

CITY OF BELLEVUE
BELLEVUE PLANNING COMMISSION
STUDY SESSION MINUTES

November 14, 2007
7:00 p.m.

Bellevue City Hall
City Council Conference Room 1E-113

COMMISSIONERS PRESENT: Chair Robertson, Vice-Chair Bach, Commissioners Ferris, Mathews, Orrico, Sheffels

COMMISSIONERS ABSENT: Commissioner Lai

STAFF PRESENT: Paul Inghram, Lacey Madche, Matthews Jackson,
Department of Planning and Community Development

GUEST SPEAKERS: None

RECORDING SECRETARY: Gerry Lindsay

1. CALL TO ORDER

The meeting was called to order at 7:01 p.m. by Chair Robertson who presided.

2. ROLL CALL

Upon the call of the roll, all Commissioners were present with the exception of Commissioner Bach, who arrived at 7:15 p.m., and Commissioner Lai, who was 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. REPORTS FROM COMMISSIONERS

Commissioner Ferris reported that the ^{MEYER BACH} steering committee will be meeting next on November 15. He noted that the moratorium was extended by the City Council until January 30, and the steering committee is focused on the potential changes that might be made from a land use standpoint for the properties covered by the moratorium. The recommendation from the steering committee will be forwarded to the Planning Commission. The goal is to have a plan outlined before the moratorium ends.

Chair Robertson reported that the work of the Light Rail Best Practices committee continues to move forward even in light of the fact that Proposition 1 failed at the polls. The Sound Transit Environmental Impact Statement is fully funded and because that work will continue, the city needs to do its due diligence to be in the best possible position to influence the design. An open house was held earlier in the day which was attended by some 40 members of the public. The

committee will on November 17 be given the first of two tours of the potential Bellevue alignments. The committee also was given a tour of the Central Link project in Seattle. The committee will be meeting again on November 20.

8. PUBLIC HEARING

A. Process Based Land Use Code Amendments

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

Legal Planner Lacey Madche called attention to the first page of the Commission packet which contained a memorandum related to editorial changes to the package of process based amendments, and a discussion relating to home occupations and noticing and publication requirements.

Ms. Madche reminded the Commission that the proposal involves modifications to the Land Use Code that are procedural in nature. The proposed amendments serve to improve provisions of the Land Use Code with respect to efficiency; bring certain Land Use Code provisions into compliance with state law; and delete unnecessary language. The comments received from the public have primarily been focused on the provision to remove home occupation permit requirements, and the concern has most notably been that the notification of home occupation permits will be deleted from the Land Use Code. To address those concerns, staff has worked with the finance and taxing department to come up with a different type of notification of home occupations which can be tracked through the issuance of business licenses.

There were no members of the public wishing to address the Commission regarding the proposed amendments.

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

B. Neighborhood Character Code Amendments

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

Ms. Madche called attention to the staff report on pages 27 through 29 of the Commission packet, which included some minor modifications to the proposal. She noted that the proposal involves the first phase of the neighborhood livability issue. The discussion of mega houses will be part of the second phase of discussions. Phase I addresses building height, greenscape requirements, tree retention, construction debris, and other minor issues that relate to neighborhood livability.

Ms. Jennifer Outz, 410 98th Avenue NE, asked the Planning Commission to consider a provision to relieve some of the burden on small homeowners relative to tree retention. She commented that 20 percent of a small home is far less than 20 percent of a 3500 square foot home. Adding a single, very small room to a small home could easily trigger the proposed tree retention requirements. The provision should be tied to a percentage of the average square footage of homes in the city.

Mr. Doug Lee, 508 98th Avenue NE, spoke representing the West Bellevue Community Club. He noted that the Club is in support of all the initiatives currently under consideration by the

Commission. He added that the Club is looking forward to Phase II and tackling the issues related to scale and redevelopment impacts. He noted that many jurisdictions use the term "historical grade" or "original grade" rather than "existing grade" and asked if someone could alter the grade on a property some time previous to construction and have the revised grade determined to be the existing grade for purposes of measuring height. Construction debris has been an issue for West Bellevue and he asked the Commission to consider language requiring construction debris to be stored or contained; debris that is only screened can still blow around in the wind.

Mr. Jay Baronowski, 9901 SE 7th Street, said he is President of Meritage Development, a small development company that has been operating in Bellevue since 1984. He said his company has constructed some 402 homes on the Eastside, 98 of which have been in Bellevue. Most of the projects have been in the infill category. He said the proposed new method for measuring height will have a dramatic impact in ways not yet fully comprehended. He shared with the Commission a simple diagram showing a home that could be constructed under the current regulations but which would not be permitted under the proposed amendment. He said his company currently has seven lots in Bellevue with plans for construction, three of which would not be allowed under the proposal. For the most part, the problems being addressed by the proposal came about through poor construction methodology or the construction of extremely large homes. The problem is the proposal will dramatically impact the price of homes, especially those on sloping lots. The proposed height limit works very well on flat lots, but not on sloped lots. Land values will be impacted as a result. More study is needed. A large home should not be able to loom at the property line and blocking the light for neighboring properties, but under the proposal even smaller homes will be heavily impacted. Controlling construction debris is a very good idea, but recycling is not addressed at all. Paper, metal and other waste should be placed in a dumpster, but wood products should be allowed to accumulate on site for later recycling. There are also issues having to do with tree retention; the standards are twice what a standard subdivision standard tree retention is.

Mr. Tim Osborne, 1111 SE 1st Place, expressed concern with the language regarding portable structures. He said he has a portable structure on his property on the very back of his lot which can be seen from the main road. Under the proposed language, it would be illegal to have the structure even though it is set back from the street to the maximum amount possible. The only way to keep the structure from being seen from the road would be to construct a high fence around part of the property, which would not be the preferable option.

Mr. Joel Glass, 1652 105th Avenue SE, said he is generally supportive of the intentions behind the proposed changes. However, some of the specific language is problematic. The greenscape requirements do not fully account for pie-shaped or irregularly shaped lots where a driveway needs to be installed from the front. There is language that talks about getting an exception from the director, but that seems somewhat extreme for something that is such a common occurrence. The proposed height limit will have a major impact on downhill sloping lots. The code as currently written allows for the construction of a two-story home on a downward sloping lot without pushing the home down the hill, essentially destroying the back yard or forcing the creation of homes with the living spaces essentially in the attic with dormers and barn-style roofs, or homes with flat roofs. With regard to the tree retention proposal, he said it will penalize people who are wanting to develop their individual properties. It would be better to take on the issue with a citywide focus. Anyone not planning to develop their properties are allowed to remove trees, so those who are planning to develop their properties should be afforded the same right.

Mr. Eric Fikeison, 505 99th Avenue, suggested that even with the proposal regarding height limits homes could be constructed on sloped lots, but they would all have flat roofs and may not

fit the neighborhood. The problem is that the proposed ordinance will be applicable citywide even though each neighborhood presents its own specific issues with regard to where they are in their development cycle. He said in his neighborhood most of the homes were built in the last ten years; all of the older homes in the area have been extensively remodeled. Entry level homes are going for about \$1.7 million. People there have done a very good job with greenspace and trees. Changing the way height is calculated will basically reduce the amount of height homes are allowed to have. The current approach has worked very well for many years. The city has not done a very good job historically taking care of the trees on city property, but wants to dictate how private property owners are to treat their trees. Contractors should be required to clean up their garbage, but new rules would not be needed if existing rules were enforced. The city should not be in the business of attempting to determine what neighborhood character is. Not everyone in the West Bellevue neighborhood holds the same views as those being espoused by the community club.

Mr. Kirk Mulfinger, 9906 NE 5th Street, said he understands the concerns that have given rise to the livability issues generally. For the West Bellevue neighborhood, the concerns have largely been with speculation builders. There are, however, many who live in the neighborhood who plan to doing things with their lots, and casting a wide net to address certain concerns will impact everyone. The proposed building height calculation will not affect anyone with a flat lot, but it will impact those with sloped lots. Language addressing lots with a certain grade threshold should be included in the proposal. Some homes with sloped lots have elected to construct parking under the house, keeping the footprint of the building to a minimum. The proposed approach will eliminate that possibility, forcing an increase in the structure footprint.

Ms. Ann Ross, address not given, commended the Commission for taking the time to listen to the citizens. She said she has lived in the Enatai area of Bellevue for over 40 years. In the beginning all of the homes were single story and generally small; now they have been redeveloped as very tall and very large structures, and the character of the neighborhood has changed dramatically. Having trees are essential and the city should do everything it can to make sure the citizens retain their trees for the good of everyone.

Mr. Vernon Tuseau, address not given, said his business is designing homes, both for new construction and remodeling. He suggested that the regulations of the city have been working very well for many years. The process of developing and redeveloping has resulted in the loss of some big trees, but new trees can be planted to take their place. The relationship of building height to lot coverage is an essential issue that could be dramatically changed by the proposal.

Mr. Ken Schiring, 16223 NE 28th Street, spoke on behalf of the Sherwood Forest Community Club and commended the Commission for the work it does on behalf of the city. He noted that several years ago the Commission tackled the task of putting together a tree ordinance applicable citywide and faced with the fact that one size cannot be made to fit all. He shared photos with the Commissioners of properties in the Sherwood Forest community showing extremes of building types and heights, some with greenery and some without. One home in the community has been converted to a senior home; it now has three kitchens and five bathrooms, far out of character with other homes in the neighborhood. The proposed changes are needed.

Mr. Joe Rossman, 921 109th Avenue SE, let the Commission know that the majority of his community strongly endorses the direction outlined by the proposed modifications. He said they will go a very long way in preserving the character of the community as it begins to undergo a significant redevelopment phase. The height restrictions are extremely important to the community, which has a large number of homes with low sloped roofs on lots ranging from flat to very steep. Nearly every home in the community would conform with the proposed revisions to the Land Use Code. On steep lots, homes with daylight basements work very well. There

need to be some carefully worded provisions covering modifications for homeowners with special needs.

Mr. Rav Siegal, address not given, said he moved to the Bellevue area a year ago from a northern California community that has a homeowners association and a self-policed mechanism for any type of architectural improvements. He voiced support for the objectives of the neighborhood livability action agenda aimed at making sure that single family and multifamily residential neighborhoods provide an attractive living environment in housing that is compatible in quality, design and intensity. The proposed changes to the Land Use Code should be evaluated directly against the objectives as a test of their effectiveness. In addition, the remedies should have the following attributes: they should be fair to both incumbents and new homeowners; they should be practical and easy to apply; and they should incentivize the right resident behavior. The proposed front yard greenscape requirement appears to be an attempt to have one size fit all. An alternative amendment should be considered that would require new single family homes to have at least as much greenscape as the least amount of greenscape the immediately surrounding homes have; that approach would enforce the consistency the city seems to want. The problem with the provision to preserve trees is that percentages are only relative to what exists, thus new and existing homes are treated differently. He said he is currently looking at two different properties in two different neighborhoods in Bellevue. Both of the properties have over 30 significant trees. The proposed amendment would require the retention of nine of the trees, whereas adjoining and facing lots have only two or three significant trees each. The Commission should adopt a policy based on a uniform minimum tree density per acre applied proportionately to individual lots. By the same token, redevelopment on lots with less than the minimum required tree density should be required to plant new trees. Specific incentives for development that will improve the character and livability of neighborhoods should be adopted.

Ms. Arlene Darby, 10011 NE 30th Place, said she is concerned that the rules and regulations will diminish the value of her property. She said her property has a home on it that could be torn down and rebuilt, something which has been done often in the neighborhood. It is a good thing that people want to live in the area and want to build new homes. It would be far more concerning if there were no new homes in the area. She said her attitude toward trees changed after the December 2006 windstorm. Large trees can be removed and replanted with smaller growing trees. Neighborhoods change over time, and the city should not act to apply rules and regulations that will take away creativity and impact property values. Common sense should prevail.

Ms. Margo Smith, 5819 111th Avenue SE, spoke as president of the Kimberly Park Community Club. She commended the Commission for the work done thus far and offered support for the proposed amendments. She suggested that the owners of difficult properties should be given an avenue for addressing the issues, but in all cases the context of the neighborhood must be kept in mind when considering the construction of new structures. It is natural for a property owner to seek to maximum the potential of their properties, but such development needs to also consider the impacts of their development on neighboring properties.

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

Chair Robertson thanked everyone for their comments and said the Commission welcomes the opinions expressed.

It was agreed to reverse the order of the study session to take up the neighborhood character code amendments first.

9. STUDY SESSION

B. Neighborhood Character Code Amendments

Commissioner Ferris called attention to the definitions of building height and the two sections labeled 20.50.012B. Ms. Madche explained that the Land Use Code places all definitions under a single heading, which is why there is a duplication.

Commissioner Ferris noted that the previous definition used to allow for exceeding the height limit for penthouses, elevator equipment, chimneys and so forth, but under the proposal the height can be exceeded only for flagpoles and shortwave radio antennas. He observed that chimneys and plumbing vents must exceed the height of a roof. Ms. Madche agreed that a clarification needs to be made in the text.

With regard to the issue of underground parking, Commissioner Ferris observe that in many parts of the Land Use Code the practice is encouraged; in fact, development is encouraged to provide underground parking in lieu of surface parking. He suggested that underground parking, especially on sloped lots, should not subtract from the allowable height. Senior Planner Matthews Jackson said underground parking is not typically seen on single family lots. What is seen is underbuilding parking. If underbuilding parking were to be exempted from the height calculation, the overall building would be taller, which could be contrary to the intent of the provision. Commissioner Ferris argued that on some sloped lots underbuilding parking could be constructed that would not in fact change the overall 35-foot height limit. Mr. Jackson said the city measures height in building segments. In the situation outlined, the underbuilding garage would have its own building height calculation, and the primary structure would have another building height calculation. Under that scenario, underbuilding parking would not penalize overall height.

Commissioner Ferris said if a slope is dug out to prepare for an underbuilding garage, in effect the existing grade would be lowered. He asked where the building height would be measured from in that case. Mr. Jackson said it would be measured from the existing grade prior to the excavation for the garage. Commissioner Ferris allowed that in that case an underbuilding garage would not penalize the height of the primary structure.

Chair Robertson said she is not concerned about developments that lower the existing grade. The concern raised by the public has been developers raising the grade of a property and putting a structure on top of it. She said she remembered talking about utilizing the preexisting grade or the finished grade, whichever is lower.

Mr. Jackson reminded the Commissioners that building height is measured from average grade based on ten-foot increments around the building structure. For lots that are sloping, the current approach offers a height benefit.

Commissioner Bach said developments that begin by lowering the existing grade will not be affected one way or another. They could actually have a higher structure overall.

Answering a question asked by Commissioner Orrico, Mr. Jackson explained that a tiered foundation is the result of a building built in segments based on the topography. On an upsloping lot, one portion of a house may be at a grade above a lower section and have two separate foundations at two separate grades and two separate roof forms. The development form is typical of most of the sloping sites in the city.

Commissioner Sheffels asked about the claim that under the proposal many new homes would

not be able to be built, especially affordable homes. Mr. Jackson said most of the houses that have been built in the last year in the city could still be constructed under the proposed code change. He added that height is measured from existing grade already in shoreline areas.

Chair Robertson asked if existing grade is defined in the code as a term of art. She noted that some neighboring cities talk about original grade from the date of incorporation. She asked what existing grade is in Bellevue and how it would be measured under the proposal. Mr. Jackson said in those circumstances where the city currently measures from existing grade, a topographic survey is required based on site conditions as they exist at the time a project is brought forward for approval. No attempt is made to determine what the historical grade is.

Commissioner Orrico said there was a concern raised about a property owner building up the height of their property and then some years later coming in for a building permit. Mr. Jackson said the Clearing and Grading code requires a permit for any work that will disturb an area of 1000 square feet or more. So an action of that sort would be reviewed for erosion control and the maximum amount of cut and fill allowed outside the building footprint. Under the current code, a maximum of five feet of cut and fill is allowed outside the building footprint. Property owners are not allowed to clear or grade a vacant site unless tied to a specific develop action or proposal.

Commissioner Sheffels asked if the proposed new rules will cause a lot of flat-roofed houses to be built instead of pitched-roof houses. Mr. Jackson said that decision is always up to the developer. What the city looks for is proposals that fit the code. There is no reason why the proposal would automatically result in more flat roof designs. Because pitched roofs are measured to the mid-point of the pitch, pitched roofs actually can exceed the maximum height limit; flat roofs are measured to the top of the roof.

Answering a question asked by Chair Robertson, Mr. Jackson allowed that many of the lots in shoreline areas are highly constrained by slopes. It is a matter of opinion whether or not the heights those homes have achieved is somehow less than allowed elsewhere in the city, given that they are measured from existing grade. Staff has not done an analysis of permits under review for such lots, but the general thinking is that only a miniscule percentage of any homes that have been built or that have been proposed would be negatively impacted by the proposal.

Chair Robertson asked staff to include a definition of finished grade in the code, and Ms. Madche agreed to do so.

Turning to the issue of tree retention, Commissioner Ferris asked what recourse property owners have to remove trees that are diseased or deemed likely to fall over in a windstorm. Mr. Jackson said the current policy in areas where there are tree retention requirements, such as Bridle Trails and in critical areas, allows for hazard trees to be addressed immediately regardless of permit requirements. Where critical areas are involved, the property owner is required to notify the city within 14 days to find out if any restoration is required. A similar approach would be taken under the proposal. There are a variety of points of view regarding trees, and not every area of the city holds the same view. The intent is to give balance and flexibility to address unique sites and circumstances, and that allows for removing trees. If the number of significant trees falls below a certain threshold, there is the possibility that replanting will be required.

Commissioner Sheffels voiced concern about the greenscape on odd-shaped lots and asked if the issue is addressed entirely by administrative allowance. Mr. Jackson said the code gives the director the authority to permit an alternative greenscape option during the underlying permit review. Obviously small or unique-shaped lots, access and utility issues could be considered through the course of regular review. The way the code is written, corner lots are considered to have two front yards, and the proposed greenscape requirements would be applicable to both

frontages. Some flexibility could be added address situations under which it would be a burden to provide the fifty percent level to each street frontage, possibly by requiring the total to be shifted between the two frontages. Commissioner Sheffels said she would like to see as much flexibility included as possible.

Commissioner Sheffels asked how the concern voiced during the public hearing about small lots having to retain the higher percentage of trees could be resolved. Mr. Jackson said it is true that even a modest remodel or addition on a small lot could trigger the threshold. However, the intent is to include a sufficient amount of flexibility to address those circumstances. One person mentioned a property with some 30 trees adjacent to a property that has only two or three. Unfortunately, codes change over time and new thresholds are ushered in.

Commissioner Sheffels asked if a threshold could be devised in which a house of less than 2000 square feet would not have to retain the higher percentage of significant trees. Commissioner Mathews suggested the necessary flexibility is already included. The proposal calls for retaining 30 percent of the diameter inches of significant trees; if all of the trees on a given lot are deemed significant, only 30 percent of them must be retained at the outmost. In addition, more trees can be removed if mitigated by the planting of more trees outside the expansion area.

Commissioner Orrico agreed with Commissioner Mathews. Commissioner Ferris did as well, noting that there is sufficient flexibility in the way the language is written to allow an applicant to identify what they are doing and work with the city to get the outcome they desire.

Chair Robertson suggested the alternative tree retention option is not entirely consistent. Section G subsection 3 talks about supplemental replacement trees, but the criteria the director can use to look at modification speaks only of retention. The wording needs to be consistent and specifically include replacement.

With regard to the temporary shelter issue, Commissioner Orrico asked what the definition of a structure is. Ms. Madche said a structure is defined as a combination of materials constructed and erected permanently on or under the ground, or attached to something having a permanent location on or under the ground, not including residential fences, retaining walls less than 30 inches in height, rockeries less than 30 inches in height, and similar improvements of a minor character.

Chair Robertson pointed out that many sheds, even really nice ones, are not attached to a foundation. She added that those types of structures are not what the City Council was aiming at when they directed the Commission to look at the issue of temporary shelters. Ms. Madche agreed that language can be carved out to address that specific concern.

Commissioner Orrico voiced concern over attempts to legislate taste. She asked who is to say one person's structure is pretty and another person's structure is not.

Ms. Madche noted that as written, the proposed language addresses temporary shelters are that visible from either a public or private street right-of-way. Commissioner Orrico asked if the code would apply if only a small section of a temporary section could be seen from a right-of-way, and Ms. Madche allowed that at some point the provisions of the code become discretionary and subject to a reasonable interpretation. If only a small portion of a structure could be seen, it likely would be reasonable to exclude it from compliance with the code. Where two neighbors engage in arguments with regard to how the code should be interpreted, a code interpretation by the director is often the outcome.

Chair Robertson said one way to deal with it would be to reference only front yards.

Commissioner Bach suggested the primary concern is with temporary shelters in side yards. He agreed that the code should apply only in instances where a temporary shelter is clear as day. Ms. Madche said the section could be drafted to qualify the term "visible" with language addressing those concerns. She asked if the code should apply only to front and side yard situations or all temporary structures. It was agreed that once it is clarified what is meant by visible, the provision should apply to all temporary structures regardless of where they are located on a property.

With regard to construction debris, Commissioner Orrico said she is loath to discourage the recycling of construction material. She suggested the city should have the teeth it needs with its litter code to address the bulk of the issues. Ms. Madche said the city has declared certain activities to be public nuisances, including litter and building materials. In drafting the construction debris definition, staff was very careful to deal with the abandonment of construction sites and construction sites that are not kept clean, with proper screening of materials.

Commissioner Orrico asked if the proposal will give the city more power to control the issue than it already has. Ms. Madche said the process would be the same, namely a code compliance action. The proposal would clarify the existing authority the city has.

Mr. Jackson said there is no intent on the part of the city to limit the ability of developers to recycle construction debris, or to penalize responsible parties. There is no known impact associated with requiring materials to be screened that would keep materials from being recycled. Ms. Madche said the language could be written to exclude from the definition material that is set aside with the intent to recycle.

Commissioner Ferris pointed out that wood debris from construction involves small to large pieces of wood that are not typically stacked neatly. When unattended, a pile, whether screened or unscreened, attracts other trash. Those who are really intent on recycling construction materials must segregate their waste stream and hold it in what amounts to dumpsters with lids. He said the language as proposed is acceptable and will not put an undo burden on builders.

Ms. Madche commented that the city's abatement process includes numerous attempts to achieve voluntary compliance. The code compliance officers first work with the property owners to bring things into compliance. She reminded the Commissioners that the provision regarding construction debris will be part of the Bellevue City Code, not the Land Use Code, and therefore not included in the Commission's recommendation to the Council. The opinions of the Commission, however, will be passed on to the City Council.

Ms. Madche reviewed with the Commission the proposed revisions to the draft amendment language.

Motion to recommend to the City Council the Phase I neighborhood character code amendments, as revised, was made by Commissioner Ferris. Second was by Commissioner Mathews and the motion carried unanimously.

A. Process Based Land Use Code Amendments

Commissioner Orrico referred to the proposal to delete unnecessary language relating to administrative amendments for conditional use permits, planned unit development and subdivision of land and asked if there is a situation in which city or state law would preclude an administrative determination. Ms. Madche said there is not for any of the processes for which the city offers an administrative process.

Commissioner Orrico asked where the parking demand analysis required for hotel, motel and religious institutions. Ms. Madche said it is usually required as a condition of approval where parking will be required. It is a requirement of staff and may not actually be in the code. Commissioner Orrico suggested that it should be required somewhere in the code. Ms. Madche said she would look into that.

Commissioner Orrico said her greatest concern was with the proposal to authorize the City Council to take action on land use amendments without prior review of the Commission. She said her concern is the inconsistent treatment of applicants and opening the door to special treatment. Ms. Madche said there are other jurisdictions that include enough authority with their land use codes to allow the City Council to act on land use actions absent Planning Commission review in certain cases. She said it is not the intent of staff to offer any applicant the option of bypassing the Planning Commission; the city benefits greatly from the process.

Commissioner Orrico said her concern is that powerful applicants within the city could take the opportunity to use the provision to browbeat staff into take an issue directly to the City Council.

Chair Robertson suggested that if the Council wants to bypass the Commission, it should have the authority to do so. She proposed revising the wording to include the notion of moving a decision directly to the City Council at the request of the Council.

Ms. Madche reminded the Commission that only Comprehensive Plan amendments are required to have a recommendation from the Planning Commission, not Land Use Code amendments.

Commissioner Ferris agreed with Commissioner Orrico. He noted that the preamble language talks about the Council needing to take immediate or emergency action, but nothing in the modified language makes any reference to immediate or emergency. At a minimum, the language should include the notion of the Council acting absent the Commission in cases of emergency.

Ms. Madche said one solution would be to include language requiring a statement of immediacy within the recitals of any action taken that did not first pass through the Planning Commission.

Commissioner Ferris said he would prefer the language to clearly state that in the event of an emergency, the Council can act without a prior hearing before the Planning Commission.

Mr. Inghram advised against using the word "emergency." He noted that the public generally defines the term in light of flashing lights and sirens, a life-threatening event. Code amendments and planning actions do not often rise to that threshold.

Commissioner Orrico suggesting using the word "critical," and Chair Robertson proposed including the phrase "a finding of necessity."

Commissioner Bach asked if there are examples of where such a provision has been applied. Ms. Madche said the action taken with regard to tent city was taken without a hearing before the Planning Commission. State law gives the City Council that authority.

Commissioner Sheffels pointed out that small cities nationwide have the authority to bypass their planning commissions and act independently. The practice does bring with it the temptation on the part applicants to expedite matters by skipping the planning commission. She agreed there should be a finding of necessity required by the City Council.

Chair Robertson agreed that the City Council can act without a recommendation from the Planning Commission, but suggested that if the Commission does hold a public hearing, a recommendation should be required to be issued prior to any final action by the Council. Mr. Inghram noted that if the Planning Commission both holds a public hearing and makes a recommendation, no change to the language would be needed. If the intent is to say there can only be a public hearing before the Planning Commission is the Planning Commission also makes a recommendation, essentially the only change needed is to delete "Planning Commission" from the end of 3.64.160.B.

Commissioner Orrico expressed concern about deleting the word "shall" from the first line of the same paragraph. It was agreed that it should read "...however, the City Council may take action without review or recommendation from the Planning Commission, provided they make a finding of necessity to bypass the Planning Commission...."

With regard to the proposal to amend the Land Use Code to allow the city to land use approvals during Process II appeal periods where no parties submitted written comments prior to the date a final decision was issued, Commissioner Orrico voiced concern with the notion of no cognizable risk of appeal. She suggested that if there is any risk of appeal, the city should not be truncating the time period. Ms. Madche said when there are no parties of record, there is no one with standing to appeal, other than the city and the applicant.

Chair Robertson asked if a person can become a party of record simply by attending a public hearing and making an oral comment. Ms. Madche said that action would qualify a person. All parties who comment within the comment period, which begins from the date of publication of the notice of application and runs 14 days, become parties of record.

Chair Robertson pointed out that the ordinance language specifically references written comments. She suggested it should be revised to indicate simply parties of record. She also asked staff to review the language to make sure it does not cut off the right of the city to appeal, or require the city to issue a permit while pending a city appeal.

Commissioner Orrico called attention to the issue of restrictive covenants in 20.45H.270.B.2 and suggested the city must require the recording of agreements by parties who agree to modify or terminate relevant covenants. Ms. Madche agreed to add that.

Commissioner Sheffels noted the need to add short plats and PUDs. Ms. Madche said the provision applies to subdivisions, which includes short plats but not PUDs. Under state law, the provisions apply to the division of property, which a PUD does not do.

At the suggestion of Commissioner Orrico, Ms. Madche agreed to add "...or other local provision..." to paragraphs A and B in the section on the method of mailing, publication and postcard notification.

Commissioner Ferris called attention to the efficiency improvement proposals relative to home occupations and suggested the proposed new approach does not appear to be any less onerous on city staff relative to providing notice of application and decision. Ms. Madche explained that currently an application for a home occupation permit requires public notification, which then requires a staff report. The proposal would take away the permit requirements and shift them to performance standards. The decision criteria as spelled out in the code read as performance standards in that they govern how the home occupation will work during its course of business. However, the planner reviewing the application has no way of knowing if the home occupation is going to comply with the provisions at the permit level. The requirement to post notice in the usual would be eliminated under the proposal. Some citizens voiced concern with not having a

noticing provision, so staff are reviewing methods of providing noticing to neighborhoods regarding new business license applications.

Commissioner Orrico asked if under the current regime a neighbor responding to a posted notice can stop the city from issuing a home occupation permit. Ms. Madche said the neighbors have the opportunity to comment, but if the decision criteria are met, the permit is required to be issued.

Commissioner Ferris commented that the current approach is proactive and the proposed approach is reactive. Ms. Madche explained that the city only knows about how home occupations are operating, if contrary to the decision criteria, through the enforcement process. That process will not change as a result of the proposal.

Commissioner Orrico predicted that the new approach will generate some backlash. Home occupations is one area neighbors tend to get into fights about, requiring lots of code enforcement actions. Property owners are likely to be upset about not knowing up front about a pending home occupation permit.

Chair Robertson suggested one solution would be to change the business license rules to include a checkmark on the form indicating the business will be a home occupation, and where that box is checked the city sends out notice to neighboring properties. Ms. Madche said that is the approach currently under contemplation. Still undecided is whether the notice should be published in a weekly, monthly or quarterly bulletin, or posted on the city's webpage. The current approach is to include notice in the weekly permit bulletin. Chair Robertson recommended retaining that noticing requirement and expressed concern over repealing the section until the city has sorted out how to deal with the noticing. She suggested making recommendation clear in the transmittal memo to the City Council. Ms. Madche said she would make sure the new notification process is determined before the Commission's recommendation is sent to the Council.

Motion to recommend the process based Land Use Code amendments to the City Council as amended was made by Commissioner Ferris. Second was by Commissioner Mathews and the motion carried unanimously

C. Bel-Red Corridor Project

Mr. Inghram said the feedback from the October 10 joint boards and commissions meeting has been very positive. He reminded the Commission that the recommendation of the steering committee is to add to the corridor 4.5 million square feet of commercial uses and 5000 housing units. The anticipation is that 70 to 80 percent of the new growth will occur within the node areas. The plan also includes an identified arts and cultural area around the Pacific Northwest Ballet school site, and a network of parks and open space with restored streams and natural spaces. Building heights within the node areas will have peak heights of between 125 and 150 feet. The plan includes a call for workforce and affordable housing, and a variety of transportation improvements. The key transportation project is an east-west corridor that is almost entirely new along NE 16th Street.

Mr. Inghram reminded the Commissioners that the land use vision for the corridor is not predicated on light rail, though it does set a plan in place before the arrival of light rail. In the interim, bus rapid transit-style service will serve the area. The light rail best practices project will continue even in the face of the defeat of Proposition 1 given that Sound Transit is continuing its rough alignment selection process for East Link.

Several people have suggested that the Bel-Red corridor project may offer the city a prime opportunity to develop a major recreation facility aimed at serving more than just the local area.

A portion of Redmond projects into the corridor, so continued coordination with the city of Redmond is called for. A joint Bellevue-Redmond Council meeting is scheduled to discuss the update of BROTS.

Mr. Inghram said as the implementation phase moves forward, the first focus is on creating a new subarea plan for the Bel-Red corridor based on the recommendations of the steering committee. He explained that a subarea plan establishes vision, includes general policies, and includes policies that are unique to the subarea. He cautioned against getting into a discussion regarding individual amendments pertaining to various elements of the Comprehensive Plan that may in some way or another relate; if additional updates are identified, they should be addressed in a separate amendment cycle.

Each of the involved boards and commissions will be focused in the near term on the individual components with which they have jurisdiction. From all of that work will flow a consolidated plan that brings the various recommendations together. Ultimately, the public hearing will be conducted by the Planning Commission. A joint Planning Commission-Environmental Services Commission meeting is slated for December 6; the focus there will be national pollution discharge requirements. Developers have been invited to attend an open house on November 28 between 6:00 p.m. and 7:00 p.m. prior to the Commission meeting. They have been asked to bring and put on display the things they are interested in building in the corridor.

Commissioner Ferris asked staff to provide the Commissioners with an 11 by 17 map of the corridor indicating the height limits by node. He also asked how soon the Commission will have the consolidated plan based on the work of the various boards and commissions. Mr. Inghram said there is no specified deadline. The intent is to give each of the appointed bodies sufficient time to give staff appropriate direction before developing the first draft. With regard to process, he said prior to releasing the draft plan staff wants to reserve time to discuss with the Commission things like the incentive system and specific policy details.

Commissioner Mathews noted that the proposal of Wright Runstad that was printed in the paper recently talked about three million square feet of office and 800 to 1000 units of housing and suggested the capacity of the area may in fact be considerably more than anticipated by the steering committee. Mr. Inghram said the numbers that have been put out there are not considered to be the capacity for the area; the area is twice the size of the downtown and has a significant theoretical capacity well beyond the numbers envisioned by the steering committee for the horizon year of 2030. It would be an easy thing to just come out and suggest that the plan numbers should be increased, but looking historically at development trends it can be seen that there are spikes and valleys over time that are difficult to predict.

Answering a question asked by Chair Robertson regarding affordable housing incentives, Mr. Inghram said staff took the issue to the City Council. Their direction was to first address the Land Use Code changes through the Bel-Red process. Some non-Land Use Code changes will also be needed, such as dealing with the Housing Trust Fund. Subsequent to the Bel-Red project, the city will look at applying some of the housing tools citywide.

Commissioner Sheffels said the Bel-Red steering committee did discuss the issue of affordable housing incentives but concluded that it did not have the authority to make those specific recommendations.

10. NEW BUSINESS

Mr. Inghram followed up on a question asked at a previous meeting by Chair Robertson regarding constructing parking facilities under sidewalks that extend beyond the public right-of-way onto private property. He said there is an area 16 feet deep underneath sidewalks that cannot be built in; the area is preserved for street utilities. There could be building elements extending into the space below the 16-foot level.

Commissioner Ferris asked if the restriction applies only to the area beneath sidewalks located within a public right-of-way. Mr. Inghram said his understanding is the restriction would apply even to sidewalks located on private property. Commissioner Ferris asked Mr. Inghram to verify that understanding given that street utilities are always located within public rights-of-way, absent a recorded easement. Mr. Inghram said it is common for the city to require easements in the downtown. He agreed to verify the information, however.

With regard to the downtown mobility study, Mr. Inghram clarified that Project 208 involves two right-turn lanes rather than three, the number previously shown in the materials.

Mr. Inghram reported that the department has decided to go ahead with the Wilburton-NE 8th study and Comprehensive Plan amendments with some changes, including the exclusion of the Home Depot site from the rezone area; including the one parcel to the north along 116th as requested by the property owner; replacement of the special opportunity area with policy language talking about the potential of the area for future transit-oriented development; retaining the GC and OLB zoning along the freeway; allowing for a phased construction of NE 4th Street provided right-of-way is secured; and including the squaring of the intersection at 120th Avenue NE and NE 8th. The Comprehensive Plan amendments will be included in the package for the winter of 2008, but the Land Use Code amendments will not be included. A new public hearing will need to be held.

Mr. Inghram clarified that the 75-foot height limit along 116th Avenue NE would extend only as far east as the railroad right-of-way.

11. OLD BUSINESS

12. APPROVAL OF MINUTES

A. July 25, 2007

Chair Robertson called attention to her report on the Light Rail Best Practices committee and asked to have added that the committee includes two members of the City Council in addition to the representatives from the various boards and commissions.

Chair Robertson also noted that on the last page of the minutes "Logier" should be spelled "Lozier."

Commissioner Orrico noted that the statement included as the third paragraph on the fifth page of the minutes attributed to her was actually made by Chair Robertson.

Motion to approve the minutes as amended was made by Commissioner Orrico. Second was by Commissioner Mathews and the motion carried without dissent; Commissioner Sheffels abstained from voting.

13. PETITIONS AND COMMUNICATIONS

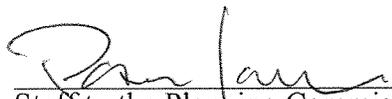
Mr. Chris Mooi with Bel-Green Developments said along with a partner his company intends to develop a high-end independent living community oriented for active seniors on the former Angelo's Nursery site in the Bel-Red corridor between 156th Avenue NE and Bel-Red Road. He said he will be present at the open house on November 28 to share some preliminary information about the proposed development. He said it has been interesting to hear from local citizens how much they love the community and want to be able to stay. The development will make that possible for many. A world-class team has been put together to see the project through to completion. There have been good open dialogs with city staff with regard to the basic parameters.

Mr. Todd Woosley with Hal Woosley Properties, owners and managers of Briarwood Center, noted his excitement with what the Bel-Red corridor project offers. He said the timing is certainly right to look at the future of the area. He asked that the proposed height for the property on which Briarwood Center is located be verified, noting that it is shown on the map as 60 feet but should in fact be 75 feet. In addition, the site should be treated the same as the light industrial site to the north, the Safeway site, with regard to building height. With regard to transit in the corridor, he noted that the Transit Now package approved in 2006 will bring a high-capacity rapid transit system to the corridor in 2009 in the form of additional buses. Briarwood Center will be impacted by some of the proposals, notably by increased traffic congestion and the extension of NE 10th Street which is proposed to run through the middle of the property.

Mr. Dan Stonington with Cascade Land Conservancy highlighted the fact that the Bel-Red steering committee passed a motion recommending the exploration of the use of the rural transfer of development rights in the implementation package and the list of incentives. He asked the Commission to follow up on that recommendation in the months to come. He explained that Cascade Land Conservancy is a regional land trust that works on forest, farm and resource land conservation as well as urban issues such as parks, housing and transportation within Pierce, Snohomish, King and Kittitas counties.

14. ADJOURNMENT

Chair Robertson adjourned the meeting at 10:22 p.m.



Staff to the Planning Commission

3/12/08

Date



Chair of the Planning Commission

3/12/08

Date

