CITY OF EDMONDS
121 5TH AVENUE NORTH • Edmonds, WA 98020 • (425) 771-0220 • FAX (425) 771-0221
HEARING EXAMINER

GARY HAAKENSON
MAYOR

In the Matter of the Application of	)	NO. PLN20100034 (Talbot Road Project)
	)	
City of Edmonds	)	FINDINGS, CONCLUSIONS,
Public Works Department	)	AND DECISION
	)	
For a Shoreline Substantial Development Permit.	)	

SUMMARY OF DECISION

The request for a shoreline substantial development permit to allow storm drainage and stream channel improvements within the Puget Sound shoreline as called for in the Talbot Road – Perrinville Creek Drainage Improvement Project is **GRANTED**, subject to conditions.

SUMMARY OF RECORD

Request:
The City of Edmonds Public Works Department (Applicant) requested a shoreline substantial development permit to allow storm drainage and stream channel improvements within the Puget Sound shoreline as called for in the Talbot Road – Perrinville Creek Drainage Improvement Project. The project will occur on private properties at 8307, 8311, and 8229 Talbot Road, in Burlington Northern Santa Fe right-of-way, and in the Talbot Road public right-of-way in Edmonds.

Hearing Date:
The City of Edmonds Hearing Examiner conducted an open record hearing on the request on July 1, 2010.

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

1. Kernen Lien, Associate Planner, City of Edmonds
2. Arthur Fleming, Herrera Environmental Consultants
3. Rob English, City Engineer, City of Edmonds
4. Alvin Rutledge

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

1. Staff Report
2. Land Use Application

3. Joint Aquatic Resources Permit Application (JARPA)
4. Phase 1 Design Plans
5. Phase 2 Design Plans
6. Herrera Environmental Consultants Critical Areas Report and Mitigation Plan
7. ESA No Effect Letter
8. Terracon Consulting Engineers & Scientists Geotechnical Report
9. Zoning and Vicinity Map
10. Shoreline Environmental Designations
11. SEPA Checklist
12. SEPA Mitigated Determination of Nonsignificance
13. Declaration of Mailing
14. Declaration of Posting
15. Affidavits of Publication
16. City of Edmonds Comment Forms from Engineering, Public Works, Building, Parks, and Fire Departments
17. Hearing Examiner Public Project Advisory Report to City Council (ADM20100006)
18. FEMA FIRM Map 53061C1305 E

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 an SSDP to construct the improvements called for in the Talbot Road – Perrinville Creek Drainage Improvement Project (hereafter, "Talbot Road Project" or "project"). The Talbot Road Project is located between Talbot Road and the Burlington Northern Santa Fe (BNSF) railroad tracks near the Puget Sound shoreline. The project involves work in Perrinville Creek, modifications to an existing high-flow bypass structure, and relocation of a storm drain and outfall to Perrinville Creek. The storm drain receives runoff from neighborhood streets and an unnamed stream that drains from Southwest County Park. *Exhibit 1, page 1; Exhibits 2-6.*

2. The project will remove sediment that has accumulated in the lower portion of Perrinville Creek, improve fish passage, replace an existing storm drain with a larger pipe, and provide channel improvements to improve fish habitat and to resolve flooding of private property. The project will occur on private properties at 8307, 8311, and 8229 Talbot Road, in BNSF right-of-way, and in the Talbot Road public right-of-way in Edmonds. *Exhibit 1, page 1; Exhibits 3-6 and 9.*

3. The project is scheduled to occur in two phases. Phase 1, to be completed in 2010, will address the sedimentation and aggradation of Perrinville Creek to alleviate the short-term flooding risk during the winter of 2010-2011. Phase 2, to be completed in 2011, will address the inadequate storm drain on 8307 Talbot Road by installation of a larger pipe. Phase 2 will also include channel improvements to improve fish passage and fish habitat. *Exhibit 1, page 1; Exhibits 2-5.*

4. The specific activities that will occur in Phase 1 of the project are as follows (please refer to Exhibits 3, 4, and 6 for more details):

- Remove sediment from Perrinville Creek steam channel immediately upstream of the existing high-flow bypass structure (8229 Talbot Road), and between the outfall of the existing storm drain and the fence on the BNSF right-of-way (8307 Talbot Road) with a vactor truck. The removal of sediment upstream of the high-flow bypass structure will create storage capacity for deposition of future sediments that would otherwise be transported downstream via the bypass structure during the storms of 2010-2011.

- Install gabion baskets on the Perrinville Creek bank immediately upstream of the high-flow bypass structure to stabilize the eroding bank, and fill the baskets with rock.

- Temporarily replace (by hand) the existing weir plate located immediately downstream of the high-flow bypass structure with a weir plate designed to increase flow into the bypass structure.

- Install, by hand and with a small excavator, an 18-inch diameter streamflow diversion pipe upstream of the high-flow bypass structure to temporarily divert flows during sedimentation removal and weir replacement. The diversion pipe will tie into the high-flow bypass structure vault. The pipe will be plugged except when needed.

The project area will be inaccessible to fish during construction, and construction will occur during dry conditions. *Exhibits 3, 4, and 6.*

5. During Phase 1, the following measures will be taken to minimize construction-related impacts (these measures are identified in the Critical Areas Report and Mitigation Plan):

- Prior to commencing construction, have a fisheries biologist survey the affected section of the stream to determine if fish are present. If fish are found, contact Washington Department of Fish and Wildlife (WDFW) to determine the appropriate course of action, which might include installation of block nets to crowd the fish upstream of the construction area.

- To control suspended sediments, install a sandbag cofferdam and use submersible pumps to divert flow into the high-flow bypass structure.

- Place compost filter socks throughout the construction area, particularly immediately downstream of the cofferdam and weir.

- Conduct work within the WDFW-approved work window of July 1 through September 30, when fish are least likely to be present.

- Restore all areas disturbed by construction, and seed any exposed ground on the upper stream bank with a native grass seed mix and cover with straw.

Exhibits 3 and 6.

6. The specific activities that will occur in Phase 2 of the project are as follows (please refer to Exhibits 3, 5, and 6 for more details):

   - Construct a new stormwater conveyance facility, including a catch basin on the south side Talbot Road and a new storm pipe, which will be installed within existing and new sewer easements at 8307 Talbot Road. The new storm drain will discharge to Perrinville Creek approximately 60 feet downstream of the existing outfall. The outfall will be constructed during the WDFW-approved work window while Perrinville Creek is diverted into the high-flow bypass structure.

   - Modify the Perrinville Creek channel to improve hydraulic capacity and habitat conditions. The work will include removing vegetation (i.e., ornamental shrubs and Himalayan blackberry), debris, and hardscapes surrounding the stream corridor; lowering the channel grade by one to one and a half feet; stabilizing streambanks with coir fabric and native plantings; constructing wetland terraces within the stream corridor; installing temporary erosion control measures; installing channel-spanning logs as grade control structures; installing root wads and boulders to improve habitat; placing gravel along the streambed as needed; installing of streambed cobbles at the new storm drain outfall; revegetating disturbed areas with species that will not exceed ten feet in height at full growth; and, once channel improvements are complete, replacing the temporary weir with a permanent weir.

   Exhibits 3, 5, and 6.

7. Construction impacts associated with Phase 2 will be minimized by diverting the stream; using a block net to prevent fish from entering the high-flow bypass structure; placing compost filter socks within the construction area; installing an inflatable sewer pipe plug near the inlet of the culvert to prevent suspended sediment from entering Puget Sound; conducting work during the WDFW-approved work window; and collecting stormwater generated on site into a temporary catchment facility. *Exhibits 3 and 6.*

8. Within the project area, the City of Edmonds Shoreline Master Program designates the BNSF right-of-way portion of the Puget Sound shoreline as an Urban Railroad shoreline environment, and the land located to the southeast of the right-of-way as a Suburban Residential I shoreline environment. *Exhibit 10.*

9. The Shoreline Master Program identifies "intakes and outfalls" as shoreline-dependent uses. *Exhibit 1, page 5.*

10. The subject property is zoned Single-Family Residential (RS-20). Local public facilities that are planned, designated, and sited in the Capital Improvement Plan are primary permitted uses in the RS-20 zone. *Exhibit 1, page 4.*

11. In a prior proceeding, the Hearing Examiner evaluated the Talbot Road Project's consistency with the Comprehensive Plan and issued an advisory report to City Council that the project is consistent, but recommended that the City revegetate the regraded stream channel and other existing bare and erosion prone areas within the affected portion of Perrinville Creek. *Exhibit 17.* The Applicant has incorporated the Hearing Examiner's recommendation into the project plans, as described in the Critical Areas Report and Mitigation Plan. *Exhibit 1, page 4; Exhibit 6.*

12. The Shoreline Master Program requires shoreline developments to comply with local critical areas regulations. *ECDC 23.10.130(B).* The purpose of the City's critical areas code is to "designate and classify ecologically sensitive and hazardous areas and to protect these areas and their functions and values, while also allowing for reasonable use of private propertt." *ECDC 23.40.000.*

13. Four environmentally critical areas as designated by the City of Edmonds are within the project area. These include Perrinville Creek, a Type F (fish habitat) stream; an unnamed Type Np (non-fish habitat perennial) stream; a 164-square-foot Category III wetland; and frequently flooded areas associated with Puget Sound. Under City of Edmonds critical areas regulations, Type F streams require 100-foot buffers (adjacent to reaches with anadromous fish access), Type Np streams require 50-foot buffers, and Category III wetlands require 50-foot buffers. *Exhibit 1, page 4; Exhibit 6, pages 34-43 and 57; Exhibit 18; ECDC 23.90.040(D).*

14. Pursuant to ECDC 23.90.040(D)(7), storm water management facilities are allowed within stream buffers provided that no other location is feasible, and the location and function of the facilities will not degrade the functions or values of the stream or stream buffer.

15. The upper reaches of Perrinville Creek support resident cutthroat trout, and the lower reach supports anadromous fish (mainly coho salmon). The existing culvert on the downstream side of Talbot Road precludes anadromous fish passage to the upper reaches of the creek. Perrinville Creek does not support any aquatic species listed under the Endangered Species Act. *Exhibit 6, pages 39 and 42.*

16. Within the project area, Perrinville Creek lacks quality habitat for anadromous fish. The riparian conditions include landscaped vegetation and hardscapes such as walkways and decks. The stream channel lacks complexity and habitat features, such as in-channel wood. After exiting the project area, the stream flows beneath the BNSF tracks via a concrete culvert and discharges into Puget Sound. The channel contains a sharp drop at the culvert inlet that prevents fish passage at some levels of flow. *Exhibit 6, pages 17 and 39.*

17. The Perrinville Creek buffer area has been highly altered due to residential and transportation infrastructure development. Native riparian vegetation has been cleared within project area, although a portion of the buffer at 8229 Talbot Road has been enhanced through installation of native trees and shrubs. With the exception of the enhanced area, the buffer (which includes manicured lawns, hardscapes, ornamental trees, and invasive species) provides little habitat function. *Exhibit 6, page 41.*

18. The unnamed stream flows into lower Perrinville Creek approximately 150 feet upstream of Puget Sound via the City storm drainage system. The inadequate flow capacity of the existing conveyance pipe causes flooding of adjacent residences, particularly the residences at 8307 and 8311 Talbot Road. *Exhibit 6, page 13.*

19. The Category III wetland is located within the ordinary high water mark of Perrinville Creek, immediately upstream of the culvert beneath the BNSF tracks. The wetland has moderate potential to improve water quality and improve hydrologic functions, but provides little habitat value to local wildlife. *Exhibit 6, page 38.*

20. The project will result in a permanent impact of 164 square feet of Category III wetland. *Exhibit 6; Exhibit 1, page 9.*

21. The project will comply with the mitigation sequencing requirements of ECDC 23.40.120. Impacts to the Category III wetland are *unavoidable* in this instance due to its location within the Perrinville Creek steam channel. Impacts will be *minimized* through use of Best Management Practices (described in Findings 5 and 7). Impacts will be *rectified* through restoration of the lower reach of Perrinville Creek. The restoration activities will result in improved fish passage (by modifying the grade) and habitat. Impacts will be *reduced over time* through implementation of a Monitoring, Habitat Management, and Site Maintenance Plan (described in Exhibit 6). Wetland impacts will be *compensated* at a ratio exceeding 2:1, which is the minimum required by the ECDC. The compensation will include restoration of approximately 400 feet of riparian floodplain terrace wetland. In addition, the City will establish a 25-foot riparian buffer planting zone along the channel where feasible. Wetland mitigation and riparian buffer enhancement areas will be *monitored* for a period of five years (the ECDC requires a minimum of three years). *Exhibit 1, page 8; Exhibit 6, pages 45-46.*

22. Consistent with ECDC 23.70.020, flood capacity related to Puget Sound events will be maintained through maintenance of bi-directional flow capacity through the culvert conveying Perrinville Creek under the BNSF tracks. The culvert will be inspected periodically. The Perrinville Creek channel modifications will result in improved drainage and greater flood storage volume than available under current conditions. *Exhibit 6, page 57.*

23. Consistent with ECDC 23.90.030, the mitigation of alterations to Perrinville Creek will achieve equivalent or greater biologic and hydrologic functions than under existing conditions. *Exhibit 1, page 10; Exhibit 6.*

24. Consistent with ECDC 23.90.040(A), no development will occur within a fish and wildlife habitat conservation area or buffer in which state or federally endangered, threatened, or sensitive species have a primary association. Perrinville Creek does not support any listed aquatic species. Although the Puget Sound shoreline near the project area provides potential forage fish spawning habitat (these are an important prey base for listed species), the project will not affect this habitat. All of the work will be conducted on the south side of the BNSF railroad tracks. In accordance with the requirements Section 7(c) of the Endangered Species Act, the Applicant issued a letter of "no effect" to the U.S. Army Corps of Engineers. *Exhibit 6, page 42; Exhibit 7.*

25. Consistent with ECDC 23.90.040(B), the alterations of Perrinville Creek will be timed to occur during the WDFW-approved work window; an alternative location is not feasible for the project; the activity will not degrade the functions and values of the fish habitat and other critical areas; impacts will be mitigated in accordance with an approved critical areas report; and shoreline erosion control measures will be designed to use bioengineering methods or soft armoring techniques. Although gabion baskets will be used along a 10-foot segment of the stream immediately upstream of the high-flow bypass structure (which are not considered soft armoring), the hard structure is needed at that location to allow future sediment deposits to be removed more easily. The final design might include the addition of vegetation to the area, along the top of the baskets. Elsewhere along the stream, bioengineering methods will be used to control erosion. *Exhibit 1, page 11; Testimony of Mr. Fleming.*

26. The City is seeking required permits from other agencies with jurisdiction over the project, including the U.S. Army Corps of Engineers and the Washington Department of Fish and Wildlife. These agencies will approve and monitor the erosion control activities. *Exhibit 16, page 1.*

27. The City acted as lead agency for State Environmental Policy Act (SEPA) review of the project, and issued a Mitigated Determination of Nonsignificance (MDNS) on June 1, 2010. The MDNS requires compliance with the City's critical areas regulations, implementation of the mitigation measures identified in the Critical Areas Report and Mitigation Plan, and compliance with the Hydraulic Project Approval issued by the Washington State Department of Fish and Wildlife. *Exhibit 12.* The MDNS was not appealed. *Exhibit 1, page 3.*

28. Notice of the open record hearing was mailed to property owners within 300 feet of the site and posted on site, at the Civic Center, and at the library, and at the Public Safety Building on June 1, 2010, and published in *The Herald* on May 25, 2010 and June 1, 2010. *Exhibit 13.*

CONCLUSIONS

Jurisdiction:

The Hearing Examiner has jurisdiction to hear and decide applications for shoreline substantial development permits pursuant to ECDC 20.01.003 and 20.55.030.

Criteria for Review:
The criteria for review of an SSDP are set forth in Washington Administrative Code (WAC) 173-27-150. In order to approve the permit, the Hearing Examiner must find that the development is consistent with:

A. The policies and procedures of the State of Washington Shoreline Management Act;

B. The State of Washington shoreline regulations (WAC 173-27); and

C. The City of Edmonds Shoreline Master Program.

The City of Edmonds Shoreline Master Program contains goals, policies, and regulations that are applicable to the proposed development. Pursuant to ECDC 23.10.040, the regulations are mandatory, whereas the goals and polices "are intended to form the policy for shoreline uses, developments, and activities, as the basis of the regulations … and to assist the city in determining whether to grant, modify and grant, or deny each proposed use, development, or activity." *ECDC 23.10.040.* The applicable goals and policies are set forth in ECDC 23.10.060 and 23.10.085. The applicable regulations are set forth in ECDC 23.10.130, 23.10.175, 23.10.210, and 23.10.210. The applicable goals, policies, and regulations are printed in the Staff Report (Exhibit 1) but will not be reproduced in this document due to the significant length of the text.

Conclusions Based on Findings:

1. With conditions of approval, the application satisfies the criteria for approval of a shoreline substantial development permit.

   a. The development is consistent with the Shoreline Management Act (SMA). The policy of the SMA, as set forth in RCW 90.58.020, is to "provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses." This policy "contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto." *RCW 90.58.020.* The proposed development is a reasonable and appropriate use for the shoreline, in that it will reduce flooding of residential properties (an allowed use in the zone) while improving wildlife habitat and fish access. The project includes measures to prevent downstream water quality impacts during construction. *Findings 1-11, 15-17, 21-27.*

   b. With conditions, the development is consistent with WAC 173-27. The regulations of the Department of Ecology contained in WAC 173-27 address the procedures and permitting requirements applicable to the various types of shoreline permits. This development is being reviewed under the criteria for approval for shoreline substantial development permits set forth in WAC 173-27-

150. Additional regulations applicable to shoreline substantial development are as follows:

> WAC 173-27-140 Review criteria for all development.
> (1) No authorization to undertake use or development on shorelines of the state shall be granted by the local government unless upon review the use or development is determined to be consistent with the policy and provisions of the Shoreline Management Act and the master program.
> (2) No permit shall be issued for any new or expanded building or structure of more than thirty-five feet above average grade level on shorelines of the state that will obstruct the view of a substantial number of residences on areas adjoining such shorelines except where a master program does not prohibit the same and then only when overriding considerations of the public interest will be served.
>
> WAC 173-27-190 Permits for substantial development, conditional use, or variance.
> (1) Each permit for a substantial development, conditional use or variance, issued by local government shall contain a provision that construction pursuant to the permit shall not begin and is not authorized until twenty-one days from the date of filing as defined in RCW 90.58.140(6) and WAC 173-27-130, or until all review proceedings initiated within twenty-one days from the date of such filing have been terminated; except as provided in RCW 90.58.140 (5)(a) and (b).

The requirement of WAC 173-27-140(1) is addressed through the SSDP review criteria. WAC 173-27-140(2) is satisfied because proposed improvements will be constructed at or below existing grade or within the stream channel. No structures will exceed 35 feet tall, and the trees planted as part of the mitigation plan will not grow to more than 10 feet tall in order to preserve views. The requirement of WAC 173-27-190 is addressed by ECDC 20.55.060 (no construction until 30 days after decision). This limitation is incorporated into the conditions of approval. *Findings 4 and 6.*

c. With conditions, the proposal is consistent with the goals, policies and regulations of the City of Edmonds Shoreline Master Program. Consistent with ECDC 23.10.060 (shoreline use elements goals and policies), the use will not infringe upon the rights of private ownership, will restore a shoreline area with degraded ecological value, will protect critical areas consistent with the City's critical areas regulations, will not degrade water quality, will rehabilitate a natural system (i.e., remove a barrier to fish passage), and is consistent with the priorities of providing for shoreline-dependent uses and enhancing the shoreline natural system. *Findings 5, 6, 7, 9, 12-25.* Consistent with ECDC 23.10.085 (conservation element goals and policies), the project will be managed to minimize adverse impacts on aquatic and land plants and animals, and the project will result in enhanced fish access and habitat. *Findings 5, 6, 7, 11, 15-17, 21, 23-25.*

Consistent with ECDC 23.10.175 (use regulations for utilities, government facilities, and transportation systems), the location of the proposed stormwater improvements is reasonably necessary for the efficient operation of the utility (the stormwater outfall that needs to be replaced, due to flooding, is within the shoreline) and stormwater pipes will be installed underground. *Findings 6 and 18.* Consistent with ECDC 23.10.210 (general regulations for land surface modification), the project will not destroy unique or significant natural flora or fauna. There is little native vegetation within the project area, and fish will be prevented from entering the project area during construction. To the extent any unique or significant natural flora or fauna is destroyed, the project is needed to improve public safety and to improve a condition of the natural environment. Also consistent with ECDC 23.10.210, the land modification is the minimum needed to accomplish the purpose of the project, erosion control measures will be implemented during construction, and work within the stream channel will be limited to the WDFW-approved work window. *Findings 1-7, 11, 15-25.*

DECISION

Based on the preceding Findings and Conclusions, the request for a shoreline substantial development permit to allow storm drainage and channel improvements within the Perrinville Creek shoreline as called for in the Talbot Road – Perrinville Creek Drainage Improvement Project is **GRANTED**, subject to the following conditions:

1. Pursuant to ECDC 20.55.060, "No construction authorized by an approved shoreline permit may begin until 30 days after the final city decision on the proposal."
2. The mitigation measures identified in the April 2010 Critical Areas Report and Mitigation Plan for the Talbot Road – Perrinville Creek Drainage Improvement prepared by Herrera Environmental Consultants shall be implemented.
3. The applicant is responsible for obtaining and following the conditions of any applicable permits/approvals from outside local, state, and/or federal agencies.

DECIDED this 15th day of July 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 20.01.002, appeals of a decision of the Hearing Examiner on a shoreline substantial development 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.

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.

CITY OF EDMONDS
121 5TH AVENUE NORTH • Edmonds, WA 98020 • (425) 771-0220 • FAX (425) 771-0221
HEARING EXAMINER

GARY HAAKENSON
MAYOR

In the Matter of the Application of	)	NO. PLN20100034
	)	
City of Edmonds	)	**DECLARATION OF SERVICE**
Public Works Department	)	
	)	
For a Shoreline Substantial Development Permit.	)	

DECLARATION

I, LeAnna C. Toweill, the undersigned, do hereby declare:

1. That I am a partner in the firm of Toweill Rice Taylor LLC, which maintains a professional services agreement with the City of Edmonds, Washington for the provision of Hearing Examiner services, and make this declaration in that capacity;

2. That I am now and at all times herein mentioned have been a citizen of the United States, a resident of the State of Idaho, over the age of eighteen (18), and competent to be a witness and make service herein;

3. That on July 16, 2010, I did serve a copy of the decision in case PLN20100034 upon the following individuals via U.S. first class mail:

    1. City of Edmonds Public Works Dept.
    Attn: Jerry Shuster
    121 – 5th Avenue North
    Edmonds, WA 98020

    2. City of Edmonds Development Services Dept.
    Attn: Diane Cunningham
    121 - 5th Avenue North
    Edmonds, WA 98020

    3. Edmonds City Council
    121 - 5th Avenue North – 1st Floor
    Edmonds, WA 98020

    4. Alvin Rutledge
    7101 Lake Ballinger Way
    Edmonds, WA 98026

    5. Arthur Fleming
    611 Bell Street
    Edmonds, WA 98020

RECEIVED
JUL 19 2010
PLANNING DEPT.

I hereby declare under penalty of perjury under the laws of the State of Idaho that the foregoing is true and correct:

DATED THIS 16th day of July, 2010 at Boise, Idaho.

LeAnna C. Toweill
Toweill Rice Taylor LLC
Serving as Hearing Examiner for Edmonds, Washington