

EDMONDS CITY COUNCIL APPROVED MINUTES

Special Meeting

January 9, 2007

Following a Special Meeting at 6:00 p.m. for Council Committee meetings, the Edmonds City Council meeting was called to order at 7:00 p.m. by Mayor Haakenson in the Council Chambers, 250 5th Avenue North, Edmonds. The meeting was opened with the flag salute.

ELECTED OFFICIALS PRESENT

Gary Haakenson, Mayor
Peggy Pritchard Olson, Council President
Michael Plunkett, Councilmember
Richard Marin, Councilmember
Mauri Moore, Councilmember
Deanna Dawson, Councilmember
Dave Orvis, Councilmember
Ron Wambolt, Councilmember

STAFF PRESENT

David Stern, Chief of Police
Duane Bowman, Development Services Director
Stephen Clifton, Community Services Director
Rob Chave, Planning Manager
Scott Snyder, City Attorney
Sandy Chase, City Clerk
Jana Spellman, Senior Executive Council Asst.
Jeannie Dines, Recorder

1. APPROVAL OF AGENDA

COUNCILMEMBER MARIN MOVED, SECONDED BY COUNCILMEMBER WAMBOLT, FOR APPROVAL OF THE AGENDA. MOTION CARRIED UNANIMOUSLY.

2. CONSENT AGENDA ITEMS

COUNCILMEMBER MARIN, MOVED, SECONDED BY COUNCILMEMBER WAMBOLT, FOR APPROVAL OF THE CONSENT AGENDA. MOTION CARRIED UNANIMOUSLY. The agenda items approved are as follows:

A. ROLL CALL

B. APPROVAL OF CITY COUNCIL MEETING MINUTES OF JANUARY 2, 2007.

3. MOTION TO REMOVE THE FOLLOWING MATTER FROM THE TABLE: CONTINUED DELIBERATION AND ACTION ON AN ORDINANCE ADDING A NEW CHAPTER 16.43 ESTABLISHING BD-DOWNTOWN BUSINESS ZONES AND AMENDING THE CITY'S ZONING MAP TO REZONE CERTAIN PROPERTY SPECIFIED THEREIN TO BD CATEGORIES.

Mayor Haakenson asked City Attorney Scott Snyder to describe taking a motion off the table. Mr. Snyder explained this began as the Council started having discussions via email that were dangerously close to deliberation. The intent of this item was to give the Council an opportunity to have that discussion in an open public forum. He reminded the Council was in deliberation on a legislative matter; the only notice required to continue that deliberation was special meeting notice.

With regard to final action, the Council could only pass the Planning Board's recommendation in the form provided; if the Council made significant changes, it would be best to continue the matter until all

Councilmembers were present. If the Council wished, a further public hearing could be scheduled. He relayed staff's request that the Council via deliberation provide firm direction regarding what they wanted the ordinance to look like. He noted the difficulty with an item such as this that had been discussed over a period of time, the product changed. For final public comment, he recommended having as close to the final product as possible.

Mr. Snyder referred to Councilmember Dawson's request for information regarding a "story" approach. He began the research including gathering other cities' ordinances but delayed completion pending further discussion tonight. He pointed out when the Council forwarded this matter to the Planning Board in June 2005, it was with very specific direction that limited the height by district based on the current ordinances. While the Council was free to take another approach/method of calculation such as stories or something other than the City's bulk standard floor area ratio process, because of the limited consideration by the Planning Board, it would need to be reviewed by the Planning Board.

Mayor Haakenson asked whether proper legal notice was given for tonight's special meeting. Mr. Snyder answered the only notice required was the special meeting notice and that was only required because the Council meeting on the second Tuesday was committee meetings. After discussion with the Council President, City Clerk Sandy Chase gave the required special meeting notice. He explained a special meeting notice was a very specialized notice that went to persons/entities/press that requested notice.

Mayor Haakenson asked Mr. Snyder to describe the difference between the Council's ability to take public comment versus a public hearing. Mr. Snyder explained the Council was free to take public comment on a legislative matter at any time – at a Council meeting, over lunch, via email, etc. His preference was to have a record made at a public hearing so that in the event of a challenge, the legislative history behind the issue could be provided to the Growth Management Hearings Board. A formal public hearing was required by ordinance on any substantive change to the zoning code at the Planning Board level. He noted there had been multiple public hearings at both the Planning Board and the Council on this issue.

Noting Item 4 indicated public comment would be received, Mayor Haakenson asked whether the Council could change their mind and not take public comment. Mr. Snyder responded that the Council having created an opportunity for public comment had an obligation to continue to do so. He noted there were legitimate reasons the Council could choose not to take public comment but he recommended unless the Council changed its rules with regard to public comment, not to make ad hoc decisions regarding what to hear or when.

Mr. Snyder commented this Council had never been overly burdened by Roberts Rules of Order; it was used generally and the Rules were consulted if a challenge was made. The Council's motion to table the matter to a date certain was a hybrid motion; a tabling motion was indefinite until the issue was removed from the table by a majority vote. Continuing to a date certain was undone/changed by a motion to reconsider. The action that would most closely conform to Roberts Rules of Order would be for a member on the prevailing side to make a motion to reconsider the motion to table to a date certain. If the motion received a majority vote, the item would then be back on the table for discussion.

Council President Olson noted there had been some confusion with the posting on the web which was not required and done as a courtesy. Ms. Chase agreed that as Mr. Snyder explained, the City met the RCW requirement for noticing a special meeting. In addition to those requirements, the agenda was also posted on the Government Access Channel and on the City's website on January 5 as well as at several city and public buildings and a special display ad was published in *The Herald* on January 8. It was brought to her attention on January 8 that the agenda on the website did not include the language that public comment would be received. As soon as she was made aware, that language was added to the agenda on the

website. That language was included on the other notices. She summarized the statement that public comment would be received did not have the same requirements as a public hearing notice.

Council President Olson emphasized the only required notice was to the newspapers and the Councilmembers. Ms. Chase noted there was a list of media to be notified. Mr. Snyder clarified this was only for legislative matters; quasi judicial matters had different notice requirements.

COUNCILMEMBER WAMBOLT MOVED, SECONDED BY COUNCILMEMBER MARIN, TO RECONSIDER THE TABLING OF THE COUNCIL'S DELIBERATION. MOTION CARRIED UNANIMOUSLY.

Mr. Snyder clarified the motion that was tabled was now before the Council.

4. POTENTIAL CONTINUED DELIBERATION AND ACTION ON AN ORDINANCE ADDING A NEW CHAPTER 16.43 ESTABLISHING BD-DOWNTOWN BUSINESS ZONES AND AMENDING THE CITY'S ZONING MAP TO REZONE CERTAIN PROPERTY SPECIFIED THEREIN TO BD CATEGORIES

Mayor Haakenson explained the motion before the Council, made by Councilmember Marin and seconded by Council President Olson, was to approve Alternative #1 in Ordinance No. 3622 in Exhibit 3. He recalled a motion was then made by Councilmember Wambolt to table that item.

COUNCILMEMBER MARIN WITHDREW HIS MOTION WITH THE AGREEMENT OF THE SECOND.

Councilmember Dawson spoke in favor of further Council deliberation as she agreed with Mr. Snyder the emails were close to deliberation. Given that the expectation was established that public comment would be taken next week, she recommended the Council not take action until January 16. She supported further Council discussion and public comment tonight as well as next week.

Councilmember Marin explained he withdrew his motion with the expectation action would be taken next week or the following week to approve the first of the two ordinances.

Councilmember Dawson noted Councilmember Moore would be absent from next week's meeting and she had comments she wanted put in the record. Councilmember Moore responded her comment was that she wanted the ordinance passed tonight, noting this was not a permanent document and could be changed at any time. If the Council did not plan to vote, she could delay her comments until a vote was taken.

Councilmember Wambolt agreed with Councilmember Dawson's suggestion, noting he had been in favor of taking a vote tonight until he learned the statement that additional public comment would be taken was not included on the website. Although all the legal notice requirements were met, the public was informed last week that public comment would be accepted on January 16 and it was likely there were people who were unaware that this issue was on tonight's agenda. Although he disliked delaying the vote, he agreed it was appropriate.

Councilmember Moore requested Council President Olson arrange to have her on a speaker phone during next week's meeting as this was too important a matter to miss participating in the vote.

Mayor Haakenson asked whether it would be beneficial to have some Council dialogue tonight rather than wait until next week. Councilmember Dawson suggested taking public comment tonight and possibly giving direction to Mr. Snyder with regard to stories. She noted the information with regard to

stories would be a valuable exercise regardless of whether the Council intended to make that part of the code. However, she did not want to proceed with researching that language if it required an excessive amount of the City Attorney's time.

Councilmember Moore commented if the height was limited to 30 feet, it did not matter whether the building was two stories or three stories. She preferred to have a height limit and not spend any attorney fees on researching stories.

Councilmember Plunkett recalled there was testimony regarding parking in the BD1. Although he had not stated his preference as he did believe the majority of the Council was satisfied with the parking requirement in BD1, he was willing to address that if other Councilmembers were interested.

Mr. Snyder suggested the Council make motions and vote so that staff knew what information the Council wanted. He acknowledged the Council may change their mind after the public comment, he preferred to develop a document that was close to the final document so that the public could provide meaningful comment.

Councilmember Wambolt noted the packet contained the proposed new language he submitted that did not include story. He thanked Planning Manager Rob Chave, City Clerk Sandy Chase and City Attorney Scott Snyder for the tremendous job they did gathering the materials for the Council packet.

Mayor Haakenson noted if the Council wanted to take public comment, there was nothing for the public to comment on because the motion had been withdrawn.

Whether the Council took action tonight or next week, Council President Olson recommended the Council discuss and agree on what they wanted changed and not continue to put this decision off.

COUNCILMEMBER MARIN MOVED, SECONDED BY COUNCILMEMBER MOORE, TO BRING FORWARD ORDINANCE 3622 FROM DECEMBER 19 FOR PUBLIC COMMENT ON JANUARY 16.

Mayor Haakenson noted unless the Council added anything new that was not discussed by the Planning Board or the Council previously, another public hearing on this document would not be required. Mr. Snyder clarified if the Council developed something that was new and had not been discussed by the Planning Board, it would need to go back to the Planning Board. Mr. Snyder advised the motion was Exhibit 1 in the packet.

Councilmember Plunkett suggested the Council dispose of any potential new issues such as parking and stories, and unless a majority of the Council wanted to make a change, everything was the same as had been discussed by the Planning Board.

Mayor Haakenson asked Planning Manager Rob Chave to describe this alternative. Mr. Chave explained Exhibit 1 was the document presented for Council consideration in December combined with the map in Exhibit 2. Exhibit 3 was a new alternative that corrected errata and also updated the footnote at the top of page 7 as a result of discussion by the Council at the last meeting regarding the definition of floor height to incorporate reference to the International Building Code definition of measuring between floors. Other errata was referenced in #3 on page 2 and changes on page 12 and 14 removing notes in the ordinance. The most significant change was Item #C2b (page 10 of the ordinance), a proposal made by Councilmember Wambolt to add the language, Within the BD1 zone, building height may be a maximum of 30 feet in order to provide for a minimum height of 15 feet for the ground floor. The allowable building height is measured from the "average level" as defined in Chapter 21.40.030 ECDC. Mr. Chave

explained this language would allow a 30-foot building in the BD1 zone at the street front with a 15-foot first floor. He noted Exhibit 1, the ordinance considered in December, required a setback in the BD1 zone above 21 feet. The alternative language would remove that requirement.

Mayor Haakenson clarified staff's recommendation was to approve the ordinance in Exhibit 3 which was alternative ordinance #1. Mr. Chave explained Exhibit 1 in the packet was the ordinance the Council considered in December, Exhibit 3 was alternative ordinance #1 that is staff's recommendation.

At Mayor Haakenson's request, Councilmember Marin restated his motion as follows:

TO BRING FORWARD ORDINANCE 3622, CONTAINED IN EXHIBIT 3 FOR PUBLIC COMMENT ON JANUARY 16.

Councilmember Orvis clarified the motion on the table was 30 feet in the BD1 with no step-back. Mr. Chave advised that ordinance was contained in Exhibit 3.

Councilmember Wambolt expressed his support for the motion but did not want to vote on it tonight.

Councilmember Dawson expressed concern with not requiring any parking whatsoever in the BD1 zone. She supported treating the BD1 zone like other BD zones and not requiring parking for the first floor commercial but wanted some parking for the residential. She acknowledged the market may drive this but she was not comfortable eliminating the parking requirement for residential in the BD1.

COUNCILMEMBER DAWSON MOVED, SECONDED BY COUNCILMEMBER PLUNKETT, TO AMEND THE ORDINANCE AS PROPOSED TO MAKE BD1 PARKING CONSISTENT WITH OTHER BD ZONES AND NOT REQUIRE PARKING FOR COMMERCIAL BUT REQUIRE PARKING FOR RESIDENTIAL.

Councilmember Moore asked staff to comment on the size of the lots and ownership pattern in the BD1 zone and the impact a parking requirement would have. Development Services Director Duane Bowman referred to a map of the BD1 zone, pointing out there was alley access to serve many of the lots on Main Street and on 5th Avenue which provided the potential to create parking off the alley. He noted there were a few lots that did not have alley access but they were fairly small. He noted under the ordinance, 4800 square feet or less was not required to provide any parking.

Councilmember Marin noted the requirement to provide parking for residential space in the BD1 did not necessarily mean it had to be provided on site. Mr. Bowman agreed a joint parking agreement was another method for providing parking. Councilmember Marin suggested the audience be allowed to comment before the Council voted on this matter.

Councilmember Wambolt commented the parking requirement was recommended by the Planning Board. He preferred not to vote until the public had an opportunity to comment next week. Mr. Snyder advised deleting the parking requirement was part of the proposal before the Council at the time of the public hearing. He did not recall whether anyone had commented on it.

Councilmember Dawson clarified her intent was not to approve it but to bring it back next week for additional public comment.

Mr. Bowman pointed out no new curb cuts were permitted along 5th or Main within the BD1 zone which may affect the ability for property owners to provide parking. He acknowledged a joint parking

agreement could be an option. He recalled Mark Hinshaw's comment about not having curb cuts in order to maintain the continuation of storefronts.

Councilmember Orvis noted there was currently a parking requirement for commercial space. Mr. Bowman agreed this would be a change to that requirement.

Mayor Haakenson opened the public participation portion of this item.

Karen Wiggins, Edmonds, relayed her conversations with many business people who questioned the proposal not to require any parking for commercial uses. Commercial uses generated more people per square foot than residential uses – usually about one person for every 250 square feet for commercial versus a residence that could be one person for 2,000 square feet. She recalled in May 2003 the Council approved the parking study that found there were 500 employee parking permit spaces. In 2006, a total of 433 employee permits were sold, the employee parking spaces were virtually full. She noted there were likely other employees parking illegally downtown. She acknowledged more employee permit parking could be established but it would move it further into the residential areas. She urged the council to reconsider requiring no parking for commercial uses and at least require one space per 800 square feet.

Bob Gregg, Edmonds, commented parking for residential would take care of itself as the market would likely drive at least one space per condominium. He pointed out requiring parking but not allowing curb cuts would be problematic. The reason the parking requirement was eliminated was due to the cost of underground parking and as a compromise to the 15 foot first floor. He pointed out the code allowed parking to be anywhere in the BC zone, questioning whether this amendment would now allow parking to be anywhere in the BD zone or only in the BD1 zone. He urged the Council to vote tonight and make further changes as needed over time. He remarked on parking available in the BD1 zone at noon. He cautioned the Council about last minute amendments that had unintended consequences.

Don Kreiman, Edmonds, advised he had just learned of the ability to provide public comment tonight after hearing last week that public comment would be taken on January 16. He recalled the parking study stated two-thirds of the parking was private, finding there was enough total parking but not enough public parking. He noted if the Chair of the Parking Committee, Karen Wiggins, had a concern about the parking requirements, the Council needed to take more time to study it. He suggested the Chamber comment on the parking issue.

Roger Hertrich, Edmonds, relayed that after discussions with several business people, most were unaware of the proposal to eliminate the parking requirement. The retailers were busy with their businesses and often did not know what was occurring at the Council or Planning Board level. He suggested the only downtown use that should not require parking was a small hotel served by public transit. He described his research that found there were a lot of vehicles parked behind buildings. Eliminating the parking requirement would put pressure on business with parking to redevelop.

Darrell Marmion, Edmonds, referred to the language in the proposed ordinance for the BD5 zone regarding encouraging live/work space. He understood the intent, to allow for a shop with residential space; his concern was the wording that multiple residential have the potential for live/work and that it be designed so that a home occupation can be established in the space. He interpreted that as multifamily would be allowed in the entire building with no setback. Next he referred to page 9, section 6b which stated within the BD2, BD3 and BD4 zones, residential units could be located behind commercial uses on the first floor. He noted this no longer applied only to property adjacent to residential property. With regard to the proposal to allow 30-feet in the BD1 in order to achieve a 15-foot first floor, he pointed out a 15-foot first floor could be achieved via not having a second floor or by stepping the building back.

Steve Bernheim, Edmonds, echoed Mr. Marmion's concern with 30-foot buildings. He questioned why a height bonus would be allowed for the second floor in return for providing a 15-foot first floor. He disagreed with the comment by an architect on the Planning Board regarding the volume of interior space, questioning the requirement to provide larger spaces in this age of energy shortages. Next, he expressed support for requiring no parking which would promote less dependence on the automobile in commercial zones. He recommended merchants be educated on pedestrian and non-automobile oriented zones and that the space devoted to parking could be more valuable as a pedestrian area. With regard to rooftop gardens, he recommended looking at the code from an environmental point of view. He recommended the ordinance mention energy efficiency for the 15-foot first floor.

Hearing no further comment, Mayor Haakenson closed the public participation portion of this item.

In response to Mr. Marmion's comments regarding live/work space, Mr. Chave recalled the Planning Board considered two options – mixed use like in the other zones or something that was more residential. Their intent was a more stringent requirement for public art, streetscape and live/work units. He noted the BD5 zone was on 4th Avenue. With regard to Mr. Marmion's comment about the first 60 feet of the building, the Planning Board did not feel that a requirement adjacent to residential was warranted as long as it was beyond 60 feet.

Councilmember Plunkett asked whether the BD5, also referred to as the arts corridor, could be multifamily. Mr. Chave answered yes with live/work space but it could not be strictly multifamily. He explained traditionally live/work space had been the shop downstairs and the residential upstairs. Modern situations were sometimes artist studios incorporated into the floor but it essentially looked like a residential building from the outside. The intent of live/work was a space that functioned as a business and also provided for residential use.

Councilmember Plunkett recalled Mr. Marmion referred to it as multifamily. Mr. Chave explained it was similar to multifamily in that there were no setbacks and multifamily uses would be allowed but it would require live/work space, thus it was not traditional multifamily. He clarified each residential unit must have a work space associated with it. The intent was to provide a commercial presence on the street and reduce the need for commuting. Mr. Snyder commented another way to look at it was a home use occupation without the limitations in the code.

Councilmember Dawson asked what was currently allowed in the BD5 zone. Mr. Chave answered the southern part was BC until Edmonds Street and beyond that was multifamily. Councilmember Dawson clarified multifamily was currently allowed in a minority of the zone; this would expand the use of multifamily in that area but require every residential unit have a live/work space.

With regard to eliminating the parking requirement in the BD1, Councilmember Dawson was concerned with removing the requirement for parking and restoring it at a later date. She noted it was easier to take something away than add it back in as property owners would have an expectation regarding how they could develop their property without providing parking. She asked if there had been any comment at the public hearing about this. Mr. Chave explained staff made a point of explaining the parking rules but the focus was on building heights. He concluded in his experience no one ever agreed about parking.

Councilmember Dawson asked if there would be any problem with regard to developing expectations if the Council removed the parking requirement and later restored it. Mr. Snyder explained any established use would be grandfathered and the Council could amortize that out over a period of time. He agreed if parking were required and the prohibition on curb cuts was retained, parking would have to be provided off site or via an alley.

With regard to Mr. Gregg's comment about the current code's requirement that parking be provided within the BC zone, Councilmember Dawson suggested the code reference an area. Mr. Chave acknowledged a follow-up ordinance would be required to update some of the references in the code. His preference would be to allow it in any of the BD zones. Councilmember Dawson asked when that clarification would be presented to the Council. Mr. Chave answered some of it would be determined by what the Council ultimately approved but it would only take a week or two.

Councilmember Dawson commented the reason the Planning Board did not require parking for commercial uses in the BD1 was the height limit made it difficult and expensive and there was nowhere to put the parking on the small lots. Mr. Chave agreed, noting the BD1 was not a uniform area; portions had alley access but some did not.

Councilmember Dawson observed the proposed ordinance would not affect employee parking requirements. Mr. Chave agreed it would not. Councilmember Dawson commented the requirement for residential parking was consistent with the requirements in the rest of the code.

Councilmember Moore commented this was why she wanted to vote on the ordinance tonight because there were all kinds of options and this was an issue that had been studied and discussed for years. She was concerned that reopening the issue of parking would require future discussion and study and possibly another parking study since the last one was conducted in 2003. She preferred to vote on the proposed ordinance and revisit issues such as parking separately in the future.

Councilmember Moore commented she did not necessarily agree with the 15-foot first floor, it may be too high. She commented it had been so long she was losing track of how things like the 15-foot first floor came about. She urged the Council to pass the ordinance and then consider changes issue by issue. She objected to reconsidering pieces of the ordinance, envisioning that process could take a long time. She referred to an article by Mark Hinshaw that supported maximum parking standards rather than minimums and that it was possible to change commuting patterns by limiting the parking supply. She agreed with Mr. Bernheim's suggestion to decrease dependence on automobiles particularly in a pedestrian friendly downtown. A study referenced by Mr. Hinshaw found a constrained parking supply and high parking fees often resulted in greater retail activity because shoppers parked once and walked to multiple destinations or used transit.

Councilmember Moore commented she was not interested in ensuring developers made a profit but she supported practical development for downtown so that vital retail could increase the City's sales tax revenue. She noted the Community Services/Development Services Committee was asked to consider lighting for Main between 5th and 6th where the sidewalks would be torn up for utility work; however, there was not enough money in the budget for lighting. She referred to information contained in a memo from Mayor Haakenson that stated Edmonds was the second largest city in Snohomish County but near the bottom in sales tax per capita.

Councilmember Orvis asked if the first floor height in the BD5 live/work was 12 feet. Mr. Chave answered yes. Councilmember Orvis noted ground floor residential was not allowed in the rear in BD1 and BD5. Mr. Chave agreed.

Councilmember Dawson explained it did not make sense to exempt residential from parking requirements in the BD1, particularly as on-street parking in BD1 was limited to 3 hours. She noted it could be changed in the future for certain circumstances such as for affordable housing. She preferred to err on the side of consistency with the other BD zones.

Council President Olson commented the parking study found there was 3500 parking spaces, two-thirds of which were off-street private spaces. The parking study also found 50% of the spaces were unoccupied, suggesting there was a surplus of parking. She noted one of the problems was people wanted to park in front of the store they were visiting, compared with the mall where you park once and walk to stores. She noted the BD1 zone was not very big and there were many parking spaces within two blocks. She concluded walking two blocks was not onerous.

Councilmember Moore commented another problem was employees parking in front of stores. She suggested the Downtown Edmonds Merchants Association urge retail owners and their employees not to park in the BD1 zone.

Councilmember Dawson restated her motion as follows:

TO BRING BACK AN ORDINANCE FOR PUBLIC COMMENT NEXT WEEK THAT REMOVED THE DISTINCTION BETWEEN BD1 AND B2, BD4 AND BD5 WHERE RESIDENTIAL PARKING IS REQUIRED AND THERE IS NO COMMERCIAL PARKING REQUIREMENT.

UPON ROLL CALL, MOTION CARRIED (4-3), COUNCILMEMBERS ORVIS, PLUNKETT, DAWSON AND MARIN IN FAVOR; COUNCILMEMBERS MOORE AND WAMBOLT AND COUNCIL PRESIDENT OLSON OPPOSED.

Mayor Haakenson pointed out none of the public comment referred to stories or floors. He also noted the packet included a request to reconsider the height exemption motion. With regard to stories, Mr. Snyder explained he gathered ordinances from a few other cities, noting most cities like Edmonds used a height limit as a bulk standard and handled interior uses via floor area ratio. He could provide a presentation regarding how a few cities regulated stories and Mr. Chave could explain the City's current methodology and how most cities used floor area ratio. However, further questions arose such as whether basement areas could be used for secondary purposes such as heating, electrical, engineering or parking. He concluded most cities have found it unproductive to use stories.

Councilmember Dawson commented stories had come up so many times and although she did not think the language would be adopted by the Council, it would provide a good perspective for this Council and future Councils. She clarified her request was that the Council allow Mr. Snyder to continue that work, not that the Council consider limiting the number of stories. Mr. Snyder commented it would require the creation of an entirely separate calculation of height and bulk requirements for a small area of the City. He suggested making a presentation at the Council's retreat.

Councilmember Wambolt explained he walked the entire BD1 zone and found there were only 48 buildings in the BD1 zone, 29 one story, 18 two story and only one with three occupied floors. He concluded the character of Edmonds was one and two story buildings. All the lots in the BD1 zone were sufficiently flat that averaging the floor corners would not allow a third floor, an assumption that was confirmed by Mr. Chave. He noted for the past several years, buildings in the BC zone were allowed a height of 25+5 feet for a total of 30 feet. The requirement for a 15-foot first floor produced the need for a 30-foot building height. He concluded this was not a height increase over the current height limit; the only way it could only be considered a height increase was a building could be 30 feet with a flat roof.

Councilmember Wambolt referred to Councilmember Moore's comment that the 15-foot first floor may be too high, recalling he had been opposed to the taller ceiling height but was convinced it was necessary.

With regard to the 15-foot first floor, Councilmember Marin explained the objective was to ensure the space downtown was viable for retail; a 15-foot first floor provided approximately a 12-foot ceiling with sufficient volume for good retail space. He found the discussion regarding the number of floors silly because the BC zone was fairly flat and it was unlikely anyone could construct a third floor inside a 30-foot envelope with a 15-foot first floor.

Councilmember Moore asked for an estimate of the cost for Mr. Snyder to study and make a presentation on stories. She noted if it was for future Council's use, she preferred they pay for it. Mr. Snyder estimated the cost of the research and a presentation at \$1500. He noted it would also require Mr. Chave's time to make a presentation regarding floor area ratio. He estimated a total of 14-15 staff hours with the presentation.

COUNCILMEMBER DAWSON MOVED, SECONDED BY COUNCILMEMBER ORVIS, THAT MR SNYDER AND MR. CHAVE MAKE A PRESENTATION ON STORIES AND FLOOR AREA RATIO AT THE RETREAT.

Councilmember Dawson clarified a written report and no presentation was acceptable to her.

UPON ROLL CALL, MOTION FAILED (3-4), COUNCILMEMBERS DAWSON, ORVIS AND WAMBOLT IN FAVOR, AND COUNCIL PRESIDENT OLSON AND COUNCILMEMBERS PLUNKETT, MOORE AND MARIN OPPOSED.

Mayor Haakenson referred to a request in the packet from a Councilmember for reconsideration of an amendment made in December regarding height exceptions. Mr. Snyder explained a motion to reconsider was required by someone on the prevailing side.

Councilmember Moore advised she was not on the prevailing side, she voted against this amendment made by Councilmember Orvis. She recalled it was a multi-faceted amendment that restricted the height limit to 30 feet by eliminating building cornices, roof and deck railings, pitched roof incentives, and elevators or stairs leading up to a roof deck as well as limiting architectural elements to one. She asked a Councilmember on the prevailing side to reconsider the motion due to the unintended consequences of this amendment. She pointed out the importance of a roof deck, noting many could enjoy a restaurant on a roof. A roof deck was not allowed because a railing or an elevator was not allowed. She noted there was a glass elevator in her view corridor in downtown Edmonds that led to a private roof deck and the elevator did not bother them at all and gave the people in the building a wonderful outdoor space. She objected to the Council's restriction of roof decks based on capricious and arbitrary height limits of 30 feet. She pointed out allowing people on roofs allowed more access to Puget Sound and promoted the small town feel as there were more eyes on the street.

With regard to cornices, Councilmember Moore pointed out the decorative cornice on the Beeson building that was above the height limit. She pointed out eliminating cornices would no longer allow a cornice on a building unless it was within the 30 foot height limit. She explained limiting architectural elements to one would only allow one bay window, thus Old Milltown which has two bay windows would be restricted to one. She emphasized there were many unintended consequences and asked a member of the prevailing side to reconsider the motion.

Mayor Haakenson advised the Councilmembers who voted in favor of the amendment were Dawson, Plunkett, Orvis and Wambolt.

COUNCILMEMBER WAMBOLT MOVED, SECONDED BY COUNCILMEMBER MOORE, TO RECONSIDER THE MOTION.

UPON ROLL CALL, MOTION CARRIED (4-3), COUNCIL PRESIDENT OLSON AND COUNCILMEMBERS MARIN, MOORE AND WAMBOLT ON FAVOR; COUNCILMEMBERS DAWSON, PLUNKETT AND ORVIS OPPOSED. The motion reconsidered is as follows:

COUNCILMEMBER ORVIS MOVED, SECONDED BY COUNCIL PRESIDENT DAWSON, TO AMEND THE PLAN AS FOLLOWS: 1) DELETE 16.43.030.C.5a REGARDING HEIGHT EXCEPTION FOR BUILDING CORNICES, 2) DELETE 16.43.030.C.5b REGARDING HEIGHT ROOF OR DECK RAILINGS, 3) CHANGE 16.43.030.5c TO INSERT THE WORD “SINGLE” BEFORE “DECORATIVE ARCHITECTURAL ELEMENT,” 4) DELETE 16.43.030.C.5d REGARDING PITCHED ROOFS, AND 5) DELETE 16.43.030.C.5e.

Councilmember Marin suggested considering the height exceptions separately. Councilmember Wambolt advised he would not support the pitched roof height exception; he was interested in further discussion on deck railings and cornices.

Councilmember Orvis made a presentation to describe why he made the motion to remove the language. He read the existing language regarding cornices – *building cornices or parapet walls extending along the roof edge, to a maximum of 3 feet above the specified height limit for that portion of the building. All such cornices or parapet walls shall include decorative patterns, layering or scrolling, and/or repeating sub-elements that result in an overall appearance that is not a single, flat, uninterrupted surface along the face of the building. When such a decorative cornice or parapet wall is provided along the entire perimeter of the building, skylights and/or rooftop mechanical equipment may be provided on the roof so long as these items do not exceed the height of the cornice or parapet wall.*

Councilmember Orvis noted the key phrase was *repeating sub-elements that result in an overall appearance that is not a single, flat, uninterrupted surface along the face of the building*. He provided a sketch of a building, illustrating the repeating sub-elements that could exceed the 30 foot height limit. He pointed out under his amendment, cornices would be allowed but only within the height limit. Next he displayed a drawing of what he envisioned the code would allow, a continuous cornice as long as there was a repeating sub-element along the face of the building. He noted this created the potential for a 3-foot solid mass that extended above the height limit. He noted skylights and/or rooftop mechanical equipment could also be installed behind the cornice which also extended the height limit.

He reviewed his opposition to the cornice language, 1) it allowed a building to extend above 30 feet to 33 feet, 2) 25 + 5 become 30 + 3, 3) no requirement for roof modulation due to the “along the face” language and vague language, and 4) additional building allowed behind the parapets.

Next Councilmember Orvis read the language regarding roof or deck railings proposed by the Planning Board that he deleted – *roof or deck railings may extend a maximum of 42 inches above the specified height limit if the railing is constructed so that it is at least 75% “open.” A simple example would be a 42-inch-high railing that consists of a series of 1-inch-wide vertical elements space at 4-inch intervals, on center*. He displayed a drawing of a railing that illustrated how 75% open did not protect the view, particularly when viewed at an angle. He also displayed a drawing of offset front and back railings, concluding offset railings increased the view blockage. He recommended pursuing roof decks as a separate issue to allow the Council time to understand the issues particularly as they relate to view. He displayed several pictures of clear railings, suggesting that may be one option to consider.

Councilmember Moore asked whose view Councilmember Orvis was attempting to protect, noting the BD1 was fairly flat and roof decks would allow more people to enjoy the view due to the ability to use the roof. Councilmember Orvis answered he was interested in protecting everyone’s view.

Council President Olson asked Councilmember Orvis if his research included talking with anyone who built roof gardens. Councilmember Orvis answered no, he read the code and determined what the code would allow. Council President Olson anticipated the result would be flat roofs. Councilmember Orvis disagreed, noting builders would provide cornices but they would be within the height limit. Councilmember Orvis pointed out there was no definition of decorative. He noted builders were also allowed a single architectural element, which Council President Olson pointed out could not cover more than 5% of the roof.

Council President Olson pointed out most builders wanted to build something that looked attractive. She commented Councilmember Orvis was viewing these as negatives and anticipating the result would be unattractive. Councilmember Orvis commented builders would likely do whatever met the economics of their building and it would result in higher buildings.

Councilmember Moore referred to Councilmember Orvis' reference to a 3-foot solid mass, noting that would not be considered decorative and would not be allowed by the code. Councilmember Moore asked staff to comment.

Mr. Chave explained the idea behind the Planning Board's recommendation was typically cornices were required for a flat roof; without the incentive for a decorative cornice, the result would be the minimum necessary which did not require any ornamentation or decoration. The Board and he were thinking of the cornices on older buildings which were a significant feature of the architecture as compared to buildings built more recently. The intent was to encourage something more decorative/artistic on the top of the building. With regard to not allowing roof and deck railings above the specified height limit, if that were interpreted to include the step-back, Mr. Chave explained it would not allow the step-back area to be used for a deck. Similarly, without a railing, a roof deck would not be allowed.

Councilmember Moore urged the Council to read her memo.

Councilmember Wambolt noted a parapet wall hid much of the mechanical equipment and skylights. He asked how those items would be provided within the height limit. Mr. Chave advised those features were exempted in the code; the code contained a provision for mechanical equipment and tops of elevators. Councilmember Wambolt pointed out the language was intended to encourage decorative cornices.

For Councilmember Wambolt, Mr. Chave explained the intent of the railing provision was to allow a railing within the step-back and on the roof. Although he preferred not to restrict railings in the step-back, Councilmember Wambolt preferred to leave the language out and study it further. .

In response to an inquiry from Councilmember Plunkett regarding the width between the vertical elements of a deck railing, Mr. Chave offered to provide further information for the public meeting regarding the minimum width required by the building code. He noted the language in the code was simply an example of a 75% open deck railing, not what would be required. Mr. Bowman noted the 4-inch vertical separation was required by the building code so that a child could not get between the railings. He noted glass would also provide the same protection. Mayor Haakenson remarked it would be desirable to be able to see through a roof top deck railing.

COUNCILMEMBER PLUNKETT MOVED, SECONDED BY COUNCILMEMBER MOORE, TO ACCEPT PUBLIC COMMENT ON THIS ISSUE. MOTION CARRIED UNANIMOUSLY.

Darrell Marmion, Edmonds, demonstrated an offset deck railing using his fingers and the window blinds, pointing out the amount of obstruction depended on the direction of one's view.

John Reed, Edmonds, noted cornices and parapets led to height creep. The provision regarding railings would not prevent a deck in the step-back because it only applied above the stated height limit of 30 feet. With regard to a single architectural element, he could accept 2-3 but the height would need to be controlled. He referred to the 30-foot building height and while he hoped some of these features would be incorporated into buildings, it would have to be within the 30-foot height limit.

Don Kreiman, Edmonds, pointed out the Council was making rules without asking any of the many architects in the City. He pointed out the importance of a railing for a roof top deck, noting many consumers would like to have a roof top garden. He supported allowing cornices and parapets to provide screening for the roof top equipment. He pointed out unless architectural elements were allowed, the result would be buildings that were unattractive square boxes. He concluded architects and builders were not only interested in making money, they also wanted to develop a unique, memorable building.

Bob Gregg, Edmonds, suggested the railing in the step-back or on the roof be transparent rather than 75% open, pointing out transparent deck railings also provided protection from the wind. He noted eliminating parapets and cornices was an example of unintended consequences as the HVAC equipment would now not be screened. He suggested a compromise, a cornice or parapet that was sufficient to screen roof top equipment. He recommended the Council adopt the ordinance as recommended by the Planning Board without the last minute amendments and send the issues that have been identified back to the Planning Board for further study.

UPON ROLL CALL, MOTION CARRIED (4-3), ORVIS, WAMBOLT, DAWSON AND PLUNKETT IN FAVOR; COUNCILMEMBERS MARIN AND MOORE AND COUNCIL PRESIDENT OLSON OPPOSED.

The Council agreed the ordinance moved by Councilmember Marin, seconded by Council President Olson with the amendments on parking and height exceptions and stories was the product staff would return to the Council for public comment on January 16.

Councilmember Dawson reiterated her discomfort with the 30-foot building height in the BD1.

Councilmember Moore expressed her dissatisfaction with the building height in the BD zones as she felt they should be higher.

It was the consensus of the Council for staff to provide options at the next Council meeting with regard to railings in the step-back and transparent deck railings.

5. **MOTION TO REMOVE THE FOLLOWING MATTER FROM THE TABLE: PROPOSED ORDINANCE REPEALING ORDINANCE NO. 3608 ESTABLISHING A MORATORIUM WITHIN THE CITY'S CENTRAL BUSINESS DISTRICT**

Due to action taken on Agenda Item 4, potential action on this item was deferred to the January 16 Council meeting.

6. **POTENTIAL DELIBERATION AND ACTION REGARDING A PROPOSED ORDINANCE REPEALING ORDINANCE NO. 3608 ESTABLISHING A MORATORIUM WITHIN THE CITY'S CENTRAL BUSINESS DISTRICT**

Due to action taken on Agenda Item 4, potential action on this item was deferred to the January 16 Council meeting.

7. **MAYOR'S COMMENTS**

Mayor Haakenson had no report.

8. COUNCIL COMMENTS

Councilmember Marin referred to his report a few weeks ago that the Snohomish County Health District had hired a new Health Officer, advising that candidate had been hired by another health district in California. The Snohomish County Health District Board has extended an offer to another candidate.

Councilmember Moore reported on the fabulous grand opening of the Edmonds Center for the Arts that Council President Olson and she attended. She urged the Council to continue to support the Center, reminding that the fundraising effort continued.

9. ADJOURN

With no further business, the Council meeting was adjourned at 9:33 p.m.