CITY OF BELLEVUE
BELLEVUE PLANNING COMMISSION
STUDY SESSION MINUTES

December 1, 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, Department of Planning and Community Development; Carol Helland, Matthews Jackson, Liz Stead, Ken Thiem, Catherine Drews, Sally Nichols, Antoinette Pratt, Development Services Department
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.

3. PUBLIC COMMENT

Ms. Diana Thompson, 3115 103rd Avenue NE, said she opposed expanding the accessory dwelling unit provisions for a number of reasons. Rental units lower the value of homes in neighborhoods. For many people, their home is the only valuable asset they own. While the units are intended to benefit low-income individuals, they will also harm property owners. For example, a senior intending to sell their home and use the proceeds to move into a condominium or a fancy retirement home could receive less for their home and thus be limited in what they can purchase. During the Bel-Red corridor study, some groups were lobbying for compulsory low-cost apartment housing, but that did not come about. Similarly, the city should not impose the right to build low-cost housing in neighborhoods designed for single families. Those who purchase single family homes should be able to rely on the zoning in place at the time of their purchase. Any change in zoning is simply unfair. Accessory dwelling units could cause a change in neighborhood character and appearance. People purchase homes in a particular area because they like the home but also because they like the neighborhood. Neighborhoods will become less homogenized if accessory dwelling units are allowed everywhere and the neighborhoods become home to both property owners and renters. Renters in general lack neighborhood pride and often do not care for their homes or yards. A neighborhood would change completely if accessory dwelling units are allowed to be constructed in front yards and in styles totally different from the main home, and if the units were rented to single young persons who have not yet determined the direction of their lives and like to party. Allowing accessory dwelling units to be constructed on single family lots will lead to crowded lots. The open space treasured by suburban residents will be lost. It would make no sense at all to allow an accessory

dwelling unit of 800 square feet on a lot where the main home is only 1200 square feet. There will be parking and traffic problems as well. With regard to the survey, the first question was very unclear and should be revised.

4. APPROVAL OF AGENDA

The agenda as submitted was approved by consensus.

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

6. COMMITTEE REPORTS

Commissioner Hamlin reported that the Eastgate CAC met for its first meeting on November 18. The staff reviewed with the members the goals to be achieved, provided some background information, and outlined some of the issues to be addressed. The group will meet again on December 2.

7. STAFF REPORTS – None

8. PUBLIC HEARING

A. Single Family Code Amendments

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

Planning Manager Matthews Jackson noted that the nonconforming lot building height Land Use Code amendment had been before the Commission on October 13. At the time the staff was directed to return with a recommendation and potential ordinance to be transmitted to the City Council. Currently, section 20.20.070 of the Land Use Code limits the maximum building height for lots that are less than 70 percent of the minimum lot size for the zoning district in which they are located. A formula is employed to determine the maximum height. Typically, the maximum height in single family zones in Bellevue is 35 feet to the peak, but under the current approach homes on lots that are substantially smaller than the minimum lot size are limited to a maximum height of 15 feet. The code section also limits the use of a variance to modify the restrictions.

The proposed amendment would allow the variance process to be used to exceed the building height resulting from application of the formula. The process involves a Process II application which requires public notice and a public hearing. There are specific criteria based on neighborhood context, special circumstances, and making sure there is no grant of a special privilege.

The objective of the proposed amendment is to allow reasonable development of nonconforming lots consistent with the neighborhood character code amendments that were adopted in 2007 and 2009. The amendment would allow for development flexibility that is compatible with neighborhood context.

Mr. Jackson said there are approximately 200 lots throughout the city that are less than 70 percent of the minimum lot size. They are predominantly located in older plats, often in areas annexed from King County. They are typically near the shorelines and in lower-density single family zoning districts. Photos of example lots were shared with the Commissioners.

Staff conducted an environmental review on the proposal and issued a Determination of Nonsignificance on November 11. Public testimony was provided by two parties at the October 13 study session, one in support of the proposal and one against. Staff have received additional written comments in support. The proposal will be before the East Bellevue Community Council for a courtesy public hearing on December 7.

Mr. Jackson said staff had found the proposed amendment to be in accord with the Comprehensive Plan, bears a substantial relationship to the public health, safety and welfare, and is not contrary to the best interests of the city. He said the staff were recommending approval.

Chair Ferris called for any public comments

> Mr. Bill Stalzer, 603 Stewart Street, Suite 512, Seattle, spoke representing Jean and Bobbi Goodboy. Mr. Stalzer voiced support for the proposed amendment. He noted that in the vicinity of the Goodboy property near the Sambica park there are six lots that are all 5000 square feet. The underlying zoning has a minimum lot size of 7200 square feet. The Goodboy house is modest in height as well as in footprint. The formula in the code restricts any remodel of their home to only 12.6 feet of height.

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

B. Performing Arts Code Amendments

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

Planning Manager Liz Stead noted that the topic had been before the Commission twice previously for study and discussion, and that as directed a proposed ordinance had been drafted. The proposal seeks to allow performing arts uses along 106th Avenue NE in the downtown between NE 2nd Street and NE 10th Street. The ordinance addresses the dimensional requirements, floor area ratio, and height, in addition to the definition of a performing arts use which allows for ancillary uses.

Ms. Stead commented that following the November 3 study session a change was made to the language of the proposal to make the 106th Avenue NE relationship to Entertainment Avenue stronger. The new language is "Where feasible, projects will provide an entrance on 106th Avenue NE."

Ms. Stead said the staff were recommending initiation of the code amendment.

Commissioner Sheffels noted that she has previously voiced concern about performing arts centers being allowed to show art films or videos of performances that are occurring live somewhere else. She asked if the definition is too limited to allow for those kinds of performances. Ms. Stead said the Land Use Code allows for ancillary uses. Provided the main use of a project is a performing arts center, there would be the opportunity to show movies and host gala events.

Comprehensive Planning Manager Paul Inghram commented that movie theaters are an allowed use under the current downtown zoning regime. The intent of the proposed ordinance is to impose different requirements on live performance spaces. Ms. Stead said performing arts

centers have different needs with regard to high rigging spaces and orchestra pits that require large volumes of space. Movie theaters do not require the same volume.

Senior Planner Ken Thiem pointed out that the Land Use Code definition of a live performance is clear as to its intent. Such uses, however, are permitted to have ancillary uses, including films, training sessions and the like, provided they are not the dominant use. No special permitting is required for the ancillary uses.

Commissioner Himebaugh asked if the current design proposal for the Tateuchi Center includes an entrance on 106th Avenue NE. Ms. Stead said that project will be addressed off of NE 10th Street and will not have an entrance on 106th Avenue NE. Their situation is somewhat unique given their corner location on the entertainment avenue. Mr. Thiem added that the rectangular building will be located with its long axis oriented north and south. An entrance on 106th Avenue NE would be on the long side of the building and would not be feasible.

Chair Ferris called for any public comments

There were no persons wishing to address the Commission during the public hearing.

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

C. Electrical Vehicles

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

Legal Planner Catherine Drews commented that the proposed electric vehicles code amendments were before the Commission for public hearing on May 26. The Commission developed and forwarded a recommendation to the City Council which was the subject of a study session on June 14. Council raised questions during the study session about the code and the siting and location of electric vehicle infrastructure, which includes charging stations and battery exchange stations. Staff revised the proposal based on Council's direction.

Ms. Drews said the substance of the amendments remained unchanged, but a different approach has been charted that will more effectively capture the areas in which it would be desirable to site and permit electric vehicle infrastructure. The original intent was to add a new line to the land use charts and footnote it. Based on the feedback from the Council, the new proposal associates electric vehicle infrastructure with uses that allow parking, Park and Rides, highway and street right-of-ways, auto repair and services, gas stations, and vehicle maintenance and repair facilities. The infrastructure would be permitted through the applicable review for the specific use.

Ms. Drews said the proposed amendments will be before the East Bellevue Community Council for a courtesy public hearing on December 7.

Commissioner Mathews asked how the battery exchange process works. Ms. Drews said the concept is similar to a quick lube facility. Electric vehicles drive in and their entire battery packs are swapped out while the driver waits.

Answering a question asked by Commissioner Turner, Ms. Drews said the purpose of the proposed amendment is to remove any perceived barriers to siting electric vehicle infrastructure

in the city. There are some large projects related to electric vehicles that are preparing to roll out. On November 29 Coulomb Industries donated two electric vehicle chargers to the city and both have been installed in the Visitor parking garage. The intent is to allow the private market to install electric vehicle infrastructure at locations they feel people will use the most. The Nissan Leaf pilot program will roll out in December; approximately 900 cars will be released, and the owners of the vehicles have agreed to participate in the test.

Commissioner Hamlin asked why the auto rental/leasing services use is not proposed to be footnoted. Ms. Drews noted that the use has allowed parking, and the infrastructure could fall under that.

Commissioner Himebaugh asked if the amendment as written would allow an auto dealership to have both a charging station and a battery exchange station. Ms. Drews said the definition of motor vehicle transportation, maintenance and garages is broad enough to encompass both.

Chair Ferris called for any public comments

There were no persons wishing to address the Commission during the public hearing.

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

9. STUDY SESSION

A. Single Family Code Amendments

Chair Ferris asked if the variance process would limit building height to no more than what is allowed on conforming lots. Mr. Jackson allowed that the process would do that.

Commissioner Lai asked how the Commission would address any significant issues raised during the courtesy public hearing before the East Bellevue Community Council. Mr. Jackson suggested the Commission should act to recommend the amendment. If the Community Council does not raise any significant issues, the matter will be forwarded to the City Council, but if significant issues are raised the matter will be brought back to the Commission for an additional study session.

Motion to recommend to the City Council approval of the proposed Land Use Code amendment related to nonconforming lot building height, file number 10-124743 AD, as proposed in the draft ordinance included in Attachment A was made by Commissioner Mathews. Second was by Commissioner Sheffels and the motion carried unanimously.

B. Performing Arts Code Amendments

Land Use Director Carol Helland said the staff considered the comments raised during the last study session regarding a performing arts center being allowed to show films. She noted that the Commission raised the issue of narrowly tailoring the language, but by doing so it becomes less likely that someone could take advantage of the flexibility provided to essentially build a movie theater. The proposed language is specific to facilities intended and designed for the presentation of live performances, with the corollary requirement relating to the minimum necessary to accommodate the need. Facilities built with a fly loft, orchestra pit and other amenities will undoubtedly be used predominantly for live performances.

Commissioner Sheffels indicated that her concerns had been allayed.

Commissioner Lai suggested there is a fine line between spot zoning and tailoring language to fit only a narrowly defined use. Ms. Helland said spot zoning is specific to single properties and result in an entitlement that is not available to any other similarly situated lot. The proposed amendments take in an entire area that is specifically identified in the Comprehensive Plan for entertainment uses. There are some underdeveloped parcels along 106th Avenue NE that would be suitable to performing arts uses.

Chair Ferris called attention to item 2-b of Attachment A and asked if the reference to 112th Avenue NE was correct. Ms. Helland said the language exists in the current code. She said new code language could be found in Footnote E where an additional exception is included.

Chair Ferris noted that the FAR exceptions are given up to a maximum of a 1.0 FAR so long as there is a retail use, which is not counted against the allowable. Given that theater is a retail use, he asked if someone could achieve an FAR of 5.0. Mr. Thiel allowed that staff had not contemplated that. Ms. Helland agreed to review the issue. She said it was her understanding that the definition of retail includes theater for the design guidelines for pedestrian-oriented frontage, but not necessarily for the FAR calculation. She said if additional language needed to be added it would be recirculated to the Commission.

Motion to recommend to the City Council approval of the proposed Land Use Code amendment related to performing arts uses, file number 10-113270 AD, as proposed in the draft ordinance included in Attachment A, was made by Commissioner Sheffels. Second was by Commissioner Mathews and the motion carried unanimously.

C. Electrical Vehicles

Ms. Helland stressed that electric vehicle infrastructure is no different from any other electrical infrastructure; essentially what is involved is the installation of outlets into which cars can be plugged to recharge. She said staff did not see a reason to make any code changes to allow for the use, but the legislature wanted to make it crystal clear. Ms. Helland explained further battery exchange stations. She stated that a specific manufacturer, which was developing proprietary technology for a vehicle with an exchangeable battery, was able to get its information relative to battery exchange stations embedded in the state bill. Accordingly, state law requires jurisdictions to include provisions for battery exchange stations even though few believe the proprietary technology envisioned will take off. The proposed amendment allows battery exchange stations to locate anywhere a service station or auto repair use is allowed.

Ms. Helland said if the East Bellevue Community Council raises significant concerns about the proposal, the concerns will be brought back to the Commission for review and discussion.

Motion to recommend to the City Council adoption of the proposed and revised electric vehicle infrastructure code amendments was made by Commissioner Turner. Second was by Commissioner Himebaugh and the motion carried unanimously.

D. Accessory Dwelling Units Code Amendments

Associate Planner Sally Nichols said the proposed Land Use Code amendment seeks to allow detached accessory dwelling units in the city. The amendments were included as part of the 2011 code amendment work plan presented to the Council.

Ms. Nichols explained that a detached accessory dwelling unit is a small housing unit on the same lot as a single family house. The unit can be a standalone structure but more commonly is the space above a detached garage. Size, height and all dimensional standards are yet to be vetted; they will be determined as part of the Land Use Code amendment. The current code language requires that the property owner must live either in the primary home or the attached dwelling unit. What makes accessory dwelling units unique is that they can be legally rented out.

The Comprehensive Plan includes language that allows both attached and detached accessory dwelling units; in 2004 the Comprehensive Plan was updated to include the words "attached" and "detached." The Land Use Code currently allows only for attached accessory dwelling units, which are defined as separate dwelling units within the primary structure.

Ms. Nichols said the reason steps are being taken to amend the code is that there is a requirement for alignment between the Comprehensive Plan and the Land Use Code. Additionally, there is a demonstrated need for affordable housing in Bellevue. The city's demographics are changing significantly, with the population growing older and the family household size shrinking. There is also a lack of undeveloped land in the city. Bellevue must provide approximately 10,000 new dwelling units by 2022, and the projection is that by that time the city will be close to running out of land on which to site new units. Accessory dwelling units provide one means by which property owners can remain in their homes by bringing in some additional income.

The principles to be achieved by the proposed Land Use Code amendment included allowing for tenure on property and aging in place; improving housing choice for all residents; promoting sustainability; allowing for design flexibility; supporting single family property rights; and dealing with existing illegal accessory dwelling units by bringing them into compliance and making them legal.

Senior Planner Antoinette Pratt commented that Issaquah, Redmond, Kirkland, Mercer Island, Clyde Hill, Newcastle and Kenmore all have allowed detached accessory dwelling units for many years. In December 2009, Seattle added detached accessory dwelling units to its ordinance following the creation of a demonstration program in the south part of the city to measure the interest level, which they found to be very keen.

Ms. Pratt said she and Ms. Nichols had been spending some time visiting accessory dwelling units in the jurisdictions that allow them, looking at the different styles, and the context in which the units have been placed.

A survey was put together to gauge neighborhood interest in Bellevue in partnership with the Neighborhood Outreach group. The survey was included in the October 2010 Neighborhood Outreach newsletter which is sent to the chairs of the various homeowner associations and everyone on the interested parties list. To date, some 233 persons have responded to the survey. A total of 36 comments were received regarding aging in place and having a place for grown children to live, and 33 comments were received regarding housing flexibility and increased housing type choices. Many who responded indicated that they did not want to see the Land Use Code changed to accommodate detached accessory dwelling units, and some said they do not want the code expanded beyond allowing for attached units.

The question regarding neighborhood fit and character garnered the most comments at 60. The majority indicated that while they like the concept of detached accessory dwelling units, they have concerns as to how they will fit into existing neighborhoods. Most wanted the city to ensure that the neighborhoods not be allowed to become visually crowded.

The survey question regarding parking and traffic received 40 comments. Ms. Pratt said there is always the perception that adding units to a neighborhood will add more people and thus more traffic and parking issues. The current ordinance allowing attached accessory dwelling units requires one off-street parking stall.

Finally, with regard to the question about allowing renters in single family neighborhoods, Ms. Pratt allowed that renting single family homes is a common practice for a variety of reasons. The ordinance allowing attached accessory dwelling units requires that the property owner must live in one of the units, and the same will likely be true for detached units. There is the perception that renters coming into a neighborhood will not have a vested interest in the neighborhood; that may or may not be true.

Commissioner Sheffels placed on the table the scenario of the owner of a home that has an accessory dwelling unit and who lives in one of the units as required, but who wants to sell the property but cannot find a buyer, and wants to rent out both the main unit and the accessory unit. Ms. Pratt said as things stand, accessory dwelling units are actually registered with the city. Where there is a change of ownership, the right to have the accessory dwelling unit is lost and must be re-registered by the new owners. It would not be legal for both units to be rented out. Enforcement and inspections are handled by the code enforcement officers and the building inspectors.

Commissioner Turner asked if there have been any problems arise since the code allowing attached accessory dwelling units was approved. Ms. Pratt said she met with code enforcement to ask that question and found that the process has been seamless for the most part.

Ms. Helland allowed that enforcement is carried out on a complaint basis only and there have been very few. The code enforcement officers do not go looking for accessory dwelling units. Most jurisdictions require one of the units to be occupied by the property owner in order to assure some oversight and pride in upkeep. She added that lots over 13,500 square feet are allowed to have guest cottages, which are separate small homes. Under the code, they cannot be rented out for profit. If detached accessory dwelling units are permitted, guest cottages could potentially be legally rented out. The renting out of single family homes to a number of unrelated persons, such as college students, is not uncommon and oftentimes generates far more impacts and thus complaints.

Commissioner Turner asked if an accessory dwelling unit could end up being rented out to a business use. Ms. Helland said there are provisions in the code that allow caretaker quarters in commercial areas under certain circumstances. In a general sense, however, accessory dwelling units are intended to serve as housing units.

Commissioner Lai asked if a home business would be permitted to locate in an accessory dwelling unit in a residential area. Ms. Helland said the issue of how appropriate it would be to house a home occupation business in an accessory dwelling unit should be investigated. Home occupation businesses are not allowed to make the house they are in look like anything other than a house.

Mr. Inghram pointed out that the code already allows property owners to construct a separate structure and to locate an office in it, though all of the home occupation requirements must be met.

Chair Ferris commented that the issue of accessory dwelling units has generated quite a large

amount of public discussion in other jurisdictions. He highlighted the need to keep the neighborhoods informed throughout the process so no one will feel as though they have been left out. Ms. Helland agreed and said that in part was the reason for going out with the survey. All discussions on the topic will be broadly noticed.

Commissioner Sheffels said her home is in a planned unit development that includes a lot of common space. She asked if there would be any restrictions to placing a detached unit in common areas. Ms. Helland said that could be studied. She stated that PUDs and subdivisions often have conditions attached to them that might serve as the overruling factor.

Chair Ferris noted in the survey a maximum size of 800 square feet or a percentage of the existing single family home is mentioned. He commented that 800 square feet is a modest one-bedroom home by most measures. Some might want to have a unit that is one bedroom with a den, which would be more like 1000 square feet. He cautioned against putting a number out there that is too low to accommodate the actual need. Ms. Pratt said the point was well taken. She suggested that the Commission may want to consider a sliding scale approach that would allow larger accessory dwelling units on larger lots. It will be necessary to review each of the zoning districts before making decisions about what will fit the best.

Chair Ferris observed that the public commenter as well as some of the comments included in the Commission desk packet linked rental units and affordability with negative behaviors relative to the rest of the neighborhood. He pointed out that there are many homeowners who do not themselves do a good job of keeping their properties up, and a host of studies have been done to show that rentals degrading neighborhoods is a myth and not a fact. Those facts should be made clear.

Commissioner Lai commented that the tiny home movement is gaining a following across the country and he suggested it would be helpful to see examples of what can be done by way of small structures. Ms. Nichols said the movement is linked to the concept of sustainability and is exciting from a design standpoint.

Commissioner Sheffels asked if more than one detached accessory dwelling unit might be allowed to locate on a property. Ms. Pratt said a property owner would only be allowed to have an attached unit or a detached unit, but not two units in addition to the primary residence. Commissioner Sheffels said she could envision a situation in which a person wants to construct an attached unit in the basement or above the garage and have plenty of room on the site to add a detached unit in the back yard. Ms. Helland agreed that going into the study all options should be kept open.

Chair Ferris said there are a host of inconsistencies between what is stated in the Comprehensive Plan around the issue of affordable housing and what is embedded in the Land Use Code. He suggested that the theme of affordable housing should be paramount in drafting planning documents.

10. OTHER BUSINESS

11. APPROVAL OF MINUTES

A. September 8, 2010

Motion to approve the minutes as submitted was made by Commissioner Hamlin. Second was by Commissioner Sheffels and the motion carried without dissent; Commissioners Lai and

Mathews abstained from voting.

12. PUBLIC COMMENT

Ms. Brit Heath, a Bridle Trails resident, said she was one of the persons who responded to the accessory dwelling unit survey. She indicated her excitement at having Bellevue even consider the topic and said she would welcome having detached accessory dwelling units in her neighborhood. While the topic may generate a lot of public concern, it should be considered as another tool to be used to accommodate the housing needs of the city. In Snohomish County there have been some issues with accessory dwelling units being constructed and the property owner coming in after the fact seeking to condoize the units, so it will be important to have on the title a requirement for the property owner to occupy one of the units. Flexibility should be included to the degree possible, and the sliding scale would be a good idea.

13. NEXT PLANNING COMMISSION MEETING

A. December 8, 2010

14. ADJOURN

Chair Ferris adjourned the meeting at 8:23 p.m.

Paul Inghram
Staff to the Planning Commission

3/23/11
Date

Hal Ferris
Chair of the Planning Commission

3/23/11
Date