CITY OF BELLEVUE
BELLEVUE PLANNING COMMISSION
STUDY SESSION MINUTES

December 12, 2012 Bellevue City Hall
6:30 p.m. City Council Conference Room 1E-113

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

COMMISSIONERS ABSENT: None

STAFF PRESENT: Paul Inghram, Department of Planning and Community Development; Carol Helland, Michael Paine, David Pyle, Development Services Department

GUEST SPEAKERS: None

RECORDING SECRETARY: Gerry Lindsay

1. CALL TO ORDER

The meeting was called to order at 6:30 p.m. by Chairman Carlson who presided.

2. ROLL CALL

Upon the call of the roll, all Commissioners were present.

3. PUBLIC COMMENT

Mr. Marty Nizlek, 312 West Lake Sammamish Parkway, provided the Commission with copies of a memo from the Washington Sensible Shoreline Association provided the Commission with copies of a memo from the Washington Sensible Shoreline Association that he said provided a cover and a table of contents for the item from WSSA that had been included in the Commission packet. He said the document talks about what the mission of WSSA has been over the past several years, how the Association has contributed at various meetings, at the public forum, by reviewing various drafts, and addressing numerous topics. WSSA believes that the draft as prepared will accomplish a number of things. Where stabilization is concerned, local conditions are recognized. There is no requirement that forces the removal of necessary shoreline protections, though there is a preference for soft shoreline stabilization. The document does not casually apply critical areas buffers where there are no critical areas. It recognizes that science is not definitive when it comes to buffers. It is consistent with neighboring jurisdictions. The greenspace element is an innovative approach developed by the staff. The moorage section allows for reasonable access to and use of the lake waters consistent with the Shoreline Management Act. It provides guidance with the variance dimensions and characteristics, but differs to federal and state agencies. The document recognizes the developed nature of the shorelines and complies with the state requirements relative to repair and replacement without burdening property owners with nonconformity status. With respect to new development, the document recognizes there will be a limited amount thereof. It complies with the state requirement for no net loss of ecological functions, and allows for new development that will be compatible with the existing community. The document does not define how the program outcomes will be measured for the cumulative analysis impact study that is called for. It does

not include a supporting set of city and nonregulatory programs. It lacks some policy considerations that should be included, including critical areas ordinance integration and flood hazard regulations.

Ms. Anita Scoog-Neil, 9302 SE Shoreland Drive, commented that at the time of the initial draft and the public hearing, there was a need for the policies to be reviewed and made consistent with the final amended version of the draft. She provided the Commissioners with copies of a memo from WSSA outlining a number of items pertinent to that task. As the Commission moves forward with its transmittal to the City Council, the Bellevue-appropriate approach embedded in the policies should be kept in mind. The list of issues that should be considered include acknowledging the substantially urbanized condition of the shorelines; ensuring no net loss of existing shoreline functions rather than requiring a return to predevelopment conditions; enhancing neighborhood livability by focusing on preservation; recognizing that the effective stewardship of shoreline resources requires partnerships with all Bellevue residents and city departments; adoption of a user-friendly regulatory framework that is flexible and requires a minimum of technical expertise; ensuring that practices taken by the city will allow increased regulatory flexibility for private property shoreline owners; ensuring that the Shoreline Master Program will be tailored to the unique characteristics of Bellevue; providing opportunities to voluntarily fund and implement restoration; affirming that the Shoreline Master Program goals are not achievable through regulation alone; and pursuing regulatory changes only to the extent that such changes are consistent with constitutional and other legal limitations on the regulation of property rights.

Mr. James Mackey, 1408 West Lake Sammamish Parkway SE, spoke as commodore of the Lake Sammamish Yacht Club and stated his support for the WSSA requests for amendments and changes to the draft. He voiced his appreciation for the hard efforts and late nights put in by the Commission and the staff. He said his property includes only 20 feet of shoreline and noted that the element that calls for obtaining permission from neighboring property owners before being allowed to have a boat lift within ten feet of a property line will make his boat lift noncompliant, and would eliminate the ability to add a boat lift on similar properties. Additionally, the requirement limiting the percentage of permeability within 25 feet of the shoreline will greatly impact property owners who have little shoreline frontage.

Mr. Charlie Klinge, 10900 NE 8th Street, spoke on behalf of WSSA. He said the long discussion at the November 28 Commission meeting was very productive. The edits that have been made appear to capture the concerns of the Commission and are supported by WSSA. He called attention to policy SH-65 and suggested the reference to ensuring new development is sufficiently removed from flood plains so as not to require structural flood protection is a debate that needs to happen as part of the critical areas ordinance. Where FEMA is concerned, development can be allowed in the flood plain if it is mitigated. With regard to policy SH-98, which is about limiting fill, it is unclear whether or not the toe of an angled rock revetment is accommodated. Turning to policy SH-113, which prohibits new or expanded shoreline stabilization except in support of a legally established primary structure, may not accommodate an existing established lot that is currently undeveloped but which may when developed require shoreline stabilization. The explanation document submitted by WSSA attempts to serve as a resource by the Commission, by staff and the Council in going forward; it is also something that could be expanded to include other issues.

Mr. Ken Seal indicated his comments were not on behalf of the East Bellevue Community Council. He noted that when the Growth Management and the Shoreline Management acts first came out, there were many who thought they would be terrible to try to administer. Meetings were held to make some of the language plain to those who would be involved with it. The

Shoreline Master Program document that was posted online is fairly readable and should be somewhat easy to deal with. The general philosophy is workable and hopefully will be acceptable to the state.

4. APPROVAL OF AGENDA

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

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

Deputy Mayor Robertson reported that the Council will be recessed until January 7, 2013. She reported that the Council voted on December 11 to deny the Lorge-Benis Comprehensive Plan amendment.

6. STAFF REPORTS

Comprehensive Planning Manager Paul Inghram noted that while the Council voted not to approve the Lorge-Benis Comprehensive Plan amendment, there was unanimous agreement among the Councilmembers with regard to supporting something happening there. Their discussion was a reflection of the discussions had by the Commission, and the ultimate question was whether or not the Comprehensive Plan amendment process was the right tool to accomplish the goal. There was some discussion regarding the variance process and the fact that the transition area standards apply to the site even though there are no adjacent single family homes. The applicant brought forward their interest in having additional height but without including residential uses. There was also some discussion as to whether or not the PO zone is working, and that is something that could be addressed during the Comprehensive Plan update process.

7. STUDY SESSION

A. Shoreline Master Program Update

Land Use Director Carol Helland called attention to Attachment A of the packet materials and said it is a checklist to be referred to at the end of the deliberations. She said Attachment B and Attachment C were bound separately and together constituted the Shoreline Master Program update for which the Commission would need to take action; the restoration plan, already approved by the Commission, was not reprinted. The policies and code sections were revised by including all of the changes approved to date by the Commission; the only red line and strike drafts in the document are those asked for by the Commission on November 28. Attention was also called to a handout for section 20.25H.080 for which there was additional feedback after the packet had been printed relative to the replacement of hardened stabilization.

Commissioner Hamlin said in general the document reflects what the majority feel are the right kind of things. ~~Chair~~ Commissioner Turner concurred.

Commissioner Sheffels said she generally was okay with the draft but still had some specific concerns. She said she would vote against the full document because of those concerns and highlight them in the transmittal memo as part of the minority report.

~~Commissioner~~ Chairman Carlson said he also was largely satisfied with document as revised. He said the time taken by the Commission, the public and the staff has vastly improved the

document.

Commissioner Tebelius said while she cannot agree with everything in the document, she said in the light of compromise she has agreed to accept some things. She said she is generally in favor of the document as drafted.

Commissioner Laing said the document certainly does not include every little thing that everyone wanted. He noted, however, that he is impressed with the final result. He praised the staff for the work they put into it, especially the speed with which they were able to turn things around. If there are significant points of disagreement that could still be resolved, they should be highlighted before the draft is put to a vote.

Commissioner Ferris suggested the Commission should take the time to review the new materials presented at the meeting and said he would be uncomfortable simply accepting them as submitted. He said overall the document is good, though he noted that he still had a difference of opinion with the majority of the Commission regarding a few issues.

Commissioner Tebelius called attention to the Shoreline Master Program element goals. She said she clearly agreed with Goal 6, which gives priority to single family residences, but questioned whether or not the wording of Goal 7 is consistent in that it gives priority to non single family uses. Ms. Helland said the policy language is drawn almost directly from RCW 90.58, which lists a prioritization. The Commission adjusted the prioritization to craft a Bellevue-appropriate approach. Water-dependent uses are specifically identified in the Shoreline Management Act as something deserving preferential treatment. As drafted, the goals are not inconsistent.

Commissioner Tebelius referred to the second paragraph in the overview section of the policies and asked if the key objectives of protecting and restoring, planning for and fostering uses dependent on a waterfront location, and increasing recreational opportunities for public enjoyment of the shoreline mirror what the Shoreline Management Act says the Shoreline Master Program is supposed to accomplish. Ms. Helland said the language is largely unchanged from the overview included in the policy section of the existing shoreline element. It is also similar to a parks policy in a separate section of the Comprehensive Plan where acquisition of properties on Lake Washington and Lake Sammamish is identified as an ideal for the city.

Commissioner Tebelius moved the focus to the third full paragraph on the third page of the shoreline policies and highlighted the language "even more important is the focus on no net loss of ecological function necessary to sustain shoreline resources identified in the Shoreline Inventory and Analysis." She said it was her understanding that no net loss refers to no further damages, not to restoration. Ms. Helland said the Shoreline Inventory and Analysis establishes a baseline to which the concept of no net loss is tied.

Commissioner Tebelius called attention to policy SH-2, the language of which prohibits new over-water uses and development, and pointed out that WAC 173-26-211(5)(c) allows them. Ms. Helland said while the policy language and the WAC language are not exactly the same, the end result of both is the same.

Answering a question asked by Commissioner Tebelius regarding policy SH-3, planner David Pyle explained that in the design of docks, the walkway and the spacing of pilings must allow for the safe migration of fish along the shoreline. Commissioner Tebelius pointed out that the regulations as drafted give design control to state and federal authorities; she suggested the policy language addresses an issue that will not be under the control of the city. Ms. Helland

said the city holds some responsibility for habitat under the Endangered Species Act, and there are species of importance in both Lake Washington and Lake Sammamish. The policy also talks about surface navigation and as such is the policy that drives an array of regulatory solutions that have been affirmed by the Commission, including the standards contained in Chart 20.25E.065(H)(4). The regulations do include a mechanism for deviation should one be approved by the state and federal agencies.

Commissioner Tebelius asked what areas of the city are designated Urban Conservancy. Ms. Helland said the designation is utilized almost entirely for park properties. It does not include Vasa Park, which the Commission changed to Shoreline Residential.

Commissioner Laing called attention to policy SH-7 and questioned using the word "outright" in it. He noted that Meydenbauer Bay Park is an outright permitted use as opposed to a conditional use. Parks throughout the city have been conditional uses in other zones. The policy language is overly prescriptive in defining the process and would be improved by deleting the word "outright." There was agreement on the part of the Commissioner to make the change.

Commissioner Tebelius referred to the paragraph describing the Shoreline Residential Canal environment designation, particularly to the second sentence, and suggested that most of the residential properties on Lake Sammamish and Lake Washington have low levels of shoreline ecological function, not just the Newport Shores area. The designations given to the Shoreline Residential Canal property owners is more favorable than the designations given to most other waterfront homeowners. At the very least, the transmittal memo should reflect the understanding of the Commission that the Lake Sammamish and Lake Washington shorelines generally have low levels of ecological function. Ms. Helland pointed out that the language of the Shoreline Residential environment designation paragraph is clear in noting that the properties given the designation exhibit moderate to low levels of ecological function because of historic shoreline modification activities. The anticipation is that the Commission's objectives will be discussed in the staff report, and that would capture the issue.

Commissioner Tebelius asked if the word "moderate" could be eliminated from the Shoreline Residential environment designation criteria paragraph. Mr. Pyle pointed out that there are some shoreline properties with the residential designation that in fact do exhibit a moderate level of shoreline ecological function. There are also some reaches that include several properties in clusters that have a higher level of ecological function. The language of the paragraph is intended to characterize the entire shoreline as opposed to specific areas that might have a lower level of ecological function.

Commissioner Laing suggested the last sentence of the paragraph describing the purpose of the Shoreline Residential environment designation should be revised to read "An additional purpose is to provide appropriate public access and recreational uses on publicly owned lands." He said that would be consistent with the prescriptive regulations the Commission has recommended and avoid creating any misunderstanding.

The consensus of the Commission was that the prescriptive nature of the regulations will guide the provision of appropriate public access and as such the proposed language revision was not needed.

Commissioner Tebelius pointed out a typographical error involving the number of items under policy SH-14.

Commissioner Sheffels referred to policy SH-27 and suggested new subdivisions, short plats and

PUDs within the shoreline should be regulated. She asked why the policy language had been struck out. Ms. Helland said the strikeout was in response to the direction of the Commission to refer exclusively to the platting provisions of the Land Use Code.

Commissioner Sheffels noted that policy SH-27 encourages regulatory flexibility and permit streamlining and asked if the same is reflected in the language of the regulations. Ms. Helland said the only remaining incentive language is in 20.25E.080 relative to replacement bulkheads. Permit streamlining is address through the fact that all of the shoreline permitting and procedures have been consolidated. Commissioner Sheffels pointed out that the regulations do not encourage native revegetation and said she is bothered by that. Commissioner Hamlin concurred. Ms. Helland said the only remaining reference to green building practices is in the section relating to overwater boathouses that are nonconforming but allowed to remain and enjoy a certain amount of upgrading. Commissioner Sheffels suggested that if there is to be policy language that encourages certain practices, those practices should be included in the regulations.

Commissioner Ferris said properties in the city that have creeks running through them or adjoining them are subject to regulations regarding the vegetation that can be planted within a certain distance of the creek. He said it is an easy thing to contact the city and find out which plants are acceptable and which can be removed. He agreed with Commissioner Sheffels that there should be language included that encourages revegetating with native species.

Commissioner Laing said the language of policy SH-26 encourages rather than requires, and that is the right approach. The regulations do include language that encourages soft shoreline stabilization and green building practices relative to overwater structures. One solution might be to allow a reduction in the overall greenscape up to a certain amount by replacing lawn or something else with native vegetation.

~~Chair~~ Commissioner Turner said he could support encouraging native vegetation provided the regulations stay away from involving a native vegetation conservation zone.

Commissioner Sheffels said if the regulations are not going to include encouragement for native vegetation, the same should be left out of the policy language.

Mr. Klinge pointed out that the vegetation conservation area has been removed relative to residential, but it still applies to all of the other designations. Ms. Helland clarified that the approach is prescriptive in all cases rather than incentive based. With the exception of native revegetation, there are modest incentives included in the code. The Comprehensive Plan is a document that is used as a vision by all city departments; it does not just drive regulations.

The Commissioners agreed not to change the policy language.

Commissioner Laing proposed adding the word "residential" before "water dependent" in policy SH-19. Ms. Helland said the policy is intended to address uses that are water connected and is not specific to residential. Water dependent, water enjoyment and water related are the three types of uses, independent of residential, that are identified specifically in the Act and in the WAC. She said the policy could be written to give preference to residential and then the three types of uses by wording it to read "Give preference to residential and water dependent, water enjoyment and water related uses...." There was consensus to redraft the policy that way.

Commissioner Tebelius called attention the flood hazard reduction section of the policies and said it was her understanding the Commission had decided to defer the flood issues. Ms. Helland said the policies in the section were adopted as part of the critical areas code. She allowed that

WSSA voiced concerns over policy SH-65. She noted, however, that the Council is going to need to weigh in given the strict direction provided by them not to undo the critical areas code. The policies in the draft are exactly as they exist in the current code. Commissioner Tebelius said her comment was not about whether the policies are valid but rather the was about the appropriateness of having them included in the Shoreline Master Program. Ms. Helland said there are certain issues that are required to be addressed in the Shoreline Master Program, and flood hazards is one such issue.

Commissioner Laing stated that once the Shoreline Master Program is adopted, the city will no longer be regulating critical areas through the Shoreline Master Program. However, the city will still be regulating critical areas, including flood hazard areas. The Shoreline Management Act does not require prescriptions or policies about flood hazard beyond saying they are to be regulated. Local jurisdictions are allowed to include the flood plain within their shoreline jurisdiction, though they are not required to. Ms. Helland clarified that the policies were included in the draft at the direction of the Council. Until directed otherwise, the National Flood Insurance Program and changes to the Council policy direction related to the program are not within the scope of the shoreline update.

Commissioner Laing said policy SH-34 is prescriptive in the way it is written. There has been plenty of testimony received regarding the fact that in places along the Lake Sammamish shoreline the flood plain incorporates entire properties. The prescriptive wording of the policy would render such properties nonconforming. The city is going to regulate flood plains through the critical areas ordinance in any event, and having the policies in the Shoreline Master Program will do nothing relative to flood insurance.

Ms. Helland asked the Commission if it could support including a statement under the flood hazard reduction section indicating that the city of Bellevue participates in the National Flood Insurance Program and regulates flood hazards through the critical areas ordinance.

Commissioner Tebelius proposed that striking the flood hazard reduction section in its entirety from the Shoreline Master Program. That will not change the city's policy regarding flood hazard areas. Ms. Helland said it will be necessary to show the Department of Ecology that the city has flood hazard regulations. It would be best if the Shoreline Master Program at least included a reference out to the critical areas policies. She proposed including a sentence reading, "For the purposes of the Bellevue Shoreline Master Program, critical areas, including flood hazard reduction, in the shoreline jurisdiction are regulated in accordance with the provisions of the Bellevue Critical Areas Regulations." The Commissioners agreed with the suggestion.

Commissioner Tebelius questioned the inclusion of a section regarding signs given that signs are governed by city code. Ms. Helland said signs are another of the sections required by the Department of Ecology to be addressed. There is no coverage with respect to sign policies relative to the shoreline in the sign code. The policies are intended to provide a base for regulating sign issues in the shoreline as they may arise.

Commissioner Sheffels indicated her support for retaining the sign code policies. The Commission agreed not to remove the signs section.

Commissioner Laing called attention to policy SH-45 and suggested that somewhere in the public access policies there should be some reference made to parks or publicly owned property. Ms. Helland said the policy is modeled after an existing policy that has been in the shoreline overlay for many years. The focus is on retaining the preference for retaining street ends rather than vacating them so they can be maintained for public access. The policy is not intended to be

specific to park properties.

Commissioner Ferris said he did not recall the Commission giving direction to eliminate policy SH-54. Ms. Helland said staff was specifically directed to remove provisions in the regulations relating to the conversion from septic systems to city infrastructure, and the corresponding policy was removed as well. The issue was raised particularly by the Phantom Lake property owners, and there was a robust Commission discussion about providing incentives for doing away with septic systems.

~~Chair~~ Commissioner Turner said there is no argument that failing septic systems can pollute the lake waters. The question is whether or not the Shoreline Master Program is the appropriate place to address the issue.

There was consensus to restore the policy but to replace "and require direct connection" with "or require direct connection."

With regard to policy SH-65, Commissioner Laing suggested the critical areas ordinance regulates where new development can be located relative to the top of steep slopes, shorelines vulnerable to erosion and floodplains. He proposed eliminating the policy. Ms. Helland said SH-65 adds the notion of locating new development so as to not require new shoreline stabilization, which the shoreline stabilization policies do not address. Eliminating the policy will eliminate that notion. She proposed eliminating the references to critical areas from the policy and moving it to join the shoreline stabilization policies, SH-88 to SH-90. There was consensus to make the change as proposed.

Commissioner Tebelius called attention to policy SH-81 and asked if it would eliminate the ability to construct a new sewer pipeline on the lakes. Ms. Helland pointed out that the language discourages, it does not prohibit. The favored approach is to keep such facilities out of the shoreline area, especially the aquatic environment, but that is not always technically feasible.

Commissioner Laing referred to policy SH-83 and suggested adding "upstream and" before "downstream properties." He said an in-stream facility could cause a backup that would trigger inundation on an upstream property. Mr. Pyle suggested the cleaner approach would be to eliminate the word "downstream." Commissioner Laing concurred and there was agreement to make the change.

Answering a question asked by Commissioner Laing, Ms. Helland said policy SH-98 was drafted to align with the clearing and grading provisions left in the code which allows fill waterward of the ordinary high water mark, though with limits through the performance criteria. The policy is consistent with the provision allowing the replacement of a vertical wall with a revetment.

Commissioner Laing proposed adding the words "residential and" prior to "water-dependent" in policy SH-99. There are provisions allowing for the uses but no policy language absent making the change. There was consensus to make the revision.

Commissioner Laing called attention to policy SH-113 and suggested "and appurtenant structures" should be added following "primary structure" to be consistent with the WAC. Ms. Helland clarified that WAC 173-26-231(3)(b) specifically refers to primary structures in relation to shoreline stabilization and states that new structural stabilization measures shall not be allowed except when necessity is demonstrated.

Commissioner Tebelius said the concern raised by WSSA regarding the policy is that as drafted

undeveloped properties would not be allowed to have shoreline stabilization.

Mr. Klinge suggested the solution would be to use the word "discourage" rather than "prohibit" in the policy. Commissioner Laing said he favored taking that approach.

The consensus was not to change the wording of the policy.

BREAK

~~Commissioner~~ Chairman Carlson brought the attention of the Commission to the revisions made to section 20.25E.080.

Commissioner Tebelius said the revisions as drafted were satisfactory to her.

Commissioner Ferris referred to 20.25E080.F.6 and suggested the wording in its broadest sense provides a carte blanche allowance for replacing all legally established stabilization measures. He suggested it would be better if the sentence were revised to read "All legally established stabilization measures on Lake Washington and Lake Sammamish that are necessary to protect existing shoreline structures and property may be replaced...." Ms. Helland said the language represents an attempt to eliminate the need for people with legally established stabilization measures to have to show the structures are needed when seeking to replace them. She agreed the language could be narrowed by revising the first part of the sentence to read "...legally established shoreline stabilization...." The Commission agreed the change should be made.

There was agreement to delete the word "however" from 20.25E.080.F.6.b.iii.

Ms. Helland said the only other sections that had revisions since the Commission's meeting on November 28 were 20.25E.065 and 20.25E.280, but noted that staff had received no feedback from WSSA on either of those sections.

Commissioner Sheffels called attention to Note 1 in 20.25E.065.4.a and said it was her recollection that the Commission had wanted to allow floating docks everywhere provided the Corps of Engineers provides their okay. As drafted, the language allows floating docks only on Phantom Lake. Ms. Helland said she would correct the language to make it read "floating docks may be approved when the use of a fixed dock is not feasible." She allowed that the same note would need to be added to the Lake Washington and Lake Sammamish sections as well.

Commissioner Ferris turned to 20.25E.065.B.1 and said the fourth sentence appears to say that all applicable codes, ordinances, and development and engineering standards apply to the Shoreline Overlay District, and the fifth sentence appears to say that only the code provisions specifically adopted by reference apply. Ms. Helland said the language is intended to be very deliberate. WSSA raised an issue about a line of cases related to the effectiveness of incorporation by references versus informational references to other sections of the code. The language of B.1 is intended to say that the shoreline provisions do not supplant other codes, but that they are not incorporated by reference into the Shoreline Master Program. If incorporated by reference, a building code issue could become appealable to the Shoreline Hearings Board.

Commissioner Ferris called attention to 20.25E.065.B.2.f.i and suggested the first sentence should not be included in a regulation section. Mr. Inghram said the paragraph could be redrafted to make what is currently the first sentence the second sentence. Commissioner Ferris agreed that would make the paragraph more readable. The other Commissioners agreed.

Commissioner Laing suggested that the last sentence of 20.25E.060.K.1, purpose and scope, should be moved to 20.25E.060.K.2, applicability. The Commissioners concurred.

Commissioner Laing commented that the Growth Management Act says once a new Shoreline Master Program is adopted, critical areas will no longer be regulated within the shoreline. The shorelines themselves are not critical areas, yet the critical areas ordinance may still regulate all shorelines as critical areas. He said he would like 20.25E.065.B.2.e to include an affirmative statement saying clearly that the shorelines themselves are not critical areas, then go on to say how critical areas within the shorelines will be regulated. Ms. Helland said the approach taken in the paragraph essentially meters out the work. The Shoreline Master Program must be completed before it can be known what changes will be required to the critical areas code, and the staff are committed to making the necessary changes to the critical areas code as a next step. The staff are also concerned that the shoreline program may be a bit shaky in the assessment of not having a shoreline critical area, especially given that there are listed species in Lake Sammamish and Lake Washington. She urged the Commission not to create a big red flag by blatantly stating that the shorelines are not themselves critical areas. There was agreement not to change the language of the paragraph.

Commissioner Laing called attention to 20.25E.065.I.1 and suggested the word "above" in the first sentence should be changed to "landward, " and the word "below" in the second sentence should read "waterward." The Commissioners concurred with making the change, and Ms. Helland agreed to conduct a search and replace to make sure the language is consistent throughout.

Commissioner Tebelius asked how the issue highlighted by Mr. James Mackey during communications regarding narrow lots could be resolved. Ms. Helland said a lot only 20-feet wide is considered to be substandard. Any shoreline property of that width that does not already have a dock would not be able to add a dock without a variance under the provision that has existed since the early 1970s. The issue is related to setbacks and is not dissimilar to how all substandard lots in the city are treated. The variance process would also require approval by the adjoining property owners.

Mr. Inghram stressed that the transmittal memo is a communication from the Commission to the Council regarding the process undertaken to update the Shoreline Master Program. The memo will outline what was important to the Commission in developing its recommendation.

~~Chair~~ Commissioner Turner indicated his willingness to vote for the plan as revised.

Commissioner Sheffels said her primary concerns were the fact that the plan includes no vegetation protection, and the fact that the plan calls for only a 25-foot structure setback. She said she would prefer to see a setback of between 35 and 50 feet. She said she would not be able to vote in favor of the plan based on those concerns, and reiterated her desire to include a minority report in the transmittal memo.

Commissioner Tebelius said she would vote for the plan as revised.

Commissioner Laing noted that he would vote for the plan as well. He added, however, that the issue of the cumulative effect of reducing the setback to 25 feet and not having prescriptions about what can happen within that area is troubling. He said he would be more comfortable if a compromise position could be identified, one which would keep in mind the concept of no net loss in light of the fact that there is currently a 50-foot setback and what amounts to a buffer.

One option might be to require a 50-foot setback but allow it to be reduced to only 25-feet using the greenscape provisions. He added that he would not be at all comfortable with including a no-touch buffer or a requirement for significant plantings of native vegetation.

Commissioner Ferris said he had three areas of concern, the most significant of which was the vegetative protection area within the 25-foot setback. He said he was intrigued by the Commission's earlier discussion around providing an incentive. He said his second concern was tied to the strict definition of the ordinary high water mark for Lake Sammamish. While that is the elevation of the weir, the improvements made to the Sammamish Slough to provide for salmon habitat have slowed the outfall and caused the lake to back up, though they were done by permit. In addition, beaver dams and natural growth are natural changes that will cause the ordinary high water mark to rise over time. No property owner on the shoreline of Lake Sammamish was guaranteed a fixed ordinary high water mark when they purchased their property. He said his third concern had to do with the inclusion of the implementation principles in the Shoreline Master Program as they apply to Meydenbauer Bay Park. The only reason they were included was to make it more difficult for the Council to make changes to the master plan for the park, and the Council should know that by including the principles it will be necessary to amend the Shoreline Master Program in order to make changes to the park master plan. He said he could not vote in favor of the overall plan given without first addressing those issues.

Commissioner Hamlin said he could not vote in favor of the plan for two reasons, the setback and the need for a vegetative buffer. He agreed that including incentives could help to change his mind relative to vegetation. With regard to the setback, he said it feels like too much is being given up.

~~Commissioner~~ Chairman Carlson observed that a year and a half ago there were some very clear differences among the Commissioners. As things stand currently, there are only a few separating issues, and they appear to be incremental rather than fundamental. He suggested forming a subcommittee tasked specifically with bridging the differences dealing with setbacks and the vegetative buffer, and returning with a document everyone can feel comfortable supporting.

Commissioner Sheffels said a minority report highlighting the two or three outstanding issues would alert the Council to them and explain what they are. Cobbling together something that would halfway satisfy everyone may not give a true picture to the Council.

Commissioner Laing said he was amenable to working out the differences in whatever forum the Commission deems necessary. He said he was also willing to just stay at the table until the issues are resolved. He agreed with ~~Commissioner~~ Chairman Carlson that the two sides are very close together.

Commissioner Ferris praised ~~Commissioner~~ Chairman Carlson for the job done in trying to bring the entire Commission to consensus. In said in that context he would be willing to serve on a subcommittee seeking to bridge the gaps.

Commissioner Tebelius said she also was willing to work toward compromise.

It was agreed that commissioners Tebelius, Ferris and Laing would meet prior to the next meeting and determine whether they could identify a solution that would work for everyone.

With regard to the transmittal memo, Commissioner Ferris suggested it should include some discussion of the flow of storm water into Phantom Lake and Lake Sammamish from non-shoreline areas such as the Eastgate Office Park.

~~Chair~~ Commissioner Turner suggested it would be valuable to add a discussion of incentives to the transmittal memo.

Commissioner Tebelius said she would like to see Dr. Pauley's compilation of everything he did attached to the transmittal. Commissioner Sheffels disagreed, pointing out that it is not the Commission's work product. She suggested WSSA can submit it to the Council if they want to. Mr. Inghram said the transmittal memo could reference the document and indicate how important it was to the final outcome. Commissioner Tebelius said that would satisfy her.

Commissioner Laing agreed that the document is not the Commission's work product, but suggested that the sections of the document that accurately reflect the deliberations and reasoning undertaken by the Commission could be helpful in drafting the transmittal.

Ms. Helland said staff had sufficient information to begin the process of drafting the transmittal memo irrespective of what the final conclusion will be.

B. Comprehensive Plan Update

Mr. Inghram reminded the Commissioners of the January 24, 2013, meeting with other boards and commissions that will be focused on the Comprehensive Plan update process.

8. OTHER BUSINESS – None

9. PUBLIC COMMENT

Deputy Mayor Robertson took a moment to suggest that once the subcommittee has something to share, the staff should be alerted so the information can be included in the packet for the January 9 Commission meeting.

10. NEXT PLANNING COMMISSION MEETING

A. January 9, 2013

11. ADJOURN

~~Commissioner~~ Chairman Carlson adjourned the meeting at 10:00 p.m.

Paul Inghram
Staff to the Planning Commission

5/8/2013
Date

John Carlson
Chairman of the Planning Commission

5-8-2013
Date

* Approved and corrected January 16, 2013