



CITY OF EDMONDS

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HEARING EXAMINER

MIKE COOPER
MAYOR

In the Matter of the Application of)	NO. PLN-2010-0060
)	
1st Security Bank)	FINDINGS, CONCLUSIONS,
)	AND DECISION
For a Conditional Use Permit.)	
_____)	

SUMMARY OF DECISION

The request for a conditional use permit for a financial institution in the Planned Business zone at 620 Edmonds Way is **GRANTED**, subject to conditions.

SUMMARY OF RECORD

Request:

1st Security Bank (Applicant) requested a conditional use permit (CUP) for a financial institution in order to replace its existing bank building located at 620 Edmonds Way with a new bank building. The subject property is located within the Planned Business zone.

Hearing Date:

The City of Edmonds Hearing Examiner viewed the site and conducted an open record hearing on the application on October 21, 2010.

Testimony:

At the open record hearing, the following individuals presented testimony under oath:

1. Mike Clugston, Planner, City of Edmonds
2. Mat Bergman, BRCA, Applicant representative
3. Ardell Morgan

Exhibits:

At the open record hearing the following exhibits were admitted into the record:

- A. Staff Report dated October 12, 2010, with the following attachments:
 1. Land Use Application
 2. Applicant's Criteria Statement
 3. Site and Floor Plan
 4. Elevations
 5. Artistic Rendering of Proposed Site
 6. Public Notice and Affidavits
 7. Technical Comments from City Departments

B. Letter from Diane and Takashi Nasa dated October 20, 2010

Upon consideration of the testimony and exhibits submitted at the open record hearing, the Hearing Examiner enters the following Findings and Conclusions:

FINDINGS

1. The Applicant requested a CUP for a financial institution in order to replace its existing bank building located at 620 Edmonds Way with a new bank building. *Exhibit A, page 1; Exhibit A, Attachment 1.*
2. The subject property consists of three tax parcels (Nos. 27032500307300, 27032500307200, and 27032500303500) located at the “Y” intersection formed by Edmonds Way (SR-104) and Paradise Way. Edmonds Way runs along the south boundary of the subject property, and Paradise Lane runs along the northeast boundary of the subject property. The three parcels total approximately one-half acre in area. *Exhibit A, page 1; Exhibit A, Attachment 3.*
3. The subject property is zoned Planned Business (BP). The purposes of the BP zone include reserving areas for small scale, neighborhood-oriented retail, office, and service establishments; ensuring development patterns that provide a transition to adjacent residential neighborhoods; and permitting uses that do not contribute significantly to traffic congestion. *ECDC 16.53.000.* Financial institutions are allowed as a primary use in the BP zone with approval of a CUP. Because the current zoning was not established until after the existing bank was operational, the Applicant does not yet have a CUP. *Exhibit A, page 4; Testimony of Mr. Clugston.*
4. The parcels immediately to the west of the subject property, and to the north across Paradise Lane, are zoned single-family residential (RS-6) and are developed with single-family residences. The parcels to the east and southeast of the subject property along Edmonds Way are zoned BP and BN (Neighborhood Business), and are developed with commercial and residential uses. *Exhibit A, pages 2 and 4.*
5. The subject property is developed with a drive-through bank building, which is located on the easternmost of the three parcels. The western portion of the subject property contains mature trees, which serve as a buffer between the bank and the residences to the west. *Exhibit A, page 1.*
6. The Applicant proposes to demolish the existing building and replace it with a new 2,474-square-foot building. The new building would be on the subject property but on a parcel that is west of the one containing the existing building. The eastern portion of the property would be developed with 18 parking stalls and a landscaped courtyard/monument sign. *Exhibit A, Attachment 3.*
7. The City parking standards that are applicable to the use require one parking stall per 200 square feet of gross floor area, or 12 parking stalls for the 2,474-square-foot building. The Applicant proposes 18 parking stalls. *Exhibit A, page 4; Exhibit A, Attachment 3.*

8. The project would improve traffic conditions and public safety by eliminating some nonconformities and other difficult features associated with the existing development. Consistent with current zoning requirements, the new building would not have a drive-through. Removing the drive-through would reduce the amount of traffic generated by the site. In addition, the Applicant proposes to remove the parking stalls located within the Paradise Lane right-of-way. This action would improve the flow of traffic and eliminate the potential safety hazard caused by cars backing onto the residential street. All of the proposed parking spaces would be wholly contained within the subject property boundaries. Finally, the Applicant proposes to remove two curb cuts from the site. The final site design would include one curb cut from Edmonds Way and two curb cuts from Paradise Lane. One of the two curb cuts from Paradise Lane would not be open to customer traffic but would be used for dumpster access. Removing the curb cuts would improve traffic flow, which is an important consideration because the site is on the route leading to the ferry terminal. *Exhibit A, pages 3-4; Testimony of Mr. Bergman; see also Testimony of Ms. Morgan (re: problem of customers backing onto Paradise Lane).*
9. Although the new building would be closer to the residential development to the west than the existing building, the design includes features that would mitigate potential impacts. Consistent with Edmonds Community Development Code (ECDC) 16.53.020, the Applicant proposes to provide a 15-foot-wide Type 1 landscape buffer along the western property boundary. Compliance with the City's landscaping and tree clearing standards (see ECDC 18.45.050 and ECDC 20.13.020) would require existing trees to be retained within the buffer (and elsewhere on site) to the maximum extent feasible. Type 3 landscaping would be provided along the street frontages. The proposed building would be residential in scale, both with respect to area (2,474 square feet) and with respect to height (maximum of 23 feet), and would include a pitched roof and residential exterior finishes. The building and landscaping would be subject to administrative design review prior to building permit issuance. *Exhibit A, Attachments 2 and 3; Exhibit A, pages 3, 4, and 5; see also Exhibit B (re: tree removal and impacts to residents).*
10. The subject property is within the Westgate Corridor planning area of the City of Edmonds Comprehensive Plan. Based on the character of the use and the proposed site design, the project would be consistent with the policies for the Westgate Corridor to "permit uses in planned business areas that are primarily intended to serve the local neighborhood while not contributing significantly to traffic congestion" (E.2), to "use design review to encourage the shared or joint use of driveways and access points by development onto SR-104 in order to support the movement of traffic in a safe and efficient manner" (E.4), and to "use design review to ensure that development provides a transition to adjacent residential neighborhoods" (E.5). *Exhibit A, page 3.*
11. The proposal is exempt from review under the State Environmental Policy Act (SEPA). *Exhibit A, page 2.*
12. City planning staff recommended that the permit be transferable to another bank use. *Exhibit A, page 5.*

13. Notice of the open record hearing was mailed to properties within 300 feet of the site, published in *The Herald*, and posted on site on September 15, 2010. *Exhibit A, Attachment 6.*
14. Public comment on the application related to traffic, the hazard associated with cars backing onto Paradise Lane, building visibility, and tree removal. *Exhibit B; Testimony of Ms. Morgan.* These issues are addressed by the above Findings.

CONCLUSIONS

Jurisdiction:

The Hearing Examiner has jurisdiction to hear and decide CUP applications pursuant to ECDC 20.01.003 and ECDC 20.05.020.

Criteria for Review:

Pursuant to ECDC 20.05.010, the Hearing Examiner may not approve a CUP unless the following findings can be made:

- A. That the proposed use is consistent with the comprehensive plan;
- B. Zoning Ordinance. That the proposed use, and its location, is consistent with the purposes of the zoning ordinance and the purposes of the zoning district in which the use is to be located, and that the proposed use will meet all applicable requirements of the zoning ordinance;
- C. Not Detrimental. That the use, as approved or conditionally approved, will not be significantly detrimental to the public health, safety and welfare, and to nearby private property or improvements unless the use is a public necessity; and
- D. Transferability. The hearing examiner shall determine whether the conditional use permit shall run with the land or shall be personal. If it runs with the land and the hearing examiner finds it in the public interest, the hearing examiner may require that it be recorded in the form of a covenant with the Snohomish County auditor. The hearing examiner may also determine whether the conditional use permit may or may not be used by a subsequent user of the same property.

Conclusions Based on Findings:

1. The proposed use is consistent with the Comprehensive Plan. *Findings 8, 9, and 10.*
2. With conditions, the proposed use in the proposed location is consistent with the purposes of the zoning ordinance and the BP zoning district, and will meet all applicable requirements of the zoning ordinance. The use (which has existed on the site for many years) is small in scale and provides a neighborhood service. The site plan shows adequate building setbacks/buffers and parking. The details of the landscaping and

building design will be reviewed prior to building permit issuance. *Findings 1, 3, 6, 7, 8, and 9.*

3. With conditions, the use will not be significantly detrimental to the public health, safety, and welfare, and to nearby private property or improvements. The conditions of approval require, consistent with code requirements, that existing trees be retained to the maximum extent feasible. Although the conditions recommended by staff also “encouraged” use of low-impact development techniques (Exhibit A, page 6 and Exhibit A, Attachment 7), the Hearing Examiner was unable to identify sufficient nexus to *require* low-impact development techniques, and therefore is not including such language in the conditions of approval. Although the Hearing Examiner concurs with staff that low-impact development techniques are a good idea, to avoid ambiguity, conditions of approval should contain requirements and not preferences. *Findings 4, 5, 8, and 9.*
4. The permit should run with the land and be transferable to another financial institution. *Finding 12.*

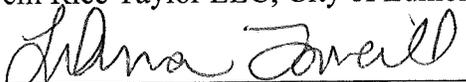
DECISION

Based on the preceding Findings and Conclusions, the request for a conditional use permit for a financial institution in the Planned Business zone, to replace the existing bank building located at 620 Edmonds Way, is **GRANTED**, subject to the following conditions:

1. This application is subject to the requirements contained in the Edmonds Community Development Code (ECDC). It is the responsibility of the Applicant to ensure compliance with the applicable provisions.
2. The building and site design shall be subject to administrative design review prior to building permit issuance.
3. The applicant shall apply for a lot line adjustment or lot combination in order to remove the interior lot lines that currently exist between the three parcels that make up the project site. The adjustment/combination must be approved by the City prior to issuance of a building permit for the new bank.
4. The trees on the western portion of the site shall be retained to the maximum extent feasible and protected during the development process in accordance with ECDC 18.45.050.
5. Pursuant to ECDC 20.05010(D), the permit shall run with the land and be transferable to other financial institutions. Any future users must demonstrate compliance with the conditions of CUP approval and obtain any other necessary permits or approvals to locate their business on site, including but not limited to a City business license.

DECIDED this 3rd day of November 2010.

Toweill Rice Taylor LLC, City of Edmonds Hearing Examiners

By: 
LeAnna C. Toweill

RECONSIDERATION AND APPEAL

The following is a summary of the deadlines and procedures for filing requests for reconsideration and appeals. Any person wishing to file or respond to a request for reconsideration or an appeal should consult the relevant ordinances and/or contact the Planning Division of the Development Services Department for further procedural information.

REQUEST FOR RECONSIDERATION

Section 20.06.010 of the Edmonds Community Development Code (ECDC) contains the procedures for requesting reconsideration of a Hearing Examiner decision. Requests for reconsideration must be filed with the City Planning Director within 10 calendar days of the Hearing Examiner's decision. The filing deadline is 4:30 p.m. on the last business day of the reconsideration period. Only parties of record (i.e., the applicant, any person who testified at the open record hearing on the application, any person who individually submitted written comments on the application, or the City of Edmonds) may file a request for reconsideration. The grounds for reconsideration are limited to errors of procedure, errors of law or fact, errors of judgment, or the discovery of new evidence that was not known and could not in the exercise of reasonable diligence have been discovered. Reconsideration requests must contain the information specified in ECDC 20.06.010(D) and be accompanied by the required filing fee.

APPEALS

Pursuant to ECDC 20.05.020, appeals of a decision of the Hearing Examiner on a conditional use permit application are to City Council in accordance with the procedures set forth in ECDC 20.07. Only parties of record have standing to file an appeal. Appeals must be filed within 14 days of decision issuance. Filing a request for reconsideration is not a prerequisite to filing an appeal.

EFFECT OF REQUEST FOR RECONSIDERATION ON APPEAL DEADLINE

The timely filing of a request for reconsideration stays the Hearing Examiner's decision until such time that the Hearing Examiner issues a decision on reconsideration. After the reconsideration decision has been issued, the time period for appeal shall recommence and be the same for all parties of record, regardless of whether a party filed a motion for reconsideration.

LAPSE OF APPROVAL

Section 20.05.020(C) of the ECDC states: "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 of the time before the expiration date and the city approves the application."

NOTICE TO COUNTY ASSESSOR

The property owner may, as a result of the decision rendered by the Hearing Examiner, request a change in the valuation of the property by the Snohomish County Assessors Office.