

CITY OF BELLEVUE  
BELLEVUE PLANNING COMMISSION  
STUDY SESSION MINUTES

May 13, 2009  
6:30 p.m.

Bellevue City Hall  
City Council Conference Room 1E-113

COMMISSIONERS PRESENT: Chair Orrico, Commissioners Ferris, Hamlin, Lai,  
Mathews, Robertson, Sheffels

COMMISSIONERS ABSENT: None

STAFF PRESENT: Paul Inghram, Cheryl Kuhn, Department of Planning and  
Community Development and Mathews Jackson, Catherine  
Drews, Development Services Department

GUEST SPEAKERS: None

RECORDING SECRETARY: Gerry Lindsay

1. CALL TO ORDER

The meeting was called to order at 6:34 p.m. by Chair Orrico who presided.

2. ROLL CALL

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

3. PUBLIC COMMENT – None

4. APPROVAL OF AGENDA

The agenda as submitted was approved by consensus.

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

6. STAFF REPORTS

Comprehensive Planning Manager Paul Inghram reported that he along with Chair Orrico and other city staff recently attended the APA national conference in Minneapolis. He said he was honored to be elected AICP president. A number of excellent workshops were held on a variety of topics, including sustainability and infrastructure funding.

Mr. Inghram invited everyone to attend the Shoreline Master Program open house the evening of May 21 at City Hall.

The Commissioners were informed that Council action to adopt the Bel-Red Land Use Code is slated to occur on May 18.

Mr. Inghram reported that residents of the Enatai community have been talking with staff lately about tree preservation. With some Council and City Manager guidance, staff has been working

to define a potential program for addressing tree regulations that could apply in the neighborhoods.

## 7. PUBLIC HEARING

### A. Neighborhood Character

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

Neighborhood Outreach Manager Cheryl Kuhn reminded the Commissioners that in April of 2007 the Commission was charged with the challenge of finding a reasonable way to address the issue of redevelopment in existing neighborhoods and the impacts that has been creating. The Commission discussed the impacts and developed solutions that were reasonable and balanced. One of the first things done was to hold conversations with many people in various neighborhoods as well as developers and real estate professionals. Those who indicated they had been impacted by redevelopment activities were asked to be very specific about their concerns. It was made clear that the city supports reinvestment in neighborhoods as a good and positive thing; over time neighborhoods do need to change and adapt to the needs of modern families, though it should be done in a way that preserves the character and quality of the neighborhood.

The top priority concerns voiced by residents were: loss of trees and greenscape; incompatible size and scale leading to a loss of privacy and sunlight; and the impacts of construction activities. The Commission took that information and developed options for addressing those concerns along with a set of targeted and balanced recommendations. The proposed amendments do not limit the maximum size of single family homes; do not require design review for single family homes; and do not specifically address the preservation of views.

The approaches proposed by the Commission are designed to achieve a balance between the varying interests involved in the topic. The proposals are intended to allow for flexibility in application in ways that are reasonable and fair to homeowners.

Ms. Kuhn said the Phase I code amendments were adopted in December 2007.

Legal Planner Catherine Drews explained that the proposed city code amendments include an 8:00 p.m. stop time for construction work being done to remodel single family homes. With regard to vacant single family homes and abandoned single family building sites, the proposal includes property maintenance standards that address the issues. Finally, the package includes a reduction in the lifespan of building permits for single family homes.

Neighborhood Development Planning Manager Matthews Jackson clarified that the Commission was being asked to focus only on the Land Use Code amendments. He said the city codes were included only because they are part of the package of amendments that will be sent to the City Council.

Mr. Jackson said the Land Use Code amendments include three primary elements, the first of which is to increase the tree retention requirement for new subdivisions and short plats from 15 percent to 30 percent, which is consistent with what was done in Phase I for redevelopment of lots. The second element addresses the placement of mechanical equipment. Larger homes result in smaller side yard setbacks, and that has resulted in some noise issues. The proposal requires new single family homes, and those homes adding 1000 square feet of additional area, to locate new HVAC units in the back yard no closer than five feet to the property line. If

mechanical equipment is located in a side yard, it must be outside of the required setback and must have sound baffling and screening.

The third element is focused on addressing the impacts of bulk and scale. The proposal would establish an FAR threshold for residential construction on single family lots and would establish some additional development standards for structures that exceed a 0.5 FAR, notably a minimum side yard setback on each side of at least 7.5 feet, and the option of either incorporating daylight plane standards or a second story setback.

Mr. Jackson said there are situations which would exempt structures from the provisions. The provisions exempt single lots in neighborhoods where the character is being established, such as new subdivisions having a minimum of ten new lots, and infill situations where the existing buildings already exceed the 0.5 FAR threshold, have less than a minimum setback of 7.5 feet, do not have any second story articulations, and do not have daylight planes.

Mr. Jackson explained that the Council directed staff to incorporate a couple of additional items that are not in the draft ordinance. First is the notion of lowering the maximum building height. Currently, the maximum building height for single family homes is 30 feet measured from average existing grade to the mid-point of the highest eave on a building. The proposal would restrict the maximum height to 35 feet to the peak or 30 feet to the top of a flat roof.

The second notion is to put a limit on individual building façades. While there is a maximum height of 35 feet, because the measurements are based on averages, faces on sloped lots may exceed that limit. The proposal is to limit building facades to 40 feet as measured from the elevation of the first floor to the roof peak. Mr. Jackson explained that 20 of the 42 applications for single family homes received in 2008 were under the 0.5 FAR threshold. Twelve of 42 exceeded that threshold but were located in new subdivisions and would have been exempted from such a provision. Five of those that exceeded the FAR threshold provided the standards outlined in the proposed code. Only four would have been regulated by the new provisions. Of the 42 homes, 36 meet either the height or façade limit. Three would exceed the 35-foot height limit, and two had a façade greater than 40 feet.

The Commissioners were shown illustrations depicting daylight plane options, and homes over 0.5 FAR that could potentially be subject to the new standards.

Chair Orrico invited public testimony.

Mr. Gary Paul Rankey, 821 142<sup>nd</sup> Place SE, said the proposed regulations all come too late to help him. He provided the Commissioners with copies of a map indicating his residence and noted that most surrounding homes are about 1100 square feet in size. A new 3800-square-foot home on a 6300-square-foot adjacent lot is out of context with the neighborhood and completely blocks the view. He said he no longer can see the sky from his living room; during the winter months the shadow cast by the mega house at midday covers three-quarters of his house. Moss now grows on the deck because the sun never hits it anymore. When the new neighbors sit on their porch and smoke, or when they barbeque, the smoke blows directly into the windows; they must all be closed. In addition to the home being two stories tall, the builder constructed an elevated concrete frame on which to build the home. Complaints lodged with City Hall fell on deaf ears. There used to be bats living in the area and they ate a lot of bugs; the bats are gone now and raccoons have moved in. He said no one from the city has ever talked to him about the impacts of having a mega house next door.

Mr. Philip Keithley, 542 172<sup>nd</sup> Avenue NE, provided the Commissioners with copies of

information concerning view preservation. He asked the Commission to consider drafting policies and code language aimed at protecting views, quality of life and environment. Such protections will preserve property values, the property tax base, property rights, privacy and sunlight. Based on the assessor's data from 2009, the views in the Lochmore neighborhood are worth about \$178,000. From the neighborhood, the angle between the lake and the mountains is only three degrees or so; once there is an intrusion in that space, all views are lost. Given the topography of the area, lots with west slopes of five to 20 percent, homes should be limited to two stories maximum, including the basement, measured from the ground floor of the basement to the roof top, or a fifteen-foot maximum from the uphill side.

Mr. Ron McConnell, 3111 108<sup>th</sup> Avenue SE, said he has seen the Enatai neighborhood change dramatically in the 18 years he has lived there. Too many have purchased the old 50s-style homes and torn them down in order to build new homes. Some area jurisdictions, including Gig Harbor, has different standards that apply in view areas; most towns do not get involved in regulating private views. Kirkland seeks to preserve public access to views but not private views. He said the owner of the lot immediately to the north of him took down a small house and constructed a monster house with a much deeper crawl space. All of the dirt removed to make it deeper was stored on the back of the lot and then was spread out to increase the overall elevation of the property. Preserving trees is a very good move for the city, as is seeking to preserve access for light. Photos showing the visual impacts were shared with the Commissioners.

Commissioner Sheffels asked if the large house constructed next to his property would meet the specific requirements under consideration. Ms. McConnell said building up the elevation of the lot would not be allowed, so the overall building height would be reduced somewhat. The building would not meet the light plane requirements, however.

Mr. Bill Pacev, 454 172<sup>nd</sup> Avenue NE, said he could not see anyone coming out a winner under the proposed code change. Certainly few if any of the Lochmore residents would benefit. Views have value and should be preserved. The minimum lot size in Lochmore is 7200 square feet, but most are actually larger. The proposal will allow for a 34 percent increase in house size. When the neighborhood was designed, most of the homes were two stories, counting the basement as one story; that was done to preserve the views that are so very important. There cannot be a one-size-fits-all approach. No one in the neighborhood were approached for their input. According to the proposal, a 12,000-square-foot building would be legal.

Mr. Joe Rossman, 921 109<sup>th</sup> Avenue SE, suggested that the proposed regulations do not go far enough to protect the character of the Surrey Downs neighborhood. He said he is both a builder and a remodeler as well as someone who is passionately committed to historical preservation. Surrey Downs is committed to preserving its character, and the Commission and Council should weigh the important fact that not all Bellevue neighborhoods are the same. City staff have struggled very hard to come up with an approach that will work for everyone, but that is just not possible. The role of communities in preserving character is at least as important as the role of city codes. Community participation should be encouraged to help shape the unique application of generalized city codes to individual neighborhoods. The proposed size limits and such will not work in much of Surrey Downs. In fact, applying the new provisions would allow some unbelievably large homes to be built, totally compromising the historical character of the community. Surrey Downs would strongly support allowing individual communities to help shape the code guidelines for each respective community. As a new vision for the next 50 years of Surrey Downs history, steps will be taken into the difficult space of determining what will work best for the neighborhood within the city codes to help preserve the character of the community without legal written covenants.

Ms. Susan Allen, 225 173<sup>rd</sup> Place NE, said she and her husband purchased their home in Lochmore because of the view. Redevelopment within the neighborhood is resulting in views being lost. The city should seriously address the preservation of the neighborhoods as they are. The proposed code allows for second stories even in neighborhoods where there are covenants forbidding second stories. That approach puts neighbors at odds with neighbors and forces them to settle their differences through civil suits. Lochmore wants to protect its trees, wants to protect its views, and does not permit second stories by covenant.

Ms. Gladys Link, also a resident of Lochmore, concurred with the previous speaker. She suggested that the city should make every person applying for a permit aware that a city permit does not allow persons to ignore legally registered covenants. The permitting department should strongly encourage anyone wanting more space in their homes to build down rather than up. She said they added 1000 square feet to her home by going down rather than up.

Ms. Delcy Waring, 314 172<sup>nd</sup> Place NE, said she has a 180 degree view of Lake Sammamish, the mountains and the trees. She said had the Links added to their home by going up instead of down, the views would have been largely lost.

Mr. Peter Marshall, 3030 109<sup>th</sup> Avenue SE, shared with the Commissioners a picture illustrating the mega house effect of overdeveloping the front yard setback area. He noted that the home in the picture detracts from the public space that the street usually offers. The code should recognize that the front setback area is somewhat of a public space by being the primary area the public sees when going down a street.

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

## 8. STUDY SESSION

### A. Neighborhood Character

Commissioner Ferris asked if there is anything in the new regulations that would increase the allowable height or building area from what is permitted under the existing code. Mr. Jackson said none of the proposed provisions would allow anything more than what is currently allowed by code. The code allows for achieving a certain volume, so even with the proposed regulations that would be true. Nothing in the proposal increases the volume, however.

Commissioner Ferris asked if anything in the proposal would undermine existing covenants in the neighborhoods. Mr. Jackson said many neighborhoods in Bellevue have private covenants and restrictions, though none of them are enforced by the city. Throughout the process of focusing on neighborhood character there have been citizens come forth saying the city should not be in the business of telling the neighborhoods what to do, rather it should be the responsibility of the neighborhoods to formulate a vision for themselves. Many have said the issue of covenants can be very difficult to deal with, especially if they have not been consistently applied or historically upheld. The city does understand that enforcing covenants is a private matter, and is up front with anyone seeking a building permit that there may be private covenants and restrictions to be satisfied. The city does not have plans under which each neighborhood has their own building regulations. It is true that one size does not fit all, but through processes like the neighborhood character study the neighborhoods are brought together in helping to determine what they want. The codes are already complex, and to have a separate set of codes for each neighborhood would be a very large challenge for the city.

Commissioner Mathews asked if it would be possible for the city to have a place where all of the various neighborhood covenants are listed, or possibly be made a part of the package for persons applying for permits. Mr. Jackson suggested that there must be some personal responsibility in that covenants and restrictions are listed on the property title. He added that the city is always interested in helping people find the right path for getting where they want to go.

Ms. Kuhn said some neighborhoods in the city have very old covenants that have not been enforced in a very long time. The city could advise people about existing covenants, but whether or not they are enforced is not the responsibility of the city.

Ms. Drews said a court would look very carefully at how long covenants have been in place and how diligently they have been enforced over time.

Commissioner Lai noted that some neighborhood associations enforce their covenants very strictly, while others do not. He asked why that is the case. Ms. Drews pointed out that many of the plats that have covenants were established long before there were homeowner associations to enforce them; in those cases, enforcement is reliant on individuals within the neighborhood raising the issue. There also have been homeowner associations formed that subsequently went defunct through lack of participation. Ms. Kuhn added that turnover in neighborhoods causes change in vision and outlook; often the new homeowners do not see things in the same light the previous residents did, so they push the envelope in various ways. It is then incumbent on the neighborhood as a whole to determine whether or not legal action should be taken to enforce the covenants.

Commissioner Hamlin asked if the city has in the past considered using views as a criteria. Mr. Jackson said the issue of views has not been part of the neighborhood character package to date. There have been conversations about views in critical areas and the like, but the city has typically taken the stance that it does not regulate private views. The city has acted to protect views from public rights-of-way.

Commissioner Hamlin asked how grade changes are handled. Mr. Jackson said the current code allows for up to five feet of fill outside the building envelope for a single family structure; the same would be true under the proposed approach. Within the building envelope there has been no maximum for cut or fill. Under the previous code, the measurement for the maximum building height was from the average finished grade, which allowed for bringing in a great deal of fill and constructing on it to achieve additional building height. In Phase I, the reference point for measuring building height was changed to average existing grade.

Mr. Jackson noted the comment made about front yards serving as de facto public space. He allowed that while that is not technically true, during Phase I there was a great deal of focus put on the amount of impervious surface in front yards and a 50-percent greenscape requirement was initiated to address that issue.

Commissioner Robertson commented that when the neighborhood character issue was first broached the Commission talked about whether issues should be addressed neighborhood by neighborhood or citywide. She said she would like to see a neighborhood by neighborhood approach, much like Bridle Trails has its own tree regulations. That could be taken up in Phase IV. With regard to the view issue, she allowed that the policy has always been to protect public views but not private views. It would seem that views should be addressed by the individual neighborhoods.

Commissioner Robertson voiced concern that that provisions regarding daylight planing may not address the situation the first speaker raised involving a backyard situation. Mr. Jackson allowed that as drafted the daylight plane requirements would apply only to side yards. Typically, the rear yard setback in Bellevue is 20 feet, which is far greater than for side yards.

Commissioner Robertson said she was personally in favor of including code language relative to both façade and maximum building height. She questioned, however, measuring from ground level. Mr. Jackson said the language could be modified to use consistent language relative to measuring building height.

Commissioner Sheffels noted that some have come forward to say that FAR is punitive for the owners of smaller lots. She asked if some modification would be in order that would allow smaller lots to have a slightly larger FAR. Mr. Jackson pointed out that the 0.5 FAR is a threshold not a limitation; structures that exceed the threshold become subject to additional provisions. Two other options were considered: addressing the issue by zoning district, and addressing the issue by lot size. Ultimately the Commission concluded that setting a threshold would be the most practical approach.

Commissioner Hamlin agreed with Commissioner Robertson relative to the façade and building height issue. He further agreed that the measurement should be made from average existing grade.

Commissioner Ferris concurred as well. The proposed package will not allow any additional height or volume but will provide some additional buffering.

Commissioner Lai added his support for façade and maximum building height.

Commissioner Robertson referred to the section on abandoned structures and asked what “BMP” stands for. Ms. Drews said the acronym stands for “best management practices.” She said the term is typically used in the stormwater industry to prevent stormwater flows and property erosion. Commissioner Robertson suggested that the term should be spelled out in the definition section.

Commissioner Robertson asked if a decaying barn or shed would be subject to the new criteria. Ms. Drews said any decaying structure would be subject to the criteria. Commissioner Robertson suggested that because a shed is not a residence, a property owner should be allowed to let it fall down, especially if the main structures on the property are still being used.

Commissioner Robertson noted that there had previously been discussion about the need for flexibility in the violations section of the code; should a home burn, it could be vacant for more than 90 days before the insurance money comes through and repairs can be made. Ms. Drews said that is one issue staff is continuing to discuss. The city does not want to create additional hardships for property owners facing emergency situations. A different version of the city code will be developed that will address those situations; the Council will make the decision relative to the city codes.

Commissioner Robertson observed that the definition of daylight plane talks about drawing a horizontal line ten feet above grade. She suggested that is not consistent with other language in the chapter.

Motion to recommend to the City Council approval of the proposed Land Use Code amendments related to neighborhood livability, Phase II, as outlined in the draft ordinance included as

Attachment B and as amended by the Commission relative to façades and maximum building height, was made by Commissioner Sheffels. Second was by Commissioner Hamlin.

Mr. Jackson reviewed with the Commissioners the specific code language relative to façade and maximum building height. He explained that the dimensional chart would be modified relative to building height, and a note would be added restricting individual façades, in addition to providing a definition of façade.

The motion carried unanimously.

Commissioner Robertson asked to have a summary of the public testimony presented on view preservation and height, as well as on how some neighborhoods are wanting to have their neighborhood character preserved and do not feel the proposed regulations are sufficient, forwarded to the City Council along with a request for the Council to add to the Commission's workplan neighborhood-specific character preservation.

Commissioner Sheffels said she would support Commissioner Robertson personally recommending that to the City Council but would not want the Commission as a whole to go on record as recommending it. Commissioners Ferris, Lai and Mathews concurred. Commissioner Hamlin agreed with Commissioner Robertson.

Commissioner Lai stated that there may be avenues the city could take to help neighborhood associations in upholding their covenants. If the problem is the neighborhood associations lack the resources to pursue enforcement, the city could possibly find a way to help facilitate.

There was general agreement to revise the agenda to allow for public comment next.

## 11. PUBLIC COMMENT

Mr. John Worthington, 4500 SE 2<sup>nd</sup> Place, Renton, said he has been a long-time opponent of Sound Transit. He said they start out with linkability and then insert a different plan. He said he wants to see a system that moves people, but Sound Transit wants people to move. The Bel-Red project is a case in point; the desire is for linkability, but the end result will be another development. There are a lot of weaknesses with the plan for a grand boulevard through Bel-Red, including lack of parking, lack of significant civic spectacle space, and lack of 24/7 districts. Ultimately it will come down to a residential development with quaint urban shops on one side of the street or the other. Sound Transit has taken the same approach in the Rainier Valley. What should be considered is a grand civic spectacle theory which will target 24/7 activities, include the necessary parking, and significant gathering spaces. The grand boulevard approach will require too much social engineering. Bellevue is worthy of the grand civic spectacle approach and does not need a grand boulevard approach.

Commissioner Sheffels recommended the Commissioners should read the article in the latest edition of the *Planning Commissioners Journal* titled "Growing Safer." She said the article is on topic to what Mr. Worthington spoke about.

Ms. Gladys Link strongly encouraged the Commission to do a better job of getting the word out about the meetings on neighborhood character. If people really knew what was going on, the meeting hall would be too small. There should be much more publicity about the meetings so the people can be involved.

## 9. OTHER BUSINESSES

Commissioner Ferris asked for an update regarding the housing issue as it relates to the Bel-Red plan. Mr. Inghram explained that the development agreement with Wright Runstad was intended to capture the same intent of having a specified residential requirement for the area for the portion of the node that they control. Rather than having the 20 percent requirement, a change has been made to a specific acreage requirement. They will still be required to include residential within the development.

Commissioner Ferris commented that the discussion by the Commission about residential in the area was focused on an attempt to create 24/7 activity in the node. The Commission was somewhat arbitrary in coming up with the 20 percent number and did not really know how many housing units it would take to create that vibrancy. If the housing in the node gets concentrated into a single enclave away from the transit stop area, the vibrancy could be lost. The agreement on the table may not get the city where it wants to be. Mr. Inghram said the intent to achieve vibrancy voiced by the Commission was shared by the Council. Neither body expressed the notion of requiring every single building to have a mix of uses in all cases, and it would be very difficult to craft a regulatory scheme to require that fine a mixture on the ground.

Commissioner Mathews announced that the groundbreaking ceremony for the new Lake Hills library is scheduled for May 20. The event will take place at the Lake Hills Shopping Center at 1:00 p.m.

Commissioner Ferris said the next Meydenbauer Bay park steering committee meeting is set for May 21.

#### 10. APPROVAL OF MINUTES

##### A. March 25, 2009

Motion to approve the minutes as submitted was made by Commissioner Robertson. Second was by Commissioner Hamlin and the motion carried without dissent; Commissioner Mathews abstained from voting.

##### B. April 22, 2009

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

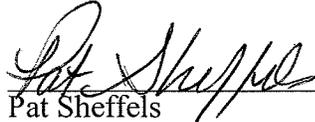
#### 12. NEXT PLANNING COMMISSION MEETING May 27

#### 13. ADJOURN

Chair Orrico adjourned the meeting at 8:40 p.m.

  
\_\_\_\_\_  
Paul Inghram  
Staff to the Planning Commission

8/7/2009  
Date

  
\_\_\_\_\_  
Pat Sheffels  
Chair of the Planning Commission

8/10/09  
Date