

CITY OF BELLEVUE
BELLEVUE PLANNING COMMISSION
MEETING MINUTES

March 23, 2005
7:00 p.m.

Bellevue City Hall
City Council Conference Room

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

COMMISSIONERS ABSENT: Chair Lynde, Commissioner Robertson

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 7:03 p.m. by Vice-Chair Bonincontri who presided.

2. ROLL CALL

Upon the call of the roll, all Commissioners were present with the exception of Chair Lynde and Commissioner Robertson, both of whom were excused.

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

Legal Planner Mary Kate Berens distributed to the Commissioners copies of the executive summary of the best available science review compiled by Herrera Environmental Consultants. She said the full report is available on request.

Ms. Berens reminded the Commissioners that an Environmental Impact Statement (EIS) is being produced for the critical areas Land Use Code Amendment. That will allow staff to develop an alternative to the regulatory package that has been discussed. The EIS is being conducted by

Herrera Environmental Consultants, and staff has supplied the firm with a laundry list of potential city projects, investments and programs that could be considered for the alternative. The Commission will conduct a public hearing on both the draft ordinance and the DEIS at the same time.

Senior Environmental Planning Manager Michael Paine explained that following the process to update the Comprehensive Plan, staff took a close look at what was available for best available science. It was found that there were some substantial gaps and staff believed it would be a good idea to have the document peer-reviewed. Herrera Environmental Consultants were asked to go through the city's previously completed inventory work and the best available science papers prepared by another consultant, and to add in any new information or different concepts of importance. Some of the newer information, such as WRIA, was not available during the Comprehensive Plan update process. Staff also felt the need for additional clarity around the regulatory recommendations.

With regard to streams and wetlands, Herrera folded in a few major concepts, beginning with the role of natural disturbance. Disturbance creates, dissolves, rejuvenates and repairs habitat; it is a critical function. The document tries to show that there is a departure from an equilibrium look at the way the natural world works to a focus on random processes. Natural disturbance can increase diversity, may ensure persistence of some organisms and habitats, and may express or maintain key ecological processes. Management efforts that suppress natural disturbance result in impacts to the system, typically less diversity.

Another major concept is focused on the river continuum. It recognizes that there is a distribution of characteristics that affect the biology of systems from the headwater to the mouth. The characteristics may include the location, type and abundance of food resources within a system. Of critical importance to Bellevue is the fact that the city has mostly small streams that primarily rely on nutrient input from the banks in contrast to larger bodies of water where primary nutrient production is within the water body itself. The idea behind the continuum concept is that even the smallest streams have significant benefit for the larger sections of watersheds in that they provide the inputs necessary to sustain biological systems.

The channel migration zone (CMZ) is defined as the area where the active channel of a river or stream is prone to move laterally within a floodplain over time. The Kelsey Creek floodplain, to the extent it has not been confined, and other CMZs are critical areas that need to be maintained and regulated. Buffers used to protect active channels should be established at the edges of the CMZs so the streams will be able to move around in it. Because of their size, the streams in Bellevue are less likely to move around within their channel.

The hyperheic zone is a shall aquifer that lies primarily within the boundaries of a floodplain. Hyperheic zones have an interrelationship with streams, and there is a need to recognize the need for caution by preventing development impacts on hyperheic zones. Bellevue has very strict floodplain regulations, and because the hyperheic zones generally overlap the floodplains, there is no need for additional regulation.

Mr. Paine said the consultant offered some regulatory recommendations. With regard to establishing buffer widths, the consultant was insistent on the need to use the site potential tree height (SPTH) concept. Based on the soil type that is typical in Bellevue, the consultant said the best available science suggests buffer should be set at 146 feet regardless of stream type. That differs substantially from both the proposed and the current buffer widths. The consultant holds the view that most functions necessary to support salmonids can be provided within the SPTH, including protection for aquatic areas and processes. The consultant does not deny that a

narrower buffer will provide significant functions. One option for the city if smaller buffers are established would be to install large woody debris rather than rely on natural recruitment. Buffers should, according to the consultant, be measured from the CMZ, or the ordinary high water mark if a CMZ is not present. The concept of establishing multiple zones could be considered, and the regulations could allow different uses in each zone; the area nearest the stream would receive the most protection, and the protections would diminish the further away from the stream.

The consultant had some specific things to say about buffer averaging. There is no scientific information that supports averaging as necessarily protective. Averaging should be allowed only under certain conditions: where the total area after averaging is equal to the area required without averaging; where low-intensity land uses will be adjacent to reduced buffer widths; and where stream functions and values will not be adversely affected. In all cases structure setbacks should be imposed.

Structure setbacks protect buffers from encroachment and therefore allow the buffers to provide the functions they would provide to the streams. High-intensity land uses have a greater impact than low-intensity land uses and thus should have a higher structure setback. The recommendation of the consultant was for a structure setback of 25 feet from the edge of the buffer.

Commissioner Maggi said she envisions high-intensity uses to be parking lots and other impervious surfaces and asked how a single family dwelling stacks up. Mr. Paine allowed that staff struggles with that issue. A single family residence complete with dogs and children are going to disrupt buffer habitat functions to some degree. The general sense of the consultant is that low-density single family is a low-intensity land use. Even high-intensity development can be sited so as not to impact buffer areas.

Mr. Paine said the conclusion reached by the consultant with regard to piped streams is that there is no scientific justification to maintain current functions, primarily because there are no current functions associated with water flowing through a tube. What should be done, however, is to preserve the opportunity to rehabilitate piped streams at some future date. The literature is clear that in some instances large increases in fish production can result from daylighting stream channels, and when that is done a substantial buffer should be imposed as well. Bellevue staff believes that there will likely never be sufficient incentive for a developer to choose to daylight a currently piped stream. The city would have to be ready to show that a tremendous increase in fish production would result. Daylighting a stream could be less costly than construction of a fish hatchery or effecting major improvements to upstream habitat, however.

Speaking directly about the piped stream section of Kelsey Creek, Mr. Paine explained that under the existing concomitant agreement, the Kelsey Creek Shopping Center must daylight the stream if any additional square footage is to be added to the site. Ms. Berens allowed that the agreement could be amended in light of the best available science. Mr. Paine added that a study conducted by the city concluded that benefits equivalent to opening the stream could be obtained off site by widening buffers where they are diminished or disrupted. There is not a lot of upstream spawning habitat associated with Kelsey Creek, whereas in the Bel-Red area there is a lot of potential upstream spawning habitat; each case must be weighed a little differently.

Mr. Paine said the literature discusses buffer width functions based on areas vegetated with native plant communities. Buffers that are sparsely vegetated or that include non-native species do not always perform the needed functions. To make the buffers work properly, they need to be revegetated properly. In urban environments, it may be better to revegetate a 50-foot buffer

rather than to require a 100-foot buffer and leave it with non-native vegetation. The functions of buffers will not be fully attained in the near term, though every small step taken toward restoring the overall continuity will have tremendous benefits, even if the width of the buffers is less than that recommended by the best available science.

For salmon recovery, one of the most important steps that can be taken is to reconnect streams with their floodplains. For large rivers such as the Skagit, such actions are highly controversial because they call for the breaking down of long-established dikes that were constructed to prevent river flooding.

Turning to the issue of wetlands, Mr. Paine said the capacity of a wetland to perform specific functions depends on its characteristics. Size is important; the larger a wetland, the more complex it tends to be, and with increased complexity comes diversity of wildlife. There are some smaller wetlands, however, that have very important characteristics for certain kinds of species. Where a wetland is located is very important; a wetland located next to a riparian corridor is potentially more important than a wetland isolated in the middle of a field. Additionally, where a wetland is within a watershed is critical; wetlands near the mouth of a major stream or lake will have less impact on hydrology than a wetland located in the upper reaches of a watershed. Hydrology is far and away the most important factor related to wetlands.

Herrera stressed the need to pay attention to the loss of small wetlands, which under most regulatory schemes are considered expendable. As smaller wetlands are filled in, the distance between existing wetlands increases; that is a very real impact for some species that are wetland dependent, particularly amphibians. If small wetlands are to be exempted in the regulations, their role should at least be understood in the context of the watershed, and that may take an analysis. Activities allowed in wetlands have significant cumulative impacts unless completely mitigated. Overall limits on how much total wetlands acreage may be filled could be the best way to control the cumulative impacts.

Mr. Paine said the consultant recognized that there is some protection allowed by establishing fixed buffer widths of 25 to 100 feet. The best available science indicates, however, that the minimum buffer width for Category I through III wetlands should be at least 100 feet; where possible Category I and II wetlands, especially those associated with lakes or streams, should have even larger buffers. In established urban areas where wider buffers may not be possible, benefits can be obtained from finding ways to link habitat pockets through good planning, land acquisition, and creative urban designs. Buffer averaging should be approached very carefully, balancing the total buffer area against the net increase in select functions. Buffers should not be reduced at the expense of other functions; buffer widths and functions cannot be traded off with a high degree of certainty. Buffer averaging should be used only when trying to promote connectivity between habitat pockets.

Wetlands are interdependent and to some degree mutually exclusive. Their functions vary over time. Buffers alone may not completely protect all wetland functions. Since mitigation is inexact and difficult, avoiding wetland loss should always be the preferred option. Mitigating functions is as important as mitigating the overall loss of area.

Mr. Paine said the consultant's report is very clear about the need to understand the importance of performance standards relative to mitigation. Most projects do not meet the established performance standards. In urban areas no attempt should be made to fully mimic natural conditions; the focus should be on getting as close as possible to a fairly good urban wetland even if that means accommodating species that would not be chosen if there were a perfect pallet from which to choose. Mitigation ratios should reflect functional losses as well as area losses,

and there should be a focus on the importance of maintenance and monitoring wetlands over time. In any mitigation plan the worst can happen, so contingency measures should be identified in advance.

No wetland enhancement effort will ever completely compensate for lost wetland area, and in fact enhancement often fails to improve wetland functions. Enhancement can actually convert one wetland type into another. Historically, enhancement does not have a good record, and jurisdictions should be cautious in applying an enhancement approach.

Associate Planner Heidi Bedwell explained that the wetlands typing system was developed to differentiate between wetlands based on their sensitivity to disturbance, their significance, their rarity, and a jurisdiction's ability to replace them and their associated functions. Category I wetlands are most sensitive to disturbance and contain ecological attributes that are impossible to replace within a human lifetime. Category I includes Natural Heritage Wetlands, bogs, mature and old-growth forested wetlands, and wetlands scoring 70 or more on the functional rating. Category II wetlands are more common but still require protection; they are difficult though not impossible to replace. Category III wetlands offer more moderate function levels; they generally have been disturbed in some way, are less diverse and often are more isolated from other natural resources. Category IV wetlands are those which have been most degraded; they are most common in disturbed areas and long roads, still provide some functions, and can most easily be filled and then mitigated.

Ms. Bedwell said the two choices before the Commission relative to establishing buffer widths is a regime of fixed widths based on category, and widths based on adjacent land use intensity and wetland function. That would provide for some flexibility but not a set amount of certainty. The rating system recommended for adoption requires a functional assessment, so within any wetland the habitat rating will be known without adding an additional layer of study.

Ms. Berens allowed that the Department of Ecology regulatory guidance is focused on the idea of varying buffer widths based on the functions provided by a given wetland. That is the approach adopted by King County. Within each category there is a range of buffers, with larger buffers required for wetlands that have a higher habitat score. The fixed buffer width approach gives property owners knowledge up front about what they can do on their property. In the case of wetlands, however, an expert has to be hired anyway in order to determine wetland type; that study will return a habitat score, which could be used to assess the size of a buffer.

Commissioner Maggi asked why more weight should be given to habitat value than hydrologic function in determining buffer width. Ms. Berens answered that at some point a buffer does not need to get any wider to provide for better water quality functions. Depending on the species to be protected, a wider buffer can be of far more benefit.

Commissioner Bonincontri asked if there are any Category I and II wetlands located on private property in Bellevue. Ms. Bedwell said in order to qualify as a Category I wetland, the site must be at least one acre in size. There could be some such areas in the Coal Creek and Lewis Creek areas, and possibly in the Kelsey Creek area. It is more likely that such areas would be Category II.

Answering a question asked by Commissioner Maggi, Ms. Bedwell said the edge of a buffer will be determined based on soil type, vegetation and the presence of water. The delineation will require a survey, which will be filed as part of the public record. In most instances, staff visits sites for which a permit application has been made, and wetland areas are often discovered at that time. Most applicants conduct due diligence prior to purchasing a property, and the first

thing they look at are the critical area constraints which dictate the degree of development that can occur.

Commissioners Orrico and Maggi came out in favor of variable-width buffers as supported by the consultant's report. Commissioner Bonincontri indicated support for fixed buffer widths coupled with incentives for additional habitat enhancements and protections.

Commissioner Mathews said his leaning was toward variable width buffers, but allowed that in some areas the fixed-width approach will provide all the protection necessary. The best available science should serve as the basis for establishing buffers.

Staff was directed to return with a range of buffer width options to review in more detail.

Mr. Paine allowed that following staff's previous declaration that there are no critical aquifer recharge areas within the city, the consultant found a few. The issue remains, however, a minor one for the city given that only a small percentage of residents use ground water as a drinking source. There are three Group A and 11 Group B systems in Bellevue. The critical aquifer recharge areas are primarily protected by what are called wellhead protection areas.

The consultant suggests designating the critical aquifer recharge areas by overlaying the wellhead protection area structure, or a default radius of 600 feet. That could be refined by looking at the hydrogeology and making a judgment about the susceptibility for contamination. Additional regulations could be imposed to reduce the likelihood of contamination, though the burden of additional regulation should be weighed against the relatively low number of people who potentially could be affected, especially if they can be provided with city water. There is no overwhelming reason to regulate critical aquifer recharge areas for ecological purposes.

Commissioner Orrico asked if there is a trigger for forcing properties to convert to using city water. Mr. Paine said redevelopment would be one trigger because of the requirement for additional fire flow and connecting to the city sanitary system. Annexation could be another trigger. He allowed that additional study needs to be done to determine how many are actually using wells for potable water within the city.

8. OLD BUSINESS – None

9. APPROVAL OF MINUTES

A. January 19, 2005

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

10. NEW BUSINESS – None

11. PETITIONS AND COMMUNICATIONS – None

12. ADJOURNMENT

Commissioner Bonincontri adjourned the meeting at 8:48 p.m.

Staff to the Planning Commission

Date

Chair of the Planning Commission

Date