

CITY OF BELLEVUE  
BELLEVUE PLANNING COMMISSION  
STUDY SESSION MINUTES

October 13, 2010  
6:30 p.m.

Bellevue City Hall  
City Council Conference Room 1E-113

COMMISSIONERS PRESENT: Commissioners Himebaugh, Lai, Mathews, Sheffels, Turner

COMMISSIONERS ABSENT: Chair Ferris, Commissioners Hamlin

STAFF PRESENT: Paul Inghram, Nicholas Matz, Department of Planning and Community Development, Carol Helland, Matthews Jackson, Development Services Department

GUEST SPEAKERS: None

RECORDING SECRETARY: Gerry Lindsay

1. CALL TO ORDER

The meeting was called to order at 6:34 p.m. by Vice-Chair Lai who presided.

2. ROLL CALL

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

3. PUBLIC COMMENT

Mr. Brian Parks, 16011 SE 16<sup>th</sup> Street, pointed out that the Phantom Lake properties highlighted by staff on September 22 were all outside the Shoreline Overlay District and not within the Phantom Lake Association area. Even the weir is under a city easement and probably outside the overlay district. Phantom Lake residents are not in control of, nor are they responsible for, what the city and the I-90 Business Park properties flush into the lake from upstream, nor for what downstream properties do to block and congest the outlet. The utilities bills paid over many years by shoreline property owners say that storm and surface water services include flood control and management of streams and lakes. The city regulates what property owners can do on the lake. The three downstream property owners along the drainage channel at SE 17<sup>th</sup> Place have a culvert pipe that is 40 percent congested with sedimentation buildup, and the pipe is now undersized given the city allowed increases in flow through Phantom Lake's only outlet. Two of the three property owners question whether they have any responsibility with regard to the culvert. All three property owners are willing to sign access agreements but are not willing to pay to have the culvert cleaned out. Utilities does not claim the culvert. It appears Utilities intends to use the problem as a political football both to gain leverage on the Phantom Lake property owners and to entrap them with documentation into the formation of a lake management district. Staff notes from various meetings misrepresent the Phantom Lake property owners and appear to set the stage for a lake management district. The city wants the local property owners to become responsible for the inadequate surface and storm water capacity in the area and for the liabilities associated with that and the landfill. Staff has said the Boeing detention pond B cannot be used because city infrastructure cannot handle the water during peak times. Utilities hangs its

hat on a statement made by the City Council to the effect that any new studies or projects must be contingent on the formation of a lake management district. However, the resolution does not establish any such policy. The inlet and outlet are referred to both as Type F fish streams in some places and as a drainage ditch in other places, depending on which is most advantageous to the city. The fact is they are both part of the storm and surface water conveyance system of the city and should be managed as such.

Mr. David Plummer, 14414 NE 14<sup>th</sup> Place, urged the Commission to reject the staff's recommended change to LUC 20.20.070.B, a provision that deals with a formula for calculating building height. The staff have not provided any credible rationale for making a change to the provision.

Mr. Bill Stalzer, 603 Stewart Street, Suite 512, Seattle, spoke on behalf of Jean and Bobbi Goodboy of 4003 177<sup>th</sup> Avenue SE and expressed support for the recommended change to LUC 20.20.070.B. He said he has been working as a planner with the Goodboys and city staff for over a year and a half on issues related to a proposal to update the house on the Goodboy property. The staff report mentions that the current regulations severely restrict building heights on already constrained lots. The Goodboy situation is a perfect example of why the proposed amendment is necessary. Photos of the property were shared with the Commissioners. The formula housed in the code would in fact restrict the allowed height limit on the Goodboy property to 12.6 feet, and no variance is allowed to the building height. That is lower than the roof peak of the existing home on the property. With the regulation in place, remodeling the home is not feasible.

#### 4. APPROVAL OF AGENDA

The agenda as submitted was approved by consensus.

#### 5. COMMUNICATIONS FROM CITY COUNCIL, COMMUNITY COUNCILS, BOARDS AND COMMISSIONS

Commissioner Sheffels reported that the Wilburton committee focused on NE 5<sup>th</sup> Street had met for a second time.

#### 6. STAFF REPORTS

Comprehensive Planning Manager Paul Inghram briefly explained the process to be followed during the public hearing, noting individual hearings are requested for each of the Comprehensive Plan Amendment proposals.

#### 7. PUBLIC HEARING: Comprehensive Plan Amendment 10-120231 AC

Senior Planner Nicholas Matz noted that there were four elements to the overall proposed Comprehensive Plan Amendment, each of which focused on transportation-related updates of existing policies and project lists in the Transportation Element, East Bellevue Transportation Facilities Plan, and the Bel-Red Subarea Plan. The purpose of the updates is to keep the Comprehensive Plan consistent with Growth Management Act (GMA) requirements. He said the Commission would be asked to develop recommendations for each of the four following the public hearings.

The Council initiated the Comprehensive Plan amendment on August 2, 2010.

With regard to the first proposed amendment to Figure TR.2--Travel Demand Forecasts, Mr.

Matz explained that Comprehensive Plan data and policy language must be as current to maintain GMA consistency between land use and transportation planning efforts. The existing graphic indicates the forecast through 2005 and is proposed to be updated to show data through 2020. Additionally, the travel demand forecasts will be shown in a more summary form, and the Mobility Management Areas (MMA) need to be updated to be consistent with current boundaries as determined by the Bel-Red subarea study.

Mr. Matz said the recommendation of the Transportation Commission was to make it clear that Figure TR.2 represents data for all motorized modes of travel.

The land use forecasts in the Comprehensive Plan are one part of the transportation planning process. They are used in the financially constrained citywide Transportation Facilities Plan (TFP) and their impacts are analyzed in the environmental impact study for the TFP. The modeling done to determine the travel demand forecasts are based on the adopted land use plans and forecasts.

Mr. Matz noted that Commissioner Sheffels had asked in the September 15, 2010, study session how the travel demand forecast model had actually performed, compared to the original 1992 forecast for the period to the year 2005. He said transportation modeling staff “ran the numbers” and determined that some of the MMAs had fewer trips than were forecasted and some had more. Overall, actual travel demand for trips that started in the MMAs was 103 percent of the forecasted demand, and 109 percent of the forecasted demand for trips that ended in the MMAs. The factors that affected the performance of the forecast included revisions made to the model over the years and the influence of demographic information from the 2000 census.

With regard to the second proposed amendment for revising the project description for 120<sup>th</sup> Avenue improvements in the East Bellevue TFP project list, Mr. Matz commented that as policy tools are amended to guide redevelopment in the Downtown, Wilburton and Bel-Red subareas, implementing tools, such as the various Comprehensive Plan TFPs, the Mobility and Infrastructure Initiative, and the CIP react to their policy direction. It is always worthwhile to identify where the relationship suffers gaps, or results in confusing direction as a result of different efforts over time, and the proposed amendment does just that.

During the previous September 15, 2010, study session, Chair Ferris asked staff to include in their report and recommendation an outline of how the proposals serve the city’s vision both for multimodal transportation policy and to satisfy travel demand. Mr. Matz shared with the Commissioners a graphic developed in response to this depicting how the 120<sup>th</sup> Avenue improvements satisfy both vehicle travel demand and fit into the framework of a coherent and integrated transportation network serving all modes of travel both locally and regionally.

Mr. Matz clarified that in response to the public comments provided by Best Buy LP regarding their store at 457 120<sup>th</sup> Avenue NE, no specific configuration for the connection that will run past Best Buy is implied by the proposed change in the Comprehensive Plan TFP’s project description. The language simply indicates the purpose of the 120<sup>th</sup> Avenue improvements, which is to connect from NE 4<sup>th</sup> Street to NE 8<sup>th</sup> Street within the larger street framework.

Next, the Commissioners were informed that there are three different project descriptions in three different TFPs for the Bel-Red Road project between NE 20<sup>th</sup> Street and NE 24<sup>th</sup> Street. The intent is to update the description into a single Comprehensive Plan TFP project list description to for purposes of consistency.

The fourth proposed amendment seeks to classify the newly constructed NE 10<sup>th</sup> Street segment

between 112<sup>th</sup> Avenue NE and 116<sup>th</sup> Avenue NE in Figure TR.3 as a Minor Arterial.

### Public Hearings

#### A. Transportation Element Figure TR.2 – Travel Demand Forecasts

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

Mr. David Plummer, 14414 NE 14<sup>th</sup> Place, urged the Commission to reject the staff's recommended changes to Figure TR.2. He noted that the staff rationale for making the change is that the proposal satisfies the decision criterion requirement of the Bellevue Land Use Code 20.301.150.B.5 which states that amendments must have demonstrated a public benefit and enhance the public health, safety and welfare of the city and its residents. It was Mr. Plummer's contention that nowhere in the staff report is there any evidence that the proposal will accomplish those tasks.

There were no other speakers.

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

#### B. East Bellevue TFP Project List Description of 120<sup>th</sup> Avenue Improvements

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

Mr. David Plummer, 14414 NE 14<sup>th</sup> Place, urged the Commission to reject the proposal for the same reasons he gave for the Figure TR.2 proposal, that no rationale has been offered by the staff for why the proposed amendment should be approved because the proposal does not satisfy the decision criterion requirement of the Land Use Code 20.301.150.B.5 stating that amendments must demonstrate a public benefit and enhance the public health, safety and welfare of the city and its residents.

There were no other speakers.

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

#### C. Bel-Red Subarea Transportation Project List Description of Bel-Red Road from NE 20<sup>th</sup> Street to NE 24<sup>th</sup> Street

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

Mr. David Plummer, 14414 NE 14<sup>th</sup> Place, urged the Commission to reject the proposal for the reasons previously stated in items A and B. He also said the Bel-Red project is going to be a total disaster for the city. The Commission should take a look at the building that is ongoing along 116<sup>th</sup> Avenue NE as part of the expansion of the hospital to gain a better understanding of the densities proposed for the rest of the corridor. Mr. Plummer noted again that the staff has provided no rationale showing that the amendment satisfies the requirement of the Land Use Code 20.301.150.B.5 regarding that amendments must have demonstrated a public benefit and

enhance the public health, safety and welfare of the city and its residents.

There were no other speakers.

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

D. Classify NE 10<sup>th</sup> Street from 112<sup>th</sup> Avenue NE to 116<sup>th</sup> Avenue NE – Figure TR.3

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

There were no public comments.

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

8. STUDY SESSION

A. Comprehensive Plan Amendment 10-120231 AC

1. Transportation Element Figure TR.2 – Travel Demand Forecasts

Commissioner Sheffels said the neighborhood's NE 5<sup>th</sup> Street committee has been working with a consultant for the city who has provided vehicle count figures for the streets in the area. She asked if that data would be incorporated in the new travel demand forecasts represented by the proposed Figure TR.2. Mr. Inghram replied that in addition to NE 4<sup>th</sup> Street and NE 6<sup>th</sup> Street, the city also has a project for NE 5<sup>th</sup> Street that will provide traffic calming and mitigation to help eliminate cut-through traffic from using the street as a bypass route. The city Transportation Department is actively working with the local neighborhood in evaluating the most appropriate and effective measures. The peak hour traffic numbers shared with the group have been for specific vehicle counts for the streets, which is somewhat different from the numbers proposed for Figure TR.2 which shows the forecasted travel demand by all motorized modes allocated by MMA.

Commissioner Himebaugh stated that he agreed with Mr. Plummer that the statement in the staff report regarding Land Use Code 20.301.150.B.5 simply restates the criteria and asked staff to elaborate on how the proposed amendment fulfills the criteria. Mr. Matz replied that having up-to-date, accurate information such as that represented by amendments to Transportation Element Figures TR.2 and TR.3 provides a material public benefit so that users can rely on the Comprehensive Plan. Addressing the interests and changed needs of the entire city as identified in its long-range planning and policy documents by supporting redevelopment efforts in the city's identified Employment Centers and by building on the framework studies done for the Wilburton and Bel-Red Subarea plans also provide a public benefit. Mr. Matz also said in demonstrating public benefit staff has shown that all of the decision criteria are met relative to significantly changed circumstances, the identified long-range planning policies, and the need to show how all of the different transportation projects fit together into an overall system.

Commissioner Turner asked if the Commission should include a statement outlining the public benefits. Mr. Matz said that would be included in the Commission's Transmittal memo to City

Council.

Motion to recommend approval of Transportation Element Figure TR.2, Travel Demand Forecasts, was made by Commissioner Sheffels. Second was by Commissioner Himebaugh and the motion carried unanimously.

## 2. East Bellevue TFP Project List Description of 120<sup>th</sup> Avenue Improvements

Commissioner Sheffels reported that the residents who live on or have businesses close to NE 5<sup>th</sup> Street are very concerned about what will happen as NE 4<sup>th</sup> Street is extended to connect with 120<sup>th</sup> Avenue NE. Their primary concern is in regard to cut-through traffic going up to 124<sup>th</sup> Avenue NE. At the same time, residents living in other parts of Wilburton see NE 5<sup>th</sup> Street as providing great accessibility for the neighborhood. A written survey is being prepared that will ask each household their opinion prior to the end of the year. An open house is also being planned at which staff will be present to answer questions.

Commissioner Turner asked if the non-motorized facilities along 120<sup>th</sup> Avenue are supposed to connect with other non-motorized facilities, especially on the southern end. Mr. Matz said they will connect with systems that connect with Main Street and points west, and to Wilburton Park for routes to the east. The NE 4<sup>th</sup> Street facilities will connect 120<sup>th</sup> Avenue with other connections as well.

Commissioner Himebaugh asked why #582 and #583 were shown as separate projects. Mr. Matz said at the time they were adopted as part of the Wilburton Comprehensive Plan amendment it was known what NE 4<sup>th</sup> Street had to be but the design work for 120<sup>th</sup> Avenue was not yet completed because the Bel-Red study was still under way. It made sense to make the two projects discrete, even though the financially constrained citywide TFP describes the two projects as linked.

Commissioner Mathews pointed out that the proposed amendment deals only with the project description. He said the language accurately describes what it will take to meet all of the requirements that were laid out when the Wilburton and Bel-Red improvements were studied.

Motion to recommend amending the East Bellevue Transportation Facility Plan by adding an updated project list description at #583 for the 120<sup>th</sup> Avenue NE improvements and renumbering the balance of the TFP project list was made by Commissioner Himebaugh. Second was by Commissioner Sheffels and the motion carried unanimously.

## 3. Bel-Red Subarea Transportation Project List Description of Bel-Red Road from NE 20<sup>th</sup> Street to NE 24<sup>th</sup> Street

Mr. Inghram clarified that the proposal will eliminate three existing project descriptions from other Comprehensive Plan TFPs and replace them with a single description in the Bel-Red Subarea Plan to avoid confusion.

Motion to recommend approval of the Bel-Red Subarea Transportation Project List description of Bel-Red Road from NE 20<sup>th</sup> Street to NE 24<sup>th</sup> Street was made by Commissioner Sheffels. Second was by Commissioner Mathews and the motion carried unanimously.

## 4. Classify NE 10<sup>th</sup> Street from 112<sup>th</sup> Avenue NE to 116<sup>th</sup> Avenue NE – Figure TR.3

Motion to recommend amending figure TR.3 with an updated designation of NE 10<sup>th</sup> Street from 112<sup>th</sup> Avenue NE to 116<sup>th</sup> Avenue NE as a Minor Arterial was made by Commissioner Turner. Second was by Commissioner Himebaugh and the motion carried unanimously.

B. Nonconforming Lot Building Height Restriction Land Use Code Amendment (LUCA)

Neighborhood Development Planning Manager Matthews Jackson brought before the Commission a potential Land Use Code amendment relative to Section 20.20.070.B pertaining to nonconforming lots and the maximum height restriction for lots that fail to meet 70 percent of the minimum lot size width and depth requirement. He said the objective of the amendment is to allow for the reasonable development of nonconforming lots in light of existing codes, particularly the recently approved two phases of the neighborhood character code amendments. The neighborhood character code amendments were targeted to address specific issues raised by the neighborhoods but were also intended to be flexible relative to unique site circumstances and context.

Continuing, Mr. Jackson said the existing code language was established in 1988 and considered primarily three development scenarios: development on shoreline lots that were nonconforming as to width but which were more than 70 percent of the minimum lot size; existing legally platted lots significantly smaller than the minimum currently established lot size; and lots between 50 and 70 percent of the minimum lot size requirement in the existing underlying zoning. The proposed amendment is focused primarily on the latter scenario.

The existing code limits height on substandard nonconforming lots by utilizing a formula that is predicated on the ratio of buildable area and the underlying maximum building height. In no event can building height be reduced to less than 15 feet. The height that results from the formula cannot be modified through the Land Use Code variance procedure.

Staff has found that most of the lots that are subject to the existing code language are constrained by other development regulations, specifically minimum structure setbacks, maximum lot coverage, and maximum impervious surface requirements. In combination with the restrictions on the maximum building height, the affected properties are encumbered with significant burdens, particularly where redevelopment is contemplated. The current regulations are inconsistent with the notion of being targeted and flexible.

Mr. Jackson said the proposed code amendment is primarily focused on allowing the use of the variance process to consider requests to vary from the maximum height that results from applying the formula. The variance process is an administrative action that allows for public notice, public comment, and an appeal process. Variances must meet specific decision criteria: it must be shown that the variance will not result in the granting of a special privilege; relates to a special circumstance related to lot size, character or topography; will not be materially detrimental to other properties in the vicinity; and is consistent with the city's Comprehensive Plan.

While it would result in an additional regulatory step, staff believes the proposed amendment would allow for the consideration of unique circumstances in conjunction with a public process.

Land Use Director Carol Helland reminded the Commissioners that during the neighborhood character study one of the primary complaints brought forward by citizens was the issue of large houses constructed in a manner that gives the appearance of looming over the adjacent homes. She suggested that capping the height limit at 15 feet is equally absurd and results in homes that are dwarfed and thus also out of scale. The variance process to deal with the height issue will not be overly burdensome given that most of the properties will have to go through the variance process anyway in order to deal with lot coverage issues.

Mr. Jackson shared with the Commissioners photos and diagrams of properties and indicated how each would be affected by the proposed code amendment. He included photos of the Goodboy property. He noted that the 5000-square-foot property is located in an R-5 zone, which makes it 69.4 percent of the minimum lot size, making it less than one percent under the threshold for being regulated by 20.20.070.B. The homes on the adjacent properties are all constructed at or near the maximum building height allowed, which is 35 feet to the peak. If allowed to redevelop with a building height similar to the surrounding homes, there would be little or no impact on the adjacent properties.

Ms. Helland pointed out that the home on the property was originally constructed under King County regulations. The lot is further constrained by virtue of it being a corner lot. The lot is legally nonconforming, and the nonconforming regulations limit the amount of change that can occur over time; beyond a certain threshold, the site must be brought into full compliance, and that would mean under the current regulations diminishing the allowed height. The other protections that have been put in place will prevent such properties from being a burden to the houses next to them.

Mr. Jackson said between five and ten properties that fit the category have come to the attention of staff over the past two years. While not a big number, for the people who are impacted the issue is significant.

Commissioner Mathews said the current code language essentially penalizes the small lot owners. So long as the variance process adheres to the dictates of the neighborhood character amendments, it will help to resolve the situation.

Ms. Helland said with the Commission's go-ahead, the next steps would be to write a staff report and to run SEPA on the proposal, then bring the issue back to the Commission for a public hearing and then an additional study session before formulating a recommendation to the City Council.

Commissioner Lai said he would like to see examples in which a variance would not be approved because the result would yield something out of character. Mr. Jackson said he would look for examples. He noted that through the variance process a property owner could ask for relief up to the maximum building height, though there would be no automatic approval of the

maximum building height. The variance process would allow for consideration of what would be appropriate given the specific circumstances. Ms. Helland added that staff does not want people to develop plans that the city will not be able to approve. To that end, staff works closely with applicants in crafting variance proposals that have a higher probability of being passed.

The Commission directed staff to proceed. Mr. Inghram said he would work with Chair Ferris in determining a public hearing date.

9. OTHER BUSINESS – None

10. APPROVAL OF MINUTES

A. July 14, 2010

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

B. September 15, 2010

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

11. PUBLIC COMMENT

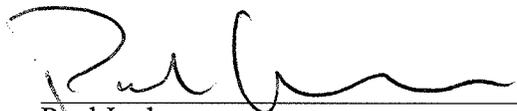
Mr. Bill Stalzer, 603 Stewart Street, Suite 512, Seattle, suggested that the current code language relative to building height on nonconforming lots is very difficult to explain to clients, especially in light of surrounding development. He said application of the formula to the Goodboy property would actually result in a reduction in the building height for what is already a small house located adjacent to much taller homes. As proposed, the variance will allow property owners to modify the formula for determining building height, not the actual building height allowed by the district. The Goodboy home is old and certainly needs to be updated. It is more than likely that the surrounding property owners would be happy to see approval given for a remodel of the home.

12. NEXT PLANNING COMMISSION MEETING

A. October 20, 2010

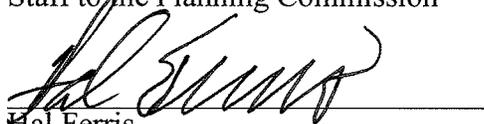
13. ADJOURN

Commissioner Lai adjourned the meeting at 8:07 p.m.



Paul Inghram  
Staff to the Planning Commission

11/3/2010  
Date



Hal Ferris  
Chair of the Planning Commission

11/3/2010  
Date