

APPROVED JULY 23, 2008

**CITY OF EDMONDS
PLANNING BOARD MINUTES**

July 9, 2008

Vice Chair Bowman called the meeting of the Edmonds Planning Board to order at 7:00 p.m. in the Council Chambers, Public Safety Complex, 259 – 5th Avenue North.

BOARD MEMBERS PRESENT

Cary Guenther, Chair (arrived at 7:06 p.m.)
Michael Bowman, Vice Chair
John Dewhirst
Judith Works
Jim Young
Don Henderson
John Reed
Philip Lovell

STAFF PRESENT

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

READING/APPROVAL OF MINUTES

BOARD MEMBER DEWHIRST MOVED THAT THE MINUTES OF JUNE 11, 2008 BE APPROVED AS SUBMITTED. BOARD MEMBER HENDERSON SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

BOARD MEMBER HENDERSON MOVED THAT THE MINUTES OF JUNE 18, 2008 BE APPROVED AS SUBMITTED. BOARD MEMBER DEWHIRST SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

ANNOUNCEMENT OF AGENDA

No changes were made to the agenda.

AUDIENCE COMMENTS

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

PUBLIC HEARING BY CITY TO AMEND COMPREHENSIVE PLAN FOR PROPERTY AT 110 SUNSET AVENUE NORTH FROM DOWNTOWN MIXED COMMERCIAL TO DOWNTOWN RESIDENTIAL OFFICE (FILE NUMBER AMD-07-16)

Mr. Chave advised that the public hearing is regarding a proposal by Harold Huston, a resident at 111 Main Street, to change the Comprehensive Plan designation of property at 110 Sunset Avenue from Downtown Mixed Commercial to either Downtown Residential Office or Multi-Family – High Density. He further advised that the proposal was referred to the

Planning Board at the request of the City Council as a follow-up to a specific request made by Mr. Huston. He recalled that Mr. Huston appeared before the Planning Board previously. While they did not recommend approval of the proposed change at that time, they did recommend to Council that the issue be taken up during the 2008 review of Comprehensive Plan amendments. He reminded the Board that the plan designations and zoning for the commercial properties in the Downtown Activity Center (including the subject property) were the subject of a significant update to the Comprehensive Plan in 2004 and 2005, and the process resulted in the current plan that was adopted in March of 2005. A follow-up update of the zoning map was completed in 2007, at which time the various BD zones were applied within the Downtown Activity Center.

Mr. Chave provided a map illustrating the location of the subject property, which is currently developed with a single-family residence. He explained that the property is located within the current BD2 zone and has a similar depth as other properties that are located water ward on Sunset Avenue. He described the current zoning for the surrounding properties, as well. He provided a map from the Comprehensive Plan, showing that the subject property is located on the edge of a much larger commercial area. He explained that one unique aspect of the subject property is the single-family residential property that is located immediately to the northeast. He noted that most other commercial zones in the downtown area are actually separated from single-family residential zones by using multi-family residential zoning. However, he summarized that the subject property is part of the larger commercial center, and has been zoned and planned as such for many years. He also provided a zoning and vicinity map showing that the existing zoning is consistent with the Comprehensive Plan. The commercial zone includes the subject properties, as well as those east and west and is beginning to extend north towards the downtown area.

Board Member Guenther arrived at 7:06 p.m.

Mr. Chave pointed out that Mr. Huston owns property adjacent to the subject property, and he has raised concern that no transition would be required between the commercially zoned property and the single-family residential zoned property. Mr. Huston has suggested that because there is already a residential home located on the subject parcel, it might be appropriate to change the zoning to the new Downtown Residential Office designation, similar to the properties that are currently located on the west side of Sunset Avenue. Mr. Chave clarified that the Planned Residential Office land use designation and the Office/Residential zoning designation were created specifically for properties on the west side of Sunset Avenue to address unique topography and transitional challenges. These same challenges do not exist on the property located at 110 Sunset Avenue. Therefore, the language in the Comprehensive Plan and zoning code would have to be amended in order to entertain the idea of applying this zoning and land use designation to the subject property. He noted that this would end up drawing the boundary closer to Main Street than is currently found elsewhere west of 5th Avenue. All the other commercial properties along Main Street are at least as deep as the two lots at this location, and it is a concern that reducing the commercial depth from Main Street could hinder future commercial uses and activities along this important commercial street.

Mr. Chave explained that when reviewing the overall plan and zoning pattern, it becomes apparent that if a transition is to be consistent with the other portions of downtown, then some type of multi-family designation could be considered for the properties north of 110 Sunset rather than for 110 Sunset itself. However, he noted there has been indication that the property owners want this change, and there is no indication that the change would be beneficial to the City or the neighborhood. At this time, the multi-family properties along the west side of 2nd Avenue North demark the westward boundary of more intensive uses, providing a step down of intensity from the more intensely developed commercial properties along 3rd and 4th Avenues. He agreed that it might be appropriate to consider the residentially zoned properties in the future, since they are sandwiched between more intense zoning on both sides.

Mr. Chave recommended the Planning Board recommend denial of the proposed amendment.

Board Member Henderson asked Mr. Chave to identify the differences between uses allowed in an Office/Residential (OR) zone compared to those allowed in a Multi-Family Residential Zone. Mr. Chave explained that the existing BD2 zoning does not allow residential development to occur on the street front, and the OR zone would. An OR zone would allow a multi-family residential building to be constructed as opposed to requiring mixed-use development, which is the normal

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development pattern for the downtown. An OR zoning designation would also restrict the height limit to 25 feet, whereas the BD2 zone would allow a height of 25 feet plus an additional 5 feet.

Harold Huston, Edmonds, thanked the Board for their hard work as volunteers for the City. He explained that he initially raised the issue of changing the Comprehensive with each individual City Council Member. They appeared to all concur with his suggestion that the property was inappropriately zoned because of the size of the lot and the problems that exist. They suggested that he bring the issue before the full City Council, which he did. They offered no objections and requested that the matter be referred to the Planning Board for consideration. He said he also received favorable support from the property owners in the area. He recalled that, last year, the Board decided that all of the proposed changes for inappropriately zoned properties should come before them at one time. At that time, both of the City's senior planners (Mr. Wilson and Mr. Bullock) agreed with his proposal. In fact, Mr. Wilson suggested the City Council establish a moratorium on the property until the Planning Board could forward a recommendation to the City Council regarding a change in zoning.

Mr. Huston advised that the last time he spoke with Mr. Chave, Mr. Chave suggested he consider proposing a Multi-Family Residential (RM) zoning designation for the subject property. Mr. Chave noted that elsewhere throughout the City, RM zoning has been used as a transition between Single-Family Residential (RS) and Commercial zones. He said he indicated to Mr. Chave that he would have no problem changing the zoning to some type of RM designation, either.

Mr. Huston reviewed that the subject property was originally owned by Mr. Al Dykes, and he tried to construct condominiums on the property but the City denied his proposal. At a later date, Mr. Bob Gregg made an offer for the property at 110 Sunset Avenue, but he never completed the purchase because he did not believe the lot would be feasible for condominium development, either.

Mr. Huston pointed out that, as presently zoned, the current zoning would allow development to occur on the subject property clear back to the alley, which would leave a 16-foot alley and eliminate seven parking spaces behind the property. He suggested that this would clearly result in a safety issue since a significant amount of traffic uses the alley way for access. People turn into and out of the alley from Bell Street and Main Street. In addition, there are two-way turns from the commercial development and delivery trucks sit in the area for large part of the day, making it difficult for cars to get around.

Mr. Huston said he conducted his own informal traffic study of the alley, particularly of the commercial traffic that uses the alley for access. The situation is tight, and there are numerous accidents. On the north side, there is only 9'4" of width, and there is also a blind spot trying to get out of the alley. Everyday, delivery trucks park in front of the café, and in front of 110 Sunset Avenue. This results in one-way traffic along the street. As a result of the recent rezone, the property across the street will be redeveloped, further adding to the problem. He said he previously recommended the City eliminate the ability make a left hand turn from this property, but the City was chosen not to do so. People who walk in this area are forced to do so on one of the busiest intersections in Edmonds.

Mr. Huston said he also surveyed the available parking spaces in the area and found there is a total of 86 cars using the alley for access to and from parking. He suggested this creates a safety issue. He noted that the first two lots across the street from the subject property are zoned and developed as commercial, and they always have been zoned that way. However, the subject property is currently developed a single-family residence and has never been used for commercial. Two larger developers in the City have indicated to him that the site is not developable as currently zoned. He said he doesn't have a problem allowing the current property owner to redevelop the site, but it would be appropriate to rezone the property to provide some type of transition similar to what was done on the west side of Sunset Avenue. He summarized that there is a significant traffic problem on this busy street, and he would like the Board to consider the proposed change to address the safety concerns.

Board Member Henderson said that while he appreciates Mr. Huston's concerns about traffic and safety associated with the alley, he questioned how the proposed amendment would address the issue. Mr. Huston explained that if the subject parcel is redeveloped according to the last plans that were proposed by Mr. Gregg, seven parking spaces along the alley would have to be eliminated. Development of the property as currently zoned would also reduce the width of the alley to 16-feet, making it difficult for cars to get around the delivery trucks that park behind the commercial building. At this time, there is sufficient

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width for cars to get around the trucks. Mr. Huston also pointed out that the OR and RM zoning designations would also require a setback to make the property more usable, in his opinion.

Alan Young, Edmonds, said he owns the subject property at 110 Sunset Avenue. He expressed dismay that he did not receive any notification from the City until he arrived home on June 27th to find the notice of the hearing. He suggested that, as the property owner, he should have been notified of the proposed amendment that would impact his property only. He voiced concern that discussions about his property have been going on for 20 months without him even knowing. He said he does not believe the City has the right to change the zoning of his property without involving him in the discussions, and he invited staff to provide an explanation of the City's notification requirements. Mr. Young referred to Mr. Huston's earlier statement that he spoke with the neighbors who indicated they were in favor of the proposed change. He pointed out that Mr. Huston never spoke to him about the change, and in fact, most of the neighbors are opposed to the change, as well.

Mr. Young advised that he participated in the City's process for creating the new MPOR zone. He recalled that all of the neighbors were invited to participate in the process of creating a zone for the three lots on the west side of Sunset Avenue. Mr. Huston did not submit his request that the property at 110 Sunset Avenue be included until after the process had been completed. He suggested that Mr. Huston's concerns did not surface until he purchased a condominium property in May of 2006. He took possession of the property on October 1, 2007, two weeks before the City Council met to make a final decision on the MPOR zoning proposal.

Mr. Young suggested that the proposed amendment is not about creating a transition area. Instead, it is intended to address Mr. Huston's concerns about the lot size and the seven parking spaces that are currently located on private property. Mr. Young said he purchased the property where the seven parking spaces are located in order to preserve his view, and he paid \$1.2 million for the parcel. He suggested the proposal is more about property value than about providing an appropriate transition. He further suggested there are inaccuracies in the information submitted by Mr. Huston. He said his property is valued at \$1.3 million and now Mr. Huston wants to reduce that value by changing the zoning. He emphasized that Mr. Huston purchased his property knowing full well what the zoning, height and covenants were.

Mr. Chave explained that the Planning Board's discussions last year regarding the subject parcel were informational, and they were asked if they wanted to take a look at the property. After some discussion, the Planning Board agreed they did not want to consider any changes as part of last year's amendments, but they agreed to consider the matter again in 2008. Once the Board formally agrees to look at a proposal, the notification process is triggered. However, no specific actions were being considered as part of the 2007 discussion. He summarized that the City did not attempt to be sneak the matter by the property owner.

Board Member Young inquired who owns the property at 110 Sunset Avenue. Mr. Chave answered that the property is currently owned by Alan Young. However, he clarified that the City's code allows anyone to apply for a Comprehensive Plan amendment and there are no restrictions on who owns the subject property. While the Planning Board is not required to act favorably on a Comprehensive Plan amendment application, they must forward a recommendation on the proposal to the City Council. In this case, he noted that the proposal was referred to the Planning Board by the City Council, and the Board is obligated to make a recommendation.

Board Member Lovell asked for more information about the property known as 111 Main Street. Mr. Chave explained that this property is one of the addresses located inside of the large mixed-use building to the southeast and across the alley from the subject property.

Roger Hertrich, Edmonds, expressed surprise that while Alan Young was heavily involved in the Sunset Avenue issue in the past, he was not informed about the proposed Comprehensive Plan amendment until the hearing notices were sent out. He said he believes Mr. Young to be a credible witness, and he feels the application is highly irregular. He suggested that if the City Council had known the property owner was against the proposal, they would probably not have referred the amendment to the Planning Board for review. He also emphasized that neither Mr. Wilson nor Mr. Bullock are part of the City Planning Department now.

Mr. Hertrich pointed out that the parking spaces referred to earlier by Mr. Huston are located on private property and always have been, even though the public has used them on occasion. He said he does not find anything that would constitute a reason for the Board to recommend approval of the proposed amendment. He referred to the findings in the Staff Report, which provide more than enough reason to recommend denial of the "spot change." He expressed his belief that Comprehensive Plan changes should involve larger areas rather than single lots.

Jack Jacobsen, Edmonds, said he received two notices of the proposed amendment because he owns two properties that are located within 200 feet of the subject site. He pointed out that if the Comprehensive Plan were amended to allow an OR zoning designation, development could occur right up to the rear property line with no setback. This would allow a developer to build right up to the alley. He expressed his belief that all of the RS zoned properties would likely change to OR or RM zoning in the future.

Elton Roundhill, Edmonds, said he and his wife recently purchased Rory's, which is located adjacent to the subject property at 100 Main Street. He said he was not aware that the existing zero setback requirement. He noted that the property line for the subject property line is located in the middle of the alleyway, and the proposed change could greatly affect the way his business currently operates. He said he and his wife are opposed to any change that would impede their existing access. Mr. Chave clarified that the alleyway must be a certain width as required by City code, but he agreed there is an additional paved area outside of the alley that is privately owned. Under both the existing and the proposed zoning, this paved portion could be redeveloped, but the alley could not. Mr. Roundhill clarified that he was referring to the access area leading to his property, and not the alleyway.

Mr. Young advised that he owns the paved portion of the property along the alleyway, and he has never stopped the owners of Rory's from using the property as an access to their commercial building. However, there is no formal agreement in place to require the access to continue. Chair Guenther reminded the Board and the public that the purpose of the hearing is to determine the appropriateness of the proposed Comprehensive Plan change, and not to discuss setback and access issues between two property owners.

Board Member Young said he is embarrassed by the whole process that allows a person to take up the Board, public and staff's time to consider a proposed Comprehensive Plan change for property that he/she doesn't even own. He reminded the Board that this same piece of property was discussed previously as part of the City's effort to create the Downtown Plan. Chair Guenther reminded the Board and public that the purpose of the hearing is to discuss the merits of the proposed Comprehensive Plan change. However, he agreed that it is ridiculous to allow people to propose changes for properties they do not even own.

THE PUBLIC PORTION OF THE HEARING WAS CLOSED.

Board Member Henderson said that if the property owner were requesting the Comprehensive Plan amendment, he would be more inclined to consider the proposal. However, he said he is not sure he could support the change either way. He summarized that since the property owner is not in support of the proposed change, he is not inclined to even consider the request.

Board Member Dewhirst said he would not support the proposed Comprehensive Plan amendment. However, his concerns are not related to property ownership. He said he does not believe the proposed change is appropriate at this time. He referred to the activity and zoning patterns that currently exist in the area to the west and east of the subject property and expressed his belief that the proposed change would be a step in the wrong direction. He agreed with the staff's finding that if a transition were needed in this area in the future, it should be on the next few parcels to the north. He summarized his belief that it would be quite a long time before any change of this type would occur. He further noted that the proposed amendment would be inconsistent with the Comprehensive Plan policies.

Vice Chair Bowman said he would vote against the proposed amendment, and he was opposed to the change when it was previously presented to the Planning Board, also.

Chair Guenther said he cannot support the proposed change, either. He said he sees the proposal as a type of “spot planning” that leads to “spot zoning.” He agreed with the staff’s finding that the proposal would be a step in the wrong direction. The more intense zoning should be moving towards Main Street rather than away from Main Street. He concluded that the safety concerns raised by Mr. Huston would be better addressed by the Traffic Engineer rather than the Planning Board.

Board Member Works said she would not support the proposed Comprehensive Plan amendment because it would lead to “spot planning.” She suggested it would be helpful to have some discussion with the City Council about how matters of this type are referred to the Board. It would also be helpful for the City Council to consider whether or not they inadvertently gave Mr. Huston the impression that the proposed change would be appropriate and something they would support. She agreed with Chair Guenther that traffic problems should be addressed by the City’s Traffic Engineer.

Board Member Lovell pointed out that while he would not be voting on the proposal, he would not be in favor of it. He referred to a comment made at the beginning of the presentation that the BD2 zone allows both residential and office uses. He noted that other than the slight difference in the height restriction, there would be very little difference to justify the proposed change. In addition, he expressed his belief that too many changes would likely occur in this area in the future to consider changing this one piece of property right now.

Board Member Reed said he would not support the proposed amendment, either. He agreed with Board Member Dewhirst’s previous comments. He added that as he reviewed the Comprehensive Plan Map and the Zoning Map, he found the existing zoning and land use designation to be exactly as they should be.

BOARD MEMBER DEWHIRST MOVED THAT THE BOARD FORWARD A RECOMMENDATION OF DENIAL TO THE CITY COUNCIL FOR FILE NUMBER AMD-07-16 (AN APPLICATION TO AMEND THE COMPREHENSIVE PLAN FOR PROPERTY AT 110 SUNSET AVENUE NORTH FROM MIXED COMMERCIAL TO DOWNTOWN RESIDENTIAL OFFICE) BASED ON THE REASONS STATED IN THE STAFF REPORT. HE NOTED THAT THE PROPOSED AMENDMENT WOULD NOT CONFORM TO ANY OF THE CITY COUNCIL’S RECENT ACTIONS RELATED TO LAND USE PATTERNS, ZONING PATTERNS, AND THE RECENT COMPREHENSIVE PLAN UPDATE. BOARD MEMBER WORKS SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

Board Member Dewhirst suggested that the City may have a short circuit in their procedures for Comprehensive Plan Map amendments. While he understands that, by State law, anyone can request a Comprehensive Plan amendment, it would be appropriate for the City to somehow notify a property owner if his/her property is being considered for a change, even if a formal application has not been filed. It is important for a property owner to know when his/her private property is going to be discussed at a City Council or Planning Board Meeting. He suggested that staff review the notification process for these situations.

THE BOARD TOOK A BREAK AT 8:05 P.M. THEY RECONVENED THE MEETING AT 8:13 P.M.

PUBLIC HEARING BY CITY ON REVISIONS TO EDMONDS COMMUNITY DEVELOPMENT CODE (ECDC) CHAPTER 17 – PROPERTY PERFORMANCE STANDARDS (NOT INCLUDING 17.40)

Mr. Bowman reminded the Board that, upon the advice of the City Attorney, the nuisance regulations were moved forward to the City Council for inclusion in the City’s Municipal Code. He explained that the purpose of this hearing is to consider the new Chapter 17.60 – Property Performance Standards. He suggested that the most controversial provision in the proposed language is related to the regulation of recreational vehicles (RV’s). He noted that the City receives complaints about RV’s on a regular basis, so staff has brought the matter to the Planning Board for inclusion in the performance standards. He advised that contrary to what some people have suggested, the proposed language found in Chapter 17.60.040 would not ban RV parking. However, it would introduce provisions to regulate the use. Mr. Bowman advised that significant changes are also proposed for Chapter 17.60.030.F. He explained that after consulting with the City Attorney, it was felt that the proposed new standards in this section would be more enforceable. He introduced Mike Theis, Code Enforcement Officer, who was present to answer the Board’s questions regarding the proposed language.

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The Board and staff reviewed the proposed language and made the following comments:

- **Chapter 17.60.010 – Proof of Compliance.** Mr. Bowman explained that the proposed language would require a business or use to retain an independent, qualified testing laboratory to make an analysis of the use to determine if it is in compliance with the standards. This places the burden of proof on the property owner rather than the City.
- **Chapter 17.60.030.A – Noise.** Board Member Henderson noted that every year when the Edmonds Rotary Club sponsors the Waterfront Festival, they cut off the music at 10 p.m. because that was their understanding of the City’s noise ordinance. The proposed language would allow the music to continue until 11:30 p.m. Mr. Bowman pointed out that there are different noise standards that apply to various areas.
- **Chapter 17.60.030.B – Lighting.** Board Member Dewhirst noted that this section regulates glare on public streets, highways and neighboring properties, but it does not address the issue of light pollution in the sky. Mr. Bowman noted the Board previously stated concern about light pollution, and agreed that staff should come back with a proposed code amendment in the future.
- **Chapter 17.60.030.F – Particulate Matter.** Mr. Bowman advised that the three items in this section were redrafted to make them more consistent with the existing adopted City regulations. It was noted that the term “ACC, surface mining” should be deleted from the proposed language for Item F.2.
- **Chapter 17.60.040 – Vehicles in Residential Zones.** Mr. Bowman advised that this section was drafted in response to complaints the City constantly receives about vehicles that are parked on residential properties, including RV’s, boats, etc. Board Member Works inquired if the City’s Fire Department has reviewed the draft language to address safety issues related to the storage of RV’s. Mr. Bowman answered that they have not. Board Member Works noted that house fires tend to jump from one home to another because homes are constructed so close together. She said she would be interested in learning more from the Fire Department about issues related to safety when RV’s are parked in the side yard setbacks. Board Member Young agreed and recalled that the Board discussed side yard setbacks previously. He expressed his belief that the City should prohibit RV’s that are not used from parking in the side yard setback areas.
- **Chapter 17.60.040.B.1.b – Vehicles in Residential Zones.** Mr. Chave suggested the term “this regulation” should be more specific as to what regulation is being referenced.
- **Chapter 17.60.040.C – Vehicles in Residential Zones.** Board Member Dewhirst inquired why the language only encourages screening from adjacent properties rather than requiring it. Mr. Bowman answered that most people actually do screen their vehicles from adjacent properties. However, if the Board wants to make this a requirement, staff could make the change.

Chair Guenther pointed out that screening can be vegetation, as well as built items. He noted that any screening over six feet in height would require a building permit. Mr. Bowman noted that, currently, this requirement would only apply to built screening.

Mr. Chave pointed out that this section applies to all residential properties. If it is important that the regulations only apply to single-family properties, the language should make this clear. He noted that a multi-family residential complex could have a designated area for parking recreational vehicles, and the provisions, as currently proposed, would not allow this to occur. He suggested the Board take a closer look throughout this entire section to make it clear whether the provisions would apply to single-family residential only or to multi-family residential, as well.

- **Chapter 17.60.040.E.1 – Vehicles in Residential Zones.** Board Member Henderson said he owns property in Edmonds, which has a parking strip located parallel to the street in front of his home. He uses the space for visitor parking. However, according to the proposed language, a parking strip that runs parallel to the street would not be allowed. Parking strips must run parallel to the driveway, instead. Board Member Lovell said he currently knows of situations where property owners have constructed improved parking spaces parallel to the street in front of their homes. These

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spaces are located within the setback areas. Mr. Bowman explained that the proposed language would not prohibit vehicles from parking in the setback areas. However, when parking is created parallel to the street, the vehicles can take up a large portion of the front yard and make the home less visible. Board Member Henderson said he does not think the language should limit improved parking surfaces to only those that are parallel to the driveway. If they want to prohibit RV's from parking in front of a house, they should limit the types of vehicles that can be parked in the front setback. He suggested that improved spaces for guest parking should not be regulated by the City.

Board Member Young pointed out that there are numerous neighborhoods that were annexed into the City from the County, and parking strips parallel to the street are normal and serve a very useful purpose as long as they are only for guest parking. He said he would support a provision that prohibits vehicles from parking in these areas for more than 72 hours. He noted that the City does not allow storage and other structures in the front yard, so it would not be appropriate to allow RV parking and storage, either.

At the request of the Board, Mr. Bowman agreed to modify the language in this section to allow guest parking as an exception.

- **Chapter 17.60.040.E.2 – Vehicles in Residential Zones.** Board Member Dewhirst pointed out that the development code does not define the terms “front yard,” “side yard,” and “back yard.” He questioned if this section refers to the required setback. Mr. Bowman explained that, theoretically, the proposed language would allow vehicles to park in the setback areas. However, he noted that the City does not currently allow structures to be located within the setback areas, so it may be appropriate to also prohibit vehicles such as RV's from parking in the setback areas, as well. Board Member Dewhirst expressed particular concern about allowing RV's to park on the property line. He pointed out that houses are being constructed closer together, and setbacks are becoming more important.

Board Member Young pointed out that Item E talks about appropriately licensed and operable vehicles, but Item E.2.a makes reference to junk vehicles. Mr. Bowman agreed that Item E.2.a should be pulled from this section.

Mr. Bowman referred to Item E.2.a and suggested that the Board should discuss a possible definition for the term “maintained surface.” He also noted that the reference in Item E.2.d.5 should relate back to Chapter 6 rather than Chapter 17.60.010.

Board Member Young referred to Item E.2.d.2 and noted that some people purchase cars to pull parts from and use the parts to fix other cars. He asked how this language would apply to these situations. Mr. Bowman said the objective of the proposed language is to allow a person to work on one vehicle at a time. Board Member Henderson noted that the proposed language would require a person to have a large garage because cars that are being used for parts would have to be stored in a structure or be screened from view.

Chair Guenther referred to Item E.2.d.10 and suggested the words “shall remain” be deleted.

Board Member Reed referred to Item E.2.d, which lists several activities that can occur on properties if certain criteria could be met. He suggested and the Board agreed that the language should be changed to read, “Work, including servicing, repairing, assembling, wrecking, modifying, restoring or otherwise working on vehicles outside an enclosed structure on a property is prohibited unless it meets the following criteria:”

- **Chapter 17.60.050 – Habitation Uses Prohibited.** Mr. Bowman recalled that the Planning Board discussed this issue previously and agreed the proposed exception would be appropriate.

Mr. Bowman reminded the Board that the City Council would be reviewing the Nuisance Ordinance on July 15th. He emphasized that the Nuisance Ordinance does not include standards related to RV's. He suggested the Board continue this hearing to July 23rd so that those individuals who show up at the City Council Meeting prepared to speak about RV parking can be directed to attend the continued Planning Board hearing before a recommendation is forwarded to the City Council.

Chair Guenther pointed out that it is sometimes difficult to apply all of the proposed standards equally throughout the City. For example, large lots make it easier to hide an RV or other vehicles, while five cars parked on a small residential lot would be too much. He suggested the Board consider the option of tailoring the requirements to the different sized residential lots. Board Member Young expressed concern about allowing owners of larger properties to park more vehicles on their lots, particularly if the vehicles are inoperable. He cautioned against making requirements that are based upon the size of a lot.

Board Member Reed recalled that the Board spent a great deal of time in 2007 reviewing Chapter 17.60. He inquired if the current draft represents any significant changes since the chapter was reviewed previously by the Board. Mr. Bowman answered that staff did make some tweaks to address the issues raised, but no significant changes were made to the document. He summarized that the proposed language was boiled down to what staff believes would be enforceable and address issues that come up all the time. He agreed to provide the Board Members with copies of the most recent drafts of the proposed amendment. Board Member Reed asked where definitions could be found for terms used in the proposed language. He emphasized the importance of providing clear definitions. Mr. Bowman answered that staff would make sure there are adequate definitions for each of the terms used.

Mr. Bowman advised that if the Board doesn't want to regulate RV's, they could direct staff to remove the language from the proposed amendment. When people call to complain, staff could simply tell them that the City doesn't regulate RV's in residential zones. The same is true for any of the other nuisance standards.

Board Member Works inquired how many complaints the City receives about RV's. Mr. Theis answered that staff does not keep track of the number of complaints because the City doesn't regulate RV's at this time. However, he estimated they receive between 60 to 70 complaints per year related to RV's, and this is their predominant complaint. He emphasized that, at this time, there are no regulations to deal with vehicles. About half the complaints are associated with vehicles, and the majority of them are related to junk vehicles.

Larry Austin, Edmonds, said he has lived in his current home for the past 42 years. He provided pictures to illustrate on-going situations that occur in his neighborhood and noted that the proposed amendments would address all of the issues. The pictures illustrated the following concerns:

- A red car is parked in the front yard of a residential property on top of shredded wood. The property owner owns a tree cutting business, and he puts the shredded tree material in his yard. The picture also showed two other cars parked on the property, and both belong to the property owner.
- Chipped wood has been strewn on the ground with cars parked on top of it.
- Various materials are being stored in front of a garage, making the garage impossible for the property owner to use. There is a truck and other material located in front of the garage, as well as motorcycles.
- A boat is stored in the backyard. There used to be a swimming pool in the backyard, but there was no fence to keep the neighborhood children out.
- A personal car is parked on the street with a business card in the window to advertise the tree service.

Mr. Austin summarized that the existing situation is disturbing to him, and he has not received any results by contacting the City's Code Enforcement Officer to issue his complaints. He said he has learned that numerous complaints have been made about the subject property, which is being used more as a storage facility than a residential home. He noted that the pictures illustrate numerous violations, and the draft language would address them all. He urged the Board to recommend approval of the draft language.

Board Member Young asked if running a business in a residential zone would be addressed by the proposed language. Mr. Theis answered that this particular property owner has a home occupation permit, but the City does receive numerous complaints about the condition of the property.

Missy Huff, Edmonds, referred to property located on 86th Place where two inoperable motor homes are being stored in a side yard of a residential property. The property is a corner lot. When she pulls into her neighborhood, the first thing she sees are the motor homes, and they have been there for at least three years. She summarized that the proposed performance standards are necessary to deal with situations such as this.

Ms. Huff advised that she is a realtor, and she has had a house on the market across the street from a property that has vehicles stored in the side yard. The car hasn't been used for years, and a transformer from an electrical unit is being stored in the front yard. She provided pictures of other vehicles that are stored on the property in this same neighborhood. She said that while she knows it is a lot of work to change the performance standards, it is necessary. She pointed out that property values can be destroyed by others, and that is not fair to people who do take care of their properties.

Jim Young, Edmonds, pointed out that the proposed language has to do with licensed vehicles, and the City already has a requirement that vehicles be licensed. Junk vehicles that are not licensed could be taken care of with the existing rules. He suggested that the proposed language is too extensive and would have a significant impact on a property owner's rights. He said he objects to the proposed changes to Chapter 17.60.040. He noted that the proposed language does not show what the existing rules are. By recommending approval of this section, the Board would be adding language they know nothing about when they already have rules to deal with the concerns. He suggested that enforcing the existing rules would guard against the devaluation of property by eliminating blight and addressing emergency access and fire safety. It would also guard against the creation of rodent and pest harborage and reduce the impact to the environment caused by fluids leaking from old vehicles. Again, he emphasized that the proposed language only addresses licensed vehicles, and junk vehicles are not covered by the proposed new performance standards.

Mr. Young questioned why the City needs new rules to satisfy the complaints of a few property owners. There are many home owners who have RV's in the City, and they use their properties to store the vehicles. Over regulating invades a property owner's right to use the property as he/she sees fit. Again, he emphasized that the City's existing regulations provide for reasonable use of a one's property, and parking a licensed vehicle on a residential property should be the owner's prerogative. He said he is opposed to the proposed regulations outline in Chapter 17.60.040.

Gail Young, Edmonds, said she is particularly concerned about the proposed regulations for Chapter 17.60.040 related to parking vehicles in residential zones. She suggested the proposed language is too detailed and would be difficult to apply equitably. A vehicle parked amongst the trees on a large property looks much different than a vehicle parked in a neighborhood of small lots. Even if the proposed language were adopted, the City would continue to get complaints, and the existing rules should be adequate to address them. She encouraged the Board Members to review the entire draft and look at the details of the proposed limitations on noise, lighting, etc. She expressed her belief that the limitations would not be enforceable. She questioned if the City would have to hire additional staff to enforce the new requirements. She summarized that she is not opposed to regulations, but it would be better to create a simple, and less complex list of what is not acceptable in the City.

Roger Hertrich, Edmonds, said he recently spoke with a gentleman who was getting his boat ready to take out on the water. He indicated that he stores the boat in his backyard with a tarp over it. Another gentleman told him he stores his boat on the side of his house under a plastic canopy. This person lives in the Esperance area, and he said he would never vote to become a part of Edmonds if they continue with their effort to inhibit the rights of private property owners. He expressed his belief that all the rules that are intended to make staff's job easier only end up imposing on private property rights. This can result in situations where neighbors are pitted against neighbor because the City only handles enforcement on a complaint basis. He agreed it is appropriate to require a property owner to screen vehicles that are stored in locations that can be viewed from a public right-of-way. However, the City should not get involved with regulating what is stored in a backyard that is screened from the public's view.

Mr. Hertrich expressed concern that the proposed language does not take into account the various lot sizes that exist in the City. He agreed that in an RS-6 zone, where houses are located close together, the regulations should be more stringent because various activities would be more visible to the public and the impacts would be greater. However, larger properties such as RS-12, are much greater in size and activities that take place in the backyard would not have a significant impact to the public. He suggested there is no need to regulate the storage of vehicles in the backyard of RS-12 properties.

Mr. Hertrich expressed his belief that the definitions used in the proposed language construct rules that are difficult to interpret. He questioned how the City would define terms such as "objectionable," "obnoxious," "open storage," "screening," and "lumber storage." He suggested it would be ridiculous to require a property owner to provide access to the

backyard for fire equipment. He pointed out that the City's Fire Department already has equipment that can go the length of the property so there is no need for a road to the back of the property. He suggested they remove this requirement.

Mr. Hertrich suggested that it is more important to address the location of stored recreational vehicles than limit the number of vehicles that can be stored on a property. He also noted the proposed language must also include a definition for the term "recreational vehicle."

Mr. Hertrich said it appears City staff is vehemently against the use of tarps to cover vehicles, and they would like them to be prohibited. He pointed out that if a vehicle were stored under a tarp, it would be difficult to tell what was under the tarp. He noted that everyone uses tarps in Edmonds because it rains a lot. He suggested they remove this restriction from the proposed language since tarps are necessary to protect vehicles and other items from the rain.

Mr. Hertrich referred to the proposed requirement that vehicles only be parked on approved surfaces such as gravel. He pointed out that he has a large backyard, and he often stores vehicles right on the grass. No one can see the vehicles from a public right-of-way, and he maintains his yard by moving the vehicles to mow, etc. He said he doesn't see a problem with the City allowing these types of uses to continue. Instead, the draft language should focus on street appearance and impacts to the public.

Mr. Hertrich referenced the proposed language that would limit a property owner's ability to service, repair, assemble, or restore a vehicle. He said he often works on more than one vehicle at a time, and he felt he should be allowed to retain that right. If screening were required for each of these uses, there would likely be no complaints from adjacent property owners. He asked the Board to preserve a property owner's ability to work on vehicles, as long as they are adequately screened from the public's view.

Lastly, Mr. Hertrich referred to the proposed provision that would require stable ramps for storage. He questioned how the City would determine if a ramp is stable or not. Mr. Hertrich summarized by stating that the City does not need all of the provisions called out in the draft document. Instead, they should focus on regulations that relate to front yard appearance. Uses that are screened from the public's view should not be regulated.

Dave Gavernik, Edmonds, said he moved into his home in Westgate 30 years ago. He currently has a truck, a camper and two boats, and he has enjoyed using them over the past years. While he recognizes that this pleasure may come to an end in the future as a result of high fuel prices, he would like to continue to store and maintain his recreational vehicles on his property until that time arrives. He pointed out that he screens the vehicles as much as possible, and the growth of shrubs has done a great deal to shield the storage area from adjoining properties. He said he also plans on doing more to screen the vehicles from the street side. He noted that the location where the vehicles are stored is about seven feet below the grade of the street, so the impact is much less. However, he recognized that every situation is different.

Alice Oats, Edmonds, said she lives next door to a home where they have two boats and a truck parked on the front yard, as well as old furniture and other miscellaneous items. In addition, there are old, unusable trailers parked on the property that can be viewed from the street and neighboring properties. There are also numerous cars parked throughout and in front of the property. She also said there is a situation down the street from her where someone is living in a trailer that is parked in the front yard of a residential property. She emphasized that these situations make it difficult for her to sell her home. She provided pictures to illustrate the existing situations. She said that while she agrees that the City should protect the rights of private property owners, something needs to be done in these extreme situations.

Mr. Bowman advised that staff would prepare a final draft of the proposed ordinance for the Board to consider on July 23rd. The new draft would identify the existing code language, as well as the new language that has been proposed.

Board Member Works referred to the photographs provided by Ms. Oats and asked if the City's existing code language would provide staff with the ability to regulate these situations. Mr. Theis answered that the City has the ability to regulate junk vehicles if a complaint is made. Mr. Bowman pointed out that the proposed new language would allow the City the ability to take care of the other items brought to the Board's attention by Ms. Oats.

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Board Member Young inquired if the proposed language would make these situations more enforceable without infringing upon property rights. Mr. Bowman agreed that the Board must carefully balance the proposed language with the need to protect private property rights. He pointed out that in the current tight real estate market, it is difficult for people to sell homes that are located next to situations like the one described by Ms. Oats. Board Member Young inquired if the proposed language would better enable the City staff to take care of these situations. He said that, in his view, the proposed language is not written so loosely that someone could use it as a vindictive measure against an adjoining property owner. Mr. Bowman said it is important that the regulations dealing with code violations be written as specific as possible. If the City issues a notice of violation that is appealed to the Hearing Examiner, it becomes the City's burden to prove their case.

Board Member Henderson inquired if the draft language provides a definition for "junk vehicles." Mr. Bowman said this definition is covered in the City's Municipal Code that is going before the City Council for review and approval on July 15th.

CHAIR GUENTHER MOVED THAT THE PUBLIC HEARING ON THE PROPOSED REVISIONS TO ECDC 17 (PROPERTY PERFORMANCE STANDARDS) BE CONTINUED TO JULY 23, 2008. BOARD MEMBER HENDERSON SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

Board Member Dewhirst left the meeting at 9:30 p.m.

PUBLIC HEARING BY CITY ON REVISIONS TO EDMONDS COMMUNITY DEVELOPMENT CODE (ECDC) CHAPTER 17-40 – NON-CONFORMING REGULATIONS RELATING TO (1) MINOR ARCHITECTURAL ENCROACHMENTS INTO SETBACKS AND (2) ESTABLISHING A THRESHOLD DATE FOR DETERMINING NON-CONFORMING STATUS FOR ACCESSORY STRUCTURES

Mr. Bowman advised that since the Planning Board reviewed Chapter 17.40 late last year, two additional items have come up with regard to nonconforming regulations that were not reviewed by the Planning Board. He reported that staff raised these issues at the City Council public hearing on June 3, 2008, and the City Council directed staff to bring the items before the Planning Board for review and recommendation.

Mr. Bowman advised that the first item deals with minor architectural improvements. He recalled that a case came up where an old apartment building received a building permit to do internal and external improvements to update the building. The developer added some small bay windows on the side of the building adjacent to the street. Unfortunately, the street setback is nonconforming and the developer did not receive a permit to do the work and a variance is out of the question. With more and more projects looking to capitalize on upgrading or reusing older buildings, Mr. Bowman suggested it would be appropriate for the Board to consider whether or not it would be appropriate to allow these kinds of improvements or just have a strict regulation that holds to the setback lines. He referred to the proposed language that was drafted by staff, which would allow minor architectural improvements in commercial and multi-family residential zones to encroach into a nonconforming setbacks adjacent to an access easement or public right-of-way in order to provide better modular relief and a better overall appearance.

Chair Guenther recalled that the Board earlier discussed the concept of allowing encroachments over the rights-of-way as part of their review of the Downtown Waterfront Plan. Bowman agreed but pointed out that this situation is a little different because this type of encroachment would be within the setback of the property, and not over the right-of-way.

The Board indicated their support for the language proposed by staff.

Mr. Bowman explained that the second issue deals with nonconforming accessory buildings. The City currently requires a true and accurate plot with every building permit application. Quite often staff runs up against accessory buildings that have existed for more than 30 years, but the owners cannot find building permits or variance records for the buildings. This turns what should be a routine plan review into a quest for documentation to allow the building to stay. Since the City's records are fairly good from 1981 on, this seems like a reasonable time to establish a presumption of nonconformity. In areas that are annexed, it should be the effective date of the annexation of the property into the City. He referred the Board to the draft language that would implement this concept.

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Al Rad, Edmonds, said he purchased a building a year ago and has had nothing but headaches ever since. The structure was built in 1955 and remodeled in 1985. The carport was built 25 years ago and met all of the County setback requirements that were in place at the time. Now the City is telling him that he has to take the carport down because it is located within the setback areas. He said he cannot afford to remove the carport because it would significantly reduce the value of his property. He noted that neither the City nor neighboring property owners would benefit from removing the carport. In fact, the City would lose about \$100 per year in property taxes if the structure were removed. He asked the Board to support the proposed language.

Dick Geigle, Geigle Designs, said he was hired by Mr. Rad to design his remodel project. He said he has done architectural work for 50 years, and has worked on many projects in Edmonds. In the early days, projects were easy to get through the permit process, but it is getting much more difficult. He said he does not feel it is right for the City to require a property owner to remove an accessory structure that was developed many years ago before the property was purchased by the current owner. He pointed out that many property owners are becoming bitter with the rules and regulations they must meet when doing remodel work, and this is not the way the City should operate. The bureaucracy is getting too difficult, and the City must provide exceptions for accessory dwelling units that have existed for a long time. These structures should not be tied to future building permit requests.

Mr. Geigle said that while he supports the need for cities to have standards to regulate development, they must limit their requirements for how far back a property owner must search for a building permit. He suggested that the stringent requirements only encourage contractors to work weekends and evenings to avoid getting the required permits. He summarized that the City needs to make it easier for homeowners to obtain the permits necessary to remodel their existing structures.

Board Member Reed requested more information about the situation that triggered staff's recommendation to allow minor architectural improvements to encroach into a nonconforming setback. Mr. Bowman said the structure that triggered the recommendation has an open parking garage below that is screened by plantings. The garden windows are only on the north side of the building on the second floor. The other windows are flush with the building. The garden windows extend about half way into the setback. Board Member Reed pointed out that the proposed language would also be applicable to the first floor of a structure, which could result in windows located within the public right-of-way. Mr. Bowman explained that the purpose of the bay windows was to improve the appearance of the building. He agreed that applying the same concept on the first floor of the building would not be appropriate. He agreed that the proposed language would allow this to occur, but it is important to keep in mind that encroachments into required setbacks are already allowed. Board Member Henderson pointed out that the provision would require review and approval by the staff. This would allow staff the opportunity to deny a proposal that would have too great an impact. Mr. Bowman agreed that administrative review would be required.

THE PUBLIC PORTION OF THE HEARING WAS CLOSED.

Chair Guenther said he plans to support the proposed amendments presented by staff. He said likes the provision that offers the City the ability to apply concepts that allow for the adaptive reuse of structures and improving the appearance of buildings. Board Member Henderson said he is also in support of the proposed amendments. He said he particularly likes the requirement of design review for architectural improvements that encroach into a setback. This allows the City to maintain some control but also encourages the adaptive reuse of buildings. Board Member Works said she plans to support the proposed amendments, as well. Board Member Lovell said he would also support the proposed amendments. He noted that certain things are already allowed to project into the setback areas, and the proposed amendment would be consistent, as well. Board Member Reed said he would support both amendments. However, he reiterated that the provision that allows minor architectural improvements to encroach into a setback could be applied to the first floor of a structure, too. This could place items too close to the property line.

BOARD MEMBER HENDERSON MOVED THAT THE BOARD FORWARD THE PROPOSED REVISIONS TO ECDC 17.40 (NONCONFORMING REGULATIONS RELATING TO MINOR ARCHITECTURAL ENCROACHMENTS INTO SETBACKS AND ESTABLISHING A THRESHOLD DATE FOR DETERMINING NONCONFORMING STATUS FOR ACCESS STRUCTURES) TO THE CITY COUNCIL WITH A

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RECOMMENDATION OF APPROVAL. BOARD MEMBER YOUNG SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

REVIEW OF EXTENDED AGENDA

The Board agreed to cancel their second meeting in August. Chair Guenther noted that the second meeting in November is the night before Thanksgiving. The Board agreed to tentatively cancel this meeting and schedule a special meeting for a week earlier, if necessary.

PLANNING BOARD CHAIR COMMENTS

Chair Guenther announced that Board Member Lovell has agreed to represent the Planning Board and be a judge at the City's Sandcastle Contest.

PLANNING BOARD MEMBER COMMENTS

Upon the request of the Planning Board, Mr. Chave explained that a copy of a recent staff interpretation was provided to each of the Board Members for their information only. He noted that the interpretation becomes effective on the date indicated on the document unless it is appealed.

ADJOURNMENT

The Board meeting was adjourned at 10:22 p.m.

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