

1

2



CITY OF EDMONDS

121 5th Avenue North, Edmonds WA 98020
 Phone: 425.771.0220 • Fax: 425.771.0221 • Web: www.edmondswa.gov
 DEVELOPMENT SERVICES DEPARTMENT • PLANNING DIVISION

7

8

BEFORE THE HEARING EXAMINER FOR THE CITY OF EDMONDS

9

Phil Olbrechts, Hearing Examiner

10

11

<p>RE: Edmonds Civic Center Playfield</p> <p>Tennis Court Fence Height Variance (PLN20190058)</p> <p>Playfield Lighting Conditional Use (PLN20190059)</p> <p>Tennis Court Setback Variance (PLN20190060)</p>	<p>FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL DECISION</p>
--	---

12

13

14

15

16

17

18

19

INTRODUCTION

20

The City of Edmonds Department of Parks, Recreation, and Cultural Services requests approval of two variances and a conditional use permit to construct improvements to the Civic Center Playfield. The two variances are for the height and setbacks of fencing for the existing tennis courts. The conditional use permit is for the height of light poles that will be replaced for the soccer field.

21

22

23

SUMMARY OF TESTIMONY

24

25

Note: This hearing summary is provided as a courtesy to those who would benefit from a general overview of the public testimony of the hearing referenced above. The summary is not required or necessary to the recommendation issued by the Hearing Examiner. No assurances are made as to completeness or accuracy. Nothing in this

1 *summary should be construed as a finding or legal conclusion made by the Examiner*
2 *or an indication of what the Examiner found significant.*

3 Staff Presentation

4 Mike Clugston, City of Edmonds City Planning Division, presented a summary of the
5 proposal. In response to Examiner questions, Mr. Clugston responded that night-time
6 use will not increase as a result of the new lighting since nighttime use is currently
7 allowed. The nearest residences are apartment buildings adjoining the soccer fields.

7 Public Comments

8 Ryan Berry, neighbor, inquired when the lights would be turned off. Mr. Clugston that
9 City code requires lights off at 10:15 pm. Mr. Clugston also noted that there will be
10 fewer new lights replacing the old ones and they'll have cut-off shielding that will result
11 in less light spillage on adjoining properties.

11 **EXHIBITS**

- 12 Exhibit A Staff Report dated January 16, 2020 w/9 attachments (listed on page 1-2
13 of the Staff Report)
14 Exhibit B Staff PowerPoint slides

14 **FINDINGS OF FACT**

15 **Procedural:**

- 16 1. Applicant. The City of Edmonds Department of Parks, Recreation, and
17 Cultural Services.
18 2. Hearing. A hearing on the subject applications was held on January 23,
19 2020 at 3:00 pm in the Council Chambers of the Edmonds Public Safety Complex.

20 **Substantive:**

- 21 3. Site and Proposal Description. The City of Edmonds Department of Parks,
22 Recreation, and Cultural Services requests approval of two variances and a conditional
23 use permit to construct improvements to the Civic Center Playfield. The two variances
24 are for the height and setbacks of proposed fencing for the existing tennis courts. The
25 Applicant proposes 12-foot high fencing for the tennis courts and ECDC 17.30.000.C
limits fence height to six feet. The Applicant proposes a setback of 17' 9" for the west
property line 12' 10" for the north property line for the proposed tennis court fencing.
ECDC 16.80.030.A imposes a 20-foot setback for the fencing. The conditional use
permit is for the height of light poles that will be replaced for the soccer field. The
Applicant proposes to replace the eight existing light poles of the soccer field with six

1 60-foot tall fixtures. ECDC 16.80.010.C.3 & C.4 requires a conditional use permit for
2 both structures over 25 feet in height and for playfield lighting in the P zone.

3 4. Characteristics of the Area. Properties to the north and south and a small part of
4 the west are developed and zoned multi-family. Property to the east is zoned and
5 developed single-family. The bulk of the property to the west is zoned and developed
6 Public.

7 5. Adverse Impacts of Proposed Use. The proposal will not create any significant
8 adverse impacts. Impacts are more specifically addressed below:

9 A. Traffic. The proposal will not increase adverse traffic impacts. Traffic
10 impacts will remain similar to existing impacts since the balance and timing of the
11 uses at the park will largely remain the same. Park hours will remain the same and
12 the proposed improvements will not expand park usage capacity.

13 B. Lighting. Lighting impacts will be reduced as a result of the project. For
14 the field lights, all eight existing 60-foot poles with unshielded metal halide lights
15 will be removed and replaced with six 60-foot poles with shielded LED fixtures.
16 The updated lighting would be more efficient and reduce light spill into the
17 surrounding environment compared to current conditions. Park hours and
18 associated use of the field lighting will not change as a result of the proposal,
19 because ECDC 17.60.030.B requires that sports field lighting must be turned off by
20 an automatic timer no later than 10:15 p.m. There is no change in lighting proposed
21 for the tennis courts.

22 C. Noise. The project does not create significant noise impacts. The City
23 Council has adopted what it deems to be acceptable noise levels in Chapter 5.30
24 ECC. ECC 5.30.100(A)(7) exempts noise from school or league sponsored athletic
25 events from the noise level restrictions of Chapter 5.30 ECC. This should be
construed as a legislative determination that high noise levels from athletic events
should not be construed as significantly detrimental to neighboring properties.
However, this determination is qualified by the Council's adoption of ECDC
17.60.030.B, which requires field lights to be turned off at 10:15 pm. Taken
together, this suggests a legislative tolerance for qualifying athletic field events that
end at 10:15 pm. In the absence of any evidence of additional reasonable measures
that could be taken to reduce noise impacts, the noise generated by the proposal is
not considered to be a significant adverse impact.

D. Parking. The proposal will not create any added demand for parking. No
off-street parking is currently provided at the site and none is proposed. Existing
public on- and off-street parking near the site will continue to serve park patrons.

E. Compatibility. As to the light poles, the proposal will improve
compatibility by reducing lighting impacts to adjoining properties as previously
discussed. As to the tennis court fencing, the Applicant proposes to move the

1 existing fence line around the courts further into the property, increasing the
2 existing setback. AS shown in the photographs at p. 9 of the staff report, the existing
3 fencing also appears to be 12 feet in height, so overall moving the fence further
4 inwards from the property line is an overall improvement over current conditions.

CONCLUSIONS OF LAW

Procedural:

5 1. Authority of Hearing Examiner. ECDC 20.01.003 provides that the
6 Hearing Examiner will hold a hearing and issue a final decision on variances and
7 conditional use permits.

Substantive:

8 2. Zoning Designations. The project is zoned Public (P).

9 3. Permit Review Criteria. Conditional use permit criteria are governed by
10 ECDC 20.05.010. Variance criteria are governed by ECDC 20.85.010. All applicable
11 criteria are quoted in italics below and applied through corresponding conclusions of
12 law.

CONDITIONAL USE PERMIT (Light Pole Height)

13 **ECDC 20.050.010:** *No conditional use permit may be approved unless all of the*
14 *findings in this section can be made.*

15 A. *That the proposal is consistent with the comprehensive plan.*

16 4. The criterion is met. For the reasons identified at p. 5 of the staff report, the
17 proposal is consistent with the Edmonds Comprehensive Plan.

18 **ECDC 20.05.010(B):** *Zoning Ordinance. That the proposed use, and its location, is*
19 *consistent with the purposes of the zoning ordinance and the purposes of the zone*
20 *district in which the use is to be located, and that the proposed use will meet all*
21 *applicable requirements of the zoning ordinance.*

22 5. The criterion is met. With the exception of the development standards
23 subject to the variance applications, the proposal complies with all applicable zoning
24 standards for the reasons identified in Section IV of the staff report.

25 **ECDC 20.05.010(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.

1 6. The criterion is met. As determined in Finding of Fact No. 5, the proposal will not
2 create any significant adverse impacts, which includes impacts to adjoining property
owners.

3 **ECDC 20.05.010(D):** *Transferability. The hearing examiner shall determine whether*
4 *the conditional use permit shall run with the land or shall be personal. If it runs with*
5 *the land and the hearing examiner finds it in the public interest, the hearing examiner*
6 *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.

7 7. As requested by the City, the conditional use permit shall run with the land.
8 The conditional use should be construed as authorizing public recreational use only. For
9 example, if the fields were sold into private ownership, the conditional use permit would
10 not be construed as permitting retainage of the lights for the lot of a car dealership. Any
change in the authorized use would require a new or amended (if authorized at the time)
conditional use permit.

11 **VARIANCES (Tennis Court Fence Height and Setback)**

12 **ECDC 20.85.010:** *No variance may be approved unless all of the findings in this section*
13 *can be made.*

14 **ECDC 20.85.010.A(1) – Special Circumstances:** *That, because of special*
15 *circumstances relating to the property, the strict enforcement of the zoning ordinance*
16 *would deprive the owner of use rights and privileges permitted to other properties in*
the vicinity with the same zoning.

- 17 a. *Special circumstances include the size, shape, topography, location or*
18 *surroundings of the property, public necessity as of public structures and*
uses as set forth in ECDC 17.00.030 and environmental factors such as
19 *vegetation, streams, ponds and wildlife habitats.*
20 b. *Special circumstances should not be predicated upon any factor personal to*
21 *the owner such as age or disability, extra expense which may be necessary*
to comply with the zoning ordinance, the ability to secure a scenic view, the
ability to make more profitable use of the property, nor any factor resulting
22 *from the action of the owner or any past owner of the same property;*

23 8. The criterion is met. The height and location of the tennis court fencing was
24 discussed as part of the master planning process for the Civic Center Park. The City
25 Council's adoption of the Civic Center Playfield Master Plan made the planned tennis
court improvements public necessities since they are needed to implement the approved
vision for the park.

ECDC 20.85.010(B) – Special Privilege: *That the approval of the variance would not*
be a grant of special privilege to the property in comparison with the limitations upon

1 *other properties in the vicinity with the same zoning;*

2 9. The criterion is met. The height and setback variances would not constitute a
3 special privilege. The public tennis court is unique within downtown Edmonds.

4 **ECDC 20.85.010(C) – Comprehensive Plan:** *That the approval of the variance will*
5 *be consistent with the comprehensive plan;*

6 10. The criterion is met. The proposal is consistent with the comprehensive plan for
7 the reasons identified in Conclusion of Law No. 4.

8 **ECDC 20.85.010(D) – Zoning Ordinance:** *That the approval of the variance will be*
9 *consistent with the purposes of the zoning ordinance and the zone district in which the*
10 *property is located;*

11 11. The criterion is met. The proposal is consistent with the purposes of the P
12 zone. ECDC 16.80.00 provides in relevant part that the purpose of the P zone is to
13 assure continuing availability of public lands for public use. The proposed park
14 upgrades are intended to meet public recreational needs, as shown in the public
15 participation process detailed in the Civic Center Playfield Master Plan. The proposal
16 also meets the general purposes of zoning code as a whole as outlined in ECDC
17 16.00.010, as the proposal implements the comprehensive plan for reasons stated
18 previously and does so in a manner that is compatible with surrounding uses.

19 **ECDC 20.85.010(E) – Not Detrimental:** *That the variance as approved or conditionally*
20 *approved will not be significantly detrimental to the public health, safety and welfare*
21 *or injurious to the property or improvements in the vicinity and same zone;*

22 12. The criterion is met for the reasons identified in Conclusion of Law No. 6.

23 **ECDC 20.85.010(F) – Minimum Variance:** *That the approved variance is the*
24 *minimum necessary to allow the owner the rights enjoyed by other properties in the*
25 *vicinity with the same zoning.*

13. The criterion is met. A range of elements and options were considered for the park
during the public process that led to the Civic Center Playfield Master Plan that was
eventually adopted by City Council. Twelve feet is a typical height for tennis court
fencing to keep tennis balls from leaving the court. The height of the fence and its
location relative to the north and west property lines is the minimum necessary to
implement the tennis court element of the Civic Center Master Plan.


DECISION

The conditional use permit and two variance requests are approved subject to the
following conditions:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1. The tennis court fencing (as seen on Exhibit 4) may be up to 12 feet in height and located a minimum of 17 feet 9 inches from the west property line and 12 feet 10 inches from the north property line.
2. The playfield light poles and fixtures (as seen on Exhibits 5 and 6) may be a maximum 60 feet tall.
3. An automatic timer that turns the field lights off at 10:15 p.m. is required.
4. A joint-use parking permit is required with landowners if private off-street parking is sought to be used for the park in the future.
5. The conditional use permit should run with the land and be transferrable from the City of Edmonds to a subsequent owner/operator of the Civic Center Playfield site for public recreational purposes.

Dated this 10th day of February 2020.


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

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