

## MEMORANDUM

DATE: February 12, 2020  
TO: Edmonds City Council  
FROM: Phil A. Olbrechts – Hearing Examiner  
RE: Annual Report

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**SUMMARY:** Three hearing examiner decisions have been issued since the last annual report to the City Council dated March 20, 2019. Two of the proposals drew no public opposition. One of the two was a shoreline variance to build a home within a 50-foot shoreline buffer, the other was a conditional use permit for use of a church parking lot as a commuter lot for Sounder users. The one controversial decision was approval of the Edmonds Waterfront Center and Waterfront Trail project. The proposal included an overwater trail extension in front of the Ebb Tide Condominium, which drew extensive opposition from Ebb Tide Condominium owners. Each decision is addressed in reverse chronological order below:

**Edmonds Waterfront Center and Waterfront Redevelopment** (6/7/19, reconsideration denied 7/20/19): Approved three shoreline substantial development permits, a conditional use permit and design review to redevelop the Edmonds Senior Center at 220 Railroad Avenue and to construct an adjoining overwater walkway in front of the Ebb Tide Condominium at 200 Beach Place. The proposal drew significant opposition from the residents of the Ebb Tide Condominiums, who's uninterrupted waterfront views of Puget Sound were to be interrupted by an overwater extension of the Edmonds waterfront trail built upon a concrete foundation similar to Seattle's monorail tracks. The overwater trail was to have the same elevation as the bulkhead for the condominiums. Ebb Tide condominium owners filed an appeal of a determination of non-significance<sup>1</sup> issued for the project in addition to opposing approval of the land use applications. The environmental appeal was overturned and the decision to issue a determination of non-significance was upheld.

The primary issues raised by Ebb Tide residents were impacts to forage fish, pedestrian safety, noise and easement rights. The evidence presented establishes that although the project may create some minor impacts to forage fish, overall project mitigation in the form of 3,000 square feet of new forage fish habitat was found to more than compensate for these impacts. As to pedestrian safety, the overwater walkway was only proposed to be ten feet wide with no significant guardrails. Guard rail requirements are addressed by building code standards. The final decision deferred guardrail implementation to building permit review, with the caveat that the City would have to implement measures to prevent access to the overwater walkway during storm events. As to easement rights, the City has an easement for the proposed trail extension but the Ebb Tide owners asserted that the scope of the easement did not authorize the elevated

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<sup>1</sup> A determination of non-significance is a decision by the City's State Environmental Policy Act Responsible Official that an environmental impact statement is not necessary to review the impacts of the proposal because all impacts will not rise to the level of probable significant adverse impacts.

walkway proposed by the City. The decision concluded that easement rights are beyond hearing examiner jurisdiction.

There was no opposition to redevelopment of the Edmonds Waterfront Center. The Ebb Tide residents were very accommodating in separating their appeal and concerns from the Waterfront Center so that construction on the Waterfront Center could move forward without delay.

**Sound Transit Conditional Use Permit** (4/25/19): Conditional use permit approved for 25 parking spaces at Edmonds Methodist Church at 828 Caspers Street to be used for commuter parking for users of the Sounder, with the Edmonds stop located about a mile away. Adjoining the church site is a Community Transit bus stop that the commuters can use to access the Sound Transit Station. Sound Transit and Community Transit have synced their schedules to facilitate use of the parking lot. No opposition.

**Hitchens Shoreline Variance** (3/27/19): Shoreline variance approved to build 4,690 square foot home 15 feet into a 50-foot shoreline buffer. The lot had an existing nonconforming home that was located 5-6 feet from the shoreline. If the variance had been denied, the Applicant could have expanded the home landward from its existing location, creating far more view impacts to surrounding properties. In the alternative, if the variance were denied the Applicant could have built a new albeit smaller home further up the slope, also creating more view impacts to adjoining properties. There was no opposition to the project. However, one resident noted that neighbors were concerned that a narrow private drive would be used to access the new home. Staff took care of this issue by recommending a condition (which was adopted) that the private drive access be barricaded.