

CITY OF BELLEVUE  
BELLEVUE PLANNING COMMISSION  
STUDY SESSION MINUTES

May 22, 2013  
6:30 p.m.

Bellevue City Hall  
City Council Conference Room 1E-113

COMMISSIONERS PRESENT: Chairman Carlson, Commissioners Ferris, Hamlin, Laing, Sheffels, Turner

COMMISSIONERS ABSENT: Commissioner Tebelius

STAFF PRESENT: Paul Inghram, Nicholas Matz, Department of Planning and Community Development; Catherine Drews, Development Services Department

GUEST SPEAKERS: None

RECORDING SECRETARY: Gerry Lindsay

1. CALL TO ORDER

The meeting was called to order at 6:36 p.m. by Chairman Carlson who presided.

2. ROLL CALL

Upon the call of the roll, all Commissioners were present with the exception of Commissioner Tebelius who was excused.

3. PUBLIC COMMENT – None

4. APPROVAL OF AGENDA

A motion to approve the agenda was made by Commissioner Laing. The motion was seconded by Commissioner Hamlin and it carried unanimously.

5. COMMUNICATIONS FROM CITY COUNCIL, COMMUNITY COUNCILS, BOARDS AND COMMISSIONS

Commissioner Ferris reported that the Downtown Livability CAC to date has had a tour and conducted its first full meeting. The staff presented a proposed schedule, but the CAC members felt more time would be needed to understand what they are supposed to solve for. They also felt more public input should be sought along the way.

Commissioner Laing said he serves as co-chair of the CAC and said that along with the other co-chair Ernie Simas of the Transportation Commission he would be meeting with staff following the Memorial Day weekend to talk about revising the schedule. The CAC will be meeting on the third Wednesday of each month.

6. STAFF REPORTS

Comprehensive Planning Manager Paul Inghram said at the May 28 City Council meeting there

will be a recognition ceremony for Commissioner Sheffels. At the same meeting the Shoreline Master Program transmittal will be submitted.

## 7. STUDY SESSION

### A. Medical Cannabis Collective Gardens LUCA

Legal Planner Catherine Drews reminded the Commissioners that at the June 8 meeting the decision was made to use the interim ordinance as a starting point for drafting permanent regulations. Changes to certain provisions were proposed. She said the Planning Commission has a public hearing scheduled for July 24; by which time a draft land use code amendment will be ready for the Planning Commission's consideration. A target date in September has been identified for the Council to take action.

Ms. Drews called the attention of the Commission to Section 1 of the interim ordinance and asked for comments regarding paragraph A. Commissioner Laing indicated his support for requiring an administrative conditional use permit and suggested it would be helpful for the Commission to know what that process entails. Mr. Inghram said the process involves public notice, an opportunity for public comment, and then a decision by the department director. The full conditional use permit process is similar except the decision is made by the hearing examiner. Ms. Drews added that the benefit of the administrative conditional use is that it allows staff to impose conditions based on impacts to neighborhoods.

Commissioner Laing pointed out that an appeal for an administrative conditional use permit is before the hearing examiner, whereas an appeal for a conditional use permit is before the City Council. He said he did not have a strong opinion one way or the other but favored allowing for public comment.

Answering a question asked by Commissioner Sheffels, Ms. Drews said public notice is published, mailed to all properties within 500 feet of the subject property, and the posting of a sign is required. SEPA could be triggered depending on the site.

Ms. Drews said the interim ordinance incorporates the state provisions regulating collective gardens which states collective gardens can have no more than ten qualifying patients and no more than a total of 45 plants. Commissioner Ferris suggested that a size limitation should be imposed on collective gardens in Bellevue that is proportional to the total number of plants allowed as a way of making sure collective gardens do not exceed the maximum allowed number of plants.

Commissioner Ferris questioned the land use districts identified in the interim ordinance in which collective gardens are allowed. He said the Light Industrial district makes sense, but the General Commercial, Bel-Red General Commercial and Medical Institution districts do not.

Commissioner Sheffels asked if harvesting marijuana involves the removal of mature plants or just the trimming of leaves and branches. Ms. Drews said it was her understanding that the buds are harvested, not the entire plant. The plants are annuals and can get quite large.

Chairman Carlson said it would make sense to limit medical marijuana grow operations to the areas zoned for medical purposes. Commissioner Turner concurred.

Commissioner Hamlin asked if the land use districts identified in the interim ordinance mirror the approach used by other jurisdictions. Ms. Drews the four zones called out by the interim

ordinance have in common the fact that none of them have residential uses and they do not abut residential uses. Additionally, the four districts are scattered throughout the city, thus the use is not focused on a single area of the city. Commissioner Hamlin voiced his support for allowing collective gardens in the four land use districts called out in the interim ordinance.

Commissioner Ferris said there is not much land in the city zoned for medical uses and added that he would not want to tie up the land the city otherwise wants to see housing a medical office building, a hospital, or some other dedicated medical use. He said security will be vitally important and suggested that having several of the collective gardens, each restricted as to its overall size, located in a single building in a light industrial district; that would allow for better security and control over the use. The prohibition against allowing more than one collective garden per tax parcel should be revisited.

Chairman Carlson asked if anyone from the Drug Enforcement Agency (DEA) or the United States Attorney's office talked to staff or the Council about the proposal. Ms. Drews said there have been no such discussions. Chairman Carlson pointed out that in April 2012 the DEA sent cease and desist orders to 23 marijuana collectives. In a letter from Matthew Barnes from the DEA, it was stated that he was confident that once notified of the ramifications and penalties associated with renting a property for marijuana distribution purposes, property owners will take appropriate steps to rectify the situation on their own, and that the DEA will not turn a blind eye to criminal organizations that attempt to use state or local law as a shield for their illicit drug trafficking activities. Chairman Carlson went on to say that just recently the Seattle collective garden was closed down by the DEA. Ms. Drews said the uses that were closed down by the DEA were actually medical marijuana dispensaries. The Seattle use that was shut down was located less than 1000 feet from a school. The Council wants to be compassionate by allowing those who need medical marijuana to be able to come together and grow it if they are unable to get it on their own, but the Council is clear in not wanting to allow medical marijuana dispensaries in the city limits. Chairman Carlson suggested that a briefing by the DEA would benefit the Commission's deliberations.

Commissioner Laing voiced the opinion that the DEA would be unlikely to share with the Commission direction on how to craft an ordinance that complies with federal law. Rather, the DEA would likely say the use of marijuana is illegal. What is missing from the interim ordinance is a provision that makes it very clear to everyone that local law does not abridge federal law and that anyone wanting to participate in a collective garden should know what federal law states. He agreed that there is something intuitive about having a number of collective gardens located in a single building, but added that he would like to hear the opinion of the Bellevue police department about that. At the very least the ordinance should include specific security measures. Mr. Inghram agreed the ordinance could include language addressing a performance standard for security standards. He said he would follow up with the police to see if they would like to come to a future Commission meeting.

Commissioner Laing said he would like to see added to paragraph F of Section 1 a restriction against allowing a collective garden to locate within 1000 feet of a residentially occupied structure. Mr. Inghram said that restriction likely would wipe out most areas in which a collective garden could otherwise locate under the provisions of paragraphs E and F. The Light Industrial and Medical Institution districts are generally within a 1000 feet of residential uses. There may be some General Commercial areas that are outside that limit, but if and when Bel-Red develops with residential uses, that may make those areas off limits as well.

Commissioner Laing proposed replacing the word "may" with "shall" in paragraph E.

Commissioner Sheffels voiced the notion of restricting the hours during which people can visit a collective garden. Additionally, anyone participating in a collective garden in Bellevue should be required to be a resident of Bellevue.

Answering a question asked by Chairman Carlson, Ms. Drews pointed out that medical marijuana patients can grow up to 15 of their own plants, and can also elect to designate someone to be their provider. Designated providers can under state law have up to 15 plants for themselves as well as up to 15 plants for the person for whom they are acting as a designated provider.

Commissioner Ferris said the collective impact of the restrictions imposed by paragraphs D and F is that collective gardens must be dispersed throughout the city. The benefit of allowing more than one operation on a single tax parcel would be the ability to be more restrictive about where the uses should be allowed to locate.

Mr. Inghram said the Medical Institution district is limited to the area in and around Overlake Hospital, Group Health and Children's Hospital. The district is narrowly constrained to permit only hospital and associated uses, and it is questionable whether or not a collective garden would work in the district. There are only a handful of Light Industrial sites, including along SR-520, 118th Avenue SE, to the south of SE 8th Street, by the transfer station in Eastgate and on the west side of I-405 at the south end of 118th Avenue SE. Bel-Red General Commercial is located along NE 20th Street and 136th Avenue NE, as well as the area at the south end of Lake Bellevue. There are a number of General Commercial properties scattered around the city, including along 116th Avenue NE and 120th Avenue NE to the south of NE 8th Street, and some sites in Eastgate and Factoria.

Commissioner Ferris suggested the collective garden use would not be a good fit for General Commercial which hosts uses that have people coming and going all the time. He reiterated that Light Industrial would be the best fit.

Commissioner Sheffels asked what is to stop collective gardens that overproduce medical marijuana from making it available to the general populace. Ms. Drews said under I-502 there are strict licensing guidelines for retailers, producers and growers. A very tight tracking system has been proposed about the weight of the marijuana shipped and received, and where it came from. Producers of medical marijuana cannot also be producers of recreational marijuana.

#### B. East Link and Station Area Planning

Mr. Inghram explained that because the Council and Sound Transit board have made a decision regarding alignment, the focus is shifting away from where stations will be located to the design of the stations and what land use planning should be done around them. He referenced the materials included in the Commission packet and said the issue will be take up in more detail on June 12.

### 9. OTHER BUSINESS

#### A. Recognition of Commissioner Sheffels

Senior Planner Nicholas Matz shared with the Commission a retrospective Power Point of the years Commissioner Sheffels served on the Commission. He noted that Commissioner Sheffels served twice as the chair of the Commission and was elected to and served a term on the national American Planning Association (APA) board of directors. She also served on the APA Planning

Commission Advisory Committee for four years; contributed to a CD Rom on ethics in the fall of 2003; served on the boards of United Way, the American Red Cross, and the Hearing, Speech and Deafness Center. He noted that the list of topics addressed by the Commission during Commissioner Sheffels' tenure is long and varied and commented that during the time she served on the Commission the city underwent a tremendous amount of change in demographics and development.

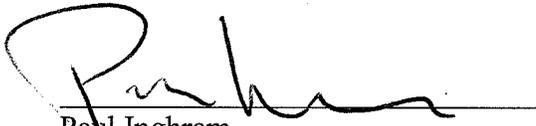
Commissioner Sheffels was presented with a framed aerial photo of the city and a plaque commemorating her years of service to the city.

Chairman Carlson said he had learned a great deal both talking and listening to Commissioner Sheffels. He said her profound institutional memory has proven to be a strong asset for the Commission. He said her work on behalf of the city likely has changed the city as much if not more than any elected official in the city over the past 20 years.

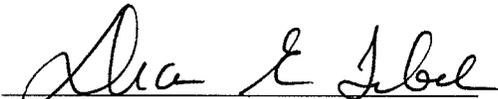
A motion to table all further business and adjourn the meeting was made by Commissioner Ferris. The motion was seconded by Commissioner Turner and it carried unanimously.

13. ADJOURN

Chairman Carlson adjourned the meeting at 7:45 p.m.

  
Paul Inghram  
Staff to the Planning Commission

9/25/2013  
Date

  
Diane Tebelius  
Chair of the Planning Commission

9/25/13  
Date

\* Approved September 11, 2013

