

**CITY OF EDMONDS  
PLANNING BOARD MINUTES  
May 24, 2006**

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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 – 5<sup>th</sup> Avenue North.

**BOARD MEMBERS PRESENT**

Janice Freeman, Chair  
Cary Guenther  
Jim Young  
Virginia Cassutt  
Judith Works  
Don Henderson

**STAFF PRESENT**

Rob Chave, Planning Division Manager  
Duane Bowman, Development Services Director  
Karin Noyes, Recorder

**BOARD MEMBERS ABSENT**

Jim Crim

Board Member Crim was excused from the meeting.

**READING/APPROVAL OF MINUTES**

**BOARD MEMBER WORKS MOVED THAT THE MINUTES OF MAY 10, 2006 BE APPROVED AS AMENDED. VICE CHAIR DEWHIRST SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY, WITH BOARD MEMBER GUENTHER ABSTAINING.**

**ANNOUNCEMENT OF AGENDA**

No changes were made to the agenda.

**AUDIENCE COMMENTS**

No one in the audience expressed a desire to address the Board during this portion of the meeting.

**PUBLIC HEARING ON DRAFT “BD – DOWNTOWN BUSINESS” ZONES, INTENDED TO BE APPLIED TO THE DOWNTOWN AREA TO IMPLEMENT THE COMPREHENSIVE PLAN (FILE NUMBER CDC-06-37)**

Mr. Chave announced that the first public hearing is on a proposed amendment to the Edmonds Community Development Code, adding a new set of classifications under a general category termed “BD – Downtown Business” zones, and public comments should focus on the text language. He explained that the draft proposal would create five different flavors of the BD zone. The second public hearing would concern the map, which identifies where each of the five zones would be located.

Mr. Chave recalled that the Downtown Plan was adopted by the City Council in March 2005 as part of the Comprehensive Plan Update. The proposed zoning change is a follow up action to implement the Comprehensive Plan and make the zoning consistent. He advised that the proposed zones for the downtown generally follow the pattern identified on the Comprehensive Plan Map, with a few differences. He noted an error on the map that was sent out for the public hearing; the properties at the corner of Third and Main should have been identified as BD4 instead of BD2.

Mr. Chave pointed out that subsequent to the adoption of the Comprehensive Plan Update, the City Council held several discussions regarding the downtown and what the zoning should be. The proposed language for the BD zones is reflective of their discussions. He emphasized that modifications could be made to the zoning proposal. In addition, the Board could find it necessary to make changes to the Comprehensive Plan to accommodate the zoning that is ultimately agreed upon. He reminded the Board that the proposed new zoning changes must be consistent with the updated Comprehensive Plan or the Comprehensive Plan must be modified accordingly.

Mr. Chave advised that the City Council held a number of discussions over the past year with an urban design consultant to consider options that would enable the downtown to remain viable. The City Council also held some discussions in March to review ideas the Board should consider. These discussions formed much of the basis for the current zoning proposal, and the City Council largely decided on the map that was advertised for the public hearing. The names of the zones follow the zoning districts identified in the Comprehensive Plan. The current proposal contains a variety of ideas and options, and some may have more merit than others. However, the Board wanted to get all of the options out on the table for public comment. He emphasized that the proposal is not final and represents a range of ideas that could be considered.

Mr. Chave said that after the Planning Board makes a recommendation to the City Council, the City Council would hold a public hearing and ultimately adopt a final zoning ordinance. He pointed out that the proposed standards section is longer than what is typical because it must contain all of the standards for the five different BD zones. There are separate sections dealing with ground floor height issues, building heights and exceptions to building height (elevator shafts, cornices, etc). There is also a section related to parking requirements. The Board previously discussed the concept of encouraging smaller buildings in the downtown in exchange for loosening the parking requirements. In the past, the need for additional height was tied to the need to provide on-site parking. If no on-site parking were required, then parking garages would no longer be necessary in many cases.

Mr. Chave said the Board also reviewed the concept of requiring a certain percentage of open space for larger building projects in the downtown. The intent would be to encourage smaller buildings, instead. If larger buildings were constructed, a developer would be required to provide an open space amenity to benefit the public. Mr. Chave also advised that the proposed language includes an exception for historic buildings.

Mr. Chave advised there would be no change in the way height is calculated; height would still be calculated based on average grade. However, there would be some variation in the maximum height limit, depending on the zone. For example, decorative cornices and roof top gardens that extend above the roofline would not be included in the height calculation. The notion is that these decorative features would be part of the streetscape and add decorative character to the downtown.

Mr. Chave provided a diagram showing how the proposed language would be applied to an uphill property. The proposed rules state that a building height of 25 plus 5 would be allowed if the portion of the building over 25 feet were stepped back. The intent is to maintain the pedestrian oriented streetscape by keeping the street front height at 25 feet. A person across the street would not see that the building was higher than 25 feet. The same step back concept would be applied to the back portion of the building, as well. He emphasized that the diagram illustrates the maximum envelope the building could occupy.

Mr. Chave also provided a diagram showing how the proposed language would be applied to a downhill property. The same type of step back concept would be utilized in the back, but no step back would be required because the building would actually be lower than the 25 foot height measurement from the street front. The proposed language would allow a developer to substitute a setback for a step back at the property line. He provided some examples of how the proposed language would be applied to existing buildings in the downtown and what the impacts would be.

**APPROVED**

Mr. Chave said the Board is specifically asking for feedback on the following issues:

- How would the proposed standards apply to existing buildings? The proposed language does not consider how the proposed standards would apply to non-conforming buildings. The Board would like feedback from the public about whether modifications to existing properties should be wholly or partially exempt from the new standards. For example, should a property owner be required to provide a 12-foot first floor ceiling height in order to modify an existing structure?
- Are the height exceptions (turrets, cornices, roof top gardens, elevators, etc.) the right ones, with the right numbers? The notion is that if the City wants to encourage some differences in design, this could be done through exceptions. But anything on the roof, such as gardens, would require a stair or elevator access. If no rooftop garden were constructed, there would be no need to allow an elevator shaft to extend above the roofline.
- Is the open space requirement appropriate? A lot of discussion has taken place about the percentage that should be required for open space.

Mr. Chave provided pictures to illustrate examples of existing downtown buildings and lot sizes.

Board Member Freeman advised that John Reid contacted her regarding the possibility of having more time to testify before the Board, since he would be making a presentation on behalf of all the members of the Alliance of Citizens for Edmonds (ACE). The Board agreed that the representatives from ACE could have 15 minutes to make their presentation.

**Diane McEachroan** said she owns a residence in the proposed BD2 zone on Bell Street. She asked what impact the proposed new zoning would have on her property, such as property taxes, limiting her ability to modify the structure, etc. Mr. Chave answered that the proposed language would not allow single-family residential homes as permitted uses. If the proposed language were adopted, the single-family residential homes would be considered non-conforming. Ms. McEachroan would be able to continue the single-family residential use, but if the use were discontinued or if something happened to the house, she would not be able to rebuild it as a residence. Ms. McEachroan pointed out that her property was zoned residential/commercial and was an antique store at one time, but it has been used as a single-family residence for the past 20 years. She also asked how her property taxes would be impacted by the change. Mr. Chave said Ms. McEachroan should contact the Snohomish County Assessor to find out if a commercial zone would be more valuable than a single-family residential use.

**David Powell** said he owns property at 410 Dayton Street, which is in the proposed BD2 zone. His building and lot are small, and he currently uses the property as his office. He said he originally intended to develop a mixed-use building on the property, with parking and office space on the ground floor and residential on the upper floor. However, the lot is only 60 feet deep and 50 feet wide. The proposed language would require commercial space for a depth of 60 feet, and parking would not be considered a commercial use. The proposed language would not allow him to construct a building with parking on the ground floor for the upper residential uses. He expressed his belief that a smaller building would create problems and defeat the purpose in the plan for requiring commercial space on the first floor to a depth of 60 feet. Nothing would be gained. In addition, he pointed out that open parking would not be as attractive as enclosed parking. The proposed language would only allow him to develop 1,800 of residential space on the top floor rather than 3,000, and this would make the project much less viable. It would also reduce the tax base for the City.

Mr. Powell asked that the Board give some consideration for smaller lots to allow office and parking on the first floor. He also pointed out that small office space, with small rooms, does not need to have a 12-foot ceiling height. This would result in a waste of energy for heating the dead space. He asked that consideration be given for small offices and other small uses that do not require a 12-foot ceiling height.

Mr. Chave explained that the height for the ground floor would not be measured from the ground to the ceiling, but from the ground floor all the way up to where the next floor starts. All of the structural elements holding up the second floor would be included in the ground floor measurement. The actually inside ceiling height for the first floor would be about 9.5 feet.

**APPROVED**

Mr. Powell said he assumes that with a small office building, it would not be necessary to have a 3-foot space between the two floors for duct work and utilities.

**Michelle VanTassell** read a letter into the record from **Jeff and Vicki Phillips**, who were unable to attend the meeting. The Phillips family has owned the two parcels on the northwest corner of 4<sup>th</sup> Avenue and Edmonds Street for approximately 70 years. During the last several months, they have seriously considered the feasibility of tearing down the existing structures in order to build an appealing 8-unit condominium under the current zoning guidelines of multi-family residential. The letter further stated that their dream has always been to retire from the Edmonds School District and own and occupy the two proposed condominiums on the corner. This is a major step in their lives, and they want to minimize their risks. Mr. and Mrs. Phillips indicated that they are very excited about the City's plan to develop 4<sup>th</sup> Avenue. However, in their opinion, selling five or six condominiums in this ideal location carries far less risk than realizing the City's hope under the suggested zoning requiring a ground floor strictly dedicated to commercial business, which may or may not materialize in their lifetime. They indicated their willingness to adopt any exterior design the City would deem conducive to the design or scheme of the 4<sup>th</sup> Avenue Art Walk. They concluded their letter by stating that their reservations were with the proposed mandatory commercial zoning portion of the proposed new zoning plan.

Ms. VanTassell said she personally supports Mr. Chave's comments about encouraging a variety of design in what would be the BD5 zone along 4<sup>th</sup> Avenue. She would be very much in favor of the proposed language, particularly if the City Council is open to providing some kind of incentive for property owners who desire the streetscape proposed by the streetscape consultant. She said she and her husband intend to continue to live on 4<sup>th</sup> Avenue and enjoy the Arts Corridor for many years. Such incentives could include live/work artist studios, flexibility with regard to design, a low interest loan program, etc. She said she and her husband are very excited about the proposed plans for the 4<sup>th</sup> Avenue Arts Corridor, and they would look favorably upon any openness and flexibility allowed in the Comprehensive Plan and zoning ordinance.

**John Reid, President of the Alliance of Citizens for Edmonds (ACE)**, said their group has carefully reviewed the proposed language for the past several months. The document is very complex, so they chose to focus on the key areas they feel are most important. He pointed out that the ACE Group is very diverse. While their intent has been to represent the collective thinking of their members, that does not mean everyone agreed on every issue. He referred to the Purpose Section on Page 1, which is important because it defines the intent of all of the standards that are to follow. He suggested that more effort and thought be put into this section to clearly define what the City is trying to accomplish with the ordinance. He said it appears the purpose of Item A is to promote downtown Edmonds, and the purpose of Item B is to define pedestrian friendly pathways. The purpose of Item C is to integrate office/residential uses to support the central retail core, and the purpose of Item D is to create small scale commercial and multi-family uses along the Arts Corridor. He suggested that these purposes could be better articulated. Mr. Reid suggested that each of the sub-districts be carefully defined at the beginning of the ordinance to clearly identify the rules, purpose and intent of each of the zones. A careful description of each zone would help guide what follows in the document. In addition, he suggested the names for each of the sub-districts could be more descriptive.

**John Heighway, ACE**, referred to Table 16.43.20, which describes the different types of commercial businesses that would be included in each of the five zones. He pointed out that the uses chart seems to have been randomly fabricated, with very little sense of defining similar uses within a given zone. The uses within the zone need to be harmonious and highlighted with attributes to the zone. He said it almost seems that what has been created is a list of uses currently located in the area with very little regard to what is planned for the future. The uses table is to be a future master plan of what the City intends to see core businesses to resemble. He pointed out that all ground area uses are commercial, except for possibly the BD4. He said this would not be a problem, and residential uses above the commercial/retail uses would be appropriate, but not to the extent it would de-emphasize the businesses by squashing them down to accommodate housing above. He said putting businesses into narrow 60-foot deep strips at the ground floor street frontage might not accommodate or attract businesses into the City. He urged the Board to preserve and promote businesses within the BD zones and keep the residential need and the related building height as a secondary issue in the BD zone.

Mr. Heighway provided the following examples of the nonsensical situations found in the use table:

- Why are there no dry cleaners in the BD1 zone and the theater is not included at all?

- In the BD2 zone, no convenience store would be allowed, and bars and pubs are not mentioned in any of the zones.
- The BD3 zone would be the only zone for wholesale use, and it allows convenience stores.
- How did the Gregg Building come to be half in the BD2 zone and half in the BD3 zone?
- In the BD4 zone, drive-in businesses would be allowed, but RM-1.5 housing on the ground floor would be 100%, and convenience stores would not be allowed.

Using the proposed language, Mr. Heighway provided the following description of a hypothetical building that could be located in the proposed BD1 zone.

- The building could be used as a retail store, an office, a restaurant, an art gallery, an open air market, and have multiple dwelling units above. It could be a bus shelter, a church, a primary or high school, off-street parking or loading area, commuter parking lot, commercial parking lot, hotel, motel, daycare, outdoor storage, and aircraft landings.
- Parking access would be from the street only, but there is a clause that no parking would be required for buildings under 4,800 square feet. The building would face the street and have a 4-foot high fence of an undetermined height because the top would be made out of lattice work. The exposed walls would be decorated.
- The minimum lot size and width requirement would be zero, and the minimum street and side setback requirement would be zero. The rear setback would also be zero, but if it is next to a residential lot, it must have a 15-foot setback with a wall in it.
- The maximum height would be 25 feet and the lot would be flat. The maximum height of the ground floor would be 15 feet. The building would have a plus 5-foot boost in height because it provides a 15-foot ceiling, so the building would be 30 feet tall. There would be no step backs associated with the building, so the height would still be 30 feet. However, the building height exceptions would allow cornices and parapets, adding another three feet to the 30 foot height for a total of 33 feet in height. Because the building would have a rooftop garden with a 42-inch railing around it, the building would gain another 5 inches in height. With the decorations and adornments on top, the building would be allowed an additional 5 feet in height, for a total of 35 feet. Adding a 12-foot elevator shaft on top of the roof would make the building 42 feet tall. The building would be over 10,000 square feet, so 5 percent of the building could be used for the elevator shaft enclosure. This represents a space of around 500 square feet upon the roof.
- The ground floor would be within seven inches of the sidewalk, with multiple entries for multiple storefronts. The entire ground floor would be used for commercial, the condominiums would be accessed through the ground floor area, and there would be no single-family use on the lot.
- Parking would not be used for the commercial space. It would have clear windows so you can see in, and access would come from the sidewalk only.
- No additional parking would be required for the building, and a 10 percent area of open space would have to be provided. However, the open space wouldn't be under the building and would be wider than it is deep.
- Density could have from 1 to an unknown number of single-family dwellings above the floor. (Some of their members expressed an interest including low-income families as part of the design of a building, as well as the ADA requirements.)
- The building would be located next to a residential lot, one of the few in this particular zone, so it would be set back 15 feet. It would have a six-foot or higher fence, wall or hedge within the setback with no mention of height limitations for this feature.
- The signs would be per code, as would the antennae. The operations would all be included in the building.

Mr. Heighway pointed out that this type of building would be allowed in the BD1 zone, which is the zoning proposed for the downtown main core. When comparing these requirements to the Gregg Building, Mr. Heighway noted that the Gregg Building would meet a lot of the proposed requirements. The end result would be transplanting the Gregg Building to the downtown area. The Board must consider whether or not that is the actual intent for the BD1 zone.

**Susan Bauer, ACE**, pointed out that when focus meetings were held a year ago for the 4<sup>th</sup> Avenue Arts Corridor Plans, the properties identified as "Special Area 1" were included as part of the Arts Corridor. The intent of the Arts Corridor was to connect the Performing Arts Center to the downtown retail businesses on Main Street. However, ACE was surprised to learn that the proposed map shortens the Arts Corridor so it no longer connects to the retail core at all. Instead, the Arts Corridor appears to be an island. ACE is also concerned that the proposed language identifies additional building restrictions for properties along 4<sup>th</sup> Avenue alone. The new language would drastically reduce the buildable portion of lots on 4<sup>th</sup> Avenue because of restricted setback and building height requirements that are different from the other BD zones. These additional

standards would be flatly imposed and no incentives would be offered within the BD5 zone, while other BD zones would offer property owners greater development opportunities than they currently enjoy.

Ms. Bauer pointed out that the proposed BD5 properties would be bounded on the east by the proposed Special Area I, yet the draft language proposes this area to be any district except the Arts Corridor. She further pointed out that if the Arts Corridor properties are held to the new highly restrictive design, height and setback standards, they would soon be towered over by zero-lot-line buildings with rooftop equipment as high as 42 feet. She summarized that ACE is concerned about the following:

- The proposal to drop the southern connection between the Performing Arts Center and the downtown retail core.
- The annexation of properties to the east into a mysterious special area.
- The simultaneous and drastic new restrictions on building within the arts island zone.
- Whether the City really needs to continue with a plan for an Arts Corridor at all.

Ms. Bauer said ACE is suggesting that in order to keep the Arts Corridor idea alive, the Board should consider the following:

- Restoring the necessary connection to the retail core.
- Returning Special Area I to the Arts Corridor.
- Finding necessary ways to put the existing commercial parcels within the proposed BD5 zone back on par with all other BD parcels in the City.

**Steve Bernheim, ACE**, recalled that a petition with hundreds of signatures was previously presented to the Board regarding the issue of height in the downtown. However, the Board and staff did not give the petition a lot of credit when the issue was considered last year. He asked Mr. Chave to display the picture of the Gregg Building that he used earlier in his presentation, and pointed out that the 25-foot mark between the two trees only goes up to the middle of the window. He noted that the downtown currently has a 25-foot height limit, and the building does not include decorative art features to warrant the additional height. He said he appreciates the examples provided by staff to illustrate how the proposed ordinance would be applied to existing buildings.

Mr. Bernheim provided an illustration showing the maximum height that would be allowed in the draft BD1 zone given the exceptions that have been proposed. He noted on the illustration how the current height limit would be applied, as well. He suggested that allowing a developer to construct a 30-foot high building if a 15-foot first floor ceiling is part of the proposal would actually give the builder the highest possible space without requiring any tradeoff to benefit the City. He suggested that the cornices and other architectural decorations should be limited to a specific maximum height, and it should be less than 30 feet. He emphasized that the current code language allows a developer to construct a building with a first floor ceiling height of 15 feet, a second story of residential and five additional feet for a pitched roof. Because developers have expressed a desire to have a 15-foot high first floor with two stories of residential above, the City should clearly define the standard as two-story rather than a specific height limit with exceptions. He said ACE would like to reemphasize their interest in maintaining a 25-foot height limit. If exceptions to the height limit are allowed, much taller buildings would be built.

Mr. Bernheim pointed out that the step back requirement for building over 25 feet would not apply in the BD1 zone. He reminded the Board that the goal for the downtown is to have a pedestrian friendly walkway, with pedestrian scale development on either side. He asked the Board to review the complexity of the setback concept proposed by the staff and consider ways to simplify it. For example, they could require the area of any building that is over 25-feet in height to be set back 15 feet if it is adjacent to a street front or the lot line opposite the street front. This would be simple to apply and would not provide multiple exceptions for developers to take advantage of.

Mr. Bernheim supported the previous concern raised about the wasted energy associated with greater ceiling heights for uses that do not require the extra space. He suggested that the greater ceiling height requirement is an old fashioned idea that should be reconsidered. Mr. Bernheim pointed out that the only way a structure in the proposed BD5 zone would be allowed to go above the 25-foot height limit would be if a combination 12/12 and 6/12 pitch were used for the roof. However, the rest of the BD zones would only require a 12/12 pitch to go above the 25-foot height limit. He requested clarification about

why the requirements should be different for the proposed BD5 zone. He summarized that the proposed language is very convoluted, but could be simplified. He referred to the written comments he provided previously to point out simple changes that could be made.

Mr. Reid said the only language in the document that addresses the massing issue is the section related to the open space requirement. He pointed out that massive buildings have been a significant issue in downtown Edmonds over the past few years, so it would be important to include something in the draft ordinance to address ways to deal with multiple lots and long and/or large buildings. Mr. Reid closed his remarks by stating that ACE focused on the problems they feel must be addressed, but there are also things they like about the proposal. ACE believes that if the ordinance were written properly, it would promote economic growth.

**Bob Gregg** advised that he sent an email to each of the Planning Board Members outlining his concerns. He pointed out that the proposed language would make all single-family homes non-conforming uses in the BD zone. This would prohibit a single-family residential property owner from rebuilding his/her home if it were significantly damaged. He specifically referred to the proposed language for Section 16.43.030.F regarding historic buildings and suggested that language be added to allow nonconforming historic buildings that are significantly damaged to be reconstructed.

Mr. Gregg expressed his belief that Section 16.43.030.E would be one of the most problematic of all new requirements. He explained that many lots in the proposed BD zones are plotted 120' x 120' (14,400 square feet). As per the proposed language, open space would be required in order to renovate or redevelop practically every property on Main Street or 4<sup>th</sup> Avenue. He recommended that the open space requirement not be based on lot size. However, if it is, he suggested it only apply to lots larger than 15,000 square feet. He also suggested that the open space requirement based on building width should be increased from "more than 100 feet" to "more than 120 feet."

Mr. Gregg said he believes the amount of the proposed open space requirement is too large and should be based on building footprint instead of lot size. A good example is the ARCO Property at 5<sup>th</sup> and Dayton. At 10,200 square feet, it is certainly not a "Gregory" size development. Instead it is a fairly small lot. He pointed out that a building with surface parking may well be about 4,000 square feet, but the proposed language would require 1,000 square feet of open space. This would amount to 24% of the building area. Another good example is Old Mill Town. He felt everyone would agree that the open space provided on this property is enjoyable and ample, yet it only covers about 5% of the lot area. The proposed language would require about twice as much open space at Old Mill Town, which would be onerous. He recommended that any open space requirement be limited to lots over 15,000 square feet and buildings that are longer than 120 feet. In addition, the requirement should be limited to 5% (not 10%) of the building footprint (not the lot size). Also, Mr. Gregg recommended that the open space requirement be limited to new construction only. If the goal is to renovate, restore, remodel and rehabilitate existing buildings in the downtown, they should be exempt from any open space requirement.

Mr. Gregg referred to Section 16.43.030.C.3.a.iii, which allows a building setback to be substituted on a foot-by-foot basis for the required building step back. He recommended this section be changed to provide for a 2:1 exchange. That is, each foot of total building set back should count for 2 feet of step back. He pointed out that in the case of a setback, two floors are affected, costing twice the square foot penalty of a step back. The benefit to the public of encouraging setbacks is that the public sidewalk could be expanded.

Mr. Gregg referenced the picture provided by Mr. Chave to illustrate how the proposed language would be applied to an uphill property. He said he can't imagine a building with a step back as depicted. He said he can't picture a building in Edmonds that would have a 27-foot high first floor and a 7.5-foot high second floor. The real step back would come with the floor break. He suggested that once a building has met the +5 requirement, there should be no further step backs or setbacks required. Therefore, C.3.a.ii should be deleted.

Mr. Gregg pointed out that if the City wants to encourage roof decks, requiring them to cover 75% of the roof area would not only be prohibitive, it would also probably disrupt the occupants below. He suggested the City simply allow roof decks to be placed and sized as appropriate.

Mr. Gregg summarized that on a typical 120' x 120' corner lot, the proposed language would eliminate third floors and require a combination of step backs or setbacks that cost a minimum of 3,375 square feet and an open space of 1,440 square feet. This amounts to an owner "give back" of 19,215 square feet out of the current 43,200 square foot potential. That represents a 45% reduction in development potential. He said the practical trade off for this would be the elimination of parking requirements for commercial uses because the market would still demand parking for residential uses. How much can be extracted from the property owners remains to be seen, but his suggested minor changes would be extremely important to keep from implementing a de facto building moratorium. He reminded the Board that a few years ago, they forwarded a comprehensive proposal to the City Council. It was opposed predominantly by ACE, and the proposed language still does not satisfy the public who objected to the original plan. He said he is not suggesting the Board go back to the previous proposal. Instead, he encouraged them to tweak the proposed language and send it to the City Council as soon as possible so everyone can get on with their lives.

**Darrell Marmion** said he was pleased to see that the new proposal included language to address historic buildings, grade entry, a setback concept that is tied to height, and open space requirements. He said that because large buildings are not really encouraged in the downtown, it would be appropriate to tie the open space requirement to the size of the property. Mr. Marmion said that if one of the benefits of setting back the third floor is to add street appeal, then it would be contradictory to allow cornices and other roof top features to extend above the height limit. In addition, overhanging bay windows should not be allowed since they tend to overwhelm the pedestrian feeling at the street level. Mr. Marmion expressed his concern regarding a previous comment that the new code would require the first 60 feet of ground floor space be commercial only.

Mr. Marmion advised that he is currently involved in a lawsuit with the City of Edmonds and has found that most issues come down to code interpretation. While the Board is attempting to deal with all of the details, they do not have a Comprehensive Plan that identifies what the City should look like. Several City Council Members have commented that they want downtown Edmonds to remain as two-story buildings, but this has not been made clear in the Comprehensive Plan or in the proposed language. He urged the Board to clear up all the details before they move forward.

**Pat Marker** said he owns a parcel of property in the proposed BD5 zone. He noted that the proposed matrix identifies no setback requirement for properties in the proposed BD1 through BD4 zones, but the BD5 zone would have a minimum street setback of 10 feet, a side setback of 5 feet and a rear setback of 5 feet. On his 7,200 square foot corner lot, the proposed setback requirement would reduce his buildable property to 4,725 square feet, or a net loss of 35 percent. He said he feels the setback requirement would be unreasonable, and he questioned why there would only be a setback requirement for the BD5 zone.

**Claude Tate** referred to a picture of his single-family residential property, which was provided earlier by Mr. Chave. While his property has been included as part of the proposed BD1 zone, he has no plans to use it for anything other than single-family residential. He questioned if he would be able to sell his property as a private residence if it is rezoned to BD1. Mr. Chave answered affirmatively. He also questioned how this change would impact his property value. Mr. Chave said he can't answer questions regarding property value. He encouraged Mr. Tate to contact a real estate agent or the Snohomish County Assessor regarding the issue of taxes and property value.

**Roger Hertrich** pointed out that there are very few residential homes in the proposed BD zones. He pointed out that the emphasis in Edmonds has been on the character of the older buildings and historic preservation. In addition, the City Council is working on possible revisions to the non-conforming section of the code. He suggested that the proposed language allow older residential homes in the downtown to be permitted uses in all BD zones. These homes provide unique elements in a commercial zone and add to the character of the downtown. If single-family residential were a permitted use, home owners would be able to restore their buildings.

Mr. Hertrich referred to the table outlining the allowed uses in each of the proposed new BD zones. He noted that art studios, art galleries, restaurants, or food service establishments that also provide an on-site retail outlet open to the public would be allowed in all of the proposed BD zones. However, the table fails to recognize two important types of businesses that already exist in the downtown and add to the evening entertainment: taverns and live entertainment. Both of these uses should be allowed in all of the BD zones. In addition, he suggested that dry cleaners should also be allowed uses in the BD1 and BD5 zones. He urged the Board to not eliminate important businesses from the downtown.

Mr. Hertrich recalled that the Board has previously discussed the concept of eliminating the parking requirements for historic structures. However, a number of buildings in the downtown could be listed as historic based on age without being on the Edmonds Register of Historic Places. In addition, Mr. Hertrich pointed out that the proposed language would require no parking in the BD1 zone. He suggested the Board change this language. When trying to save existing buildings, the Board should recognize that some parking is available on site, although not sufficient to meet the current parking requirement. If existing buildings are remodeled, they should be required to keep the number of parking spaces already available. In addition, a new building should be required to provide parking. He summarized that the parking requirements should differentiate between existing historic buildings and new buildings.

Mr. Hertrich urged the Board to consider placing some type of maximum density requirement on multi-family development. He said he found the proposed language to be very good and they are on the right track. However, he asked that the Board considering holding another public hearing before sending a recommendation to the City Council.

**Diane McEachroan** said she owns the brick house across the street from the Public Safety Complex. It is nearly 100 years old. Now it appears the City is proposing to outlaw single-family houses in the BD1, BD2 and BD3 zones, which takes up a major portion of the downtown. She expressed her belief that people love Edmonds for the small town atmosphere, but this is changing. She said she doesn't have anything against condos in the downtown, but that type of zoning tends to lend to the effort of doing away with single-family homes in the downtown area, which she would hate to see.

THE PUBLIC HEARING WAS CLOSED

THE BOARD TOOK A BREAK AT 8:40 P.M. THEY RECONVENED THE MEETING AT 8:52 P.M.

**PUBLIC HEARING ON REZONE OF PROPERTIES IN DOWNTOWN EDMONDS TO ESTABLISH NEW "BD – DOWNTOWN BUSINESS" ZONES (FILE NUMBER R-06-50)**

Mr. Chave referred the Board to the proposed zoning map, which is the subject of the public hearing. He pointed out that the properties across the street from the Public Safety Complex are identified on the map as Special Area 1. This property could be considered for one of several zones – BD2, BD4, or RM-1.5. The Planning Board is seeking testimony on which of the zones would be most appropriate for this location.

**Bob Gregg** pointed out that the boundary between the BD1 and BD2 zones runs right through his development at Walnut and Holly Streets. He suggested they move this line one way or another.

**Larry Temple** said he lives on property that is designated as Special Area 1. While he came to the meeting with no opinion about what the zone should be, he is concerned about it being identified as a Special Area. He said he spoke with the former architect for a project to the south of his property a few weeks ago, and he indicated the proposed project was dead. He said he wanted the architect to provide feedback about what zoning he would choose to support, but he did not seem to be interested in providing input other than to say that the project was opposed by the neighbors because it was oversized.

Mr. Temple said that after further discussion with staff during the break, he feels the correct zoning choice for this property would be RM-1.5. He pointed out that all properties fronting on 5<sup>th</sup> Avenue are residential, with the exception of the home at the north end of the block near Edmonds Street, which is presently being used as a doctor's office. If the property were zoned RM-1.5, a developer might be able to skip worrying about having to provide commercial space on the ground floor. Therefore, they would have more flexibility in design to make the project work for everyone. He pointed out that if the developer of the property next to him had come to the neighbors in the beginning, they would probably have been able to reach a satisfactory resolution that would have allowed the project to move forward. The neighbors were concerned about cars being allowed to access from the very narrow alley instead of 5<sup>th</sup> Avenue. He said he was also concerned about the inability to maintain his building if the project was allowed to be built only inches from his structure. He said his building is 30 years old and constructed right up to the property line. He urged the Board to learn from past mistakes and not allow buildings to be so close to the property line unless they are right at the property line.

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**Steve Bernheim** pointed out that the front entrance to the new Performing Arts Center would not face 4<sup>th</sup> Avenue. He suggested the Board considering including the triangular piece of property across the street from the Performing Arts Center as part of the BD5 zone. He also pointed out that the BD5 zone does not extend to Main Street, yet the purpose of the Arts Corridor is to connect the Performing Arts Center to the core downtown area. He expressed his belief that the Arts Corridor would not be born from the architectural style of the historic homes along 4<sup>th</sup> Avenue, many of which are not even historic. The Arts Corridor would be defined by the streetscape on 4<sup>th</sup> Avenue and not by the setbacks requirements that have been proposed. He noted that the Floral Arts Center is located along the proposed Arts Corridor, yet it is constructed right to the property line. He said that defining the BD5 zone as a series of quaint homes is not practical. He suggested the Board consider the opportunity to expand the BD5 zone to include the Special Area 1, where the dance studio is currently located. Another option would be to throw out the zoning of the Arts Corridor and focus on the streetscape. Everything could be identified as BD2 in the downtown except for the downtown retail core. He urged the Board not to overcomplicate the issue by providing five different zoning options for the downtown. He noted that the differences between the five zones are not that great.

**Darrell Marmion** said he is also a property owner in the proposed BD5 zone. He agreed with the comments made previously about expanding the BD5 zone to extend from the Performing Arts Center to Main Street. He expressed his concern that if the City allows large scale development to occur lot line to lot line in the Special Area I, it could result in very large buildings on the site that faces the Arts Corridor because the properties are steep. He said his preference would be for the Board to consider linking Special Area 1 back to the Arts Corridor by making the zoning BD5. He noted that the neighbors were concerned about the recently proposed development on 5<sup>th</sup> Avenue because it did not fit in with the character of the surrounding properties. A condominium development of six to eight units would fit into the existing scale of the area and would not likely receive the same opposition. He concluded by stating that the zoning should have the same feel as what is there already.

**John Highway** expressed concern about how the overlay would fit into the big picture. There has been a lot of talk about waterfront development. In a recent discussion with a City Council Member about an overpass to the waterfront, he was informed that Dayton Street was going to be used for access to the waterfront. He urged the Board to consider how the City would provide adequate linkage between the downtown and the waterfront. He suggested that it would be helpful for the staff to illustrate the proposed new zones as an overlay on the existing City Map to show how the proposal would fit in with the rest of the City. He also asked that staff provide illustrations depicting proposed building heights and elevations to the public in handout format.

**Roger Hertrich** recalled that the convenience store that was previously available in downtown Edmonds was enjoyed by the residents of the community because it was often the only thing open late at night. However, the proposed new language would prohibit this use in the BD1, BD2 and BD4 zones. It would be a permitted secondary use in the BD5 zone and a permitted use in the BD3 zone. On the other hand, drive-in businesses would be permitted in the BD3 zone, prohibited in the BD1 and BD5 zones and conditionally allowed in the BD2 and BD4 zones. He said it does not make sense to him to allow drive-in businesses in the BD2 and BD3 zones when conveniences stores would be prohibited.

Mr. Hertrich explained that years ago, mixed-use developments were required to have commercial space for the first 30 feet in depth. Now the requirement is 60 feet. He suggested that this requirement be changed to something more flexible based on a percentage of the building size. Mr. Hertrich expressed his concern about mixed-uses in the downtown area because the residential entries end up eliminating at least one space of on-street parking. He suggested that greater emphasis should be placed on the openings to buildings from the street. If there is no other way to enter the parking area except the street, there should be some language that would require the cars to exit differently so there is not a huge cut that takes up on-street parking space.

Mr. Hertrich pointed out that when requiring the ground floor to be at street level and have a greater ceiling height, the Board should carefully consider how much frontage would actually be dedicated to the residential uses in the building. In his calculation, they might find that ten percent is for retail use and the rest of the first floor space would be utilized to support what is developed on the upper floor.

Mr. Hertrich said he likes the idea of emphasizing the Arts Corridor by providing a different and unique streetscape. However, he is concerned that the emphasis of those working on the Streetscape Plan was to create an artist project to give 4<sup>th</sup> Avenue a special identity. The light standards proposed by the consultant were modern and fancy, but they would take away from the character Edmonds is trying to preserve in the downtown. He suggested they use the same type of lights as those purchased for 1<sup>st</sup> and 5<sup>th</sup> Avenues.

**THE PUBLIC PORTION OF THE HEARING WAS CLOSED.**

Vice Chair Dewhirst said he believes the Board needs more time to review all of the materials and ideas presented during the public hearing before making a recommendation to the City Council. Good points were brought out by the public testimony, and the Board needs time to sort everything out. He suggested the Board hold a work session in the near future to consider the proposal further. He said that while it seems like the proposal is on track, there are many inconsistencies that need to be worked out. In addition, citizens brought up new policy issues that must be considered. After a workshop discussion, the Board could provide direction to the staff to create alternative language, where appropriate.

Vice Chair Dewhirst said that even if the Board is able to work out all of the inconsistencies with the policy issues, the ordinance would still be incomplete. If the Board were to send a recommendation to the City Council without addressing the issue of massing, there would still be a significant amount of public concern. He referred to the draft Design Guidelines that were forwarded to the City Council several years ago for review. Because the Design Guidelines have not been adopted, the proposed language would be incomplete. He suggested the Board review the draft Design Guidelines and extract policies related to massing, etc., and insert them into the proposed language. Vice Chair Dewhirst also agreed with public testimony that the proposed language could be simplified.

Vice Chair Dewhirst said he believes the Arts Corridor Concept is good, but the ideas the Board originally talked about were not brought out in the draft language. He questioned if having a separate zoning district for the Arts Corridor would be self defeating. Perhaps this situation calls for an overlay zone to identify some aspects the City is trying to achieve along 4<sup>th</sup> Avenue. He concluded that the proposed BD5 zone might be too much for now, and it would be better to simplify the zoning.

Chair Freeman said it is important for the Board to remember that the Arts Corridor Study was really related to the streetscape, but it is difficult to separate the streetscape from the property uses. She recalled that the Streetscape Plan was for 4<sup>th</sup> Avenue from the Performing Arts Center to the Dayton Street. The Board previously discussed the option of leaving the Arts Corridor in its current zoning designation. Mr. Chave pointed out that the BD1 zone would stretch along 4<sup>th</sup> Avenue starting at Main Street, then change to BD2 and RM-1.5. An overlay would have to address what should happen with the RM-1.5 properties. If the zoning of the RM-1.5 properties were to change, the Board might also have to consider a Comprehensive Plan change.

Mr. Chave announced that on June 6<sup>th</sup> staff would report to the City Council that the Architectural Design Board is in favor of moving the design review up front and using the design guidelines for that purpose. However, there are also design guidelines that require absolute conformance, and these should be added to the code. Some of the massing guidelines could be incorporated into the BD zoning standards. Mr. Chave said staff would ask the City Council to identify which guidelines they would like to include in the code as standards, and then the document could be moved to the Board for review. The Board might then be able to integrate standards into the BD language before forwarding it to the City Council for review.

Board Member Young agreed that the Board needs more time to review all of the information related to the draft proposal. He also agreed that the Board should try to make the language simpler. He said his overriding concern is that the Board has been working on this issue for so long, they have forgotten that the whole issue came up to figure out how the City, as a government, could encourage redevelopment in the downtown area without causing unnecessary adverse impacts to the community. He pointed that they have tried so hard to please so many people that they wound up not pleasing anybody at all. He suggested the Board hold a separate work session with the Arts Commission to discuss the Arts Corridor and then another work session to discuss the other four BD zones to distill them down to just a few. He suggested the Board reexamine what the redevelopment would look like. While people have expressed a concern about increased height limits, it

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is important to understand that there are already 30-foot high buildings in the downtown, and they fit within the character of the community. He further suggested that the Board review the zoning code language in conjunction with the Design Guidelines so it is clear what they are trying to achieve. Chair Freeman said that if the Board works with the Arts Commission, they should also invite the property owners along 4<sup>th</sup> Avenue to express their concerns and ideas.

Board Member Cassutt said she does not foresee any significant changes to the existing developments on 4<sup>th</sup> Avenue as a result of the proposed language. The more immediate changes would be related to the implementation of the Streetscape Plan such as light fixtures, flower planters, etc. Chair Freeman pointed out that one property owner has already expressed a desire to redevelop his/her property that is located near the Performing Arts Center.

Board Member Henderson agreed that more work sessions should be conducted to consider all of the issues related to the proposed BD zones. Several days before the next meeting, he asked that staff provide each of the Board Members with a copy of the draft minutes, as well as the written comments that were provided by ACE. The remainder of the Board concurred.

The Board reviewed their extended agenda. Mr. Chave pointed out that public hearings on applications for property-specific plan amendments have been scheduled on the June 14<sup>th</sup> agenda, and these would likely take a great deal of the Board's time. The Board agreed to continue their discussion regarding the proposed BD zones to the June 14<sup>th</sup> meeting. They further agreed to postpone their review of proposed zoning changes for Highway 99, the MPOR zone, and minor technical updates and errata to be potentially considered for the Comprehensive Plan.

### **CONTINUED REVIEW OF MPOR ZONE**

Mr. Chave referred the Board to several illustrations staff provided showing various setback rules and how they would affect the Sunset Avenue property, which was the subject of a rezone application to MPOR. He explained that since this is the only property that has so far been considered for the MPOR zone, it is appropriate to review how a refinement of the MPOR zone rules would actually work at this location. He noted that the focus of the drawings is on the interaction of setbacks and height. There is no proposed change in how height is currently calculated in the City. It would be calculated from the "average level" of the ground.

Mr. Chave pointed out that with most of the scenarios, lot coverage would not really come into play with the property on Sunset Avenue in terms of height. What really affects the height is the setback. While lot coverage might have a significant impact on how a development fits in with the neighborhood, in this case, lot coverage would not have a lot to do with the issue. Mr. Chave reviewed each of the scenarios as follows:

- **Scenario 1** – This illustration uses the setbacks of the prior zone. With the Sunset Avenue site, the prior zone was RS-6 and the setback requirements would not be a lot different than what was proposed.
- **Scenario 2** – This illustration uses the setbacks for the nearest zone. The nearest zone for the property on Sunset Avenue would be RS-6 so the result would not be much different than what was proposed.
- **Scenario 3** – This illustration uses adjoining setbacks, but would also require a 15-foot setback from any residential zone. Applying this scenario to the Sunset Avenue property would require the building to be pulled back from the adjoining RS-6 zone to the north and a 20-foot setback from the street.
- **Scenario 4** – This illustration uses adjoining setbacks. However, if you are going from 25 feet to 30 feet in height, the building would have to be setback 15 feet from adjoining single-family zones and 10 feet from the street. Lot coverage would also apply.

Chair Freeman referred to Scenario 4 and asked if the small street setback would make the drive way to the parking area too steep. Mr. Chave said this is a design issue that would have to be addressed by the developer and cannot really be addressed with standard height and bulk calculations. Chair Freeman suggested that when dealing with unusual properties, perhaps the City should be more flexible to allow a developer to come up with something that works. Mr. Chave reminded the Board that the MPOR zone is supposed to apply to a number of situations in the City, and not just the property on Sunset Avenue.

The City Council's concern is that the MPOR zone allows flexibility without any standards. They want some standards built into the language.

Chair Freeman asked City Council Member Wambolt to share the City Council's direction on the MPOR zone with the Board. Council Member Wambolt said he can understand why the current property owner wants the property to be developed, but he said if had been on the City Council last year, he would have voted against the development proposal, as well. He said there must be a compromise between what the old regulations would have allowed and what the new regulations would allow. At one time, a developer had a contingency to purchase the property to construct two single-family homes, with a view corridor between them. He said the residents in the area would look at this type of development more favorably than one massive building. Board Member Cassutt recalled that the property owner has stated on several occasions that the developer indicated it would be too expensive to develop the property as single-family because of the topography and soil conditions.

Chair Freeman recalled that one City Council Member suggested the MPOR zone be limited to the same lot coverage requirements that exist in an RS-6 zone; but with this particular property, lot coverage does not really matter because of the steep slope. An RS-6 lot coverage requirement would not be relevant to the subject property. The Board must not forget that this property is highly visible from the beach, too.

Board Member Guenther asked if there are other properties in the City where the MPOR zone could be applied. Mr. Chave answered no. Board Member Guenther cautioned that if the MPOR zone were developed with just this one piece of property in mind, it might appear as a "spot zone." Mr. Chave agreed and suggested staff prepare some theoretical situations for the Board to consider, as well.

Vice Chair Dewhirst suggested that perhaps they are trying to use the wrong tool to address this unusual lot. Maybe a master plan would be more appropriate to allow maximum flexibility on a very difficult parcel. Mr. Chave said the MPOR zone is supposed to be a master plan, but the City Council was not willing to approve the proposed development because they wanted clear standards in the zoning language so the requirements could be practically applied.

Vice Chair Dewhirst recalled that the major reason the previously proposed development on Sunset Avenue was turned down was not an issue of height. The concern was regarding the appearance from the street and the feeling that the building would be too massive. Board Member Guenther said concern was also expressed about what the neighbors perceived as a lack of transition. Vice Chair Dewhirst summarized the issue was more the treatment along the street rather than the actual height of the development.

Vice Chair Dewhirst recommended the Board review the draft Design Guidelines to see what they say about the issue of massing. Perhaps this would give the Board some insight about how to address the City Council's concerns. Board Member Guenther referred to Page 34 of the draft Design Guidelines, which provides three techniques for addressing the issue of massing: step backs, jogged facades, and separate volumes. He noted that the Sunset Avenue proposal utilized two of the techniques.

**Jack Jacobson** said he lives across the street from the subject property on Sunset Avenue. He said the biggest problem with the proposed development was that no one knew the setbacks and height requirements for the properties, and they still don't. The way the developer measured the height was different than the way height is measured on any other property in the City, and the neighbors were opposed to this, too. They know the property will eventually be developed, but the neighbors would like to be informed about what the setbacks and other requirements would be. Mr. Chave explained that anyone who testified before the Board regarding the MPOR zone and the Sunset Avenue proposal would be notified of future hearings. He emphasized that, at this time, there are no proposals on the table. The issue is before the Board to figure out how to address the problems. Once new draft language has been prepared, another public hearing would be scheduled and the residents would be notified.

Mr. Chave advised that staff would attempt to come up with additional options for the Board to consider at a future meeting. In addition, he would try and create some hypothetical situations to illustrate where the MPOR zone could be applied.

**REVIEW OF EXTENDED AGENDA**

The Board Members did not provide any additional comments regarding the extended agenda.

**PLANNING BOARD CHAIR COMMENTS**

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

**PLANNING BOARD MEMBER COMMENTS**

Vice Chair Dewhirst recalled that at the Planning Board Retreat, he was asked to review the City's current Sidewalk and Walkway Plan and propose some draft changes for the Board to consider. He said he would begin working on this soon.

**ADJOURNMENT**

The meeting was adjourned at 10:02 p.m.

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