

Approved March 25th

CITY OF EDMONDS PLANNING BOARD MINUTES

March 11, 2009

Chair Bowman called the meeting of the Edmonds Planning Board to order at 7:02 p.m. in the Council Chambers, Public Safety Complex, 250 – 5th Avenue North.

BOARD MEMBERS PRESENT

Michael Bowman, Chair
Philip Lovell, Vice Chair
Kevin Clarke
John Reed
Valerie Stewart
Jim Young

STAFF PRESENT

Rob Chave, Planning Division Manager
Duane Bowman, Development Services Director
Bertrand Hauss, Transportation Engineer
Stephen Clifton, Community Services/Economic Development Director
Karin Noyes, Recorder

BOARD MEMBERS ABSENT

Cary Guenther
Judith Works

READING/APPROVAL OF MINUTES

BOARD MEMBER YOUNG MOVED THAT THE MINUTES OF FEBRUARY 25, 2009 BE APPROVED AS PRESENTED. BOARD MEMBER REED SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

ANNOUNCEMENT OF AGENDA

Chair Bowman clarified that Item 6a related to short-term rentals was a continuation of the public hearing for Planning Board deliberation only. No public testimony would be accepted. The agenda was approved as presented.

AUDIENCE COMMENTS

There was no one in the audience who expressed a desire to address the Board during this portion of the meeting.

CONTINUED PUBLIC HEARING ON ORDINANCE DEALING WITH SHORT-TERM RENTALS IN SINGLE-FAMILY ZONES (Planning Board Deliberation Only)

Mr. Bowman reviewed that the Planning Board conducted a public hearing on proposed regulations dealing with short-term rentals in single-family zones on February 11th. The Planning Board took public testimony, closed the hearing and continued their deliberations to March 11th.

Mr. Bowman referred the Board to a memorandum from the City Attorney dated February 26, 2009 (Exhibit 1). As requested by the Board after the public hearing, the City Attorney provided a response regarding the San Juan Island court

case, *Ross v. Bennett*, which is a Washington Public Appeals Case dealing with a private covenant that was in affect. The City Attorney's memorandum also reviews the issue of establishing and extinguishing non-conforming uses. In particular, Page 2 clarifies that the Wilkinson triplex on Sunset Avenue is a lawful nonconforming use that was established at a time and date when the R-1 transient building code requirements were not in place. At the date the triplex was constructed, the requirements for hotels and apartment buildings were the same. The City Attorney summarized that, based on the information provided to date, Mr. Wilkinson does not appear to have any significant investment-based expectation in short-term rental of the property which could not be captured by a 30-day or longer rental of the triplex units. He suggested the use could be lawfully amortized over a period of 90 days to two years if a decision is made that the short-term rental use should be extinguished.

Next, Mr. Bowman referred to the memorandum he prepared for the Board (Exhibit 2), which responds to the questions they raised after the public hearing. He recalled the Board asked where bed and breakfast establishments are allowed in the City. He explained that, technically, bed and breakfast establishments are not allowed in residential zones. Rental rooms, however, are allowed provided the provisions of meeting the definition of "family" are complied with. The proposed short-term rental ordinance would establish a 30-day minimum limitation requirement on this type of use.

Mr. Bowman said the Board questioned why short-term rentals would require a business license if they are not considered to be businesses. He explained that the City requires apartment buildings to obtain business licenses, and Mr. Wilkinson does have a business license for his 3-unit apartment building.

Mr. Bowman recalled the Board also asked staff to research and identify other properties in the downtown area that are being used as short-term rentals. He reported that in searching the internet, he found 21 properties (12 vacation homes, 7 bed and breakfasts and 2 apartments) that are used as short-term rental units. However, specific addresses were not given, only zip codes. He noted that more than half were in the 98026 zip code, which covers a large area outside of the Edmonds city limits.

Mr. Bowman said the Board asked staff to provide more information about what Mr. Wilkinson was told when he approached the City when he purchased his property. Mr. Bowman pointed out that the planner who worked with Mr. Wilkinson is no longer employed by the City. While it is logical that the planner did acknowledge that the triplex was a nonconforming use and was allowed to continue, he could not find any information that "short-term rentals" was discussed. In any case, the City can, at any time, establish what rules would apply to zoning uses. The City does not guarantee any property owners that they will never change the zoning code.

Mr. Bowman said the Board requested staff provide more information about where duplexes and triplexes are allowed to occur. He explained that duplexes and triplexes are allowed in multi-family zones, but they are not permitted uses in single-family zones.

Mr. Bowman referred the Board to the draft ordinance (Exhibit 4), which was prepared by the City Attorney based on the Board's comments at the last meeting. He recalled that, generally, the Board indicated they were in favor of a 30-day requirement for short-term rentals. The proposed ordinance would establish a 30-day minimum rental requirement for single-family residential zones. In addition, it would authorize a 1-year amortization period from the date of passage for all existing short-term rentals and establish procedures for registering existing short-term rentals. He noted that, as proposed, failure to register existing short-term rentals within a specified time period would result in immediate compliance. Mr. Bowman advised that if the Planning Board desires to recommend approval of the proposed ordinance, they must establish findings of fact and conclusions about why they believe the City should regulate short-term rental uses. He noted that the draft ordinance has some blank spaces that need to be filled in with the appropriate numbers, as well.

Vice Chair Lovell said it appears from the City Attorney's memorandum that Mr. Wilkinson would be allowed to continue his triplex use as a nonconforming use that can be rented out. The real issue before the Board is related to setting a minimum time limit for short-term rentals. He noted the City Attorney refers to Section 310 of the International Building Code, which establishes more stringent requirements for R-1 transient residential occupancies than for normal residential uses. In his memorandum, the City Attorney infers that if the City were to implement short-term rental provisions for single-family residential zones, they would be subject to the provisions of Section 310 of the International Building Code. He expressed

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concern that this could put some single-family residential properties in violation of the building code related to the short-term rental provisions that may or may not have additional requirements within the construction of the home to address issues such as safety and access. He said his inclination is to recommend letting the interim ordinance expire without making any permanent changes to the code.

Board Member Reed said that although Mr. Bowman previously stated that the Board was in favor of a 30-day requirement, he expressed concern at the last meeting that the proposed ordinance would not address the problems that raised the issue in the first place. He noted there are already City laws that deal with issues such as disturbance of the peace, etc. He agreed with Vice Chair Lovell that the Board should recommend letting the interim ordinance expire or recommend that it be rescinded. Mr. Bowman explained that the interim ordinance is good for a 6-month time period unless it is retracted or extended by the City Council. Board Member Reed said that while he does not believe the City needs a new ordinance, his second choice would be to establish a 7-day period for short-term rentals.

Board Member Young said he would be in favor of a 30-day requirement. While letters from the City Attorney and Mr. Wilkinson's attorney appeared to suggest the City only address this specific problem, doing so would make them a Response Board rather than a Planning Board. He said he would be opposed to allowing too short of a rental period. He noted that home-based businesses within single-family residential zones are carefully regulated to guarantee neighborhood stability, and they should do the same for rental units if they are going to be treated as businesses. Again, he said he does not believe it is appropriate to allow short-term rentals of less than 30 days in single-family residential neighborhoods. A 30-day requirement would offer an element of stability for people living in the single-family zones.

Chair Bowman asked how many other situations have come up related to short-term rentals in single-family residential zones. Mr. Bowman recalled that the issue came up as a result of situations that occurred at a single-family home on Talbot Road that was being rented on a short-term basis. Mr. Wilkinson came forward at the City Council meeting to talk about his rental triplex on Sunset Avenue. However, the City has not heard any complaints regarding Mr. Wilkinson's property. The City has not received any other complaints related to short-term rentals other than the home on Talbot Road.

Board Member Young pointed out that a 30-day time requirement for short-term rentals would only be enforced by citizen complaint. Unless the use disturbs surrounding property owners, it is not likely the neighbors would even know about it. However, if there is no provision in the code for short-term rentals of less than 30 days, the neighbors would have no recourse if problems come up except to call the police. While this may be an effective approach, it does not do a lot for neighborhood conviviality. He said he does not want to wait for more problems to come up before changing the ordinance.

Mr. Bowman said there is a reason for the different classifications in the International Building Code and the R.1 classification is intended to apply to transient housing as a different standard than other R classifications. Vice Chair Lovell pointed out that if some type of catastrophe were to occur in a home that did not meet the code and legal proceedings resulted from the event, the City could be exposed. Mr. Bowman said the City could only be held liable if they knew about the situation and did nothing to correct it.

Board Member Clarke pointed out that, in general land use planning, single-family zones are for single-family residences. They are recognized generally to be permanent dwellings for families. The next level up is multi-family residential where more than one family unit lives within a structure and the parking and capacity requirements are much different. Generally in the market place, multi-family units are rented on a month-to-month, six-month, 9-month or 12 month lease. They are typically recognized to be longer-term stays and most people have to pay deposits, transfer utilities, etc. Transient lodging facilities, which encompass bed and breakfasts and hotels are often found in commercial zoning designations. They have different parking requirements and have people coming in and out at all times of the day.

Board Member Clarke summarized that single-family, multi-family and transient lodging facilities are very different types of uses and most zoning codes are very clear about how each of the uses are recognized. Therefore, zoning requirements should be applied as the market and land use code recognize them. Transient facilities are different than month-to-month rental units, and a month-to-month rental of a single-family house is different than a duplex, fourplex or large multi-family unit. He suggested that 30-days would not be an unreasonable time period for someone who wants to rent a home on less than a long-term basis.

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Board Member Clarke pointed out that all new construction would have to comply with the zoning requirements as far as the types of uses that are allowed. He recalled Mr. Bowman's earlier comment that if a developer were to build in a single-family zone, he/she would have to comply with the R-1 International Building Code requirements. He expressed his belief that when higher uses occur in dwellings that are not designed to accommodate the greater capacity, problems can arise related to public safety, particularly in relation to the fire code.

Board Member Stewart said she has studied the minutes and watched the public testimony on television regarding this issue. She pointed out that Mr. Wilkinson's property is a non-conforming use and was built as a triplex. He purchased it with the understanding he could rent it out on a week-by-week basis and the City benefits financially from this use. Mr. Bowman clarified that although Mr. Wilkinson is required to have a business license, he is not required to pay lodging tax. Therefore, the short-term rental use does not provide any financial benefit to the City.

Board Member Stewart expressed her belief that people who live in single-family residential areas are looking for a lifestyle of getting to know their neighbors and who is living next door to them, and that is why she leans towards supporting a 30-day requirement for short-term rentals. However, because of the current financial crisis, she is concerned about the impacts this time requirement would have on people who are using short-term rental opportunities to make ends meet. She said she is not sure she wants to propose a change at this time, even with a one-year amortization period. She pointed out that if Mr. Wilkinson wanted to sell his property because of the new requirement, he may have to sell it for a lower price.

Board Member Clarke inquired if the City allows mother-in-law apartments in single-family residential zones. Mr. Bowman answered that accessory dwelling units are allowed, but the code requires the property owner to live in either the primary residence or the accessory dwelling unit, and there are size standards and criteria built into the code that would apply. Board Member Clarke pointed out that accessory dwelling units are generally recognized to be long-term occupancy units. However, he questioned what would stop someone from renting one of the units on a monthly basis. Mr. Bowman replied that the current code would not prohibit this type of use.

Board Member Reed referred to a handout the Board just received from Rick Gifford. Mr. Bowman advised that staff received the memorandum at about 5:00 p.m., just prior to the meeting. It was addressed to the City Council, but copies were also sent to the Board Members. Board Member Reed said that although the letter was submitted after the public hearing, it contains a lot of information for the Board to consider. He questioned if the Board should seek advice from the City Attorney regarding the letter before moving forward with a recommendation. Vice Chair Lovell pointed out that while the letter identifies a common sense, logic-approached appeal, it does not cite any statutes or code regulations to support the comments.

Mr. Bowman recalled Mr. Wilkinson's comment at the public hearing that he has invested a significant amount of money to improve the triplex. He explained that staff was unable to find any building permits that would warrant that kind of investment. Mr. Wilkinson may have purchased new furniture, paint or carpeting, but no permits were obtained to do physical improvements to the structure of the building. He acknowledged that not all improvements require building permits.

Board Member Young inquired if the Board is obligated to make a recommendation on what they think the minimum rental period should be for units within the single-family residential zones. He also questioned if the Board is responsible for making a recommendation for amortization. Mr. Bowman said that because there are currently short-term rental uses in the City, the Board should also make a recommendation to the City Council regarding an appropriate amortization program to give property owners an opportunity to recoup some of their costs before they have to bring their property into compliance with the new regulation.

Board Member Young said it is not clear to him why the City must amortize anyone's investment. Mr. Wilkinson's property was a nonconforming use when he purchased it. If someone purchases a property as an investment based on faulty information from City staff, that is a separate issue between the property owner and the City and has nothing to do with code regulations. Mr. Bowman explained that, typically, owners of nonconforming properties are given an opportunity to amortize their investment for improvements that have been made before the City requires the property to be compliant. He

reminded the Board of testimony indicating that property owners have been relying on the income from short-term rentals and they may have short-term lease agreements. If the City wants to establish a 30-day rule, it would be wise to give people who are doing less than that an opportunity to amortize the use out over a period of time.

Board Member Young said that while he agrees with the principle of amortization, they are talking about two different issues. He said he wants to move forward with an ordinance that would establish a 30-day requirement for short-term rental of properties in single-family zones. Amortization is something that should be addressed separately by the City Attorney. The City Attorney should advise the City Council about whether amortization would legally be required and what the time period should be. This is not really a Planning Board function.

BOARD MEMBER YOUNG MOVED THE BOARD RECOMMEND THE CITY COUNCIL APPROVE THE ORDINANCE TO AMEND SECTION 16.20.010(B)(3) OF THE EDMONDS COMMUNITY DEVELOPMENT CODE TO ESTABLISH A 30-DAY MINIMUM RENTAL REQUIREMENT IN SINGLE-FAMILY RESIDENTIAL ZONES AND THAT THE CITY ATTORNEY ADVISE THE CITY COUNCIL REGARDING THE PROPOSAL TO ESTABLISH AN AMORTIZATION PERIOD. BOARD MEMBER STEWART SECONDED THE MOTION.

Board Member Reed said he does not see the need for a short-term rental ordinance, and he would vote against the motion. He expressed his belief that the proposed ordinance would not really address the problems that brought the proposal forward in the first place. In addition, there are no records to indicate that short-term rentals have been a significant problem in the City in the past.

Board Member Clarke observed that the current code addresses non-conforming uses and non-conforming improvements. He further observed that Mr. Wilkinson's property was designed and developed as a triplex in a single-family zone, which is different than a single-family home in a single-family zone. He questioned what would happen if Mr. Wilkinson were no longer allowed to operate his property as a triplex. He suggested that if he were only allowed to rent one of the units, the financial impact would be significant. He observed there is a difference between uses and improvements. Even though the structure is a non-conforming improvement that does not conform to the zoning code, there needs to be some sensitivity. He summarized his belief that a 30-day requirement, as proposed in the draft ordinance, would change the triplex into a single-family dwelling, which would be inappropriate. Mr. Bowman clarified that even if the ordinance were approved as drafted, Mr. Wilkinson would continue to be allowed to rent all three units as long as he lawfully maintains the property.

Board Member Clarke asked if transient rentals could possibly blend over into other zoning designations, including multi-family residential. For example, would it be possible for a condominium owner in a multi-family residential zone to rent units by the day. Mr. Bowman answered affirmatively.

Board Member Stewart pointed out that it is unclear whether the proposed ordinance would apply to all residential zones or just single-family residential zones. Mr. Bowman said the ordinance is intended to apply to properties in single-family residential zones, and he agreed the language should be changed to clarify this intent. Board Member Young recalled that in a January work session the Board decided there are different issues related to short-term uses in multi-family residential zones as compared to single-family residential zones. They agreed it would be appropriate to consider each of the different land use classifications separately. He said he hopes the Board continues on that track in the future.

Mr. Bowman observed that if the Board votes to support the motion, they should create findings of fact and conclusions to support their recommendation. He pointed out that Board Member Clarke laid out some very good points for accomplishing this task. Mr. Chave reminded the Board of the City Attorney's request that they also address the issue of amortization. He cautioned there must be some reasonable basis for what that time period needs to be. He suggested the Board refer back to public testimony from property owners who indicated they had short-term rental agreements out to a certain time period. He recommended the Board address the issue of amortization as part of their recommendation to the City Council. He explained that, independent of facts, there is no legal standard for what the amortization period should be.

Once again, Board Member Young expressed his belief that it is not the Board's responsibility to make a recommendation regarding amortization. Rather, this is the responsibility of the City Attorney. The Board's responsibility is to make a policy recommendation about what they feel should be included in the provision for short-term rentals in single-family residential

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zones. It is unfortunate the process deteriorated into a discussion about single properties. If the Board were to rewrite the City's zoning code, he likes to think they would have included a provision for short-term rentals. However, the ordinance before them now is crisis driven. While the Board could make a recommendation on what the appropriate amortization period should be, the City Attorney has more ability to provide a solid, legal-based recommendation.

Mr. Bowman advised that regardless of whether or not the Board makes a recommendation regarding amortization, they must still develop findings to support the proposed motion to approve the ordinance. He suggested staff draft the findings and forward them to the Board for review at their next meeting. He recommended the findings be based on the comments made earlier by Mr. Clarke.

BOARD MEMBER YOUNG AMENDED HIS MOTION TO DIRECT STAFF TO PREPARE FINDINGS OF FACT AND CONCLUSIONS FOR THE PLANNING BOARD TO CONSIDER PRIOR TO FORWARDING A RECOMMENDATION TO THE CITY COUNCIL.

Mr. Bowman explained that the Board could vote to recommend approval of the draft ordinance at this meeting, and then they could review and approve the draft findings of fact and conclusions at their next meeting prior to forwarding their recommendation to the City Council.

Vice Chair Lovell said he does not support the motion to approve the draft ordinance. He said he has not heard enough pros and cons from the public to warrant the proposed change, particularly since there are a number of other properties in town that would also be impacted by the change. He concluded that if the current code is not broken, they should not try and fix it.

Board Member Stewart said she would support a 30-day minimum requirement for short-term rentals, but her inclination would be to have a longer amortization period to allow people to make adjustments given the current economy.

Chair Bowman said he would not support the motion, either. While he agreed with the points stated by Board Member Clarke earlier in the meeting, he would like to have more information before making a decision. He expressed concern about the numerous hours spent on behalf of the staff and Board to address one situation. Because short-term rentals have not been a significant issue in the past, he would prefer to leave the code alone.

THE MOTION FAILED 3-3, WITH BOARD MEMBERS REED, LOVELL AND BOWMAN VOTING IN OPPOSITION AND BOARD MEMBERS YOUNG, STEWART AND CLARKE VOTING IN FAVOR.

Because the vote was split, Mr. Chave suggested staff draft two sets of recommendations: One for a 30-day requirement for short-term rentals and another that leaves the code as it is currently written. Both options could be presented to the Board for discussion at their next meeting. Board Member Clarke suggested that staff also prepare findings of fact and conclusions to support each of the options.

BOARD MEMBER YOUNG MOVED THAT THE BOARD CONTINUE THEIR DELIBERATIONS ON THE PROPOSED ORDINANCE TO AMEND SECTION 16.20.010(B)(3) OF THE EDMONDS COMMUNITY DEVELOPMENT CODE RELATING TO THE SHORT-TERM RENTAL OF SINGLE-FAMILY DWELLINGS. BOARD MEMBER BOWMAN SECONDED THE MOTION. THE MOTION CARRIED 5-1, WITH BOARD MEMBER REED VOTING IN OPPOSITION.

TRANSPORTATION PLAN UPDATE

Mr. Hauss advised that he and the City's consultant, Jennifer Barnes, ICF Jones and Stokes, were present to provide a technical update on the Transportation Plan Update Program.

Ms. Barnes explained that the purpose of the update was to provide an early briefing on where they currently are with the Transportation Plan Update Program and to talk about the next steps and how the Board wants to be involved in the process. She reviewed that the project was started nearly a year ago, and two public open houses were held last summer at which the

project team introduced the project, presented existing conditions and inventories, and offered community members an opportunity to provide input on the issues. She reported that since the public open houses, the project team has completed field studies at locations where issues were identified, analyzed future conditions through the year 2025, developed preliminary projects, programs and cost estimates, and identified initial revenue projections. They have also developed a transportation model for the City, as well as a more detailed traffic calming program. They are currently working with citizen groups to identify walkway and bicycle projects. She noted that the information she and Mr. Hauss would present to the Board is the same as what was presented at a public meeting on March 5th. She noted that the plan was divided into major project types. She reviewed each project type and the Board commented as follows:

- **Roadway** – Ms. Barnes advised that roadway projects have been proposed to address the issues of concurrency and safety. She noted that a few projects have also been identified for SR-104, which has been classified as a Highway of Statewide Significance. Because the Washington State Department of Transportation (WSDOT) has jurisdiction over this roadway, these projects are identified in a separate category.

Vice Chair Lovell requested clarification regarding the term “concurrency.” Ms. Barnes explained that concurrency is a requirement of GMA. It requires that the City have infrastructure planned and funded to support the identified land uses in the Comprehensive Plan. The City’s current land use map is identified through the year 2025. The project team used the City’s adopted Level of Service Standards to model this map and identify potential transportation deficiencies and projects to address them. The project team identified a total of 11 concurrency problems based on the City’s current level of service standards: 4 existing locations, 4 additional locations by 2015 and 3 additional locations by 2025.

- **Traffic Calming Program** – Ms. Barnes reported that the project team has developed a draft traffic calming program. She referred to a sample flow chart showing the process that could be used. The program would offer a 3-phase approach to addressing traffic problems in residential neighborhoods. First neighborhoods would be required to petition the City regarding a concern and request a preliminary review. If the situation meets the threshold established by the City, staff would move to the next step of the program and consider less-restrictive solutions that could be used to address the problem. Once the less-restrictive solutions have been employed, City staff would monitor the situation and determine if the problem has been addressed. If not, the situation would be moved to the last phase of the program, which is to consider some type of traffic calming device. She emphasized that, at this time, the City does not have funding to support a traffic calming program.

Board Member Young recalled that in his experience with the City, traffic calming devices are used only as a last resort. The City does not like to install speed bumps or traffic circles, etc. in neighborhoods because they can impede emergency access. Ms. Barnes said that is still the City’s basic philosophy, and that is why the project team is recommending a 3-phase approach. If a problem can be resolved with a less-restrictive, lower-cost solution, that is preferred over doing capital projects that typically cost significantly more money. She noted that the traffic calming program would be geared towards residential streets and not throughways.

- **Transit** – Ms. Barnes explained that the transit element is challenging to address because it involves three separate agencies: Community Transit, Sound Transit and Washington State Ferries. The project team has been working with the transportation committee to update the transit element of the Comprehensive Plan. They have encouraged City policies to support additional and improved bus shelters, and staff has been working with Community Transit to identify priority locations. As the plan stands, no direct investment has been identified, but a policy direction would be established to identify the City’s plans for where investments and improvements should be made in the future.

Board Member Young inquired if the City has a working understanding with Community Transit to support the bus shelter improvement program. Mr. Hauss said he has had contact with representatives from Community Transit, and they have agreed to install shelters if the City lays down the concrete. This would require a 3 to 4-foot expansion of the sidewalk to make sure it meets the Americans with Disabilities Act (ADA) requirements. He agreed to look into other opportunities to work in conjunction with Community Transit. Board Member Young expressed his belief that it would be in the City’s best interest to cultivate a good relationship with Community Transit and continue to work together to encourage people to use public transportation more. Ms. Barnes agreed that the Transportation Plan would be the appropriate location for a strategy that outlines the first steps of working together to make transit improvements. She suggested the first step in this

joint effort would be for the City to identify their priorities. She observed that Community Transit has always been open to coordinating and contributing to their prospective elements of the plan.

- **Walkway Program** – Ms. Barnes referred to a map of walkway projects that were identified by the citizen walkway committee. It includes 10 short walkways that are less than 1,000 feet, and 19 long walkways that are greater than 1,000 feet. As priorities were identified, consideration was given to pedestrian safety, connectivity to services and transit, surrounding land use and infrastructure, proximity to schools and environmental impacts.
- **Curb Ramp Program** – Ms. Barnes reported that the project team has reviewed existing curb ramps throughout the City to identify those that do not meet the requirements of the Americans with Disabilities Act (ADA). Of the approximately 350 intersections in Edmonds, only 42 fully meet the ADA standards, and 24 partially meet the standards. That means that nearly 300 of the existing curb ramps do not meet standard. She advised that the draft curb ramp program prioritizes upgrades, starting with intersections in the downtown and along arterial streets. Intersections near community centers, senior center, health facilities, transit stops, schools, public buildings, commercial areas and parks would be the third priority. She noted there is no funding for the curb ramp program at this time.
- **Bike Routes** – Ms. Barnes advised that with the help of the Edmonds Bicycle Club, three bike loops were identified: a short loop, a medium loop and a long loop. She noted that another map would be included in this element of the plan to identify locations where future roadway improvements are planned. The intent is to incorporate bike lanes as part of future roadway projects.
- **Other Projects:** Ms. Barnes said other projects that would be considered as part of the update include maintenance and preservation of existing roadways and traffic signals, the Edmonds Crossing Multimodal Facility, and lower-cost spot improvements to enhance road and non-motorized safety and mobility.

At the request of the Board, Stephen Clifton provided a status report regarding the Edmonds Crossing Project. He reported that on December 19, 2008, Washington State Ferries issued a draft long-range plan for the years 2008 through 2030. This plan identified \$26 million for Edmonds ferry terminal improvements. It does not highlight that the money would be used for the Edmonds Crossing Project, so it could be used for improvements to the existing terminal, as well. He noted that \$26 million would only fund a fraction of the total cost of the Edmonds Crossing Project, and it is unlikely that money would be committed to the Edmonds Crossing Project during the timeframe of the plan. However, the economic picture could change in the future.

Mr. Clifton reported that Washington State Ferries' long-range plan includes a few scenarios for the future of the Edmonds Terminal. One option would be to maintain or sustain the existing level of service, which has a \$3.5 billion deficit over the timeframe of the plan. Another option would be to reduce the level of service and cut capital expenditures, which would result in a \$1.5 billion deficit. He noted that the ultimate decision would have a significant impact on other projects along the waterfront such as the Sound Transit Station that has been proposed between Dayton and Main Streets.

Mr. Clifton advised that after consulting with the Mayor, City staff and Sound Transit, he recommended to the City Council that Sound Transit build the commuter rail station between Dayton and Main Street according to the 2002 plan that was reviewed and approved by the ADB and presented to the City Council. He concluded that given the current financial scenario, there is not likely the Edmonds Crossing Project would move forward in the foreseeable future. However, it is important to keep in mind that sometimes it takes decades for Washington State Ferries to complete projects.

At the request of the Board, Mr. Clifton provided additional explanation about Washington State Ferries' proposal that the ferry's level of service be reduced. He pointed out that the Edmonds/Kingston Ferry carries the greatest number of vehicles and the second highest number of passengers, and they anticipate that ridership would continue to rise. If the level of service is reduced, longer lines could result because the ferry is already running to capacity during peak times. Part of the draft long-range plan calls for incentives to encourage people to ride the ferry during non-peak hours to spread the ridership throughout the day. Another option will be to better manage peak hour traffic by using a reservation system, which would reduce the storage capacity need at each ferry location. A reservation system could also help spread ridership throughout the day.

Board Member Reed requested information regarding a timeline for Burlington Northern Santa Fe's (BNSF) second track project. Mr. Clifton said he recently met with representatives from BNSF, who indicated they expect to commence grading for the project in early 2010, and they anticipate the project would take about one year to complete. He noted that Edmonds is the only place where there is only one track. As part of the project, the portion of the track north of Dayton would be located to the east of the existing rail line. South of Dayton, the existing rail line would angle to the west and the second track would be located to the east of the relocated track. Board Member Stewart inquired if rail service would be disrupted during construction of the second line. Mr. Clifton said he anticipates some disruptions.

Ms. Barnes displayed a pie chart to illustrate the estimated cost of the projects identified in the preliminary plan. The total cost of doing all the projects identified in the plan through 2025 is approximately \$117 million. Next, she displayed a pie chart to illustrate expected revenue from identified sources, which would be about \$41.5 million. This revenue represents fees and other revenue the City has historically collected from various sources such as grants, motor vehicle fuel tax, traffic impact and mitigation fees, transfers from other funds, utility resurfacing, joint agencies, interest income, and real estate excise taxes. She noted that there would be a shortfall of approximately \$76 million, and a large portion of this shortfall relates to the Edmonds Crossing Project.

Board Member Stewart pointed out that the revenue pie chart does not identify any funding from the economic stimulus program. She advised that Edmonds would receive approximately \$7 million for their ready projects. Mr. Clifton clarified that while the City did submit a request for up to \$12 million from the stimulus program for local projects, no decision has been made as to how this funding would be allocated.

Ms. Barnes explained that the next step in the process would be to establish project priorities, which would be done using input from the community, the transportation committee and the Planning Board. She reported that at the public open house last week, attendees were invited to fill out a questionnaire to identify what projects they think should be priorities for the City. She indicated she would forward a copy of the questionnaire to the Board Members for their information, as well. She noted that community members have until March 20th to submit their information. She summarized that the project team would use the information gathered from the community, the transportation committee and the Planning Board to create a list of priority projects. This would also involve a process of identifying projects to either defer or eliminate in order to balance the costs and the revenues. In addition, the team would identify additional revenue sources.

Board Member Lovell pointed out that some of the projects identified in the plan are mandated by the State so they would likely be high priorities. Ms. Barnes agreed that concurrency projects are mandated by the Growth Management Act (GMA), based on the standards established by the City. She noted that the total price tag for the concurrency projects mandated by GMA is approximately \$16 million. She emphasized that all of the concurrency projects identified through 2015 must be included in the City's six-year Capital Improvement Plan. She concluded that \$9 million would be needed to complete the required concurrency projects through 2015, and the project team anticipates proposing an impact fee schedule to help fund these projects.

Board Member Reed pointed out that funding for both Edmonds Crossing and improvements to SR 104 have been included as part of the cost estimate. He questioned if the City would actually be responsible for providing funding for SR-104 projects. Ms. Barnes answered that projects on SR-104 would be accomplished under the purview of WSDOT because the roadway has been identified as a Highway of Statewide Significance. However, the projects must be identified in the City's Transportation Plan, and the City would be responsible for providing or obtaining funding for the SR-104 projects. Board Member Reed asked if the \$41.5 million estimated revenue includes funding for these projects. Ms. Barnes answered that some money is available, but they anticipate grant funding for the "big ticket" items based on the level of grant funding the City has historically been able to collect.

Ms. Barnes requested the Board provide direction as to how they want to be involved in the update process, particularly the process of identifying project priorities. She summarized that the project team would continue to work on the financial side of the update to identify potential sources for additional funding.

THE BOARD TOOK A BREAK AT 8:55 P.M. THEY RECONVENED THE MEETING AT 9:08 P.M.

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UPDATE ON FIRDALE VILLAGE MASTER PLAN

Tony Shapiro, A.D. Shapiro Architects, recalled that he has come before the Board a number of times over the past year to discuss his proposal for creating new zoning criteria and design standards for the Firdale Village area. He reminded the Board that he conducted two public meetings at the Edmonds Conference Center, and approximately 8 to 12 people were in attendance at each one to review the purpose and scope of the proposed changes.

Mr. Shapiro advised that he was hired by the property owners to write zoning criteria for the ultimate redevelopment of the Firdale Village Properties. He explained that his clients have owned the property for 30 years, and they are not interested in redeveloping it themselves. They are hoping to partner with a developer to redevelop the property. He advised that the design vision for Firdale Village is to create a vibrant neighborhood village that strikes a balance between commercial, retail and residential uses and contributes to the vitality of the neighborhood and area. The project is intended to support a variety of commercial and retail uses along with multi-family residential in an environment that is accessible to the pedestrian, visitor, tenant, motorist and public transit user. They hope to provide most of the parking required for the project below ground. In addition, the proposed language would require 20% open space, which is a significant number.

Mr. Shapiro explained that the proposal includes two components: the zoning criteria for the primary ordinance and design standards that stipulate the objectives and goals for the ultimate build out and design of the project. If the Board is comfortable with the way the proposed ordinance is written, Mr. Shapiro asked that they schedule a public hearing as soon as possible.

Mr. Shapiro provided an aerial vicinity map to illustrate what currently exists on the subject property, as well as surrounding properties. He also provided a Comprehensive Plan Map of the subject property and explained that the proposed language attempts to create zoning that is consistent with the Comprehensive Plan language that was adopted in 2006. He provided a topographical map to illustrate the significant topography change that occurs between the southwest corner of the property and the northern boundary. He also provided a map to illustrate the location of all significant trees on the site. He pointed out that the proposal identifies a 20-foot setback on the northern boundary, which would allow them to retain most of the significant trees on the site. He referred to a tree survey that was conducted for the property and pointed out the trees that would likely be retained. He said setbacks on the western and eastern boundaries would be 15 feet, and the commercial development along Firdale Avenue would come to the street edge to bring the commercial activities as close to the street as possible. He advised that the proposal divides the site into the following two districts:

- **District 1 – Commercial** – The primary commercial uses would be located in this district, which is located closer to Firdale Avenue and oriented to the street. The maximum height in this district would be 3 stories.
- **District 2 – Commercial/Multi-Family Residential** – Multi-family residential uses would be located more towards the sides and rear of the site, behind the commercial uses, with possible commercial functions on the ground level. The maximum height in this district would be 4 stories, with the greatest heights being on the northern property line.

Mr. Shapiro noted there is an area where the two districts overlap to allow sufficient flexibility for more creative design. With the exception of the northern setback, the proposed language for District 2 would allow below-grade parking to extend to the property line. However, in order to preserve the existing trees, below-grade parking would not be allowed to extend into the 20-foot setback along the north boundary of the property. He pointed out that there are also on-site constraints such as a sanitary sewer line and a stormwater line that run through the site. He has spoken with the Olympic View Water District regarding the option of relocating the sewer line, but he has not talked to the City of Edmonds regarding the stormwater line.

Mr. Shapiro provided a side section drawing for District 2. He explained that because of the significant grade change, it is difficult to determine how the existing grade would mix with the proposed development. He said the proposed language recommends using the City's current method for calculating the maximum height allowed on the site, which involves averaging measurements taken at the four corners of a proposed building. Without a building design, he said it is difficult to determine what the exact height of the building would be. He said he anticipated that height would be a major concern of the surrounding property owners, but they did not voice concern about the 3-story building next to a single-family zone at either

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of the two neighborhood meetings. In addition, retention of the significant trees along the northern property line would help calm the neighbor's concerns about multi-family development that looks down into their backyards.

Board Member Lovell pointed out there is a significant drop from the sidewalk on Firdale Avenue to the existing grade at the property line. Mr. Shapiro explained that this drop would work to their advantage since it would require less dirt to be excavated to accommodate the below-grade parking. He emphasized that the commercial space would be constructed at the same level as the sidewalk. He said the real question is whether the property is valuable enough to make below-grade parking a feasible option.

Mr. Shapiro referred the Board to the table of uses found in Section 16.100.030 of the proposed zoning criteria, which talks about the types of uses that would be appropriate for the site. He noted that the proposed uses are quite in line with similar developments in Edmonds. Big box buildings would not be allowed since 20,000 square feet would be the maximum size allowed for retail spaces without a conditional use permit.

Next, Mr. Shapiro referred the Board to the draft design standards that would be applied to the Firdale Village Site. Mr. Chave reminded the Board that the proposal is a legislative item because the applicant is not asking to rezone the property at this time. The purpose of the proposal is to get the new zoning criteria in place first and then the applicant would go through the rezone process for this particular property. Mr. Shapiro clarified that his intent is to submit a rezone application concurrently with the proposed new zoning criteria, which is site specific and would not be applicable at any other locations in the City. Mr. Chave explained some of the problems associated with considering the two applications concurrently. He summarized that this issue could be addressed by the staff and applicant at a later date. At this time, the Board should focus on the proposed new zoning criteria.

Vice Chair Lovell expressed his belief that the plan put forth by Mr. Shapiro supports the Comprehensive Plan language related to Firdale Village. Mr. Chave said Mr. Shapiro's goal was to propose a zoning designation that would be consistent with and implement the Comprehensive Plan. He explained that the new zoning criteria must be adopted before the property can actually be rezoned, which is what the applicant ultimately wants to do. This would require two separate hearings: one to amend the code to create the new zone, and another to consider a rezone application for the new zone. He said he would work with the applicant to determine the best way to move through both steps of the process.

Chair Bowman suggested that, at the public hearing, Mr. Shapiro should provide a drawing to illustrate what the maximum height might look like in both districts. Mr. Shapiro said he is hesitant to provide this information because height would be based on the elevations at the four corners of the buildings. Without having a building design or site configuration, it would be difficult to pinpoint exactly what the building height might look like. Vice Chair Lovell clarified that massing drawings, similar to what the applicant previously provided, would be helpful at the public hearing. Mr. Shapiro agreed to provide massing drawings for information purposes, but he said he would not be in favor of including the drawings as part of the proposed new code language.

Chair Bowman asked that Mr. Shapiro also provide a drawing to illustrate what the maximum building envelope might be. Mr. Shapiro agreed to provide a 3-dimensional mapping diagram to identify what might be developed on the site, but he emphasized there are no formal plans at this point.

Board Member Stewart suggested it would be helpful for Mr. Shapiro to also provide a diagram to illustrate the massing and height of the existing trees on the northern property boundary. She noted that concerned citizens will want to know if the 4-story building would be visible over the trees. Mr. Shapiro agreed to add the trees to the massing diagram that was previously requested.

Board Member Clarke referred to the draft language in Section 22.100.030.E, which would require the developer to provide a public meeting room of not less than 1,000 square feet. He pointed out that the proposed development would not be considered a large-scale project, yet a 1,000 square foot meeting room would be a significant amount of space. He recalled that when this area was part of unincorporated Snohomish County, he had an opportunity to work on the apartment project that was developed to the east. The developer was required to provide a daycare center that was larger than a number of daycare facilities in the area, and the space ended up being much larger than the number of units could support. He asked

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Mr. Shapiro to share more about why he is proposing a public meeting room component as part of the zoning criteria. He expressed his belief that the meeting room should not be a zoning code requirement. Mr. Shapiro explained that the intent of the public meeting room requirement was to provide space for people who live in the development a place to meet to discuss neighborhood issues. Mr. Chave suggested that Board Member Clarke's concern could be addressed by changing the word "shall" to "should" and dropping "1,000 square feet," so the requirement would no longer be mandatory.

Mr. Shapiro explained that the purpose of the proposed design standards is to:

- Create an atmosphere of open court yards that the commercial and residential users can traverse through.
- Create space that allows for articulation within the building design to separate residential uses from commercial uses.
- Emphasize the needs of the pedestrian and provide more pedestrian amenities.
- Locate development to facilitate transit and non-motorized travel modes.
- Provide on-site facilities that are convenient and attractive to pedestrians, bicyclists and vehicles.
- Denote entries to the parking lots that serve the commercial uses and segregate the parking areas from the pedestrian areas.
- Incorporate creative solutions for garbage facilities.
- Integrate signage.
- Encourage tree placement that allows some light to get back to the buildings.
- Meet Built Green LEED Standards and incorporate low-impact development techniques.

Board Member Reed pointed out that the existing BN zone specifies that developments must include at least 25% commercial space. However, the proposed new language does not include this requirement. Mr. Shapiro agreed this should be part of the new language.

Board Member Reed requested more clarification regarding the height of buildings in proposed District 2. Mr. Shapiro once again explained that the proposed language would not alter the City's current method for calculating building height. He noted that potential height would be depicted in the massing drawing he would provide at the public hearing.

Board Member Stewart expressed concern that the proposal would allow a 4-story building to be constructed adjacent to a single-family zone that currently exists on the west side of the subject property, yet there would be no significant trees to buffer the impacts. Mr. Shapiro agreed that a 4-story building is higher than what is typically seen in Edmonds, but there would be a 15-foot buffer setback requirement that would serve as a buffer between the two uses. He recalled that he has worked on projects in the City where heavy vegetation was required to screen an adjacent use, but five or ten years later the vegetation dies as a result of overcrowding. He said he can understand that property owners in the single-family residential areas might be concerned about a building of the size proposed, but the 15-foot buffer requirement should help address the concern. Vice Chair Lovell suggested Mr. Shapiro consider a step requirement for the upper stories or only allow three stories instead of four.

Mr. Shapiro noted that the proposal includes a 20% open space requirement, which does not include parking areas. He summarized that the economic viability of a project of this size would depend upon the value of the land and the number of units allowed. Cutting back on the number of residential units allowed could make the project unfeasible. He explained that below-grade parking would be a major hurdle for the project to absorb. While he can understand concerns about the impact a 4-story building would have on adjacent residential neighborhoods, requiring a 2-story building on this portion of the site would negate a huge portion of the residential use that would go towards paying for the below-grade parking. He noted that relocating the sanitary sewer and stormwater lines would also be costly. Mr. Chave summarized that the Board would like Mr. Shapiro to take another look at this section of the property.

Board Member Stewart asked if Mr. Shapiro has conducted a study of the transit options in the area. She noted there is a transit stop and bike lanes nearby. She reminded the Board that the City is trying to incorporate sustainability strategies, and a below-grade parking garage would be counter to this effort. She asked what would be done to mitigate against increased stormwater runoff from the property. Mr. Shapiro pointed out a series of solutions could be employed to address stormwater runoff issues.

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Board Member Stewart suggested the City consider reducing the parking requirements for the residential element of the project. Mr. Shapiro said they initially proposed a parking requirement of 1.25 spaces per unit, but the Board and staff expressed concern and the parking requirement was increased to 1.5 spaces per unit. He pointed out that the proposed language would also allow a developer the option of creating shared parking. He said that while there is a transit stop on the street next to the subject property, it is challenging for pedestrians to cross the street to access the stop.

Mr. Chave referred the Board to Page 5 of the zoning criteria, where the parking standards are discussed. As proposed, a portion of parking designated for the office component could be shared with the residential component. While the language does not specify how much of the space must be shared, the language gets at the idea of providing dedicated parking for the commercial and residential uses, along with some shared parking for the residential and office uses. He agreed that the language in this section could be improved to make the intent more clear.

Board Member Clarke referred to the parking standards and pointed out that the parking required for the retail component of the project could change significantly depending on the use. For example, restaurants have a higher parking demand than office space. He summarized that there must be a large ratio of parking spaces to make the commercial and residential components work. Mr. Chave said staff encouraged the applicant to provide a standard for the commercial component to capture what the overall parking level might be. He noted that the downtown parking requirement is one parking space for every 500 square feet of commercial space and the uses in the downtown are primarily retail versus office. The proposed language offers a stronger ratio because the property is located near a single-family residential neighborhood, but it also recognizes that if the City wants to encourage sustainable development, they must encourage walking, transit, and other methods of transportation. That means the ratio should not be too high. Mr. Shapiro emphasized that the parking requirement identifies a minimum number, not a maximum number. If a developer proposes more retail space, they would have to structure parking to meet the demand of these uses.

Board Member Clarke referred to mixed-use projects that have been constructed in other areas of the City. He noted that if there is not sufficient and/or convenient parking for retail customers, the commercial spaces will not be successful. That is why they see a large number of first-floor commercial spaces vacant at this time.

Mr. Shapiro expressed concern that the proposed requirement that a developer provide 20% open space may be too onerous and could limit options. While open space would be a key component of the mixed-use development, the proposed 20% may be too high.

Board Member Young suggested that, at the public hearing, Mr. Shapiro should be prepared to explain why the proposed zoning is better than the zoning that currently exists for the subject property. Mr. Shapiro said the existing BN zoning limits the number of residential units to one per acre, which equates to about 6 or 7 units. He summarized that the current limitations of the BN zone are highly unrealistic for a mixed-use development scenario. In addition, the Comprehensive Plan stipulates that only 25 percent of the site must be developed with commercial uses. Therefore, the proposed zoning responds to the current Comprehensive Plan designation. He agreed that it would be helpful for him to discuss the limitations of the existing zoning and why it is unrealistic in today's market.

Board Member Clarke asked staff to provide more information about why the Comprehensive Plan language stipulates that 25% of any development on the subject property must be commercial. Mr. Chave said this number was recommended by the City's previous economic development director. The theory was that a 4-story building could provide commercial space on the ground floor, with residential uses on the upper floors. He reminded the Board that neighborhood centers are intended to provide services for the surrounding neighborhoods to encourage people to walk more. From a sustainability standpoint, the City must start operating differently in the future. Isolating commercial districts from neighborhoods creates problems because traffic is concentrated into corridors. Edmonds is fortunate to have some areas reserved as neighborhood centers, but they have historically been drastically underutilized.

The Board agreed to move the proposed language forward to a public hearing in April.

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INTRODUCTION OF SUSTAINABILITY ELEMENT OF THE COMPREHENSIVE PLAN

Mr. Chave reported that the City Council has completed its review of a draft outline for a new Sustainability Element for the City's Comprehensive Plan. They have forwarded the draft outline to the Planning Board with a request that they complete development of the element and forward it back to the City Council for adoption in 2009.

Vice Chair Lovell referred to Goal A on Page 5, which talks about the need to inventory and monitor community greenhouse gas emissions and carbon footprint baselines. He questioned if the City has the financial and staff resources to accomplish this task. Mr. Chave advised that an estimate of the City's emissions has already been completed. While it will take time and money to monitor emissions and the carbon footprint, it is something the City will be required by State law to do in the near future.

REVIEW OF EXTENDED AGENDA

Chair Bowman announced that a Planning Board Retreat has tentatively been scheduled for April 8th from 6:00 to 9:00 p.m. He noted that the Sustainability Element of the Comprehensive Plan would be a significant item of discussion.

PLANNING BOARD CHAIR COMMENTS

Chair Bowman did not provide any comments.

PLANNING BOARD MEMBER COMMENTS

Board Member Clarke said he is grateful for the opportunity to serve on the Planning Board.

Vice Chair Lovell reported that the Aquatic's Facility Survey has been completed and the architect and consultant would integrate the survey into their report. Additional meetings with the stakeholders and the public would be held to review the completed study, which should be presented to the City Council in early May. He suggested the Board invite the consultant and the Parks, Recreation and Cultural Services Staff to provide a report at their next parks meeting and prior to their presentation before the City Council.

Board Member Stewart requested that future meeting packets be sent to her electronically rather than in paper. It was noted that Planning Board packets are already available on line the Friday before each meeting.

Mr. Chave said staff typically meets with new Planning Board Members to give them a tour of the Planning and Development Services Department, answer questions, etc. Both Board Member Clarke and Board Member Stewart indicated they would be interested in a meeting with staff as soon as possible.

ADJOURNMENT

The Board meeting was adjourned at 10:30 p.m.

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