

CITY OF BELLEVUE
BELLEVUE PLANNING COMMISSION
STUDY SESSION MINUTES

January 12, 2011
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, Catherine Drews, Development Services Department

GUEST SPEAKERS: None

RECORDING SECRETARY: Gerry Lindsay

1. CALL TO ORDER

The meeting was called to order at 6:31 p.m. by Chair Ferris who presided.

2. ROLL CALL

Upon the call of the roll, all Commissioners were present.

3. PUBLIC COMMENT

Mr. Robert Thorp, 7438 SE 27th, Mercer Island, said his planning and landscape architect firm has been providing input and critique on the Shoreline Master Program updates for both Bellevue and Mercer Island. He noted that he helped work on the original Shoreline Master Program model that is used by the Department of Ecology. He encouraged the Commissioners to take a look at the draft document produced by Mercer Island. The city listened to the Department of Ecology and their consultants but acted to create its own plan. The issues facing the 17 miles of shoreline Mercer Island has are very similar to those Bellevue faces.

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 said the Eastgate/I-90 CAC met on January 6 and finished its review of the corridor inventory and background information. The staff provided an overview of the issues of sustainability and smart growth, and the Washington State Department of Transportation shared plans and thoughts about I-90. In addition, the group received a presentation about the Mountains-to-Sound Greenway that passes through the corridor. The CAC will be given a tour

of the area on January 15.

7. STAFF REPORTS

Comprehensive Planning Manager Paul Inghram reported that the 130th station area planning work is continuing to move forward. He noted that the actual location is between 130th Avenue NE and 132nd Avenue NE on what would be NE 16th Street in the Bel-Red corridor. It is in the heart of one of the areas planned for a higher density node with a transit station anchoring it. The station area planning work is focused on taking a closer look at the details. Goff Creek runs essentially parallel to 132nd Avenue NE, exposed in some places and piped in others. The Bel-Red subarea plan calls for daylighting the stream in conjunction with redeveloping the adjacent parcels. The planning efforts are looking at how to bring about daylighting the stream, the concepts that might be applied, and how to be consistent with the plans for an urban area. The Commission will be kept informed as the work continues.

Chair Ferris asked if the Commission will be involved in any way in the 130th station area planning. Mr. Inghram said if no Land Use Code or Comprehensive Plan changes are identified as part of the planning effort, the Commission will not have an official role to play. Even so, the Commission will be asked to provide reaction and comment on the materials and concepts as they are developed.

Chair Ferris said he noted from a recent City Council meeting that the light rail section has been removed from the new NE 15th Street/NE 16th Street cross section, which is a significant change from the original concept. It will function far differently from what was envisioned during the Bel-Red planning work; different solutions would have come about had that been the original concept. It would seem changes of that sort should be taken back through some kind of process other than just go to the Council for approval. Mr. Inghram allowed that both the Transportation Commission and the Planning Commission had expressed concerns about the overall width of the roadway with the light rail included. The Council had a similar concern and as the reviewer of light rail projects in the city, directed the change.

Commissioner Mathews asked if taking the rail away from NE 15th Street/NE 16th Street and putting it somewhere else will ultimately cost the city more in terms of having to purchase additional right-of-way. Mr. Inghram said the agreement between Wright Runstad and Sound Transit was that they would find a way to construct the facility for the same cost.

Commissioner Lai asked if citizens with something to say about the changes should address the Council directly. Mr. Inghram said the Council is very open to input from any member of the public on the design of NE 15th Street/NE 16th Street or any other aspect of light rail in the city.

8. STUDY SESSION

A. Shoreline Master Program Update

Land Use Director Carol Helland provided the Commissioners with the first installment of the materials to be finalized for public hearing on the Shoreline Master Program. She allowed that the Commissioners would not be prepared to ask questions about the content but said she wanted to walk through the materials with them so they could understand all the pieces, how they fit together, and what is yet to come.

Ms. Helland commented that the notebook is intended to serve as a mechanism for assembling the whole Shoreline Master Program, which has a lot of parts to it under the guidelines issued by

the Department of Ecology. She noted that it included the existing Shoreline Element of the Comprehensive Plan and proposed new policies that are intended to serve as the replacement of the general element. She pointed out that since the Commission last saw the information the staff had worked to work through the comments received from the public, the Commission and other city staff with a focus on reducing the overall number of policies and redraft them in final policy language form and reducing the number of redundancies. Where the working draft had policies followed by regulations, the new draft stands as its own document.

Ms. Helland said behind the second tab in the notebook is the outline which is intended to replace the current shoreline district overlay in the Land Use Code. The outline for the shoreline district overlay will replace and become the new 20.25E. The document is drafted as a standalone element; for purposes of usability, the vast majority of the regulations someone would need in relation to a development in the shoreline district were included. A format similar to that used for the Bel-Red district overlay was utilized. The new 20.25E is divided into six sections that follow the outline.

The appendices follow the 20.25E provisions. The Shoreline Management Act includes a number of appendix requirements, including the new shoreline environment designation maps; the shoreline jurisdiction maps; the shoreline inventory and characterization information, the shoreline restoration plan; the cumulative impacts analysis, which will be produced later after the public hearing and after the entire package is drafted; and additional resources, including annotation references to the WAC and the RCW citations.

Answering a question asked by Commissioner Lai, Ms. Helland indicated that all of the materials will be available online and in a single location to make all of the pieces easier to access.

Ms. Helland called attention to the authority section of the new 20.25E and noted that it lists all of the Shoreline Master Program elements. She said it has the shoreline environment designations and their descriptions, and talks about shorelines of statewide significance and references the maps.

Ms. Helland said the uses section was not yet completed. She said it will refer to the use charts in 20.10 of the Land Use Code. Special use charts, similar to those created for Bel-Red, will be drafted for user friendliness.

The development regulations represent the meat of the materials the Commission has been reviewing for the past year. Staff has carefully adhered to the direction provided by the Commission as well as the requests for changes to the concepts. The current focus of staff is on knitting the various subsets into code language.

Ms. Helland said the procedures section is similar to 20.35 of the Land Use Code. In 1995 steps were taken to make the Land Use Code consistent with SHB-1724, which created some consistency between growth management, the local project review act, and the land use petition act. Overall, the work was focused on integrating, consolidating and standardizing the review and appeals of land use decisions. The procedures section includes the review and appeal procedures that are specific to shorelines. Currently, shorelines are treated as exceptions to the rule and it is complicated and difficult to follow. The more tailored approach will be far more user friendly for both the public and staff.

Answering a question asked by Commissioner Sheffels, said prior to 1995 there was a process attached to every permit type, and every administrative decision had a different process type attached to it. There were about a dozen different process types, many with nuances that

essentially created a trap. All of the processes have been consolidated to five, and they reflect similarities that can be batched. Process I decisions, which are quasi judicial and heard by hearing examiners, are largely dictated by state law. The permits associated with Process I are those that deviate from the standards of the code, such as planned unit developments and conditional use permits. There is a great deal of public process built in, including the opportunity to appeal to the Council. Process II issues are more administrative and less significant; included are design review and administrative conditional uses. Process III issues are rezones that require final action by the Council. Process IV issues involve legislative changes, including changes to the Comprehensive Plan and Land Use Code. Process V is a streamline process that was created to address temporary encampments; it has an appeal directly to the courts. Process V was used to create the Shoreline Process II, which eliminates all of the administrative city appeals. Final decisions on Shoreline Process II applications are determined by the Director, and appeals are to the Shoreline Hearings Board. The letters of exemption process has been added to Shoreline Process III.

Ms. Helland commented that the permits and decisions section is specific to the various approvals, such as substantial shoreline development, letters of exemption, conditional use and shoreline variance. She called attention to the special shoreline report process and noted that a modification process was included that was short of a variance process. It provides a way to deviate from some of the provisions through a performance-based science test.

Ms. Helland said the administration and enforcement section is roughly similar to chapters 20.40 and 20.50 of the code. It talks about enforcement applicability, vesting, and includes the list of definitions that are specific to the shoreline overlay, including appropriate WAC definitions.

With regard to the next steps, Ms. Helland said the staff had intended to include in the Commission packet for the January 26 meeting the performance standards and development regulations from Section III, as well as the uses and the restoration plan. However, for a variety of reasons the performance standards will not be ready in time. Time will be set aside instead at that meeting for the Commissioners to discuss the items in the notebook. The plan is to have the complete draft by February 9, except that the separate ordinance necessary to redact all of the references to shoreline process will follow.

B. Shoreline Master Program Update – Public Comments

Mr. Marty Nizlek, 312 West Lake Sammamish Parkway NE, requested that the 45-day period not start running until the complete package is available to the public. Additionally, a large facility should be booked in which to conduct the public hearing; at least 200 citizens are expected to attend. The Shoreline Master Program should consider the broader aspects and elements of the lakes and not simply impose restrictions on the owners. Since the Commission's last meeting on December 12, the weather turned rainy and the level of Lake Sammamish has risen; the level will drop very slowly after the rains stop. The weir in the lake is situated at 26 feet elevation, while 27 feet is the ordinary high water mark historically established by the Corps of Engineers. In the ten years between 1996 through 2005, the average number of days exceeding the ordinary high water mark was 100 per year. The trend has been upward, and during 2010 there were 240 days on which the water level exceeded the established ordinary high water mark. Threats to property are the result. On Lake Sammamish, the primary cause of the increased lake level is the outflow restriction; the same is true for Phantom Lake. Water quality is another major concern. Under current conditions, the Shoreline Master Program would be nonproductive. Property owners would be subjected to liability and loss, access to the lakes would be limited, and fish and wildlife would be impacted. The recommendations of the Washington Sensible Shorelines Association include stipulating retention of the ordinary high

water mark at its historic level; effective regulation of those water levels; acceptance of bulkheads instead of soft stabilization; relief of the conditions under the critical areas ordinance to remove bulkheads; and having the city play a partnership role in finding solutions to the lake problems, including an effective monitoring program.

Mr. Scott Sheffield, 2220 West Lake Sammamish Parkway SE, said he would like to see persons with significant presentations to make before the Commission be given time beyond the allowed five minutes. He also commented that if Dallas Evans were present he would be jumping up and down about the inventory portion of the report. He would highlight the fact that his work shows that there are flaws in the inventory and that there should be some steps taken to modify the report and correct the issues. It will be important to get the inventory right because it serves as the baseline for everything.

Ms. Anita Skoog Neil, 9302 SE Shoreland Drive, commented that the guidelines state a lot of things as if they are fact without any substantiation. They include a lot of science that has been shown by the WSSA to have nothing to do with the Shoreline Master Program, including the information about woody debris in the water and fish needing insects to eat. It may be the law, but it is full of untruths.

Ms. Elfi Rahr, 16509 SE 18th Street, said the current high water level of Phantom Lake contributed to the recent loss of two substantial trees. Something must be done to stabilize the lake levels or there will be no use in planting the shorelines. The recommendation to plant more trees, especially in the wetlands, is worrisome. The inlet to Phantom Lake does not need to be shaded; it has water only in the winter months. Common sense must prevail. Swampy areas and standing water are breeding grounds for mosquitoes, which in turn can spread the West Nile disease; one way to counteract that is to provide nesting places for the birds that eat the insects, especially the swallows which also need open meadows.

Mr. David Radabaugh, Department of Ecology, 3190 160th Avenue SE, suggested the Shoreline Master Program should not seek to establish a specific number as the ordinary high water mark on a particular water body. The ordinary high water mark is defined in the Shoreline Management Act and is subject to site-specific determinations.

Commissioner Sheffels commented that if the ordinary high water mark is determined property by property, neighboring properties on the same shoreline could have different lines established. Mr. Radabaugh said that is theoretically possible, but in most cases where a known ordinary high water mark has been established for one property it is assumed that the mark on the adjacent property will be similar. The Shoreline Master Program itself should not include language indicating what the ordinary high water mark is for any of the lake bodies.

Commissioner Himebaugh pointed out that while the ordinary high water mark can be determined on a site-by-site basis, the fact is that lake drainage or outflow can affect the actual high water mark.

C. Shoreline Master Program Update – Commission Discussion

Commissioner Turner said he had been curious for some time about the justification and rationale that will be offered for the different elements in the Shoreline Master Program. He asked what analysis the staff will present the Commission with. Ms. Helland said she understands the frustration of the public with the Shoreline Management Act and with the administrative code as it exists. It was developed as part of a negotiated settlement for a lawsuit with respect to the changes in the guidelines, with input from Master Builders, environmental

groups and the legislature. For better or for worse, it is the established framework against which the Department of Ecology must ultimately approve the city's plan. It will not be profitable to spend time focused on something that cannot be changed except at the state level. Rather, the focus should be on seeking creative ways to make the rules work for Bellevue. Not everyone will agree on the science, and that is also frustrating, but it is what the plan must rely on; all of the science the plan will rely on has been presented to the Commission. The cumulative impacts analysis will serve as a report card on how well the plan complies with the science data.

Ms. Helland informed the Commission that when she first came to work for the city fifteen years ago there was an ordinary high water mark elevation included as part of the shoreline provisions. The Department of Ecology sent a letter to the city asking that it be removed as being inconsistent with the Shoreline Management Act. Lakes are dynamic systems and as such the ordinary high water mark can change over time, something that is recognized in the state definition. On large water bodies such as Lake Sammamish, the ordinary high water mark can be affected by a number of factors, including wind and development. The city took steps to adopt an administrative process aimed at easing the burden on shoreline applicants seeking to do work along the shorelines. A lake study was conducted in 2004 in which the ordinary high water mark was measured and graphed; the study concluded with a fixed elevation. Administratively, the city allows Lake Sammamish property owners to measure setbacks and jurisdictions from the topographic elevation established in the 2004 study, though the line cannot be used to identify the ordinary high water mark for the purpose of the installation of a bulkhead which under state law are required to be outside the ordinary high water mark, and in those cases the ordinary high water mark must be identified on a site-by-site basis.

With regard to the shoreline inventory and characterization report, Ms. Helland stated that the document was created under and pursuant to the regulations as they exist. The Department of Ecology staff have reviewed it and have provided some feedback. The public has said the document has inaccuracies, but there have been no specifics brought forward as to what those inaccuracies are. Staff has offered to meet with the public, particularly members of Washington Sensible Shorelines Association and especially Mr. Evans, but to date the study that has been referred to has not been provided to staff for review. All information, including documented and anecdotal, should be taken into account.

Chair Ferris observed that if the Commission has all of the materials by February 9, the request of the Washington Sensible Shorelines Association for 45 days in which to review the materials prior to the public hearing could be met by having the public hearing on or after March 23. That would also provide the Commissioners with ample time to review all the information. The open house could be scheduled toward the end of February or the beginning of March.

Ms. Helland indicated that it may be necessary for the Commission to meet more than twice per month in order to get through all of the issues. She also suggested that Council Chambers would be the best place to conduct the public hearing.

Commissioner Himebaugh suggested that if the open house were held on March 9, it would be prudent to push the public hearing back a couple of weeks to April 13. That would allow the public more time to absorb all the information presented at the open house. Ms. Helland observed that the mid-winter school break needs to be worked around in scheduling the open house. She proposed that the open house could be slated for the first Wednesday in March rather than the second. Mr. Inghram concurred, pointing out that the open house will not be a regularly scheduled Commission meeting. If a quorum of Commissioners intend to attend, notice can be provided to the public.

9. OTHER BUSINESS

Chair Ferris expressed his desire to see the Commission seek from the Council permission to put the accessory dwelling unit and affordable housing issues on the Commission's agenda in the near future. He said his intent was to see the broader issue of affordable housing addressed by tackling more than just accessory dwelling units.

Commissioner Sheffels said she would be in favor of that. She added that the Commission will look at its work plan at its annual retreat and that would be the best time to discuss it.

The Commissioners concurred that affordable housing should be on the Commission's docket as soon as practicable.

10. PUBLIC COMMENT – None

11. NEXT PLANNING COMMISSION MEETING

A. January 26, 2011

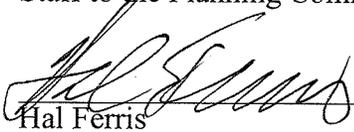
12. ADJOURN

Chair Ferris adjourned the meeting at 8:19 p.m.



Paul Inghram
Staff to the Planning Commission

3/23/11
Date



Hal Ferris
Chair of the Planning Commission

3/23/11
Date