

CITY OF BELLEVUE
BELLEVUE PLANNING COMMISSION
STUDY SESSION MINUTES

June 13, 2012
6:30 p.m.

Bellevue City Hall
City Council Conference Room 1E-113

COMMISSIONERS PRESENT: Chair Turner, Commissioners Carlson, Ferris, Hamlin, Laing, Sheffels, Tebelius

COMMISSIONERS ABSENT: None

STAFF PRESENT: Paul Inghram, Nicholas Matz, Department of Planning and Community Development;

GUEST SPEAKERS: None

RECORDING SECRETARY: Gerry Lindsay

1. CALL TO ORDER

The meeting was called to order at 6:35 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 Carlson, who arrived at 7:30 p.m.

3. PUBLIC COMMENT

Mr. Bob Sternoff, 255 7th Avenue South, Kirkland, indicated his appreciation for the Commission taking up the Banner Bank property again. He said that to him it was clear during the previous deliberations that there were questions as to whether or not the other properties recommended by Commission should be included in an expanded scope. One of the property owners directly to the east has no interest in being included because he must rebuild under the current code for economic reasons, and the other property owner to the east has plans just to remodel what he has. He asked the Commission for a vote in favor of including the Banner Bank property on the work plan.

Dr. Marty Nizleck, 312 West Lake Sammamish Parkway, commented regarding the restoration portion of the draft Shoreline Master Program. He noted that Washington Sensible Shorelines Association (WSSA) had forwarded to the Commission edits it would like to see made. That documentation included a lake-by-lake community overview, and project level input. An assessment should be made regarding the permanence and safety of soft shoreline designs. With regard to Lake Washington, there are calls for restoration and some of the projects deal with Meydenbauer Bay, though those projects would be subject to the conditions of the park master plan and the City Council principles. There is a call for the removal of unnecessary piles, but the design of the new pier can minimize the need for piles. Bioengineered shorelines are called for relative to Chisholm Beach, Burrows Landing, Chesterfield Beach, Enatai Beach and Newcastle Beach, but an evaluation of each is needed before being installed. With regard to Lake Sammamish, there are a series of projects WSSA would like to see tweaked. Each phase of the West Lake Sammamish Parkway project should be compliant with all water quality standards,

and all conveyances from the Parkway into the lake should be under the control of the city. The project relative to the Spady property and the adjoining parcels purchased by the city calls for increased access and restorative efforts, but an assessment should be conducted involving the neighborhood focused on compatibility and appropriate level of activity. There is a project to carry out milfoil control along city shorelines, but that will be ineffective unless carried out lakewide, including the Sammamish River. The Vasa Creek restoration plan calls for the placement of large woody debris, and that needs to be done cautiously. The project for Vasa Park is on private property and should be omitted from the plan. There is a call for restoring salmon habitat near creek outfalls, but the focus should be only on those areas where such habitat exists or can be clearly shown as having existed previously, and those locations need to be listed so everyone can understand the implications coming down the pike. A lake basin project is needed in which the city would support and participate in the long-term lakewide evaluation of water issues and needed actions with respect to water quantity, quality and use of the lake. Phantom Creek is impacting Phantom Lake and remediation is needed. There is a program that calls for reforestation of portions of the shoreline along Phantom Lake; to that a component dealing with beaver management should be added. The project to re-meander and add large woody debris to the Phantom Lake inlet channel should either be deleted or entirely reconfigured; the waterway is not natural and there is nothing to restore. The notion of acquiring properties in order to create a conservation easement should be deleted in that it will depress property values. A street edge program to treat waters along sections of roadway should be undertaken to demonstrate effectiveness. The city should assume the responsibility for the maintenance of the outlet to Phantom Creek in order to achieve and maintain proper lake water levels. The city should declare the basin a flood problem area and heighten the analysis, management and mitigation of water-related problems. Impacts to private properties along Phantom Creek must be minimized while maintaining ecological functions. The pollution issues raised by the Phantom Lake Homeowners Association must be addressed.

Commissioner Laing commented that other jurisdictions as part of their work to develop their Shoreline Master Programs have worked to identify salmon-spawning habitat along Lake Washington and asked if Bellevue has done the same. Dr. Nizlek said it was his understanding that Utilities staff have done or are doing the work and reported on their activities more than a year ago to the Commission.

Answering a question asked by Commissioner Tebelius regarding the document provided by WSSA, Dr. Nizlek explained that it contains edits to the series of goals included at the beginning of the document, and a statement for each lake and the associated communities, but by and large the document focuses on projects.

Commissioner Hamlin said it was his recollection that the restoration plan was intended to serve as examples of what can be done and was not intended to be comprehensive. Comprehensive Planning Manager Paul Inghram agreed that the plan is not meant to be entirely comprehensive. There is nothing that precludes the adding of projects to the plan that would be appropriate for consideration. The projects on the list do not rise to the level of the CIP, which is a budgeted list of projects with a proscribed calendar for implementation. He allowed that if there are projects that make sense to the community it would be worthwhile including them in the document. By the same token, anything objectionable to the community should be removed.

Mr. Brian Parks, 16011 SE 16th Street, spoke as president of the Phantom Lake Homeowners Association. He noted that at a previous meeting he was asked to show his justification for the 260.7 ordinary high water mark and maximum lake level, and the supporting documentation. He provided the information on disk to the Commissioners. He said part of the problem with the lake level issue is that city records abruptly end at the time the weir was installed. The two

previous lawsuits concerning Phantom Lake ran into that same issue. The documents that do exist, however, show the city intended to use Phantom Lake as a detention site. The 1976 master drainage plan recommended an outlet weir for Phantom Lake space and stormwater detention purposes. The plan showed a typical storage pond with a weir and a viewing platform just like Phantom Lake and Larson Lake have currently. The weir was still being discussed in 1984 before the KCM study was done; it had not yet been implemented, but the city intended to determine if the proposed weir design would achieve the detention site objective. In 1988 the KCM study recommended a weir, but as a barrier for phosphorus inflow, something that had never been previously mentioned as a reason for a weir. That same year in a newsletter to residents the promise was made that there would be no flooding increase from such a weir. KCM also recommended along with the weir and berm putting in an expanded outlet culvert channel culvert that was deeper set and ranging from two feet to four feet to compensate for increased flow, but that was never implemented. Outlet channel conditions prior to installation of the weir show the saturation point at about 260.7, though the level increased at peak times and there was occasional flooding. The original lake overflow to the northwest towards Larson Lake, according to KCM, happened at 260.4. When the first weir was put in, the intent was to control the lake level, but according to the documents only during the summer months. There was an error, however, in the survey, so the weir was installed above the level of the saturation point and the brim of the lake. The result was an increase in the ordinary high water mark and the creation of new critical areas. There was outcry from residents and two lawsuits were filed. Flooding began at the time the city began regulating the lake level through the use of the control structure. In 1991 the stormwater department promised that there would not be any increased flooding and that the weir would be revised. An interim weir was built, about which little is known. The sediment in the channel behind the third iteration of the weir filled in the channel up to the level of the weir threshold; it was cleaned out by the city in 2011. The current weir is a great improvement over the first one; it lets water out before properties are flooded. KCM recommended operating it at 257, which is equal to 260.6 NAVD; Utilities has been operating it between 260.8 and 261.1, above the recommendation. The KCM recommendation should be followed. With one board in place, there is no estimated effect on the lake level. With two boards in, the weir exceeds the complaint level; as the weir stands currently, it has two boards in place. Per the survey conducted in 2011, the weir threshold stands at 260.2, and with two boards in place the level is above the 260.7 saturation point. CH2MHill estimated the hundred year base flood level was 261, which is a full foot above the currently established ordinary high water mark. In 1993 the target lake level for the stormwater department was 261.1. KCM clearly estimated the average lake level way too high. At the middle setting of 261 plus six inches of overflow brings the level to 261.6, almost a foot over the lawn saturation point. The RCW says the ordinary high water mark cannot be raised, but when the mark is raised the impacts are obvious. There is a clear need for flood protection from unlimited stormwater protection usage, and a need for resident compensation by including an administrative ordinary high water mark in the Shoreline Master Program.

Commissioner Tebelius asked what compensation in the Shoreline Master Program the residents want. Mr. Parks said the residents want an administrative ordinary high water mark of 260.7, governed only by the Shoreline Master Program. Under the critical areas ordinance, retention sites are exempt from ordinary high water mark calculations.

Chair Turner asked what the Phantom Lake Homeowners Association conclusions have been relative to the formation of a lake management district. Mr. Parks said the group believes the suggestion to form a lake management district is inappropriate. The homeowners are suffering under the effects of problems they did not create. It makes no sense to tax the victims more to pay to address the issues they did not create.

Ms. Anita Skoog-Neil, 9302 SE Shoreland Drive, informed the Commissioners that some changes were recommended to the restoration plan as it relates to Lake Washington. For Meydenbauer Bay, instead of saying there will be a 35 percent pier reduction, the language should simply indicate that there will be possible pier reductions. Additionally, the language relative to bulkhead removal should include wording calling for proof that modified bulkheads can withstand high winds. The bulkheads on Lake Washington in Bellevue's jurisdiction are all located in high wave impact areas. In a memo recently sent to the Parks and Community Services Board by planning staff, there were some inaccuracies. For one thing, it stated that the changes made by the Planning Commission to the Shoreline Master Program touched every section of the public hearing draft. While there was an attempt to do that, that was not the end result. The redraft will be before the Commission on June 27. At that meeting the public will have opportunity at the beginning and the end of the meeting to speak. The memo also outlined the expectation that an additional meeting will be necessary before the document is ready to be passed along to the City Council. That schedule is unrealistic given the amount of work yet to be done in working through the redraft. The Commissioners were provided with materials reminding the Commission that in considering the conditional use issue, it will be critical to determine who makes the decisions, the discretion that is allowed, the level of potential impacts, the amount and type of public input, and the types of appeals available.

4. APPROVAL OF AGENDA

A motion to amend the agenda to move item 10, approval of minutes, ahead of item 7, study session, and to move item 7-C, Comprehensive Plan update, ahead of item 7-B, Banner Bank Comprehensive Plan amendment, was made by Commissioner Laing. The motion was seconded by Commissioner Ferris and the motion carried unanimously.

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

Mr. Steve Kasner, 1015 145th Place SE, spoke as chair of the East Bellevue Community Council. He thanked the Commission for the hard work it does on behalf of the city. He pledged to work with the Commission in every way possible to support the goals of the citizens of Bellevue. He invited the Commissioners to attend the East Bellevue Community Council meetings that occur on the first Tuesday of each month, and offered to conduct joint public hearings where that would create efficiencies.

Commissioner Laing asked Mr. Kasner if he could see any issues currently before either body around which it would be appropriate for the Commission and the Community Council to have a dialogue. Mr. Kasner said the Phantom Lake/Larson Lake issues regarding city maintenance could be one such issue. He noted that the pond at Robinswood has been a disaster for many years, but the master plan only partially addresses it, thus it is handled in a piecemeal fashion. There are issues with all of the lakes that need to be handled on a citywide basis. The Community Council intends to attempt a CIP-related discussion of what it believes are the issues and which of them should be given priority.

6. STAFF REPORTS

Mr. Inghram called attention to a letter received from Holy Cross Lutheran Church in which they withdrew their 2012 Comprehensive Plan amendment application.

Mr. Inghram added that election of a new Commission chair and vice-chair would occur at the June 27 meeting.

10. APPROVAL OF MINUTES

A. January 11, 2012

Commissioner Tebelius called attention to item D on page 13 and suggested that where the Commission elects to change the minutes there should not be reference made to the original language that is to be changed.

It was noted that the date in the footer needed to be corrected to 2012.

A motion to approve the minutes as amended was made by Commissioner Sheffels. The motion was seconded by Commissioner Ferris and the motion carried unanimously.

B. March 14, 2012

A motion to approve the minutes, with the deletion of the seventh paragraph on page 54, was made by Commissioner Tebelius. The motion was seconded by Commissioner Hamlin and the motion carried unanimously.

C. March 28, 2012

Commissioner Ferris called attention to the third sentence of the second paragraph on page 65 and noted that "south" should read "east"

Commissioner Tebelius referred to the second full paragraph on page 68 and said the last line should be corrected.

Commissioner Laing called attention to the last paragraph on page 64 and asked to have it revised. He also called attention to the second paragraph on page 66 and asked to have the first sentence revised read "...adding an express reference to the implementation principles...."

A motion to approve the minutes as amended was made by Commissioner Tebelius. The motion was seconded by Commissioner Laing and the motion carried unanimously.

D. April 11, 2012

Commissioner Sheffels referred to the second complete paragraph on page 81 and asked to remove the first complete sentence and revise the language to clarify she does not favor using the conditional use permit process.

Commissioner Laing referred to the middle paragraph on page 78 and asked that the last sentence be amended and divided into two sentences. He also called attention to the first paragraph on page 80 and asked to have the penultimate sentence reworded.

Commissioner Ferris called attention to the fifth paragraph on page 80 and asked to have the penultimate sentence revised.

A motion to approve the minutes as amended was made by Commissioner Sheffels. The motion was seconded by Commissioner Carlson and the motion carried unanimously.

E. May 9, 2012

A motion to approve the minutes as submitted was made by Commissioner Tebelius. The motion was seconded by Commissioner Hamlin and the motion carried unanimously.

F. May 16, 2012

Commissioner Tebelius called attention to the sixth sentence of the fourth paragraph on page 129 and asked to have "great" changed to "greater."

Mr. Inghram noted that corrections had been made to the minutes in accord to an email received from Commissioner Carlson.

A motion to approve the minutes as amended was made by Commissioner Hamlin. The motion was seconded by Commissioner Tebelius and the motion carried unanimously.

7. STUDY SESSION

A. Follow-Up to the Short Course on Local Planning

Mr. Inghram asked the Commissioners to offer feedback regarding the short course on local planning that was conducted on May 23, and suggestions on what steps should be taken next given the list of items pending for Commission review.

Commissioner Tebelius said she enjoyed the short course and found it to be very informative and educational. She thanked the staff for scheduling the session. She added that she had been impressed by the breadth of knowledge of the various speakers ~~had~~.

Chair Turner agreed that the session was valuable. He suggested that Commissioners newly appointed to the Commission should receive the training earlier rather than later.

Commissioner Sheffels noted that the city has available a big notebook covering the short course. She suggested the notebook should be given to all new Commissioners to review.

Commissioner Ferris said he was unable to attend the short course on May 23 but noted he had previously taken the short course. He suggested the Commission could also benefit from the Housing 101 presentation offered by Arthur Sullivan with ARCH.

Commissioner Laing said as a land use attorney he works with clients seeking to understand the highest and best use for their properties and what is financially feasible. What is often lost in planning discussions is the notion of whether or not great ideas translate into an economically viable land use. He suggested it would be helpful to have a presentation on how land use planning translates to development reality in terms of economic feasibility.

Commissioner Ferris said the number of technical issues involved would make it difficult to show exactly how land use decisions carry over into development reality. He noted that the height limit of 70 that is widely used was established at a time when ladder trucks could only reach 70 feet; that has not changed even though ladder trucks can now go higher than that.

Commissioner Sheffels said FAR is an issue that is difficult to grasp. She suggested a basic course in that calculation would be useful.

Mr. Inghram noted that during the Bel-Red study a handful of persons from the development community discussed issues such as development feasibility and FAR. While it would be difficult to comprehensively address all aspects of economic land development, it would be possible to bring in experts to talk about specific issues. One option would be to bring in someone like John Su to talk about the decision-making process he utilizes in deciding to build a new building in the downtown.

Mr. Inghram informed the Commission that the city attorney's office is working with a contract attorney on by-laws and meeting protocols for the Council and the city's boards and commissions. He commented that there are variations in how the different boards and commissions function, and those differences, along with the by-laws for each body, will be reviewed. The final report will be shared with the Commission, possibly in the fall of the year.

C. Comprehensive Plan Update

Mr. Inghram let the Commission know that by state law the Comprehensive Plan must be updated by June of 2015. The city's objective is to complete the update by December 2014. The update process will include a review of what has changed under state law since 2004 and Growth Management Hearings Board decisions that should be taken into consideration. However, the city's Comprehensive Plan has been in place since well before the Growth Management Act. Its is based primarily on the vision of the community, and therefore it will be important to engage the public during the update process.

Senior Planner Nicholas Matz said the last Comprehensive Plan Update was done in 2004. The focus at that time was not on a complete reset but rather on what made the document continue to be relevant and usable. The update work is the chance to keep the plan current and to keep the issues that matter most to the community in the forefront.

The community vision that was adopted in 2004 serves as the framework for the Comprehensive Plan upon which the policies are based. It was intended to serve as the vision for what Bellevue will be in 2025 and is a tool for moving the city from good to great. The work to update the document will extend the vision horizon year out even further.

There are 14 framework Vision statements, beginning with Bellevue as a "City in a Park." In terms of the statements and issues the community has agreed matter to them, the vision statement "City in a Park" refers to an extraordinary open space system that is interconnected and connected to the built environment. The notion extends as well to the city's tree canopy and privately developed open spaces.

Mr. Matz said the notion of being a dedicated steward of environmental quality, where key natural features are preserved and restored, is always discussed when it comes to determining what it means for Bellevue. Salmon recovery and urban forest recovery efforts all are aspects of this vision statement.

The statement regarding the city being a model of superior urban design and people places is reflected both in the city's design review tools and in how the community perceives its spaces.

The Vision statement about Bellevue being a community of diverse and vibrant neighborhoods continues to be important. It includes the idea that homes are well maintained, remodeled and updated in ways that are respectful of the character of their neighborhood. Neighborhoods in Bellevue can be identified from a character standpoint: Somerset is different from West Bellevue, which in turn is different from Bridle Trails. This also includes the city's high-density

neighborhoods which are located in Downtown and in mixed use areas like Factoria.

A diversity of housing types is necessary to meet the housing needs of all of the city's citizens. Mr. Matz promised that during the update the Commission will receive demographic information and will review the pressures and opportunities that changing demographics represent.

Commissioner Carlson asked if Bellevue is becoming a younger city or an older city. Mr. Matz said the data appear to indicate that Bellevue is becoming a younger city. Commissioner Ferris added that in 2000 the average age of the residents living in Downtown was 54; by 2012 the average age of the Downtown resident was 37. There are some 400 school-aged children currently living in Downtown as well. Mr. Ferris felt that many of the substantial changes that are occurring as a result of this were not envisioned in 2004.

Mr. Matz said another key Vision statement is for Bellevue to serve as a regional economic center with a strong and diverse economy. The fact that the city's economy is dynamic and resilient makes it possible to attract and management knowledge worker fields, including technology, healthcare, finance, law, professional services and international trade. The city's economic development group recently launched a new China initiative that seeks to enhance relationships between Bellevue and China.

Bellevue has a downtown that is viable, livable and memorable, and that helps to separate the city from other jurisdictions on the Eastside of Lake Washington. The Great Place strategy was developed and implemented specifically to make Downtown a great place—the symbolic and functional heart of the Eastside. The distinct mixed use neighborhoods and the unique public places and public infrastructure are part of what makes Downtown great.

Bellevue is a transportation hub with an array of mobility choices. The transportation system is based on moving people and goods and not just cars. The city is emphatic about synchronizing land use and transportation issues.

Bellevue is also the center for arts and culture on the Eastside. The city has a national reputation and continues to enhance it through its arts and cultural offerings, including a biennial sculpture exhibition and the arts fairs. The city has unique and dynamic cultural districts as well. The city's "must visit" status in the region enhances the city's attractiveness to workers and residents of all ages who seek creativity and innovation.

Mr. Matz said the Vision also indicates that Bellevue is a caring community that cares for people and families in need and promotes the development of healthy individuals and families. The city is also a leader in engaging both public and private partners in those efforts. Everyone ranging from youths to seniors and those with special needs are included.

Bellevue is a safe and secure community. The city places the highest priority on protecting its residents and preventing crime; and a major focus is given to being prepared to respond to emergencies.

Mr. Matz said the Vision goes on to state that Bellevue has outstanding community facilities that have been constructed as needed, and offers outstanding public services. The city enjoys a high level of efficiency and effectiveness that is borne out in the biennial survey that asks residents how satisfied they are with city services. The city enjoys a variety of public partners, including the school districts, all of which help to advance the vision for the city.

Bellevue is a leader in meeting regional challenges. The City Council is heavily involved in

national, state and regional issues, and the city is routinely recognized and valued as a leader in finding common ground amongst these issues.

Finally, Bellevue is an active and engaged community. The city enjoys high levels of civic engagement as community groups, businesses and individuals work with city staff to identify and achieve community goals.

Mr. Inghram said much of what is included in the Vision statements written in 2004 describing the city in 2025 actually reflects the current Bellevue. The challenge for the Commission and the Council will be to look beyond the existing Vision statements and focus on what more should and can be accomplished.

Commissioner Ferris suggested the city should have more of a vision for higher education. Bellevue College, which began as a community college, is now a four-year college.

Commissioner Tebelius asked what percentage of city employees actually live in Bellevue. Mr. Inghram said he did not have that information but was aware that city employees travel to work in the city from all over the region.

Commissioner Ferris said workforce housing continues to be a major issue for the region. He defined it as housing for those whose incomes are above low-income but certainly not near the high end of the scale. Ninety-five percent of the teachers that teach in the Mercer Island school district live off of the island because of the cost of housing on the island. The city should take every step it can to avoid having the same happen in Bellevue.

Commissioner Carlson commented that for every single one of the Vision statements in the current Comprehensive Plan the needs appears to be pointing in the right direction.

Commissioner Sheffels suggested that as part of the Comprehensive Plan update process it would be helpful for the Commission to hear a report from staff regarding the progress made toward achieving the vision and goals of the 2004 Comprehensive Plan.

B. Banner Bank Comprehensive Plan Amendment Proposal

Mr. Inghram reminded the Commissioners that at the May 16, 2012, study session, the Commission recommended that the Banner Bank Comprehensive Plan amendment proposal not be initiated into the 2012 annual CPA work program. He said following that meeting he heard from some Commissioners who asked for additional consideration of the proposal, potentially with a different geographic scope than what was previously considered. According to parliamentary procedure, the Commission has the option of changing its recommendation prior to the issue going before the Council (which has not yet occurred) but would need to vote to rescind the previous decision.

Commissioner Laing moved to rescind the motion recommending no further consideration of the Banner Bank Comprehensive Plan amendment application for the 2012 annual Comprehensive Plan work program adopted at the May 16, 2012, meeting. Commissioner Tebelius seconded the motion.

Commissioner Carlson reminded the Commission that during the Bel-Red subarea process the initial plan for the area south of Bel-Red Road between 124th Avenue NE and 148th Avenue NE was for residential uses to continue. However, the frontage along Bel-Red Road became so irresistible to retail that an exception was made. Mr. Carlson noted that in order to maintain

harmony with the residential character of the neighborhood, the building heights were limited, and a natural screen was required to shield the residential areas from the commercial areas. He noted that in discussing the Banner Bank proposal he had said he had no problem with taller buildings in those areas where there are no bordering residential uses, which is the case with the Banner Bank site and the site immediately to the west. The two easternmost parcels considered in the original recommendation to expand geographic scoping are on the other side of a residential development. There was no motion made to exempt those two parcels, and he said the motion he voted for comported with the desire to maintain the screen between residential and commercial uses. He suggested that the Banner Bank property and the property immediately to the west should be exempted from the height issues because there are no residential issues in play for those properties.

Commissioner Hamlin said he understood Commissioner Carlson's thinking but suggested it has nothing to do with meeting the threshold criteria.

Commissioner Laing said in his opinion the threshold criteria are met by the application. He thought that the motion voted on by the Commission essentially threw the baby out with the bathwater in that it included the parcels further to the east. The opportunity exists to correct the outcome.

Commissioner Sheffels said she was fully cognizant of the geographic scoping issues at the time the vote was taken. She said her conclusion at the time was that the threshold criteria were not met. The proposal brought forward by the property owner seeks to be allowed a building height of 75 feet. No property south of Bel-Red Road is allowed buildings that tall. The Bel-Red corridor study concluded that Bel-Red Road is unique and should be preserved; it has beautiful landscaping and is a signature street in the area. The steering committee considered very carefully what the building heights ought to be in reaching the decisions it made. She said she would vote against rescinding the May 16 motion.

Commissioner Hamlin agreed that the threshold criterion of significantly changed conditions is not met by the application. There have been no unanticipated consequences resulting from an adopted policy, or changed conditions on the subject property or the surrounding area, or changes related to the pertinent plan map or text. He said he would vote against the motion on the table.

Commissioner Tebelius asked what the height limit is for the parcels to the north of Bel-Red Road. Mr. Inghram said the height limit immediately across 124th Avenue NE from the Banner Bank site is 45 feet in the BR-CR zone. The height limit in the BR-OR zone across Bel-Red Road to the north is 70 feet. He noted that the request being made is to change the Banner Bank site from BR-ORT to BR-CR.

Commissioner Laing said he left the May 16 meeting feeling the vote on the Banner Bank proposal reflected the geographic scope, not the opinion of the Commission relative to whether or not the Threshold Criteria had been met.

Commissioner Ferris pointed out that it is not exactly correct to assert that the Banner Bank site does not have residential adjacent to it given the multifamily zoning to the southeast.

Commissioner Carlson said it seemed to him while walking the area that the two parcels to the east of the Banner Bank property are essentially adjacent to the residential area. He said if he lived in the condominiums he would not want to have a tall commercial building immediately next door. Commissioner Ferris then pointed out that for those living in the apartments to the

southeast of the Banner Bank site the argument should be the same.

The motion on the table to rescind the previous action carried 4-3, with Commissioners Ferris, Hamlin and Sheffels voting against.

Commissioner Laing moved to recommend initiation of the Banner Bank Comprehensive Plan amendment application for the 2012 annual Comprehensive Plan amendment work program as applied for in the application, expanding the geographic scope only to include the adjacent property to the west at 1000 124th Avenue NE. Commissioner Tebelius seconded the motion.

Commissioner Laing said the changed economic circumstances affecting a property have been recognized as the courts as being the basis for proving a rezone. He added that during the public comments the Commission heard that the owner of the property to the east would not be taking advantage of the adopted zoning because it would not be economically viable. The anticipation since the adoption of the Bel-Red plan has been that the properties to the south of Bel-Red Road would take advantage of the zoning given them during the subarea process, but in fact there has been unequivocal evidence that the zoning does not work. For that reason alone if for no other, the application should at least be advanced to the next step in the process.

Commissioner Ferris disagreed that a recession can be deemed to be a substantially changed condition. If that were the case, the doors would be open for every property in the city to come in seeking a zoning change. The fact is \$18/square foot rent cannot be made where there is support new construction, whether the height limit is 25 feet, 50 feet or 155 feet; it takes rents on the order of \$35/square foot or more in order to afford new office construction. That is not because the zoning is bad but because the demand for rents at that level do not exist in that location. If the requested zoning is allowed for the Banner Bank site, the BR-OR property owners across Bel-Red Road will certainly come seeking a zone with more height, and there would be no basis for denying them given that there is no housing anywhere near those properties. The Bel-Red corridor zoning is so new it has not been given the opportunity to realize its zoning, and it is too soon to go about changing it.

Commissioner Hamlin concurred, as did Commissioner Sheffels.

Commissioner Carlson said he would yield to Commissioner Laing's argument about moving the application forward to the next step. He allowed that the precedent concern is relevant.

Commissioner Tebelius agreed with the argument that changing the zoning on the Banner Bank site could open the door to additional requests from the property owners across Bel-Red Road. She stated, however, that she originally voted for the motion and believed it should be moved on to the Council.

Chair Turner said the zoning for the subject property does not work, and he agreed it should be moved forward to the Council.

The motion on the floor carried 4-3, with Chair Turner and Commissioners Carlson, Laing and Tebelius voting for the motion, and Commissioners Ferris, Hamlin and Sheffels voting against the motion.

Mr. Inghram said the Comprehensive Plan amendment recommendations would be before the Council on June 25.

Commissioner Sheffels asked staff to clarify for the Council that three of the Commissioners

concluded the Banner Bank application did not meet the threshold review decision criteria. Mr. Matz noted that the transmittal memo will reflect the majority and minority opinions.

8. OTHER BUSINESS – None

9. PUBLIC COMMENT – None

11. NEXT PLANNING COMMISSION MEETING

A. June 27, 2012

The Commission discussed scheduling its annual retreat for July 11. Commissioner Tebelius argued in favor of not holding the retreat until September and pushing ahead during June and July to get as far as possible with the Shoreline Master Program update.

Commissioner Ferris asked if all parties with an interest in the outcome of the Shoreline Master Program update, including the tribes and state agencies, will be given notice of the new draft even if a public hearing is not held and be allowed time to submit comments in advance of the Commission acting to approve the document. He said his desire was to avoid an appeal. Mr. Inghram said the expectation is that before the Department of Ecology approves the document, it will conduct another public hearing. The standard procedure is for Commission recommendations to be forwarded to the Council for adoption, but in the case of the Shoreline Master Program it takes effect only after the Department of Ecology and the Council have both approved the document.

Commissioner Laing commented that one of the failings of the Shoreline Management Act from a procedural perspective is that is completely silent on the entire process local jurisdictions take up to the point that the legislative body forwards a draft to the Department of Ecology. Once the Department of Ecology gets it they must by law approve it, unless there is an actual inconsistency between what the Council sends them and the Shoreline Management Act. At the time the document is received by the Department of Ecology, another public process is opened, and notice is only required to go to interested parties; that includes anyone who has commented during the process.

Chair Turner asked if there is a requirement to include documentation of the public feedback regarding the draft document and what was done to address the concerns voiced. Commissioner Laing said once the Department of Ecology opens its public comment period after receiving the draft from the Council, all public comments that come in must be addressed in writing by the local government. The more the Commission and staff can do to address the issues before it gets to the Council the better.

There was agreement to schedule the retreat for a date in September and to focus on working through the Shoreline Master Program issues during June and July.

12. ADJOURN

Chair Turner adjourned the meeting at 9:25 p.m.



Paul Inghram
Staff to the Planning Commission

10/15/2012
Date



John Carlson
Chairman of the Planning Commission

10-10-12
Date

* Approved and corrected July 11, 2012

