

## PLANNING BOARD MINUTES October 8, 2003

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

### BOARD MEMBERS PRESENT

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

### BOARD MEMBERS ABSENT

Ronald Hopkins  
John Dewhirst  
Judith Works

### STAFF PRESENT

Rob Chave, Planning Division Manager  
Meg, Gruwell, Senior Planner  
Karin Noyes, Recorder

### READING/APPROVAL OF MINUTES

BOARD MEMBER YOUNG MOVED TO APPROVE THE MINUTES OF SEPTEMBER 24, 2003 AS CORRECTED. BOARD MEMBER FREEMAN SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

### ANNOUNCEMENT OF AGENDA

Item 6.1.b was placed before Item 6.1.a on the agenda to allow the applicant time to get to the meeting.

### REQUESTS FROM THE AUDIENCE

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

### PUBLIC HEARING ON FILE NUMBERS R-02-233 AND CDC-02-232

Mr. Chave briefly reviewed the staff report for File Numbers R-02-233 and CDC-02-232. He displayed a copy of the existing Comprehensive Plan Map for the subject property and described the surrounding land uses and zoning. He advised that the property to the north of the subject property and across Edmonds Way is zoned RM-1.5 and the property to the south is zoned and developed under the RS-8 regulations. To the east, the property is zoned and developed under RS-8 and to the west, the property is developed and zoned under both the RS-8 and BN regulations.

Mr. Chave reminded the Board that staff has proposed amendments to the Comprehensive Plan Map that would convert the existing “bubble” map to a parcel specific land use map. He provided a copy of what the proposed Comprehensive Plan Map would look like, particularly the subject property. He noted that, basically, the boundary edges for the Comprehensive Plan Map follow the property lines. Mr. Chave identified the projects that are part of the rezone application. He said that, at this time, the existing zoning is essentially the same as what the Comprehensive Plan calls for. He identified the location of the

subject properties on the map. He also used a map to illustrate the addresses of those citizens who provided written comments to the Board prior to the meeting.

Mr. Chave advised that if the Comprehensive Plan Map amendment and the rezone application were approved, the property would be rezoned to RM-3, which would allow one unit for every 3,000 square feet of lot area. He provided a map to illustrate how many additional units could be built on each of the eight properties within the subject area. He explained that the area was not annexed into the City until 1997 and was primarily developed while still part of the County. While the area was under Snohomish County's jurisdiction, property owners had the ability to build duplexes if their lot was at least 150 percent of the required minimum lot size. Of the eight parcels that are currently being considered, five already have duplexes on them. Mr. Chave explained that, generally, the properties have access from 97<sup>th</sup> Avenue West, with the exception of the lot in the southeast corner, which appears to come off of 231<sup>st</sup> Place.

Mr. Chave expressed the staff's concern that approval of the Comprehensive Plan Map amendment and the rezone application could result in precedence setting. Staff is also concerned that the access to the subject properties would come primarily from 97<sup>th</sup> Avenue West, which has a very steep incline. In addition, this street takes a very sharp turn off Edmonds Way. Sight visibility would definitely be limited. Also, the subject property is not located near a principal arterial, which is normally where the City would like multi-family residential developments to be located. Mr. Chave said staff is also concerned about the impact the proposed rezone and amendment would have to the existing neighborhood. Again, he said that approval could end up setting a precedent for other property owners to follow by requesting that their properties be rezoned, as well.

Board Member Young referred to the technical problems associated with access to the site coming from 97<sup>th</sup> Avenue West and inquired who would be responsible for making these decisions. Mr. Chave said that, normally, the traffic engineer reviews building permit proposals and provides comments, but this does not normally occur when discussing general planning and zoning type issues.

If the Board recommends approval of the applications and the properties end up being rezoned to RM-3 consistent with the application, Board Member Young asked if the traffic engineer could then review a specific site design and application and decide whether or not it provides sufficient access to serve whatever the density would be.

Mr. Chave said staff is also concerned that if the applications are approved, rather than being a large parcel with some flexibility as to where the buildings could be located, the property would be rezoned and developed piecemeal. Normally, the City is interested in seeing development that encourages the consolidation of properties to limit the access to the best possible places. However, the existing lot pattern is definitely a concern.

Board Member Young agreed, but asked how many owners of the property identified on the map would be included in the rezone process. Mr. Chave noted that there is only one applicant, but she is present to represent three other property owners in the subject area. He said staff does not feel it would be appropriate to consider only the three lots. Therefore, staff tried to look at a more logical area. Board Member Young inquired as to how the other property owners feel about the proposed changes.

Mr. Chave explained that if the Board were to recommend denial of the Comprehensive Plan Map amendment, the rezone application would become mute. However, he urged the Board to make a recommendation to the City Council for both. Then if the City Council decided to approve the Comprehensive Plan Map amendment, they would have a recommendation before them related to the rezone application.

Board Member Young questioned the Comprehensive Plan amendment as proposed by the applicant. Mr. Chave said the subject property would be identified in the Comprehensive Plan as medium density, multi-family residential, which would allow either RM-2.4 or RM-3 development to occur. Board Member Young noted that in the current Comprehensive Plan, the subject property is designated as low-density single-family residential, but is multi-family residential to the north, south and east.

**Jennifer Mantooh, 9701 – 231<sup>st</sup> Place Southwest, P.O. Box 462, Edmonds, Washington, 98020**, said she was present to speak on behalf of four of the property owners who initiated the proposed Comprehensive Plan Map amendment. Three of the property owners have asked that a concurrent rezone application be submitted at the same time. The fourth property owner is requesting a Comprehensive Plan Map amendment only. In total, she knows that five of the seven property owners support the proposed changes.

Ms. Mantooh referred to Section II.A on Page 2 of the staff report. She said the annexation that took place in 1997 reduced the size of the lot requirements for the RM-3 zoning designation. The County's standards required more square footage than did the Edmonds standards. Next, she referred to Section II.B.1.a and noted that staff has indicated that the area comprises 115,000 square feet when, in fact, the area is only 87,713 square feet if the PUD site is taken out of consideration.

Ms. Mantooh referred to Section II.B.2.a and added that there are two single-family dwelling units located on the subject properties. One was grandfathered and does not have a business located on it. The other has been a long-standing business in the Edmonds community. She said she finds it interesting that one of the multi-family designations the Board previously approved would have the triangular property to the north across Edmonds Way identified as RM-1.5. Mr. Chave clarified that while this rezone application was considered briefly, it was never approved by the City Council.

Ms. Mantooh referenced Section II.C.1.b.4 on Page 3 and Attachment 7. She said that based on the County's description of the lot size of the properties located adjacent to the PUD property, the square footage would only allow two additional units not the three additional units as indicated in the staff report. Therefore, the number of potential units that could be built on the combined properties if utilized to the maximum allowed would be 25 rather than 28.

Ms. Mantooh noted that staff expressed concern in Section II.C.1.b.5 that the majority of the properties gain access to a public street on a very steep portion of 97<sup>th</sup> Avenue West and one parcel gains access on the dead end road, 231<sup>st</sup> Street Southwest. She said she has owned the parcel that gains access from 231<sup>st</sup> Street Southwest since 1986, and the duplex that currently exists was built in 1962. The proposed change would not make any significant difference to traffic on 231<sup>st</sup> Street Southwest. She said she spoke about this issue with the City's traffic engineer, and he indicated that there would be very little change in the traffic pattern or trips through the neighborhood.

Ms. Mantooh pointed out that the City already allows accessory dwelling units to be constructed on properties that are located within the single-family residential zones. Even without the rezone change, the number of units built on single-family residential properties could be doubled. She concluded that should her property be rezoned as requested, the change would not be significant. She pointed out that most of the property being considered for change is already used for something other than single-family residential development. Basically, it is being used as low-density multi-family residential right now.

Ms. Mantooh referred to Section II.C.1.b.3, which states that the Growth Management Act and the City's Comprehensive Plan support infill development to accommodate population and employment forecasts. She noted that there is almost no medium-density, multi-family zones within the City. She said she would guess there are probably only about 25 units in the whole City. However, the City does have a significant amount of high-density multi-family residential and single-family residential development. What they lack is the transitional medium-density multi-family residential areas.

Ms. Mantooh said she disagrees with staff's comment in Section II.C.1.b.4 that there has been no indication that the character of the neighborhood has been experiencing change. She said that since she bought her property, a house was put in next to her. After the City annexed Esperance, there was another house developed on the corner. There is yet another house on the corner of 231<sup>st</sup> Street Southwest. In addition, a halfway house for alcohol and drug rehabilitation was put in just up the street from her property, and approximately nine men are living there currently. She felt that was a significant change in the character of the neighborhood.

Ms. Mantooh said there are really seven parcels being considered for the rezone since one is actually owned by the Public Utility District. Five out of the seven property owners support the Comprehensive Plan amendment.

Ms. Mantooth referred the Board to Section II.C.1.b.6 which states that staff believes the properties are economically suitable for uses allowed under the existing Comprehensive Plan and zoning. She suggested that if the Comprehensive Plan Map amendment and the rezone application were approved, it would enhance the City by adding tax dollars and providing opportunities for additional residential units in the neighborhood to support local businesses.

Ms. Mantooth referred to Section II.D.1.b which states that the Comprehensive Plan policies are not definitive in their support of or opposition to the proposed applications. She disagreed with staff's conclusion. She pointed out that there is high-density multi-family development all along the corridor, with small-scale businesses near the intersections. She noted that the staff report expressed a major concern that the more intensive development that occurs along the corridor should not interfere with the flow of through traffic or intrude into adjoining established communities. She suggested that the proposed change would not constitute an intensive use. It would merely allow a minor improvement or change to what is already happening in the neighborhood.

Ms. Mantooth said that, according to the City's traffic engineer, there would be no significant increase in traffic. She referred to the Edmonds Way Corridor Goal 1 on Page 5 of the Staff Report. This goal states that design review should be used to encourage the shared or joint use of driveways and access points by development onto SR-104 in order to support the movement of traffic in a safe and efficient manner. She noted that two of the subject properties come out to the south of the PUD property and three empty out from a driveway street. One duplex empties out to 97<sup>th</sup> Avenue West, and hers comes out at 4<sup>th</sup> Place. They are sharing access as much as possible right now.

Ms. Mantooth referred to the Edmonds Way Corridor Goal 4 which states that design review should be used to ensure that development provides a transition to adjacent residential neighborhoods. Design techniques such as modulation of facades, pitched roofs, stepped-down building heights, multiple buildings, and landscaping should be used to provide designs compatible with single-family development. She noted that landscaping is already present on the subject properties and the multi-family units are invisible from the single-family residential development up the hill and to the east. All of the things asked for in Goal 4 have already been met by the properties. If the proposed changes were approved, the property owners would want to continue to meet these design and compatibility standards.

Ms. Mantooth noted that the staff report indicates that no comments were received from any department concerning the proposed rezone request. While the various departments may have concerns regarding future development proposals for the subject properties, right now they have indicated none.

Board Member Crim requested clarification from Mr. Chave regarding the City's accessory dwelling unit ordinance. Mr. Chave replied that accessory dwelling units are allowed in single-family residential zones. But, by definition, they do not increase the density allowed because there can only be one family living on the property. The accessory dwelling unit ordinance allows an additional unit to be constructed on a single-family residential property if it is used by a mother in law, a caregiver, etc. Accessory dwelling units are not considered additional units. Therefore, the density of the property is not increased.

**Jacqueline Barnes, 9520 – 231<sup>st</sup> Place Southwest**, said she owns the triangular property directly across the street from Ms. Mantooth's property. She said her home is one of 13 located on a cul-de-sac of residential homes. She agreed that there is an alcohol treatment home located in their neighborhood. While she said she does not like having this use in the neighborhood, it is mandated by the State and the City cannot prohibit it. She said she purchased her home because of the quality of life Edmonds had to offer and because of the nice, family atmosphere of the single-family homes in her neighborhood. Recently, young people have moved into the neighborhood for the same reasons. By allowing Ms. Mantooth her rezone, the City would be setting a precedent and paving the way for future rezones in the area. She said her lot is approximately 13,000 square feet, which would allow her to build four units if rezoned. Her neighbor could have even more units on his property. She asked that the Board deny the rezone and allow the existing residents to maintain their quality of life.

**Tim Doyle, 9529 – 231<sup>st</sup> Place Southwest**, said he and his wife, Mary, moved into the neighborhood in 2002. He said he is a firefighter and his wife is a school teacher, both with 20 years of public service. He said they sold everything they had and

took out a large loan to purchase their home. If the rezone is approved, he feels that his property would be worth the land value only. He asked the Board to deny the requested changes. He said he likes the neighborhood the way it is.

**Norbert Nowak, 9514 – 231<sup>st</sup> Place Southwest**, said that he and his wife have lived in their home for 29 years and have seen the area develop. He said that Ms. Mantooth has already been denied this change twice. She has built an illegal apartment on top of a garage and the City and the residents in the area were all fooled that it would be used as an art studio. He said people moved into the neighborhood because they wanted a nice family place in an environment where they could feel safe and comfortable.

Mr. Nowak said he owns one of the properties in the proposal, and it is currently developed with a duplex. Ms. Mantooth's property is not designed for a duplex. Her existing duplex was grandfathered in and then she built a large studio above her garage that has been furnished with living quarters. He said they have been before the City Council on numerous occasions as Ms. Mantooth has repeatedly tried to change the zoning of her property. He questioned if the neighbors would have to continue to do this until Ms. Mantooth finally gets her way. He asked that the Board deny the proposal.

**Matthew Weston, 23003 – 97<sup>th</sup> Avenue West**, submitted a letter that was written by **Patty Hughes at 23001 – 07<sup>th</sup> Avenue West**. He said he owns one of the properties being considered for change.

**Wilma Rougny, 9532 – 231<sup>st</sup> Place Southwest**, said her home is immediately across the street from Ms. Mantooth's garage and the "studio" she was going to add. She said she is in support of the single-family residential citizens who live along 231<sup>st</sup> Place Southwest. She said her main objection is the deception and deceit that was brought about by Ms. Mantooth. They have been through this on numerous occasions, and Ms. Mantooth has been turned down every step of the way. Now she still wants her way, and it is not right.

Mr. Chave cautioned that it is the general practice of the Planning Board to ask the audience not to applaud at the end of each individual speaker because sometimes it can be intimidating to others who want to speak to the Board.

**Aaron Lindstrom, 9515 – 231<sup>st</sup> Place Southwest**, said he and his wife moved into their home about six months ago. He is 30 years old and his wife is 28. They work 12 hours a day, and they don't have to worry about leaving their door unlocked or about leaving their kids home in the future. They moved into a home that was a little beyond their means so that they could give their future family the life they deserve. He noted that the Comprehensive Plan states that a major concern is that the more intensive development that occurs along the corridor should not interfere with the flow of through traffic or intrude into adjoining established communities. He pointed out that this area is already an established community, and if the rezone request is approved, other properties in the immediate area will want to rezone to high-density multi-family residential, too. He said he is worried about what his kids will do when playing in the backyard. He said he feels the rezone request is a bad idea and would destroy the integrity of the existing community.

**Rick McCartle, 2716 Colby Avenue, Everett**, said he is a Senior Associate with Shocky Brent. He supports the proposed Comprehensive Plan and rezone request. He said he has worked off and on with Ms. Mantooth's application and consulted on different issues related to her request. He said that, by any measure, he would think that the staff and the Board would agree that in the big picture of the City of Edmonds, this is a relatively fine tuning of the Comprehensive Plan and not a significant change that would cause a substantial shift in land use patterns—the recognized pattern of development that was established before the annexation. Most of the properties in the area are developed as multi-family residential units. The only individual property is owned by the Public Utility District.

Mr. McCartle said he believes this is a good opportunity for some modest infill of existing developed properties. It would widen the housing options available to City residents consistent with the Comprehensive Plan policies and without impacting to any serious degree the surrounding single-family residential homes. Most importantly, he said he believes that the change would be very definitely supported by a number of policies within the Comprehensive Plan. The application and the description and analysis he provided includes a good run down of these Comprehensive Plan policies.

Mr. McCartle said he had not planned to participate in the hearing, but after receiving a copy of the Staff Report, he felt that he wanted to address a few of the issues that were raised. He said he was surprised and baffled by some of the information in

the Staff Report and there are parts that paint a much more dramatic and significant picture of the proposal than what you could realistically expect to see such as the unit count could be more than doubled from 12 to 28 units. While that is not impossible, it is very unlikely the City would ever see maximum development in an area like this. No one will remove a valuable building to construct more units. The results will likely be gradual infill.

Regarding the traffic impacts, Mr. McCartle said it is significant to note that the traffic engineer really had nothing to say about the proposal. The reason he has expressed no concern is that these issues are best addressed as part of a development proposal review. Necessary improvements would be identified at that time. He said the addition of one more unit accessing onto 231<sup>st</sup> Place Southwest is going to be absolutely negligible in terms of traffic impact. He said he understands there is a perception that the proposal is to “run to hell in a hand basket,” but one additional unit would be absolutely insignificant to 231<sup>st</sup> Place Southwest.

Mr. McCartle referred to the access on 97<sup>th</sup> Avenue West and the intersection of SR-104 and suggested that the pattern of development is somewhat contrary to the denser pattern where you would have individual or direct access onto Edmonds Way. That is not what the Comprehensive Plan says. The Comprehensive Plan states that they do not want additional access points to interrupt the flow of traffic and that means limiting points of access to those that already exist such as 97<sup>th</sup> Avenue West. He suggested that 97<sup>th</sup> Avenue West functions to consolidate the access points from these properties so that the traffic is applied to Edmonds Way at the same intersection. Even though it is a steep road, it is good in terms of site distance and ability to get to that location.

Finally, Mr. McCartle said he would like to emphasize Ms. Mantooth’s point regarding consistency with the Comprehensive Plan policies, particularly those that apply to the Edmonds Way Corridor. He said he does not know how the staff could read these policies and then come to the position that Comprehensive Plan is not definitive in terms of support for the proposed change. The policies are exactly the reason the applicant is arguing for the change. RM-3 is exactly the type of transition density and use that has been applied elsewhere in the City. In addition, other policies talk about consolidation of traffic patterns that would interfere with the flow of traffic on Edmonds Way. The proposal would create a much better situation.

Mr. McCartle urged the Board to approve both the Comprehensive Plan and rezone applications. This is an area in the City where a unique opportunity can be created to do some modest infill in an area that is committed largely to multi-family residential uses without serious impact.

**Kevin Hamilton, 360 Lee Street, Seattle**, said he grew up on 231<sup>st</sup> Place Southwest and his mother, Simone Hamilton, still lives there. He said he is present to voice not only his own objections to the rezone application, but to speak on behalf of his mother. He noted that Mr. McCartle stated several times that the proposal would be “minor fine tuning” or “modest infill” etc. On behalf of his family, he said he does not believe this change would constitute minor fine tuning or modest infill. The property his mother owns is at the bottom of the cul-de-sac, and she moved into the neighborhood for many of the same reasons identified by the previous speakers. She has lived in her home for 40 years, and it is the kind of neighborhood that is great for raising a family. Kids can ride their bikes without having to worry about getting hit by a car. The question about whether or not the property would be developed to its maximum potential is not the important issue. More important is whether or not the City is going to approve the zoning change that would make maximum development possible. Once the zoning is changed, the property owners would be allowed to build to the maximum density authorized by the zoning decision.

Mr. Hamilton said the Staff Report makes some very good points. He submitted that in making zoning decisions, the Board should look not just at one specific application, but at the larger picture of development in the area. The map shows where all the single-family homes are located and it is clear that the subject property is not in an area that is otherwise zoned as multi-family residential. He said he is opposed to the City rezoning islands of multi-family in a single-family area. He pointed out that the zoning change would allow the density to more than double according to the Staff Report, and this is a troubling thing to him because of the way the neighborhood is designed. He said that, even as a teenager, he could never ride his bike up 97<sup>th</sup> Avenue West because it is incredibly steep. As it is, there are some driveways that exit onto 97<sup>th</sup> Avenue West and it is a very dangerous street. Doubling or tripling the number of people driving on that street would be a bad idea from a safety standpoint. He said that perhaps the most important issue is that it is impossible to see over the top of the hill, and people coming over the top will not be able to see what is on the other side.

Mr. Hamilton said the most important reason for denying the rezone proposal is because of the character of the neighborhood and the kind of life the residents are trying to build. He hopes that in his lifetime, he does not see apartment buildings along the street because this would destroy the property values and the reason most people bought their homes in the first place. There are number of children and older citizens who live on the street. Increasing the density would destroy the fabric of the neighborhood. He asked that the Board deny the application.

**Tom Foster, 23037 – 97<sup>th</sup> Avenue West**, said he purchased a home just off of 236<sup>th</sup> Street and 96<sup>th</sup> Avenue 15 years ago. He said he understands a lot of the concerns expressed by the residents. He said he purchased his property, which is part of the proposal, two years ago as an investment and he is in favor of the proposed Comprehensive Plan Map change because he wants to make sure he retains the ability to maintain his duplex in its current status. He said his interests do not lie in doubling the number of units on his property but in protecting his investment. He said one concern expressed by the neighbors is related to traffic off of 231<sup>st</sup> Place Southwest. He noted that Ms. Mantooth's property is probably the only one that would access from 231<sup>st</sup> Place Southwest, and only one more unit would be allowed on that site. He said he understands the residents concerns about 97<sup>th</sup> Avenue West, too. His driveway is the only one that is on the hill, itself. He noted that 231<sup>st</sup> Place starts at the top of the hill, which he drives down frequently. There is hardly ever any traffic, and the people living in his units have not expressed any concern about the traffic. People who live in the area understand the situation and make sure they go slow over the hill. He said he does not see the concern about it being a limited site distance. His is the only property that would be an issue.

**Carol Golden, 9526 – 233<sup>rd</sup> Street Southwest**, said she has owned the corner lot at 233<sup>rd</sup> Street Southwest and 96<sup>th</sup> Avenue for the past 34 years. If the proposal were approved, the City would be opening the area to all kinds of new buildings and setting a precedent. She said she moved to the area because it was a nice, quite suburban area. While there has been change, this would be pushing too far. If there could be 28 units built on the subject properties, that would equate to at least 56 additional cars. She said 231<sup>st</sup> Place is a very steep hill with several roads coming off of it. She has almost been hit there herself. She said she would hate to see the neighborhood change so much. She could choose to apply for a rezone for her property, too, and that would allow one additional unit. The entire area could be changed significantly, and she is definitely against the proposal.

Board Member Crim noted that the Board received written comments from the following individuals:

- **Robert and Tracy Hogan, 9525 – 233<sup>rd</sup> Street Southwest**
- **W. H. and Fern Parker, 9512 – 232<sup>nd</sup> Street Southwest**
- **Peggy Smyth, 9504 – 231<sup>st</sup> Place Southwest**
- **Jean Myers, 23206 – 97<sup>th</sup> Avenue West**
- **Barbara and Irving Deaton, 9728 – 231<sup>st</sup> Place Southwest**
- **Walter & Dianne Bershauer, 9726 Edmonds Way**

In addition, Board Member Crim said the Board received a list of signatures of residents who support the Comprehensive Plan and Rezone applications. This list was submitted by Jennifer Mantooth.

**Peter Beck, 723 Hannah Park Road**, said he has been a resident of Edmonds since 1951, and has watched the Westgate Activity Corridor develop haphazardly. He said he expressed his concern related to the corridor at the September 24<sup>th</sup> public hearing on the general Comprehensive Plan Map changes. He said he believes the area east of the PUD substation along Edmonds Way should be zoned RM-3 or RM-1.5. He noted that the Comprehensive Plan states that a continued pattern of multi-family residential development lies along the corridor, and he encouraged the Board and staff to think visually in the future to promote infill by continuing the multi-family zone from behind the substation out.

**Roger Hertrich, 1020 Puget Drive**, said he has used 97<sup>th</sup> Avenue West before, and it is a real test of an automobile to get up it. Going down is a bit more difficult. He suggested that this is certainly not a good street for increasing the density. The site distance has been discussed, as well as the traffic problems that would come about by the change. The residents are fighting for their neighborhood, and the commercial and multi-family uses are always trying to intrude. They stay banded together to protect their neighborhood. Staff has made a good recommendation because the proposal is incompatible with

the Comprehensive Plan. He noted that the multi-family residential development in the area is separated by Edmonds Way, so this development should not be considered part of the surrounding neighborhood. The proposal would continue the multi-family development much further south than is reasonable for the neighborhood. It would destroy and change the existing neighborhood, and he suggested the Board support the staff's recommendation for denial.

**Matthew Weston, 23003 – 97<sup>th</sup> Avenue West**, submitted a letter to the Board that was signed by he and his wife who are both in support of the proposed action. He said he owns Fowler Portraits and lives in a single-family home, both of which are located within the area identified for the proposed rezone. He said he would like the proposed map change and rezone to be approved because he has often thought that it would be very difficult to sell his property as single-family residential because of the noise from the PUD Substation and the car wash as a result of the topography in the area. In addition, Patty Hughes and Peter Vahorn live behind the substation and they are also in favor of the proposal. Because of the noise and their location adjacent to the substation, they have been unable to sell their homes. He concluded that the property is suitable for business, but not as a residence. He said he appreciates the grandfather clause that allows him to operate his business. While he is not interested in changing his property now, he would like to support the use of his property as a business.

Mr. Weston referred to Section II.B.1.a.3 and noted that his property is already developed as community business, and some of his customers live in the residential neighborhoods up the hill. He said he does not wish to take sides either way. Next, he referred to Section II.C.1.b.5 which speak to concerns about increased traffic on 97<sup>th</sup> Avenue West. He said there is already a large business parking lot located on 97<sup>th</sup> Avenue West that is operated by Dusty's Floral, and there is a separate entrance and exit onto 97<sup>th</sup> Avenue West. Traffic is not a problem at this time. However, if this is a concern, the City should maintain the road on a more regular basis.

Mr. Weston referred to Section II.C.2.b.1, which states that if the Board does not recommend approval of the Comprehensive Plan amendment, they cannot recommend approval of the rezone request because the request would not be consistent with the current designation. He urged the Board to approve at least the Comprehensive Plan amendment since only three property owners have applied for rezones at this point.

Mr. Weston referred to Section II.C.2.b.4, which states that there is no indication that the character of the neighborhood has been experiencing change. He said he believes the character of the neighborhood has changed. He suggested that the proposed changes would bring the neighborhood into more compliance with what it is already developed as. The traffic along SR-104 has increased and the carwash has put in larger fans that create more noise. He said he can't stand in his yard and carry on a conversation because of the noise. He noted that when the parking lot for Dusty's Floral was put in, many trees were cut down. The PUD cut down even more trees in addition to adding a cellular tower to the site.

In reference to Section II.C.2.b.5 Mr. Weston said he would like to be on the official record as supporting the change. If there are any properties in the area that would warrant this change, it would be the subject properties. The everyday activities that take place in this area support RM-3 zoning and go against the single-family lifestyle. He said he appreciates the lifestyle of the single-family homes that are above his property, but it appears to be a win-win situation for the City and the property owners to be able to make better use of their properties. The impact would be minimal because the lots are already developed with multi-family units. Attached to his property is a note that he cannot access from Edmonds Way. To say that there has been no character change in the area is wrong. To make their group of homes better fit the area, approval of the amendment would be right. He urged the Board to vote for approval.

**Ben Farrar, 9610 – 231<sup>st</sup> Place Southwest**, said that duplexes have been built on each of the two lots that are adjacent to his home. In addition, there is a third building at the back of the second lot, with access from 231<sup>st</sup> Place. However, this property does not front 231<sup>st</sup> Place Southwest. The building was built to be a livable studio and if people are not able to live in that unit, the building will be allowed to deteriorate over time. Right now, it is a good-looking building with the exception of the three car garage that faces the street. He said he would like to see the change go through as proposed so that the property can be maintained and even improved so it can be income-producing property.

**Norbert Nowak** referred to the building that was discussed by Mr. Farrar and said it was originally built as a garage, but has been transformed into an illegal living quarters, which was denied twice by the City already. He said the property in the

southwest corner accesses from 231<sup>st</sup> Place Southwest, and if the property is granted a rezone to RM-3, the single-family residential property values in the area will be decreased.

Mr. Chave explained that the Planning Board is responsible to make a recommendation to the City Council on the rezone application and Comprehensive Plan Map amendment. The Comprehensive Plan Map amendment is considered a legislative issue because it is related to general land use patterns. But a parcel specific rezone, such as the one before the Board at this time, will go before the City Council as a closed record review. No new facts or issues can be introduced to the City Council that have not already been covered at the Planning Board level. Therefore, any issues the public or the applicant would like to bring forward for consideration and inclusion in the record must be stated before the public hearing is closed. The public will be allowed to speak at the City Council review regarding only those facts that were introduced at the public hearing before the Planning Board.

**Matthew Weston, 23003 – 97<sup>th</sup> Avenue West**, said he wanted to specifically clarify that this issue should not become an individual person against the neighborhood. It should, instead, be an appropriate action based on the land use that currently exists.

**Aaron Lindstrom, 9515 – 231<sup>st</sup> Place Southwest**, referred to the comments made previously by Mr. Weston regarding the noise that exists in the neighborhood. He said he lives on the top of the hill and gets the majority of the noise. His property is in the northeast corner of the cul-de-sac. If the subject property were rezoned to RM-3, he felt it would make a lot of sense for property owners to demolish the development that currently exists and replace it with new, higher density development. This would require the removal of the trees that provide a barrier for the existing residential community.

**Jennifer Mantooh, 9701 – 23<sup>ast</sup> Place Southwest, P.O. Box 462, Edmonds, Washington, 98020**, said that doing a Comprehensive Plan Map change and a rezone to RM-3 would be changing the map to actually show what is there now. It is not a bunch of single-family homes they are asking to rezone. Duplexes are already present. The hill is very steep and there is a site barrier on 97<sup>th</sup> Avenue West. The businesses directly to the west are all below the hillside and the access is located up above. There is already an established pattern and she is just asking to be included in that. She asked the Board to carefully consider their decision and approve the Comprehensive Plan Map amendment and rezone application.

Board Member Young advised that the Board has a list of things they are supposed to look at when considering a Comprehensive Plan amendment or a rezone request. One, in particular, is whether or not a public benefit would be provided. Another is whether or not the rezone requested would be consistent with the Comprehensive Plan. He noted that Ms. Mantooh has indicated that approval of both the Comprehensive Plan Map amendment and the rezone request would help fill a need in Edmonds for medium density multi-family residential housing. He questioned if she has anything that would support this statement. Ms. Mantooh answered that she made this observation from her point of view after looking at the Comprehensive Plan Map and noting the different types of business, multi-family residential and single-family residential zoning throughout the City. She found very few properties that were zoned medium density multi-family residential. There is a lot of high-density multi-family residential zoning located along the Edmonds Way Corridor, but there is hardly any transitional medium density multi-family residential zoning.

Board Member Young said he is interested in learning what the public benefit would be from the proposed rezone and Comprehensive Plan amendment. If there is a shortage of medium density multi-family residential zoning in the City, that is something that needs to be stated on the record.

Board Member Young requested that staff provide a preview of how this issue will play out. Mr. Chave provided a map to illustrate the location of the subject properties, indicating those property owners who are in favor of the Comprehensive Plan amendment and rezone proposal. Board Member Young inquired if there is some sort of plan or agreement that the seven property owners will all get together and make a planned development at the new density, or would all of the properties be developed on an individual basis if the RM-3 rezone request is granted. Ms. Mantooh clarified that the four property owners who are participating in the Comprehensive Plan amendment and rezone request have properties with different building configurations. She said she does not see that there is a way for them to come together to make a plan because each are at a different stage economically. Each property owner would deal with the development of their property on their own and that is why infill would occur slowly over time. There are no present plans for a large type of development. The point is

to be able to allow the property owners to maintain their properties with the same type of buildings that currently exist. Because these properties are grandfathered, she has been told that if her building becomes damaged more than 50 percent, she would not be able to rebuild her duplex because it would be considered non-conforming.

Ms. Mantooth said she does have a garage and an art studio above that is used for storage and a number of other things. She said she would like to use it as a triplex to increase her income and provide transitional housing for people between apartments and houses. She emphasized that renters are not particularly bad.

Board Member Young said it sounds as though four of the seven property owners are in favor of the Comprehensive Plan amendment and rezone to RM-3, and four would likely apply for the rezone immediately. However, the other three property owners have indicated that their properties would remain the same until something changes to make them want to take advantage of the RM-3 zoning designation.

Mr. Chave provided some factual clarifications related to the grandfather provision and non-conforming uses. He clarified that while non-conforming buildings would not be allowed to be rebuilt unless the new building would conform with new zoning requirements, non-conforming uses would be allowed to rebuild so long as the construction is started within one year after the building is damaged. If any of the buildings are non-conforming in terms of setbacks, heights, etc. they would have to be reconstructed in a manner that conforms to the code requirements.

Mr. Chave referred to Ms. Mantooth's comment regarding the number of units that could be created on the subject properties if the rezone were approved. He said that whether the number is 24 or 28, the magnitude would be nearly the same. The subject property is about 2 acres in size and is currently developed at about six units per acre, which is about what the current RS-6 density would allow. He said it should be noted in the record that 97<sup>th</sup> Avenue West is neither a collector nor an arterial street.

Board Member Young inquired how approval of the proposed change to the Comprehensive Plan would affect the Board's option to amend the Comprehensive Plan on a yearly basis as permitted by the Growth Management Act. If the Board were to approve the Comprehensive Plan amendment, would that area then be taken off their plate for consideration in future years. Mr. Chave said Comprehensive Plan amendments can be considered once a year and the Board is in the process of wrapping up the plan amendments for 2003. The City Council will be holding hearings into November on all of the Comprehensive Plan recommendations from the Board. The whole process will start again next year to consider additional plan amendments. He noted that the owners of the subject properties are split in their desire to rezone their properties. However, if the City were to amend their Comprehensive Plan to identify these properties on the map as medium density multi-family residential, the zoning map would have to be amended to be consistent with the land use map. Therefore, all of the subject properties would have to be rezoned to RM-3. Once the properties are rezoned the Board will have no control over the individual development that occurs on each site. It could be that additional units are added individually on each of the properties. Or the owners could consolidate their properties and do an entirely new multi-family development.

Board Member Young inquired if a property owner would have to go the Architectural Design Board for review if they want to add a house to a property that is already developed with a duplex. Mr. Chave said his recollection is that if more than a duplex is being constructed on a site, design review would be required. But a single-family or duplex development would not require design review. However, it is a different matter as to whether a full design review would be required or if the review could come before the ADB as a consent agenda item.

THE PUBLIC PORTION OF THE HEARING WAS CLOSED.

Board Member Freeman noted that the topography of the site was brought up a number of times. She suggested that perhaps Board should ask staff to provide maps to show the lay of the land before they make a decision on the proposal before them.

Board Member Crim inquired if the Board could continue their deliberations to the next meeting. Mr. Chave answered affirmatively, but if the Board wishes to accept new evidence related to the topography of the subject property, they should reopen the public hearing to allow the public and the applicant to provide testimony specific to this issue, as well. In

**APPROVED**

addition to more information about the topography of the subject property, the Board could also request staff to provide feedback from the traffic engineer regarding access.

Board Member Crim noted that the corner lot has a dramatic impact to the cul-de-sac, which is a large issue, and he would be inclined to change the Comprehensive Plan for the lots further to the north and not include the two southern lots. Board Member Cassutt agreed. Board Member Crim said he does not have a good feeling for the topography of the subject properties. Board Member Cassutt, on the other hand, said she drives through this area often and it is a terrible hill. She suggested that Mr. Beck's recommendation that the boundary go from the substation property and across would be the best alternative. But that is not what is before them for consideration at this time. Board Member Crim said that, long term, this is an area that is ripe for change in the Comprehensive Plan. But he does not see that it is a necessary action to take right now. Board Member Cassutt said she does not feel the RM zoning should go that far up the hill.

Board Member Young agreed and suggested that the Board recommend denial of both proposals. He referred to the Comprehensive Plan Goals for the Edmonds Way Corridor. He noted that Goal 1 states that the City should permit uses in planned multiple-family or small-scale business developments that are designed to minimize contributing significantly to traffic congestion. The subject property consists of seven lots with no plan for consolidation of access. Currently, there are five access points onto 97<sup>th</sup> Avenue West, and he does not see any plans to alleviate or improve the situation as long as the properties are under individual ownership—particularly since only four of the seven property owners are interested in rezoning their properties. He suggested that perhaps the Board should reconsider the boundaries of the multi-family zoning along slightly different parameters.

Board Member Young referred to Goal 2, which states that transit and pedestrian access should be provided to the development. Both transit and pedestrian access are available already for the subject properties, but there is no careful design that would improve the situation.

Next, Board Member Young reviewed that Goal 3 states that design should be used to encourage the shared or joint use of driveways and access points by development onto SR-104 in order to support the movement of traffic in a safe and efficient manner. Site access should not be provided from residential streets unless there is no available alternative. While he realizes that there are probably no available alternatives for access, consolidation of development could result in only one or two access points instead of five. If the properties are developed one by one and no design review is required, he questioned whether Goal 3 could be met. He also questioned how Goal 4, which calls for design review to ensure that development provides a transition to adjacent residential neighborhoods, could be met if the properties are developed one by one because no design review would be required.

Board Member Young noted that no statistics have been presented to support the applicant's claim that there is a shortage of medium density multi-family zoning in the City. Without anything to back up these statements, he sees no reason to change the Comprehensive Plan or rezone the properties. Board Member Crim agreed that if the properties were consolidated and a design review required, he would be more willing to support the proposals.

**BOARD MEMBER YOUNG MOVED THAT THE BOARD RECOMMEND THE CITY COUNCIL DENY FILE NUMBER CDC-02-232 BECAUSE IT IS INCONSISTENT WITH THE FOUR COMPREHENSIVE PLAN GOALS FOR THE EDMONDS WAY CORRIDOR. BOARD MEMBER CASSUTT SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.**

Mr. Chave suggested that the Board should also state their reasons for recommending denial of the rezone. If the City Council feels they want to go ahead with the Comprehensive Plan amendment but there is no record of what the Planning Board thought about the rezone application, they could end up in a bit of a quandary.

**BOARD MEMBER YOUNG MOVED THAT THE BOARD RECOMMEND THE CITY COUNCIL DENY FILE NUMBER R-02-233 ON THE BASIS THAT IT IS INCONSISTENT WITH THE COMPREHENSIVE PLAN. BOARD MEMBER CASSUTT SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.**

**APPROVED**

Mr. Chave noted that those people who received notice of tonight's public hearing would also receive notice of when the City Council would be considering the proposal. In addition, those who signed their name on the list by the door would also receive a notice.

THE BOARD TOOK A TEN-MINUTE BREAK AT 9:05 P.M. THEY RECONVENED AT 9:15 P.M.

**PUBLIC HEARING ON FILE NUMBERS R-02-133 AND CDC-02-237**

Meg Gruwell, Senior Planner, presented the Staff Report for File Numbers R-02-133 and CDC-02-237. She provided a map of the subject property and the surrounding properties and explained that the request is to change the Comprehensive Plan designation for the property from "single family, small lot" to "mixed use commercial." The applicant has filed an application for a concurrent contract rezone of the subject property from RS-6 to BC in order to allow a law office with two attorneys, two employees and up to two clients per day on the subject property.

Ms. Gruwell advised that the property to the north is developed with a fourplex and zoned RS-6. Further north the bank narrows and there are no structures between the road and the railroad tracks. To the west are the Burlington Northern Railroad tracks, which have no zoning designation. Further west, adjacent to the railroad tracks is the Brackett's Landing Park, which is zoned "Public Use." An undeveloped lot that is zoned RS-6 lies to the south of the subject property, and adjacent to that lot is the building with the Waterfront Café and Sahib's Restaurant which is zoned BC. The property to the east is developed as detached single-family residences and zoned RS-6.

Ms. Gruwell said the City received a complaint on July 16, 2001 that the basement of a single-family home at the subject parcel had been remodeled without a building permit into a law office. Law offices are prohibited as home occupations. The applicants are going through the Comprehensive Plan change and rezone process to try and make their law office an allowed use at this site. Staff has spoken with the applicant about working with the adjacent property owners to increase the area of the proposal and tie it into adjacent business zones, but they have chosen to only work with the subject parcel.

Ms. Gruwell referred to Page 4 of the Staff Report, which lists the criteria and findings that must be met in order for a Comprehensive Plan amendment to be approved. She said staff has found no strong relationship with the Comprehensive Plan policies that would support a recommendation for either denial or approval. There are a lot of positive aspects associated with the application. The subject property is located near the commercial land uses identified in the Comprehensive Plan, and it appears the applicants have tried to make it compatible with the single-family neighborhood by restricting the number of employees as well as keeping the view the same. The applicant, in the contract rezone, has tried to address the concerns of the neighbors, but on the negative side there would be a gap of residentially zoned property located between two commercially zoned lots. She noted that the Comprehensive Plan appears to be limiting the location of commercial areas in this vicinity to be oriented along Main Street. Staff is concerned that allowing this lot to have a commercial designation would likely encourage the lot between it and the existing commercial uses to convert to a commercial designation, as well. In addition staff is concerned that a future property owner could have a more intensive use on the site if it is rezoned to commercial. She explained that once the Comprehensive Plan designation has been changed, it would be possible for future applicants to propose a rezone to BC with no restrictions, and the fact that the area was already in the Comprehensive Plan as mixed use commercial would make it more difficult for the City to deny the proposal. Staff also has a concern that there is inadequate on-site parking.

Ms. Gruwell said that after reviewing a number of issues and findings that the application must meet, the staff came to the conclusion that they cannot support the change in the Comprehensive Plan from single-family to mixed-use commercial. Related to the issue of parking, Ms. Gruwell said that while the BC zone allows a property owner to find parking any where in the downtown bowl area, the applicant has indicated that two parking spaces would be available in the garage and two in the driveway for a total of four parking spaces. There is also an issue related to setback and heights requirements in the BC zones. The applicant has tried to address this issue by proposing a contract rezone that would restrict the structure via a contract to not change the structure in a way that would block the view of properties to the east and to limit the size of the law office. She noted that the height limit in the BC zone is five feet greater than that of the RS zones. In addition, the setback requirements in the BC zone are different.

**APPROVED**

Regarding the issue of spot zoning, Ms. Gruwell said that when there is only one lot being changed that is surrounded by other uses, the code is suspicious of spot zoning. If the applicant had included the property owner to the south, this would not have been an issue.

Ms. Gruwell said the site is obviously suitable for single-family uses and that is its current use. The applicant does not propose to eliminate the residential use. Staff feels that there are other areas in the BC zone that would allow a person to building a larger building for combined commercial and residential uses. She concluded that because the site is so small, the amendment would have no effect on the overall balance of land uses within the City. However, establishing the proposed use separated from the main commercial corridor could establish a precedent for additional commercial uses along Sunset Avenue, which would alter the pattern of land use in this area and be detrimental to the character of the established residential neighborhood. After reviewing all of the facts, staff is recommending denial of the Comprehensive Plan change. They are also recommending denial of the contract rezone application.

**John Marts, 805 Aloha Street**, said he is one of the attorney's who was using the subject property as an office. He said he is also acting on behalf of the property owner, Mary Ann Stark, who is his mother in law. After Mrs. Stark's husband passed away, she decided that she wanted to buy a place in Edmonds along the waterfront, and the one house on the waterfront in Edmonds was for sale. There was only a small window of opportunity, and she jumped on it. She then came to the City to find out if she would be able to put a law office in the basement of her home. The City staff told them that this type of use would be allowed with a home occupation permit. However, after further checking the City's codes, Mr. Marts found that the home occupation regulations specifically prohibit medical offices, dental offices, or law offices. He then went back to the City to obtain a conditional use permit but was told that would not be possible, either. Now he is before the Board with a contract rezone application and a request to amend the Comprehensive Plan Map.

Mr. Marts said he believes that an attorney's office would not create the same kind of traffic that a dental or medical office would. In law offices, you rarely see crowded lobbies or waiting rooms. However, he said he understands that this issue must be taken up with the City Council and not the Planning Board. He also noted that an attorney's office would probably generate fewer deliveries than would a single-family home. The parking needs would probably be less, as well. He said that one of the big problems on Sunset Avenue is that no parking is available on the street during the evening hours and on weekends when the restaurants are open. There is also a lot of foot traffic along the street, and he disagrees with the staff's conclusion that the office usage would not mix with how the area is being utilized right now. It does have a huge connection to Rory's and Sahib's Restaurants. People park in this area and then walk to the taverns and to the ferry.

Mr. Marts said he is familiar with the concept of spot rezones. They originally tried to do a contract rezone, but were told that they would have to do a Comprehensive Plan amendment, as well. He felt that this is a bit cumbersome, since they do not want to change the size of the building or do anything that would impact the neighbor's views. Given that regard, he said he did not feel it was appropriate to go to the property owners next door to ask for them to be included in the rezone because that might enlarge the issue rather than make it more simple. Mr. Marts suggested that the subject property is being treated with prejudice. It is the only residential property that is located at the railroad grade in the City. All the other properties along the waterfront are up on the bank and do not have to deal with the significant noise from the trains. The property is not really conducive for a normal residential home. When the expansion of the Burlington Northern tracks is done to accommodate the Sound Transit Program, this situation will become worse. He suggested that it makes sense for the property to be used for something other than the single-family residential.

Mr. Marts asked that the Board recommend approval of the applications as proposed. He said he would like to be able to move his law office back into the home and maintain it there. If that is not the case, they will find a place elsewhere. His business would not generate a lot of traffic and it is not inconsistent with the uses that go on in the neighborhood at all. The rezone would not be in conflict with what transpires in that neighborhood most of the time given the traffic for the ferry, Rory's, etc. He said he believes the adjacent landowner is also interested in rezoning his property, and he is present tonight to address the Board.

**Susan Stark, 805 Aloha Street**, said she is married to John Marts and is his law partner. The subject property is owned by her mother, Mary Ann Stark. She reiterated what her husband said and added that her family has been living in Edmonds

since the 1940's. She has lived in her home at 805 Aloha Street for the past 17 years. She said she is sensitive to expansion and density increases in the residential areas, as well as anything else that impedes upon private residences. They do not want to destroy the neighborhood. They understand the sensitive nature of Sunset Avenue. Her mother is 76 years old and has health problems. She would like someone in the house during the day to help take care of her. Because they just live on Aloha Street, she is able to walk to her mother's house from her house. Ms. Stark said the trains create significant noise on the subject property. If they were to open their windows and sit inside the house, they would not be able to hold a conversation or hear the television. Even with the windows closed, you have to pause when the trains are passing through. The property is not conducive for single-family residential living. She concluded her remarks by stating that their office would only have one employee, not two as stated in the Staff Report. In addition, the LP business no longer exists.

**Don Drew, P.O. Box 57**, said he was not aware of this issue until just recently when he received notification of the proposed change. He said he has owned the vacant land that is located to the south of the subject property since 1970. It has remained vacant because it did not cost much in property taxes and it was great for the blackberries. His understanding is that now they have rats on the property. He said that ten years ago, their property taxes were based on an evaluation of \$73,200, and they were able to pay the assessed taxes in the neighborhood of \$1,000 per year. But the property was later evaluated at \$553,000 and is now valued at over \$900,000. He spoke with the County Assessor who said there are comparisons of similar properties in the area that are valued at this amount. However, the County said they would discount this amount because development of the property would require pilings. The property is zoned RS-6 right now, which is waterfront residential.

Mr. Drew said people have expressed interest in building on the property, but when they went to the City, they were told that only one residential home could be built on the lot because that is what the zoning allows. They now have a piece of property that is valued at just under \$1 million that is only suitable for one single-family home. Even if he can hang on and pay \$15,000 in taxes a year it is likely that the taxes will continue to increase. He said he only income at this time is his social security, so he will have to do something with the property. He said he was not aware of the proposal, but he would support it. Perhaps it is time for them to work together to present a rezone application for the properties along this strip. He noted that Mrs. Stark is not proposing to change the way her property looks in any way other than perhaps adding a driveway for extra cars. It is true that in the daytime there is a lot of parking along Sunset Avenue, and it gets busy at night when the restaurants are open. He said he would support the proposal.

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

Board Member Cassutt said she was surprised that staff is recommending denial of the proposal. She said she does not see anything wrong with allowing the use to change. The only thing that concerns her is what the property could be used for if the applicant decides to sell. The new owner would be able to use the property for anything that is allowed under the new zoning designation. She suggested that the property owners in this area get together and approach the City with a rezone request for the two parcels rather than just one.

Board Member Young said there are some persuasive reasons to think that everything to the north of the restaurant, including the subject property, could conceivably be zoned some type of commercial designation, but he cannot support a Comprehensive Plan Map amendment and a contract rezone for a single parcel that is two lots away from anything that is zoned similarly. He felt this would be inconsistent with the goals of the Comprehensive Plan. He inquired if it would be possible for the Board to consider a change for the entire corridor to some kind of unique commercial designation that would have height limits to protect the people living across the street on Sunset Avenue. Board Members Cassutt and Freeman agreed that they would like to consider this type of action. Ms. Gruwell said that because notice was not given to anyone in the neighborhood that additional properties would be considered, the Board could not make this type of recommendation tonight.

Board Member Young said the Board would be amenable, when updating the Comprehensive Plan, to consider this unique sliver of property that does not really work for residential. It is important for the Comprehensive Plan to foster opportunities for a variety of activities and uses along the downtown waterfront, but not at the expense of the residential property owners. But if they do spot zoning and change the Comprehensive Plan for this property only, they could end up with an island of opportunity to allow a future property owner to do anything that is allowed in the BC zone.

**APPROVED**

Board Member Cassutt suggested that the property owners bring more than just this one property before them for consideration. Ms. Gruwell said the street appears to be residential in nature and does not really call out as an area that is waiting for change. Board Member Cassutt said that it is also important to consider the large amount of taxes that these property owners are being asked to pay. Board Member Freeman agreed, but added that the City must also protect the value of the properties across the street. Therefore, it is important to look at specific restrictions that could be applied to these properties.

Board Member Crim said he can identify with the applicant's problem because he is an engineer with an office in his home. He questioned why the City discriminates against law offices for home occupations. He said he can understand the City's desire to prohibit medical and dental offices, but an attorney's office would fall more in the category of a home occupation, which by definition, is usually a single practitioner. Board Member Cassutt suggested that perhaps the home occupation regulations could be changed rather than the Comprehensive Plan and zoning maps.

Mr. Chave said that when the home occupation chapter was written, one of the basic goals was to control traffic. At that time, assumptions were made that certain kinds of uses would, as a regular matter of course, generate excessive traffic in a single-family residential neighborhood.

Board Member Crim inquired if any reference given as to the number of practitioners allowed in a home occupation. Mr. Chave said there is the general requirement that the practitioner has to be a family member. A conditional use permit is required in order to have one additional employee who is not related and clients who visit the site. He said that if an employee will be coming to the home office, the City pays close attention to the overall level of traffic being generated.

Board Member Young said there should be some way to accommodate this use if it is limited in scope. It is, obviously, not a sore point with the neighbors and it promotes a variety of uses in the downtown activity center. Mr. Chave said one reason the applicant did not include a larger area was that they felt their situation was unique, and they did not want to include a larger area to create more implications. But this puts them in a situation of spot zoning. The question is whether this rezone would establish a pattern that would be a concern for the neighborhood down the road.

Board Member Young said he could not support a Comprehensive Plan amendment and a contract rezone for a single property on that block. But he felt there must be some way to accommodate the applicant's needs. He said he would be more comfortable looking at this as an issue when updating the Comprehensive Plan. There were some good points raised about this being valuable property, but not for single-family residential uses.

Board Member Crim clarified that the Board does not feel comfortable with doing a spot change to the Comprehensive Plan or a rezone. Therefore, they must deny the application as presented.

Mr. Marts suggested that he be allowed to pull the application off the table for without it going for a vote and then resubmit it. He questioned if they would have to wait to do this until next year. Mr. Chave said that in order to have it advertised and brought back as a re-submittal application with additional properties included, the Board would not be able to hear the application until their first meeting in November. It might then be possible to make a recommendation to the City Council before they take action on the other Comprehensive Plan amendments. However, he emphasized that he could not guarantee that this would happen. Failing that, the applicant would have to present his application for consideration as part of next year's Comprehensive Plan amendment process.

Board Member Cassutt suggested that the applicant pull the application, revise it and then bring it back before the Board for review on November 12<sup>th</sup>. Mr. Marts agreed.

Mr. Chave said that in order for the application to be resubmitted, the Board would have to deny the application without prejudice so that it could be re-filed as an amended application. The Board could then continue the hearing to November 12<sup>th</sup> to allow additional time for advertising to occur for the amended application. If the application manages to get to the City Council before they act on the other Comprehensive Plan amendments, that would be good. However, there is a risk that the applicant would be taking at this point.

The Board agreed to advertise the public hearing on the amended application to include all of the property south of the subject property and west of Sunset Avenue. Mr. Chave said staff would need to have information from the applicant within the next week as to whether a contract rezone would be proposed. The applicant agreed that would be possible.

**PUBLIC HEARING ON FILE NUMBER R-03-73**

Mr. Chave briefly reviewed the Staff Report. He displayed the existing and proposed Comprehensive Plan Map for the subject property. He identified the existing multi-family zoning, which includes the properties between the neighborhood business (BN) zone and the high school. He explained that when the land use boundary was established, it did not match up with the property boundary. This resulted in large lots on the western portion that accesses to the west. There is a small commercial hair salon on the subject property at this time. The application is being brought before the Board for consideration because it may have an impact on the boundary when translating the “bubble” map to the “parcel specific” map.

Mr. Chave said it would seem that the commercial designation should run straight down to the school, but that does not reflect what they believe to be the single-family nature of the lots on the west side or of the existing multi-family zoning in the area. Staff believes it would make sense to change the property facing west to single-family in the Comprehensive Plan designation. This would make the zoning consistent with the neighborhood. The other properties should be changed to BN, which would be consistent with the properties to the north. This would bring the hair salon property into compliance with code and would be consistent with the current Comprehensive Plan land use pattern.

THERE WAS NO ONE IN THE AUDIENCE WHO EXPRESSED A DESIRE TO ADDRESS THE BOARD, SO THE PUBLIC PORTION OF THE HEARING WAS CLOSED.

Board Member Cassutt said she feels the proposal makes perfect sense. The property is located in her neighborhood, and she sees no reason for the property on the west to not be rezoned to single-family as proposed. The property adjoining 100<sup>th</sup> Avenue should be changed to BN.

BOARD MEMBER CASSUTT MOVED THAT THE BOARD FORWARD FILE NUMBER R-03-73 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL AS PRESENTED. BOARD MEMBER FREEMAN SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

**CONTINUED PUBLIC HEARING ON PROPOSED AMENDMENTS TO THE COMPREHENSIVE PLAN TRANSLATING THE EXISTING LAND USE MAPS FROM GENERALIZED DESIGNATION AREAS TO SPECIFIC, PARCEL-BASED LAND USE DESIGNATIONS, INCLUDING PROPOSED CHANGES IN ZONING FOR SCHOOL PROPERTIES**

Mr. Chave recalled that this hearing was continued from the previous meeting to allow the public to comment further. He noted that the text references for school sites would be changed to make it clear that they could be zoned public or single-family consistent with the underlying zoning of the surrounding area.

THERE WAS NO ONE IN THE AUDIENCE WHO DESIRED TO PARTICIPATE IN THE HEARING. THEREFORE, THE PUBLIC PORTION OF THE HEARING WAS CLOSED.

Mr. Chave suggested that the Board take two actions. One related to the amendments to the Comprehensive Plan Map and the text changes, and a separate action that would specifically rezone the five schools that are identified on the list. He noted that, as requested by the School District, the “former Woodway Elementary School” was changed to “Old Woodway Elementary School” and “Former Edmonds/Woodway High School” was changed to “Former Woodway High School.” In addition, the “Madronna K-8 School” and the “Woodway Elementary School” are now identified on the map as two separate sites.

BOARD MEMBER CASSUTT MOVED THAT THE BOARD RECOMMEND APPROVAL OF THE TEXT CHANGES AS NOTED ABOVE. BOARD MEMBER FREEMAN SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

BOARD MEMBER CASSUTT MOVED THAT THE BOARD RECOMMEND APPROVAL OF THE CHANGES IN ZONING FOR THE FIVE SCHOOL PROPERTIES AS PROPOSED AND THAT THEY FIND THIS CHANGE TO BE CONSISTENT WITH THE CITY'S POLICY FOR SCHOOLS BEING PERMITTED USES IN ANY ZONE AND MAKING THE UNDERLYING ZONING CONSISTENT WITH THE COMPREHENSIVE PLAN DESIGNATION. BOARD MEMBER FREEMAN SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

### **REVIEW OF EXTENDED AGENDA**

Mr. Chave reminded the Board that they continued the public hearing on File Numbers R-02-133 and CDC-02-237 to the November 12<sup>th</sup> meeting. There is also a backlog of other items on the Board's agenda such as the Downtown Parking Study. He noted that in the past, the Board has held two meetings in November, the regular meeting on the second Wednesday and then a special meeting on the third Wednesday in place of the regular meeting on the fourth Wednesday. In past years, they have cancelled the second meeting in December.

The Board agreed that because their agenda is quite full, they would hold both the regular meeting on November 12<sup>th</sup> and a special meeting on November 19<sup>th</sup>. They agreed to hold the December 12<sup>th</sup> meeting but cancel the December 24<sup>th</sup> meeting.

### **PLANNING BOARD CHAIR COMMENTS**

Board Member Crim provided no comments during this portion of the agenda.

### **PLANNING BOARD MEMBER COMMENTS**

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

THE MEETING WAS ADJOURNED AT 10:20 P.M.

**APPROVED**