

## PLANNING BOARD MINUTES

### June 25, 2003

Chair Crim called the regular meeting of the Planning Board to order at 7:00 p.m. in the Council Chambers, Public Safety Complex, 250 – 5<sup>th</sup> Avenue North.

#### PRESENT

Jim Crim, Chair  
James Young, Vice Chair  
Virginia Cassutt  
Janice Freeman  
Ronald Hopkins  
Cary Guenther

#### ABSENT

Judith Works  
John Dewhirst

#### STAFF PRESENT

Rob Chave, Planning Division Manager  
Steve Bullock, Senior Planner  
Karin Noyes, Recorder

Board Members Dewhirst and Works were excused from the meeting.

#### READING/APPROVAL OF MINUTES

BOARD MEMBER FREEMAN MOVED TO APPROVE THE MINUTES OF JUNE 11, 2003 AS CORRECTED. BOARD MEMBER YOUNG SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY, WITH BOARD MEMBER CASSUTT ABSTAINING.

#### ANNOUNCEMENT OF AGENDA

There were no changes made to the proposed agenda.

#### REQUESTS FROM THE AUDIENCE

Roger Hertrich, 1020 Puget Drive, said that during the past week he attended a meeting of the newly formed Highway 99 Task Force. He pointed out that the economic attention of the City is being directed towards Highway 99 as the only real viable area for commercial development. He noted that there did not appear to be a representative from the Planning Board on the task force. Board Member Crim advised that Board Member Young is a member of the task force.

Mr. Hertrich said he finds it quite interesting that the history of Highway 99 was introduced as a few errors on the City's part in regards to the development that was allowed. At the same time, they see multi-family development in areas that could have been used for larger commercial development. The same is true with the medical use development that is located right along the edge of Highway 99. Multi-family residential and medical uses do not produce the tax base the City needs. It was discussed at the task force meeting that auto dealerships probably generate the highest tax return for the City. Just a few of these businesses could provide as much tax revenue as all the other businesses located along Highway 99 combined. But they need large areas in order to be successful.

Mr. Hertrich said the theme of the task force meeting seemed to focus on the belief that the City has made some errors in the past and they need to look at how they can expand the commercial uses along Highway 99. It was indicated that perhaps

some rezones of the multi-family residential areas would be necessary to expand the commercial zones. He said he would hope the Board would get involved in this process early on because it is important for the economic life of the City. He would also hope that anything that is done in the future in regard to Highway 99 keeps in mind the fact that residential and medical uses are not really the kinds of uses that benefit Edmonds the most. Highway 99 is a large commercial zone that can provide a significant tax base for Edmonds.

Mr. Hertrich referred to the presentation provided by Mr. Walters from the WCIA at the Board's last meeting. Mr. Walters presented a lot of information, and he would hope that the public would be given an opportunity to comment on all of the information, recommendations and new ideas that were gathered at that meeting. He said he does not believe the subject of the Hearing Examiner being the final decision maker should be closed to the public—especially when new information is still coming in. The public should be involved to help disseminate the information. Board Member Crim emphasized that any time a new ordinance is proposed, a public hearing would be held by the Planning Board before they make a recommendation to the City Council. He added that the Planning Board values the input received from the public.

Fennis Tupper, 711 Daley Street, said that if the Board really does value and encourage citizen involvement in the planning process, the citizens should be allowed to respond to the issues that were raised by the representative from the WCIA. He said he would like the Board to respond as to whether or not the public would have an opportunity to address the Board on the issue at a future meeting and if proper notification would be provided. Board Member Crim again stated that the Board would hold an advertised public hearing on any proposal related to the design review process prior to making a recommendation to the City Council.

#### **QUARTERLY REPORT ON WIRELESS FACILITY REGULATIONS**

Mr. Bullock provided a brief update on wireless communication facility regulations. He advised that the City adopted its wireless communications regulations in 1995, and there have been no changes since that time. However, the technology has changed significantly, and the carriers' systems have matured to the point where some of the issues that were significant when the ordinance was drafted have changed. When the City Council recently approved a new franchise agreement for the wireless communications industry, they directed the staff to provide an update on the wireless communications facility regulations to both the Planning Board and the City Council. He recalled that when the ordinance was first adopted, the greatest concerns were related to the large monopole facilities and lattice tower structures that were greater than 100 feet in height, with antennas placed all over them. Now most of the carriers have systems that provide blanket coverage in the area. But in order to fill in the gaps in their coverage, they are locating small facilities on existing structures or replacing the old structures with new ones.

Mr. Bullock provided pictures of some of the existing structures within the area to plant some thoughts as to the types of changes that could be made to better address the issues that the City, the customers and the carriers are facing. He described the following existing facilities:

- **At Westgate:** This tower is located in the neighborhood business zone, which allows a height of up to 60 feet. The carrier got together with the utility company (PUD) to change out one of their poles with a new pole that could house the wireless communications equipment, as well. While the pole ended up being a little taller, no new pole was installed in the area. He said that this project did not end up being as tidy as staff would have wanted it to be, and they would like to see the wires put inside the hollow metal pole.
- **Behind the Chevron:** This pole is one of the more tidy applications. The antenna sits on the top, but it appears as one single pole. The wires are located inside the pole rather than on the outside. The pole seems to disappear in the trees and background.
- **Firdale:** This is also an attractive pole. The carrier has done a lot to try and conceal and screen the impact of the facility.
- **76<sup>th</sup> and 196<sup>th</sup> Streets:** This situation is a change out of an existing pole, but rather than a hollow metal pole, a wooden pole was used. The carrier extended the height of the existing pole to accommodate the wireless communication facility on top. While this is allowed in the neighborhood business zones, the carriers are also expressing an interest in the residential zones. The code encourages antennas to be mounted on existing

structures without increasing the height. In addition, the PUD has specific separation requirements and the carriers want to locate their facilities as high as possible. This particular pole is located in the City of Lynnwood, and they allowed the carrier to extend the height of the pole to provide for the separation requirement as well as sufficient height to meet the carrier's needs. This is a fairly clean, unobtrusive structure.

- **A monopole:** This monopole provides a location point for four different carriers, and is probably the most attractive structure of its kind within the City.
- **Stevens Hospital:** There are groups of antennas placed in two different locations on the Stevens Hospital site. The intent of the ordinance was to encourage companies to locate the antennas on existing structures and blend them into the color and texture of the façade. The structures found at the hospital are good examples of this concept.
- **Five Corners:** There are two carriers that have located equipment on the water towers at Five Corners. There is room for other carriers to locate equipment on the towers, as well.
- **Top of Main Street:** An antenna was placed on one of the power poles that already had sufficient height to meet the carrier's needs. However, there are some conduits running up the side of the pole. Staff suggests that carriers be required to replace existing wood poles with metal poles that are hollow so that the wires can be placed inside and out of view.

Mr. Bullock advised that certain portions of the ordinance work well for the City, but there are some things that could be changed to encourage carriers to continue to do good applications that fit into the landscaping and disappear from general view. There are things the City could do, as well, to assist the carriers by allowing poles to be a little higher to enable the carriers to find existing sites that will work for them.

Board Member Young inquired if the carriers are moving into another phase where they are looking to fill in their blank spots for coverage. Mr. Bullock said that is what they are experiencing in Edmonds. Most have service along Highway 99, SR 104 and the downtown area, but there are certain places throughout the City where they all experience dropped calls. They are trying to place sites throughout the City to fill in holes and create a more consistent coverage.

Board Member Young inquired if the carriers would start to use the residential areas more to enhance their coverage once all of the commercial areas have been utilized. Mr. Bullock answered affirmatively, and pointed out that the current code allows micro facilities in residential zones on existing structures. About 85 percent of the time, carriers place their facilities on existing PUD poles. However, it is difficult to find existing poles that are high enough to meet the carriers' needs while providing the separation that is required by the power company. He suggested that the City could change their regulations to be more accommodating while at the same time, ensuring that the facilities fit into the landscape of the community.

Board Member Young noted that all of the examples provided by staff illustrate facilities that are located in commercial zones with the exception of the one on Main Street. He inquired if staff anticipates that the Board would be asked to consider some code changes in the near future. Mr. Bullock explained that the City Council directed the staff to provide a report on wireless communication facilities. This report may result in the Council asking the Board to consider amendments to the regulations.

Board Member Crim inquired if there is currently a mechanism that would allow wireless communication carriers to request a higher pole by obtaining a variance or a conditional use permit. Mr. Bullock answered that a carrier could apply for a variance to exceed the height limit in the single-family residential zone, but because it would be difficult to get approval from the City, none of the carriers have chosen to go this route.

Board Member Hopkins referred to the last paragraph of the memorandum from staff related to panel antennas being similar to whip antennas and the need to treat them in a similar fashion. Mr. Bullock explained that the panel antennas have ended up looking more like the whip antennas than was originally anticipated when the regulations were approved. That is why staff is recommending that perhaps they should be considered similarly.

**PUBLIC HEARING ON REZONE REQUEST (FILE NO. R-03-47)**

Board Member Crim inquired if any of the Board Members received communications regarding the proposed action that could be viewed as a violation of the Appearance of Fairness Law. None of the Board Members expressed a concern. No one in the audience voiced a concern, either.

Mr. Bullock entered the staff report into the record as Exhibit A. The letter dated June 24, 2003 from Mr. and Mrs. Best was entered into the record as Exhibit B. Mr. Bullock used a power point map to identify the subject property. He noted that while some of the properties in the area are located outside of the City limits, the area surrounding the subject property is all part of Edmonds. He emphasized that the subject property does not front onto 238<sup>th</sup> Street. He explained that the properties located to the north and west of the subject property are all zoned and developed under the general commercial zoning classification. Properties located to the south and the east are zoned RM-2.4. The properties to the south and east of the other properties owned by the applicant are zoned RM-2.4, and the properties located across the street to the south are zoned RS-8.

Mr. Bullock advised that the subject property for the rezone is Lot C of short plat S-15-87. In 1987 the City Council approved a contract rezone for the parcel that changed the zoning from RM-2.4 to CG with the condition that the property be used for accessory parking to the adjacent Sunset Building. The contract rezone stipulated that the property could not be accessed from 238<sup>th</sup> Street.

Mr. Bullock pointed out the location of the Sunset Building, which the applicant used to own. He explained that in 1986 the applicant approached the City with an application for a contract rezone for the subject property to allow it to be used for overflow parking. Now he has sold the Sunset Building to another property owner. All of the parcels that used to use the subject property for overflow parking are all owned separately now, and the overflow parking space is no longer needed. In addition to the subject property, Mr. Bullock pointed out that the applicant also owns the remaining parcels that make up the large rectangular lot, and he would like to do a consolidated development of the whole thing under the zoning classification of RM-2.4 which is what currently exists on the remaining parcels and what the subject property was zoned prior to approval of the contract rezone in 1986.

Mr. Bullock referred to Page 3 and 4 of the staff report which identifies the criteria that must be met in order for a rezone application to be approved. In addition, the applicant's representative has provided his declaration of how the proposal meets the criteria, and this has been identified as Attachment 6 of the staff report. He said staff concurs with the applicant's declaration. He concluded that the staff recommends approval of the rezone application as proposed.

Mr. Bullock referred to the comments made by Mr. Hertrich at the start of the meeting about the Highway 99 Task Force, which has been newly formed to look at ways to enhance and encourage economic development on Highway 99. He emphasized that, at this time, there are no adopted plans for the task force. Therefore, the Board must judge the application based on the City's current policies and criteria. Mr. Chave added that Mr. Hertrich's comments at the beginning of the meeting are not part of the record for the public. If he would like his comments to be included, he must repeat them when the public hearing is opened.

Board Member Hopkins inquired if the subject property is currently developed with a hard surface. Mr. Bullock answered that the property has a gravel surface at this time.

Board Member Young inquired regarding the zoning for Lots A and B. Mr. Bullock answered that the zoning for Lots A and B is RM-2.4. Board Member Young asked if the other lots owned by the applicant are currently developed. Mr. Bullock answered that two of the parcels are developed with single-family homes, but they are considered to be underdeveloped lots.

Board Member Freeman inquired regarding the size of the subject property (Lot C). Mr. Bullock referred to Attachment 3, which provides a site plan. The subject property is 120' by 130'.

David Halinen, 10500 Northeast 8<sup>th</sup> Street, Suite 1900, Bellevue, WA 98004, said that he is the attorney representing the applicant, Mr. Tony Dipangrazio. He thanked Mr. Bullock for his thorough staff report. He said it is important for the

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Board to clearly understand the history behind the contract rezone that currently exists on the property. He referred to Attachment 3 of the staff report, which is a site survey indicating the existing use of the properties owned by the applicant.

Next, Mr. Halinen referred to Attachment 4 of the staff report, which is the actual ordinance by which the City Council changed the zoning of the subject property in October of 1987. Attached as Exhibit A of the ordinance are the Findings of Fact and Conclusions of Law for the contract rezone. He specifically referred to Findings of Fact 3, which states “the applicant’s commercial building to the northwest, the Sunset Office Building, is experiencing problems due to the lack of parking for the tenants.” He said the applicant requested that the property be rezoned to provide additional parking space for the building he owned.

Next, Mr. Halinen referred to Exhibit C, which is the Concomitant Rezone Agreement that was approved in 1987. He specifically referred to Requirements 1 and 2 on Page 2 of the document. Requirement 1 limits the use of the site to off-street parking accessory to commercial development to the north and west. There is no authorization for the property to be used for parking to meet the needs of any of the other commercial development in the area. Requirement 2 limits the public access for the parking lot from the north and/or west only. The access must also meet the requirements of the City and the fire department. Emergency access to the south connecting with 238<sup>th</sup> Street had to be provided at all times to comply with the requirements of the fire department.

Mr. Halinen introduced Mr. Dipangrazio, the applicant, and said he would be asking him some questions about the background and history of the subject property. He asked Mr. Dipangrazio to explain his relationship to the Sunset Building during the time frame of the original rezone. Mr. Dipangrazio said that the property was owned by his parents. Shortly after the building was constructed, GMAC became one of their tenants. When people failed to make payments for their vehicles, they were repossessed and parked on the property. About once a month a driver would take them away to an auto auction. Then there would be adequate parking until the lot started to fill with repossessed vehicles again. The subject property was rezoned to accommodate the additional parking needs. Mr. Dipangrazio explained that in 1991, GMAC consolidated their operations and moved to a new site where fiber optics were available. When GMAC moved out of the building they no longer had a need for the additional parking.

Mr. Halinen provided copies of a colored map illustrating the Sunset Building property, as well as the sites surrounding the subject property. He noted that in between the applicant’s property and the Sunset Building is a parcel that used to be owned by Mr. Loper. Mr. Halinen explained that while the Sunset Building project provided sufficient parking space to meet the code requirements, they found that when Thomas Escrow and Continental Mortgage located in the Sunset Building, the parking was inadequate. They ended up leasing the brown area (owned by Mr. Loper) to accommodate their tenants. When GMAC moved into the building and needed space to store their repossessed cars, the applicant obtained a contract rezone that allowed him to use the subject property for overflow parking, as well.

Mr. Halinen asked Mr. Dipangrazio if he still owned the Sunset Building. If not, he asked when he sold it. Mr. Dipangrazio answered that he sold the office building in October of 1998. Mr. Halinen inquired if Mr. Dipangrazio obtained any type of easement rights from the site that is the subject of the rezone hearing. Mr. Dipangrazio said that he did not obtain easement rights across the Sunset Building property or any other property. Mr. Halinen inquired if anyone has tried to purchase the subject property for commercial purposes. Mr. Dipangrazio answered that the person who purchased the Sunset Building also purchased the property identified in brown and the two parcels to the left out to Highway 99. Even with the widening of Highway 99 that took place a few years ago and the resulting loss of parking, there is still sufficient parking space for the Sunset Building. Therefore, there is no need of the subject property for overflow parking.

Mr. Halinen summarized that this is a situation where there was a very limited use proposed for the subject property, which was previously zoned RM-2.4. The factual circumstances that the original contract rezone was predicated upon no longer exist and the facts cry out for a reversal of the zoning back to RM-2.4 as proposed by the applicant.

Next, Mr. Halinen provided each of the Board Members with a copy of Page 33 of the Comprehensive Plan. This section deals with the goals for the Highway 99 Corridor. He said he highlighted points the Board should pay close attention to. Item C states “While commercial uses generally are located along and near Highway 99, appropriate multi-family, single-family and other transitional uses will continue to provide buffering between intensive commercial development along the

highway and residential neighborhoods to either side.” He said that from this statement one could conclude that the Comprehensive Plan contemplates continued multi-family uses on the property that is identified as the Highway 99 Corridor. Mr. Bullock identified the map as Exhibit C and Page 33 of the Comprehensive Plan as Exhibit D.

Mr. Halinen said he worked with Mr. Bissell, the Project Planner, to identify the location of the boundary line of the Highway 99 Corridor using the Comprehensive Plan Map. The subject property lies in the middle of the RM zoned area.

Mr. Halinen referred to the letter that was submitted on June 13, 2003 from Ken and Karen Nichols-Hoppe. He said it appears that their concerns are related to what the future development proposal will look like for the subject property. However, that is not the issue that is before the Board at this time. The citizens will have an opportunity, during the development application process, to express their viewpoints for consideration.

Next, Mr. Halinen referred to the letter dated June 23, 2003 from Mr. and Mrs. Best, which concentrates on flooding issues. Because changing the zoning of the property back to RM-2.4 would eliminate the possibility of covering the subject property with asphalt for parking, concerns about flooding should be decreased. The applicant does not anticipate any more or as much surface run off from the site if it is zoned and developed as RM-2.4. In addition, any issues about drainage and surface water would be addressed during the project review process.

Mr. Halinen said the second concern stated in the Best’s letter was that multi-family development would be inconsistent with the residential neighborhoods. He suggested that statement is misleading. The property is currently zoned CG, subject to the terms of the contract rezone. The adjacent properties to the east are zoned RM-2.4. While there might be single-family development on the adjacent sites now, that is not part of the City’s vision for the area.

John Bissell, Project Planner, Higa Burkholder Associates, 1721 Hewitt Avenue, Suite 401, Everett, WA 98201, provided some handouts of the City’s Comprehensive Plan and Zoning Maps. Mr. Bullock identified the Comprehensive Plan Map as Exhibit E and the Zoning Map as Exhibit F. Mr. Bissell said the applicant is requesting that the zoning for Lot C revert back to the RM-2.4 zoning that existed prior to the contract rezone. He noted that there is specific criteria that must be used by the Board when judging a rezone request, and the applicant’s review of the criteria can be found in Attachment 6 of the staff report. He summarized his response to each of the criteria as follows:

- **Whether the proposal is consistent with the Comprehensive Plan:** The Comprehensive Plan designation for the site is Highway 99 Corridor, which allows a wide variety of zones from the most intense CG to the least intense, RM. The purpose of the designation is to place high intensity commercial uses adjacent to the highway, stepping back to less intense uses and using the multi-family zones as the final buffer between the commercial uses and the single-family uses. The project is surrounded on its east and south sides by RM-2.4 zoning and on the west and north by CG zoning. The lots were originally divided when Highway 99 was a two-lane dirt road, and the intent of the zoning was to try to parallel the diagonal line of Highway 99 with a buffer zone. If a line is drawn across from the RM-2.4 designation to the south of 238<sup>th</sup> Street across to 236<sup>th</sup> Street, it is clear that it matches up with the subject property. The original intent was that RM 2.4 zoning would provide a buffer between the commercial and the single-family residential properties.
- **Whether the proposal is consistent with the purposes of the zoning ordinance and the proposed zone district.** This criteria is related to a project rezone application, which this application is not. No specific proposal is before the Board at this time. However, any subsequent proposal will comply with the requirements of the RM-2.4 zone.
- **The relationship of the proposed zoning change to the existing uses and zoning of surrounding and nearby property.** The surrounding properties are developed with commercial uses on Highway 99, but the subject property is underdeveloped. On the other side of the RM-2.4 zoned area, there is single-family development. It is important to note the topographical situation of the subject property. The elevation increases sharply leading up to the property from Highway 99. There is no viable connection between the subject property and Highway 99. The only way the site has been accessed as commercial property is from 236<sup>th</sup> Street. But there is a physiographic connection to the RM-2.4 properties that surround it.
- **Whether there have been sufficient changes in the character of the immediate or surrounding area or in City policy to justify the rezone.** The applicant believes that there have been significant changes. The contract rezone was implemented for a specific purpose to provide overflow parking for a specific use that no longer exists. Neither does the access to the site exist.

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- **Whether the property is economically and physically suitable for the uses allowed under the existing zoning, and under the proposed zoning.** The topography of the subject property makes it much more suitable for RM-2.4 development. Based on the surrounding topography and RM-2.4 zoning, the more appropriate zoning designation for the subject property is RM-2.4.
- **The relative gain to the public health, safety and welfare compared to the potential increase or decrease in value to the property owners.** As it stands right now, the contract rezone only allows for overflow parking with access from Highway 99 or the commercial office property to the north, neither of which are available. Therefore, there is no economic value for the property in its current zoning because of the conditions placed upon it by the contract rezone. If changed to RM-2.4 zoning, the property would provide an economic value to the neighborhood and the property owner. If the rezone is not approved, the site will remain vacant. There is already a problem with dumping on the site, and the problem will likely continue until the site is developed.

Mr. Bissell explained that most contract rezones he has worked with over the years include a statement that “failure to comply with the stated conditions within the contract rezone would lead to reverting back to the underlying zoning designation.” However, the language was not inserted into this particular contract rezone. All the applicant is asking for is to revert back to the original zoning. The application appears to comply with all of the findings for approval of the rezone in any case.

Debbie Kirac, 23711 80<sup>th</sup> Lane West, referred to a letter she prepared for the Board. She said she understands that this is a rezone application and many of the neighbors’ comments are related to the development of the parcel. But she wants the Board to clearly understand their concerns about the project. She said she is not an opponent of the rezone because it appears to make sense according to the Comprehensive Plan. But RM-2.4 zoning is a bit too high of a density to put next to RS-8 lots. She said she would appreciate a less dense zoning designation. She voiced the following concerns:

- Her basement, as well as her neighbor’s basement, floods on occasion. They experience surface flooding from the property located above them. But she also experiences flooding from ground water. When the site plans are reviewed, it is important that the City make sure the situation is not made any worse than it already is.
- She hopes that adequate setbacks will be required and that buffering be placed between the RS-8 and RM-2.4 zoned properties. There is a significant grade changes so the new units would look right down onto the single-family homes.
- Right now there are barriers placed on 238<sup>th</sup> Street to discourage traffic from Highway 99. These barriers are effective tools, and she would hate to lose them as a result of the new development.
- Some significant trees exist on the subject property right now, and she would like the City to protect these trees as much as possible. It would be nice if some of them could be maintained—especially the ones that are located on the property line since they provide a good buffer.
- The only access to the subject property would be from 238<sup>th</sup> Street, and there are currently several driveways located along this street. The proposal is to construct about 28 new units on the property owned by the applicant. She felt it would be possible for the applicant to develop fewer nice units that would be just as profitable. All of the units will cause the traffic in the area to increase, and she would like the City’s traffic engineer to address this concern.
- There were a few people who said they did not receive a notice from the City. Perhaps future notices can be clearly marked so that the residents do not mistake them for their water bills or junk mail.

Mr. Bullock entered Ms. Kirac’s letter into the record as Exhibit G.

Scott Hill, 8003 – 238<sup>th</sup> Street Southwest, said he understands that the rezone is a switch back to the zoning that existed previously. But he emphasized that the possible uses that can go forward if the rezone is approved should be thought about carefully. There is a significant increase in elevation as you go down 238<sup>th</sup> Street, and the subject property drops significantly. He said he has a concern about flooding and erosion if 29 to 30 units are placed on the applicant’s property and the frontage road is changed. He said the issues raised by the neighbors will be brought up again and must be considered by the City at some point in time.

Jeffrey Mar, 28024 – 238<sup>th</sup> Street Southwest, said he has lived in his home for the past 30 years. When he moved in, none of the area along Highway 99 was developed. He said he has seen the whole area develop, but he loves living there. He said that they are currently surrounded by heavy traffic, and 238<sup>th</sup> Street has had problems with people speeding and heavy traffic

created by people taking a short cut to the I-5 corridor. Even with all of the change, the character of the neighborhood is rural. He provided pictures illustrating the trees and vegetation that is found in the area.

Mr. Mar said he met with Mr. Dipangrazio and has no problem with the proposed rezone. He said he believes Mr. Dipangrazio is entitled to develop his property. But he would like to know exactly what he intends to do. The neighbors are concerned about some issues that will need to be addressed at some point. He said that while the Comprehensive Plan states that multi-family development should be used as a buffer between single-family and commercial development, there does not seem to be any plan for accomplishing that goal. Traffic along Highway 99 creates a lot of noise and pollution, and the existing trees help to reduce the impact to the neighborhood. If the property is clear cut and redeveloped, the noise level for the existing properties would be increased dramatically—especially for those four homes directly below the subject property.

Mr. Mar said he would like to know what the applicant plans to develop on the site. The increase in traffic will have a huge impact on 238<sup>th</sup>, and there are no sidewalks along the street. Right now, pedestrians have to dodge the barriers and the cars. The applicant will likely propose a major entrance to the subject property from 238<sup>th</sup> Street, and he wondered if any mitigation or greenbelts would be required to address the impacts. The neighbors would like the opportunity to review the plans and provide input.

Harold Best, 23709 – 80<sup>th</sup> Lane West, agreed that the subject property should revert back to the RM-2.4 zoning designation. But he would rather the property owner develop the property as single-family. However, he realizes that money talks and the owner will make money while the surrounding property owners have to sit back and watch the damage occur. He said the letter he sent to the City was in reference to flooding. Several years ago at Christmas there was a significant snowstorm and then it rained. They ended up with a river through their yard and their basement flooded. Regardless of what is developed on the site, the City must make sure that the homes located below the subject property are protected from flooding.

Devon Baker, 8016 – 238<sup>th</sup> Street, said he agreed with the previous speakers. In regards to buffering between the commercial and single-family residential uses, he said it would be great to also have a buffer between the single-family and multi-family developments. Right now their house faces directly towards the subject property, and would probably decrease in value as a result of the development. Right now, they feel comfortable leaving their windows open, but having 60 people move into the units above them will be unnerving. Mr. Baker said he and his wife are concerned that bringing commercial trucks and equipment to the area to develop the site would require the removal of the barrier on 238<sup>th</sup> Street. Traffic moves very fast through the area and sidewalks would eventually be needed. He questioned who would pay for the sidewalks and drainage that are necessary to accommodate the increased density. In addition, he questioned where the construction workers would park while the project is being built. Mr. Baker said he is also concerned about water pressure and the dust that will be created as a result of the construction. They have allergies. Also, the noise during construction can have a significant impact on him. He said he is mostly concerned about the visual aesthetics, and he would like the trees to remain. Perhaps they could plant trees along the edge of 238<sup>th</sup> Street.

Roger Hertrich, 1020 Puget Drive, said that the theme that the City has erred in their zoning along Highway 99 by creating big buffers and small commercially zoned areas and by misusing the land for medical and multi-family residential uses has taken away from the City's ability to develop a tax base. Businesses that sell vehicles contribute the highest amount of sales tax to the City, which is essential for the City to survive. He said that expanding the commercial zone along Highway 99 is a goal of the Highway 99 Task Force, and the proposed rezone is actually contrary to the City Council's effort to increase the CG zone. He said he understands why the contract rezone was done, and he thought it accomplished everything that the property owner wanted. It is odd that the application is coming forward at a time when the City is looking to increase their CG zone. He said he would think that the effort to reduce the zoning on the subject property could have been accomplished strictly by not keeping the same uses and violating the contract rezone. But since the applicant has decided to go through a formal rezone, he asked whether the staff has made him aware of the City's interest in expanding the CG zone. He suggested that this might be an opportunity to put the application on hold and keep the property as CG zoning while the City decides what to do with the other RM zones along Highway 99. This would allow for the consolidation of properties into bigger parcels which could be used for large commercial businesses that can have a greater economic impact.

Mr. Hertrich suggested that if the subject property were zoned as CG and consolidated into a large lot, the impact would be less on the neighbors than would the RM-2.4 because a commercial development would be facing away from the single-

family residential homes. Also, there would be a greater ability to buffer between single-family and commercial zones and the uses in commercial zones usually take place during the daytime hours. If all of the property in this area were rezoned to CG and someone purchased it and consolidated it, there might be enough space to put in a major car dealership where all of the activities would be located towards the front along Highway 99, creating less impact on the residential uses.

Mr. Hertrich said he realizes there is nothing the Board can do tonight to fix the land locked situation, but he wanted to go on the record as to the City's needs. If the applicant is made aware of how the City feels now about commercial zoning, there might be an opportunity in the future for someone to benefit.

Board Member Crim requested that the staff outline the steps the applicant must go through before the development of the site is approved. Mr. Bullock said that if the rezone is approved as proposed, the property owner would still have to go through the development review process. All multi-family residential development must go through a design review process, which will include a public hearing before the Architectural Design Board. They will be checking the proposal for consistency with the bulk standards as well as how well it fits into the character of the community. The applicant is considering the option of doing a consolidated application for a subdivision and design review at the same time. If this is the case, the proposal would be heard by the Hearing Examiner. There would still be a public hearing that would allow anyone interested to state concerns and opinions on the proposal. These comments would be included as part of the record.

Mr. Halinen asked that the Board recess for ten minutes to allow him an opportunity to discuss his closing remarks with the applicant.

THE BOARD TOOK A BREAK AT 8:45 P.M. THEY RECONVENED THE MEETING AT 8:54 P.M.

Mr. Halinen said that, with the exception of the last speaker, all of the neighbors seemed to speak in favor of the proposed rezone or at least were not opposed to it. The bulk of their testimony dealt with the future development of the subject property and the adjacent properties owned by Mr. Dipangrazio. However, he reminded the Board that specific issues related to the development of the sites are beyond the scope of the proceedings. These concerns will be taken into account as the project application goes forward.

As to Mr. Hertrich's comments, Mr. Halinen said that Mr. Dipangrazio is not interested in developing his property into a commercial use. He would like to continue forward with the request that is before the Board to have the subject property revert back to an RM-2.4 zoning designation. Even though there may be a task force established to explore a particular subject matter, the City Council has not adopted any official City policy on the matter. Therefore, Mr. Hertrich's testimony should only be viewed as an individual opinion as to what should be done. His comments should not be given weight as an officially adopted policy of the City Council.

Regarding the practicality of Mr. Hertrich's suggestion that the site be used for commercial development, Mr. Halinen pointed out that the topographic conditions of the site are different than the conditions further to the west where the commercial zoning and development exists. The subject property is not well suited, from a practical standpoint, because of the topographical change and the access situation.

As has been shown in the staff report and in the applicant's presentation, Mr. Halinen said that the criteria has clearly been met and the Board should forward a recommendation of approval to the City Council—especially in light of the fact that the conditions placed on the property as part of the contract rezone are no longer true.

Mr. Bullock identified the pictures submitted by Mr. Mar as Exhibit H. He said they are photos illustrating the street frontage and character of the neighborhood, and not pictures of the actual site.

Mr. Bullock said that, by his comments, Mr. Hertrich implied that the City Council has given specific direction regarding Highway 99, but that is not the case. There may be some Council Members who are in support of expanding the CG zone, but there has been no adopted plan or policy to that effect. When reviewing the rezone application, the Board and City Council are bound to make their decision based on the plans that are in place now. If the applicant, on his own initiative, chooses to hold off and pursue commercial zoning at a later date, he could do so. But the City cannot require him to do so.

**APPROVED**

Board Member Young recalled that the applicant's representative pointed out that there is no reversionary clause in the ordinance that contractually rezoned the property from RM to CG. He questioned if there is anything in the City's development code that states that when the reasons for a contract rezone cease to exist, the zoning would revert back to its original designation. Mr. Chave said that without a reversionary clause in the contract rezone, itself, the conditions of the contract rezone would be applied to the development until a rezone is approved. If the property is not in compliance, the development would not be approved.

Board Member Young inquired if the parcel would be identified on the zoning map as CG or RM. Mr. Bullock referred to the zoning map and noted that the subject property is shown as CG zoning, but there is a gray line around the parcel indicating that unique conditions have been applied to that parcel.

Board Member Young inquired if there is a compelling reason to change the property back to the underlying zoning designation of RM-2.4. Mr. Halinen said this is not the test that is before the Board at this time. The property is land locked in terms of its practical use. That is a quite compelling reason to rezone the property back to RM-2.4. For the past 16 years the property has been in a state where it cannot be used. Now the applicant is requesting an end to the situation by reverting the zoning back to RM-2.4 so that it can be accessed from 238<sup>th</sup> Street and developed as a multi-family residential use.

Board Member Young said he understands that because of the changes in the property use, there is no reason to keep the property as a parking lot. Mr. Bissell emphasized that it is functionally impossible to use the property as a parking lot because the only access is from the north, and the property owner cannot legally use this access for the site. It is not only a matter of whether the parking lot is needed or not. It is functionally impossible to use the property for parking. There is no functionally possible use for the property right now.

Board Member Young referred to Page 33 of the Comprehensive Plan, which states that appropriate multi-family uses will continue to provide a buffer between the CG and RS development along the Highway 99 Corridor. However, the applicant has not provided a statement to the effect that zoning needs to be changed in order to provide this buffer. Nor did he hear any other persuasive reason for changing the zoning designation at this time.

Mr. Halinen said he wants to make it clear that the goals for the corridor include not only commercial uses, but also buffer uses such as multi-family residential. They are not asking to put an RM zone in an area where no other RM zoning exists. There is RM zoning to the east, northeast, and south. Therefore, it is rational to revert back to RM-2.4 zoning for the subject property. The neighbors' expressed concerns would have more punch if the subject property was located directly adjacent to residential development, but it is not. It is adjacent to other RM-2.4 zoning, and that is the zoning that was in place before the contract rezone was approved.

Board Member Young again referred to Page 33 of the Comprehensive Plan, which states what the conditions are for properties, other than commercial, that are located in the Highway 99 Corridor. One of the conditions is that buffering must be provided between intense commercial development and residential development on either side. He said he is not convinced that RM-2.4 development would do a better job of buffering than the open lot which currently exists.

THE PUBLIC PORTION OF THE HEARING WAS CLOSED AT 9:10 P.M.

Board Member Crim clarified that the application before the Board is for a rezone of a particular parcel of property and not the development that might take place on the subject property and adjoining properties at a later time.

Board Member Crim said he drove by the site prior to the meeting and found the elevation change between Highway 99 and the subject property to be substantial. He said he does not believe the subject property could ever be used as part of a commercial development—especially since there is no legal access to the subject property across the properties located along Highway 99. He said he feels it is appropriate to rezone the property back to RM-2.4. Board Member Cassutt agreed.

BOARD MEMBER HOPKINS MOVED THAT THE BOARD FORWARD A RECOMMENDATION OF APPROVAL TO THE CITY COUNCIL FOR FILE NUMBER R-03-47 AS PRESENTED. BOARD MEMBER CASSUTT SECONDED

**APPROVED**

THE MOTION. THE MOTION CARRIED 5-1, WITH BOARD MEMBERS CASSUTT, HOPKINS, FREEMAN, CRIM AND GUENTHER VOTING IN FAVOR AND BOARD MEMBER YOUNG VOTING IN OPPOSITION.

The Board directed the staff to draft the Findings of Fact and Conclusions of Law to support their recommendation by using those found in the staff report and perhaps expanding upon them further.

**CONTINUED DELIBERATION ON AMENDMENTS TO THE EDMONDS COMMUNITY DEVELOPMENT CODE MAKING THE DECISION OF THE HEARING EXAMINER ON PERMIT APPLICATIONS FINAL AND CLARIFYING THE RULES OF RECONSIDERATION OF HEARING EXAMINER DECISIONS (FILE NUMBER CDC-03-60)**

Mr. Chave advised that staff provided each Commissioner with a copy of the materials that were used by Mr. Walters from the WCIA during his presentation at the last meeting. Staff also provided information related to “risk profiling” that was prepared by the City staff. While the documents do not provide specific information about each case, they do provide a summary of the City’s experience with appeals from 1998 through 2002.

Mr. Chave reviewed the documents with the Board. He noted that, by and large, the City has done well in defending themselves against claims. But they have had more claims than average. Although the City did not lose very many of their claims, they had to spend a significant amount of money for defense. He said he is not sure what conclusions about the current process could be drawn from the information. Mr. Chave advised that the information provided is regarding only one aspect of the issue—that of liability. There are many pros and cons that must also be considered as part of the Board’s final recommendation.

Mr. Chave advised that the staff evaluated the City’s history of appeals and provided information to start the Board’s discussion. He displayed a power point table that breaks down the various kinds of decisions that have been made and the appeals that have been filed. The table grouped the appeals based on who the appellant body was and what the original decision was. Between 1998 and 2003, the City had a total of 72 appeals. Of those, 13 were heard by the City council, 50 by the hearing examiner and 9 were related to project applications (appeals of staff interpretations, enforcement actions, etc.), which are not subject to regulatory reform. A staff decision related to a project application can be appealed to the hearing examiner and the City Council. Out of all the appeals heard by the hearing examiner that reached a conclusion, five were accepted and 30 were denied. The hearing examiner turned down about 85 percent of the appeals he considered. There were only ten appeals to the City Council that reached conclusion. Of those, four were upheld and six were turned down. The City Council turned down 60 percent of the appeals they considered. Of the 72 appeals that were filed, ten were upheld and 44 were turned down. The other 15 were withdrawn.

Mr. Chave referred to the second table, which illustrates the same information in a different format. It identifies the appeals, rezones and PRD’s. The final decision maker for each category was broken down between the City Council, the hearing examiner and a combination City Council/Hearing examiner. Out of 82 decisions that were reviewed, the City Council dealt with 38, the hearing examiner with 35 and the hearing examiner/City Council combined dealt with 9. He advised that the second column of the table identifies the originator of the decision and whether the decision maker agreed or disagreed. Of the 21 cases in which the Planning Board made a recommendation to the City Council, the City Council agreed with 20. The Council reviewed 14 decisions from the Hearing Examiner and agreed with 9. They disagreed with 5. The hearing examiner agreed with 30 of the 34 staff decisions that he reviewed. He concluded that while the City Council agreed with nearly all of the Planning Board’s recommendations, they only agreed with 2/3 of the hearing examiner and Architectural Design Board recommendations.

Board Member Crim referred to the 14 hearing examiner decisions that were heard by the City Council. He asked how many of these went on to Superior Court. Mr. Chave said the current information provided by WCIA relates to the five active lawsuits. Three were a result of a City Council action. Staff would have to analyze the cases more thoroughly in order to get the additional detailed information. He said the more pertinent question is how the Board views the current state of affairs. He reminded the Board that the WCIA representative stated that it has been their experience over a number of years that City Council decisions are typically more subjective to appeals. The City’s recent history has been very good. However, to the

extent that some Councils are less willing to follow the rules than others, the risks related to council decisions are greater. The WCIA representative stated that, in general, decisions made by the City Council created the most problems. While Edmonds does not have a particular problem right now, they could find themselves in a similar situation in the future.

Board Member Hopkins said his understanding of the current process is that if the hearing examiner denies an application for whatever reason, his decision could be appealed to the City Council. If the City Council agrees with the hearing examiner then their decision could be appealed to Superior Court. Applications that start with another body, such as the Planning Board or the Architectural Design Board, eventually get back to the City Council and could end up on appeal to Superior Court. Mr. Chave said that one way or another, the City could end up with an appeal to the court. The question is whether or not the City Council should be an intermediate step.

Board Member Hopkins said the proposal before them is that all appeals go to Superior Court rather than to the City Council. Mr. Chave said that is one of the options available. Board Member Crim said he feels that some decisions should be made by the hearing examiner with appeals directly to court, but in other cases, it might be more appropriate for appeals to be heard by the City Council. Mr. Chave said it appears that the Board wants to break down the list of decisions and designate the hearing examiner as the final decision maker for some and the City Council for others. He reminded the Board that the City Council discussed their concerns about being involved in quasi-judicial decisions.

Board Member Freeman referred to information she received related to what would make it more attractive for people to run for City Council positions. This information did not bring up the issue of being able to make quasi-judicial decisions. It did talk about time and the fact that City Council business takes too much time away from the Council Members' families. Mr. Chave said he would provide a copy of this information to each of the Board Members for their review.

Board Member Cassutt said that if the Board decides to recommend that the hearing examiner be the final decision maker, it would free up a lot of the City Council's time. Mr. Chave agreed that they would be able to remove items from the City Council's agenda that typically take up a significant amount of time.

Board Member Freeman reminded the Board that a citizen asked that hearing examiner meetings be held in the evening so that more people could attend. Mr. Chave said it is perfectly reasonable to have the hearing examiner meetings start at 4:00 p.m. and run throughout the evening hours to accommodate those people who work and those who do not. Staff will be looking into this option regardless of what happens with the issue before the Board now.

Board Member Crim said he likes the idea of having the hearing examiner make the final decision to free the City Council so they can talk to citizens about their issues of concern. If an ordinance needs to be changed, it could be dealt with a lot quicker if the City Council were not involved in quasi-judicial decisions, as well. Mr. Chave said that the City Attorney made this same point in his memorandum. He said that an applicant spends a lot of time reviewing the codes, and a citizen trying to fight at that late stage of the game is automatically at a disadvantage. The Council, as a legislative body, is much better equipped and should have the time to deal with codes and policies that set the stage early in the process. That is where their time could be most effective. If the City Council were able to spend more time on legislative actions, citizens would have more time on Council agendas to talk about issues that concern them.

Mr. Chave reported that staff is still working on the hearing examiner reconsideration issue. He suggested that perhaps the reconsideration process should be different if the hearing examiner makes the final decision as opposed to making a recommendation to the City Council. Board Member Crim noted that the current code states that if the hearing examiner makes the final decision, it would be advantageous for him to focus on a single item. Mr. Chave agreed that if the hearing examiner is making the final decision, the reconsideration process should be very thorough since it is the last administrative opportunity to reach a solution. However, if the hearing examiner is only making a recommendation to the City Council and the issue will be rehashed anyway, perhaps the hearing examiner reconsideration process should be different.

Mr. Chave said staff understands that there is a problem with the current reconsideration language. For instance, the code allows 10 working days for someone to request a hearing examiner reconsideration, but an appeal has to be filed within 14 calendar days. Ten working days could actually end up being a longer period of time than 14 calendar days so they could

end up with a situation where a reconsideration could be filed after the appeal period has expired. He agreed that the two processes do not fit neatly together.

Board Member Crim said that once the Board provides guidance to the staff, they could draft a new ordinance or change the existing ordinance for the Board's consideration. The Board could then hold a public hearing on the draft ordinance, after which they could either modify the draft or send it to the City Council as presented.

Board Member Hopkins said that on one hand it seems that land use decisions are cut and dried and the hearing examiner would be the ideal person to make these decisions because they are not politically involved in any of the issues. The City Council should be taken out of the decision making process for quasi-judicial issues. On the other hand, the existing review process does not work too badly and if that is the way the public wants it to work, maybe they should leave it alone.

Board Member Young agreed. He recalled that the attorney from the WCIA said that if the system was not broken, maybe they shouldn't try to fix it. Maybe they should just fine tune it a little bit. Perhaps there are some decisions that are so technical in nature that the final decision should be made by the hearing examiner. But he has not found sufficient ground for taking the City Council out of all the appeal process for all land use decisions.

In reading the chart, Board Member Young noted that there were 14 appeals to the City Council of hearing examiner decisions over the past five years. He asked how much time the City Council spent hearing appeals of hearing examiner decisions as required by the current process. Mr. Chave answered that the 14 appeals referred to by Board Member Young represent the total number of PRD and rezone applications that were appealed to the City Council. The City Council actually heard 38 total appeals over the past five years.

Board Member Cassutt expressed her opinion that PRD's and other land use issues will only become more complicated over time. She felt the Board would only be setting the City Council up for lawsuits unless they allow the hearing examiner to make the final decision on land use issues. She suggested that the City follow the example of other jurisdictions and let the City Council off the hook. It seems like the public does not really understand that the City Council has to follow the same set of rules that would be used by the hearing examiner. By not changing the process, they will be putting the Council between a rock and a hard place.

Mr. Chave said it is important to look at the value that exists for either option. For example, what value is there for having the Council make the final decision on quasi-judicial land use actions compared to the value of removing them from the process altogether. The Council wants the Board to look at the value of having them involved in the decision. They are not really looking to know whether or not the status quo is working. They want to know the value of each option and what makes the most sense for the City.

Board Member Crim suggested that if the ordinances and codes that the decisions are based on are good, the hearing examiner should be able to make a correct decision. If the ordinances or codes are not correct, the public can approach the City Council and ask that changes be made.

Board Member Freeman pointed out that regardless of who makes the final decision, it must be code driven. Therefore, it is important to have good codes and ordinances, and that is what the City Council should be working on. Mr. Chave said that was the point the representative from the WCIA was trying to make.

Board Member Crim pointed out that the Board spent about two years coming up with design guidelines that were sent to the City Council over a year ago. Yet, the City Council has not yet taken action to adopt the new guidelines. If the new guidelines had been adopted, the hearing examiner would have had even better codes upon which to base decisions. Mr. Chave noted that the City Council is in the process of approving the sign regulations that were forwarded to them by the Board.

Board Member Hopkins said he is not advocating a do nothing position, but he was disappointed in Mr. Walter's advocacy for a hearing examiner. The City already has a hearing examiner program. The issue before the Board is whether appeals should go to the hearing examiner or to the City Council, and none of his arguments really dealt with that issue.

**APPROVED**

Board Member Guenther reminded the Board that the City already has a code and has hired a professional to interpret the code for them. The hearing examiner applies the code and makes decisions based on his interpretation of the code. Allowing the City Council to hear appeals of a hearing examiner decision is redundant and unnecessary. Board Member Young disagreed. If the public wants their City Council to hear appeals of hearing examiner decisions, Board Member Young asked what would be the harm in allowing them to maintain some local credibility in their government. Board Member Cassutt felt the City Council should be spending their time making better codes.

Mr. Chave said that although it was not clearly stated by the WCIA representative, hearing examiner decisions are expert based decisions, which different than a City Council decision in that City Council decisions are subject to political pressures, etc. Mr. Walters was trying to say that if a hearing examiner decision is appealable to the City Council, then the City does not really have a true hearing examiner process. By and large, the WCIA views it much more risky to have a City Council review appeals to hearing examiner decisions.

Board Member Guenther said the issue that must be decided is whether the City Council should be a legislative body only for land use issues or if they should act as judge, as well.

Board Member Hopkins said many of the points that were made in the City Attorney's analysis of the issue were compelling—particularly those related to technical land use decisions and how little expertise the City Council has to make such decisions. The City Attorney suggested that the law is intended to depoliticize the process. He said the City Attorney's arguments lead him to be in favor of removing the City Council from the decision making process. However, because the current system seems to be working and the public seems to prefer it, he is compelled to consider that direction, as well.

Mr. Chave said that the City Attorney has provided a lot of experience to the City Council when making land use decisions. The current City Council members are astute people who have backgrounds that lend themselves to making good land use decisions. But the caution from the WCIA is that this could change with any election and the risk factors hold true on into the future. Board Member Cassutt suggested that some of the Council members still lead with their hearts and not with the facts.

Board Member Guenther said the Board's charge is to develop the best system. They have the opportunity to recommend to the City Council what they think is the best method. The City Council could still be involved in some manner, but the Board's charge is to recommend something that works better than what they have now.

Mr. Chave suggested that staff provide some options for the reconsideration process at the next meeting. He said that if the Board wants to hold a public hearing on the issue at the end of July, they should make a decision now so that proper advertising can be done. The Board agreed that they should provide more direction so staff can prepare a draft ordinance before the next public hearing is scheduled.

Board Member Crim said it appeared that many of the citizens who provided testimony at the last hearing did not understand that regardless of who makes the final decision, the same rules and codes would be applied.

Board Member Crim suggested that staff draft some options for the Board's consideration. For example, staff could break the various land use actions into two categories: those that should be decided by the hearing examiner and those that should be decided by the City Council. They should also outline a new procedure for hearing examiner reconsideration.

Board Member Young said if an action is so inherently technical in nature that it requires the hearing examiner to make the final decision, it might be possible to help those citizens who are concerned about the City Council maintaining a role in the land use review process understand that it is not in their best for the Council to be the final decision maker. But he felt that the final decision for all other actions should be made by the City Council. He said that because he is unclear about what the problem is, it is difficult for him to know how to fix it. He said he is not sure what they are trying to fix. He agreed that the City Council should be taken out of the process for actions that they are not technically qualified to decide. But in all other situations, it is important for the public to see the City Council make the final decisions. The public wants to maintain their

right to appeal to their elected officials. While he does not feel that the volume of appeals has a significant impact on the City Council, it would be interesting to know how much monetary cost is involved with the appeals.

Board Member Crim said that if the City Council did not have to deal with individual projects, they could handle the broad scope of policy better. The City would end up having clean ordinances adopted in a timely manner. Right now, it appears that the City Council makes policy decisions based on the individual cases that come before them rather than setting policy to make sure the hearing examiner decisions are good.

The Board agreed that staff should choose some actions, such as PRD applications, and create draft code language that would allow the hearing examiner to make the final decision rather than the City Council. They could also draft code language that would revise the hearing examiner reconsideration process to allow the hearing examiner to review an application one more time, at the request of the applicant or an appellant, before taking the issue to the Superior Court. Mr. Chave said he would seek advice from the City Attorney as to which items should go to the City Council for a final decision versus those that can be decided by the hearing examiner.

### **REVIEW OF EXTENDED AGENDA**

The Board reviewed that the July 9, 2003 agenda would include a discussion regarding the draft language that was prepared by the City Attorney for the amateur radio antenna regulations. A discussion of the Comprehensive Plan amendments is also scheduled on the agenda, and the Board would be reviewing the Comprehensive Plan Map. In addition, the Parks and Recreation Director is scheduled to provide a quarterly report. They will also be continuing their deliberations on File Number CDC-03-60.

### **PLANNING BOARD CHAIR COMMENTS**

Board Member Crim provided no further comments.

### **PLANNING BOARD MEMBER COMMENTS**

None of the Board Members provided additional comments during this portion of the meeting.

THE MEETING WAS ADJOURNED AT 10:07 P.M.

**APPROVED**