

TUMWATER CITY COUNCIL WORKSESSION

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CONVENE: 7:02 p.m.

PRESENT: Mayor Ralph Osgood, Councilmembers Joan Cathey, Pete Kmet, Ed Hildreth, and Judith Hoefling.

Excused: Councilmembers Neil McClanahan, Ed Stanley, and Bruce Zeller.

EDAC Members: Bruce Crammer, Heber Kennedy, Nancy Stevenson, Jim Hindman, Erin Carrier, and Marcus Glasper.

Staff: City Administrator Doug Baker, City Attorney Karen Kirkpatrick, Finance Director Jim Hendrickson, Planning and Facilities Director Mike Matlock, Development Services Director Roger Gellenbeck, Public Works Director Jay Eaton, Information Services Manager Brian Scharber, Planning Manager Tim Smith, and Recording Secretary Valerie Gow.

Others: Brian Murphy, Berk & Associates, and local citizens David Read, Tom Oliva, Nancy Partlow, Tracy Johnson, George Spencer, Paul Marchant, John Fedor, Terry Kirkpatrick, and Tom McClain.

EMAIL PROTOCOL

Manager Brian Scharber reported on new state laws impacting the City as well as potential public disclosure requests involving email communications. Each Councilmember will receive an email account, which should be used for all City transactions. The email account shouldn't be used for personal business. When the City receives a public disclosure request, the request only pertains to City accounts and not personal accounts. The new state law pertains to archiving email. After 15 days, the Council can empty the trashcan of any deleted emails. The City's system automatically archives emails after 15 days.

Manager Scharber offered to meet with Councilmembers individually to provide assistance on their respective email accounts.

CITY OF TUMWATER STRATEGIC PLAN:

Brian Murphy, Berk & Associates, provided an update on the development of the Strategic Plan (SP) and the Economic Development Plan (EDP). The SP is a Council-driven plan, which has been drafted with a public hearing held on the draft plan October 6, 2009. There was some interest in delaying the completion of the SP until after the Economic Development Advisory Committee (EDAC) completes its work and presents a recommendation on finalizing the SP. The SP is an umbrella providing direction for the EDP, City planning processes, and policy measures. The SP supports goal 3 within the EDP pertaining to economic development and goal 3 pertaining to placemaking, as well as other topics.

In developing the SP, the Council provided direction to the EDAC about the direction the Council would like the City to pursue in economic development. The Council posed some questions, set some limits, and established several

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priorities for the committee to consider.

In its work since the committee was reconstituted, the committee has met four times. The first meeting included a discussion on the charge of the SP and the Council's direction. Subsequent meetings have focused on other topics.

Mr. Murphy presented the EDAC's preliminary recommendations on development climate, business retention and support, and the brewery property. The committee has completed additional work as well on the EDP. The committee is scheduled to meet one last time on December 10. At that point, the committee will review all the topics and discuss the results of the worksession discussion. Following that meeting, a draft EDP will be created for forwarding to the Planning Commission and then the Council for review and modification, if necessary, and final adoption.

Development climate is a clear priority in the strategic planning process as well as the EDAC's work. The term of predicable and efficient experiences have been used by both groups as an important factor. Much of the work focuses on that aspect.

Mr. Murphy reviewed a summary of significant strategies regarding development climate drafted by the EDAC:

- Prioritize the provision of predictable and efficient experiences.
- Promote high quality services and a Development Services culture with a strong customer-service orientation.
- Provide consistent, accurate, and easily understood information.
- Establish timelines for routine tasks and processing, including deadlines for response to inquiries by business owners and potential developers.
- Specific process/code changes:
 - Timing the collection of impact fees to coincide with the beginning of the impact to City services, collecting some fees at occupancy.
 - Allow development projects to vest to zoning and other land use and environmental control ordinances in effect on the date a project receives formal site plan approval from the City.
 - Accept requests for expedited permit review (no other permits to be delayed; contracting for permit review services as an option, with costs to be covered by applicant).
- Obtain regular feedback about the City's development regulations and processes: annual Economic Development Roundtable, customer satisfaction survey, randomly selected interviews.
- Ongoing dialogue with key constituencies: residents, business owners, and development community.
- Promote Tumwater as an attractive place to invest.

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- Communicate that investment is desired and that improved processes are in place.
- Rework the City's website through a user-centered design process.
- Aggregate and communicate development opportunities by geography or allowable use.

Mr. Cramer emphasized the three bullets under specific process/code changes and indicated that some of the reasons the City hasn't experienced much development in the Town Center and on the brewery property is because there isn't a clear development process for a developer to approach the City with a potential development proposal. He encouraged the City to consider a process that is more inviting to developers as well as moving forward on the timing in assessing impact facts closer to occupancy when the impacts to the City occurs rather than at the beginning of the development process.

Ms. Stevenson referred to code changes and the idea of communicating well with developers and others as to what the community wants and ensuring that during the development planning process the City is clear about the type of development the community is seeking.

Mr. Kennedy said the issue of collecting impact fees at time of occupancy is significant. The Port has a client that has received site plan approval. The client's impact fees will be approximately \$6.60 per square foot. For a 130,000 square foot building, impact fees will cost the client approximately \$750,000. That's a substantial amount financially to any developer.

Councilmember Hildreth said the committee engaged in a long discussion at the last meeting about the timing associated with vesting. It is understood that the rule for timing is a timing issue rather than any change in the regulations. Mr. Murphy said staff provided some recommendation on when vesting could occur. By the time a project submits a formal site plan approval; the project is well articulated and clear, and if developed, provides the City with sufficient information on the quality of the development while still affording flexibility to the developer on the finite details of the development.

Mr. Cramer said zoning should be clear on setbacks, height allowance, and landscaping requirements so that developers can determine whether their particular project is buildable. Some judgment calls occur as the process moves forward, which doesn't provide consistency to developers.

Mayor Osgood asked about those circumstances where the project is vested after a formal site plan approval and the proposal suddenly has some major changes later in the process. He asked about the threshold that would require the project to re-vest or for the project to lose its vesting. Manager Smith replied that situation would need to be spelled out in the process. Currently,

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if that situation occurs with a change in the site plan, it's not a vesting issue. Director Gellenbeck said it currently depends on what the applicant is applying for and when the applicant is applying to determine whether the project vests. Site plan elements generally vest a land use application. However, the building permits vests the regulations and the actual structures planned for the site. The warehouse project on Kimmie is a good example. The developer is developing a site plan for spec warehouses. However, the precise occupancy is unknown. Until that occurs, the actual use is not identified. The site plan is more conceptual in that it's industrial general use. Each warehouse use has different standards. For a formal site plan, the applicant must identify the location of the buildings, sizes, but not specific occupancies.

Councilmember Kmet questioned whether that information is critical to determine traffic impacts and environmental review. Director Gellenbeck agreed that it's critical to have that information. There are three different categories of industrial uses involving manufacturing, warehouses, and general industrial. Dependent upon the use, the rates for impact fees are different. Councilmember Kmet expressed concerns that the proposal locks the City into a process that excludes the public from providing input early on during the development review process. There would need to be an enhanced upfront public review to ensure that public concerns are addressed during the early stages of the process. If impacts can't be determined then vesting shouldn't occur. The City must be careful. The law is already very liberal in terms of vesting. He said he would be concerned about weakening the City's development standards. Additionally, the City has a court case pending and it wouldn't be advisable to change the vesting rules at this point. It's a difficult concept to understand conceptually, but it's important because it determines when the public can challenge a project. It would need to be descriptively described regarding when a project vests, what triggers further review, and how the public provides input.

Mr. Cramer suggested the public review should occur through the zoning process because the City shouldn't create situations where the public either supports or opposes a particular proposal if it adheres to existing zoning. That type of situation doesn't lend to a good development climate.

Councilmember Kmet commented that most citizens don't comment when zoning is enacted, it typically occurs when a proposal is presented that may impact them. Mr. Cramer disagreed and indicated it doesn't lead to a good development climate because the City is essentially eliminating all stability in the development process. Councilmember Kmet indicated that many states do not allow vesting until the groundbreaking occurs. The state is liberal in terms of vesting policies.

Ms. Stevenson asked about the current process incorporating public comment. It appears that if a public process occurs initially, it would be helpful for the

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development proposal.

Councilmember Hildreth agreed public input should occur prior to vesting. It's important to maintain consistency so that when developers are vested the rules can no longer change. It makes it difficult for developers following the process to have the rules change mid-way through the process.

Councilmember Kmet said the existing code incorporates timelines. He asked about the additional timelines proposed by the EDAC. Ms. Carrier said the committee didn't establish any specific timelines, but believes the developers should know that within a specific timeframe they can move forward on a specific project. Apparently, some applicants have waited longer than a year before they can move forward on the project.

Mr. Kennedy said if an applicant is at the formal site plan review stage and has completed SEPA and the layout/planning, public comment has already occurred during the SEPA process. Manager Smith said when the discussion first began it was to model Olympia's process, which vests site plan application. Staff recommends vesting at site plan approval because it's prior to issuance of a building permit and typically projects have already undertaken a SEPA or obtained discretionary permits. Mr. Kennedy said the issue pertains to the cost to develop all the plans, which may or may not occur. The recommendation is to move vesting with no intent to circumvent the process to obtain a formal site plan review.

Councilmember Kmet said he's unsure what the proposal intends to solve as the site plan review essentially conceptually vests a project from that standpoint. At that point, the building permit is essentially an administrative detail. He said he's concerned that the process is pushed back to the point where the public is not involved. The public is very concerned about how development is occurring in Tumwater and it wants more opportunities for public involvement. Some of the recommendations do not lead in that direction, which is of concern.

Several EDAC members said that it wasn't the goal of the committee to limit public input, but to ensure the development process is competitive with the surrounding market to ensure investors are not locating in other jurisdictions. Councilmember Kmet suggested the committee should clarify its recommendation and clearly articulate the intent.

Ms. Stevenson said she views the issue in the context of the SP. In terms of the brewery property, the public process that she envisions is enhanced by the committee's recommendation. The SP includes a visioning process for the brewery property. It might be better to delay any change in vesting until any actions recommended in the SP for rezoning the brewery property is accomplished to ensure everyone is clear on the zoning in place and what the

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community is visioning for the property.

Mr. Murphy added that the committee also recommends that the regulations and processes should be established prior to making any changes to ensure consistency and as a way to engage the public in the process. He suggested having the committee continue working on the process to address some of the concerns while pursuing the desire to refine the development process to improve consistency and service.

Director Gellenbeck provided an update on the City's implementation of the Latimore recommendations for the Development Services Department. Many of the recommendations have been implemented including a new automated permit system, development checklists, development applications, and checklists designed to identify what submittal elements are necessary to complete the application process. The big stumbling point in the review process included applications submitted and found later to be incomplete, bogging down the project review system. The goal is to conduct an upfront analysis to ensure all elements necessary to perform a review are included. This was similar to the recommendations the City of Olympia implemented. However, some of the elements of the Latimore recommendations have been curtailed because of the current economic situation.

Mayor Osgood noted that staff is sensitive to development applications dependent upon the project. For those projects that are popular and supported by the community, staff tends to move the process through. For those projects involving public discourse and opposition, staff is careful during the development process. It's not necessarily about bad service, but trying to understand and be predictable in all processes.

Mr. Murphy said it also pertains to attitudes and culture, which has been discussed in depth by the Council. It comes down to the development climate, culture, and environment, which is about inviting and attracting development to the City, which is a change for the City.

Mr. Cramer commented that another issue is the City's form of governance and the lack of a strong City Manager. It's an issue that should be reviewed.

Mr. Kennedy said the perception by the development community is that doing business in Tumwater leads to uncertainties within its development process.

Councilmember Cathey added that there were also discussions about how some of those issues are dictated by the amount of Port property located in Tumwater, working together, and issues associated with development predictability. Tumwater has the greatest amount of Port-owned property, which impacts the City's development climate and possibilities. Mr. Kennedy questioned how that impacts development predictability from the

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Port's viewpoint. Councilmember Kmet said development is occurring, but it's occurring on private property and not on Port property. Something is occurring between the private sector and the Port in terms of why buildings are not constructed on Port property. There appears to be something or a perception about the Port process that is steering development to private property. It's a critical issue especially as the Port is the largest landholder in Tumwater. It's important to examine why that situation is occurring and whether it pertains to leasing terms, tax structure, or other issues. If Tumwater is going to fulfill its vision, Port properties are part of that vision. Mr. Kennedy said in most cases, developers would rather purchase property rather than lease property. The Port is unable to sell its property. The issue is development predictability and it doesn't particularly matter if the applicant is a Port client or a private developer.

Councilmember Kmet commented on the recommendation to explore collection of impact fees at time of occupancy. There are some situations where occupancy occurs and impact fees haven't been paid. If a recommendation is implemented, it needs to be very targeted and there should be bonding requirements to ensure the fees are paid. Ms. Carrier said she had the same concerns. The recommendation is collecting impact fees at the time the developer submits for the certificate of occupancy. Councilmember Kmet said often times, with respect to residential development, occupancy often occurs before fees are paid. It's important not to restrict the City administratively in obtaining impact fees.

Mr. Glasper said the conversation appears to be a struggle with the City's risk tolerance. Any actions that move forward will have some level of risk. However, the plan is for economic development and some actions will have some level of risk. The Council will need to decide the level of risk it's willing to take. The Council must recognize that there are multiple stakeholders involving both citizens and developers. What the EDAC heard from the development community is that there are barriers for doing business in the City. As a priority, the City needs to open the door or figure out how to open that door if the City really wants development to occur. Perhaps the conversation should focus on what risk the City is willing to accept as some proposals may have some consequences that the City may not be willing to accept.

Councilmember Kmet acknowledged that it's an excellent point. The issue he heard from many citizens and small contractors is more focused on administrative issues involving delays in obtaining permits and perception of inequities with some proposals processed out of sequence. Some of those concerns are historic carryovers prior to the Latimore recommendations and the huge workload staff endured during the development surge the City experienced several years ago. The current administration has taken many steps to address many of the issues. It's important to solve the real problems while not creating new problems. All of the recommendations are appropriate

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to review to ensure the City is competitive.

Councilmember Hoefling said she's interested in what impacts the City. In terms of perception, when the City attracts a state office building of several hundred thousand square feet, it includes impervious surface and disruptions to the adjacent neighborhoods while City officials rush to attend the groundbreaking ceremony. Those state office buildings have the same footprint and traffic impacts as well as quality of life issues as a warehouse or a large development without many of the same benefits. It appears that there is a distinction on the Council that development is something to be concerned about while state office buildings are something to be celebrated. Yet, they both have the same impacts to the City in terms of traffic, footprint, impervious surface, and impacts to neighborhoods. However, locating a Wal-Mart leads to worries about the impacts to local schools and residents. She suggested that the Council has two different perceptions about what is good and bad for the City, which is a dangerous position for the City to take. She suggested the City should cease using language about particular types of development, but consider the impact of development regardless of the type of development.

Councilmember Hildreth agreed it's important to protect the City with respect to collection of impact fees. However, cash flow for any business regardless of size makes it difficult to pay thousands in impact fees months or years before occupancy. That issue definitely stifles development. It's important to address the concern that the City collects the fees prior to occupancy of the building.

Discussion ensued on the recommendation surrounding the expedited review process. Ms. Carrier said the intent of the recommendation is to afford an opportunity for an applicant to pay extra to process an application. The committee discussed fairness of the process and ensuring it's part of the process.

Mayor Osgood asked for examples of recent projects impacted by the City's development process. Mr. Kennedy cited the Wal-Mart project as one example as well as Al's Welding, which moved its facility to Lewis County. Ms. Carrier cited the Lemon Grass restaurant as another example of development issues. Mayor Osgood noted that often there are problems and that the issues are not often what they may appear to be. Mr. Murphy added that during some interviews with the development community, there is a perception that it's difficult to develop in the City. It's a perception that the City needs to actively overcome. Some of the recommendations are intended to address specific instances where changes need to occur.

Mr. Murphy reviewed strategies develop by the EDAC for business retention and support:

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- Communicate frequently that existing businesses are valued.
- Recruit synergistic businesses to create strong clusters.
- Understand and seek to respond to the needs of the City's existing businesses:
 - As staffing allows, create a "Business Ombudsman" to serve as a first point of contact for businesses requesting assistance from the City.
 - Provide site location and permitting assistance services for businesses seeking to expand.
 - Form a "red flag committee" comprised of City and public and private sector partners designed to anticipate and respond to businesses who are considering leaving the community.
 - Conduct a "business survivability" survey with the City's partners to understand the most critical needs of the area's businesses.
 - Survey existing businesses regularly regarding their infrastructure needs and respond to changes in requirements.
- Work with partners: shop local campaign; local business director; trainings; business mentoring; grant or loan program for façade improvement, landscaping, working capital.
- Encourage the success of home-based businesses:
 - Balance a desire to avoid establishing barriers to home-based businesses with prudent mitigation of potential negative impacts on nearby residents.
 - In collaboration with partners, track and evaluate the significance of the City's home-based business sector, evaluating the likely costs and benefits associated with support strategies.

Councilmember Hoefling asked whether the committee discussed ways to create a business district. Mr. Murphy cited examples of business districts organized in the City of Seattle. For example, one district could include Capitol Boulevard businesses. The effort would need to be cohesive and supportive as not all areas can be successfully designated as a business district. The concept was a starting point for the committee's discussion.

Mr. Kennedy cited the importance of development occurring from existing businesses that are expanding and the importance of not overlooking that aspect of development.

Mr. Glasper said the recommendation centered on finding out more about resource needs of local businesses, such as small businesses that may need information on loans or assisting them in working through some barriers the City may be able to resolve, such as access issues for the business.

Councilmember Kmet inquired about potential survey opportunities to

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ascertain business needs. Mr. Murphy said another concept is an economic development roundtable, which might be combined with a survey for an interactive process.

Mayor Osgood asked for additional information on providing site location and permitting assistance services. Mr. Kennedy said often, businesses are not located within the right zoning district to expand. It's often necessary to work with businesses on their expansion plans and capabilities to consider a better location that will be more effective for the business in the long term. Often businesses don't understand the process for expansion and the entire range of factors to consider. The example at this point is a suggestion for consideration. Councilmember Hildreth cited the recent exit of the rental store that was limited in expanding the business. Subsequently, the business relocated to a site in the City of Lacey, resulting in the loss of a Tumwater business.

Mr. Murphy reviewed strategies developed for the brewery properties.

The committee developed a goal stating, "Making strategic use of the brewery properties to strengthen the City's economic base." The committee considered different geographic areas and developed recommendations:

- Encourage dynamic mixed use development of the brewery properties west of Capitol Boulevard.
 - Encourage uses that take full advantage of the unique characteristics of the brewery properties to create a regional draw, considering destination retail, office, and/or housing uses.
 - Consider applying Mixed Use zoning to encourage dynamic uses.
 - Ensure public access to the river is provided with redevelopment.
- Encourage appropriate uses east of Capitol Boulevard within the Deschutes River Valley.
 - Encourage uses east of the railroad track that take advantage of existing rail access, are compatible with seasonal flood events, and will not negatively impact nearby residential uses
 - Consider establishing a Light Industrial overlay zone to narrow the types of uses that are allowed in this area.
 - Examples of uses that may be appropriate: wholesaling, manufacturing, assembling, warehousing (nondistribution), and storing, fabricating, or repairing goods.
 - Examples of uses that may not be appropriate: warehouse distribution centers & general types of commercial and retail uses.
 - Concerns to be mitigated in determining specific

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allowable uses compatible with nearby residential uses include the scale of development, traffic, and noise and air pollution.

- Ensure public access to the river is provided with redevelopment.
- Ensure development of properties adjacent to Cleveland Avenue is compatible with nearby residences.
 - Rezone the four Light Industrial-zoned parcels to allow residential and/or small-scale neighborhood commercial uses.
- Encourage use of the Historic District and Old Brewhouse as a regional tourism draw.
 - Provide pedestrian connections to the Historic District from the brewery properties west of Capitol Boulevard.

Mr. Murphy said some of the actions regarding rezoning are the committee's recommendation to create mixed use opportunities. Mr. Hindman said one of the issues pertained to the description of the brewery property as one unit with the committee acknowledging that the property has different geographic features. The committee segregated the properties to take advantage of the location and acknowledging the community's desires in terms of redevelopment potential.

Mr. Murphy said the brewery property provides good opportunities but presents significant challenges.

Councilmember Kmet agreed the recommendations are useful. He suggested a community visioning process may be warranted to help guide development regulations for the property and to assist developers in pursuing development opportunities. New uses must be compatible with the residential neighborhood in the Palermo area as well as recognizing the potential flooding issue. He suggested conducting a hydraulic study for that area of the river because of the way the river is channeled, which creates a hydraulic control point leading to pressure points in the river. The river channel at some point should be considered for restoration, which may involve purchase of private property.

Mr. Cramer said any study should involve the brewery property owner. The other issue is the railroad tracks, which can be viewed both as a con and as a pro. He said he understands that Union Pacific has never given access permission along the rail line.

Discussion followed on different sections of the brewery property and concerns with development occurring in areas prone to flooding.

Mr. Glasper acknowledged that more work is needed involving a visioning process and actionable items. The committee recognizes that the recommendation is lacking and refers to "recommending, referring, and

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suggesting,” rather than implementing some concrete recommendations.

Mayor Osgood said it appears the committee is recommending that the rezoning process should begin sooner rather than later. The committee agreed.

Councilmember Kmet commented on the committee’s initial frustrations and reminded everyone that the growth management process was an incremental process over time. All the recommendations will result in incremental change moving the City forward. He expressed appreciation for the committee’s work.

Mr. Kennedy said the committee discussed the competitiveness of the City with respect to neighboring jurisdictions. The committee’s goal is ensuring Tumwater is competitive with its neighbors, which speaks to some of the committee’s suggestions.

Mayor Osgood referred to Mr. Glasper’s comments regarding risk tolerance especially in terms of impact fees because over the years, the City has heard that it’s a huge barrier for development to pay the fees upfront. It will require stepping back, determining the risk associated with vesting, and impact fees versus progress the City can take in moving forward to develop a positive development climate. It will involve incremental steps.

Councilmember Hoefling referred to the minutes of the EDAC meeting and clarified that a tourism district is developed by a group of hoteliers who decide whether to contribute to a marketing effort.

Ms. Stevenson reported the brewery property is critical to the community and historically has been a focal point. It’s important to properly plan for its redevelopment.

PUBLIC COMMENTS:

John Fedor said if the City wants to promote development it must take steps rather than pursuing theories. One step is considering emerging areas of the City, such as the Town Center, Littlerock Road subarea, 93rd and I-5, and the annexation area west of Littlerock Road. One of the reasons for delays in development is the lack of infrastructure. He suggested that the collection of impact fees should be used to construct infrastructure in emerging areas to promote new development rather than using the impact fees in other locations. It’s a matter of creating synergy in those areas by ensuring infrastructure improvements are constructed to prompt development.

George Spencer questioned whether the suggestions also need to consider a sunset review of vested properties that haven’t been developed within a period of time because they are often able avoid new regulations in effect that have been implemented in the ongoing years. Mr. Kennedy said the City of Olympia imposes a two-year sunset deadline.

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Nancy Partlow said developers have the funds and lobbyists to effect change that citizens don't have. It took 10 years for the City to pass an outdoor lighting ordinance. She said she'd like to see provisions for citizens, such as environmental changes. The development on Tumwater Hill was vested but hasn't been developed for years. The Wal-Mart delay was undertaken through the SEPA process. Citizens lost the appeal because the SEPA process is weak in terms of how citizens can pursue appeals.

Tom Oliva said the scope of the project was to look at Tumwater to help generate development and tax revenue. He pointed out that citizens live in an urban metropolitan area and that citizens should work together to bring different types of businesses to the urban area without unnecessarily duplicating business and services throughout the local area. He suggested paying attention to those linkages. Another wonderful private/public partnership is the Rivers Edge restaurant at the Tumwater golf course.

Ms. Partlow stressed the need of communicating the importance of existing buildings. Attraction of big box retail will likely mean some small businesses will close.

Councilmember Hoefling thanked EDAC members and Mr. Murphy for their work on the document. Mayor Osgood expressed appreciation to the committee and the Council for its work on both the SP and the EDC. The committee's commitment to the City and the community is appreciated.

ADJOURNMENT: **With there being no further business, Mayor Osgood adjourned the meeting at 8:55 p.m.**

Prepared by Valerie Gow, Recording Secretary/President
Puget Sound Meeting Services