to bring forward recommendations for action.

Lynnwood Municipal Code (LMC) section 21.06.676 defines electronic changing message signs as follows:

“21.02.676 Sign, electronic changing message.

“Electronic changing message sign” means a sign whose alphabetic, graphic or symbolic information can be changed or altered electronically.”

The outcome of the Planning Commission discussions to date is a draft ordinance. This draft ordinance, which has been reviewed by the City Attorney’s office since the Planning Commission’s January 14, 2010 meeting, is attached (Attachment A).

RECOMMENDATION

For discussion.

Planning Commission to review draft ordinance (Attachment A) to ensure it is consistent with Planning Commission direction. If so, a public review process will start to include SEPA (environmental review), public notice and public hearings.

ATTACHMENTS

Attachment A Draft Ordinance

DRAFT

ATTACHMENT A

[Draft - February 18, 2010 Version]

CITY OF LYNNWOOD

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, AMENDING SECTIONS 21.16.310 AND 21.16.320 OF THE LYNNWOOD MUNICIPAL CODE RELATING TO THE REGULATION OF ELECTRONIC CHANGING MESSAGE SIGNS; AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND SUMMARY PUBLICATION.

WHEREAS, pursuant to Chapters 35A.11 and 35A.63 RCW the City Council of the City of Lynnwood has the authority to adopt ordinances relating to the use of real property located within the City; and

WHEREAS, the City has previously enacted ordinances relating to the regulation of signs that are erected or altered within the City, which regulations are contained in Chapter 21.16 of the Lynnwood Municipal Code (the "Sign Code"); and

WHEREAS, the purposes of the Sign Code are set forth in LMC 21.16.050, and such purposes include, but are not limited to, the City's desire to allow signs that effectively and safely promote local business, while enhancing the visual environment of the City and mitigating negative impacts on traffic and pedestrian safety; and

WHEREAS, the City Council believes that signage should invite rather than demand the public's attention; and

WHEREAS, signs using certain display methods are more likely to have more distractive effects than other signs and may pose additional risks to traffic and pedestrian safety; and

WHEREAS, maintenance and enhancement of the aesthetic environment and providing for the public safety are valid bases to regulate signage; and

WHEREAS, the Council finds that signs which display fast-moving animation and television-quality video should be regulated; and

WHEREAS, the City's Comprehensive Plan supports implementing standards to ensure attractive and well-scaled signage to enhance the community image; and

45 WHEREAS, for these reasons the City Council finds it necessary to amend the Sign
46 Code; now therefore,
47

48 THE CITY COUNCIL OF THE CITY OF LYNNWOOD DO ORDAIN AS FOLLOWS:
49

50 Section 1. Findings. The recitals above are adopted as findings that support passage of this
51 ordinance.
52

53 Section 2. Amendment. Section 21.16.310(D) of the Lynnwood Municipal Code is hereby
54 amended as follows:

55 “D. Electronic Changing Message Signs. ~~No sign shall have blinking or flashing lights;~~
56 ~~provided, however, electronically changing message signs shall be allowed. These signs~~
57 ~~shall not change displays or images at a rate less than one every five seconds except for~~
58 ~~signs which provide alternate messages only as to times and temperature, which may~~
59 ~~change at a rate of not less than one message every two seconds. All such signs shall be~~
60 ~~equipped with a device which automatically dims the intensity of the lights during hours~~
61 ~~of darkness. Electronic Changing Message Signs shall be subject to the following~~
62 ~~requirements:~~

63 1. Number. No more than one (1) electronic changing message sign shall be
64 permitted on each property, except that one (1) additional electronic changing
65 message sign may be allowed if it provides alternate messages limited to time and
66 temperature only.

67 2. Sign type. Electronic changing message signs may be of any sign type allowed
68 in the applicable zoning district; except that, in the City Center zones (CC-W;
69 CC-C and CC-N) electronic changing message signs shall be monument or
70 grounds signs only.

71 3. Height.

72 a. Pole Signs. The maximum height of a pole sign with an electronic
73 changing message sign shall be five (5) feet lower than the maximum height
74 of a pole sign without an electronic changing message sign.

75 b. Wall Signs. The maximum height of a wall sign with an electronic
76 changing message sign shall be the same as a pole sign as calculated in section
77 21.16.310(D)(3)(a) above.

78 4. Lighting/Light Levels

79 a. Electronic changing message signs shall have ambient light monitors
80 installed and shall at all times allow such monitors to automatically adjust the
81 brightness level of the electronic sign based on ambient light conditions.
82

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87 b. The maximum brightness levels for electronic changing message sign shall
88 not exceed eight thousand (8,000) nits when measured from the sign's face at
89 its maximum brightness during daylight hours and five hundred (500) nits
90 when measured from the sign's face at its maximum brightness between dusk
91 and dawn.

92
93 c. At no time shall the electronic changing message sign be operated at a
94 brightness level greater than the manufacturer's recommended levels.

95
96 5. Display

97
98 a. The display of the electronic changing message sign shall not change more
99 rapidly than once every one and one-half (1.5) seconds. Electronic changing
100 message signs that use a video display method are prohibited. The term
101 "video display method" means a method of display characterized by real-time,
102 full-motion imagery of a least television quality.

103
104 b. The display shall not, or shall not appear to, flash, undulate, pulse or
105 portray explosions, fireworks, flashes of light, or blinking or chasing lights;
106 the display shall not appear to move toward or away from the viewer, expand
107 or contract, bounce, rotate, spin, twist or otherwise portray movement or
108 animation as it comes onto, is displayed on, or leaves the sign board.

109
110 c. Electronic displays shall be a fixed message and shall not change during
111 any of the following described time periods:

112
113 (i) hours that are outside the normal business hours for the particular
114 business, premise or facility; and

115 (ii) between the hours of 11:00 P.M. and 7:00 A.M.

116
117 Electronic changing message signs that provide for alternate messages as to
118 time and temperature only shall be exempt from this requirement.

119
120 6. Protection for Residential Zones. Electronic changing message signs shall be
121 located to direct or reflect lighting away from any RS (RS-8, RS-7, RS-4) or RM
122 (RML, RMM, RMH) zone. The director shall have the authority to require a sign
123 permit application include information to ensure the intent of this requirement is
124 met.

125 7. Additional Requirements. Electronic changing message sign permit
126 applications shall include a signed certification from the property owner and/or
127 operator of the sign stating that the sign shall at all times be operated in
128 accordance with City codes and that the owner or operator shall provide proof of
129 such conformance upon request of the City. This requirement shall apply to
130 subsequent property owners and/or operators.

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8. Amortization. Electronic changing message signs in existence at the time of adoption of this ordinance shall be required to comply with the requirements of LMC 21.16.310 D(5)(a) through D(5)(c) of this section by _____, 2011.
[Note: Insert date that is one year following the adoption of the ordinance]

Section 3. Amendment. Subsection 21.16.320 C of the Lynnwood Municipal Code is amended as follows:

“21.16.320 Signs in planned regional shopping center zone.

Only the following signs are permitted, subject to the following limitations: . . .

C. Electronic Changing Message Signs. Electronic changing message signs are permitted, provided such signs shall be subject to the regulations of LMC 21.16.310(H)(D), and that electronic changing message signs shall be located such that they:

1. Are predominantly not visible from a public right-of-way.
2. Are located on a building elevation with a primary entrance and facing an area predominantly used by pedestrians.
3. Are located on a building that is part of a larger building site as defined by LMC 21.02.175 that has at least 50 acres in area.”

Section 4. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word of this ordinance.

Section 5. Effective Date. This ordinance shall take effect and be in force five (5) days after its passage, approval and publication of an approved summary thereof consisting of the title.

PASSED BY THE CITY COUNCIL, the _____ day of _____, 2010 and approved by the Mayor this _____ day of _____, 2010.

APPROVED:

Don Gough
Mayor

ATTEST/AUTHENTICATED:

John Moir
Finance Director

176 APPROVED AS TO FORM:

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178 _____

179 Eric Frimodt

180 City Attorney

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182 FILED WITH ADMINISTRATIVE SERVICES: _____

183 PASSED BY THE CITY COUNCIL: _____

184 PUBLISHED: _____

185 EFFECTIVE DATE: _____

186 ORDINANCE NUMBER: _____

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SUMMARY OF ORDINANCE NO. ____

of the City of Lynnwood, Washington

On the ____ day of _____, 2010, the City Council of the City of Lynnwood, Washington, passed Ordinance No. _____. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON,
AMENDING SECTIONS 21.16.310 AND 21.16.320 OF THE
LYNNWOOD MUNICIPAL CODE RELATING TO THE
REGULATION OF ELECTRONIC CHANGING MESSAGE SIGNS;
AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE
AND SUMMARY PUBLICATION.

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

DATED this _____ day of _____, 2010.

JOHN MOIR, FINANCE DIRECTOR

- **Planning Commission Annual Report – 2008**

February 26, 2009 – Meeting Cancelled

March 3, 2009 – Special Meeting

- **Public meeting for Project Highway 99**

March 12, 2009 – Meeting Cancelled

March 18, 2009 – Special Meeting

- **Project Highway 99**
 - Comments on March 3 Public Meeting
 - Alternatives
 - Discussion
 - Project Schedule and Process – Next Steps

March 26, 2009 – Meeting Cancelled

April 9, 2009 – Meeting Cancelled

April 21, 2009 – Special Meeting

- **Public Meeting for Project Highway 99**

April 23, 2009 – Meeting Cancelled

May 14, 2009

- **Permit Timeline Code Amendment (2009-CAM-0002)**. This amendment, if approved, would revise the City's regulations to extend and standardize approval periods for Accessory Dwelling Units, Conditional Use Permits, Project Design Review, Short Subdivisions, and Variances.
- **Resolution of Appreciation – Tia Psycheff**
- **Project Highway 99 – Re-cap of Second Public Meeting**
- **2009 Docket – List of Amendments and Schedule**
- **Discuss Planning Law Conference and Planning Short Course**

May 28, 2009

- **Permit Timeline Code Amendment (2009-CAM-0002)**. This amendment, if approved, would revise the City's regulations to extend and standardize approval periods for Accessory Dwelling Units, Conditional Use Permits, Project Design Review, Short Subdivisions, and Variances.
- **2009 Comprehensive Plan Amendments – Group 1 (2009-CPL-0002)**

- A. **Parks Element Update.** Annual update; no policy revisions.
- B. **Transportation Element.** Incorporate system of determining priorities for non-motorized transportation projects into the Element.
- C. **Update Introduction and Land Use Elements.** Revise Introduction to the Plan and Land Use Element to update text; no policy revisions.

June 11, 2009

- **2009 Comprehensive Plan Amendments – Group 2 (2009-CPL-0002)**
 - A. **Capital Facilities Element – EPF Permit.** Change name of permit for essential public facilities (EPF) from “special use permit” to essential facilities permit”. No policy implications.
 - B. **Implementation Element.** Annual update. Also introduce major review of Comprehensive Plan required by State law in 2010-11.
 - C. **Introduction – Visioning Project.** Incorporate Visioning Statement into Introduction to the Plan.
- **2009 Transportation Improvement Program.** This year’s update of the City’s TIP.

June 25, 2009

- **2009 Comprehensive Plan Amendments – Group 3 (2009CPL0001 & 2)**
 - A. **Powers/Agarwal Land Use Map Amendment.** Change land use designation of property at northeast corner of 68th Ave. W and 200th St. SW from Medium Density Multiple Family (MF-2) to Mixed Use (MU) (and rezone from RMM to CDM).
 - B. **Energy & Sustainability Program.** Amend Energy & Sustainability and Environmental Resource Elements to include: initial GHG emissions inventory, initial emissions reduction target, Green Team policy proposals, and SEPA review of GHG emissions.
- **Project Highway 99 (2009CAM0001).**
 - A. Review report of second public meeting.
 - B. Discuss Preferred Alternative and give direction to staff.
- **Surface Water Management Plan.** Update of the City’s plan for managing surface water, responding to regulatory requirements and addressing drainage and water quality problems.

July 9, 2009

- **2009 Comprehensive Plan Amendments (2009CPL0002)**
 - A. **MUGA Land Use Designations:** Revise land use designations (map) for properties in the City’s Municipal Urban Growth Area (and North-East-South

Annexation Area) in response to comments from public meetings and current status of development proposals.

- **Surface Water Management Plan.** Update of the City's plan for managing surface water, responding to regulatory requirements and addressing drainage and water quality problems.

July 23, 2009

- **Public Hearing: 2009 Comprehensive Plan Amendments (2009CPL0001 & 2).** Annual Docket of proposed amendments to the City's Comprehensive Plan. Following the hearing, the Planning Commission will be asked to make a recommendation to the City Council on each proposal.

August 13, 2009 – Meeting Cancelled

August 27, 2009 – Meeting Cancelled

September 10, 2009 – Meeting Cancelled

September 24, 2009 – Meeting Cancelled

- **Shoreline Master Program (2007CPL0007).** Draft plan for management of the shoreline and adjoining areas under City jurisdiction, pursuant to the state Shoreline Management Act.
- **Briefing: 50th Birthday Celebration**
- **Introduction: Electronic Message Signs Code Amendment (2009-CAM-0004).** Review of zoning regulations for electronic message signs.
- **Briefing: Energy & Sustainability Program – City Greenhouse Gas Inventory**

October 8, 2009 – Meeting Cancelled

October 15, 2009 – Special Meeting

- **Electronic Message Signs Code Amendment (2009-CAM-0004).** Review of zoning regulations for electronic message signs.
- **Resolution: Supporting Reductions of Greenhouse Gas Emissions at the Waste Water Treatment Plant.**
- **Introduction: Dark Skies Ordinance (2009-CAM-0007).** Consideration of new zoning regulations to reduce light pollution in night skies. Referral from City Council

October 22, 2009 – Meeting Cancelled

November 12, 2009 – Meeting Cancelled

November 26, 2009 – Meeting Cancelled

December 10, 2009

- **Electronic Message Signs Code Amendment (2009-CAM-0004).** Review of zoning regulations for electronic message signs.
- **Dark Sky Ordinance (2009-CAM-0007).** Consideration of new zoning regulations to reduce light pollution in the night sky.
- **Briefing on Report to Puget Sound Regional Council on Lynnwood Regional Growth Center.**
- **Introduction: Permit Processing Procedures Code Amendment.** Consideration of amendments to City regulations for processing and acting action on applications for development permits. Referral from City Council.

December 24, 2009 – Meeting Cancelled

During the year, the Planning Commission also received regular briefings on the Annexation Project.

2009 Attendance Record

Date	Ambalada	Braithwaite*	Davies	Larsen	AuBuchon*	Wright	Wojack
Jan 23	Absent	*	✓	✓	*	✓	✓
Feb 12	✓	*	✓	Absent	*	✓	✓
Mar 3	✓	✓	✓	✓	*	✓	✓
Mar 18	✓	✓	✓	✓	*	Absent	✓
April 21	✓	Absent	✓	*	✓	✓	Absent
May 14	✓	✓	✓	Absent	Absent	✓	✓
May 28	✓	Absent	✓	✓	✓	✓	✓
Jun 11	✓	✓	✓	✓	✓	✓	Absent
Jun 25	✓	✓	✓	✓	✓	Absent	✓
July 9	✓	✓	✓	✓	✓	✓	✓
July 23	✓	✓	Absent	✓	✓	✓	✓
Sep 24	✓	✓	✓	✓	✓	✓	✓
Oct 15	✓	✓	✓	✓	✓	✓	✓
Nov 13	✓	✓	✓	✓	✓	✓	Absent
Dec 10	✓	✓	✓	✓	✓	✓	✓

* Chad Braithwaite appointed February 23, 2009.

* Van AuBuchon appointed April 13, 2009.

Respectfully submitted,

Richard Wright, 2009 Chair