

# CITY OF EDMONDS

121 5TH AVENUE NORTH • Edmonds, WA 98020 • (425) 771-0220 • FAX (425) 771-0221

HEARING EXAMINER

GARY HAAKENSON  
MAYOR

## FINDINGS, CONCLUSIONS AND DECISION OF THE HEARING EXAMINER CITY OF EDMONDS

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- APPLICANTS:** Bartell Drug Co., Nelson Properties and Gary Jones (Westgate Village)
- CASE NO.:** ADB-2001-170, CU-2001-171 and V-2001-172 through 179
- LOCATION:** SW corner of Edmonds Way and 100<sup>th</sup> Ave. W (See Exhibit A, Attachment 1)
- APPLICATION:** Request for approval of a Conditional Use Permit to allow a drive through and for eight Variances to allow structures to be located in the street setbacks, additional sign height and additional sign area.
- REVIEW PROCESS:** Conditional Use Permit, Design Review and Variances; Hearing Examiner conducts public hearing and makes final decision.
- MAJOR ISSUES:**
- a. Compliance with Edmonds Community Development Code (ECDC) Section 16.45.010 (Neighborhood Business - Uses).
  - b. Compliance with Edmonds Community Development Code (ECDC) Section 16.45.030 (Neighborhood Business – Development Standards).
  - c. Compliance with Edmonds Community Development Code (ECDC) Chapter 20.05 (Conditional Use Permits).
  - d. Compliance with Edmonds Community Development Code (ECDC) Chapter 20.10 (Architectural Design Review).
  - e. Compliance with Edmonds Community Development Code (ECDC) Chapter 20.15A (Environmental Review - SEPA).
  - f. Compliance with Edmonds Community Development Code (ECDC) Chapter 20.15B (Critical Areas).
  - g. Compliance with Edmonds Community Development Code (ECDC) Chapter 20.60 (Sign Code).
  - h. Compliance with Edmonds Community Development Code (ECDC) Chapter 20.85 (Variances).
  - i. Compliance with the City of Edmonds Comprehensive Plan.

## **SUMMARY OF RECOMMENDATION AND DECISION:**

Staff Recommendation: Approve with conditions

Hearing Examiner Decision: Approve with conditions

## **PUBLIC HEARING:**

After reviewing the official file, which included the Planning Division Staff Advisory Report, and after visiting the site, the Hearing Examiner conducted a public hearing on the application. The hearing on the Westgate Village application was opened at 9:36 a.m., December 20, 2001, in the City Hall, Edmonds, Washington, and closed at 10:40 a.m. Participants at the public hearing and the exhibits offered and entered are listed in this report. A verbatim recording of the hearing is available in the Planning Division.

## **HEARING COMMENTS:**

The following is a summary of the comments offered at the public hearing.

From the City:

Steve Bullock, Senior Planner, entered the staff advisory report into the record as Exhibit A and said recommended condition #9 should be revised to indicate a 0' setback.

From the Applicant:

John Bissell, agent for the applicant, concurred with the staff advisory report, as revised.

From the Community:

No one from the general public attended the public hearing.

## **I. FINDINGS OF FACT AND CONCLUSIONS:**

### **A. SITE DESCRIPTION**

#### **1. Site Development, Neighboring Development, And Zoning:**

##### **a. Facts:**

- (1) **Size:** The subject property is actually four lots. They form a large, irregularly shaped site with approximately 300 feet of frontage along Edmonds Way on its north boundary and another 300 feet of frontage along 100<sup>th</sup> Ave. W its east boundary. The total site area is approximately 2.9 acres (see Exhibit A, Attachment 13).
- (2) **Land Use:** Five commercial buildings occupy the current site. Four of the buildings will be eliminated and the remaining building, located in the northeast corner, will be remodeled.

- (3) **Zoning**: The zoning of the subject property is “Neighborhood Business”, BN (see Exhibit A, Attachment 1).
- (4) **Terrain and Vegetation**: The subject property is relatively flat on the portions of the property that front on Edmonds Way and 100<sup>th</sup> Ave. W. Approximately 200 back from both Edmonds Way and 100<sup>th</sup>, the land slopes up sharply to the southwest with slopes greater than 40%. Mature trees, both evergreen and deciduous, cover the slope.
- b. **Conclusion**: The size of the property along with the required setbacks, slopes with existing and proposed vegetation will assist in making the proposal consistent with the surrounding development.

## **2. Neighboring Development And Zoning:**

### **a. Facts:**

- (1) **North**: Properties across Edmonds Way are zoned and developed under the BN standards.
- (2) **East**: Properties across 100<sup>th</sup> Ave. W. are zoned and developed under the BN standards.
- (3) **South**: Properties to the south are zoned and developed under the BN standards.
- (4) **West**: Properties to the south and west are zoned and developed under the RS-8 zoning classifications.

- B. **Conclusion**: The proposed development is consistent with the surrounding development.

## **B. EDMONDS COMMUNITY DEVELOPMENT CODE (ECDC) COMPLIANCE**

### **1. Compliance with ECDC Section 16.45.010 (Neighborhood Business – Uses)**

- a. **Fact**: ECDC 16.45.010 allows commercial buildings as a permitted primary use.
- b. **Conclusion**: The proposal is consistent with the BN zone.

### **2. Compliance with ECDC Section 16.45.020 (Neighborhood Business – Site Development Standards)**

#### **a. Facts:**

- (1) Maximum height of a building in the BN zone is 25 feet.
- (2) Setbacks of 15 feet are required for buildings and structures from street property lines. No other setbacks are required unless the project is adjacent to a Single Family zone in which case a 15 setback is required.
- (3) The applicant has submitted five variance requests to allow structures in the street setbacks.

(4) All other elements of the proposed site plan meet the minimum setback and the maximum height limit requirements.

b. **Conclusion:** If the variances are approved, the proposal will be consistent with the development standards for the BN zone. If they are denied, some minor changes will be required.

### 3. Compliance with ECDC Chapter 20.05 (Conditional Use Permits)

#### a. **Facts:**

(1) ECDC Section 20.05 contains the review and approval criteria for Conditional Use Permits. According to the aforementioned code section, "No Conditional Use Permit may be approved unless all the findings in this section can be made." The findings are as follows:

- Comprehensive Plan - The proposed use is compatible with the Comprehensive Plan.
- Zoning Ordinance - That the proposed use, and its location, is consistent with the purposes of the Zoning Ordinance and the purpose of the zone district in which the use is to be located, and that the proposed use will meet all the applicable requirements of the Zoning Ordinance.
- 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.
- Transferability - The Hearing Examiner shall determine whether the conditional use permit shall run with the land or shall be personal.

(2) The Conditional Use Permit is to allow a drive-through in the BN zone.

(3) See Section I.B of this report for a discussion on this project's compliance with the Zoning Ordinance.

(4) See Section I.C of this report for a discussion on this projects compliance with the Comprehensive Plan.

(5) The applicant's declarations regarding the project's compliance with the Conditional Use permit criteria are stated in Exhibit A, Attachment 3. They are summarized as follows:

- The Comprehensive Plan identifies this area as Community Commercial. This is an Auto Oriented area that is supposed to serve both local and regional customers. The proposed drive thru is consistent with this.

- The BN zone is reserved for retail service establishments. The proposed drive thru is an element of a proposed pharmacy, which is a permitted use in this zone.
  - The drive thru will be located adjacent to another commercially zoned and used property. Also, the design of the drive thru includes a retaining wall between the facility and the adjacent property that puts the driveway 12 feet below the existing grade of the adjacent lot. The project will also include a roof over the drive thru area to further screen the facility. Therefore it will not be detrimental to any adjacent commercial or residential properties.
  - The applicant requests that the permit be transferable and run with the land because it allows for construction of improvements that result in the same impact regardless of the type of use that uses the drive thru.
- (6) Staff agrees with the applicant's position that the proposed drive thru will not be detrimental and that the permit should be transferable.

**b. Conclusions:**

- (1) Comprehensive Plan: Based on the Findings in Section I.C of this report, the proposed project appears to be consistent with the Comprehensive Plan because of the type of use, its location, its intensity and the existing and proposed vegetation.
- (2) Zoning Ordinance: Based on the Findings in Section I.B of this report, the proposed project appears to be consistent with the zoning code.
- (3) Not Detrimental: The proposed drive thru should be allowed in that due to its design and location it is not detrimental to adjacent residences or properties.
- (4) Transferable: The proposed drive thru should be transferable because it allows for construction of improvements that result in the same impact regardless of the type of use that uses the drive thru.

**4. Compliance with ECDC Chapter 20.10 (Architectural Design Review)**

**a. Facts:**

- (1) The Architectural Design Board completed a preliminary review of the proposal in August of this year. At that time, the Board directed them to strengthen the pedestrian connection between the project and the sidewalk. They also directed the applicant to unify the project better.
- (2) The applicant modified their initial application and submitted a consolidated permit application for the final design, the Conditional Use Permit, and eight variances in response to some of the Design Board's direction (see Exhibit A, Attachments 12-13).

- (3) The Design Board reviewed the final design of the building and the eight variances on December 5, 2001, and forward their recommendation on to the Hearing Examiner as follows:

***BOARDMEMBER RUBENKONIG MOVED, SECONDED BY BOARDMEMBER GOODRICK, TO RECOMMEND FOR APPROVAL TO THE HEARING EXAMINER APPLICATION ADB-2001-170, IN THAT THE TESTIMONY THAT HAD BEEN GIVEN BY THE APPLICANT WAS CONSIDERED SUFFICIENT AS TO WHY THE VARIANCES SHOULD BE GRANTED; THAT IT ALSO SHOULD BE KNOWN THAT THE RENDERINGS SHOWED THE SIGNAGE IN ITS APPROPRIATE OFFICIAL INTENT AS TO WHERE IT WOULD BE LOCATED, AND SHE BELIEVED THAT THE PACKAGE, AS PRESENTED, WAS IN KEEPING WITH WHAT CURRENTLY EXISTS IN THE WESTGATE COMMUNITY.***

***MOTION CARRIED (4-1; BOARDMEMBER BYKONEN OPPOSED).***  
(see Exhibit A, Attachment 14)

**b. Conclusions:**

- (1) The Architectural Design Board finds the proposed site and building development to meet the criteria of the Architectural Design Review chapter of the ECDC.
- (2) The Architectural Design Board finds the proposed variances to allow three pedestrian trellises in the street setback, two freestanding signs in the street setback, two wall mounted sign height variances and one sign area variance to be consistent with the Design Review Criteria of ECDC 20.10 and the Sign Code provisions of ECDC 20.60.

**6. Compliance with ECDC Chapter 20.15A (Environmental Review – SEPA)**

**a. Fact:**

- (1) The size of the proposed project mandates that the City and the applicant complete the SEPA review process. The applicant submitted an Environmental Checklist and supporting traffic report and soil analysis. After reviewing all of the submitted information the City issued a Mitigated Determination of Nonsignificance with the mitigation measure being \$20,500 for traffic mitigation (see Exhibit A, Attachment 15).

**b. Conclusion:**

- (1) The City and the applicant have complied with the requirements of the State Environmental Policy Act.

**7. Compliance with ECDC Chapter 20.15B (CRITICAL AREAS)**

**a. Facts:**

- (1) The applicants submitted a Critical Areas Checklist. The City issued a Determination that a Study was required due to the steep slope on the southwest portion of the property.
- (2) The applicant has submitted a study and requested an exemption, which will allow development on steep slopes. The study confirms that the slope is made up of soil types that make it eligible for a Steep Slope Exemption.
- (3) The study is undergoing a peer review by one of the City's consultants.

- b. Conclusion:** The applicant and the City have complied with the requirements of ECDC 20.15B. The project should be conditioned upon the final approval of the Critical Areas Steep Slope Exemption.

**7. Compliance with ECDC Chapter 20.60 (Sign Code)**

**a. Facts:**

- (1) The ADB must review any sign proposals that request an allowance for sign area or height that are over what is stated in the Sign Code.

	Sign Area Permitted	Sign Area Proposed	Sign Height Permitted	Sign Height Proposed
Lot A	148 sq. ft.	148 sq. ft.		
Wall Mount	148 sq. ft.	124 sq. ft.	14 ft.	21
Freestanding	24 sq. ft max.	24 sq. ft	14 ft.	10
Lot B	120 sq. ft.	152.5 sq. ft.		
Wall Mount	120 sq. ft.	120 sq. ft.	14 ft.	<14
Freestanding	48 sq. ft max.	32.5 sq. ft.	14 ft.	11
Lot C	177 sq. ft.	177 sq. ft.		
Wall Mount	177 sq. ft.	145 sq. ft.	14 ft.	23'-8"
Freestanding	48 sq. ft max.	32 sq. ft.	14 ft.	10

As shown in the chart above:

Lot A needs a variance to allow a wall mounted sign to be located 21 feet above the ground where 14 feet is permitted. Two signs are proposed at this height and are located on prominent entry or accent features on the building. The ADB reviewed this, considered it appropriate, and recommended it approval.

Lot B needs a variance to allow additional sign area. Their building is going to be modified significantly at the request of the ADB to provide a second public face to the building on the west. This results in the tenants having entrances from the parking lots on both the east and west sides of the building and a need to identify themselves on both sides of the building.

The applicant states that they can provide adequate signage on both sides of their building within the sign area allowed for their building but they would be unable to retain their existing freestanding sign. The freestanding sign does not advertise any single business but rather the center as a whole. They further commit to using only individual letter signs and graphics on the building. The ADB reviewed this, considered it appropriate, and recommended it approval.

Lot C needs a variance to allow a wall mounted sign to be located 23'-8" above the ground where 14 feet is permitted. Two signs are proposed at this height. They are located on prominent entry features on the building. The proposal also indicates that only individual letter signs will be used. The ADB reviewed this and also considered it appropriate and recommended it approval.

- (2) Although the Sign Code requires the ADB to review any proposal that requests a variance to the standards of approval for signs and implies that the ADB can approve that, the last provision of the Sign Code, ECDC 20.60.100.E states that variances to the Sign Code must be reviewed and approved by the Hearing Examiner. The ADB reviewed the proposal and recommended it approval.

**B. Conclusion:**

- (1) The ADB supports all of the sign variances from a design perspective.
- (2) If the variances are approved, the project will be consistent with the Sign Code for the City of Edmonds. If the variance is not approved, minor changes will need to be made.

**8. Compliance with ECDC Chapter 20.85 (Variances)**

ECDC Chapter 20.85 (Variances) states an applicant may request a variance from the standards of this Chapter pursuant to the procedures set forth in ECDC Chapter 20.85. Chapter 20.85 of the ECDC also sets forth the mechanism whereby a provision of the Code may be varied on a case-by-case basis if the application of the provision would result in an unusual and unreasonable hardship.

**a. Facts:**

- (1) Eight variances have been applied for, file numbers V-2001-172 through 179. The applicant submitted eight separate declarations to address each of the variance applications (see Exhibit A, Attachments 4-11).



- (2) ECDC Section 20.85.010 establishes the decisional criteria with which a variance request must comply in order to be granted by the Hearing Examiner. These criteria include: a special circumstance must exist; no special privilege is granted; the proposal is consistent with the Comprehensive Plan and the Zoning Code; the proposal will not be detrimental and is the minimum necessary.
- (3) V-2001-172 is an application for a variance to increase the sign height for a wall mounted sign from 14 feet to 21 feet on lot/building A (see Exhibit A, attachment 4). The Examiner concurs with the applicants regarding how the proposed sign height variance request meets the variance criteria.
- (4) V-2001-173 is an application for a variance to reduce the required street setback from 20 feet to 0 feet for the location of a freestanding sign on lot/building A (see Exhibit A, attachment 5).

The Examiner does not agree with the applicants that a variance is not required to allow a freestanding sign over three feet to be located in the setbacks. The definition of structure describes that structures must comply with setbacks except for fences up to six feet in height and other minor landscape type features, which are exempt.

Regarding the variance criteria for this request, the Examiner generally concurs with the applicants regarding how the proposed sign setback variance request meets the variance criteria. However, it does not appear to be the minimum necessary. The applicants are requesting a 0 foot setback on their application and in their declarations. But their drawings show the sign to be 2-4 feet from the property line. It appears that the minimum necessary is probably around 3 feet.

- (5) V-2001-174 is a request to allow a pedestrian trellis to be located in the street setback by reducing the setback from 20 feet down to 0' on lot/building A (see Exhibit A, attachment 6). The Examiner concurs with the applicants regarding how the proposed setback variance for the pedestrian trellis meets the variance criteria.
- (6) V-2001-175 is a request to allow a pedestrian trellis to be located in the street setback by reducing the setback from 20 feet down to 0' on lot/building B (see Exhibit A, attachment 7). The Examiner concurs with the applicants regarding how the proposed setback variance for the pedestrian trellis meets the variance criteria.
- (7) V-2001-176 is an application for a variance to increase the sign area allowed for lot/building B (see Exhibit A, attachment 8). The Examiner concurs with the applicants regarding how the proposed sign height variance request meets the variance criteria.

- (8) V-2001-177 is an application for a variance to increase the sign height for a wall mounted sign from 14 feet to 23'-8" on lot/building C (see Exhibit A, attachment 9). The Examiner concurs with the applicants regarding how the proposed sign height variance request meets the variance criteria.
- (9) V-2001-178 is an application for a variance to reduce the required street setback from 20 feet to 0 feet for the location of a freestanding sign on lot/building C (see Exhibit A, attachment 10).

As stated for V-2001-173, a request for a 0 foot setback does not appear to be the minimum necessary. The minimum necessary appears to be around 3 feet rather than 0 feet. Otherwise the Examiner agrees with the applicant's declarations.

- (10-) V-2001-179 is a request to allow a pedestrian trellis to be located in the street setback by reducing the setback from 20 feet down to 0' on lot/building C (see Exhibit A, attachment 11). The Examiner concurs with the applicants regarding how the proposed setback variance for the pedestrian trellis meets the variance criteria.

**b. Conclusions:**

- (1) Variances V-2001-172, 174, 175, 176, 177 and 179 have met all the variance criteria and should be approved.
- (2) Variances V-2001-173 and 178 have met all of the variance criteria except for the minimum necessary. If the setback request is modified from 0 feet to 3 feet, staff would support the variance request as complying with all the variance criteria.

**C. Compliance with the Comprehensive Plan**

The subject property is located in the area identified as Community Commercial and the Westgate Corridor. The Comprehensive Plan also has the following stated goals and policies for Commercial Development, development within the Westgate Corridor and development within areas of sensitive soils and topography all of which appear to apply to this project.

**Commercial Development**

*D. Goals for Community Commercial Areas. Community commercial areas are comprised of commercial development serving a dual purpose: services and shopping for both local residents and regional traffic. The intent of the community commercial designation is to recognize both of these purposes by permitting a range of business uses while maintaining a neighborhood scale and design character.*

*D.1. Permit uses in community commercial areas that serve both the local neighborhood and regional through-traffic.*

- D.2 Provide for transit and pedestrian access in addition to the need to accommodate automobile traffic.*
- D.3 Provide for the pedestrian-scale design of buildings that are two stories or less in height and that contain architectural features that promote pedestrian activity.*
- D.4 Provide pedestrian walkways and transit connections throughout the community commercial area.*

### **Westgate Corridor**

*F. Goals for the Westgate Corridor. The Westgate Corridor is generally located between the 9th Avenue/Edmonds Way intersection and where Edmonds Way turns north to enter the downtown area. By virtue of this location, this corridor serves as both a key transportation corridor and as an entry into the downtown. Long-established neighborhoods lie near both sides of the corridor. The plan for this corridor is to recognize its multiple functions by providing opportunities for small-scale businesses while promoting compatible development that will not intrude into established neighborhoods.*

- F.1. Development within the Westgate Corridor should be designed to recognize its role as part of an entryway into Edmonds and the downtown. The overall effect should be a corridor that resembles a landscaped boulevard and median. The landscaped median along SR-104 should remain as uninterrupted as possible in order to promote traffic flow and provide an entry effect.*
- F.3. Provide for transit and pedestrian access to development.*
- F.4. 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. Site access shall not be provided from residential streets unless there is no feasible alternative.*
- F.5. Use design review to ensure that development provides a transition to adjacent residential neighborhoods. For uses in transitional areas adjacent to single family neighborhoods, use design techniques such as the modulation of facades, pitched roofs, stepped-down building heights, multiple buildings, and landscaping to provide designs compatible with single-family development.*

### **Soils and Topography**

- B. Goal. Future development in areas of steep slope and potentially hazardous soil conditions should be based on site development which preserves the natural site characteristics in accordance with the following policies:*
- B.2. Streets and access ways should be designed to conform to the natural topography, reduce runoff and minimize grading of the hillside.*

*C. Goal. Development on steep slopes or hazardous soil conditions should preserve the natural features of the site, in accordance with the following policies:*

*C.1. Grading and Filling.*

*C.1.a. Grading, filling, and tree cutting shall be restricted to building pads, driveways, access ways and other impervious surfaces.*

*C.1.b. Grading shall not jeopardize the stability of any slope, or of an adjacent property.*

*C.1.c. Only minimal amounts of cut and fill on hillsides exceeding 15% slope should be permitted so that the natural topography can be preserved. Fill shall not be used to create a yard on steeply sloped property.*

*C.1.d. Fill and excavated dirt shall not be pushed down the slope.*

*C.2. Building Construction.*

*C.2.a. Buildings on slopes of 15% or greater shall be designed to cause minimum disruption to the natural topography.*

*C.2.a. Retaining walls are discouraged on steep slopes. If they are used they should be small and should not support construction of improvements, which do not conform to the topography.*

*C.2.a. Water detention devices shall be used to maintain the velocity of runoff at predevelopment levels.*

*C.3. Erosion Control.*

*C.3.a. Temporary measures shall be taken to reduce erosion during construction.*

*C.3.b. Natural vegetation should be preserved wherever possible to reduce erosion and stabilize slopes, particularly on the downhill property line.*

*C.3.c. Slopes should be stabilized with deep-rooted vegetation and mulch, or other materials to prevent erosion and siltation of drainage ways.*

**b. Conclusions:**

Plans submitted with this proposal demonstrate its compliance with the above stated Goals and Policies of the Edmonds Comprehensive Plan.

**D. TECHNICAL COMMITTEE**

1. The proposed Permits have been reviewed and evaluated by other Departments/Divisions of the City.

- a. No comments concerning the proposal were submitted. All departments will look at the project in more detail at the building permit submittal.


## II. DECISION:

Based upon the foregoing findings and conclusions, Architectural Design Review, a conditional use permit and variances to allow construction of the proposed retail center are **approved**, subject to the following conditions:

1. Design Review of the proposed Retail Complex, ADB-2001-170 is **approved**, subject to the following conditions:
  - a. The building permit will be subject to \$20,500 in traffic mitigation as identified by MDNS issued by the City.
  - b. A Lot Line Adjustment must be completed and recorded prior to final occupancy.
  - c. The Critical Areas exemption for construction on Steep Slopes must be approved.
  - d. The project shall be constructed as shown in the plans (Exhibit B).
2. Conditional Use Permit for a Drive Thru, CU-2001-171 is **approved**, subject to the following conditions:
  - a. The project shall be constructed as shown in the plans (Exhibit B).
  - b. The conditional use permit is transferable.
3. Variance for increased wall mounted sign height up to 21', V-2001-172, on lot A is **approved**, subject to the following condition:
  - a. The project shall be constructed as shown in the plans (Exhibit B).
4. Variance for reduced street setback for a freestanding sign down to 0', V-2001-173, on lot A is **approved**, subject to the following condition:
  - a. The freestanding sign shall be setback 3 feet from the property line and the project shall be constructed as shown in the plans (Exhibit B).
5. Variance for a reduced street setback for a pedestrian trellis/arbor down to 0', V-2001-174, on lot A is **approved**, subject to the following condition:
  - a. The project shall be constructed as shown in the plans (Exhibit B).
6. Variance for a reduced street setback for a pedestrian trellis/arbor down to 0', V-2001-175, on lot B is **approved**, subject to the following condition:
  - a. The project shall be constructed as shown in the plans (Exhibit B).
7. Variance to allow the sign area to be increased from 120 sq. ft. to 152 sq. ft., V-2001-176, on lot B is **approved**, subject to the following condition:

- a. The project shall be constructed as shown in the plans (Exhibit B).
8. Variance for increased wall mounted sign height up to 23'-8", V-2001-177, on lot C subject to the following condition:
  - a. The project shall be constructed as shown in the plans (Exhibit B).
9. Variance for reduced street setback for a freestanding sign down to 0', V-2001-178, on lot C is **approved**, subject to the following condition:
  - a. The freestanding sign shall be setback 0 feet from the property line and the project shall be constructed as shown in the plans (Exhibit B).
10. Variance for a reduced street setback for a pedestrian trellis/arbor down to 0', V-2001-179, on lot C is **approved**, subject to the following condition:
  - a. The project shall be constructed as shown in the plans (Exhibit B).

Entered this 3rd day of January 2002 pursuant to the authority granted the Hearings Examiner under Chapter 20.100 of the Community Development Code of the City of Edmonds.

  
Ron McConnell, FAICP  
Hearing Examiner

## RECONSIDERATION AND APPEAL

The following is a summary of the deadlines and procedures for filing reconsideration and appeal. Any person wishing to file or respond to a recommendation or appeal should contact the Planning Department for further procedural information.

## REQUEST FOR RECONSIDERATION

Section 20.100.010.G allows for the Hearing Examiner to reconsider his decision or recommendation if a written request is filed within ten (10) working days of the date of the initial decision by any person who attends the public hearing and signs the attendance register and/or presents testimony or by any person holding an ownership interest in a tract of land which is the subject of such decision or recommendation. The reconsideration request must cite specific references to the findings and/or the criteria contained in the ordinances governing the type of application being reviewed.

## APPEALS

Section 20.105.020.A & B describe how appeals of a Hearing Examiner decision or recommendation shall be made. The appeal shall be made in writing, and shall include the

decision being appealed along with the name of the project and the date of the decision, the name of the individual or group appealing the decision, their interest in the matter, and reasons why the appellant believes the decision to be wrong. The appeal must be filed with the Community Development Director within ten (10) working days after the date of the decision being appealed.

#### **LAPSE OF APPROVAL**

Section 20.05.020.C states 'Unless the owner obtains a building permit, or if no building 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.'

#### **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.

#### **EXHIBITS:**

The following exhibits were offered and entered into the record.

- A. Planning Division Advisory Report, with 21 attachments
- B. Site Plan, dated 11/28/01 & Landscape Plan, dated 10/8/01

#### **PARTIES OF RECORD:**

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Jean Barry, Lea Bates, & Lorraine Bass  
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Edmonds, WA 98026

Pauline (last name unreadable)  
No address given

Sylvia Stuckens  
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Edmonds Planning Division