

CITY OF BELLEVUE
BELLEVUE PLANNING COMMISSION
MEETING MINUTES

February 9, 2005
7:00 p.m.

Bellevue City Hall
City Council Conference Room

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

COMMISSIONERS ABSENT: Commissioner Maggi

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

GUEST SPEAKERS: None

RECORDING SECRETARY: Gerry Lindsay

1. CALL TO ORDER

The meeting was called to order at 7:00 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 Maggi who was excused.

3. APPROVAL OF AGENDA

The agenda was approved by consensus.

4. STAFF REPORTS

Comprehensive Planning Manager Kathleen Burgess informed the Commissioners that the City Council was updated on February 7 regarding the appeal filed by 1000 Friends of Washington on the Comprehensive Plan update. The last proposal put on the table by the city involved finding additional residential capacity in the city by 2012; that proposal was rejected by 1000 Friends of Washington on the last day before the appeal period closed. The Council was given three alternatives by staff: 1) rezone lower-density residential lands to four units per acre or higher; 2) contest the appeal before the Growth Management Hearings Board; and 3) work on legislative action at the state level. The Council unanimously and strongly recommended the second and third alternatives: contesting the appeal, and working on state legislation.

5. PUBLIC COMMENT

Mr. Tom Spence, 9455 Lake Washington Boulevard NE, noted that there are approximately 800 property owners along Lake Washington and Lake Sammamish, but very few in the audience. He said it is his understanding that any shoreline property owner with an existing structure within 50 feet of a proposed setback, or impacted by steep banks or some other proposed setback, will see that property rendered nonconforming. Should the proposed new regulations be

adopted, and should the property owner within the next few years elect to sell the property, and should the structure be considered a tear down, the potential interested buyer will be confronted with an uncertain situation relating to the ability to build on the site. A wise buyer would place a contingent feasibility clause in the purchase agreement which could require a survey, a geotechnical assessment, architectural plans, and a variance, at a cost of close to \$50,000 or more, just to find out if a new structure will be allowed. The market will dictate that the owner of the property will pick up that tab. The regulations will, therefore, force property sales to be extended by at least six months, create a great deal of uncertainty, reduce the demand for shoreline properties, and be very costly for current property owners. The value of such properties will fall. The vast majority of shoreline property owners simply do not understand what is being discussed and how they will be affected. The Commission was urged to reconsider the proposed regulations. At the very least the city should send to all shoreline property owners a certified mailing outlining the proposal and asking for a response.

Mr. Steven Anderson (?), 241 Kilarney Way, voiced concern over the action by the city to change the rules that affect how shoreline properties can be used. He allowed that he does not fully understand how the proposed regulations will affect his property. Most purchase properties under the assumption that they will increase in value over time. Because the new regulations will negatively impact what can be done with shoreline properties, many will see their property values diminished. Some 50 percent of all shoreline properties could become nonconforming, and some could even become useless. That is simply not fair. At the very least all shoreline property owners should be given notice with regard to what is going on.

6. COMMUNICATIONS FROM CITY COUNCIL, COMMUNITY COUNCILS, BOARDS AND COMMISSIONS – None

7. STUDY SESSION

A. Land Use Code Amendment
– Critical Areas (impervious surface and Low Impact Development)

Associate Planner Heidi Bedwell shared with the Commission a graphic depicting the shift in the overall watershed hydrology associated with development, including significant increases in surface water runoff. Changes to stream hydrology increase with development, which over an entire watershed can have significant impacts on erosion, increased sedimentation within stream channels, and reduced water levels in wetlands. As the percentage of impervious surfaces increases, the biotic integrity of riparian areas decreases.

Approaches to dealing with storm water runoff typically are designed to manage peak flows. Water is captured and discharged at a single point. Low impact development is an alternative approach to land development and storm water management aimed at helping to protect water resources and overall watershed hydrology. Systems are designed to assist surface water in making its way back into the soils. Some of the pervious surfaces are more expensive to install, but often the practices reduce the need for storm water retention facilities, which are also expensive to construct.

Green roofs are becoming a popular approach in many areas. Portland, Oregon, has a number of green roofs on buildings in its downtown area, and the practice is gaining acceptance nationally and internationally. The cost is somewhat higher in that it involves putting down a special membrane to keep water from working into the structure itself, and different layers of soils planted with vegetation.

Rain harvesting is considered to be a low impact technique. The water that is captured is often used for irrigation or for flushing toilets. Smart growth is a technique aimed at minimizing the overall development footprint; it often incorporates narrower streets. Seattle's SeaStreets project is an excellent example of low impact development that has proved to be very successful.

Ms. Bedwell said the traditional approach to controlling surface water runoff is to focus on retaining peak flows, whereas the low impact development approach seeks to reduce the annual volumes of surface waters. The former reduces the impacts of storm events and localized flooding, and to some degree helps to reduce storm bank erosion. It does not, however, serve to protect the resources to the same degree the low impact development approach does. By permitting surface water to infiltrate the soils where it falls, low impact development allows for a greater period of normal flows more in keeping with a naturally forested and undeveloped area. Low impact development does not, however, address peak flow events and flooding.

Ms. Bedwell noted that overall Bellevue is moderately to highly urbanized in terms of development. Though there is quite a lot of green space, the majority of land areas are developed with impervious surfaces. The Coal Creek Basin is the most pervious in the city at 25 percent total impervious area. A number of newly developed areas come close to having 45 to 50 percent impervious surfaces.

Impervious surfaces by definition include areas that prevent or impede the flow of water into the underlying soils. They include roofs, swimming pools, and areas that are paved or graveled for roads, walkways and parking areas. Rockeries that are part of the general landscaping are not generally included in calculating impervious surfaces. Exceptions are also allowed for surface water flow controls, water quality treatment facilities, including retention ponds, and shared access driveways.

Ms. Bedwell said a number of factors must be taken into consideration in determining what impervious surface limits should be established. Setting aggressive thresholds will tend to limit overall development of sites and could cause a number of existing developments to become nonconforming. For commercial sites, setting aggressive thresholds can make achieving the parking requirements difficult. Staff recommends exempting the Downtown area from the impervious surface standard, primarily because of the development patterns that already are in place, but also because the Downtown does not contain any regulated critical areas. The thresholds for other areas should be set to coincide with levels that can be accomplished through the landscaping standards.

Chair Lynde asked where the surface water runoff in the Downtown area flows to presently. Senior Environmental Planning Manager Michael Paine said half of it flows directly to Meydenbauer Bay with very little treatment, and the rest of it flows into Sturtevant Creek. Newer buildings in the Downtown include water treatment facilities, but the older buildings do not. Much of the runoff from I-405 also discharges into Sturtevant Creek with very little treatment; as the freeway is rebuilt over time there will be substantial improvements made to the water quality of the runoff that flows into the streams.

Ms. Bedwell said, as proposed, the code requirements for landscaping dimensions would have an approximate total allowance for impervious surface of no more than 80 percent of the site area in PO, O, OLB and NB, and 85 percent in LI, GC and CB. Along with the thresholds, staff is suggesting increasing the requirements for soil amendment within the landscaped buffers. For residential development, staff recommends retaining the lot coverage requirements for all zoning districts, and to include a total maximum impervious surface requirement of 50 percent for R-1 through R-4, 55 percent for R-5 and R-7.5, and 80 percent for the multifamily zones.

Legal Planner Mary Kate Berens said retention of the lot coverage by structure as a separate calculation is proposed to maintain control over the bulk and scale of houses. The primary structure cannot exceed 35 percent of the overall lot size in most single-family zoning districts.

Ms. Bedwell noted that in the R-1 zone the minimum lot size is 35,000 square feet. With a lot coverage of 35 percent based on the minimum lot area, a building footprint cannot exceed 12,250 square feet. Adding an additional ten percent of impervious surface, or 3500 square feet, at a 45 percent threshold the total would be 15,000. At 50 percent, the maximum impervious surface area allowed would be 17,500 square feet.

Commissioner Robertson asked how the current code reads with regard to impervious surface percentages. Ms. Bedwell said it establishes a maximum lot coverage of 35 percent but includes no requirements relative to impervious surfaces.

Commissioner Robertson asked if the bulk/scale issue is going to be addressed. Ms. Burgess said staff is eager to get going on developing the housing regulations. It is not, however, a critical areas issue so will be addressed on a different track.

Ms. Bedwell noted that in the R-5 zone there is a 40 percent lot coverage restriction. The minimum lot size is 7200 square feet, which equates to a maximum building footprint of 2880 square feet. Adding a 15 percent impervious surfaces allowance to that structure allowance would add 1080 square feet for a total impervious surface allowance of 3960 square feet.

Ms. Berens informed the Commissioners that the city has not in the past regulated total impervious surface area. Accordingly, the numbers have not traditionally been tracked and it cannot be said with any degree of certainty just how many residential parcels will be made nonconforming. It is easier to determine the percentages in commercial areas because of the landscaping requirements.

Mr. Paine allowed that any property owner wanting to exceed the 50 percent standard could do so with pervious pavements and the like.

Ms. Berens asked for direction with regard to the proposed numbers and the philosophy used to generate the numbers. She noted that the Comprehensive Plan policies clearly call for the establishment of impervious surface standards citywide. By adding regulations relative to total impervious surface area, the typical development will be changed to result in more open space per lot. Taking a more rigorous approach would result in potential unintended consequences, such as an inability to meet the required parking area for multifamily and commercial. The low-impact development techniques may not be feasible for all sites, or may entail extraordinarily high development costs.

Commissioner Bach asked if a nonconforming structure can be rebuilt to its original footprint size if destroyed by a fire. Ms. Berens said the code contains certain thresholds beyond which full compliance is triggered. A home totally destroyed by fire would have to be rebuilt in accord with all current regulations, unless specific provisions otherwise are folded into the regulations regarding lot coverage and total impervious surface.

Mr. Paine informed the Commissioners that residential areas evolve over time in a direction away from what was originally permitted. Typically, aerial photos of residential developments ten years after being constructed show far more impervious surfaces. The proposed approach would place an overall upper limit on how much impervious surface area would be allowed.

Noting that graveled areas count as impervious surface area, Commissioner Robertson asked if areas covered by wood chips or shredded tires also count as impervious surfaces. Mr. Paine said they are not, adding that pea gravel is permeable provided it is not compacted.

Ms. Bedwell said there are some non-residential uses that are allowed through either administrative conditional use or conditional use in residential land use districts. Such uses include schools, churches and parks, each of which could require a different level of imperviousness. One option would be to have the conditional use of the underlying land use approval determine the amount of total impervious surface area.

Commissioner Orrico said she would question any approach that allows businesses, schools, churches and parks more impervious surfaces by tightening the rules on the homeowners. Ms. Berens allowed that there are other requirements for commercial and multifamily developments that come into play which, if subject to the same impervious surface area restrictions, would yield substantial unforeseeable consequences. Commercial and multifamily developments also must meet the applicable storm water requirements, something residential developments do not have to do.

Mr. Paine pointed out that from the viewpoint of the overall watershed, the greatest positive impacts can be achieved by focusing most on the residential areas.

Commissioner Bonincontri said the ultimate focus needs to be improving water quality overall. The surface water runoff from commercial areas should be, and for the most part are, treated before being dumped into the storm system. Older residential developments do not typically treat runoff except that they have more open areas that allow the water to filter into the soils naturally; newer subdivisions often have detention ponds. Commercial areas are charged a storm water fee based on total impervious surface area; developments with green roofs or some form of pervious pavement should be allowed reduced storm water fees. In the end, both residential and commercial areas should contribute to the overall health of the watersheds.

Mr. Paine commented that when the low impact development techniques are eventually applied in a consolidated storm water ordinance, commercial properties will not be exempted. In many cases the use of low impact development techniques in commercial developments will result in credits against their detention requirements.

Commissioner Bonincontri asked if the city has any plans to move toward the use of pervious surfaces in developing sidewalks and the like. Ms. Bedwell said the Department of Transportation is working on a pilot program using pervious surfaces. Mr. Paine added that the Washington State Department of Transportation is beginning to use pervious surfaces in a number of applications, including sidewalks and parking areas.

There was general consensus in favor of the recommendations as proposed by staff.

Ms. Bedwell shared with the Commissioners a series of graphics showing how the proposed approach would play out on various lots. She noted that the current practice is to subtract any protected areas from the total lot area before doing the calculations for allowable lot coverage. Protected areas include streams, wetlands, riparian corridors, and all associated setbacks. Under the proposal, the same approach could be continued.

Ms. Berens said one approach would be to not subtract the protected areas and to simply allow all development and impervious surfaces to be located outside the protected area boundaries.

The policy question is whether or not there is value in controlling the intensity of development immediately adjacent to protected areas; if there is, the current calculation approach should be retained. She said the recommendation of staff is to continue with the current approach.

Ms. Bedwell noted that the current 25-foot setback from shorelines is for structures; it is not considered to be a protected area for purposes of calculating lot coverage. Under the proposal, however, the setback will be considered a protected area, and as such would be removed from consideration when calculating lot coverage, the same way streams and wetlands are first removed.

Chair Lynde stressed the need to hold off making a final recommendation until it is known what the recommended buffer widths will be. If the buffers are increased from 25 feet to 50 feet, and then the area is removed for purposes of calculating lot coverage, the overall impact could be too excessive.

Commissioner Bach voiced opposition to removing the shoreline buffer area from the calculation of impervious area lot coverage. Increasing the setbacks will be enough of an impact. Commissioner Bonincontri concurred.

Chair Lynde suggested that her recommendation will rest on knowing what the riparian area and shoreline buffers will be. If the buffers are increased in size, all the necessary protections will be in place, and it will not be necessary to continue removing critical areas from lot area prior to calculating impervious surface limits.

There was general consensus that reducing the total site area by removing protected areas for both lot coverage and total impervious surface would be a bit of a double whammy, especially if the size of the buffers ultimately is increased. Staff was asked to find an approach that does not further ratchet down what can be done with properties.

Ms. Bedwell informed the Commission that the city has engaged the services of a consultant to take a look at existing conditions within the city and to determine if low-impact development practices would even be feasible in the city. She allowed that in general there are some constraints to the practice that already exist, including steeply sloped areas, the presence of till and bedrock that does not readily permit the infiltration of water, a high ground water table in several areas, and frequently flooded areas. The areas west of I-405 along Mercer Slough, the wetland areas between Larson Lake and Phantom Lake, and the steep slopes in the Coal Creek basin south of I-90, and along the shorelines of Lake Washington and Lake Sammamish are all questionable as to whether or not low impact development principles could be successfully implemented.

Ms. Bedwell proposed allowing flexibility to permit the low impact development techniques to be utilized, but not to require them. Ms. Berens said staff does not want the code to get in the way of allowing the principles to be implemented, and favors allowing incentives. Much will depend, however, on how the stormwater code gets written. The Commission asked staff to return with options for what the incentives could be.

10. PETITIONS AND COMMUNICATIONS

Mr. Steven Anderson (?), 241 Kilarney Way, suggested the city should survey the owners of all properties that could be impacted by the proposed new regulations. In particular the waterfront property owners should be contacted. The new regulations in many ways could be viewed as a confiscation of private property, which is opposed to the basic tenet of the American property

system. Before any action is taken, the impacts should be fully known.

Mr. Tom Spence, 9455 Lake Washington Boulevard NE, said he recently completed a survey of his property, which is 16,800 square feet. The survey cost \$3800. To simply suggest that property owners go out and have their properties surveyed is forcing them to spend a lot of money. To go further and require architectural drawings is even more costly. In cases where the required setbacks and other restrictions essentially take an entire property, a variance is required, which costs the property owner even more money.

8. OLD BUSINESS – None

9. NEW BUSINESS

Ms. Burgess briefly reviewed the schedule with the Commission.

Commissioner Orrico said she would like to receive more public input as the critical areas study moves ahead, rather than waiting until the public hearing. Ms. Burgess stated that when the current set of study sessions were kicked off there was a general notice mailed to all affected parties. At the current stage in the process, however, there is really not much for the public to react to.

Commissioner Bach agreed that the process would be better served if more of the public were present at the meetings providing input. However, the suggestion that each affected property owner should be sent a certified letter is simply going too far.

Chair Lynde asked if the city could mail out a postcard to all affected property owners asking them to join an email list. The city could then send out regular information directly to those who could most benefit from it.

Commissioner Bach proposed that including a notice on utility bills could be an effective way of getting the word out. He further suggested that the neighborhood associations should be doing more to keep their constituents informed.

Commissioner Mathews said he will put in a plug at the first Lake Hills Neighborhood Association meeting.

Commissioner Bonincontri said she would be willing to attend neighborhood association meetings to provide a briefing on the process and the steps being taken to update the code.

11. ADJOURNMENT

Chair Lynde adjourned the meeting at 8:56 p.m.

Staff to the Planning Commission

Date

Chair of the Planning Commission

Date

