

CITY OF BELLEVUE
BELLEVUE PLANNING COMMISSION
STUDY SESSION MINUTES

October 20, 2004
7:00 p.m.

Bellevue City Hall
City Council Conference Room

COMMISSIONERS PRESENT: Chair Lynde, Vice-Chair Bonincontri, Commissioners Bach, Mathews, Robertson

COMMISSIONERS ABSENT: Commissioners Maggi, Orrico

STAFF PRESENT: Kathleen Burgess, Mary Kate Berens, Heidi Bedwell,
Department of Planning and Community Development

GUEST SPEAKERS: None

RECORDING SECRETARY: Gerry Lindsay

1. CALL TO ORDER

The meeting was called to order at 7:04 p.m. by Chair Lynde who presided.

2. ROLL CALL

Upon the call of the roll, all Commissioners were present with the exception of Commissioner Bonincontri, who arrived at 7:11 p.m.; Commissioner Orrico, who was excused; and Commissioner Maggi.

3. APPROVAL OF AGENDA

There was agreement to move Item 8-C to precede Item 8-A. The agenda as amended was approved by consensus.

4. STAFF REPORTS

Comprehensive Planning Manager Kathleen Burgess distributed to the Commissioners copies of *Bellevue By the Numbers*, a community calling guide. She also noted that a Spanish version of the city's web site is up and running.

Chair Lynde reported that she attended the October 4 Council meeting to discuss the package of amendments associated with the Comprehensive Plan update. The issues covered included minimum density, the Citizen Participation Element, regional cooperation, and accessory dwelling units. She said the Council wanted the Commission to know its work is appreciated.

Ms. Burgess said the Council, while discussing the south end of Downtown, asked staff to outline some options to consider. In complying with that request, staff presented the following options: retaining the recommendation of the Commission for mini parks, deleting the policy, or developing incentives in the Land Use Code for plazas and neighborhood gathering spaces. The Council indicated a preference for the latter approach.

Ms. Burgess said the next Council study session will be on November 8.

5. PUBLIC COMMENT – None
6. COMMUNICATIONS FROM CITY COUNCIL, COMMUNITY COUNCILS, BOARDS AND COMMISSIONS – None
7. PUBLIC HEARING
 - A. Land Use Code Amendment
– International Building Code Amendment

Legal Planner Mary Kate Berens said the proposed amendment replaces all Land Use Code references to the outdated Uniform Building Code with references to the International Building Code. The changes are non-substantive in nature. Some errors in the first ordinance were pointed out by the East Bellevue Community Council and have been corrected.

Motion to open the public hearing was made by Commissioner Bach. Second was by Commissioner Bonincontri and the motion carried unanimously.

There was no one present to speak to the issue.

Motion to close the public hearing was made by Commissioner Bach. Second was by Commissioner Bonincontri and the motion carried unanimously.

- B. Land Use Code Amendment
– Minimum Density

Ms. Berens said the proposed amendment would implement the recommendation of the Comprehensive Plan policy aimed at establishing a minimum density standard in line with the Countywide Planning Policies. The amendment would apply to all residential land use districts outside of Downtown. It establishes that there must be a minimum density of 85 percent of the maximum density allowed for each district. The ordinance makes allowances in the calculation of minimum density to allow for an adjustment of the site area on which the minimum density is calculated to accommodate roads along with areas required by city regulations to be left undeveloped. The allowances are intended to keep property owners from having to go to extreme measures in order to meet the minimum density; no developer will be precluded under the ordinance from taking those measures in order to maximize their density.

Ms. Berens called attention to Footnote 36 in Chart 20.20.010 which addresses how to deal with fractional units. She noted that as originally drafted, the ordinance said the fractional results of 0.4 or below should be rounded down, and the fractional results of 0.5 or above should be rounded up, leaving a gap between 0.4 and 0.5. She said that error has been corrected in the proposed ordinance.

Continuing, Ms. Berens said there are certain types of development proposals staff is recommending not be required to meet the minimum density requirement. The Commissioners were shown graphics aimed at helping to clarify the various exceptions.

Motion to open the public hearing was made by Commissioner Matthews. Second was by Commissioner Bach and the motion carried unanimously.

Mr. Grant Ringel, 110 247th Avenue SE, Sammamish, spoke as Chair of the Bellevue Downtown

Association (BDA) Board. He said the BDA does not believe there is any need or justification to radically change any part of the single family areas when the city is well prepared to handle growth in responsible ways. The proposed policy responds to a directive from the Central Puget Sound Growth Management Hearings Board that in effect created a new definition of urban density. 1000 Friends of Washington testified before the Commission that Bellevue needs to achieve at least a density of four dwelling units per acre throughout all of its single family residential land in order to comply with the Growth Management Act. The proposal would not necessarily require an upzone of the lower density zones, but would nonetheless come into play with subdivisions and PUDs, and may arise in unexpected ways depending on how the city chooses to implement the minimum. Bellevue's adopted approach concentrates housing and jobs in urban centers; approximately 75 percent of new growth over the next 20 years is assigned to the Downtown, and that approach fulfills both the intent and the letter of the GMA. The number of units that might result from imposing a minimum density requirement has not been calculated, but city staff has estimated that approximately 250 units could be added. A single major multifamily structure in the Downtown could create that many units without requiring any changes to single family zones. The BDA believes the proposed minimum density standard is not necessary, so long as the city can demonstrate that it is accommodating its growth targets. The code currently permits Accessory Dwelling Units in all zones, so additional density is already allowed. The proposed action represents an unreasonable limit on local authority and will result in a reduction in housing types in Bellevue, conflicts with the sensitive areas ordinance, and potential impacts on single family neighborhoods in terms of changes to scale and neighborhood quality that would be both unwelcome and unnecessary.

Motion to close the public hearing was made by Commissioner Bonincontri. Second was by Commissioner Bach and the motion carried unanimously.

8. STUDY SESSION

C. Land Use Code Amendment – Ordinary High Water Mark

Associate Planner Heidi Bedwell said a study of the ordinary high water mark on Lake Sammamish was recently conducted at the direction of the Council in response to a citizen request related to structure setbacks from the shoreline. The concern voiced in the citizen request was that the city's code does not provide for certainty when it comes to measuring setbacks.

The original Bellevue Shoreline Master Program used a static elevation of 27 feet NGVD29 to determine shoreline jurisdiction as well as structure setback. The Department of Ecology, however, indicated skepticism about whether that figure is correct, so the city contracted to have the study done.

Ms. Bedwell said the study involved 27 sites along the shoreline of Lake Sammamish within the city limits. The watershed company that conducted the study used the Department of Ecology methodology for determining the ordinary high water mark for each of the 27 sites. The resulting data ranged from 30.91 feet NAVD88 to 31.69 feet NAVD88, with a mean of 31.32 feet NAVD88. The original 27 feet NGVD29 equates to 30.585 feet NAVD88. The recommendation of the consultant was to use 31.76 NAVD88 as the mark from which to measure structure setbacks. The overall shoreline jurisdiction will continue to be determined by the ordinary high water mark on a site-by-site basis. Any applicant wanting to site a bulkhead would have to determine the ordinary high water mark for their individual site.

Applicants who use the proposed 31.76 feet NAVD88 figure will have the option of conducting a site-specific analysis if they think the results will be more favorable to them in determining structure setbacks.

Ms. Bedwell said instead of moving ahead with a formal Land Use Code Amendment, the code interpretation process will be used, which still allows for public input and appeal. The information will ultimately be incorporated into the Critical Areas ordinance.

Chair Lynde asked if there are requirements with regard to who is allowed to conduct the analysis for determining the ordinary high water mark for a particular site. Ms. Bedwell said certain staff have received the necessary training, and there are independent consultants with backgrounds in wetland biology that could conduct the study; in all cases the Department of Ecology methodology will have to be followed.

Answering a question asked by Chair Lynde, Ms. Bedwell allowed that the shoreline of Lake Washington is treated differently in that it is a controlled water body in which the mean high water is determined by the operation of the locks. The shoreline is still influenced by wave action, but the variability is less than what is found along Lake Sammamish.

Ms. Bedwell informed the Commissioners that the citizens who made the request to the Council have indicated a favorable response to the study. A public information sheet listing the results of the study will be mailed out to all shoreline property owners.

Commissioner Robertson suggested that the information sent out to the property owners should be written in a manner that will be easy to understand.

- A. Land Use Code Amendment
– International Building Code

Motion to recommend the proposed Land Use Code was made by Commissioner Robertson. Second was by Commissioner Bach and the motion carried unanimously.

- B. Land Use Code Amendment
– Minimum Density

Ms. Burgess allowed that there were some unanswered questions when the issue of minimum density was presented to the Council. There has been confusion on the part of citizens between the minimum density proposal and the four units per acre issue.

Chair Lynde said several Councilmembers asked why a minimum density should be required, indicating instead that they would rather see words like “permit” or “encourage” used. Mayor Marshall pointed out that the city is already accommodating all growth targets, has zoned the Downtown to be the home of the bulk of all new growth, and has promised the single family neighborhoods certain protections.

Commissioner Matthews noted that the Councilmembers had not heard about the exceptions and did not understand that the overall impacts will not be substantial. He said it would be helpful to know how many parcels might actually be affected. Ms. Berens answered that in one sense under the first exception no one would be affected; that is because under the existing law a single dwelling unit can be constructed on all single family lots in the city. The minimum density requirements would only kick in with attempts to subdivide. There is also an exception for those who have an existing house on a large lot and who want to divide the lot but keep their house.

The large lot exception allows for the retention of one large lot provided the remaining lots meet the minimum density standards. The large lots that do not meet minimum density will fall under the first exception and will be allowed to continue to be developed with a single dwelling unit.

Ms. Berens stressed that the minimum density ordinance will not result in a rezoning of any part of the city. The requirement will not apply to anyone seeking to build a single dwelling unit on an existing lot.

Commissioner Bonincontri asked if the city is required to adopt a minimum density standard. Ms. Berens said the city must, under GMA, be consistent with the Countywide Planning Policies. Within those policies there is a policy that indicates local jurisdictions should adopt a minimum density standard. Not all area jurisdictions, however, have adopted minimum density standards. It is hard to say whether or not a challenge over not having an adopted standard would succeed.

Ms. Berens noted that the minimum density ordinance is not designed to address the density issue raised by 1000 Friends of Washington. The allegation of 1000 Friends of Washington is that the GMA requires zoning in urban areas to be at least four dwelling units per acre, and that the four units per acre is not to be interpreted to be an average across all zones in the city; they hold that no zoning designation can be below R-4, except for four recognized exceptions. The city does not agree with the position of 1000 Friends of Washington. A petition was recently filed with the Growth Management Hearings Board by 1000 Friends of Washington for the city of Kent, which after its recent Comprehensive Plan update, still has zones of less than R-4; there has been no ruling on that as yet. The minimum density ordinance is unrelated to this issue.

Ms. Burgess said staff is proposing to add some discussion language in the Land Use Element describing how the city's density came about and how the city is meeting the intent of the GMA.

Commissioner Robertson referred to Section 20.20.020.B(2) and suggested that the language is confusing. She allowed that the language should clearly state that renovations or conversions of existing developments that result in less than the minimum density are permitted, provided the result is not a net reduction in density.

With regard to Section 20.20.020.B(4), Commissioner Robertson suggested that the language should allow subdividing into two lots regardless of where the existing house is located. Ms. Berens said that is the approach taken by Redmond, but staff believes the approach is too broad a loophole around the intent of getting future subdivisions to meet the zoning on the land. No rationale that could apply in all cases could be found for the argument of simply allowing a lot to be divided into two lots regardless of whether or not minimum density is met.

Commissioner Bonincontri indicated her support for the position of staff. As written, a property owner wanting to divide their lot but keep their existing home could do so. She said she would be very reluctant to allow lots to be divided regardless.

Chair Lynde asked where the 85 percent figure came from. Ms. Berens said it flowed from some research done by staff. A variety of approaches have been taken by other jurisdictions with regard to determining what minimum density should be. Some have concluded that each zone must be at or slightly above the next lower density level; in other words, an R-3.5 zone must at least be at R-2.5. Other jurisdictions have taken the percentage approach but varied it across the zoning categories. Staff believes establishing a flat percentage will be easier to administer. The 85 percent figure is tied to Bellevue's experience over time and the densities being achieved in most of the land use districts.

There was agreement to work on the language of Section 20.20.020.B(2), and not to revise the language of Section 20.20.020.B(4).

Answering a question asked by Commissioner Bonincontri regarding the concern expressed by the East Bellevue Community Council, Ms. Berens explained that the density per district is different from the minimum lot size requirement. The minimum lot size for R-2.5 is not strictly the result of dividing 43,560 square feet by 2.5; it is generally something smaller than that. There is a footnote that recognizes the discrepancy and the minimum lot size controls. The impact is to allow more density on a parcel than the zoning density would indicate. The East Bellevue Community Council has consistently pointed that out as a concern, and they have suggested that the proposed amendment should address the situation. The ordinance, however, does not make the problem better or worse. In the response to the East Bellevue Community Council, staff recognized the discrepancy and suggested that to make the code more user friendly one approach or the other should be picked, though that involves a very large policy question and is not something that should be answered with the proposed ordinance. It is anticipated that this issue would be addressed at the time the Land Use Code is reviewed to implement new housing policies.

Motion to approve the ordinance as amended was made by Commissioner Bach. Second was by Commissioner Bonincontri and the motion carried 4-1, with Commissioner Robertson voting no.

9. APPROVAL OF MINUTES

A. September 1, 2004

Motion to approve the minutes as submitted was made by Commissioner Robertson. Second was by Commissioner Bonincontri and the motion carried unanimously.

10. OLD BUSINESS

Ms. Burgess briefly reviewed the Commission calendar, noting that a meeting has been scheduled for December 15.

11. NEW BUSINESS

With regard to the issue of accessory dwelling units, Commissioner Bach said the housing tour highlighted the fact that such units can be of very high quality and designed so as to fit well within a neighborhood. There is always talk of finding new ways to increase neighborhood densities, and allowing accessory dwelling units is a good approach.

Commissioner Robertson concurred, indicating support for allowing detached accessory dwelling units if combined with design standards. The units are a sensible approach to allowing increased density and addressing the issue of an aging population that may want to remain in their homes.

Ms. Burgess said the Council has asked staff to return on November 8 with options. She invited the Commissioners to attend the Council discussion on that date.

12. PUBLIC COMMENT – None

13. ADJOURNMENT

Chair Lynde adjourned the meeting at 8:21 p.m.

Secretary to the Planning Commission

Date

Chair of the Planning Commission

Date