CITY OF BELLEVUE
PLANNING COMMISSION
MINUTES

October 26, 2011
6:30 p.m.

Bellevue City Hall
City Council Conference Room 1E-113

COMMISSIONERS PRESENT:	Chairperson Turner, Commissioners Carlson, Hamlin, Himembaugh, Sheffels, Tebelius
COMMISSIONERS ABSENT:	Commissioner Ferris
STAFF PRESENT:	Paul Inghram, Department of Planning & Community Development; 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 6:35 p.m. by Chair Turner who presided.

2. ROLL CALL

Upon the call of the roll, all Commissioners were present with the exception of Commissioner Ferris, who was excused.

3. PUBLIC COMMENT

Dr. Marty Nizlek, 312 West Lake Sammamish Parkway NE, said discussing the vegetative area cannot be divorced from a discussion of setbacks and buffers. He said it appeared to him that much of what is in the document got there on the tenet that what is in the critical areas ordinance is good enough for the shorelines that are not necessarily critical areas. He also said it would be very helpful as the discussion progresses to distinguish between what is applicable to existing development versus what is applicable to new development.

Mr. Brian Parks, 16011 SE 16th Street, referred to page 23 of the minutes and the reference to the weir in Phantom Lake being revised. He asked to have the minutes revised to add following "...did not actually occur..." the phrase "...to the depth specified." He called attention to page 37 and the statement credited to him that read "...the natural topography causes the water to flow towards Larsen Lake and the Kelsey Creek drainage system..." and said what he was referring to is the fact that the berm interferes with that. He noted that on page 63 he was quoted as saying "...unable to allow any winter flow..." when in fact that occurs only under a certain elevation; the minutes should read "...and it often results in winter flooding." Referring to policy SH-54 regarding on-site septic systems, he noted that the policy talks about working with public health agencies to require repair or replacement of failing on-site septic systems within the shoreline area. The problem is use of the word "failing" over "failed." There are already existing King County public health ordinances that say if a system fails the property must connect to a sewer line if one is available. The word "failing" is too open to discretion. The policy should be deleted entirely or reworded.

4. APPROVAL OF AGENDA

Motion to revise the agenda to allow time on the agenda for Mercer Island Planning Commission Chair Steve Marshall to address the Commission on the topic of that city's Shoreline Master Program was made by Commissioner Tebelius. Second was by Commissioner Himebaugh and the motion carried unanimously.

Motion to approve the agenda as revised was made by Commissioner Tebelius. Second was by Commissioner Himebaugh and the motion carried unanimously.

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

Commissioner Hamlin informed the Commission that the Eastgate/I-90 CAC spent a full meeting reviewing the three action alternatives and the No Action alternative and reached consensus regarding a preliminary preferred alternative. The preliminary preferred alternative was then made the subject of an open house which was fairly well attended by the public. The input offered by the public was less focused on the plan as a whole and more focused on specific aspects. The CAC will meet again on the first Thursday in November.

6. STAFF REPORTS

Comprehensive Planning Manager Paul Inghram reported that the Council recently initiated a Land Use Code amendment for the neighborhood business zone.

7. STUDY SESSION

A. Steve Marshall, Mercer Island Planning Commission Chair

Mr. Marshall said the Mercer Island Planning Commission spent the better part of a year and a half reviewing its Shoreline Master Program update. Like Bellevue, most of the lots on Mercer Island are built out; there are very few undeveloped lots. The approach taken was to allow people who already have docks and bulkheads to repair or replace them without further restrictions; dock or building footprint expansions are different issues. A lot of time was spent in determining what no net loss of ecological function is, how it can be determined, and whether or not shade from a dock is bad while shade from trees is good.

All available science was reviewed. Science that did not conclusively point one direction or another was not relied on. The Commission tried to take a clear-eyed look at why certain things should be done. Dr. Gil Pauley was asked to provide expert testimony, as was a person from the state Department of Ecology. At the end of the day most of the new restrictions touted by the state could not be shown to be either good or bad. Bowing to political considerations, it was determined that new docks, or docks moved to a new location, must be narrower for the first several feet. It was also determined that there would be no benefit to requiring vegetation to shade the waters of the lake.

Impervious surface regulations are primarily intended to prevent runoff from upland properties, but for properties along the waterfront there is no place for water to go but into the lake. Time was spent in trying to determine if a patio or other structure with an impervious surface is better or worse than a lawn in terms of ecological function. By the end of the discussion, the representative from the Department of Ecology agreed that it would make no sense to require impervious surfaces along the waterfront.

Mr. Marshall said in too many instances the Commission was asked to impose regulations for

which no one could say they would be helpful or not. He noted that the Commission took a very careful look at the issues dealing with threatened or endangered salmon. One conclusion reached was that when the salmon are coming back to spawn or heading out to begin their migration, stream shading is not much of a factor because those events occur during the spring and fall months when the area is receiving a lot of rainfall. Furthermore, as far as Mercer Island is concerned, the salmon tend to hug the shore on the Seattle side when they are starting their migration. It did not therefore seem important to the Commission to require vegetative shading or to disallow dock shading. The real issues relative to salmon are what happens to them in the open ocean where they spend the bulk of their lives, fishing practices, and the hatcheries. The impacts of docks, bulkheads and trees are minor if they can be determined at all.

The final document was approved by the City Council and is currently being reviewed by the Department of Ecology.

Chair Turner asked how many pages the Mercer Island Shoreline Master Program has. Mr. Marshall said in the beginning it included a lot of duplication but the Commission worked through it and cut it way down to only 29 pages. He said the focus was on making it as easy as possible for homeowners to determine if their actions are in compliance or not.

Chair Turner asked if the document contains an objectives section outlining what it is intended to accomplish. Mr. Marshall said the document is intended to comply with no net loss of ecological function in accord with state law. The Commission spent a lot of time discussing what an ecological function is and what a net loss is. The problem is that what helps one species may in fact harm another. Once the document was completed, the Commission still was not sure if the no net loss objective had been achieved, or if someone applying for a permit could show no net loss without a lot of extra work and cost.

Commissioner Carlson asked what specific recommendations regarding docks were included in the Mercer Island Shoreline Master Program. Mr. Marshall said the Council-adopted document allows any existing dock to be repaired or replaced as necessary, but it requires new docks to be no more than four feet wide for the first fifteen feet; the latter was not part of the Commission's recommendation. The studies done on docks used by the Department of Ecology were all in regard to wide commercial docks.

Commissioner Carlson called attention to the matrix put together by Bellevue city staff on vegetation preservation. Redmond calls for trees and native vegetation within a 35-foot setback; Sammamish has a 50-foot setback; Kirkland's setback is 30 to 60 feet; in the Bellevue draft the vegetation area is 25 feet; but Mercer Island has no specific vegetation conservation standards and no direct reference to tree preservation standards. Mr. Marshall pointed out that Mercer Island already has a fairly robust tree preservation ordinance. Beyond that, the Commission concluded that there was not much in the way of science to say one way or another that one type of vegetation is better than another, or that 25 feet is better than 10 feet. The Mercer Island plan does state that new development over 500 square feet triggers some of the requirements.

B. Shoreline Master Program Update

Commissioner Carlson asked the staff to comment on the remarks made by Mr. Marshall. Land Use Director Carol Helland said it was interesting to hear about process from another jurisdiction. She said staff have been following quite closely the point at which jurisdictions obtain approval from the Department of Ecology; most documents change significantly in making the transition from Commission recommendation to Council approval to Department of Ecology approval.

Environmental Planning Manager Michael Paine said the remarks of Mr. Marshall clearly outlined the Commission's process. The actual draft that was approved by the Mercer Island Council was significantly different from what was recommended by the Commission; it contained far more clear proscriptions with regard to what must happen and what does not have to happen. It appears the Council concluded there were some issues not worth fighting about and that to get ultimate approval from the state some concessions would have to be made.

Commissioner Carlson asked if staff had an opinion one way or another with regard to the Mercer Island approach to docks. Mr. Paine commented that their dock regulations are surprisingly close to what is proposed for Bellevue. Ms. Helland said one objective has been to avoid conflicting regulations. She said the requirements imposed by the Corps of Engineers are actually more strict than the city's; many of the issues about which the public has complained to the Commission were actually imposed by the Corps. Staff have been focused on trying to keep regulations to the minimum necessary to meet the requirements to oversee dock approvals under SEPA and the Shoreline Management Act. Dock standards around the lakes vary only slightly, particularly once they get through the Department of Ecology process.

Associate Planner Heidi Bedwell pointed out that Mercer Island is predominantly a residentially developed jurisdiction. In addition to residential issues, Bellevue must address issues relating to parks and marinas.

Turning to the topic of vegetation conservation in 20.25E.065.G, Commissioner Tebelius called attention to the tree retention section and indicated her agreement with the statement made by Dr. Nizlek to the effect that lakeshore owners have preserved natural features such as trees in undeveloped areas in exemplary fashion when compared to other city neighborhoods, and that under the city's current tree retention standards that trend will continue. She agreed with the argument that additional measures are not justified.

Commissioner Himebaugh commented that the tree preservation standards depend greatly upon what the setback/conservation area approach is going to be because most of the vegetation retention standards that are at issue apply within what is being proposed, which is a 25-foot vegetation conservation area. He proposed having a conversation about the general desirability of having a setback or buffer.

Commissioner Hamlin held that the discussion should cover the topic of vegetation first.

Commissioner Hamlin said it appeared to him that the language of the draft relative to tree preservation was that the same code that applies citywide would apply along the shoreline, outside of the buffer area if one is determined.

Commissioner Himebaugh suggested that the approach in the draft document, which includes a 50-foot structure setback overlaid with a 25-foot vegetation conservation area, is not supported by the science that has been presented. He said his recommendation was for a 25-foot setback, which is the same as the original Shoreline Master Program, and to eliminate the vegetation conservation area. Building the buffer based on the critical areas ordinance is an obsolete idea given that the Growth Management Act has been amended to specifically state that shorelines per se to not constitute critical areas. Critical areas certain can, however, occur in shorelines.

Chair Turner said he could support including incentives for property owners to accept a 50-foot setback. Commissioner Tebelius pointed out that nothing would stop any homeowner

from choosing on their own to do that. Commissioner Himebaugh commented that the need for incentives will be lessened if the burden of the regulations is also lessened.

Ms. Helland said the incentive system associated with the draft is attached to the wider buffer and allows for modification towards the water. The 35-foot fixed buffer alternative talked about early on in the process was seen as being predictable; within that buffer the amount of vegetation was to be stipulated. Absent a wide setback, there is generally no need for incentives of any kind.

Mr. Inghram said he could envision providing for some flexibility in the front yard setback associated with setting development further away from the water.

Commissioner Himebaugh said part of his concern with having a setback greater than 25 feet is that according to the map book produced early in the update process, at the 50-foot level a significant amount of existing development is captured. A 25-foot setback would also match and be consistent with the Newport Shores neighborhood.

Commissioner Tebelius said she was not aware of any rationalization for differentiating between Newport Shores and the rest of the shoreline areas. If a 25-foot setback is in place there, the same should be in place for all residential shorelines.

Commissioner Hamlin indicated his support for having a 25-foot vegetation conservation area regardless of what is done relative to the setback. He said there is enough evidence showing the value of vegetation along the shorelines. In WAC 173.26.221 there is a list of the advantages, including shade, organic input critical for aquatic life, food in the form of various insects, bank stabilization and minimizing erosion, and reducing fine sediment flows into the water.

Commissioner Himebaugh said he saw the evidence differently. A number of the benefits pointed out by the Department of Ecology do not appear to be substantially supported by science. One scientific study says requiring a small amount of shading on a big lake will not affect the water temperature in any meaningful way. Water temperature is actually more related to air temperature. The Commission received testimony from Dr. Pauley on the idea of food inputs that was skeptical about how much of the food fish need actually comes from vegetation on the shoreline.

Commissioner Carlson asked if there is any scientific evidence that the current standard, which has been in place since the 1970s and under which most of the shorelines have been developed, is environmentally harmful. Mr. Paine suggested that there is a significant indication of harm given the enormous effort going on regionally to do something about the shoreline interface and restoring the habitat that has been lost. No one will argue about a 25-foot buffer that is working well, but many would argue that a vertical bulkhead behind which there is pavement is not the best environment for a host of aquatic creatures. He said he did not disagree with Dr. Pauley with regard to food sources for juvenile salmon in Lake Washington and Lake Sammamish. Typically, juvenile salmon feed on chironomids when they are in close to the shore and diatoms or daphnia when they are in deeper water. There is enough organic input in the lakes to create the conditions conducive to aquatic life so long as there is decent water quality and a conducive climate. The science is clear that stream-dwelling fish do need inputs from overhanging vegetation. Chironomids, however, need organic inputs and as such benefit from shoreline vegetation. The need for continued input from the shore cannot be denied out of hand. Juvenile fish, particularly when very little, need access to organic material in the water for protection purposes, and that is why overhanging vegetation is beneficial on the shorelines. No one has ever tried to make the claim that shoreline vegetation will keep the lake water temperatures at optimal levels.

Answering a question asked by Commissioner Tebelius, Mr. Paine pointed out that the draft regulations have very little to say about salmon per se. The regulations seek to protect the functions that drive a healthy and natural environment. Commissioner Tebelius asked if steps should be taken to rid Lake Sammamish of all bass given that they are salmon predators. Mr. Paine said the studies do not suggest that bass are the primary predators. Commissioner Tebelius suggested that preventing the pollutants that wash off of roadways from flowing into the lakes would go a long way toward improving the health of the aquatic environment. Mr. Paine agreed. Ms. Helland added that projects involving new roads or the expansion of existing roads must take steps to address runoff issues. Because Lake Sammamish is identified as a lake that can have direct flows into it, the flows into it are not required to be detained. In a meeting with Planning Commissioners , members of Washington Sensible Shorelines, representatives from the Federal Emergency Management Agency, and representatives from the state Department of Ecology, it was stated that natural flows enter into the lake at a slower rate than discharge from pipes, thus equalizing the flow. Commissioner Tebelius pointed out that during the winter months when there are more storms the runoff pipes are emptying water into the lakes every day.

Commissioner Tebelius asked if the salmon would be benefited by cleaning up the Sammamish Slough, thus taking away hiding places for the bass which lie in wait for the salmon making their way down the Slough. Mr. Paine allowed that bass predation is important but said it is most significant in the canal on the Seattle side where the salmon population is funneled into the very narrow causeway that runs from Lake Washington into Lake Union. Bass are a very aggressive fish, but there are other predators, including pikeminnows and cutthroat trout, that take a large percentage of the juvenile salmon. Salmon conservationists would love to get rid of the bass, but the fact is bass are an excellent game fish; in Lake Sammamish particularly they are very highly sought after. As the climate changes and the water warms, the bass will be more and more successful. The bass will not be removed both for political and ecological reasons.

Commissioner Tebelius asked if leaving the current 25-foot buffer alone will really affect anything one way or another. Mr. Paine said it depends on how well each setback is working. He said the Commission could make an argument in favor of a 25-foot setback, but he said he could not say if it would be accepted by the Department of Ecology or not. He pointed out that no Shoreline Master Program for any jurisdiction in the Lake Washington basin has been approved without some sort of vegetation conservation on the shoreline.

Ms. Helland said staff will do their best to support the decisions of the Commission with peer-reviewed science. Once the Commission has a completed draft, staff will be honest with the Commission in pointing out possible pinch points. If the Commission elects to put its pick in the sand regarding specific issues, the arguments will ultimately be tested in the cumulative impact analysis and during the review by the Department of Ecology.

Commissioner Himebaugh said it has been his position from the start that the WAC allows local jurisdictions a substantial amount of flexibility, and each jurisdiction is left to choose its own policy direction. Vegetation conservation is a required element according to the WAC, but it is stated that local governments may implement the vegetation conservation objectives through a variety of measures where consistent with the Shoreline Management Act, including clearing and grading regulations, setback and buffer standards, critical area regulations, conditional use requirements, incentives, or non-regulatory programs. Clearly there is room to maneuver.

Chair Turner said he would like to see the city offer more incentives in place of regulations when it comes to vegetation conservation.

Commissioner Carlson asked what the significance of the word "may" is as opposed to the word "must." Commissioner Himebaugh said the WAC guidelines are rules because they have been promulgated according to law, though they refer to themselves as guidelines. Where the guidelines say "must" in regard to a particular approach, the Commission can expect the staff to say any approach that falls short can expect to be challenged. Where the word "may" is used, far more latitude can be expected.

Commissioner Tebelius noted that in section 26 it states clearly that where "must" is used a mandate is intended and the action is required. "May" refers to actions that are acceptable.

Ms. Helland pointed out that the staff has been open with the Commission in pointing out the "must" actions on a topic-by-topic basis. That conversation, however, did not go well. The staff are planning to change its approach. The Commission can read the guidelines as well as the staff can. The draft cites the WAC provisions extensively and the document reflects the direction previously given by the Commission. Going forward, the staff will accept direction from the Commission on an issue-by-issue basis and will draft language accordingly. At the end, staff will review the document as a whole and will at that point indicate where there may be holes to be filled.

Commissioner Sheffels pointed out that as drafted, shoreline property owners will not be affected in any way unless they want to do something different; new development certainly would fall under the new rules. The majority of people will be able to maintain their existing landscaping, will be able to remove hazardous trees and noxious weeds, and will be able to maintain their existing docks and bulkheads. To argue against preserving vegetation will be to argue against environmental protection. Those who want to do something different with their properties should be expected to do things right, including vegetation conservation.

Chair Turner reiterated his desire to use incentives to encourage property owners to keep up their plantings as opposed to having strict regulations.

Commissioner Tebelius referred to paragraph G.2.c.ii as an example of how the draft regulations go too far. She noted that the paragraph allows for the removal of noxious weeds from the vegetation conservation area provided it is carried out consistent with the King County Noxious Weed Program's best management practices, and provided exposed areas are replanted with native or native compatible species. Those with waterfront properties know that noxious weeds grow along the waterfront during every season of every year, and hours can be spent digging them out. The fact is sediment control is not affected either positively or negatively by allowing the weeds to remain or by removing them. The storms that affect the shoreline bring dirt to the shorelines and take dirt away from the shorelines. The requirement sounds good but is simply not effective. The rise in the lake level is causing even native vegetation to rot along the shorelines. She said she is not opposed to having regulations and commented that the existing setback is acceptable. So long as the lake continues to flood, however, requiring property owners to plant native vegetation will only be a waste of time and money. The vegetation conservation will not do anything to help solve the problems that exist along the shorelines. If the intention is to save the salmon, the vegetation conservation zone is not the answer.

Commissioner Carlson suggested the question is whether or not the Commission believes the historic 25-foot setback is adequate, or if the setback requirements should be more restrictive. With regard to the vegetation conservation area, he said his preference was not to require one.

Commissioner Himebaugh said the 25-foot setback, which was part of the original Shoreline Master Program, should be retained. To date no clear justification for expanding it has been

presented. He said he did not support the approach outlined in the draft with a 50-foot structure setback overlaid by a 25-foot vegetation conservation area. There should be no vegetation conservation area.

Ms. Helland pointed out that the historic Shoreline Master Program includes a vegetation retention requirement within the 25-foot setback. Within the setback, removal of vegetation is to be minimized. Commissioner Himebaugh clarified that he favored a 25-foot setback without any requirement to retain vegetation within that area.

Chair Turner agreed with Commissioners Carlson and Himebaugh. He said he would provide incentives for property owners to do vegetation conservation on their own.

Commissioner Hamlin voiced his support for the 25-foot vegetation conservation area. Commissioner Sheffels concurred.

Ms. Helland said staff would revise the language without reference to a vegetation conservation area requirement and including a 25-foot setback along the lines of the approach taken by Mercer Island.

Commissioner Himebaugh pointed out that there are other aspects and provisions of the code, such as mitigation sequencing, that could conceivably provide for planting in cases where a property owner's actions will have specific impacts that will require mitigation. It would not be accurate to say the Commission is in favor of obliterating the notion of vegetation conservation; it would be more accurate to say that a majority of the Commission was not satisfied with the vegetation conservation area as proposed in the draft.

Ms. Helland said the Mercer Island approach relative to mitigation sequencing is far more discretionary, though it is less specific and shifts the focus to a case-by-case scenario.

Commissioner Tebelius said she favored retaining the 25-foot setback that applied under the original Shoreline Master Program, and favored not allowing certain things to be done within the setback that would result in a net loss of ecological function. She said she had been convinced that vertical bulkheads are not good because of the wave action they create; the science on that point is clear. However, vertical bulkheads that currently exist will be allowed to remain in place forever provided the property owner seeks to make no changes to their property requiring a permit.

Commissioner Hamlin said he was not opposed to the concept of including incentives but allowed that he did not know what those incentives should be. Commissioner Himebaugh concurred. The Commission agreed to leave out that complexity for the time being.

The Commission offered its kudos to the staff for developing and updating the matrix.

There was agreement that in the absence of specific tree retention requirements in the Shoreline Master Program, the city's existing tree retention requirements will apply. Ms. Hewitt noted that the requirements are primarily applicable in the Bridle Trails neighborhood and where actions are planned that will increase impervious surface or the construction of a new single family structure; 30 percent of the tree diameter inches on the site must be retained. There are tree retention requirements applicable to critical areas and steep slopes as well.

Commissioner Himebaugh called attention to the topic of routine maintenance for landscaping, the discussion broached at the retreat about the kind of tools property owners can use to maintain their existing vegetation, and the requirement to replant following the removal

of a hazardous tree. He said those two issues were not necessarily reflected in the matrix. He said he would prefer to see the city's current tree retention laws apply. He said the Shoreline Master Program should not govern the type of tools to be used when engaging in routine maintenance of vegetation, and said he did not see a need to replant following the removal of a hazardous tree. Removal of a hazardous tree is a net benefit to the public and the property owner and as such should not require planting a new plant. Ms. Helland pointed out that in the absence of a tree retention requirement, the section would no longer apply. She said the issue relative to tools is intended to be interpreted to mean a ban on heavy equipment, such as a tractor. Drastic harm is caused by large equipment on native slopes and the like and the harm can be avoided by simply not using the equipment in the first place. Where a more targeted approach is used, both the disturbance and the restoration is diminished.

Commissioner Hamlin agreed that in the absence of a vegetation conservation area, the Mercer Island approach would be the best.

There was agreement to delete paragraph 20.25E.065.G, leaving only a reference to the existing code standards for sites not constrained by critical areas, and a reference to the critical areas standards for sites that are constrained by wetlands or slopes.

Ms. Helland noted that other areas of city code contain landscape standards for new development. One strategy would be to leave alone the requirements for non-residential areas.

Ms. Helland asked for feedback regarding how the prototype process worked, and input with regard to what topic should be covered next.

Commissioner Hamlin said he found the matrix to be very useful, as were the links to full texts and information topics. He said he also found the process to be far better than working through the draft line by line. Chair Turner and Commissioners Tebelius and Sheffels concurred.

Commissioner Himebaugh said he was very pleased with the materials provided and found them to be helpful. He said from a process point of view, the new approach is much better. He said he would like to see some specific issues discussed, namely the ordinary high water mark, critical areas with regard to Phantom Lake setbacks, and mitigation sequencing through which a lot of vegetation planting requirements could be channeled through the process.

Commissioner Carlson said motion should not be confused with progress. He suggested that in past meetings there had been much motion, but under the new approach actual progress can be made. The materials provided by staff were very helpful. He added that all of the issues with which he is most concerned are covered.

Ms. Helland commented that code drafting is a very complicated process because of the interties between related issues. She said it would be almost impossible to bring to the next Commission meeting the code sections previously discussed because throughout the process there will undoubtedly be iterative conversations about the direction given to staff. She asked for the indulgence of the Commission to allow the staff to hold off on drafting until direction has been given for each topic area. The Commissioners agreed that approach would be more efficient.

B. Neighborhood Business Code Amendment

Mr. Inghram said at its October 17, 2011, meeting, the Council initiated a Land Use Code amendment and provided direction to staff and the Commission relative to the Neighborhood

Business zone. The intent is to be able to support some re-tenanting of the Newport Hills Shopping Center.

Mr. Inghram said the Newport Hills Shopping Center serves its local community. In the past few years the Red Apple supermarket, the Hallmark drugstore, and Bank of America have all pulled out and left empty spaces. The shopping center is still heavily used by the surrounding neighborhoods and is highly valued, but it is struggling to keep from degrading. About a year ago the Department of Planning and Community Development worked together with the property owners to conduct a study of retail conditions and potential redevelopment of the site. The conclusion reached was that the site is unlikely to attract a new grocery store given that there are grocery stores both to the north and the south. The study found that other forms of retail could be viable in the center, including but not limited to farmers markets, childcare uses and local neighborhood restaurants. There may also be potential for a mixed use development that would include some housing.

The operator of the produce stand off of Bellevue Way near the blueberry farm recently expressed an interest in opening a produce stand within a portion of the Red Apple space and has entered into negotiations with the property owner and is seeking the necessary permits. Additionally, a childcare provider has expressed an interest in one of the vacant spaces and has been having discussions with the property owner. The current code, however, limits service uses to 5000 square feet, and the childcare provider is looking at a space that is 9000 square feet.

Mr. Inghram said the Council directed staff to separate out the amendments addressing use and size restrictions as they relate to Neighborhood Business zones that are greater than three acres in size. That includes the Bel-East Shopping Center near Bellevue College; the Northtowne area; and Newport Hills. The action, however, raises the question of whether or not there might be a larger package of code amendments that would support redevelopment like has been seen at the Lake Hills Shopping Center, which the Newport Hills neighborhoods is very interested in. In the initial phase some changes may be identified as needing to be looked at in more detail. The first phase is not expected to trigger any large controversies with the neighborhood and will result in making it easier to re-tenant some of the empty spaces. The second phase, which will be dependent on the Commission's work program, will take a more comprehensive look at the Neighborhood Business designation.

Commissioner Sheffels asked if the initial study included a look at the market for larger drugstores. Mr. Inghram said the study did not look specifically at the density of drugstores in the same way it looked at the density of grocery stores. The question of how viable a drugstore would be in Newport Hills was asked, however, and the conclusion reached was that it would be a challenge to convince a drugstore operator to come into the Newport Hills area given nearby competition and mail order services.

Mr. Inghram said the plan for moving ahead with the study involves conducting outreach in each of the affected neighborhoods. If the amendment turns out to be noncontroversial and the Commission is comfortable with the code language, a public hearing could be held in December and a recommendation could be forwarded to the Council soon after.

8. OTHER BUSINESS – None

9. APPROVAL OF MINUTES

A. June 8, 2011

Commissioner Himebaugh called attention to the fourth paragraph on page 11 and pointed out

that the phrase "...The same argument could be made of Lake Washington..." should read "...The same argument could be made of Lake Sammamish."

B. June 22, 2011

Commissioner Himebaugh referred to the first paragraph on page 10 and suggested the phrase "...He said he had concerns about what the city will be submitted to FEMA..." should be revised to read "...He said he had concerns about what the city will submit to FEMA...." He also noted that the fifth sentence on page 14 should be changed to read "The Washington Sensible Shorelines Association's plan serves as a good outline of what is most important; it highlights the five or six items of most concern to the public."

C. July 13, 2011

Commissioner Himebaugh suggested that the third sentence of the third paragraph on page 6 should be revised to read "Ms. Helland said a moratorium puts in place a prohibition during a cooling off period...."

Commissioner Himebaugh pointed out that the phrase "...wetlands in that they are tend to be low spots..." in the seventh sentence of the last paragraph on page 16 should read "wetlands in that they tend to be low spots...."

D. July 27, 2011

There was consensus to postpone approval of all four sets of minutes until the next Commission meeting.

10. PUBLIC COMMENT

Dr. Marty Nizlek, 312 West Lake Sammamish Parkway, said he would write out his comments and questions and submit them to the Commission and the staff for response. He said he had heard that Commissioner Himebaugh was planning to resign his Commission seat and took a moment to say how much the public has appreciated his professionalism and diligence. He said since it often takes a very long time for the minutes to reach the approval stage, it would be good if the public could in some way be provided with notice of when the minutes for a meeting at which they provided testimony are going to be before the Commission.

Mr. Scott Sheffield, 2220 West Lake Sammamish Parkway SE, thanked the Commissioners for their input. With regard to not allowing heavy equipment to operate on the shoreline, he commented that there may be instances where heavy equipment may be more helpful and better for the environment. Some avenue for allowing heavy equipment should be allowed. There are some places where existing sewer lines are going to need repairs in the near future, and that will require the use of heavy equipment.

Mr. Mike Lunenschloss, 2242 West Lake Sammamish Parkway SE, said he has sensed during the last couple of meetings frustration and irritation with regard to how long the process is taking. He asked the Commissioners when they get upset with the process to close their eyes and imagine that they are in a wheelchair and that it will take them three years and $50,000 to get a permit to build a dock on which a wheelchair can operate.

11. NEXT PLANNING COMMISSION MEETING

A. November 9, 2011

Mr. Inghram noted that in addition to the two items shown on the agenda for discussion at the next meeting, the Commission will be provided with an update regarding the Eastgate/I-90 study.

There was agreement to include the Shoreline Master Program update on the November 9, 2011, agenda as well in order to keep the momentum moving.

Commissioner Himebaugh explained that he was resigning his seat on the Commission because he was moving out of the city. He said he was disheartened at not being able to see the Shoreline Master Program process through to the end, but was encouraged to see how far things have progressed. He said it had been his pleasure to serve on the Commission and had been impressed with the fact that every Commissioner is focused on doing what is best for the city. He said he had every confidence that the Commission will continue to diligently go about doing good work.

Chair Turner noted that he and Commissioner Himebaugh were appointed to the Commission at the same time. Since then the Commission has gone through quite a bit, and all the while Commissioner Himebaugh maintained a focus on doing things the right way and making sure language is clear. He said he would miss Commissioner Himebaugh's input on the Commission.

Motion to nominate Commissioner Hamlin to serve as Vice Chair was made by Commissioner Sheffels and was seconded by Commissioner Hamlin.

Chair Turner ruled the motion out of order given that the action had not been included on the agenda.

There was agreement to include voting in a new Vice Chair at the next Commission meeting.

12. ADJOURNMENT

Chair Turner adjourned the meeting at 9:32 p.m.

Paul Inghram
Staff to the Planning Commission

1/25/2012
Date

Kevin Turner
Chair of the Planning Commission

1/25/2012
Date