CITY OF BELLEVUE
BELLEVUE PLANNING COMMISSION
STUDY SESSION MINUTES

November 17, 2010
6:30 p.m.

Bellevue City Hall
City Council Conference Room 1E-113

COMMISSIONERS PRESENT:	Chair Ferris, Commissioners Hamlin, Himebaugh, Lai, Mathews, Sheffels, Turner
COMMISSIONERS ABSENT:	None
STAFF PRESENT:	Paul Inghram, Carol Helland, David Pyle, 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 6:33 p.m. by Chair Ferris who presided.

2. ROLL CALL

Upon the call of the roll, all Commissioners were present with the exception of Commissioners Hamlin and Mathews, who arrived at 6:34 p.m., and Commissioner Lai, who was excused.

3. PUBLIC COMMENT – None

4. APPROVAL OF AGENDA

The agenda as submitted was approved by consensus.

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

Commissioner Hamlin said the first meeting of the Eastgate CAC will be held on November 18. At that meeting the focus will be on introductions and background information concerning the study.

6. STAFF REPORTS

Comprehensive Planning Manager Paul Inghram reported that the four transportation-related Comprehensive Plan amendments were the subject of a brief study session the City Council held on November 15. The recommendations of the Commission were presented by Chair Ferris. The amendments are slated for Council action on December 6.

Mr. Inghram said part of the Council meeting on November 15 included a public hearing on the budget. He said he would provide updates as the budget process moves ahead.

7. STUDY SESSION FOR SHORELINE MASTER PROGRAM UPDATE

A. Shoreline Master Program Update

Land Use Director Carol Helland said the coming study sessions would focus on the consolidated code for review. The draft will be revised further if necessary and eventually be set for public hearing.

Senior Planner David Pyle explained that adjustments to the environment designations and use charts were centered around the consolidation of the marina and marina civic environments into one new environment. He said the use charts and the range of uses identified were revised to follow the Land Use Code, and new definitions for several recreation uses were also added.

Mr. Pyle reminded the Commissioners that as part of the original working draft there were several environment designations: aquatic, urban conservancy, urban conservancy/open space, shoreline residential, residential canal, and the two marina designations, marina/civic and marina. The marina environment provided opportunity for recreational boating. It was established where ecological functions were already relatively degraded due to existing marina uses. Marina/civic was similar but added additional opportunity for public access and enjoyment of the shoreline; it was to be located in the area that is targeted as part of the Meydenbauer Bay park master plan, as well as the SE 40th boat launch.

Continuing, Mr. Pyle reminded the Commissioners that by way of response to comment and feedback, a new split approach was considered. The new approach creates a new environment designation and consolidates the marina and marina/civic environments into a single environment: recreational boating. The split environment designation concept was unnecessary and complex to administer. The term "marina" had a tendency toward a more intense range of uses than is currently in existence or envisioned in the city. The difference between the two environments was not distinct, and there was no real compelling reason to maintain two separate environment designations. The new designation does not rely on ownership as a qualifying factor the way the old designation did. The new designation also gives recognition to the parks master plan process.

The purpose of the recreational boating designation is to provide for a variety of water-dependent and water-oriented uses. The primary focus is on activities associated with recreational boating. It is intended to include a range of uses similar to those previously included, although it has been categorized and defined to reflect existing conditions, community needs and current planning efforts.

Mr. Pyle said staff was proposing to restructure the use charts presented in the working draft. The modifications are intended to more closely align the use charts with those found in other city documents and follow the standardized land use reference guide to simplify interpretation and administration.

Activities are broken into two categories: minor maintenance, which does not require a permit, and repair, remodel or expansion, which typically does. When there is a permit required there are three levels: shoreline exemption letter, shoreline substantial development permit, and shoreline conditional use permit. With each increment of complexity comes additional cost in terms of time and money.

Ms. Helland said staff heard from the community the need for examples of the kinds of things that could be done without having to contact the city, and the kinds of things that require progressively more complicated permit processes. She said a template will be created in

preparation for the open house.

Mr. Pyle explained that a shoreline exemption letter is fairly simple to process and is the most typical permit issued. If someone meets the performance standards and falls within the threshold of what is considered a shoreline exemption, the city issues the letter indicating that the project is exempt from the shoreline substantial development permit. The shoreline substantial development permit has more process requirements and appeal opportunities; the city is required to process the permits with the Department of Ecology, and an appeal can be filed with the Shorelines Hearings Board. The shoreline conditional use permit is different in that it starts out being local but ultimately must be approved at the state level.

Commissioner Sheffels asked if there is any cost associated with obtaining a shoreline exemption letter. Ms. Helland said the cost is about $200. She said staff would bring to the Commission an outline of what the various permits cost. She added that many of the permit processes and costs are actually stipulated by the state.

Mr. Pyle shared with the Commissioners the proposed use charts and noted that they employ a system of footnotes similar to the Land Use Code. If a footnote is listed, the use must comply with the stated additional requirements. He called attention to footnote 9 and noted that it is related to the parks master plan process and the city's Meydenbauer Bay park master plan and the public marina use.

The Commissioners were told that under the proposal public marinas would only be allowed in conjunction with a parks master plan, as required by footnote 9. The range of uses allowed would be consistent with the master plan, and any public marina development proposal would be reviewed for consistency with the park plan through a shoreline substantial development permit.

Mr. Pyle said there were four essential use categories added under the recreational heading: private marina, public marina, yacht club and community club. The private marina use generally supports recreational boating activity and is the most intense marina use under recreation. The category includes boat moorage, boat storage, boat maintenance, boat repair, retail boat sales, sale of boat parts, boat launching, boat fueling stations, administration and facility office, and the retail sale of boating-related items, which includes food and beverages. The category does not intend to support heavy commercial or industrial uses, though limited non water-oriented commercial uses would be allowed when developed in conjunction with a mixed use marina development.

Public marina is a category that encompasses publicly owned recreational facilities and the primary emphasis is on providing moorage and public access. Public marinas will only be able to be established through a parks master plan. The range of uses will be similar to those for private marina, and they will be determined by and limited through the master plan process.

The Yacht club use category refers to a water-dependent private recreational boating club that provides water access and moorage to members and guests. The use includes social gathering space and facilities, small boat storage and launching, sanitary waste collection, service and repair to moored boats, member and guest parking. Yacht Clubs can also provide food and beverage services for members and guests, social gatherings, and meetings. Additional activities may include cultural, educational, and charitable elements related to recreational boating, including the hosting of water-related public/private organizations and events, boating and sailing instructions, and providing water enjoyment experiences to some who would not otherwise have access to the water. The Yacht Club use is limited to a moorage and social function and is not intended to support commercial, retail, industrial, or mixed-use uses.

Mr. Pyle said staff had had several discussions with the Meydenbauer Bay Yacht Club to discuss what an appropriate designation would be for their site. At the most recent meeting the club representatives requested that the range of uses appropriate for their site be narrowed to what was previously identified under the marina use category. As a yacht club, they would be restricted to the range of uses allowed by that use category. If they wanted to redevelop their site in the future, it would have to be through a conditional use process, but if they wanted to maintain or update their facility consistent with the range of uses allowed under yacht club, they could do so as a permitted use, provided no expansion was involved.

Community Club is defined as a private community organization that provides water-related experiences. The uses include moorage facilities, social gathering space and facilities, administration and facility offices, group activities, social support, public information, facility parking, and other community uses. Community Clubs also provide food and beverage services for members and guests, social gatherings, and meetings. Community Clubs may also include limited non-water oriented recreation facilities when proposed in conjunction with a moorage facility. Community Clubs are generally limited to moorage, recreation, and social function and are not intended to support commercial, retail, industrial, or mixed-use uses.

Ms. Helland allowed that the public had concerns about the marina designation because it brought to their minds an intensity of use that would spring up everywhere the designation was applied. She agreed that the nomenclature was incorrect, and their concerns led to the recommendation to rename the use as recreational boating. Within that category the proposal includes a range of use intensities that more appropriately reflect what people were thinking.

Commissioner Hamlin said he did not see a lot of difference between the yacht club and community club uses. Mr. Pyle said the community club use includes non water-oriented uses when developed in conjunction with a moorage use, whereas the primary function of a yacht club is a social gathering place for boat owners. Where community clubs serve the whole community, yacht clubs serve the boating community.

Commissioner Turner said he could not see a need to provide a distinction between the two use categories. He added, however, that if the local residents want to make the distinction he would not argue against doing so. Ms. Helland said the distinction was made in part through discussions with the Newport Shores Community Club which wanted its use defined with specificity. They have boating-related uses, but they also have community gathering spaces that allow neighbors to enjoy the shoreline.

Commissioner Himebaugh asked which use the more intensive, yacht club or community club. Mr. Pyle said it could be argued that the range of uses for community club is more expansive because it can include upland uses such as tennis courts that would not be allowed as part of yacht club. Commissioner Himebaugh asked if there is a process by which a yacht club could become a community club. Mr. Pyle said it would be necessary to seek a redesignation, which likely would require a conditional use permit.

Chair Ferris voiced support for the designations, suggesting that they make things a lot clearer. He asked how vegetative and building setbacks and overwater structures are applicable to the four uses. Ms. Helland said those are performance criteria, which each of the uses will have attached to them in the code.

Mr. Pyle said the environment maps were changed to respond to the marina and recreational boating facility changes, and to respond to individual property designation comments. The sites specifically analyzed were Vasa Park and Sambica/Strandvik. Vasa Park was originally proposed to be urban conservancy but it has since been proposed to be changed to shoreline residential. The Vasa Park site is categorized as a park and the property representatives do not support the urban conservancy designation. Private parks are an allowed use under the shoreline residential designation and all facilities can be maintained. A conditional use permit would be required to redevelop, however, which would not be the case under urban conservancy. The property representatives believe shoreline residential will accommodate their needs.

The Sambica/Strandvik property is jointly owned with access granted only to property owners in the Strandvik community and for use by the Sambica Bible Camp. The primary use of the property is private park with water recreation activities. The community representatives expressed some concern regarding an emphasis on ecological restoration and provisions for public access if the site were designated urban conservancy. The property owners do not envision a change for the site. Because existing parks can continue under the shoreline residential designation, the owners believe the designation will accommodate their needs.

Commissioner Turner asked if an entirely new designation could be crafted for the Sambica/Strandvik and Vasa Park sites, something like urban waterfront recreational, that would specifically accommodate their actual needs by preserving the recreational uses but eliminating the ecological restoration intent of the urban conservancy environment. Ms. Helland said the Commission could direct the staff to go in that direction. She said the shoreline characterization study yielded a lot of information about existing conditions on all three lakes. The Shoreline Management Act guidelines state that the lands within the shoreline characterization are to be characterized according to their functions and values and how the land is currently being used. Under the process alone, the conclusion reached was that the sites should be designated urban conservancy. That designation would actually allow both sites more flexibility to continue as a park since park uses would be permitted outright. However, the staff are comfortable with shifting to shoreline residential largely because of the surrounding residential properties.

B. Shoreline Management Plan Update – Public Comments

Mr. Marty Nizlek, 312 West Lake Sammamish Parkway NE, called attention to the revised use charts, specifically the aquatic column in the residential land use classification category, and pointed out that every use listed includes an "X". He stated that Map 1 of 22 on page 11 of the staff report in the lower right-hand corner says in a note that all areas waterward of the ordinary high water mark have an aquatic designation. He suggested some clarification would be in order with regard to which presides, the chart or the map. The Commission was urged to provide assurance that monitoring will be an integral part of the Shoreline Master Program. The 2006

critical areas ordinance should have included monitoring, and because there was no such requirement four years of information has been lost. Science attempts to answer questions where facts are not readily available. Facts can be established by science, but facts are not science. Facts have been missing from the update process and for the last four years. Monitoring cannot be relegated to the least common denominator. If the objective is to protect fish, then fish numbers must be reported. If a reduction in pollutants is an objective, then the sources of those pollutants and the quantities should be reported. Monitoring is needed to reflect the changes the program induces and the overall effectiveness and whether or not other more serious problems have been induced. With regard to cost, he said more than a few landowners have spoken of their experiences over the last four years under the critical areas code. The staff have indicated they will bring to the Commission an outline of routine costs, but few who have gone through the process would say that any of the costs are routine. Those who have been through the process over the past four years could easily be contacted and asked to share what their costs were. The city has actually accumulated historic information regarding the cost of maintaining or restoring ecological functions. There is a note in the staff report that it might cost as much as $2 million or $3 million to remove and restore one hundred linear feet of bulkhead; that cannot be considered a routine cost. The community has limited avenues for input and so has continued to appeal to the Commission.

Mr. Chris Stanson, 2668 West Lake Sammamish Parkway SE, said he purchased his waterfront property in 2004. At the time there was a concrete slab in the yard averaging between four and six inches thick that covered about two-thirds of the yard. He said he broke up the slab and carried it away piece by piece. At the same time he said he applied for a dock permit. The city determined the removal of the concrete slab was unacceptable and a stop work order was issued. It took almost eight months of review time, at the end of which the city directed the planting of a row of five trees across the yard and create a 15-foot swath of native vegetation between the house and the water. That did not seem fair given that the desired outcome was the removal of impervious surface area so it could be replaced with grass, which is what the neighboring properties all have. The city required a survey and a landscape designer had to be hired, in addition to paying for all the review fees. In the end close to $10,000 was spent to remove the concrete and plant grass, and $2000 had to be posted in the form of a bond that the city required to be held for three years. The property has a large retaining wall that limits the interaction between the yard and the water. Any requirement to take out the wall would be financially ruinous.

Mr. MarkvPeterson, 9840 SE Shoreland Drive, spoke as president of the Meydenbauer Bay Neighborhood Association. He thanked the Commission and the staff for responding to the comments offered by the association regarding the marina civic environment. He said the concern was that less restrictive rules were being developed for the marina under the master park plan public process that was originally proposed. Some of the more intensive uses have been eliminated from the use chart, and the description of public marina clearly says that uses allowed for each public marina are determined and limited through the park master plan process. The use chart for recreational boating environment includes uses not appropriate or planned for the Meydenbauer Bay park, but as long as the park master plan prevails the resulting marina park should be in keeping with the park planning efforts that have been in the works for the past three

and a half years. The incompatible uses still on the use chart that would not apply to the Meydenbauer Bay park include single family dwelling, accessory dwelling unit, commercial float plane or ferry terminal, water-dependent, water-related, water-enjoyment commercial, wholesale or retail, retail boat sales, marina fueling stations, eating and drinking establishments, non-moorage boat storage, boat launch ramps, and motorized boat rental. The Commission was thanked for modifying the civic marina environment.

Mr. Terry Dodd, 3401 West Lake Sammamish Parkway SE, noted that he previously raised a concern about decks and patios. He observed that the meeting minutes indicate that the decks issue has been addressed as being included as part of the home, but there is no mention of patios. The issue should not be lost. Things like patios, fire pits, stairways and even trams should be addressed relative to their maintenance and repair. He said he had a critical areas issue that had to be addressed in the development of his home, and that cost on the order of $20,000 for specialists, lawyers, city staff, and the mandated vegetative plantings.

Ms. Lori Lyford, 9529 Lake Washington Boulevard, read to the Commission a communication between city staff and an unknown individual, possibly from the Department of Ecology in regards to an Shoreline Master Program white paper. With regard to the concept of no net loss, the writer indicated that the notion is a poor candidate upon which to hand the entire regulatory program because it is difficult to define and almost impossible to measure in any real-world permitting situation. It is one thing to argue that the basic concept is that any loss of ecological function caused by an action must be offset by an equivalent gain in ecological function, but what if the problem resulted from a prior action, such as the installation of a bulkhead that removes or disrupts an ecological process. The argument that damage is ongoing is self evident, but if the property owner is proposing no action to what has been in place for years, there is no foul. To ask the property owner to rectify the impacts absence some movement on his part to significantly repair or replace the bulkhead would be met with legal arguments and hostility. The reality is that no net loss is a looser from a regulatory perspective absent some significant action on the part of the property owner with a clearly identifiable and measurable outcome. With regard to shoreline armoring, the communication allowed that Ecology's rules are very specific in allowing hardened stabilization only when there is a demonstrated and imminent threat to an existing residence. However, property owners are inclined to defend every bit of dirt they own, irrespective of whether or not it should have been placed there in the first place. Much of what they defend is fill placed many years previously below the ordinary high water mark. The difference between what is allowed and what is desired sets up a significant conflict for the future, and local politicians are not inclined to support rules that do not ensure the sanctity of all property possessed by a property owner. The permanence of bulkheads, especially in freshwater environments, is significant, and the replacement interval may be 50 years or more. The decision to allow an existing bulkhead to be replaced with a similar one will guarantee that there will be continued loss of function for years to come. Government should explore every option for technical assistance, incentives and permitting support, it could best ensure a gradual shifting to more ecologically friendly stabilization choices by setting thresholds for minor maintenance at a relatively low level, and if those thresholds are exceeded the new standards must be met unless it can be demonstrated that hardened stabilization is the only technically feasible option. In an urban environment, restoration planning is plagued by many constraints, not the least of which is

the cost of acquiring property on which to conduct restoration. When the property costs are calculated, it may cost as much as $2 million or $3 million to remove and restore 100 linear feet of shoreline on Lake Washington or Lake Sammamish. Not enough work has been done to identify and prioritize restoration actions. Local governments should tread carefully with regard to nonconformity, especially where a primary residence is concerned. The footprint exception is very important relative to primary structures, but less so for accessory structures.

Mr. Scott Sheffield, 2220 West Lake Sammamish Parkway, continued reading the letter. He read that recent efforts by a coalition of groups to detail the Shoreline Master Program planning process have been aided by considerable misinformation and understanding, including outright fabrication and misrepresentation. Part of the problem is that practitioners have considerable difficulty communicating the reasons and the scientific justification for the regulatory changes they propose. Ecology has helped somewhat, but most of what they have provided is coming too late to be of much help for many. Their direction, especially with regard to no net loss, has been of little or no help in translating a difficult concept into a useful set of principles and rules. The lack of high-quality scientific deliverables from Ecology has hampered this effort and led to considerable confusion on the part of the decision makers regarding the robustness of the science supporting the regulatory edifice. The process of building an expensive inventory and characterization, while well meaning, is needlessly complicated and obscure. Building the Shoreline Master Program on a detailed inventory and characterization is supportable if the methodology is rigorous and the level of investigation is up to the task. The problem is that most jurisdictions cannot afford to staff the highly technical effort, thus the work is completed by consultants using readily available information, and the result is generally not comprehensive or methodically standardized. The Shoreline Master Program would be better served by simply adopting the best available science standard that applies to critical areas. A review of the available literature would lead to an appropriately designed regulatory scheme and cumulative impacts would be estimated by using standard land use planning techniques. Parcel-by-parcel mitigation is generally unsuccessful and leads to ridiculous results. Shoreline Master Program rules are typically enforced on a complaint basis, which means on balance that the city is privy to only a portion of the potential infractions that occur. The city needs strategies to help create other methods of compliance while ensuring that the permitting and enforcement program does not create the perverse incentive to violate.

Ms. Anita Skoog-Neil, 9302 SE Shoreland Drive, suggested that no net loss is a poor candidate for a regulatory structure. In the RCW, no net loss only applies to critical areas located within the shorelines of the state. For the past year and a half, the public has been led to believe that the regulations apply to all the shorelines. With regard to shoreline armoring, under the WAC replacement of a structure may be authorized as repair where replacement is the common method of repair. Setting the thresholds at a relatively low level reinforces the arbitrary nature of the proposed regulations, and the city is thus put in the situation of creating random and subjective triggers to create the regulations. Even though there is no historical data, even though whether or not there is a problem cannot be determined, and even though there are no measurements to determine if there is a problem or determine if a problem has been solved, staff says land use changes must occur. So random low-threshold criteria are selected that will guarantee the city will be able to carry out is sociopolitical agenda, and the regulations are then applied to all

shorelines even though only those in critical areas apply. The Planning Commission and the City Council are part of the system of checks and balances to avoid developing laws that are arbitrary and capricious. Given the high cost of removing and restoring bulkheads, and given that the basic premise is indefinable and targets only a very small segment of a small area, a rational person must ask if the proposal is reasonable or if other alternatives could be pursued. The concept of restoration does not appear to have been thought through. With regard to nonconforming structures, the proposed 50-foot setback arbitrarily includes an additional 40 percent of waterfront properties in nonconforming status. By changing the setback from 25 feet to 50 feet, the city has harvested 528 more properties into nonconforming status that will be subject to unsubstantiated and arbitrary regulations. The notion of the allocation of private property where an owner gets to decide how to use his own property is disturbing; it truly oversteps land use change and constitutes a blatant reallocation or redistribution of property rights. She agreed with the staff e-mail that the notion that no net loss is a loser from a regulatory perspective, and that Ecology's lack of science has hampered the effort. Staff are to be applauded for recognizing that the foundation for the Shoreline Master Program, the shoreline analysis report, does not provide an adequate standard from which to rationally form regulations and set a foundation for the cumulative analysis. As staff points out, it is true that parcel-by-parcel mitigation is generally unsuccessful and leads to ridiculous results. The staff knows that Ecology is forcing a land use agenda that ultimately will result in "unreasonable, nonsensical and ridiculous results." The proposed regulations will ultimately lead to violations, unsubstantiated land use, and the undermining of property rights.

Mr. Dave Radabaugh with the Department of Ecology, 3190 160th Avenue SE, noted that uses that are not listed in the use matrix automatically are subjected to the shoreline conditional use process. There may be items the city should consider adding to the use matrix, even if they are shown as not permitted. Mining is listed in the use matrix but is prohibited in all environments. Industrial uses are not listed at all, and if an industrial use were to be proposed for a site in a shoreline district, the rules would require a shoreline conditional use permit, though the use may ultimately be denied. With regard to marinas, he commended the Commission and the staff for working out uses that are specific to the city. With regard to the Sambica/Strandvik site, he said it would be difficult to classify it as shoreline residential. The designation criteria for the category in the WAC guidelines are very specific to property that is planned and platted for residential uses, and those properties may not fit that criteria.

Chair Ferris pointed out that in the city of Bellevue the underlying land use designation for every single park is single family residential. There is no park land use designation. Mr. Radabaugh said he would be happy to look into that issue a bit more but said ultimately he would have to be able to show how the site meets the criteria.

Mr. Brian Parks, 16011 SE 16th Street, said it will be essential for the Commission to take into account the use by Utilities of Phantom Lake for storm water detention purposes. The use was recommended in the 1972 CAC review and status report on the stream protection program, and in the 1976 Bellevue master drainage plan. Both included a recommendation for an outlet control structure, the weir, more than ten years previous to the mid-1980s Phantom Lake/Larson Lake restoration report recommendations. The report allowed for a 50 percent reduction of the

1979 airfield detention Pond A sizing for engineering calculations. In the 1976 master drainage plan document, it is stated that a control structure at the outlet of Phantom Lake is recommended, and that it would have a positive effect on the water quality rating. The report went on to say that the change in land use under projected future conditions, which referred to developing the airfield with commercial uses, would be minimal. The lack of present drainage problems, the report suggested that a limited number of drainage system improvements would be required under each alternative. The report concluded that by utilizing detention ponds nearly all parallel pipes could be eliminated, and with the addition of runoff control in Alternative Plan A, the storage pond sizes could be reduced by approximately half from those required in Plan 2. With fewer pipes needed, capital costs would be lower. The various recommendations to raise the Phantom Lake water levels were implemented in the 1990 restoration efforts. There were two separate subsequent lawsuits, one on Phantom Lake and one at the base of Phantom Creek, yet Utilities has on several occasions denied that the average lake levels have risen. Given that the lake is used as a detention pond and that there are no endangered species in Phantom Lake, the aquatic designation may not be appropriate. The current average lake levels on Phantom Lake indicate that if the berm were not in place more than half of the time the natural outflow would be towards Larson Lake. The berm is more than a foot over the original northwest outlet's high point of 261, and no more water can go out the main eastern outlet into Lake Sammamish. One proposal would be to install a one-way flap where the berm is, lower it with a cement structure to what CH2MHill had as the peak storage capacity of the lake, allowing anything that exceeds that level to flow naturally as it originally did towards Phantom Lake.

C. Shoreline Master Program Update – Commission Discussion

There was consensus in favor of the recreational boating environment designation.

With regard to the use chart, Commissioner Turner suggested the structure is acceptable but indicated he would reserve judgment on the specific content.

Ms. Helland noted that the public had raised a concern about uses permitted in the aquatic environment. She clarified that the aquatic environment starts at the ordinary high water mark and moves waterward, and none of the uses shown are permitted over the water. With respect to moorage, she noted that boat moorage excludes single family residential docks and piers which are a permitted use pursuant to the development standards for residential docks and piers. The uses that belong in the water will be permitted.

Commissioner Himebaugh referred to the single family dwelling land use classification and Footnote 2 in the recreational boating environment and asked for clarification. Mr. Paine said in Meydenbauer there is a structure that currently provides quarters for a caretaker. That residential use is allowed only as an accessory use to a permitted use.

Commissioner Himebaugh noted that Private, non-commercial float plane landing and mooring facilities are permitted in the aquatic zone and asked if footnote 12 would be a better fit for the use, making it clear that the use would be allowed in the aquatic area so long as the upland use allows it. Ms. Helland said the clarification would be helpful.

Commissioner Himebaugh asked for clarification with regard to the utility uses. Ms. Helland said the utility uses are all defined terms. The chart as drafted was aligned with the work done by the Commission a couple of years ago. The regional utilities are the systems that cross jurisdictional boundaries; as drafted, those facilities are directed not to look first at shoreline areas. She said it would make more sense to have the definitions available.

Mr. Paine added that the intention is to include footnote 6 to the utility facility use.

Commissioner Himebaugh referred to the services grouping of uses and asked what constitutes a religious activity. Ms. Helland said religious activities is the way churches are broadly classified in the Land Use Code. Religious activities are conditional uses in just about every zone in which they occur, with the exception of commercial zones and the downtown. As a land use classification, religious activity relates to development activities not religious practices.

Commissioner Himebaugh asked about the P/C(10) designation for private marina, yacht club, community club and public/private park. He said it was his understanding that the uses are permitted in the recreational boating environment, but footnote 10 must be followed for expansions of more than 20 percent. Ms. Helland said that was a correct understanding. She further clarified that the 20 percent threshold is exactly the same as the expansions of conditional uses that occur in the existing code. Any nonconforming use that wants to expand by more than 20 percent must seek a conditional use permit. The approach is in part intended to provide surrounding property owners with certainty and predictability.

Commissioner Himebaugh referred to the agriculture and nurseries uses and asked what they are and if the proposal would exclude someone living on a shoreline from being able to have a garden. Ms. Helland said the Land Use Code is structured after the basic land use classification manual and the standard industrial classification manual. A garden, a pea patch, and all yard landscaping must meet the performance standards, but they are not considered an agriculture use.

Commissioner Himebaugh asked if the staff considered the use chart to be complete or if additional uses should be included. Ms. Helland said the chart will be subjected to additional scrutiny in the drafting phase. Consideration will be given to expanding the chart to include industrial uses and the like. One approach would be to include a statement indicating that any use not specifically identified is prohibited. She said the shoreline jurisdiction is an overlay and the underlying land use zoning has a separate set of rules that could be more restrictive or provide additional information. Some of those details are yet to be worked out.

Answering a question asked by Chair Ferris, Mr. Paine said the staff proposal for the Sisters of Saint Joseph Peace site is shoreline residential. Their objection to urban conservancy was valid. While the uplands on the site are in very good shape, the property includes a very large bulkhead which keeps the site from scoring as high as it otherwise might.

Commissioner Turner asked why there should be a difference between public marina and private marina. Ms. Helland agreed that makes no sense to have different zoning categories based on

ownership. However, there is a completely different expectation from citizens about the outreach and public participation that will be undertaken to identify the range and intensity of uses associated with public marinas. There is no requirement for a private marina to undertake a master planning and outreach process, but there is for public marinas, so it made sense to separate the two.

Commissioner Himebaugh said he was generally satisfied with the definition for private marina but was somewhat troubled by "...limited non water-oriented commercial uses should be allowed when part of a mixed use marina development that incorporates public access and ecological restoration." He asked why it should be assumed that incorporating a mixed use development in a marina area should necessitate the giving of public access or engaging in ecological restoration, unless it could be demonstrated that a proposed project would trigger a need for those actions. Ms. Helland said just about any expansion or redevelopment of a marina will require attentiveness to some restoration and some public access according to the WAC guidelines.

Mr. Paine added that the marina uses are focused on the water, and the WAC says any departure from the water is more of a traditional commercial use, and as a consequence some restoration or allowing public access is required. Ms. Helland allowed that the terminology should be changed from restoration to mitigation.

Chair Ferris commented that the risk for the greatest ecological damage associated with marinas is tied to the fueling operations. He asked how that risk is captured. Ms. Helland reminded the Commission that there will be performance standards attached to each use. She pointed out that controlled and regulated fueling operations offer better ecological results than someone simply fueling their boat with a hand-carried gas can. She agreed to have staff give some consideration to when older fueling operations should be upgraded.

Chair Ferris voiced concern that the public marina definition appears to put more of the onus on the neighborhoods and local community over time to keep up with whatever potential uses might be allowed. Ms. Helland said the section could be made more robust by attaching the footnote that allows permits to be issued only in conjunction with an adopted park master plan. While the code is the broader instrument, the master plan narrows things down to the specific site conditions. She agreed that a park master plan should be defined in the Comprehensive Plan.

Chair Ferris said he participated in the process of developing the park master plan for the Meydenbauer Bay park and found it less detailed than the land use zoning process. No time was spent going through a list of uses that would not be permitted. Ms. Helland said the park planning process really was a land use study; a park master plan process is yet to occur for the site that will focus on what the actual development will be. The master planning process will ferret out the operational details. A park master plan operates like a development regulation as opposed to a plan; it has the effect of being the law as it applies to the specific site and trumps whatever is in the use charts.

The Commissioners had no questions or comments about the definition for yacht club or community club.

With regard to the environment designation for Sambica/Strandvik, Commissioner Turner noted that the nature of the site is urban, it is on the water, and it is used for recreational purposes. He asked if a designation should be sought that would more closely match what is happening on the sites currently. Ms. Helland said staff would not recommend seeking a new classification; she said staff would recommend choosing between urban conservancy and shoreline residential. The property owners indicated a preference for shoreline residential. Commissioner Turner suggested that if the property owners had had more than two designations to choose from they may have chosen differently.

Mr. Paine pointed out that whatever designation is chosen must be compatible with the underlying zoning, which is currently residential. The Sambica site will be changing over to the new camp and conference center designation, though not down at the shoreline. The ideal choice for a property where recreation is the primary use and which is in fairly good ecologic shape is urban conservancy.

Chair Ferris commented that the Sambica shoreline does not look substantially different from the abutting residential shorelines. Ms. Helland added that the site is actually part of the Strandvik plat and is the parcel that is identified for community use as a component of the plat.

Commissioner Hamlin said his preference for the site would be shoreline residential. The designation makes the most sense for the site. The other Commissioners concurred.

Commissioner Hamlin said shoreline residential would be the right designation for the Vasa Park site as well.

Chair Ferris asked if the term "camping" should be more clearly defined as meaning both RV and tent camping. Currently most of the camping that occurs there is in RVs. Ms. Helland said the use designation for camping does not distinguish between the two.

The Commissioners agreed the Vasa Park site should be designated shoreline residential.

8. OTHER BUSINESS – None

9. PUBLIC COMMENT

Ms. Anita Skoog-Neil, 9302 SE Shoreland Drive, thanked Chair Ferris for raising the concerns about the description for public marina. She said of the definitions of water-oriented, water-enjoyment, water-related and water-dependent, the only one that does not lap over into commercial uses is water-dependent. She said she was waiting to see the final draft to make sure that somehow loopholes for commercial uses are not allowed to sneak in. She said she was happy to see some uses were removed from the use charts, including hotels and mixed use. It is disconcerting that eating and drinking establishments and fuel docks are still in the chart.

10. NEXT PLANNING COMMISSION MEETING

A. December 1, 2010

11. ADJOURN

Chair Ferris adjourned the meeting at 8:40 p.m.

Paul Inghram
Staff to the Planning Commission

3/23/11
Date

Hal Ferris
Chair of the Planning Commission

3/23/11
Date