

CITY OF BELLEVUE
BELLEVUE PLANNING COMMISSION
STUDY SESSION MINUTES

September 14, 2011
6:30 p.m.

Bellevue City Hall
City Council Conference Room 1E-113

COMMISSIONERS PRESENT: Chair Turner, Commissioners Ferris, Hamlin, Tebelius

COMMISSIONERS ABSENT: Commissioners Carlson, Himebaugh, Sheffels

STAFF PRESENT: Nicholas Matz, Planning & Community Development;
Carol Hamlin, Carol Helland, Michael Paine, Heidi
Bedwell, Development Services Department

GUEST SPEAKERS: None

RECORDING SECRETARY: Gerry Lindsay

1. CALL TO ORDER

The meeting was called to order at 6:36 p.m. by Chair Turner who presided.

2. ROLL CALL

Upon the call of the roll, all Commissioners were present with the exception of Commissioners Carlson, Himebaugh and Sheffels, all of whom were excused.

3. PUBLIC COMMENT

Mr. Matt Wimmer, CEO and Executive Director for Sambica, 4114 West Lake Sammamish Parkway SE, said the Camp and Conference Center (CCC) code amendment is almost where it should be, though there is one more item in need of clarification. Sambica provides scholarships to more than 100 children over the summer months, and the goal for the summer of 2012 is 200. For the first time the camp hosted a family camp and a camp for teenagers. He thanked the Commission for its work at bringing the code amendment to where it needs to be.

Mr. Bill Stalzer, 603 Stewart Street, Suite 512, Seattle, said he is a land use planner working with Sambica. He provided the Commissioners with copies of a letter highlighting the issue that Sambica still needs to work out relating to the requirement in the provision for subordinate uses to be on the same lot as principle uses. The subordinate uses at Sambica that are referenced in the code amendment are things such as recreation facilities and staff housing. The current layout of the camp includes staff housing on lots which have no associated principle use, and that would mean the housing units would become nonconforming. The language should be revised to allow subordinate uses on the same lot or CCC site as a principle use. That would allow for greater flexibility for the campus setting. For a variety of reasons, lot line adjustments, boundary line adjustments and lot consolidations will not work for the camp, which has more than 20 lots in all.

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 Eastgate/I-90 CAC met on September 8 for the first time since its summer hiatus. The group reviewed the data generated regarding the three action alternatives and the No Action alternative. Going forward, the CAC's task will be to develop a single preferred alternative by selecting from the alternatives. There will be transportation improvements along I-90 regardless of the outcome of the Eastgate/I-90 study that will improve traffic flow on the streets in the corridor as well. The modeling work indicates that the alternatives identified generally will have no additional negative traffic impacts. The Planning Commission will be provided with an update report in October.

6. STAFF REPORTS

Senior Planner Nicholas Matz invited the Commissioners to join King County Executive Dow Constantine and representatives from King County, Bellevue and Redmond for a pre-launch event celebrating the Rapid Ride B Line, King County Metro's new service between Bellevue and downtown Redmond. The event is set for Wednesday, September 28, at 10:30 a.m. starting at the B Line station in Crossroads.

7. STUDY SESSION

A. Camp and Conference Center Code Amendment

Commissioner Hamlin noted for the record that city staffer Carol Hamlin is his wife. He said he has no specific interest in the Sambica property. He noted that the Sambica property owner had been informed of his marital relationship and had made no objections to having him participate in the discussions and deliberations for the CCC Land Use Code amendment. He said he would evaluate the proposed amendment fairly and openly.

Mr. Matz reminded the Commission that the purpose behind the proposed amendment is to implement Comprehensive Plan direction provided by the new CCC designation. The designation is intended to provide a solution for the Sambica camp site but will be applicable to other entities in the city. The designation will be realized at a future date through a rezone action.

The Sambica camp is a long-established and historically valued center. Their desire is to remain a part of the community and to be allowed to go forward to with upgrades to their buildings and functions over time to provide relevant services to their users. The community wants the camp to remain a neighborhood and to maintain its residential character.

The policy issues were settled with adoption of the Comprehensive Plan amendment. With the Land Use Code amendment, the focus is shifted from policy to the practical implementation and regulation of the unique use. The final step will be a rezone action.

Mr. Matz said there are four backbone principles behind the proposed code amendment. First is distinguishing the mix of existing and anticipated future land uses; when considering designations that will be applicable citywide, it is understood that it is unlikely land will be available for the new designation. Second is continuing to assure the predominant non-commercial character of a camp and conference center, with a balance between the inherent commercial uses and the typical location of facilities in residentially zoned areas. Third is the

provision of predictability in development processes for both the applicant and the surrounding community. Fourth is maintaining compatibility with surrounding neighborhoods.

Management of the overall intensity of the CCC district and maintaining compatibility with the surrounding neighborhoods will be accomplished through five key elements: 1) defining the types of uses in a Camp and Conference Center and their connections to each other; 2) adapting existing Land Use Code processes, including Master Development Plan and Design Review; 3) setting new standards for reviewing master planning over time through a physical site plan; 4) establishing specific dimensional, landscape and other site development standards as a measure of overall site intensity; and 5) providing site, building and street design guidelines for qualitative design solutions.

Senior Planner Carol Hamlin said in order to have a Camp and Conference Center use, an applicant would have to go through the CCC rezone process, develop a master plan, and then seek design review and building permits for individual structures. The approach is modeled after the Medical Institution district for purposes of consistency.

Ms. Hamlin said the definitions and allowed uses section of the proposed amendment identifies CCC principle uses, which include group day or residence camps as well as meeting, conference, seminar and retreat functions; and subordinate uses, which include housing for staff, eating facilities, recreation uses, and miscellaneous retail uses at the neighborhood-business scale. As envisioned, the use would be regulated through the master development plan (MDP) process, with specific standards and requirements for the uses and placement of structures, and with the setbacks measured from the outside of the CCC boundary. The most intensive uses would be located in the center of the property, thereby creating a buffer to the neighboring properties. The dimensional requirements call for landscaping on the outside edges of the property, limit building height on the site boundaries to the maximum height of the surrounding single family, and allow increased height toward the interior.

Mr. Matz explained that the master development plan process includes allowance for phasing over time. The phases on a master plan may be nothing more than balloon diagrams in the beginning, but in working toward an adoptable plan, the design review process will trigger the need to be specific. As existing uses transition to the approved plan the nonconforming provisions of the Land Use Code will come into play.

Chair Turner asked what the net difference in activities will be between what currently exists and what is being proposed for the Sambica site. Ms. Hamlin said that will depend on what the camp proposes. All of the impacts resulting from site changes will be analyzed to determine how they would affect the area. Mr. Matz said the Master Development Plan review process, the design review process, and the standards associated with the site would be used to measure the proposed intensity increase between current and proposed as a means to identify appropriate and regulatory mitigation.

Answering a question asked by Commissioner Hamlin regarding the language of footnote 4 on page 12 relative to the amendment proposed by Mr. Stalzer relative to subordinate uses, Mr. Matz said the argument made by Mr. Stalzer is that the draft language would constrain Sambica's use of their existing lot configuration under a CCC zone. If the site were comprised of only a single lot, there would be no issue. Mr. Stalzer's suggestion is that an additional portion of the existing Land Use Code at 20.20.480, which allows subordinate uses more flexibility as to where they are located, should apply. Commissioner Hamlin said sounded to him like Mr. Stalzer's request is a reasonable one. Mr. Matz said the concern of staff is that Mr. Stalzer suggested there are legal ramifications, so the issue will be carried back to the city's legal

department for an opinion before identifying a solution. Commissioner Hamlin said he would be comfortable taking that approach.

Commissioner Ferris called attention to paragraph B.4 of the design guidelines on page 15 and noted that when his children attended the Sambica camp the gym was held up with cables and turnbuckles. The gym may be the largest building on the campus, and it may be necessary for Sambica to construct a new gym before they take down the old one to avoid disrupting the camp use; the problem is the provisions of B.4 would seem to preclude a new gym from being built other than in the middle of the campus, which is where the existing gym is located. Ms. Hamlin said the issue would be viewed in light of the general phasing in of new facilities over time. Mr. Matz said the Master Development Plan review process talks about existing conditions. The idea is to recognize that what currently exists will transition to new uses and configurations over time. The impacts would be addressed through design review, and some mitigation may be required.

With regard to parking, Commissioner Ferris observed that camps and conference centers generally like to avoid parking vehicles in the center of the campus. The restriction on parking as spelled out in paragraph B.7 might need to be reconsidered to allow for some flexibility.

Commissioner Ferris also suggested staff should review paragraph B.9.c with an eye toward being specific with regard to the type of pavement materials recommended.

Commissioner Tebelius asked if Sambica has access to the water. Ms. Hamlin said they do via a parcel of land owned by the Strandvik homeowners association. Mr. Matz stressed that the Comprehensive Plan CCC designation does not include the Strandvik association property within the Shoreline Management district, so a CCC rezone proposal would apply only to property owned solely by Sambica. The property that gains them access to the lake would not be included.

Commissioner Tebelius asked what sites in the city, other than the Sambica site, are a potential for the CCC designation. Ms. Hamlin said separate sites owned by the Sisters of St. Joseph Peace and Vasa Park are the only two sites identified by staff so far as potential candidates. Mr. Matz added that property owners could assemble properties for the express purpose of creating a Camp and Conference Center, which would not be beyond the realm of possibility.

Commissioner Tebelius asked why Sambica was seeking a new designation when their current use is fully grandfathered. Mr. Matz said the unique community asset is simply attempting to remain viable. They currently have an interesting blend of uses that do not quite fit under any single existing zone, with a mix of residential, commercial and other uses. The new designation was crafted in an attempt to allow the camp to continue being what it has always been while at the same time respecting the fact that the camp is located in a residential neighborhood.

While grandfathering allows the current uses to continue, it does not allow for redevelopment of the facilities. Commissioner Tebelius asked what Sambica intends to do once the new approach is approved. Mr. Matz said that question would need to be asked of the Sambica representatives. Commissioner Tebelius asked if the neighborhoods around Sambica have been kept informed and invited to comment on the proposal. Mr. Matz said during the Comprehensive Plan amendment process the surrounding neighborhoods were involved. The Land Use Code amendment will also include a public hearing at which the neighborhoods will be invited to comment, and at the rezone stage there will be yet another option for the surrounding communities to offer input.

Commissioner Tebelius called attention to the reference on page 4 under the design guidelines relative to covered walkways and asked if all sidewalks were included in the reference. Ms.

Hamlin said the reference is to interior walkways, particularly walkways connecting buildings on the campus.

Commissioner Tebelius asked what was meant by the term “thematically consistent building materials and colors” on the same page. Ms. Hamlin said the intent is to bring about compatibility and a coherent focus and theme among the various buildings on the site. Mr. Matz said it could be argued that having a hodgepodge of buildings on the site could be deemed a visual impact on the surrounding communities. Thematic consistency through similar materials on roofs and walls, similar window types and building shapes was intended to lend a distinct character to a CCC. Commissioner Tebelius said in her opinion the provision tended too far toward being Big Brother. If a CCC use wants to put up buildings that are inconsistent with other buildings on the site, there might be a good reason for doing so. She asked that the language be removed.

Chair Turner asked if similar guidelines apply to single family developments. Ms. Hamlin said there are no such guidelines for subdivisions but there are for planned unit developments. The city works with both the applicant and the architect to determine consistency.

Commissioner Tebelius voiced concern with the language of policy S-NC-10, particularly the last part that read “...provides the opportunity for an adequate amount of retail and professional services to meet local needs.” She suggested that retail and professional services are not appropriate in that area. Mr. Matz said the policy language was included in the ordinance that was adopted in 2009 as part of the Comprehensive Plan amendment approval. The language is intended to recognize the Little Store and the existing retail uses and commercial functions that Sambica has. The Neighborhood Business zoning that exists on the site allows the highlighted uses. The action to adopt the CCC for the Sambica site would limit retail uses to those allowed by the Neighborhood Business zone and in line with the definition of a subordinate use as outlined in 20.25M.010(B)(3).

Commissioner Tebelius asked what plans Sambica has laid for its site. Sambica Executive Director Matt Wimmer said the primary plans involve remodeling current facilities. The gym was built in 1922; the legend is that it was built in eight days, and it shows. Additional buildings could potentially be added to the site, primarily housing for the counselors and indoor recreation facilities. The camp operates year-round and offers off-campus activities to many area schools, predominantly elementary schools, and the camp hosts conferences. There are no immediate plans to add facilities to accommodate conferences with more than 150 persons, but if steps were to be taken in that direction it would need to be done as part of the master planning process.

Mr. Stalzer said Sambica currently has a dining hall on the campus and there have been discussions about using it as a multiuse facility. One of the current challenges is accommodating both children and adults, which have different needs. For the long term consideration is being given to accommodating both groups, and in doing so it could be that the dining facility would be opened to the public during certain hours or on certain days. It would not be an independent restaurant, it would be operated by Sambica.

Mr. Matz added that any such restaurant would be treated as a permitted land use; it would not be possible to require it to be operated by Sambica only or to say it could not be open to the public. Mr. Matz stated that the city cannot distinguish who is allowed to use it. In the case of the CCC, the proposal in the draft language is to allow restaurant as a subordinate use. The dining facility, which is focused on feeding those associated with the camp, would be regulated only as to their measurable impacts (i.e. how big the building is). As a subordinate use, any restaurant facility would need to be located in a building that houses a principal use; a

freestanding restaurant building on the site would not be allowed.

Commissioner Tebelius said she could see no reason why the city should not be allowed to prohibit a restaurant open to the public under the CCC while still permitting Sambica to have a dining hall to serve its workers and patrons. She added that she could not imagine the local community wanting to see a public restaurant on the Sambica site. The traffic concerns alone would be enough to give them concern.

Mr. Matz clarified for Commissioner Ferris that restaurant is an allowed use on the Neighborhood Business zoning that exists on one of Sambica's properties. Trading the small size of the Neighborhood Business for the larger size of the entire CCC, balance is obtained by limiting restaurant to the status of a subordinate use, which by definition must be associated with a principal use.

Commissioner Ferris said a restaurant operated as a subordinate use would be a good use of the space, would be good for the community, and would not increase traffic.

Commissioner Tebelius called attention to page 11 and noted that the permitted uses chart lists religious activities as allowed as a conditional use. Ms. Hamlin said religious activities are allowed through conditional use in all of the city's zoning districts.

Commissioner Tebelius said it was her understanding that Sambica is owned by a church, but Mr. Wimmer explained that it is a 501(C)(3) organization and is not owned by a church. The original camp was focused on teaching Christian religious values to the campers.

Chair Turner allowed that Sambica intends to serve the community into the future and asked to what extent the needs of the community are anticipated to change in the future, and how current facilities may be too limited to meet the future needs. Mr. Wimmer said Sambica is more needed in the community than ever before. He noted the environment of the camp and the programs offered brings the children back to a pre-1950s environment and forces them to forge peer-to-peer relationships face-to-face rather than through some electronic means. The facilities need to be improved in ways to make the camp safer for the children. Sambica has a program in which teens serve as junior counselors, meeting a need that previously not been met; during the off-season the camp is opened as a positive gathering place for teens.

Mr. Stalzer said one building on the property has been in place for many years but currently has almost no use at all other than for storage. Mr. Wimmer said the current thinking is that the campers could be better served by replacing the building with a multiuse facility. There are also some lodging facilities that were constructed in the 1930s that are in need of being updated.

The Commission approved noticing the public hearing for October 26.

B. Shoreline Master Program Update

Land Use Director Carol Helland reminded the Commissioners that their deliberations on July 13 concluded with section 20.25E.060.D. At the meeting, there was agreement to take up the discussion at section 25.25E.060.E on September 14. She noted that staff posted on the website that the discussion would not move beyond the General Requirements until October 12 at the earliest.

Commissioner Tebelius said after further review of the various regulations she continued to hold the view that regulations are far too complicated and too difficult to understand. It contains code

sections that relate to other code sections, which was the direction given some time ago by Commissioner Sheffels. Reasonable and rational humans should be able to make it easier for everyone to understand. The state has required every jurisdiction to update their Shoreline Master Programs. While that might in itself be an admirable goal, regulation for the sake of regulation is what government always does and is what is wrong. She said she would like to see each section include an explanation of why it is needed, the reasoning behind it, what each section requires, and what the underlying scientific basis or other rational reason is. Unless that is done, the result will be very complicated regulations that will not be understandable to the average property owner along the shoreline.

Ms. Helland said the Shoreline Management Act is about the residents of the state protecting their water and preventing inherent harm associated with uncoordinated and piecemeal development adjacent to the water. That notion is included in the legislative statement for the original adoption of the Shoreline Master Program. Staff took that premise as having been embraced by the citizens of the state as well as the citizens of the city of Bellevue. Similar policy language has been included in Bellevue's Comprehensive Plan, which is the community's vision of the city, since 1974. The policy language has remain much the same since their inception, and the current update does not change the goals all that much; as such, the policies continue to serve as a good starting point for what the community vision is relative to the regulation of shorelines, namely to prevent in inherent harm of uncoordinated and piecemeal development, and to protect, preserve and enhance the ecology, environment and amenities. The city has a history of protecting its environment and preserving livable spaces in all neighborhoods; that is the very hallmark of the notion of Bellevue as a city in a park.

Commissioner Tebelius argued the fact that nearly every foot of shoreline along both Lake Washington and Lake Sammamish has already been developed, often in a piecemeal fashion. Through the building code the city tells people what they can do with their properties, and those provisions are largely both reasonable and rational. The issue of uncoordinated development, therefore, can be addressed through the building code. Protections for the water have been accomplished through such actions as putting in sewer systems, and additional protections can be achieved by choosing to implement very costly water runoff controls to prevent polluted waters from entering the lakes. The proposed regulations do not, however, touch on that approach at all, rather they place huge burdens on the homeowners by requiring them to protect the water.

Ms. Helland said the proposed regulations will protect the habitat of the lakes and lakeshores, and they will protect water enjoyment and use by eliminating overwater structures that are nonconforming and considered to be inconsistent, and by requiring public access. The objectives are all in line with what the citizens of the state have said are important. At the direction of the City Council, the staff have been directed to work with the Commission in developing a program that can be approved by the state Department of Ecology. Commissioner Tebelius agreed that the citizens of the state set the general direction, but argued that the devil is in the details. What has yet to be figured out is how the specific regulations to be imposed upon homeowners will accomplish any of the goals the public wants. The lakeshores are already developed. Every property owner wants the waters to be cleaner, and in fact the waters are far cleaner than they were in 1965.

Commissioner Ferris pointed out that the waters of the lakes are indeed cleaner, but the improvements came about as a direct result of regulation. Without the regulations that are in place, the lakes would both be green.

Commissioner Tebelius said regulation for the sake of regulation will do no one any good, unless it can be determined what exactly is to be accomplished.

Chair Turner suggested it would be fair to say the Commissioners all agreed with the goals, but in many cases the objectives are missing and there are no clear links between the proposed regulations and the goals and objectives.

Commissioner Tebelius said she had become convinced that translucent dock covers would be better for the lakes. She said she did not believe translucent covers will do anything for the fish but did believe there would be less damage resulting from storms and therefore would be less cost for homeowners. Under the proposed regulations, homeowners would be required to jump through a lot of hoops and spend a lot of money in order to accomplish what could be easily accomplished by allowing new approved dock covers without jumping through the hoops. With the hoops in place, many homeowners will not make any changes at all, and the desired goal will not be accomplished.

Commissioner Ferris then said it was his understanding the Commission had agreed to take up its review where it had previously left off rather than engaging in an ad hoc discussion. Chair Turner said the agenda would be followed, but said he wanted to let Commissioner Tebelius share her concerns first. Commissioner Ferris left the room on the promise to return when the Commission was ready to follow the agenda.

Ms. Helland pointed out that the proposed approach actually provides an incentive to homeowners to use grated docks. Commissioner Tebelius said the regulations require a property owner who wants to change the top of a dock to go through all manner of permitting processes. Ms. Helland said some level of repair and replacement is allowed. Commissioner Tebelius agreed but pointed out that 100 percent replacement was not allowed, and suggested property owners are unlikely to put in the new type of dock without a 100 percent replacement. Ms. Helland said a 100 percent replacement with a grated deck would be welcomed and that all that would be required would be a letter of shoreline exemption. Commissioner Tebelius said she did not understand why the city would not just allow property owners to do that without having to even go that far. Ms. Helland said the minimum requirement by the state Department of Ecology to show that the city is upholding its Shoreline Master Program, which is actually an arm of their program, is to require a letter of shoreline exemption showing that work to be done does not meet a certain threshold; work that exceeds the threshold requires a substantial shoreline development permit. Every attempt has been made to make the process as simple as possible; by making the regulations longer the approach becomes the city's process and one that is controlled by the city, rather than relying on the Department of Ecology process. She added that if the Commission so directs, staff would make the change to rely on the state process.

Ms. Helland reminded the Commission that the Council's charge was to develop a plan that can be approved by the Department of Ecology. Commissioner Tebelius said the Council's charge is to the Commission, not to the staff. The proposal on the table is only a staff recommendation, and it is the job of the Commission to come up with a plan to be submitted to the Council. Ms. Helland said the Council has acknowledged that the Department of Ecology has the final say. Commissioner Tebelius countered that in fact the Council did not debate that in spite of the fact that the staff keep claiming they did. The Council did not deal with that issue at all; they simply approved language that got sent on to the Commission. She said Ms. Helland's statement implied that the Council thoroughly analyzed the particulars, when in fact they did not. Ms. Helland replied that the suggestion made by Commissioner Tebelius could be interpreted as meaning the Council paid no attention to the materials put in front of them and ultimately approved by them. That is not the case.

Chair Turner called a short break.

****BREAK****

Ms. Helland explained that the requirements listed in 20.25E060.E are applicable to all development and uses in the shoreline jurisdiction unless otherwise specifically excepted. She noted that paragraphs E.1, E.2 and E.3 were all adopted from the Shoreline Master Program update guidelines.

Commissioner Tebelius suggested the phrase "...shall be the minimum necessary to accommodate the permitted use or development..." in E.1 is both broad and vague. She pointed out that there is no definition of "natural shoreline" and as worded it could be interpreted to mean any number of natural features. The paragraph should be eliminated. The provisions of E.2 are also broad and duplicate other provisions, it is inconsistent, is vague, is not well defined, and could mean additions to existing homes. Paragraph E.5 is completely without authority, substantially interferes with property rights, is vague with regard to what a single project is, and appears to be a punitive provision. She suggested that the entirety of paragraph E should be eliminated.

Ms. Helland said the provision of E.1 could be eliminated in favor of relying on the mitigation sequencing section. She said E.2 is intended to set the tone for the Shoreline Management Act and is taken directly from the WAC guidelines, and if removed the Department of Ecology may not approve the document. Paragraph E.3 is intended to remind the leader that other regulations apply; even if the paragraph were eliminated, the other regulations would still apply. Paragraph E.4 could be removed in favor of relying on other codes associated with disturbance. The language of paragraph E.5 is taken from case law and the Shoreline Management Act which says projects cannot be divided into segments to avoid permitting.

Commissioner Ferris noted his support for all of paragraph E as drafted. He said it is consistent with other development regulations, and it is consistent with how the regulations from other cities read. He noted that prior to the appointment of Commissioner Tebelius to the Commission, the Commission as a whole requested minimizing to the extent possible the fishing expeditions users must encounter when trying to navigate the shoreline regulations; by having everything included, the user is benefited.

Commissioner Hamlin concurred. He agreed that the language of the paragraph adds clarity.

Chair Turner agreed with the need to discuss shoreline stabilization in terms of projects. Projects should not have negative impacts on water quality. He agreed with Commissioner Tebelius that paragraphs E.1, E.3 and E.4 could be eliminated.

It was agreed to keep the paragraph as drafted but to keep the door open to revision in the future.

Commissioners Hamlin and Ferris indicated their support for all of paragraph F as drafted.

Commissioner Tebelius asked if archeological and historic resource provisions exist in other sections of the code. She went on to say the language of the paragraph appears to be similar to what other cities have included. Ms. Helland said the provisions are similar to what other cities have in their codes and added that they essentially parallel the guidelines suggested by the Department of Ecology. The language does not exist in other code provisions. SEPA is the only way the city has to address historic and archeological resources. Commissioner Tebelius recommended deleting all of paragraph F. Ms. Helland pointed out that if the section is removed, the city will have to disclose that fact to the Department of Ecology. The content is

consistent with the guidelines. Commissioner Tebelius asked if some other code could be amended to address the issue citywide. Ms. Helland explained that the preponderance of archeological resources are deposited along stream banks and water bodies because those areas have traditionally seen the most cultural settling. SEPA acts as a safety net for big development anywhere in the city, though it does not apply to single family. Ms. Helland said she was not aware of any archeological sites located in the shoreline jurisdiction, though the whaling facility on Meydenbauer Bay has been cataloged as a historic resource. The section is needed because it describes the steps that must be followed should archeological resources be discovered during the course of development. Construction must stop and an expert must be called to the site to catalog all of the evidence.

Environmental Planning Manager Michael Paine added that the archeological issue is a huge one for the tribes. The tribes are given a heightened participation by the Department of Ecology in the development of Shoreline Master Programs in their comments and feedback.

Commissioner Tebelius commented that the entirety of paragraph F is applicable under state law and as such it is redundant to also include it in city code. She said for that reason the paragraph should be removed.

Chair Turner said he could see the reason behind including the paragraph and recommending not deleting it.

Ms. Helland explained that paragraph G is a cross reference based on the recommendation of the Commission not to import all of the critical areas provisions into the Shoreline Master Program. The Department of Ecology has the authority to, and will, review the city's critical areas code for compliance. Associate Planner Heidi Bedwell added that some references to shoreline critical areas in the current critical areas code will need to be removed.

Commissioner Tebelius allowed that staff had previously stated that Lake Washington and Lake Sammamish cannot be considered critical areas, and asked what the position of staff is with regard to Phantom Lake. Ms. Helland said staff heard clearly the direction from the Commission to tailor the regulations relative to Phantom Lake to address unique circumstances. Phantom Lake is a lake wetland, meaning it has standing water, and has been regulated as such under the code since 1987. The Department of Ecology has advised that the lake cannot be removed from the shoreline jurisdiction entirely because it meets the acreage definition for open water; to change that would require action by the state legislature. The critical areas ordinance has been applied to the lake because it is the more restrictive approach. Thus the setbacks are wetland setbacks, which are larger than the setbacks required on Lake Sammamish and Lake Washington.

Commissioner Tebelius asked if the staff would be opposed to adding language that specifically says Lake Sammamish and Lake Washington are not critical areas in order to be perfectly clear. Ms. Helland said that clarity will be achieved by removing the references to shoreline critical areas in the critical areas code. To add the proposed language would be inconsistent with the Environmental Element of the Comprehensive Plan which covers critical areas and which identifies the lakes as habitat; that definition cannot be removed because of the presence of listed species. By definition, habitat is a critical area. She offered to draft language to the effect that the shorelines of Lake Sammamish and Lake Washington are not critical areas, but in any event the critical areas code will apply in instances where wetlands or floodplains exist.

Ms. Helland commented that paragraph H is one of the places where it is specifically stated that the requirements do not apply to single family.

With regard to the Meydenbauer Bay park and adjacent yacht club, Commissioner Ferris said it would be almost impossible from a stormwater management standpoint to have parking right up next to a bulkhead; overflow waters likely would pour right into the lake. He suggested more clarity should be added to H.2 to be more restrictive. Ms. Helland said an attempt was made to address the issue in the language in H.4.b.ii and H.4.b.iv. Commissioner Ferris observed that at many marinas the parking occurs quite a ways from the water and people must use carts to get things to and from their boats. The more restrictive approach would be preferable to allowing parking too close to the water.

Commissioner Tebelius said it was her recollection that the Meydenbauer condominium people opposed the proposed parking restrictions. Commissioner Ferris agreed and allowed that if representatives from the Meydenbauer Bay Yacht Club were present they would likely disagree with his position.

Ms. Helland clarified that parking is not an allowed use in the shoreline jurisdiction, though it is allowed as an accessory use provided it is located landward of all principal uses. To gain approval it must be shown that there is no technically feasible alternative.

Mr. Paine said parking at all new marinas, including those on Elliott Bay, have the parking located well away from the water. That is a standard best management practice. One approach would be to recognize the existing parking on the Meydenbauer Bay Yacht Club site while making it clear that new parking should never be allowed at the water's edge, except for rare exceptions such as a handicapped loading zone. Commissioner Ferris said his concern with regard to the yacht club is that they should not be allowed to expand their current parking even if they are allowed to expand their current primary use facility. Ms. Helland said in her opinion the proposed language addresses that concern. Under H.4.a.ii, the parking area must be the minimum necessary to support the allowed use, and if the allowed use were to be expanded the city would potentially argue that additional parking could be accomplished in a different way. Commissioner Ferris said he would prefer to see language disallowing more parking close to the shoreline unless it can be shown that any other option would be technically infeasible.

Ms. Helland agreed to revise H.4.a.i to change the "should" to "shall."

Commissioner Ferris suggested that as worded H.4.b.v could be interpreted to mean a parking spot adjacent to the dock is allowable provided it is managed as part of a parking management plan; that would still mean there would be asphalt right next to the dock. Ms. Helland pointed out that the vegetation conservation area takes in virtually all of the area adjacent to the dock, thus under the provisions of H.3 any parking planned would be subject to the technical feasibility process and would be approved only if it could be shown there is no other place to put it. Commissioner Ferris said his concerns were addressed.

With regard to paragraph I, Ms. Helland noted that it does not apply to single family unless part of a new subdivision. She pointed out a typo and noted that each reference to "9" or more new lots or dwelling units should in fact read "10" to match the definition in the Land Use Code.

Commissioner Tebelius asked what is the purpose of the limitation requiring public access. Ms. Helland said where there is a magnitude of development, public access should be provided. It is required from port facilities, from terminal facilities, from multifamily housing and commercial developments, and it is required from marinas, both public and private, on the theory that the waters are held commonly by all citizens. The language of paragraph I mirrors the guidelines, with the exception that the number of units has been pushed to 10 from four.

Chair Turner said he understood the reasoning behind the paragraph but disagreed with it. He allowed, however, that the paragraph would apply in very few if any places in Bellevue. Ms. Helland said it would apply primarily in the context of the marina SE 40th Street end, which is owned by the city. If the Newport Yacht Club were to redevelop over the threshold amount, it would have to provide public access; for instance, one of their piers would have to be made available for people to walk on. Chair Turner said he was particularly opposed to requiring access from single family subdivisions. He said there currently exists plenty of places where the public can get to the water. Ms. Helland pointed out that currently there is no public access to Lake Sammamish in the city of Bellevue.

Commissioner Tebelius pointed out that RCW 90.58.020 says public access must be increased from publicly owned areas, and that it does not say anything about privately owned areas. She submitted that paragraph I goes far beyond that and could be deemed unconstitutional under Supreme Court law. Ms. Helland countered that the public access provisions in the guidelines at 173.26.22.1 in fact say that public access should be provided in conjunction with private developments of four dwelling units; the proposed language of paragraph I pushes that up to 10 to reflect the largely urbanized environment of Bellevue's shoreline. Commissioner Tebelius stated that the guidelines are not in fact law, but Ms. Helland said the guidelines have been upheld as the Department of Ecology's rules that must be followed unless specifically shown to be optional.

Ms. Helland commented that paragraph I also applies to public facilities and allowed that there has been a historic reluctance to making public facilities accessible on the concerns of vandalism and the like. The utilities department has, however, been advised that they are going to have to incorporate public access. The legal department has been reviewing the provisions; their opinion provided to the Commission on November 3, 2010, outlined their conclusions.

Mr. Paine pointed out that every local plan accepted by the state to date have included the public access provisions.

Commissioner Tebelius pointed out that the word "residents" in I.3.a.i should read "residences." Ms. Helland concurred.

Commissioner Ferris called attention to I.4.f and pointed out that as conceived the Meydenbauer Bay park plan would have two piers for moorage, both with public access going out part way but not to the end; a separate pier would wrap around the swimming beach. He said his reading of the paragraph was that public access would be required to the very end of each pier given that the piers are defined as structures. Mr. Paine said the intent behind the paragraph is to require public access from standalone marinas. Where a marina is part and parcel of a public park, however, it should not be necessary to rely on the requirement for the marina itself to provide public access. Ms. Helland noted that in the event of a conflict, the Council-approved master plan process will control; that provision is included in I.4.g.

It was agreed to end the study session and pick up the review again at paragraph I.5 at the next Commission meeting.

8. OTHER BUSINESS – None

9. PUBLIC COMMENT

Ms. Anita Skoog-Neil, 9302 SE Shoreland Drive, said she opposed allowing the Sambica camp

to have a restaurant facility open to the public. The camp certainly could choose to limit the public from coming to their restaurant, and the neighbors should have a voice in whether or not a public restaurant should be allowed there. Opening the restaurant to the public could lead to simply renting rooms to the public, which would change the use of the private facility. She commented that the Comprehensive Plan has not been consistent with regard to the shorelines since the 1970s. In 1998 a Comprehensive Plan policy specifically discouraged commercial development in the shoreline area. With regard to paragraph I.2.d, she said the language would impact Vasa Park relative to having to provide public access in association with renovation or redevelopment; the paragraph should simply be removed. She said the Commission is making progress but continues to miss some important issues, particularly with regard to Meydenbauer Bay park.

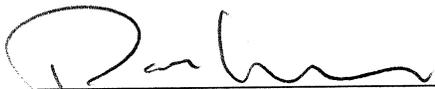
Commissioner Tebelius asked Ms. Skoog-Neil to provide the Commission with memos outlining any points that may be missed during the review.

10. NEXT PLANNING COMMISSION MEETING

A. September 28, 2011

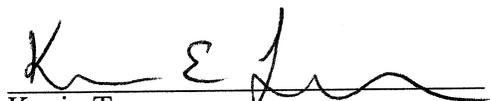
11. ADJOURN

Chair Turner adjourned the meeting at 9:59 p.m.



Paul Inghram
Staff to the Planning Commission

1/25/2012
Date



Kevin Turner
Chair of the Planning Commission

1/25/2012
Date

