CITY OF BELLEVUE
BELLEVUE PLANNING COMMISSION
MEETING MINUTES

March 16, 2005 | Bellevue City Hall
7:00 p.m. | Conference Room 3 A/B

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

COMMISSIONERS ABSENT: None

STAFF PRESENT: Kathleen Burgess, Michael Paine, 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 7:09 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 Mathews, who arrived at 7:12 p.m.; Commissioner Bach, who arrived at 7:17 p.m.; and Commissioner Orrico, who arrived at 7:38 p.m.

3. APPROVAL OF AGENDA

The agenda was approved by consensus.

4. STAFF REPORTS – None

5. PUBLIC COMMENT – None

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

7. STUDY SESSION

A. Land Use Code Amendment – Critical Areas

Senior Environmental Planning Manager Michael Paine noted that the Commission had some questions remaining after the last discussion on wildlife. He explained that the new regulations will serve as an overlay over the existing critical areas requirements. Where priority habitat species are identified, a management plan will be required to protect the nesting areas and habitat for the species. The city could simply rely on environmental checklists and neighbors calling to report an eagle's nest. At the other end of the scale would be an actual mapping exercise to

identify all critical habitat and nesting areas. With the exception of eagle nesting areas, it may not make any sense to look at the scale of individual single family lots, particularly if they are infill lots. If the minimum scale is established at around two acres, the developments on them are typically being done by developers who generally have consultants on site anyway; to add the wildlife piece for them would only marginally increase their work load and expense.

Mr. Paine suggested that for developments along a shoreline it will be worthwhile looking at the trees on the site to see if they are being utilized by eagles. The shoreline and areas in proximity to the shoreline often see some degree of utilization by eagles. In order to encourage eagles to stay in Bellevue, it will be necessary to maintain some number of trees along the shorelines to provide perching and nesting opportunities.

There are different ways of funding the cost of having a consultant determine what areas of habitat critical to species of significance should be saved. The city could pay for it by using its own consultant, applicants could pay a fee to have the work done for them by a consultant hired by the city, or applicants could hire their own consultant and pay them for the service. Redmond went in the direction of hiring a consultant to examine all of the major habitat areas in the city and made determinations in advance with regard to species. That approach could be recommended to the Council but would require funding.

Answering a question asked by Chair Lynde, Mr. Paine said the U.S. Fish and Wildlife Service has an obligation under the Endangered Species Act to make some judgments about requiring a management plan for individual properties. They could very well on some single family sites require a plan, especially where there are obvious examples of utilization by target species. In fact that they have for many areas up and down the coast required the retention of specific trees.

Legal Planner Mary Kate Berens added that the city has the right to regulate any trees within a setback, regardless of whether or not there is evidence of use by eagles. The same is true for trees on steep slopes.

Mr. Paine pointed out that the cumulative impact of allowing a tree to be removed here and there is substantial, making it prudent to take a more cautious approach. For priority species, the protection of habitat is focused primarily on breeding areas. Management plans or similar controls could be as simple as imposing construction windows or imposing setbacks for construction. The better way to address it, however, would be to use clustering development wherever it will result in the saving of large blocks of trees and vegetation; that is a far more reasonable and biologically defensible position than regulating existing nests here and there.

The primary habitat in the city occurs in areas already regulated by the city, such as along shorelines and riparian corridors, on steep slopes, and in wetlands areas. The city does need to be cognizant of limiting disruptions during certain times of the years for certain sensitive species, even in public places. That generally is a matter of planning more than regulation.

Chair Lynde indicated her support for coming up with a minimum size acreage, and suggested that two acres seems about right. Mr. Paine said staff will work in that direction.

Associate Planner Heidi Bedwell called attention to the information in the packet regarding the Army Corps of Engineers Regional General Permit (RGP) and a comparison sheet listing the current code, the requirements of the RGP, and the proposed code direction. She noted that there are five different categories in the RGP relative to boat lifts and/or canopies. She said the proposal is to use language echoing the RGP where no mitigation is required. Translucent canopies are permitted on both new or existing boat lifts, provided they are located where the

water depth is at least nine feet; if less than that, an off-ramp critical areas report is triggered. The amount of fill allowed under the proposal will match that allowed by the Corps.

Ms. Bedwell said the Corps has no specific standards related to pier length and navigation. Each pier is reviewed on a case-by-case basis to make sure it will not interfere with navigation.

With regard to the requirements regarding pilings for piers and docks, Commissioner Bach commented that wood is far more aesthetic than steel. Wood docks are far more work for the owner, but they fit much better with the surroundings.

Chair Lynde said she could support including language calling for pilings to be made of either steel or a non-toxic material.

Mr. Paine noted that the material in the packet outlines how the Water Resource Inventory Area (WRIA) came into effect. He said the plan is focused entirely on saving salmon. Within the WRIA there are two or three species of salmon that are threatened; their numbers have declined precipitously and they have been listed under the Endangered Species Act. The WRIA process actually began before the Chinook were listed and it has proved useful in putting together a regional salmon recovery plan. Plans for each individual watershed will be rolled up under the auspice of a shared strategy for the state and submitted to the federal government for approval. If they accept the plan, some of the potential constraints would be removed by allowing a take limitation.

There is no question that urban development, in combination with hatcheries, hydroelectric production, harvesting and ocean conditions, has had a substantial impact. Local governments, however, cannot generally affect hydroelectric, harvest or hatchery policies; they are limited to looking only at the habitat side, which is what the WRIA planning process is all about.

Mr. Paine said the scientists on the technical team that were working on the development of the WRIA-8 plan made a determination as to which parts of the watershed are most important for sustaining salmon. Those areas were labeled Tier 1, with the Tier 2 and Tier 3 areas as less critical. Bellevue has Tier 1 habitat, all of which is on the shorelines of Lake Washington and Lake Sammamish. The Kelsey Creek system is Tier 2.

There are three basic types of recommendations in the WRIA-8 plan: land use planning, habitat protection projects, and public outreach. Most of the recommendations have been incorporated into the critical areas regulations, provided they are directly relevant. The recommendations regarding low-impact development and water quality have been incorporated, but many of the recommendations are aimed at restoring hydrology, something the critical areas update cannot effect. Future changes to the utility code, planned for 2006 as part of the NPEDES permit process, may result in significant changes to the storm drainage regulations.

Ms. Berens said a number of the recommendations are relevant to the work done by the Utilities Department. They are working on a separate timeline to review and update their stormwater manual in line with the recommendations of the WRIA-8 plan. It is not certain exactly what legal impact the WRIA-8 plan will have over local jurisdictions; those details are yet to be worked out by the forum.

Mr. Paine added that the forum is in the process of reviewing the recommendations from the plan and deciding whether or not to send it back to the steering committee for additional tweaking, or to approve it. The forum is supposed to ratify the plan by June 2005. What ratification will mean is unclear, however, given the costs associated with all of the restoration activities. The

plan as designed may never be funded in any realistic way. Just the start up list of projects total in the range of $124 million to $154 million within WRIA-8. The steering committee elected to recommend a doubling of the amount currently being spent, which would be about $17 million. Bellevue could choose to walk away from the plan and not fund it at all, choose to contribute funding for the plan, or decide to invest Bellevue dollars only in Bellevue and not the region. Each community within the regional watershed will be faced with making the same decisions.

Chair Lynde allowed that it will be interesting to see how the plan plays out in the political arena. She stressed the need for Bellevue to be careful in updating the critical areas regulations to avoid doing anything that could preempt the recommendations of the WRIA-8 plan. Mr. Paine said the technical committee wants each planning commission in the region working on the issues to look at the plan, the recommendations, and the science driving the recommendations. They realize that the WRIA-8 plan did not come out early enough to be of great assistance to the work of upgrading critical areas ordinances in the region. He reiterated that the plan is fish centric and allowed that it does not attempt to balance this focus against the multiple goals of the Growth Management Act.

Chair Lynde called attention to the seventh bullet on page 4 of the packet and asked what parcels along Kelsey Creek are not protected by regulations. Mr. Paine said one example is a parcel just off 148th through the middle of which Kelsey Creeks runs. The site is undeveloped, is within the floodplain, and has high-quality wooded wetlands. It would be better for no development ever to occur on the site; in that case the city should just purchase the multifamily-zoned parcel to guarantee protection of the upstream headwaters wetland.

Mr. Paine said the very best thing the city could do to preserve fish and wildlife would be to get a handle on hydrology. While that position is reflected in the plan, it is unfortunately also the most expensive approach.

Ms. Burgess informed the Commission that the Environmental Services Commission will have the lead for the utility regulations in the future. She said staff will keep the Planning Commission updated as well as the process moves forward.

10. PETITIONS AND COMMUNICATIONS

Mr. Tom Spence, 9455 Lake Washington Boulevard, said his survey analysis indicates that somewhere outside of two or three standard deviations relative to the number of people in a normal distribution along the shoreline actually understand what is going on. Business strives for a six standard deviation non-defect; it would appear that Bellevue has nearly a 95 percent defect in getting the word out. There is no consistency for how each situation might be handled by the city. Regardless of who is at fault, the city should not be satisfied with its outreach efforts. When people become aware of what impacts the proposed revisions will have on their property, there will be an outcry. He pointed out that consistently he has been the only person showing up at the meetings when in fact there should be 800 people in attendance.

Mr. Ken Seal, East Bellevue Community Council, pointed out the importance of keeping streams clean. He said one way to accomplish that is to use a dredge to clean the rock beds, though that will not take out any heavy metals that flow into the water from roadways. He added that fish do not seem to like potable water.

8. OLD BUSINESS – None

9. NEW BUSINESS

Commissioner Maggi announced that she has taken a new job in the eastern Washington/northern Idaho area and must report by April 11. She said she will be resigning her position on the Commission, adding that she will miss what has been a very positive experience.

11. ADJOURNMENT

Chair Lynde adjourned the meeting at 8:19 p.m.

_____ _____
Staff to the Planning Commission Date

_____ _____
Chair of the Planning Commission Date