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CITY OF EDMONDS

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DEVELOPMENT SERVICES DEPARTMENT • PLANNING DIVISION

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BEFORE THE HEARING EXAMINER FOR THE CITY OF EDMONDS

Phil Olbrechts, Hearing Examiner

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| <p>RE: Port of Edmonds Restroom Facilities</p> <p>Shoreline Permit and Design Review</p> <p>(PLN20140070 and PLN20140071)</p> | <p>FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL DECISION</p> |
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INTRODUCTION

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The applicant has applied for a shoreline substantial development permit and design review to construct two new restroom facilities for the Edmonds Marina. One of the restrooms will replace an existing restroom. The applications are approved with conditions.

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ORAL TESTIMONY

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Jan Machuga, Associate City of Edmonds planner, summarized the staff report. Ms. Machuga noted that the restrooms would not impact any views of the shoreline. A public trail is located waterward of the restrooms so the shoreline views from the trail would not be adversely affected. Ms. Machuga also clarified that there is no set

1 standard for parking marinas, that the code requirement is simply that parking is to be
2 set by the examiner.

3 Marla Kempf, deputy director of the Port of Edmonds, noted that parking at the
4 marina is usually sufficient. About ten times per year when there are multiple events
5 on the waterfront parking can be a little tight. Fifty stalls were added a couple years
6 ago.

7 Alvin Rutledge noted that the Port and City must work together. He wanted to know
8 about the hours of operation of the restrooms and whether events would be added to
9 the use of the marina. He noted that liability and insurance coverage should be
10 considered.

11 Ms. Kempf clarified that one of the restrooms will continue to be open to the public
12 generally from dawn until dusk. The other restroom will be open 24 hours per day
13 for tenants and guests of the marina.

14 EXHIBITS

15 The July 30, 2013 staff report along with its 22 attachments were admitted into the
16 record as Exhibit 1 at the hearing. All references to “att.” in this decision are
17 referring to the attachments of the staff report. The staff power point was admitted as
18 Exhibit 2.

19 FINDINGS OF FACT

20 Procedural:

- 21 1. Applicant. The applicant is the Port of Edmonds.
- 22 2. Hearing. The Hearing Examiner conducted a hearing on the application
23 on May 14, 2015 at 3:00 p.m. at the Edmonds Public Safety Complex in the Council
24 Chambers.

25 Substantive:

3. Site/Proposal Description. The applicant has applied for a shoreline
substantial development permit and design review to construct two new restroom
facilities for the Edmonds Marina. One of the restrooms will replace an existing
restroom. The restrooms will be specifically located within the 100 and 300 blocks of
Admiral Way within 200 feet of the Puget Sound shoreline.

One of the proposed restroom facilities (the Taos facility) will replace an existing
restroom facility located at the northwest corner of the Port’s dry-stack boat storage
yard. The second proposed restroom facility (the Cheyenne facility) will be new to

1 the site and will be located just east of the Port's overhead boat launch a short
2 distance south of the marina office. Refer to Attachment 3 for a vicinity map and
3 Attachments 4 and 5 for detailed narratives provided by the applicant describing the
4 proposal. The Cheyenne restroom facility will be 72 feet landward of a bulkhead, and
5 the Taos restroom facility will be 21 feet landward of a bulkhead (Attachment 11).
6 Both facilities will be 12 feet in height above average grade.

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8 4. Characteristics of the Area. The subject site is located in the Commercial
9 Waterfront (CW) zone (Attachment 9). Immediately surrounding properties are
10 within the CW and Public Use (P) zones, while other properties within the vicinity of
11 the site are located within the Master Plan Hillside Mixed-Use (MP), Open Space
12 (OS), General Commercial (CG), and Community Business (BC) zones.
13 Development within the vicinity of the subject site includes the Edmonds Marina,
14 Port offices, boat storage, a public shoreline walkway, restaurants, the Edmonds
15 Yacht Club, boat sales and repair, workyards, parking, etc. The BNSF railroad is
16 located in the vicinity the subject site, and the properties located on the opposite side
17 of the BNSF railroad are developed with multi-family residential, the Harbor Square
18 complex, and the Edmonds Marsh.

19 5. Adverse Impacts. There are no adverse impacts associated with the
20 proposal. Since one restroom is being replaced and a new second restroom of
21 nominal size is being added to an already completely built environment, it is
22 reasonable to conclude that the proposal's impacts will be nominal. Impacts are more
23 specifically addressed as follows:

24 A. Critical Areas. The only critical areas for the project site is a seismic hazard
25 area. According to the project plans, the roof area of the Cheyenne facility
will be approximately 957 square feet and the roof area of the Taos facility
will be approximately 667 square feet (Attachments 6 and 7). These buildings
are not residential structures and will not be used as places of employment or
public assembly. Thus, the construction of the proposed restroom facilities is
an allowed activity within the Seismic Hazard Area without the need for
further critical areas study.

B. Shoreline Views. Shoreline views will not be adversely affected. Shoreline
views of users of the waterfront trail will not be adversely affected since the
trail is located waterward of the proposed restrooms. As determined in the
Conclusions of Law, the proposal meets shoreline view corridor requirements.
It is also noteworthy that the waterfront trail is located waterward of the
restrooms, such that the shoreline views of users of the trail will not be
adversely affected.

The applicant has provided a view corridor map, which is included as
Attachment 14. The Taos restroom facility will be located on Parcel No.
27032600200100, which has an average parcel width of approximately 760
feet. 30% of the average parcel width is 228 feet. The view corridor map

1 indicates an existing view corridor of 240 feet located to the north of the
2 proposed Taos restroom (Attachment 14).

3 The Cheyenne restroom facility will be located on Parcel No.
4 27032300401400, which has an average parcel width of approximately 1,765
5 feet. 30% of the average parcel width is 529 feet. The view corridor map
6 indicates a view corridor of 400 feet between the Edmonds Yacht Club and
7 the building containing Arnie's restaurant. In addition to this corridor, there is
8 an approximate 100 foot view corridor between the Port office building and
9 the Edmonds Yacht Club, an approximate 180 foot view corridor between the
10 Port office building and the boat lift, and an approximate 200 foot view
11 corridor to the south of the Cheyenne restroom facility.

12 C. Parking and Traffic. The amount of parking serving the development is
13 adequate. Given the nature of the use, it is not anticipated that the restrooms
14 will create any significant new demand for parking or generate any significant
15 traffic. As testified by the applicant, parking has historically proven adequate
16 year round except for a handful of days per year when there are multiple
17 events held along the waterfront. The placement of the restrooms will also not
18 have any significant impact on existing parking or traffic flow. The Taos
19 restroom facility will replace an existing restroom facility, and the Cheyenne
20 facility will be located in an existing parking area. No new driveways or curb
21 cuts are proposed with the development. During building permit review, the
22 Engineering Division will ensure that the revisions to the parking lot are
23 properly striped and that any existing parking stalls that are altered meet
24 applicable Engineering standards.

25 D. Compatibility. The proposed restroom facilities are compatible with
surrounding uses. The surrounding area is heavily developed and commercial
in nature. In comparison, the proposed restrooms are of small scale and low
intensity. In a couple public comment letters, Shirley Oczkewicz and Sarah
Boyd expressed concerns over the building and roof colors and requested that
the colors blend in with the gray colors utilized for the surrounding Port
buildings (Attachments 20 and 21). The color elevation views of the proposed
restroom facilities indicate that the building facades will be white with a stone
base and the roofs will be blue (Attachment 8). ECDC 20.11.030(A)(2) states
that color should avoid excessive brilliance or brightness. The color elevation
views provided with the application do not appear to be excessively brilliant
or bright and will blend in with the surrounding colors of the marina.

E. Wildlife. The proposal will not adversely affect wildlife. Wildlife present on
the subject site is typical of the wildlife present in a waterfront location.
Within the immediately adjacent Puget Sound to the west are various fish and
marine mammals. Birds also frequent the area. Since one of the proposed
restroom facilities is replacing an existing restroom and the second proposed
restroom facility will be constructed over an existing paved parking area, it is

1 not likely that the project would have a significant impact on any existing
2 wildlife in the area.

3 CONCLUSIONS OF LAW

4 **Procedural:**

5 1. Authority of Hearing Examiner. ECDC 20.01.003 provides the Hearing
6 Examiner with the authority to review and issue a decision upon shoreline
7 applications as Type III-B decisions. The requested design review is reviewed on its
8 own as a Type I decision. However, in this case the design review has been
9 consolidated with the shoreline permit to be heard by the examiner in accordance
10 with ECDC 20.01.002(B).

9 **Substantive:**

10 2. Shoreline and Zoning Designations. The shoreline designation is Urban
11 Mixed Use I and the zoning designation is Commercial Waterfront (“CW”).

12 3. Review Criteria and Application. As dictated by ECDC 20.55.060, a
13 shoreline substantial development permit is required because the proposal is located
14 within 200 feet of the Puget Sound ordinary high water mark and no exemptions from
15 WAC 173-27-040 are applicable. ECDC 20.55.030 provides that shoreline
16 substantial development permits must be consistent with the Edmonds Shoreline
17 Master Program (“SMP”) as well as the policies of the Shoreline Management Act
18 and its implementing regulations, Chapter 173-14 WAC. The criteria for general
19 design review are set by ECDC 20.11.020 and 20.11.030. The applicable use
20 regulations of the SMP and policies of the SMA are quoted below in italics and
21 applied via corresponding conclusions of law. The design review standards, SMP
22 policies and SMA policies and regulations addressed in the staff report are adopted by
23 this reference as if set forth in full.

19 **SMP Use Regulations**

20 **ECDC 23.10.155(B)(Use Regulations – Mixed Use Commercial): Permitted Use.**
21 *In the urban mixed-use I and II shoreline environments, the following are permitted
22 uses, developments and activities:*

23 *i. The principal uses permitted are mixed-use commercial activities and
24 developments, excluding medical, dental and veterinary clinics and drive-in
25 businesses.*

*ii. In addition to the principal uses listed above, accessory uses, developments,
and activities normally associated with mixed-use commercial development are
also permitted. This chapter also contains regulations on bulkheads and other
shoreline protective structures, moorage facilities, marinas, and other uses,*

1 *1. Landward of the ordinary high water mark, a view corridor must be maintained*
2 *across 30 percent of the average parcel width. The view corridor must be in one*
3 *continuous piece. Within the view corridor, structures, parking areas, and*
4 *landscaping will be allowed; provided, that they do not obscure the view from the*
5 *adjacent public right-of-way to and beyond the Puget Sound. This view corridor must*
6 *be adjacent to either the north or south property line, whichever will result in the*
7 *widest view corridor given development on adjacent properties. If the subject*
8 *property has shoreline frontage in excess of 1,000 feet, the city may require a*
9 *maximum of one-third of the required view corridor to be placed in a location*
10 *between the north and south property lines, in a location which will provide for the*
11 *greatest unobstructed view of the Puget Sound.*

12 6. As determined in Finding of Fact No. 5(B), the proposals will leave 30%
13 unobstructed view corridors as required by the criterion above.

14 **ECDC 23.10.155(G)(1): Upland of the OHWM:**

15 *a. The maximum permitted height of structures in the urban mixed-use I and II*
16 *shoreline environments is 30 feet above average grade level, except as specified*
17 *below:*

18 *i. Bridges and overpasses may exceed the maximum height limit with a shoreline*
19 *variance.*

20 7. The applicant proposes a height of 12 feet above average grade, which is below
21 the maximum 30 feet limit imposed by the criterion quoted above.

22 **ECDC 23.10.160(B)(Use Regulations – Moorage Structures and Facilities):**
23 **Permitted Use.**

24 *1. The principal use permitted in this section is moorage of watercraft...*

25 8. The proposed restrooms support and are a part of the Edmonds Marina and thus
qualify as a permitted use under the criterion quoted above.

Shoreline Management Act Policies

RCW 90.58.020 Use Preferences

*This policy (Shoreline Management Act policy) is designed to insure the development
of these shorelines (of the state) in a manner which, while allowing for limited
reduction of rights of the public in the navigable waters, will promote and enhance
the public interest. 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...Alterations of the natural condition of the shorelines of the
state, in those limited instances when authorized, shall be given priority for single
family residences and their appurtenant structures, ports, shoreline recreational uses*

1 *including but not limited to parks, marinas, piers, and other improvements facilitating*
2 *public access to shorelines of the state, industrial and commercial developments*
3 *which are particularly dependent on their location on or use of the shorelines of the*
4 *state and other development that will provide an opportunity for substantial numbers*
5 *of the people to enjoy the shorelines of the state....*

6 9. The proposal has no significant adverse impacts as determined in Finding of Fact
7 No. 5 while supporting the public interest by providing restroom facilities to both the
8 public and users of the marina. The proposal is consistent with the general purpose of
9 the Shoreline Management Act.

10 **RCW 90.58.020(1)**

11 *Recognize and protect the statewide interest over local interest;*

12 10. The proposal provides a needed public service for users of the shoreline without
13 any corresponding adverse impacts to the shoreline environment. The proposal is
14 consistent with the policy.

15 **RCW 90.58.020(2)**

16 *Preserve the natural character of the shoreline;*

17 11. The net increase in building space is nominal and both restrooms will be located
18 in areas already covered with impervious surface. The proposal will not create any
19 appreciable change to the natural character of the shoreline.

20 **RCW 90.58.020(3)**

21 *Result in long term over short term benefit;*

22 12. The proposal will enhance public use of the shoreline by providing a needed
23 public service with no corresponding adverse impacts. As a result, the proposal can
24 be considered to result in long term over short term benefit.

25 **RCW 90.58.020(4):** *Protect the resources and ecology of the shoreline;*

13. As determined in Finding of Fact No. 5, the proposal will not create any
significant adverse impacts, including impacts to the resources and ecology of the
shoreline. The proposal will be built in a fully developed area with no loss of natural
shoreline vegetation.

RCW 90.58.020(5): *Increase public access to publicly owned areas of the shorelines;*

14. The proposal will not appreciably increase public access, but will enhance it by providing a needed public service to users of the shoreline.

RCW 90.58.020(6): *Increase recreational opportunities for the public in the shoreline;*

15. The proposal enhances recreational opportunities by providing a needed public service. No additional recreational opportunities could be legally required of the proposal.

DECISION

As conditioned below, the proposal meets all applicable shoreline and design review requirements and the requested shoreline substantial development permit and design review are approved.

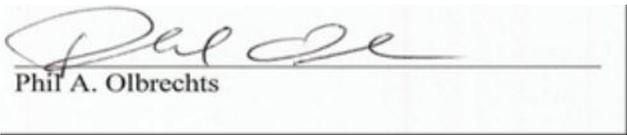
1. This application is subject to all applicable requirements contained in the Edmonds Community Development Code (ECDC). It is the responsibility of the applicant to ensure compliance with all applicable requirements.

2. Compliance with Engineering codes and construction standards will be reviewed with the building permit application for development of the site. Sanitary sewers may require a pump if minimum slope requirements cannot be attained when connecting to the existing system. Approval of the shoreline permit and design review phase of the project does not constitute approval of the improvements as shown on the submitted plans.

3. 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."

4. The applicant is responsible for obtaining all local, state, and/or federal permits or approvals applicable to the proposal and for following any conditions of such permits or approvals.

Dated this 28th day of May 2015.



Phil A. Olbrechts

City of Edmonds Hearing Examiner

Appeal Right and Valuation Notices

This land use decision is final and subject to closed record appeal to the City Council as authorized by ECDC 20.01.003. Appeals must be filed within 14 days of the issuance

1 of this decision as required by ECDC 20.07.004(B). Reconsideration may be requested
2 within 10 calendar days of issuance of this decision as required by ECDC 20.06.010.

3 Affected property owners may request a change in valuation for property tax purposes
4 notwithstanding any program of revaluation.
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