

PLANNING BOARD MINUTES June 8, 2005

Vice Chair Freeman called the regular meeting of the Planning Board to order at 7:03 p.m. in the Council Chambers, Public Safety Complex, 250 – 5th Avenue North.

BOARD MEMBERS PRESENT

James Young, Chair
Janice Freeman, Vice Chair
Cary Guenther

Virginia Cassutt
John Dewhirst
Jim Crim

BOARD MEMBERS ABSENT

Judith Works
Don Henderson

STAFF PRESENT

Rob Chave, Planning Division Manager
Steve Bullock, Senior Planner
Jennifer Gerend, Economic Development Director
Karin Noyes, Recorder

Board Members Works and Henderson were excused from the meeting. Chair Young arrived at 7:05 p.m.

READING/APPROVAL OF MINUTES

BOARD MEMBER DEWHIRST MOVED TO APPROVE THE MINUTES OF MAY 25, 2005 AS CORRECTED. BOARD MEMBER CASSUTT SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY, WITH BOARD MEMBER CRIM ABSTAINING.

ANNOUNCEMENT OF AGENDA

No changes were made to the proposed agenda.

AUDIENCE COMMENTS

Don Krieman, 24006 – 95th Place West, thanked the Planning Board Members who attended the recent Chamber of Commerce Luncheon. He apologized if any of them were made to feel uncomfortable. He explained that the Chamber does not represent or endorse any political candidate and the outburst at the end of the luncheon came from one of their newer members. Board Member Young thanked the Chamber of Commerce for inviting Board Members to attend the luncheon and for the interest they showed in the Board's activities.

PUBLIC HEARING ON FILE NUMBER CDC-2005-46: A REQUEST TO AMEND EDMONDS COMMUNITY DEVELOPMENT CODE TO INCLUDE A NEW SECTION, 16.85 – MPOR – MASTER PLANNED OFFICE/RESIDENTIAL ZONE, AND TO MODIFY SECTION 21.40.030 – HEIGHT

Mr. Bullock briefly reviewed that File Number CDC-2005-46 is an amendment to the Edmonds Community Development Code (ECDC) to establish a new zone district (MPOR). A second public hearing has been scheduled on the agenda to allow the Board to consider an application to apply the new zone district to a particular group of properties located on the west side of Sunset Avenue. He reported that the City received numerous letters regarding the two proposals. Some of the letters

mixed the two issues together. He advised that all of the correspondence that has been received to date and any additional written information that is provided at the hearings would be entered into the applicable public records.

Mr. Bullock reminded the Board that the proposal to amend the ECDC is a legislative item. The Board would hold a public hearing and make a recommendation to the City Council, who would also hold a public hearing before issuing a final decision. The rezone application is a quasi-judicial matter. The Planning Board would hold a public hearing and forward a recommendation to the City Council. The City Council would then conduct a closed-record hearing. This means that the City Council would only be able to accept verbal testimony from individuals who participated in the Planning Board Hearing, and no new facts or information would be allowed into the record.

Mr. Bullock entered the following items into the record as exhibits:

- Exhibit 1 – Staff Report
- Exhibit 2 – A letter from Halton and Trude Molvik, Juanita Henry, Eleanor Knapp and Paul and Annette Darlington
- Exhibit 3 – A letter from Jack McRae
- Exhibit 4 – A letter from Linda Jones
- Exhibit 5 – A letter from Jonathan Hatch

Mr. Bullock explained that the recently updated Comprehensive Plan identifies a Planned Residential-Office land use for the four lots located north of Main Street on the west side of Sunset Avenue. However, the current zoning designation on these properties is RS-6. He advised that since RS-6 zoning is inconsistent with the Comprehensive Plan, the City must adopt zoning to implement the Comprehensive Plan land use designation. The proposed code amendment is the applicant's attempt to craft language for the new zone district. If the new zone designation is eventually approved by the City Council, it could then be applied to the subject properties through a rezone.

Mr. Bullock referred the Board to Attachment 2 of the Staff Report, which contains the applicant's proposed code language. He noted that Pages 2 through 4 of the Staff Report contain the staff's analysis of the proposed new language. He advised that staff is supportive of some of the proposed language, but they have concerns, as well. In addition, the applicant has indicated that they would introduce some changes to the draft language as part of their presentation to the Board. He specifically referred to the paragraph found on the bottom of Page 1 and top of Page 2 of the staff report, which is an excerpt from the Comprehensive Plan (recently approved by the City Council) that pertains to the new Planned Residential-Office land use designation. It states, "*Due to the steeply sloping nature of the properties, building heights shall generally be limited to two stories above Sunset Avenue.*"

Mr. Bullock referred to the applicant's proposed amendment related to height. He noted that the applicant is not proposing that the City change how they calculate height for the entire City. The City's current method for measuring height should remain the same, with an exception being made for this particular property. He explained that the subject property is unique in its topographical layout. If someone were to construct a single-family home on the site, it would have to set far enough to the west so that it would be substantially above the level of the street since the average grade for the building would be a whole story below the street level of Sunset Avenue. Mr. Bullock advised that staff is somewhat supportive of the applicant's proposal for measuring height on the subject property. As proposed, the applicant would be allowed a height of 25 feet from the average of the street level. This would accommodate a two-story building as viewed from Sunset Avenue.

Board Member Dewhirst said the applicant appears to have tailored a zoning district for just four parcels in the City. However, he suggested that there could be other areas in the City in which the new MPOR zone could be applied, as well. He suggested that instead of tailoring a zone district for just these specific properties, the zone district could be more generic and ultimately applied to other parts of the City. Mr. Bullock said staff considered this option, too. But in the end, they felt the Comprehensive Plan language for the subject property was too specific, and this makes it difficult to craft generic language that could be applied universally throughout the City. He reminded the Board that the proposal was submitted by a private property owner, and not by the City staff. The staff has shared their concerns with the applicant, but the applicant has made the ultimate decision regarding the proposed code amendment language. He suggested that Board Member Dewhirst share his comments with the applicant and ask for feedback about the possibility of creating a more generic zone designation.

Board Member Freeman asked where the average height of the subject property would be measured from. Mr. Bullock answered that the average height would be measured from the sidewalk and curb, which are located outside of the property line. He referred to the actual code language the applicant is proposing for Section 20.40.030. Item C states, *“In the MPOR zone ‘Height’ means the vertical distance above the average elevation of the top of the curb adjacent to the subject property, within the public right-of-way. Average shall be measured averaging the elevation of the curb at the low points where the projected property lines and the curb intersect. Where no curb or sidewalk exists, use the designed curb elevation.”* Mr. Bullock explained that this language deals with the improvements that are in the public right-of-way. He noted that the ground drops so steeply off from the improvements that the property line is already down dramatically. The idea is to get a building that relates well with the street. He pointed out that the vertical curb line would not likely change significantly.

Board Member Freeman referred to the second bullet item on Page 3 of the Staff Report, which would limit the residential density on the subject properties to one unit for every 3,000 square feet of lot area. She asked Mr. Bullock how many units the site would accommodate if this requirement were implemented. Mr. Bullock referred the Board to Attachment 3, which is a survey of the property. He explained that Lots 3 and 4 are just less than 12,000 square feet in size, which is large enough to accommodate up to four residential units. The parcel that already has a four-unit development would be considered non-conforming. Board Member Freeman questioned if the proposed language would be too limiting. Mr. Bullock answered that the applicant is only planning to construct a few residential units, with office space at the street level. Staff’s concern is that if the current applicant backs away from the project after the code amendment and rezone have been approved, there would be no limit on density, and an entirely residential building would be allowed. A developer could then construct up to 12 or 15 units on the subject property. Mr. Bullock said his understanding, after reading both the Planning Board and City Council Minutes in which this issue was discussed, is that they did not expect to have a high intensity development on the site. Nor did they anticipate that the development would be entirely residential. In order to honor their understanding of the City Council’s direction, the staff felt it would be appropriate to limit the number of residential units on the subject property.

Mr. Bullock reminded the Board that the subject property is meant to be a transition zone and is currently RS-6, which is the densest single-family designation. There is BC zoning to the south. He said that because the City Council did not talk about medium-density or high-density multi-family residential zoning for the subject property, staff chose to recommend a low-density multi-family residential zoning designation. Mr. Chave emphasized that while the staff is recommending a low-density multi-family designation, the Board could certainly recommend a higher density if they feel it would be appropriate.

Board Member Dewhirst referred to Section 20.40.030.C.1, which states, *“Height means the vertical distance above the average elevation of the top of the curb adjacent to the subject property.”* He asked if “subject property” refers to all four lots or just the lot that a building permit has been applied for. Mr. Bullock answered that staff would apply this definition to each property that is the subject of a building permit application. Board Member Dewhirst noted that the average height along the street would change based on the number of lots that are included in a project proposal.

Chair Young asked if the City has other zoning designations that could be applied to the subject properties to make them consistent with the Comprehensive Plan if no new zone were created. Mr. Bullock answered that none of the City’s existing zone designations would address the peculiarities of the subject property. He said he informed the applicant that the staff and Planning Board would move to create a zoning district to apply to the area to make the zoning consistent with the Comprehensive Plan, but the timeline would be based on the Planning Board and staff’s workload. Since the applicant did not want to wait for the City’s timetable, he decided to submit his own proposal for a code amendment to create the new MPOR zone designation. The Planning Board is now obligated to move the application through the review process. He emphasized that even if the applicant had not proposed a code amendment to create a new zone, the City would have likely had to do so at some point in the near future.

Mr. Chave explained that it is possible that someone could apply for a contract rezone for the subject properties, using the BC zone designation, but the contract would have to specify conditions that would make the rezone consistent with the Comprehensive Plan land use designation. The applicant’s preference was to create a new zone rather than submit a contract rezone application.

If the new MPOR zone is created as per the proposed language for a new Section 16.85, Chair Young questioned if the zone designation could be applied elsewhere in the City. Mr. Chave answered that this would probably not be possible since the

specific intent of the new zone designation would be crafted to address the unique situation that exists on the four subject properties. He pointed out that this request is not unprecedented since the City has the same type of situation for the Point Edwards Site in order to implement the Comprehensive Plan.

Mr. Chave referred to the letter that was submitted by Jonathan Hatch, in which he raised a question regarding the procedure related to the Board conducting a hearing and acting on the rezone request before they know precisely what the code amendment will turn out to be. He suggested that the Board could move forward by making a recommendation to the City Council regarding the code amendment and the rezone application. However, the City Council could decide to make significant changes to the code amendment. If this were the case, the City Council would be unable to hold a closed record public hearing on the rezone application, and a new hearing on the rezone application would be required by the Board. He said the applicant understands the risks associated with asking the Board to consider both requests simultaneously. If the City Council were to make significant changes to the code amendment, they could remand the rezone back to the Board to develop a new record for the rezone application. He suggested that the Board ask the applicant whether they really want the Board to forward a recommendation on the rezone application in conjunction with the code amendment or if they want to continue the rezone hearing to a date certain to allow the City Council to finalize their decision on the code amendment first.

Ed Lee, Applicant, said his company, the Hotel Group, is located at 110 James Street. He thanked the Board for the opportunity of presenting his application. He also thanked the staff for helping them through the process. He said the Planning Board is right that the code amendment proposal is more site specific than is typical. However, he felt it is appropriate under the circumstances. He said they want to be sensitive to the other two property owners involved in the application, as well. He referred to the staff's recommendation that the residential density on the subject properties be limited to 1 unit for every 3,000 square feet of property. He said that he would not be concerned if this requirement were implemented into the code language, but the other two property owners might take issue with the requirement. He said he is open to any new language that would work better for the other two property owners, as well.

Mr. Lee explained that the code amendment proposal has changed several times since it was originally submitted as a result of issues that were raised in the Staff Report. He asked that the Board allow them an opportunity to answer the questions and concerns that are raised by both the Board and the citizens so that they can end up with code language that works for everyone.

Mr. Lee advised that as they prepared the draft code amendment language, they focused on the Comprehensive Plan language that was recently approved by the City Council for the subject parcels. The proposal that the height limit be two stories above the street level was taken directly from the newly adopted Comprehensive Plan. The Comprehensive Plan indicates that some type of new zone be established for the subject properties, and indicates that the new zone should be a transition zone between the commercial property to the south and the residential properties to the north. The Comprehensive Plan also indicates that the design of future development should be sensitive to the existing single-family and multi-family residential developments, and they believe their proposal is sensitive to both.

Mr. Lee pointed out that the subject property is an unusual site. One specific challenge is regarding the slope, which is dealt with in the proposed new language related to height. Development on the site will be costly, and there is no way single-family homes could feasibly be constructed on the property. Even the proposed new zone designation, with a mixture of office and residential units, would be difficult to justify economically. An underground parking garage would be necessary as part of the development in order to take the pressure off of traffic in the area as per the Comprehensive Plan. Also a geotechnical report has indicated several issues that must be addressed in order to develop the property. In addition, development on the site would require soundproofing techniques to reduce the noise that results from the property's close proximity to the railroad tracks. He said all of these circumstances make development of the subject property more expensive.

Mr. Lee said his intent has never been to maximize the density on the subject property, as would be allowed by the BC zone designation. At the same time, in order to do anything on the site, they would need more density than what is allowed by the current RS-6 zone designation. He said the neighbors have expressed concern about the proposed zone change, but his guess is that if any development were allowed to occur on the subject property, the neighbors would want it to occur in the same

bulk and density as the surrounding single-family homes. But this would make the property unfeasible for development. They are proposing something in between the commercial zoning to the south and the residential zoning to the north.

Mr. Lee pointed out that the height limit of 25 feet is a given for the proposed new zone, but they are proposing some changes to the setback requirements. They are asking for a 10-foot setback from the street, with the ability to reduce the distance in some areas in exchange for a greater setback in other areas. They are also proposing that since the property is intended to be a transition area between the commercial and residential uses, perhaps the side setback on the south property line near the commercial use could be zero and the setback on the north near the residential uses could be 15 feet.

Mr. Lee provided a diagram to illustrate how they intend to make the original proposal work on the site to achieve a transition between the commercial and residential zones. He pointed out that on the commercial side, there would be a driveway going down to the parking garage with no setback. An office entrance could be provided towards the middle of the property, and in the northern corner of the property near the existing residential development, a courtyard could be constructed with a setback of at least 15 feet. The entrance for the residential units could be located in this vicinity. He said he still believes the site plan would be workable, but staff pointed out that the proposed language would not require that the entrance be provided on the southern side of the property. Staff also pointed out the impact the proposed site plan would have on the view corridors between the subject properties. As a result, the staff has proposed a 15-percent setback requirement for the subject property, to be placed on one side or the other. If the staff's recommended setbacks were approved, the development would require an 18-foot setback, which is greater than any other zone in the City.

As a trade off, Mr. Lee suggested that perhaps the language could be worded such that the courtyard must border a side setback, as well as a front setback. This could be traded for a 50 percent reduction in the side setback requirement. He said that, under this scenario, there could be a zero setback on the commercial property line and a greater 9-foot setback with a wonderful courtyard on the residential property line to the north. While this compromise would not likely be acceptable to all of the neighbors, Mr. Lee said he believes it would be a fair trade off. The side setbacks would still be greater than any required side setbacks for other residential zones in the City because the applicant would be required to provide a courtyard on the northern end of the property. He felt the courtyard would allow them to accomplish the goals identified in the Comprehensive Plan.

Mr. Lee said he is approaching the Board with the hope of establishing a dialogue to come up with code language that would be acceptable to the City, and they are hoping to receive ideas and suggestions from the Board. He specifically referred to the proposed language for Section 16.85.40, which identifies possible setback exceptions. He noted he would be amenable to eliminating Item A, which is related to gazebos and other outdoor covered areas detached from the primary roof structure. In addition, while the exception for roof decks (Item B) would be helpful, it would not be mandatory for the success of the project. Roof decks would, however, allow them to design a more interesting building. He also indicated that the exception for covered porches and decks (Item C) would also be preferred, but not essential to their project. However, if the setback requirement were 9 feet, they would like an exception that would allow an open stairway to extend into the setback area in order to provide emergency access to the development. Another option would be to make the setback requirement 5 feet only.

Mr. Lee said he sincerely believes the street setbacks are more important to the community than the side setbacks, which typically get covered with shrubs, etc. He summarized that the proposed code amendment must allow a certain amount of bulk in order for their project to be economical and aesthetically pleasing. They can accomplish this more by what they do with the front of the building than what they do with the sides.

John Bissell, Higa-Burkholder Associates, LLC, 1721 Hewitt Avenue, Suite 401, Everett, WA 98201, said the Planning Board is more used to seeing the staff present code amendments to them, so it is probably more unusual for an applicant to have written the proposed new code language. He noted that the initial code amendment language was submitted to the City six to eight weeks ago. After working with the staff, they have made several changes to end up with the draft that is now before the Board. He said his hope is that, after the meeting, they will end up with draft code language that will work well for the City's needs, the community's needs, the property owner's needs and still comply with the Comprehensive Plan language.

Mr. Bissell used a map to illustrate the applicant's property, which consists of Lots 3 and 4. The other two lots that are included in the proposal are Lots 4 and 6, but someone other than the applicant owns them. He provided an aerial photograph to help him identify some of the unusual issues associated with the site. He noted that commercial development is currently located to the south and two residential buildings are located to the north. North of the existing 4-plex is where the right-of-way for Bell Street would continue out through Brackett's Landing Park. Beyond that is an area that allows for magnificent views and will never be developed. He pointed out that across the street from the subject property there are single-family homes, with the exception of Rory's Tavern, which is located at the corner of Main and Sunset. He noted that Sunset Avenue rises substantially from the intersection at Main Street as it moves northward, but the railroad tracks along the waterfront do not. As Sunset Avenue moves further north, there is a grade difference between Sunset and the actual properties. This has led to some very difficult issues with property development. He emphasized that since the property was zoned RS-6 in 1956, there has not been any development on the subject properties because there is a 2:1 slope ratio from Sunset Avenue to the flatter areas of the property. This makes access to the site and a view from the road very difficult to design. The site is adjacent to the railroad tracks, which are noisy and do not make the site particularly conducive to single-family development. The subject property is also located next to a commercial development, which further devalues its ability to be developed as single-family. In addition, it was recently discovered that, at one time, the site was part of Puget Sound or was a wetland that has since been filled. The fill materials that were used will require piling in order to construct anything on the site. Therefore, development will be costly.

Mr. Bissell recalled that the applicant recently approached the City Council in an attempt to have the Comprehensive Plan changed on the site since the RS-6 designation was not workable. The City Council adopted a Comprehensive Plan designation that is new and different and the original idea was that the property be zoned BC, since that is the zone designation the City had available. However, in working with the Planning Board, the City Council and the staff, it was determined that the site was very unique in topography, proximity to the waterfront, proximity to the railroad tracks, etc. The ultimate decision was to create a new Comprehensive Plan land use designation of Planned Residential-Office for the subject property.

Mr. Bissell recalled that the Board previously asked if any other existing zone designations would work for the subject property. He suggested that this would not be possible. While staff suggested that a contract rezone to BC could be used to address the unique features of the site, the applicant is not sure this would allow them to effectively address the Comprehensive Plan goals. He specifically noted the following aspects of the Comprehensive Plan that must be addressed by the proposed new code language:

- The new zone designation must provide for a transition area between the commercial and multiple family uses near Main Street and Sunset Avenue and the residential uses that are located to the north on Sunset Avenue.
- The building design should be sensitive to the residential uses commonly found on Sunset Avenue.
- The new zone designation should allow functional building development on a topographically difficult site.

Mr. Bissell suggested that the proposed language for calculating building height in the new zone would address the Comprehensive Plan's direction that two stories of development be allowed from the street level. If no exceptions are made to the way height limits are calculated, the development would be limited to one story at the street level.

Mr. Bissell pointed out that the original proposal called for a minor side setback, and staff is recommending that this be increased to 15 percent of the lot width. For a 120-foot wide lot, the side setback requirement would be 18 feet. Staff's intent is that the side setback requirement could be placed on one side or combined between the two sides in whatever combination reaches an 18-foot total setback. However, the staff's proposed change would require a new Footnote 7.

Mr. Bissell said he did not address the staff's recommendation that the number of residential units be limited to one for every 3,000 square feet of property because it is not relevant to the applicant's proposal. The applicant is completely neutral on this issue, but if the staff believes it is an important point, they would not be opposed to the requirement. However, he questioned how this density requirement would impact the other property owners. He said he discussed other alternatives with the City staff that would accomplish this same goal.

Mr. Bissell pointed out that the proposed setback exception related to gazebos or other outdoor covered areas should have been eliminated from the proposed language when the new setback conditions were submitted. In addition, other setback exceptions identified in the proposed language could be eliminated if deemed appropriate by the staff (Items B and C). He said the intent of these two exceptions was to allow more methods of creating the visual interest, but staff pointed out that these exceptions would allow more opportunity for the development to protrude into the setback areas. Staff has asked that these exceptions be removed, and the applicant would not be opposed.

Mr. Bissell said the applicant has concerns about the staff's proposed 15 percent side setback requirement. He noted that the applicant's property is 120 feet wide, which would require an 18-foot setback total. The applicant believes this setback requirement would be too substantial. The south side of the applicant's property is up against a zero lot line commercial building so putting a substantial setback on that side would not help with the residential character of the neighborhood. The side setback would all have to be placed on the north side, and this could make the property unfeasible to develop. He said staff has indicated that setbacks could help address the residential character of the surrounding neighborhood, and they have discussed other alternatives for achieving this goal. They discussed the option of placing a courtyard on the north side of the property as part of the development. The design guidelines that have been proposed as part of the code amendment suggest that the building could be brought closer to the street. If the courtyard were moved closer to the building, it would increase the setback at the front of the building and achieve a residential feeling. He suggested adding a code section that would allow the 18-foot setback requirement to be reduced to 9 feet if a courtyard is used that complies with the other guidelines in the code section. This would speak to the transition between the commercial and residential uses. Mr. Bissell referred to the diagram that was provided to depict how the courtyard could be placed on the property to provide street appeal. Mr. Lee pointed out that there is a 10-foot setback from the street shown on the diagram. If the courtyard concept were used, this setback would be reduced to five feet on the southern portion of the property.

Mr. Bissell advised that the draft language provided in the Board's packets talked about a 5-foot setback on the ground floor to provide a second ingress and egress to the building for fire safety. He explained that because of the steep topography on the site and the fact that there is no alley to the rear of the property, it is difficult to find space for the additional access. The applicant realizes that constructing a closed stairway in the setback area would negate the staff's intent for increasing the setback requirement, so they are proposing that an exception be made to allow an open stairway within the setback area. This would provide the necessary emergency access while still accommodating the need for a visually open setback.

Mr. Bissell explained that the proposed language attempts to create a zone that could apply the Comprehensive Plan designation and address the complex nature of developing on the subject property. He advised that he and the applicant would be available throughout the hearing to answer the Board's questions. He said they want to achieve an ordinance that works for as many of the competing interests as possible. He noted that there is likely to be quite a bit of opposition expressed by the community during the public hearing, but it is important for the Board to remember that the City Council already adopted the new land use designation into the Comprehensive Plan. He urged the Board members to review the record from the three City Council Meetings in which these properties were discussed.

Mr. Bissell referred to the letter that was submitted to the Planning Board in which a number of City Council Member comments were quoted. Mr. Bissell pointed out that most of the quotes contained in the letter were made prior to a motion being made before the City Council to amend the Comprehensive Plan for the subject parcels. These quotes were made by the three dissenting City Council Members on the motion that allowed the new Comprehensive Plan land use designation to pass. He suggested that the Planning Board read the minutes from the February 22nd, March 1st and March 8th City Council meetings in order to fully understand the City Council's intent regarding the subject properties.

Mr. Bissell said a number of comments have been made previously that the rezone proposal is inappropriate. He reminded the Board that the Comprehensive Plan has been approved and the Growth Management Act requires compliance between the Comprehensive Plan and the Zoning Ordinance. The current RS-6 zoning designation does not comply with the new land use designation identified in the Comprehensive Plan.

Board Member Crim said he understands the applicant's desire to have two stories of the development showing on Sunset Avenue, but he questioned if 25 feet above the average height of the curb would really be necessary to obtain the two stories. Mr. Bissell answered that from a functional standpoint, the proposed height would be necessary. He pointed out that a

portion of the first floor in some areas would be depressed below Sunset Avenue and the applicant would need the height to make the project work and provide a greater ceiling height for the commercial space on the first floor and the necessary mechanical equipment, as well. He said 25 feet would allow the applicant to set the finished floor a little bit below the elevation to make the project work. Board Member Crim said it seems that the overall height of the structure could be reduced and still get two floors above Sunset Avenue. Mr. Bissell said that applicant's architect has been working on this issue for quite some time, but without the architect present, it is difficult for him to make any further comments regarding height other than to say the full 25 feet would be necessary.

Mr. Lee said he sat through the Comprehensive Plan hearings at the City Council level, and one thing that was important to the Comprehensive Plan, in general, was that the zoning code be open so that developers could justify building something that is better than low-value development. The more the City compresses the height, the less valuable the office space would be. He said he wouldn't put the necessary funding into a facility that was just able to get by with the minimum heights. He did not think that any other developer would be willing to spend a great deal of money to build a structure that is required to scrunch down the ceiling heights, either. He noted that the City Council held a great deal of discussion on the Comprehensive Plan land use change. While the entire Comprehensive Plan update was not approved by the City Council unanimously, the particular portion related to the subject property was unanimously approved.

Mr. Bissell said one of the technical problems the applicant's architect must deal with is making the transition from the curb level down to the parking garage and provide ADA parking space, as well. The architect has struggled with getting enough building height where the access to the garage goes, and this pushes the height up more for the first floor space.

Chair Young reminded the audience that this public hearing is regarding the Comprehensive Plan amendment only. No testimony would be accepted regarding the rezone application. He opened the hearing for public testimony.

Joe Clements, 20628 – 78th Place West, said he is a retired fire captain with the City of Seattle. He suggested that perhaps the applicant is "putting the cart before the horse." He said he assumes the City has adopted the State's Uniform Building Code, and he asked if the proposal would require revisions to this code. Chair Young answered that no changes are proposed for the Uniform Building Code. Mr. Clements inquired if the new zoning would be compatible with the Uniform Building Code. He questioned how the site-specific zoning would be applied. He said there are many broad issues community-wide that haven't been addressed yet. But now the City is considering a site-specific proposal that might leave them open to litigation when someone else comes in with another site-specific rezone proposal.

Jonathan Hatch, 152 Third Avenue South, Suite 101, said he is an attorney representing the interests of several property owners with regard to the proposed application. He advised that he previously submitted written testimony for the record, and he asked if the Board members had an opportunity to review his comments. Chair Young answered affirmatively.

Mr. Hatch said his clients do not oppose development of the subject property, and in general, they don't oppose the creation of a new zone. They understand that the Comprehensive Plan intends for these properties to be addressed in some fashion with a new zone designation. He said his clients' primary concerns have evolved around the issue of height and what the City Council intended when they created the land use designation that is now part of the Comprehensive Plan. Part of their concern is related to the fact that, generally speaking, when the City creates a new zone district, it is done in a more abstract way. Typically, the City would discuss the general requirements of the community and how the zone district would fit into the big picture, but they do not usually discuss how a specific project would fit in with the new zone. He said his clients are concerned about the fact that creating this zone seems to be a situation of trying to shoehorn the zone into a specific project rather than having the project fit the appropriate zone. He said it is important for the Board to appreciate that the City Council will have to be equally careful about the appearance of creating a zone district that covers just four lots in the City in order to shoehorn in a particular project. He suggested that the Board detach themselves from the proposed project and look at the proposed zone district on its own merits.

Mr. Hatch recalled that the applicant has suggested that the zoning designation contained in the new Comprehensive Plan assumes two stories facing onto Sunset Avenue. But he said he does not believe this was the City Council's intent. The Comprehensive Plan language states, "*No building shall exceed two stories facing Sunset Avenue.*" Two stories is a maximum size. Mr. Hatch referred to the City Council Minutes over the history of their evaluation of the subject property.

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He suggested that the reason the two story issue came up was the fact that the City Council was considering general height and whether buildings in the downtown waterfront district should be allowed to be three stories. The City Council was not suggesting that the height on the subject property should be two stories, but that it should never be greater than two stories.

Again, Mr. Hatch referred to the City Council Minutes and noted that, contrary to what the applicant has said, the only time there was any discussion by the City Council about the method of measuring the height was at the February 22nd meeting. The record is clear that the City Council was operating on the understanding and assumption made by the staff that the measure applied would be the existing measuring standard. The measuring standard would be applied the same in the new zone as it is applied anywhere else in the City. The City Council did not anticipate changing the methodology for measuring height as is integrated into the applicant's plan. He said this fact is important to note because the zoning district the applicant is asking the City to create contains reference to the fact that height in the district would be calculated pursuant to a new ECDC definition that would be special and unique for these lots only. Mr. Hatch suggested that the Board cannot pass the proposal to create a new zone forward unless they simultaneously recommend that the height calculation language be amended, as well.

Mr. Hatch recalled that when the City Council reviewed the land use designation for the subject property, they asked some very pointed questions of the Planning Staff about the intent. The record is clear that the City Council was operating on the assumption that nothing would change in the way heights are calculated. While the proponents of the change are well meaning, their proposal would create the possibility of buildings on the site that are actually taller than the buildings both to the south and to the north. This so called transitional structure would actually be larger in mass and height than anything that exists in the neighborhood currently. He suggested that this was not the City Council's intent when creating the transitional zone.

Mr. Hatch expressed his concern that it is inappropriate for the Board to address the notion of altering or changing the way heights are calculated on these four parcels at a time when the City Council is considering the whole issue of how heights will be dealt with in the City. The City Council has not made any decisions yet, so to single out these four lots and create a unique and specific way of dealing with height on them would be ill advised at this time. He suggested that the City Council would probably not be inclined to change the way height is calculated for these four lots until the bigger pictures has been addressed.

Mr. Hatch said he would let each of his clients describe the specific impacts the proposal would have on their particular properties. He urged the Board to review the proposal based on what the zone is supposed to look like and what the City Council's intent is rather than discussing what could possibly be built on the site by the applicant.

Eric Sonett, 102 Bell Street, Edmonds, said he had to explain to his daughter how making a presentation before the Board regarding the proposal was more important than attending her DARE graduation. He felt it was important for her to understand how the proposal could have a major impact on her life. He presented a PowerPoint presentation to the Board, which provided pictures of the subject property that were taken in December from various locations in the surrounding area. Using a 25-foot ladder as a survey tool, they blocked out space on the photographs to show what the impact of the proposed development would be from the surrounding properties.

Mr. Sonett said it is important that the Board consider how such a massive structure could provide the appropriate transition between the commercial and residential properties. He said that when he testified regarding this property earlier, he was supportive of the concept of a residential/office building as opposed to many offices and one residential unit. He said he supports the Comprehensive Plan change to recognize the advance of the Internet and offices being located in homes with the appropriate mitigation for traffic and parking. This would allow the neighborhood to maintain their residential character. But a massive building, as would be allowed by the proposed language, would not maintain the residential character.

Mr. Sonett recalled that the applicant indicated that the garage was going to take pressure off of traffic. He noted that a garage might impact on-street parking, but not the traffic. He reminded the Board that the Comprehensive Plan change impacted two other properties in addition to the two owned by the applicant. They have heard a lot about how the applicant would transition from commercial to residential, but he questioned if the proposal would specify how the other two lots would transition from the applicant's project to the standard residential properties. He noted that the applicant is proposing

to combine two parcels, but doing this would eliminate a view corridor. He said the applicant would also like to place open stairs within the setback so that people could see through them to the waterfront. While this is a good concept, whether or not a person could see through the stairs would depend upon their location.

If the proposal is changed by the Board at some point, Mr. Sonett asked that the public be allowed an opportunity to provide comments on the changes. In addition, he asked that the citizens be allowed to rebut comments provided by the applicant before the hearing is closed. He said the applicant has said they need the height of the garage to accommodate the ADA parking, but he questioned why the entire garage must accommodate the height for this space instead of just a portion of it. Mr. Sonett also presented written testimony for the Board's consideration.

Jack Jacobson, 128 Sunset Avenue, said he has lived in his home for 27 years. He noted that the property was never for sale as an RS-6 lot in the 27 years he has lived in the area. But now the property will have a new zoning designation as per the Comprehensive Plan. He referred to Page 53 of the Comprehensive Plan, which gives direction on what the City Council was trying to address in City neighborhoods. He encouraged the Board to read this section of the Comprehensive Plan. In addition, he asked if the Board Members had an opportunity to read letters submitted by John and Shirley Grosso and Sandra McMannis. Chair Young indicated that the Grosso's letter was provided as an attachment in the staff report. The letter from Ms. McMannis was distributed amongst the Board Members, but he noted that they only received one copy of the letter prior to the start of the meeting. Mr. Bullock advised that both letters would be part of the public record.

Mr. Jacobson said the proposed amendment does not take neighborhood views into account at all. He suggested that the applicant build the garage on the ground floor, with residential and then office space on the top two levels. There would only be one floor above Sunset Avenue, and this would preserve the views of those living across the street. He asked what the setbacks would be on the other two lots. He said he owns Lot 6 and he does not plan to do anything with it that would block the view of those across the street. He said his property is currently developed as a 4-plex that has been grandfathered. He pointed out that there is a 15-foot setback between Rory's Tavern and the residential property, so requiring a 15-foot setback would not be unusual. No view corridor would be allowed on the south side of the property if development were allowed a zero lot line.

William Teal, 18902 – 92nd Avenue West, said he has lived in Edmonds for 26 years and was present to speak in regards to any provision of the zoning change that would allow for an increase in height. He said his interest is business related since he owns a building at 115 Second Avenue North next to the newer two-floor brick condominium development. If a building were constructed to the height proposed, it would impact the view from his property significantly. His building is presently occupied by two tenants who employ 40 people, and their leases are up for renewal next year. Both tenants have indicated that if a building is constructed that blocks their view, they would consider relocating. He noted that his building has an average ceiling height of nine feet and they have provided innovative lighting that has allowed them to have workable space of almost eight feet of interior ceiling height. He suggested that if the applicant were innovative, he could also reduce the height of the building he is proposing. He said he already has one vacant space in his building, and if the development is built as proposed, it could make it more difficult for him to rent his space.

Kirk Blevins, 22902 – 74th Avenue West, said he was born and raised in Edmonds and is now a real estate professional. He said the whole issue about height is confusing to him. As a real estate professional, he said his job is to educate his clients to give them the tools necessary for them to make decisions about property purchases. He said the City's Planning Department staff is very good at helping him know what can and cannot be developed in the City. He said he was present at the request of one of his clients who he helped facilitate a couple of properties on Sunset Avenue. He noted that the properties along Sunset Avenue are some of the most expensive in Edmonds. The proposal would result in a significant impact from a monetary standpoint for each property owner in the area. He suggested that the proposed change could create a backlash for his clients because of the potential for rezones in the future. He said he recognizes that everything is subject to change and that Edmonds must move forward. But he asked for clarification so that he can best represent his clients in the future and so there are no surprises about the height calculations. He said he does not understand the new method of measuring height, since the City has always used the same method of averaging the height of the four corners of the building pad to determine the height of the building. He said the City is experiencing an increase in property prices with more revenue to the City. If this trend continues, it will be even more important to have a clear method of calculating building height so that prospective property owners can know what the future holds for them.

Alan Young, 111 Main Street, Suite 201, said he also owns property directly across from the subject property (Lots 2 and 3) and a parcel at 204 Sunset Avenue. He said he believes all three of his properties could be impacted by the applicant's proposal. He noted that all of the focus thus far has been on Lots 2 and 3, but he is also concerned about the to other lots to the north that would also be changed if the applicant's proposal is approved. He reminded the Board that they recently recommended approval of a Comprehensive Plan land use change for the subject property, but they agreed that the height of the structure should be calculated using the City's current method. While he thanked the Board for making this recommendation, he noted that the applicant is still proposing a change. He asked the Board to consider the impacts the proposed change would have to the property owners in the area.

Shirley Baldwin, 902 – 191st Place South, said she was present to represent her mother and father who own property in the area. She said her parents saved their money until they were finally able to purchase a home on Sunset Avenue with a view of the Sound. If the proposal were approved, they would not even have a view of the mountains, let along the water. She said that when her brother died, her parents purchased a bench at Brackett's Landing Park, but they wouldn't be able to see the bench from their home, either. She said her parents are 80 and 84 and she can't imagine that someone would want to block their view like what is being proposed. She said she knows the applicant will build something on the property, but it doesn't need to be so high.

Tom Robinson, 1020 Spruce Street, said he has lived in Edmonds for 38 years, and he and his wife enjoy walking on Sunset Avenue almost every day. He said he does not own property near the subject property, but he is like most other Edmonds citizens that are opposed to high-rise buildings. However, when these issues go through the City Council, they approve them in order to get greater tax revenue. He said he recently returned from a trip to Chicago where it is possible to walk along the water for miles. No development is allowed to occur along the edge of the lake, and this strip of land has remained in a green state. While the City of Edmonds cannot turn back the clock, it is unfortunate that any of the buildings on the west side of Sunset Avenue are there period. The citizens of Edmonds have so little as far as view, and if the buildings were not there, the view would be wonderful. He said so little is done for the average citizen. It is only those that are extremely wealthy that can purchase the best views.

Mr. Robinson said he is not at all concerned about the fact that the developer could not afford to develop the property as single-family because the construction costs would be too great. That is not his or anyone else's concern. Again, he said he is concerned about the City allowing high-rise buildings that are 25 feet higher than the sidewalk level. He said it is hard for him to understand why this could happen. He said he understands that the Planning Board was against the new method for calculating height, but the City Council supported the plan even though they are supposed to represent the average citizen who doesn't want high-rise development. Instead, the City Council appears to be doing a good job of representing the developers.

Ron Wambolt, 530 Dayton Street, said he is not taking a position either for or against the proposal, but he noted that a very long-time resident of the City who cared a lot about views came and asked him to put together a group of citizens to encourage the City to purchase the property. It didn't take him long to realize the value of the property, which is appraised at approximately \$1 million for tax purposes. He said he believes the owners of the properties desire to get some value out of it. They are paying a lot of taxes to protect someone's view. He suggested that one option would be for people to band together and purchase the property to make sure it never gets developed.

Don Krieman, 24006 – 95th Place, said he has never seen such a fine group of people testify before the Board, both the appellants and the residents. He agreed that Sunset Avenue is beautiful, but he also agreed with Mr. Wambolt that someone does own the property and they have been paying taxes for years. They have a right to make a profit off the property, and he doesn't think the existing blackberries look good either. He said he believes things will continue to change in Edmonds no matter what the Planning Board determines. He noted that for the past 50 years no one has been able to do anything on the property, and now someone has an opportunity to develop is so that it looks good. The applicant is asking what he can do so he can live in Edmonds where he has operated a business for the past 20 years.

Mr. Krieman said that although he would like to keep Edmonds the way it currently exists today, unfortunately change will happen and the community must realize that everyone is trying to do their best to protect the community and allow the

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growth to occur. He said Mr. Hatch presented some good points, but it is important to understand that the Board is not charged with interpreting what the City Council Members have on their minds. Their job is to collect information and make a recommendation to the City Council about what they think is best for Edmonds.

Lloyd Keiley, 556 Alder, said he owns property that is developed as a 3-unit apartment complex. He purchased his property for \$24,500 in 1977 with an existing one-bedroom house. He said he is a retired teacher and not a developer. He lives in the tri-plex and is thankful he has it, but it was built under the rules that existed at the time. He said he would love to own property that is being taxed at \$1 million because something could be developed on the site that would follow the City's rules. The money gained from the project would be taken away from the people on the other sides of Sunset Avenue.

Roger Hertrich, 1020 Puget Drive, pointed out that on June 7, 2005, the City Council held a continued work session on code revisions for the Comprehensive Plan as put forth by Mr. Bowman and signed by the Mayor. He said that at the meeting, Mr. Bowman, the City's Development Services Director, stated, "*staff was unable to find any regulations that would be applicable to the City's topographical situation, and it is staff's recommendation that they stay with the current height calculations.*" Mr. Bowman further stated, "*It is staff's recommendation that the City stay with the current height calculation method as it has clear meaning based on consistent implementation for many years.*" Mr. Hertrich said Mr. Bowman further stated, "*The City has a single way of administering height that has been used for years and people expect it to continue to be on this basis. They can count on what is going to be in front of them based on the regulation. Staff feels this should not be changed.*" Mr. Hertrich suggested that Mr. Bowman's statements should leave little doubt for the Board on whether they should allow a new way of calculating height or not.

Mr. Hertrich recalled Mr. Hatch's comment regarding the two-story limitation. He noted that in the March 8, 2005 amendment to the main motion put forth by Council Member Moore and seconded by Council President Marin, the Council decided that this area should be sensitive to the surrounding single-family and multi-family residential character. The building height should be limited to two-stories on Sunset Avenue. The City Council did not say the method for calculating height should be changed; they said they don't want three-story buildings on Sunset Avenue. They agreed that two-story buildings would be appropriate based on the current height calculations. The City Council's action solidifies the argument that there should be no changes in the way heights are calculated.

Mr. Hertrich referred the Board to the information that was provided for the Board's last agenda item, which is a review of the definition for "setback." He noted that staff provided a summary of the site development standards for each residential zone. An RS-6 zone has a minimum street setback of 20 feet, with a side setback requirement of 5 feet. The maximum height in an RS-6 zone is 25 feet based on the average elevation of the property. An RM-1.5 zone has a 10-foot street setback, with a 10-foot side setback requirement. An RM-3 zone has a 15-foot setback requirement. He said the Board must deal with the fact that a lot of people live in this small area and this requires setbacks. He suggested that the setbacks for the subject property should be similar to those that exist for the current RS-6 zone designation.

Mr. Hertrich recalled that previously an individual expressed an interest in developing the subject property for business use, but that project did not pan out. He suggested that the only reason the Board is going through this process is because someone wants to use an RS-6 zoned property for a business use. Had they looked at the property as having the ability to put office space on a limited bases with residential, they wouldn't even be dealing with building heights. What was a small problem has expanded into a proposal for a new zone designation and a new method for calculating height. He said everyone knows that this location is one of the most significant in Edmonds because of the view and future development. The Board has heard from local citizens, property owners and business people regarding their opposition to the proposed changes. He expressed his concern that the proposed changes are specific to just four properties in the City, and are not applicable anywhere else. He said he would consider this spot zoning.

Mr. Hertrich provided the following scenario to express his view of the proposal. He said he lives in a single-family zone that is impacted by a busy arterial. He would like to rezone his property using the MPOR zone designation, which would provide a transition zone between the single-family residential homes and the busy street. He would have his own setback calculations and he would also like special treatment in how the building heights are measured. Also, he could find no other area in Edmonds that this zoning would apply to, but he feels he is special. He also would request that the City provide him with a staff person to personally assist him through the process. He suggested that this scenario is not too different than what

the applicant is proposing. He concluded by stating that, when it comes down to it, the height calculation issue will likely make or break the proposal.

THE BOARD TOOK A TEN-MINUTE BREAK AT 9:25 P.M. THEY RECONVENED AT 9:35 P.M.

Mr. Lee said he respects all of the opinions that have been expressed by the citizens and he can't blame anyone who lives across the street or nearby who wants to see less development on the subject property. He pointed out that they explored several different options for the site. They first proposed to use the existing zone designation, and it evolved into a new zone at the decision of the City Council. They originally proposed that the height be measured by the City's standard method, with up to 30 feet in height allowed. The City Council, however, chose to measure the height starting at the average of the sidewalk, which is now the starting point based on the Comprehensive Plan. Mr. Lee said it is important for the Board to understand that the Comprehensive Plan indicates that the average height should be measured from the center of the sidewalk.

Mr. Lee said he takes issue with the slides that were provided by Mr. Sonett to illustrate the impact the proposed new development would have on the view from other properties. He noted that the shadow that was placed on each photograph extended out into the street in some places. If he were part of the picture instead of the 25-foot ladder, it would appear that he was towering over the existing buildings, too. But that is simply not the case. He referred to Attachment 3 of the Staff Report, which is a letter from him dated February 3, 2005. In addition, a survey was attached showing the height of the subject property. At the top of the second page of his letter he gives what are indisputable facts. A building that is 25 feet above the average height of the sidewalk would be no greater than 2.5 feet higher than the building to the south and only 1.85 feet greater than the high point of the building to the north.

Mr. Bissell suggested that Mr. Hatch attempted to represent the City Council's minutes in a particular way to benefit his clients. However, Mr. Bissell said he attended each and every one of the City Council meetings in which the subject property was discussed. He noted that on March 1st the City Council discussed whether or not they would support a particular motion to amend the height section of the Comprehensive Plan. Council Member Wilson stated that he would support the motion, which would "*recognize the uniqueness of the topography and bluff via the Comprehensive Plan rather than the variance process.*" Council Member Wilson noted the "*importance of considering the situation, facts and characteristics and determining the appropriate land use classification for this area in the Comprehensive Plan rather than on a piecemeal basis via a variance application or a rezone as has been attempted in the past.*" Mr. Bissell said his recollection was that City Council Member Wilson had actually stated that it was clear to him that all of the properties along the bluff would meet the criteria for a variance to deal with height, but this would be a misguided way to approach the issue. Council Member Wilson indicated that it would be better to create the height necessary via the zoning process.

Mr. Bissell referred to the pictures that were provided by Mr. Sonett to illustrate the impact the proposed development would have on the adjacent property owners. Mr. Bissell suggested that Mr. Sonett's perspective is very misleading. The blacked out area overlays existing buildings and cars on the street, etc. He noted that in one picture the ladder is on the north side of the property, so it is about three feet higher than the building would actually be. In addition, the photographs do not take the distance site lines into account.

Under the zoning the applicant has presented as per the Comprehensive Plan, Mr. Bissell noted that the building would be taller than a single-family home. But it is important to remember that the City Council has already adopted a new land use for the subject property, and the single-family designation is no longer consistent. He noted that even if the property were developed as RS-6, it would still block out the majority of the view for those property owners who live across the street. He said he sympathizes for these property owners, but it is important to note that regardless of what is built on the site, their views would be blocked.

Mr. Bissell referred to testimony that was given that buildings on Lots 3 and 4 and a portion of Lot 5 on the west side of Sunset Avenue would block the views of Lots 9 and 10. He again pointed out that this would be true regardless of what is built on the subject properties. But it is important to note that the photographs submitted by Mr. Sonett alarm people by inferring that the buildings would be as large as the shaded areas that were added to the photographs. Mr. Bissell pointed out that the elevation of Lot 10 on the east side of Sunset Avenue and Lot 3 on Second Avenue has a change of about 15 feet and

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a building at the proposed elevation would not likely impact the views on Second Avenue. Mr. Sonett's statements of view blockage due to building height are misleading. He agreed that there is no doubt the view would be blocked on Lots 9 and 10, but there is a great deal of doubt about whether views would be blocked on other properties such as the condominiums at the corner of Second and Bell Street. He concluded that the view impact has been exaggerated.

Mr. Bissell said one gentleman testified a great deal about wanting to avoid high-rise development, but it is important to be clear that that the proposal is for a two-story building, which is not a high-rise development. This same gentleman testified to the concern that Edmonds has not adequately preserved its waterfront views as Chicago has done. He said his recollection is that Chicago has the Hancock Tower across the street from the waterfront. He pointed out that Edmonds has an open space on the other side of the railroad tracks (Brackett's Landing Park), which connects to the other parks via the boardwalk. Whether or not a building is a certain height in this location would not impact how people can access the waterfront.

Mr. Bissell referred to Mr. Hertrich's comment about using the RS-6 zoning to develop the property. He reiterated that changing the zoning is the only option because RS-6 is not consistent with the Comprehensive Plan. The purpose of the applicant's proposal is to present an option for changing the zone. He said it is not likely the City Council would change the Comprehensive Plan; so RS-6 zoning is not an option the Board can consider at this time.

Mr. Bissell said that while it appears that he is taking a solid stand against the neighborhood testimony, he sees the proposal before the Board as a draft, and he doesn't expect a decision from the Board now. He would expect the Board to continue their deliberations to their next meeting so they would have adequate time to discuss the proposal amongst themselves and find a solution that meets the Comprehensive Plan needs, the City's needs, and address the difficulty of developing the site. As noted in the public testimony, Mr. Bissell said it appears to some people that the rezone application is an attempt to put through a development proposal that is inconsistent for the area. But it is important to note that the site is very hard to develop and an RS-6 zoning designation did not and will not work. The Board must think about what needs to be developed on the site and then create an ordinance that would allow the desired development to occur.

THE PUBLIC PORTION OF THE HEARING WAS CLOSED.

Board Member Crim said he has a difficult time looking at any of the plans for the site at this point. He expressed his concern that perhaps the whole process is backwards. Rather than look at the project now, the Board should focus on the zoning and establish a clear definition for the zone designation. The property owner could then work the development into the new zoning requirements.

Board Member Crim said that from a height point of view, the Board should try not to allow building heights in this area that would be any higher than the ones that already exist. He said he realizes that ½ foot is not a significant amount, but the Board must recognize that this is a very sensitive area. He pointed out that if the lots were developed individually, view corridors would be provided between the properties through the setback requirements. But if all four lots were combined, the setbacks would no longer exist. He suggested that the proposed language should speak to this concern, as well. The Board must work to make a reasonable set of regulations and forget about development prospects until they have completed this first task.

Board Member Dewhirst suggested that perhaps the proposed new zone designation would have application Citywide as a zoning district. He said he could see this particularly kind of zoning applied to any number of areas, so he would like the language written with this in mind rather than focusing on a specific area of the City only.

Board Member Dewhirst expressed his concern that the building mass and scale would have a much greater impact on surrounding property owners. However, he noted that the proposed language does not identify maximum lot coverage. He suggested that in addition to FAR, the language should also address the lot coverage issue.

Board Member Dewhirst said he feels the proposed setbacks for the new zone district are too narrow. A 10-foot street setback that can be reduced to five would be grossly inadequate in that it would not permit sufficient land for the buffer of a two-story building along the sidewalk and street in this particularly environment. The side setbacks were talked about by the applicant as being generous, but compared to what exists elsewhere in the City now, only two zone districts have less of a

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side setback requirement. The side setbacks for residential properties are normally 10 to 15 feet, with front setbacks of between 15 and 25 feet.

Board Member Dewhirst agreed that the City should continue to use their standard method of calculating the building height. If that does not work for a property owner, then a variance procedure could be applied for. He said he is bothered about the façade that could be built along Sunset Avenue as per the proposal. He noted that Sunset Avenue has a pattern of structures that are setback on either side. A 100-foot wide building on the subject property with one massive façade would be out of character with the surrounding properties and have a far greater impact than the height of the building. The proposal must take into consideration the scale of the building, maybe not on the first floor, but definitely with the second floor. Also, he said the setbacks or modulation should provide for view corridors.

Board Member Dewhirst said most of the discussion has centered on Lots 2 and 3, but there are two more lots included in the proposal. These lots are located further north, and the impacts would be even greater. He agreed with the applicant that the property is difficult to develop given the topography, proximity to the railroad tracks, etc. However, he would like to see the zoning district require a master plan as part of the site plan and elevations to address the issues up front. The only chance of reaching a consensus with the neighboring property owners is for people to see how the development would end up. If the zone district were applied Citywide and a master plan is required up front, the surrounding neighborhood would know what they would get up front. Lastly, he said he agrees with staff on the recommendation to limit the density of the residential units.

Board Member Freeman expressed her concern about the possibility of having one building constructed across all four lots. Using the average calculations, the building could be higher on one end than the other. Having looked very carefully at the topographical plans that were presented to the Board previously, she said she does not believe that using the City's standard method for measuring average height would work in this area. The City must come up with another way to measure the height in this particular situation. However, she felt they should look at the entire area and not just the two parcels that are owned by the applicant.

Board Member Freeman suggested that perhaps it would be appropriate to also consider options for greater residential density on the subject parcels. She said she would like to see more people have an opportunity to live on this wonderful site. If the units were smaller, more people would be able to afford them. She pointed out that nothing has been said about the portion of the building that would be residential versus office space.

Board Member Cassutt said she feels the City must figure out what needs to be in the zoning ordinance first before they consider a recommendation of approval for the rezone application.

Board Member Guenther agreed that the site is difficult to develop. In looking at the site plan, he said it appears there has been disturbed or excavated soil that was later filled in. This is a disadvantage to the site in trying to apply the standard building site rules since this has prevented construction on the site in the past. He said the Board must find a way to define height better in the code.

Mr. Chave recalled that when the Board reviewed the Comprehensive Plan amendment that was proposed for the subject property, they wrestled with the height calculation issue, and so did the City Council. Rather than trying to figure out what a height limit should be, the City Council took it out and said building heights shall generally be limited to two stories above Sunset Avenue. The problem is if height were measured using the City's standard method, it would be difficult to figure out exactly what the result would be. Because the property drops off rapidly, the actual height would be contingent upon setbacks. That is why the City Council inserted language that the maximum would be two stories above Sunset Avenue.

Mr. Chave said staff recommended a percentage figure for setbacks because the average setback in an RS-6 zone is roughly 16 percent. Rather than a hard number, they recognized that properties could be combined. The percentage number echoes the way the City deals with lot width and open space elsewhere along the shoreline in Edmonds. It allows the City to maximize the width of the view corridors as a trade off for reducing the number of view corridors.

Mr. Chave said staff also previously mentioned the notion of establishing a minimum set of standards for the new zone, but still allow a master plan to be submitted to uniquely address site circumstances that the base standards do not get at. Particularly, if the applicants have a building design in mind that addresses some of the Board's concerns, they could submit their design as a master plan that goes along with the rezone. He suggested that this would make more sense than crafting a zone to accommodate a particular design. This option could also help assure the public as to what the actual height, setbacks, street appearance, etc. would be.

Chair Young said he understands that the proposal was submitted in good faith, but it appears that the applicant is trying to craft something that should be applied Citywide to meet a very small and very specific piece of property. Whether intentional or not, he said he is having a hard time separating the site plan from the proposed code amendment. While the applicant has identified the difficult circumstances that exist on the site, he suggested that the site should be master planned to provide both office and residential space. Whatever the City Council said about heights, there is a conflict about what the proposal would do. What was said at previous meetings does not help him decide if the proposed code amendment is the best way to implement the Comprehensive Plan land use designation. He said he doesn't want to set a precedent where anyone with a difficult lot could propose a transition zone and write their own zoning ordinance for their property. This would not be good planning policy, and he could not support it.

BOARD MEMBER CRIM MOVED THAT THE BOARD CONTINUE THEIR DELIBERATIONS ON FILE NUMBER CDC-2005-46 TO THE JUNE 22, 2005 MEETING. BOARD MEMBER CASSUTT SECONDED THE MOTION.

It was noted that the public portion of the hearing has been closed. However, if the Board deliberations result in significant changes to the proposed code amendment language, Mr. Chave suggested that the Board might want to hold another public hearing on July 13, 2005. The Board agreed that staff should tentatively schedule another public hearing for July 13th, and the Board would know by the end of the June 22nd meeting whether or not they would be ready for the public hearing.

THE MOTION CARRIED UNANIMOUSLY.

PUBLIC HEARING ON FILE NUMBER R-2005-54: A REQUEST TO REZONE FOUR LOTS NORTH OF MAIN STREET ON THE WEST SIDE OF SUNSET AVENUE FROM RS-6 TO MPOR

Chair Young opened the public hearing for File Number R-2005-54, which is a request to rezone four lots north of Main Street on the west side of Sunset Avenue from RS-6 to MPOR.

Mr. Chave suggested that the Board continue the public hearing to July 13, 2005.

BOARD MEMBER GUENTHER MOVED THAT THE BOARD CONTINUE THE PUBLIC HEARING ON FILE NUMBER R-2005-54 TO JULY 13, 2005. BOARD MEMBER FREEMAN SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

Board Member Dewhirst noted that the rezone is for four lots and the applicant only represents two of them. The Board heard from one other property owner that he has no interest in the rezone. Therefore, he questioned if the four-lot rezone proposal would be valid. Mr. Chave answered affirmatively.

FURTHER REVIEW OF FILE NUMBER CDC-05-5: DEFINITION OF SETBACK AND CLARIFICATION OF WHAT STRUCTURES/BUILDINGS CAN BE PLACED IN SETBACKS

Mr. Chave referred the Board to the information that was provided by staff related to the issue of setbacks and what structures and buildings can be placed in them. He advised that the information was intended to provide a flavor of the range of issues involved in this complicated topic. He noted that the City's existing definition provides a convoluted way of determining what is and is not allowed in setbacks, but it is very difficult for the staff to interpret, let alone explain. Staff

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also provided a lengthy list of the issues that have come up at various times regarding setbacks. He reminded the Board that this whole issue was triggered by a tree house that was constructed in the setback area. He pointed out that tree houses are frequently placed along the property line because that is where the majority of the larger trees are located since the central part of the lots are cleared for construction.

Mr. Chave referred to the City's current definition for "structure," which talks about things that are not permanently fixed to the ground. However, there has been debate in the past about what is and is not permanent. The City's Code Enforcement Official has suggested that the City no longer distinguish between permanent and non-permanent, but if the City goes in this direction, they must make sure the setbacks are reasonable. In addition, they would have to consider how setbacks work. For example, corner lots behave differently than flat lots and standard lots. It is important that the City's regulations are fair to property owners who have different types of setback situations.

Mr. Chave said staff is seeking input from the Board that would allow them to begin to draft language for the Board's consideration.

Board Member Crim recalled that at a previous meeting, the Board also discussed the City's nuisance ordinance. Mr. Chave remembered that the Board discussed the impact particular uses could have on adjoining property owners if they were located within a setback area. For example, would a play structure within a setback have any more impact to an adjoining neighbor than a yard that kids play in? Board Member Crim asked if the nuisance ordinance would address this issue adequately. Mr. Chave advised that staff is working to update the nuisance ordinance. Board Member Freeman suggested that if a structure is creating a nuisance for an adjacent property owner, it shouldn't matter whether it is permanent or not.

Mr. Chave suggested that perhaps the best process would be for the staff to find a range of approaches for the Board to consider before they start to write a draft ordinance. He suggested that the Board should review the setback requirements, themselves, particularly for smaller lots if the City is going to have tighter regulations about what is and is not allowed within setbacks.

Board Member Freeman referred to the term "porches" and asked if this would include covered porches or just uncovered porches. Mr. Chave said the same rule would apply for both porches and decks. Board Member Freeman suggested that this should be made clearer.

Board Member Dewhirst suggested that the Board consider a two-tiered approach: one for large lots and one for small lots. He pointed out that most of the older homes are on larger lots with wider setbacks, but in newer developments the lots are small with large homes. Because the lots are smaller, the setback areas are typically used more. Mr. Chave said the City used to allow a process called "lot line adjustment" rather than the variance process. This process required a staff decision with notice, and didn't have as stringent of criteria as the variance process. He said it is difficult to justify exceptions for the setback areas through the variance process, but it might be appropriate in the small lots to allow the setbacks to be reduced. He noted that the "lot line adjustment" process was eliminated from the City regulations because the criteria were so poorly written that nothing could be denied.

Board Member Guenther asked where the line between small and large lots would be drawn. Mr. Chave said the RS-6 and RS-8 zones have been classified as urban designations, and the RS-10, RS-12 and RS-20 zones have been considered the larger lot designations. Board Member Freeman noted that some of the lots in the RS-6 zone are large. She suggested that perhaps they should consider the actual size of the lot rather than the zone it is located in. Mr. Chave said they could base the variance on the size of the lot and the amount of buildable area.

Mr. Chave suggested that the Board deal with undesirable uses through the nuisance ordinance, and then deal with setbacks based on the height and bulk of the proposed structure.

The Board agreed to postpone further review of the setback issue until after they have completed their review of the MPOR zoning proposal.

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Board Member Guenther said he recently reviewed Bellevue's setback ordinance. He noted that their definition for "side setback" states that if it is not a front or rear setback, it is also considered a side setback. Mr. Chave said the City of Edmonds also has a similar method of dealing with unusually shaped lots.

REVIEW OF EXTENDED AGENDA

The Board did not review the extended agenda.

PLANNING BOARD CHAIR COMMENTS

Chair Young did not provide any additional comments during this portion of the meeting.

PLANNING BOARD MEMBER COMMENTS

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

ADJOURNMENT

The meeting was adjourned at 10:37 p.m.

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