

**CITY OF EDMONDS
PLANNING BOARD MINUTES
June 22, 2005**

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 – 5th Avenue North.

BOARD MEMBERS PRESENT

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

BOARD MEMBERS ABSENT

Jim Crim

STAFF PRESENT

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

John Dewhirst
Judith Works
Don Henderson

Board Member Crim was excused from the meeting.

READING/APPROVAL OF MINUTES

BOARD MEMBER DEWHIRST MOVED TO APPROVE THE MINUTES OF JUNE 8, 2005 AS CORRECTED. BOARD MEMBER FREEMAN SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY WITH BOARD MEMBER WORKS ABSTAINING. .

ANNOUNCEMENT OF AGENDA

No changes were made to the proposed agenda.

AUDIENCE COMMENTS

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

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

Mr. Bullock reminded the Board that they held a public hearing on File Number CDC-2005-46 at their June 8th meeting. After hearing feedback from both the public and the Board, the applicant and the staff worked together to update the proposal. He recalled that after the public hearing was closed the Planning Board suggested that the proposed new zone district should be crafted so that it could possibly be applied to other areas in the City such as Edmonds Way, 196th Street, Lake Ballinger, Five Corners, etc.

Mr. Bullock said the purpose section of the proposed zone district was modified to clarify that the intent of the zone is to allow it to be used in areas of transition between residential and commercial areas. It could be applied to a number of places throughout the City. Second, the new proposal would limit the permitted uses in an attempt to ensure compatibility in the transition areas. Mr. Bullock said another change to the proposal is the elimination of the bulk standards table, which establishes the required setbacks. The new proposal is that all development in the MPOR zone would require master plan approval, which would create the bulk regulations for the site. He explained that since the intent is to apply this zone in different parts of the City, it is likely that the adjacent zones and development conditions would vary wildly and constructing a “one size fits all” set of bulk standards would be nearly impossible to do.

Mr. Bullock invited the Board members to provide their comments on the updated proposal. He advised that the applicant, Planning Department Staff and the Economic Development Director are available to answer their questions and provide additional information. Hopefully, the Board will be able to provide enough direction by the end of the meeting to schedule the proposal for a public hearing on July 13th.

Mr. Chave referred the Board to the email document they received from Edmond Lee of the Hotel Group, the applicant for the proposal. Mr. Lee is asking that his rezone request be placed on hold until the new zoning classification has been established. It is his intent to complete a master plan for the site and then amend the rezone application to include the master plan.

Roger Hertrich, 1020 Puget Drive, said the citizens were under the impression that this was a continuation of a public hearing for a proposal that was site specific. Now they are being told that the new zone district could be applied citywide. If this is the case, the hearing should have been advertised as such so that all citizens in the City would have been notified of the change. He urged the Board to stick with the subject of the original public hearing, make a recommendation, and then consider the new zone district’s possible application citywide. He said he does not believe the procedure the Board is currently following is correct.

Mr. Bullock advised that staff intends to advertise a new public hearing on July 13th if they receive enough feedback and direction from the Board now. Mr. Chave explained that the Board continued the hearing on the legislative matter, which is a code amendment dealing potentially with any properties in the City. He clarified that the code amendment is a legislative matter and not specific to a property. The rezone application would be site specific, but the public hearing on this application has not been held yet. At the June 8th meeting the Board continued the rezone hearing to the July 13th meeting.

Mr. Hertrich recalled that the Board’s discussion on June 8th was about a specific location, and the Board expressed concern about the new MPOR zone being applied to just one specific location. They questioned whether the new zone could be applied in other places throughout the City, and staff answered that the new zone would only be applicable for the properties on Sunset Avenue. Mr. Chave reminded Mr. Hertrich that after the public portion of the hearing was closed, the Board asked the staff to come back to them with a proposal for a new zone that could be applied citywide. Staff’s intent is that the Board would review the new proposal and then schedule another public hearing in July.

Chair Young clarified that at the end of the June 8th meeting, a motion was approved by the Board to continue deliberations on File Number CDC-2005-46 to include a new section 16.85 – Master Planned Office/Residential Zone (MPOR) and to modify Section 21.40.030 regarding height. He clarified that this amendment is not specific to just a few properties. A public hearing on the site-specific rezone application would be scheduled at a later date if and when the MPOR zone district is created.

Board Member Freeman referred to Section 16.77.020.B of the proposal and suggested that in addition to identifying the maximum number of dwelling units that would be allowed per acre, they should also identify what this would equate to in zoning. Mr. Bullock advised that 7.3 dwelling units per acre would equate to an R-6 zoning classification and 14.6 dwelling units per acre would equate to RM-3 zoning.

Next, Board Member Freeman referred to Section 16.77.010.A and suggested that “and/or” be added at the end of each of the listed items. The remainder of the Board agreed this would be appropriate.

APPROVED

Board Member Dewhirst referenced Section 16.77.010.B.2 and questioned why a home occupation use should require a conditional use permit. He suggested that this does not make sense if offices and other service uses would be allowed as permitted uses.

Next, Board Member Dewhirst referred to Section 16.77.020.C. He said this language makes it appear as though a different method for calculating height would be used in this zone. Mr. Bullock explained that the intent of this section is to give direction as to what the height should be. As per the language, the method of calculating height would be specified as part of a master plan proposal if there were to be any variation from the normal method.

Board Member Dewhirst recalled the concerns previously expressed by the Board about allowing the height in this particular zone district to be measured differently than any other zone in the City. The proposed language does not appear to address the Board's concern. Mr. Bullock emphasized that no change is being proposed for the height definition. The proposed language indicates that the master plan would assume that the height would be calculated using the City's standard method, but the zoning should accommodate structures of up to two-stories in relation to the street. He explained that on a site that slopes up steeply from the street, perhaps the height limit would be 15 feet since this would still allow for two stories at the street level. If a property slopes down steeply, then perhaps the height limit would be slightly higher than 25 feet to allow a two-story building above the street level. Board Member Dewhirst said that he understands the concept the staff is trying to get at with the proposed language, but he suggested that further clarification is needed.

Board Member Dewhirst referred to Section 16.77.020.D, which lists four techniques that could be used to provide a transition. The language states that the applicant must use a combination of at least three. He questioned why the applicant would not be required to use all four techniques. Mr. Bullock answered that because there would be no set standard for this zone, the issue of transition would be addressed as part of the master plan. An applicant might choose to provide extra large setbacks or provide more landscaping than required to address the transition issue. If an applicant goes over and above in trying to address transition, staff felt that perhaps using three techniques would be sufficient. However, the Board could also decide that all four techniques must be used. He clarified that as part of the master plan process, the applicant would be required to address all four techniques, but they would only have to show how three would be used to assist in making the transition between uses.

Board Member Dewhirst referred to the last paragraph in Section 16.77.020.D and asked staff's intent for using the term "should be consistent." Mr. Bullock explained that height and setbacks could be easily addressed by requiring the property owner to maintain the same setbacks along the property line as required by the adjacent zones. The same concept could be used to address the issue of height. However, he felt that dimension requirements would be better addressed as part of a master plan proposal. Board Member Dewhirst agreed, but suggested that the parameters in this section should be tightened to clearly identify what the expectations for transition are.

Board Member Dewhirst said he was surprised that the new language indicates that public right-of-way would be sufficient enough to separate a subject parcel from the surrounding properties. Mr. Bullock said this would not be automatic, but the intent is that greater setbacks might not be necessary because the adjacent properties are separated from the subject property by a street. Mr. Chave further explained that a higher setback standard would be applied to properties that are directly adjacent to the subject property. However, an intervening street provides a greater separation from the use and the property across the street. The intent of the proposed language is to afford a transition, but provide some way to modify the setback requirement depending on whether surrounding properties are directly adjacent to the subject property or separated by a street. Board Member Dewhirst pointed out that the design guidelines that were forwarded to the City Council for review more than two years ago would have addressed these types of situations.

Board Member Dewhirst referenced Section 16.77.020.G.2 and noted that "b" should be changed to "by." Next, he referenced Section 16.77.020.G.4 and noted that while this section talks about the requirements for the site layout, it does not mention anything about mitigation of impacts. He said it seems that mitigation of impacts would be an appropriate concern when trying to show how the parcel would be integrated into the neighborhood using various methods. He said that while issues such as the location of parking, trash enclosures and mechanical equipment would be addressed as part of the Architectural Design Board's review, the zoning regulations should provide some provisions for mitigating the impacts. Mr.

Chave pointed out that mitigation issues are more related to the SEPA or design review process. He expressed his concern about introducing terminology that references another process. He noted that the proposed language was brought from the newly created MP-1 and MP-2 zone districts. He suggested that staff be allowed to figure out a way to address Board Member Dewhirst's concerns without using the term "mitigation of impacts."

Board Member Freeman referred to Section 16.77.020.C and asked how the average street front would be determined. Again, Mr. Bullock emphasized that the new proposal does not specify a new way for calculating height. The language was intended to give anyone applying for the MPOR zone designation an idea of what the City is looking for, which is generally a two-story building on the street level and not more than 25 feet in height. Mr. Chave suggested that this should be considered a performance measure. No matter what an applicant chooses to develop, the result should resemble no more than a two-story building from the street.

Chair Young pointed out that, if adopted, the proposed language would be the only place in the zoning code that speaks about another method for calculating building height in a topographically challenged community like Edmonds. The language in Section 16.77.020.C would make this zone different than any other commercially zoned district in the City. If the Board and the staff had crafted the proposed language, he questioned if this language would have been part of the proposal. He questioned if including this language was driven by the rezone application that was submitted by a property owner. Mr. Chave said the intent of the proposal is to create a zone designation that is consistent with the Comprehensive Plan. He explained that, in this situation, the Comprehensive Plan specifically calls out two-story buildings as being appropriate on the four properties along Sunset Avenue. If the intent is to apply the new zone designation to these properties, the requirements of the zone must be consistent with the goals identified in the Comprehensive Plan, which calls for two-story buildings above the street level. The proposed language in Section 16.77.020.C was staff's attempt to provide parameters for height so it is not left wide open if the new zoning designation were applied elsewhere in the City. He summarized that the proposed language would be consistent with the Comprehensive Plan, but provide guidance for what would be expected elsewhere. He noted that, in most cases, the proposed language would be fairly restrictive.

Chair Young said he believes the language in this section leaves open opportunities for someone to get additional height. He suggested that perhaps the Board should craft language that is consistent with the rest of the zoning designations and then file a Comprehensive Plan amendment at the same time to address the properties along Sunset Avenue. Board Member Freeman agreed that the language relating to height seems out of place if the zoning district is intended to be generic.

Board Member Cassutt pointed out that the issue of height would be addressed when a master plan is reviewed. Chair Young agreed, but he pointed out that this zone designation would be the only place in the zoning ordinance where the City's typical method of calculating height would be different. Mr. Chave said it is difficult to come up with a zone that deals with a specific situation and can also be applied citywide because staff does not know what the surrounding densities and height limitations would be if the zone were applied in other locations. Staff attempted to craft something that allows flexibility but also provides parameters for bulk standards. He said it is not staff's intent to propose a new way of calculating the height. They will encourage developers in the new zone to calculate height using the City's current method, but if the site slopes down significantly, perhaps the height limit would need to be 30 feet to get a 25-foot building at the street level. If a property sloped up, then perhaps a 20-foot height limit would be adequate.

Board Member Freeman referred to Section 16.77.020.B. She noted that, as per the proposed language, the highest residential density that would be allowed in the MPOR zone would be RM-3. She reminded the Board of Mr. Hinshaw's advice that if they want the downtown core to flourish, they need to have a critical mass of people living within a 15-minute walking distance from downtown. She pointed out that the properties located along Sunset Avenue are definitely within a 15-minute walking distance. She suggested that this could be an opportunity for the City to allow a greater density to provide housing for more people in the downtown area. She suggested that perhaps the maximum residential density should be changed to RM-1.5 to allow developers the option of constructing a multi-family building that accommodates more units. Mr. Chave said the proposed language was intended to be fairly conservative because the zone would be widely applicable to a number of different locations throughout the City.

Board Member Freeman requested that staff provide a map showing all of the areas that are within a 15-minute walking distance from the central downtown core area. She expressed her opinion that anything within this area should be allowed

the highest possible density. Mr. Chave said that if the Board really wants to be situational, they could expand the language in Section 16.77.020.B to talk about the density of adjoining properties. If the adjacent density were RM-1.5, then perhaps RM-1.5 would be an appropriate density for the new development, as well. Again, Board Member Freeman expressed her belief that when rezoning properties, the City should take every opportunity to obtain higher residential densities in appropriate areas of the downtown. Board Member Cassutt pointed out that because of the price of property in the downtown area, it is probably not suitable to small economical residential units. Developers would likely want to construct high-priced units. Board Member Freeman emphasized that RM-1.5 zoning would not force the greater density. It would be left up to the developer to decide.

Board Member Dewhirst agreed that there should be as much density as possible in the downtown, but the proposed zone is aimed at providing a transition area. Anytime one use extends to an area with another use, there are issues related to transition. If they allow RM-1.5 development in the MPOR zone, the property in this zone would assume the value of an RM-1.5 zone and the price would go up accordingly. He said it is important to remember that the people who own property in the City have certain expectations based on current zoning and the zoning code. Board Member Freeman agreed but said she would still like to see a map illustrating the properties that are within a 15-minute walking distance from downtown so the Board could locate areas that might be more suitable for greater density. The remainder of the Board agreed that this type of map would be helpful.

Mr. Chave explained that staff is interested in learning from the Board whether they are ready to have a hearing on July 13th or not. He emphasized that the hearing would be on the proposed new MPOR zone designation, and the draft language is substantially different than what was reviewed by the Board at the public hearing on June 8th. That is why another public hearing should be conducted.

Chair Young said he cannot get past his concerns related to Section 16.77.020.C which deals with height. The proposed language states that a master plan approved for any MPOR zoned property shall specify the method of calculating height if there is to be any variation from the normal method. He said he is very uncomfortable that there would be no criteria provided for determining height. The current language would not require the applicant to demonstrate a need for the deviation. Mr. Chave suggested that perhaps the second sentence in this section could be deleted. Board Member Dewhirst suggested that they go further by deleting the entire section and, instead, provide language that simply says the height limit would be 25 feet. Mr. Chave pointed out that limiting the height to a flat 25 feet could potentially be inconsistent with the Comprehensive Plan for the properties along Sunset Avenue. Board Member Guenther pointed out that a flat 25-foot height limit would require a Comprehensive Plan amendment, but the proposed language would be consistent with the Comprehensive Plan. Board Member Dewhirst asked what would happen if the new zoning designation was not consistent with the Comprehensive Plan. Mr. Chave said this could potentially result in a property owner taking legal action against the City.

Mr. Bullock suggested that one place the proposed new zoning district could be applied would be in Perrinville, on the west side of 76th Avenue and south of Olympic View Drive where there are some small building that go up a very steep bank. There is currently multi-family, single-family, commercial and office development in the area. If a flat 25-foot height limit were applied to this area, the buildings up the slope would appear to be 30 to 35 feet tall depending on how far the building goes up the slope. If a flat 25-foot height limit were applied to this area and the standard method for calculating heights were used, the buildings would be inconsistent at the street level. If the City wants buildings to be consistent at the street level, they must deal with the height situation.

Board Member Guenther said it is important to remember that the purpose of the proposed amendment is to address the unique site constraints that exist on the properties along Sunset Avenue. Mr. Chave agreed that this zoning designation would only apply to properties with very specific circumstances.

Board Member Cassutt referred to Section 16.77.020.D, which talks about arranging the buildings and uses on the site to provide a transition between the more intensive and less intensive uses. She reminded the Board that they have heard over and over again that it is important to allow builders and designers flexibility to provide a transition. Board Member Dewhirst agreed that it is important to allow flexibility, but it is also important to remember that property owners also want some stability and predictability about what can be built in their area. Board Member Cassutt pointed out that the purpose of

requiring a master plan for the proposed new zone is to protect the existing neighborhoods and make sure there is a transition between more and less intensive uses.

Board Member Dewhirst said he is having a hard time with the concept of allowing the new zoning designation to be applied differently than any other zoning district in the City. The Comprehensive Plan only identifies one specific area in the City as appropriate for allowing two-story buildings from the street level. Board Member Cassutt agreed that this concept is unique to this one particular zone designation, but she pointed out that most of the other zoning designations do not require a master plan, either.

Board Member Henderson said he disagrees with the City Council's decision to change the Comprehensive Plan to allow two-story buildings from the street level on the properties along Sunset Avenue. But in order to be consistent with the Comprehensive Plan, he felt the new zoning designation should also allow two-story buildings, as well. He suggested that the language in Section 16.77.020.C should be changed by taking out the reference to 25 feet. Instead the language should allow two-stories in height above the average street front. He felt this change would be consistent with the Comprehensive Plan and allow the City to modify the Comprehensive Plan and the zoning code simultaneously if necessary in the future. He summarized that the zoning ordinance should not be more specific than the Comprehensive Plan, and eliminating the reference to 25 feet would make the two consistent. Mr. Chave agreed that the reference to 25 feet could be taken out of this section if the intent is to rely on the Master Plan, instead.

Board Member Freeman inquired about opportunities for public input during the master plan review. Mr. Chave answered that a public hearing would be required as part of the master plan review, and the master plan would have to be approved by the City Council.

Chair Young suggested that the Board move forward with a public hearing on the draft language that has been proposed by staff, with some modifications as discussed. However, they should recognize that they could make appropriate changes to the document based on input from the public and further Board deliberations. He emphasized that the public hearing would be scheduled for July 13th and would be on the creation of the new zone designation and not the rezone application that was submitted for specific properties on Sunset Avenue.

Mr. Bullock summarized the changes the Board would like staff to make to the following changes to the draft language:

- The Board requested that staff add new language in Section 16.77.010, which would make it clear that a combination of the listed permitted uses would be allowed.
- It was pointed out that Section 16.77.010.B.2 lists home occupations as requiring a conditional use permit. Mr. Bullock pointed out that the home occupation chapter has a whole list of types of home occupations that are allowed with a business license. However, if the impact of a home occupation use starts going up, a conditional use permit would be required. Staff felt if residential uses were allowed in the proposed new zone, the City would want to maintain their right to regulate home occupation uses. But he pointed out that staff would not have a problem removing home occupations from the list of permitted secondary uses. The Board agreed that home occupations should be deleted from the document prior to the public hearing.
- While the Board discussed the possibility of allowing for a greater residential density in the proposed new zone, they ultimately decided to leave Section 16.77.020.B as currently drafted for the hearing and see what type of feedback they receive from the public.
- Staff will work on the last paragraph of Section 16.77.020.D to tighten the language as per the Board's discussion.
- Staff would add language to Section 16.77.020.G.4 to talk about design response to potential impacts. However, they would not use the term "mitigation."
- The typographical errors would be corrected before the public hearing.

APPROVED

FURTHER REVIEW AND DISCUSSION OF PROPOSED AMENDMENTS TO TITLE 20 ECDC ADDRESSING THE REGULATIONS FOR ESSENTIAL PUBLIC FACILITIES (FILE NUMBER CDC-05-17)

Mr. Chave referred the Board to the memorandum that was prepared by City Attorney, Scott Snyder, to explain some of his intent when creating the new draft Essential Public Facilities Ordinance. He pointed out that the new draft clarifies and consolidates the process and responds to the issues raised by the Board at previous meetings. Mr. Chave suggested that the Board review the new draft ordinance, make the necessary changes, and then schedule a public hearing.

Board Member Works referred to Section 20.16.050.C and asked who would determine the costs of the public participation plan. Mr. Chave answered that staff would make an estimate based on the required notification, etc. While the City could require payment for the public participation plan costs up front, the actual costs would not be known until later on.

Board Member Works referred to Section 20.16.060.2 and asked who would be responsible for determining the deposit amount for the independent consultant review. Mr. Chave referred to Section 20.16.060.1, which states that an independent consultant review of the proposal would be required. He pointed out that when a consultant is hired, he/she would provide an estimate cost for the work.

Board Member Works referenced Section 20.16.070.10 and questioned why impervious surface was included as an example in the list of proposed mitigation measures. Mr. Chave said the correct term would be “limit impervious surfaces.” The Board agreed that while it is helpful to provide examples in this section, the reference to “impervious surfaces” could be eliminated from the list.

Mr. Chave explained that when drafting the proposed language, the City Attorney tried to do as much as he could to protect the City given the status of the legal minefield that currently surrounds the issue of essential public facilities.

Board Member Guenther referred to Section 20.16.010.A. He pointed out that the term “siting process” has been changed to “review process.” However, the term “siting process” is used throughout the remainder of the document. Mr. Chave explained that the City Attorney wanted to make it clear that the City would review a proposal for an essential public facility, but they would not be involved in the siting process. The other references to the “siting process” acknowledge that someone wants to site an essential public facility and the City would do the review of the proposal. He said it important that the proposed language not imply that the City would take on the siting process since the applicant of a potential essential public facility would conduct the siting process.

Board Member Freeman complimented Mr. Snyder for doing such a good job of capturing the Board’s concerns in the new draft language. He did a good job of building in every possible protection for the City. Mr. Chave advised that staff would work to schedule a public hearing on the proposed ordinance in the near future.

REVIEW OF CITY COUNCIL DISCUSSIONS AND DELIBERATIONS ON IMPLEMENTATION OF THE DOWNTOWN WATERFRONT PLAN

Mr. Chave reported that the City Council has concluded its discussion on plan implementation for the downtown waterfront activity center. At its most recent meeting on June 14th, the Council voted to refer several items to the Planning Board for public hearings and a recommendation. He referred the Board to the information that was provided in their packet, which included Council minutes, presentations, and materials related to the subject. In addition, the two maps that were modified by the City Council on June 14th were provided, as well as all of the presentation materials that were provided by Mr. Hinshaw, the City’s Urban Design Consultant.

Mr. Chave referred the Board to the adopted Comprehensive Plan, which includes both maps and policies. He pointed out that when the City Council recently adopted the updated Comprehensive Plan, they took out the specific references to height numbers, which left them with the issue of trying to figure out what changes to make in the zoning code or properties in the downtown area to make sure the zoning designation of the land implements the Comprehensive Plan.

APPROVED

Mr. Chave explained that during the City Council's discussions with Mr. Hinshaw, a number of issues were discussed simultaneously such as height in relationship to specific locations, design, streetscape, etc. The City Council finally took on each of the issues separately by creating a series of overlay maps for the downtown area. He pointed out that the districts on the City Council's maps are generally consistent with those identified in the Comprehensive Plan. However, each district would be specified with a new zone to address issues such as specific uses, exceptions, and conditional use permit requirements, etc.

Mr. Chave said the City Council discussed the concept of creating a height overlay to identify a series of heights for the downtown area that would not be tied to the zones. Instead, the heights would be related to the uses allowed in the zone. He emphasized that the height overlay would have different boundaries than the zoning map. Mr. Chave said the City Council also discussed the option of having a variable height limit depending on incentives or other things a builder is willing to do to achieve a greater height. He explained that to begin their discussion, the City Council placed height and zoning maps side by side. It was noted that while the uses form a particular pattern, the height limits discussed by the Council were different.

Mr. Chave recalled that when the design guidelines were considered in 2001, the Board discussed the notion of stepping buildings up and down the hillside. Mr. Hinshaw repeatedly raised this option, as well, and was insistent that the option should be considered. To address this issue, Mr. Chave said staff contacted more than 20 different jurisdictions in the area to find out if any of them had a method for measuring heights so that buildings would go with the topography. However, they were unable to find a good example of this concept being applied. Most jurisdictions use the average height method. Because design professionals and urban design experts had raised the issue, the staff felt it would be worthwhile to explore the concept further. The City Council agreed with staff that the concept should be referred to the Board for review, as well.

Mr. Chave referred the Board to the map that was prepared by staff to illustrate the orientation of properties in the downtown area. Mr. Chave said the City Council discussed that the public seems to care the most about what the building looks like at the street front. He pointed out that the topography in the downtown is not consistent and slopes to the west, north, and south depending on location. Therefore, using the current method to measure height from the average grade, it would be virtually impossible to have a predictable streetscape in a commercial core area. He said the staff proposed a method that would combine height measurement and lot orientation. For example, the basic height limit could be allowed at the street and up to 40 feet into the lot. At the backside of the lot, there could be a new height envelope beginning at the grade level and going up to 40 feet into the lot. This would provide an assured height at the street and back, and in the middle the two lines could be connected. The combination of the lines would be the line defining the basic height envelope for the property.

Mr. Chave emphasized that this method for measuring height has not been refined at this point. For example, there must be a process for making adjustments/decisions in unusual circumstances such as corner lots. In addition, a discretionary process may still be necessary. He suggested that it might be appropriate to use the Architectural Design Board as a pre-application body who could hold a public meeting, gather input, and forward a recommendation to staff that would be weighed against criteria so that a decision could be made regarding the appropriate height for the property. He noted that this would be an appealable decisions, but would provide some flexibility with a fairly predictable set of rules for determining height in the downtown area. He advised that the City Council voted 4-3 to send this idea to the Board for consideration. However, they did not mandate that the Board recommend approval of this concept.

Mr. Chave advised that the City Council is asking for feedback from the Board as soon as possible regarding a zoning system that revolves around the zoning and the basic heights they identified on the maps. Again, he referred to the two maps that were created by the City Council. He explained that on the zoning map the City Council voted to expand the retail core area to the southwest a little. In addition, they made significant changes on the map for the property that is located on the east side of Fifth Avenue. Since the topography goes up immediately on this side of Fifth Avenue, staff suggested a basic height limit from the street. Instead of stepping it up from the slope, they could take the base height from the street and allow it to step up to the neighborhood beyond. The City Council did not approve this concept, but the Board could still consider it because it could have some substantial benefits to the neighborhoods lying to the east.

Mr. Chave advised that the City Council voted to include more area to the south as part of the downtown. In addition, they agreed to set a 25-foot basic height limit for the area to the west of the downtown core, but allow up to 33 feet if a

development could provide certain incentives. While the City Council did not actually pinpoint what the incentive should be, they did talk about setbacks, plazas, unique architectural details, etc. as types of incentive that could be offered in exchange for greater height. He suggested the Board could further discuss the types of incentives that could be offered and how they could be applied in each zone.

Mr. Chave said the City Council decided to modify the height for the properties located in the southwest portion of the downtown area. They agreed that 25 feet would be set as the basic height, but several concerns were expressed because there are already a number of buildings that are taller than 25 feet in the downtown, and they are considered to be quite attractive. One of the concerns expressed is that, no matter what method is used to measure height, 25 feet might not be sufficient for an ideal downtown commercial building. He recalled that most of the discussions about allowing a 33-foot height limit in the downtown centered on the need to require a minimum 12-foot ceiling height for the first floor. He noted that 12 feet is actually a compromise because most developers would rather have a 15-foot first floor ceiling height. Staff pointed out to the City Council that in order to provide optimal space for a 15-foot high first floor in the commercial area, a height of 30 feet would be needed. A 30-foot height limit would allow for flexibility on the first floor and additional embellishments on the second floor. Mr. Chave pointed out that most of the buildings in the downtown area have been constructed at a height of 25 feet plus an additional 5 feet. If the height limit is cut to a maximum of 25 feet, property owners could make a case that something is being taken away from them. Allowing a maximum height of 30 feet if the commercial space has a minimum ceiling height would be one way of addressing this concern. However, the City Council was not in favor of this concept.

Mr. Chave noted that the City Council voted to expand the conservation district to the north and east and to limit the height in this entire area to 25 feet. He noted that the properties that are furthest to the north are residential at this time, so there would be no net loss to these property owners as a result of the height limit. The properties to the east are zoned as BC, but they are currently developed as single-family residential.

Mr. Chave advised that in order for the Board to get the full picture of what the City Council did, they need to have both maps (zoning and height) in front of them at the same time. Again, he pointed out that the height limits do not correspond precisely to the zones and vice versa.

Mr. Chave noted that the City Council did retain the 25-foot basic height limit with an additional 5 feet for the lower part of the core commercial area (identified as the retail core on the zoning map). They made the point that this was the steepest part of the slope in the downtown commercial area so there would be less of a view impact. It was also noted that this area has the least amount of pedestrian friendly buildings.

Mr. Chave said that during the discussions on the conservation area, staff suggested establishing a 25-foot height limit could more firmly control the look and retain the existing structures. But it would probably mean that more public money would be needed to enhance the streetscape because redevelopment would be less likely to occur in the short term. Mr. Chave reported that, ultimately, the City Council would like the Planning Board to flush out the zoning issue and make a recommendation to the City Council that would implement the Comprehensive Plan. He suggested that establishing a set of zones and then using an overall number for height would be the most reasonable way to combine the two issues in a clear and understandable format. He reminded the Board that the City Council felt there should not be a one-to-one correspondence between height and the zoning.

Mr. Chave recommended the Board also discuss the issue of height calculation further and decide if the method suggested by staff would have merit or not. The Board could decide to package a new method for calculating heights with their recommendation on the zoning map, or they could forward their recommendations on the issues to the City Council separately. Mr. Chave expressed his concern that if the City were to establish a height limit predicated on a certain set of circumstances and then change how height was calculated at a later point in time, this could create a difficult circumstance. He recommended that they at least have a discussion about heights and what they want to see at the street front.

Board Member Freeman referred to the diagram that was created by staff to illustrate their proposed method for calculating height and asked what the finished building in the diagram would look like. Mr. Chave said the method proposed by staff would set the maximum building height at the street level, and the developer could choose to do any number of things with

the building as long as it did not exceed the height identified. The Board could create a set of criteria to address the transition area between the height that is allowed at the street front and the height that is allowed at the opposite end.

Chair Young expressed his concern about trying to put the staff's height measurement concept into words. He questioned if the language could be clear enough to be straightforward for developers to deal with. He noted that the current method for calculating height is clear for everyone to implement. Mr. Chave explained that while people may know what the actual height limit is, it is difficult to determine how tall a building could be until the grade has been determined. If the height were measured at the street front, the end result would be much more predictable. Using the current method for measuring height depends on the grade rather than what the City wants to see at the street level. From an economic development standpoint, what you see at the street level is most important. Chair Young agreed but noted that people are also concerned about view impact.

Board Member Cassutt noted that the Fairhaven community in Bellingham does not even have a system for dealing with height limitations for slopes. They deal with each proposal on an individual basis as part of the SEPA review. Board Member Cassutt further pointed out that there are gorgeous buildings being constructed in Fairhaven at this time. Mr. Chave said that Fairhaven is unique because they have a few substantial property owners who are implementing a particular vision. Also, they use SEPA liberally and haven't been challenged on it because the market is booming right now. Board Member Cassutt said that Fairhaven stresses that developers should build in the downtown rather than going out into the farmland.

Board Member Freeman asked about the height limit for the area located to the east of the preservation corridor. Mr. Chave said the City Council voted to lower the height limit to 25 feet for this area, as well as the area furthest to the north. Board Member Freeman asked if this reduction in the height limit could be considered a taking. Mr. Chave answered that as long as the height limit is established through the Comprehensive Plan policies and goals there should not be a problem. However, some property owners would be unhappy about this change.

Board Member Dewhirst referred to the conservation zone and noted that to the west and south of this area the height limits are greater. He asked why the City Council decided to create this island. Mr. Chave said the City Council did not have a lot of specific discussion on this area at their last meeting. They looked at a lot of different maps, and at one point, there may have been the notion of a transition between the conservation area and the greater density uses. He noted that to the west and southwest, the height limit would be up to 33 feet under the right circumstances. In the balance of the area, the development would be allowed a general height limit of 30 feet. The height limit on the property to the northeast would be held at 25 feet. He said the logic would be to have some progression from the 30-foot height limit in the retail core to the 25-foot height limit in the conservation area and the residential areas to the north and east.

Board Member Dewhirst recalled that one major concern expressed by the community was related to view blockage. He said the proposed height limits could result in a situation where 30-foot tall buildings block the view of the buildings in the areas that are limited to 25-feet in height. Mr. Chave pointed out that the land is fairly flat in this area so it is not likely that there are any views to protect. He noted that since 1981 the zoning has been 25 feet plus 5, and there are already a number of 30-foot tall buildings.

Board Member Cassutt recalled that the area from Bell Street down to Fourth Avenue was designated by the Board as the promenade to the arts corridor. The goal was to retain some of the older homes for galleries, teahouses, etc. She suggested that the height limit proposed for this area would work well for this concept.

Board Member Dewhirst asked if it would be possible for the Board to invite Mr. Hinshaw to come before them one time to provide a summary of the process he went through with the City Council. He expressed his concern that the Board is at a disadvantage because they have not had the benefit of hearing Mr. Hinshaw's point of view. Mr. Chave said he would speak with Mr. Bowman about the possibility of scheduling a time for Mr. Hinshaw to make a presentation before the Board. However, he suggested that it would be helpful if the Board could specifically identify what information they want him to provide. Chair Young suggested that it would be helpful if Mr. Hinshaw could provide a verbal executive summary of the presentation he made to the City Council. He noted that a lot of written materials have been provided to the Board and it would be helpful if Mr. Hinshaw could review this information in person.

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Board Member Cassutt said it would also be helpful if Mr. Hinshaw could provide an overview of the recommendations he made to the City Council, both those that were accepted and those that were not. This type of information might assist the Board in understanding the rationale for the changes made by the City Council. She recalled that the Board worked hard to forward a recommendation for the downtown waterfront area, but the City Council didn't choose to listen to their recommendations. Now the City Council is asking them to start all over again.

Councilmember Moore congratulated the Board on coming up with the idea of bring Mr. Hinshaw to a future meetings. She said she is sure that if the staff cannot come up with the necessary funding for this presentation, the City Council would be able to fund his visit using contingency funds. Councilmember Moore pointed out that the height overlay map was not recommended by either the Planning Board or the staff. There are still a lot of questions that need to be asked about the map since the City Council approved it very quickly after a long process. She urged the Board to seek input from Mr. Hinshaw, and she emphasized that the Board should not feel obligated to accept what the City Council forwarded to them. They should make a recommendation that represents what they feel is best for the community. They can stick with their original recommendation, combine the two, or come up with a new recommendation.

Councilmember Moore explained that the conservation area came out quickly from what was originally discussed as an arts corridor. She noted that a lot of the buildings in this zone are not historic at all. She encouraged the Board to ask hard questions about the map and go back to the City Council with what they truly believe is best. She apologized for the Board having to go through this process again. However, as the Board conducts their review of the map, she suggested that they also invite input from property owners in the BC zone, particularly those that own significant amounts of property in that area. In addition, she suggested that the Board invite feedback from the few developers who are still constructing mixed-use buildings in the downtown area. She reminded the Board of Mr. Hinshaw's original statement that if they limit the height in the downtown to 25 feet, no redevelopment would occur. Because the City Council was concerned about raising the height limit above 25 feet, Mr. Hinshaw recommended a compromise of confining the 25-foot height limit to a very small zone in the downtown core, but that is not what the City Council did. She also reminded the Board that the Heartland Study also indicated that the City would not get any redevelopment in the downtown if the height limit were 25 feet. She summarized that the height limits identified by the City Council would effectively downzone much of the BC zone.

Board Member Cassutt said she does not see how anything other than a 25-foot height limit would ever be approved by the City Council. Councilmember Moore replied that the Board has an obligation to be honest in their recommendation, whether the City Council accepts it or not. Board Member Cassutt recalled that when the Board created the design guidelines document, many builders provided pages of information about what they would like the design guidelines to include. The Board attempted to incorporate their ideas, but the document was never approved by the City Council.

Board Member Dewhirst suggested that the issue of height is only one of many important things the Board must consider. Height and massing of buildings go hand-in-hand, and he feels that it would be very hard to craft a recommendation on height by itself without having an idea of what the massing of the structures would be. He said his impression of the public testimony was that people were not so much concerned about height, but about the inappropriate massing of some of the newer buildings. Mr. Chave said there was a fair amount of discussion between Mr. Hinshaw and the City Council about massing, and Mr. Hinshaw provided the City Council with some guideline suggestions that they are scheduled to review on June 28th. At that time, they will discuss the possibility of consolidating the draft design guidelines with the recommendations made by Mr. Hinshaw.

Board Member Dewhirst suggested the Board hold off on their review of the height issue until the design guidelines document has been returned to them for review. Board Member Cassutt agreed this would be a good idea. Councilmember Moore agreed, as well. She expressed her opinion that after the Board submitted their recommendation on the Downtown Waterfront Plan to the City Council, the Council wandered away from the basic problem the Board started with, which was unacceptable retail space on the first floor of mixed-use buildings. She recalled that Mr. Hinshaw suggested that the City not use an incentive program to allow greater height. Instead, he recommended that the City set the height limit and then let the builders design buildings that will meet the requirements. However, the City Council got caught up in another discussion on incentives. She urged the Board to take their time to carefully study all of the issues before making a recommendation to the City Council.

Board Member Freeman recalled Mr. Hinshaw's recommendation that there should be a compact retail area, but the City Council actually expanded the retail area over what the Board had recommended without providing any rationale for the change. She inquired if the City Council has a vision for what they want to see in the downtown area. Councilmember Moore answered that the City Council is split at this time, so there is no unified vision for what the downtown should be.

Board Member Works asked staff to provide more information regarding the legal ramifications associated with reducing the zoning from 25 plus 5 feet to a flat 25 feet. It was noted that one piece of property has already been the subject of litigation, and another property owner has indicated that he would take legal action if the City were to reduce the height limit for his property.

Mr. Chave said staff would research the possibility of scheduling a presentation by Mr. Hinshaw as soon as possible. The Board agreed that Ms. Cassutt would work to obtain input from major property owners in the downtown, as well as some of the developers. It was agreed that they would schedule a workshop with the interested parties to discuss the issue further.

REVIEW OF EXTENDED AGENDA

Board Member Freeman noted that there are two meetings scheduled for August when, typically, the Board only holds one. The Board agreed to cancel the last meeting in August.

Board Member Works asked if it would be possible for the City Council to identify a vision for the downtown. Without this type of information, it would be difficult for the Board to move forward. Board Member Dewhirst pointed out that the Board already identified a vision for the downtown, but the majority of the City Council did not accept it.

It was noted that the rezone hearing for the properties on Sunset Avenue was continued to the July 13th meeting. At the next meeting, Mr. Chave suggested the Board work with the applicant to find out if they want to continue the hearing or close it and readvertise for a future date. He said the applicant is attempting to proceed under a timeline to make a decision on the property. They intend to follow up with a rezone request as soon as possible when and if the new zone designation is established.

PLANNING BOARD CHAIR COMMENTS

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

PLANNING BOARD MEMBER COMMENTS

Board Member Henderson thanked Councilmember Pritchard-Olsen and Councilmember Moore for attending the Planning Board's meeting and providing feedback regarding the City Council's actions.

ADJOURNMENT

The meeting was adjourned at 9:12 p.m.

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