

CITY OF BELLEVUE  
BELLEVUE PLANNING COMMISSION  
STUDY SESSION MINUTES

July 8, 2009  
6:30 p.m.

Bellevue City Hall  
City Council Conference Room 1E-113

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

COMMISSIONERS ABSENT: Commissioner Lai

STAFF PRESENT: Paul Inghram, Mary Pat Byrne, Radhika Nair, Department of Planning & Community Development; Carol Helland, Michael Paine, Heidi Bedwell, David Pyle, Department of Development Services; Kevin McDonald, Department of Transportation; Kate Berens, Legal

GUEST SPEAKERS: None

RECORDING SECRETARY: Gerry Lindsay

1. CALL TO ORDER

The meeting was called to order at 6:36 p.m. by Commissioner Sheffels who presided until the arrival of Chair Orrico.

2. ROLL CALL

Upon the call of the roll, all Commissioners were present with the exception of Chair Orrico, who arrived at 7:19 p.m., and Commissioner Lai who was excused.

3. PUBLIC COMMENT

Mr. Charlie Klinge, 11100 NE 8<sup>th</sup> Street, spoke representing the Bellevue Alliance for Sensible Shorelines (BASS), an association of property owners who are very interested in the Shoreline Master Program update process. He said the group hopes to achieve improvement for the lake environments while protecting neighborhoods and their property investments. He referenced the memo in the Commission packet from assistant city attorney Kate Berens, as well as the Supreme Court decision in the Anacortes case. In her memo, Ms. Berens says the Anacortes case does not change things directly, but adds that all the Bellevue's proposed regulations, including any critical areas regulations and the shorelines, will be subject to review by the Department of Ecology for consistency with the shoreline guidelines in the Washington Administrative Code. The only way to determine full compliance is to undertake a full reconsideration of the critical areas regulations; that is what BASS wants to see happen. There is nothing in the Berens memo that precludes the Commission from conducting a full reconsideration. The memo suggests that such a review would not result in changes to the substance of the critical areas regulations, but BASS disagrees and believes that if a real hard look is taken at the regulations as they apply to the shorelines there will be changes made. At the shoreline public open house some 200 people attended; the public was allowed to ask questions. When asked if the critical areas regulations as they apply to shorelines would be reconsidered, staff replied that nothing has been decided and that everything was on the table; staff added that the critical areas ordinance needed to be

updated in response to the Anacortes decision. Not mentioned by Ms. Berens is the fact that there was a decision handed down by the Growth Management Hearings Board after the Anacortes decision was made. The point there was a challenge to the critical areas ordinance that was brought into the Shoreline Master Program; the decision reached was that the petitioners were entitled to an opportunity to participate in the formulation of the critical areas regulations. That is exactly what BASS wants.

Ms. Diane Tebelius, 2650 West Lake Sammamish Parkway SE, noted that in 2006 the Commission adopted its critical areas ordinance recommendations dealing with bulkheads, docks and shorelines. At the recent shorelines open house there was a large attendance on the part of shoreline property owners, most of whom were shocked to find out that the critical areas regulations had been adopted without their input. Contrary to the opinion of the city legal counsel, the state Supreme Court has said that regulations cannot be adopted in the critical areas ordinance but must be adopted in the Shoreline Master Program. The Court held that regulations affecting the shoreline cannot be adopted under the critical areas ordinance, rather they must be adopted as part of the Shoreline Master Program. At the open house, staff made it clear that everything was up for discussion. Any claim by staff that the Commission does not need to worry about docks, bulkheads and setbacks because they are part of the critical areas regulations is false given the Court finding. Only three of the current Commissioners were on the Commission in 2006 when the critical areas regulations were adopted. If staff really believes in the validity of their position relative to issues covered by the critical areas ordinance, there should be no qualms against reviewing those positions; the Commission could ultimately reach the same conclusions. There should be nothing wrong with giving the citizens of Bellevue an opportunity to participate in reviewing the issues that affect them on a daily basis. Such a review could result in everyone agreeing, which would greatly benefit the city.

Mr. Marv Peterson, 9840 SE Shoreline Drive, said he serves as president of the Meydenbauer Bay Neighborhood Association, a non-profit organization founded in 2007 with the mission of representing the Meydenbauer Bay community. The Association has been proactive with the city park planners and steering committee focused on the Meydenbauer Bay park area. The Association looks forward to speaking to the Commission about the park later in the year. The Association supports the Council's adopted planning principals for the park which focus on a remarkable shoreline park with strong pedestrian access and minimal impact on the neighboring residential areas. The organization is also very interested in the Shoreline Master Program update process and believes the update work should precede the park planning process to ensure consistency with the Shoreline Master Program. The critical areas ordinance shoreline rules should be reconsidered. The members and affiliated associations of the Meydenbauer Bay Neighborhood Association were not included in any outreach by the city during the critical areas process and in fact had no idea that for the first time the critical areas ordinance was being applied to the shorelines. In Meydenbauer Bay there has been an explosive growth of noxious weeds following the warm weather of May, June and early July. Usually, the weeks are checked for potential growth prior to April 15 and treated with appropriate approved chemicals. The thick growth of milfoil extends from the eastern edge of the bay along the southern and northern edge as far west as the public marina. Several boats have required assistance in freeing their fouled props. It is good that the park department, the Meydenbauer Bay Yacht Club and the Bayshore East condominiums have contracted with Allied Aquatics of Washington for treatment on July 16, however the park department will treat only the area in front of the marina and along the edge of Meydenbauer Park, and the yacht club and condominiums treat only their respective areas. That leaves a large portion of the bay untreated as private residents are not allowed to seek treatment permits. The Shoreline Master Program update should in some way include treatment for the whole bay.

Mr. Jack McCullough, 701 5<sup>th</sup> Avenue, Suite 7220, Seattle, spoke representing the Sisters of St. Joseph Peace. He said his firm has been tapped to help the Sisters determine what makes the most sense for their property from a designation point of view. The recommendation to adopt Option 2 involves a conservancy designation, but the Sisters do not support taking that approach. The site has the same zoning as the abutting properties, and in the city's own inventory it has the same ecological function value of low to moderate. It is not clear why the property should be treated any differently from the other single family properties in the area. There are natural features on the slope that certainly may warrant protection under either the shoreline regulations or the critical areas regulations, but from a designation point of view the site should continue to be single family. The bulkhead on the site is no less likely to be removed than are others along the Lake Washington shoreline.

Mr. George Toskey, 2430 238<sup>th</sup> Place NE, Sammamish, spoke as one of the co-founders of the Sammamish homeowners group that has been helping the city of Sammamish update its Shoreline Master Program. The Sammamish Planning Commission recently recommended using 28.18 feet as the ordinary high water mark for Lake Sammamish, and the Sammamish homeowners group has convinced the City Council to look at a different number. The problem with the 28.18 feet designation is it is based on a study performed by the Watershed Company for the city of Bellevue in 2004. While the study is very impressive and has lots of statistics, it unfortunately has fundamental problems with the data collection. If the ordinary high water mark is defined at 28.18 feet, the Shoreline Master Program will not regulate the land between 28.18 feet and 27 feet. That is only 14 inches of elevation difference but could represent as much as five to 15 feet of land. The shoreline jurisdiction begins at the ordinary high water mark and goes landward for 400 feet in all directions; moving the ordinary high water mark higher leaves a critical part without protection. Bellevue should select 27 as the ordinary high water mark. The ordinary high water mark is a legally defined term and cannot be moved based on a study, especially one with technical problems. The Army Corps of Engineers uses 27 feet as the ordinary high water mark and has for more than 40 years, even prior to dredging of the Sammamish Slough. The ordinary high water mark may change for each parcel over the years due to shoreline changes or erosion, but the ordinary high water mark of Lake Sammamish has not changed. If the weir at the end of Lake Sammamish were to be raised, it would take many years for the vegetation to die along the side of the lake, which ultimately would lead to revising upward the ordinary high water mark. The Department of Ecology has attempted to move the ordinary high water mark higher to force development away from the shoreline; previously that was the only way for them to protect the shoreline. Now with the Shoreline Master Program, vegetation can be used to protect the shoreline; that is a much better solution and it does not leave the most important portion of the shoreline unprotected. The draft prepared by the Sammamish homeowners group for the city of Sammamish is stronger environmentally than the original Planning Commission draft.

Ms. Louise Brewer, address not given, read into the record a memo from Betty Masteropaulo(?), president of the Bayshore East Condominium Association. The memo began with a thank-you to David Pyle for attending the recent Association meeting. The Bayshore East condominiums are located at the very end of the area known as Meydenbauer South Shore Condominiums. The Association is very familiar with critical areas codes, land use codes and shoreline development in that a recent exterior renovation was completed. The work took what seemed to be a lifetime waiting for city permits, and a bucketful of money was required for all the permit applications and to pay a project manager architect to fill in all the necessary forms and to work with city staff. Recently, application was made for the permits necessary for the second phase of renovations that includes a landscape plan to replace the plants damaged by construction and those that have outgrown their spaces; the second phase work will also include updating the sidewalks to make them ADA compliant, and signs on 101<sup>st</sup> Avenue SE advertising the location

of the development. In order to obtain the permit, it has been necessary to address the critical areas code, Land Use Code, and shoreline development all over again. The permits have still not been issued. Everyone associated with Bayshore East believes the shoreline is a most precious asset. Living on Meydenbauer Bay allows the residents to enjoy the wildlife. Along with the pleasures come the milfoil, water lilies and yellow iris along with the ugly and smelly stuff that accumulates at the mouth of the creek. Hard-earned money is spent each year on spraying the milfoil and water lilies, paying for a pest control vendor to control the rats, and paying for a critter control company to trap the nutria. The residents spend their own time and effort on managing other water plants. All of that work and money spent is what can be expected by people who care deeply for their waterfront properties. In a sense, the residents feel they have earned the right to obtain a designation that honors the diligence as well as their privacy. At the recent Association meeting, 21 of 40 Bayshore East condominium owners were present. The unanimous conclusion reached was in favor of the shoreline residential designation. The group did not agree with designating the area along the shore as a wetland, nor did the group agree that the cabana building is an accessory structure in that it contains an apartment that is rented for income. An urban conservancy designation does not fit the site at all given that single family residences can maintain shoreline residential. Single family residences should not be given priority over multifamily residences; multifamily residents are not second class simply because they live as a group. The focus should simply be on protecting private property rights, regardless of whether they are single family or multifamily. The city should also explore how the decision in the Anacortes case affects the city's critical areas ordinance.

Ms. Anita Skoog-Neil, 9302 SE Shoreland Drive, said she was shocked at the outcome of the last Meydenbauer Bay park steering committee meeting at which the stated purpose was to have the committee select the preferred final choice for each park element. The decisions were made with critical information missing. First, at the time of the meeting formal EIS comments had not been submitted. Second, the committee had guaranteed the public that a decision would not be made on the closure of 100<sup>th</sup> Avenue SE without a complete transportation study, but they made a decision anyway. The previous week's Transportation Commission meeting revealed that some Commissioners thought the transportation study in the EIS did not jive with the reality seen on the street. The Transportation Commission liaison did not attend that Transportation Commission meeting, but a letter expressing his opinions was read into the record of the steering committee for all to hear. Third, the steering committee has consistently favored the most environmental/simple elements of the park, yet at the last minute selected the most pro-development and invasive elements. There is nothing park-like about an 8000-square-foot events building, or a three-story viewing walkway that blocks the views of neighboring properties and invades their privacies. The public has spoken at each meeting, has objected to not being heard, and was ultimately ignored. Clearly, the city process does not work. With regard to the shoreline management update, the proposal for residential shoreline use is an absolute taking of private property rights. She said her property has had a cabana building within 25 feet of the shoreline for over 40 years. The critical areas ordinance says if the building burns down it will not be allowed to be rebuilt; at minimum, there should be a grandfather clause. The property contains a two-bedroom 1931 cottage, and the cabana is not part of a megahome complex but is rather a part of the regular living space. If forced to remove all or part of the existing bulkhead, much of the shoreline would be lost. Restoration can work on level beaches, otherwise it is necessary to excavate several feet into the beach to create a level area. That represents a taking of land and the rights of private property owners. The city claims a desire to return to simpler times through the imposition of strict regulations, but the fact is in the early 1950s the lake was so polluted it was impossible to see the bottom. Subsequent sewer lines helped a lot. What is sorely needed are proper treatment of and restrictions on city runoff.

Mr. Bob Drescler, 391 101<sup>st</sup> Avenue SE, a resident of the Bayshore East condominiums, said the

condominium association has voted to support a shoreline residential designation. The urban conservancy designation is not acceptable to the members of the organization. A buffer as small as 25 feet from Meydenbauer Creek would fall well within the interior walls of 15 percent of the Bayshore East condominiums. The grounds outside the development would fall under the control of the city. A buffer of any size will afford the city a footprint on the private property that could morph into a walking/biking path given the city's published goal of opening the waterfront for public use. The city is not an advocate for the wishes of the Meydenbauer community. A good example of that can be seen in the actions of the Meydenbauer Bay park steering committee which after more than a year of effort has dismissed the input of the local residents. Taxpayers offer no contest to the city when it exercises its ultimate power; that should change. The Bayshore East property is sandwiched between two potentially high activity areas: a city park on the one side, and the doubling of density on the other. The future reveals a city park producing noise pollution and water disturbance at the end of the bay with a kayak/canoe rental program. The proposed policies will invariably replace the tranquility now enjoyed by the area residents. The increased activity will no doubt drive wildlife away from Meydenbauer Bay to other more peaceful areas. The city's policies regarding the waterfront park and the urban conservancy designation appear to be in conflict with each. The policy to increase density from 74 units to 156 units at the end of Meydenbauer Bay will result in more people, increased traffic congestion, and drive out the wildlife.

Mr. Rory Crispin, PO Box 40443, Bellevue, said on May 15, 2003, Governor Locke signed HB-1933 into law. At the signing he stated that government at all levels should review regulations on a regular basis, and said such reviews will show whether the environmental goals are being achieved, and whether economic development opportunities are being hindered. He went on to say the new law would help all cities, counties and ports by delivering the certainty needed for development along the shorelines. The new Shoreline Master Program was written with the reasonable assumption that the state Shoreline Management Act would be followed; the Act allows for development along the shorelines, but with environmental protections. However, others believe the shoreline should be deemed a critical area under the Growth Management Act, the effect of which would be more restrictive of development along the shoreline. The confusion can be resolved by HB-1933 which states that development in the shoreline area is to be guided by the Shoreline Management Act, with non-shoreline critical areas to be guided by the Growth Management Act. Part of HB-1933 was codified in RCW 90.58.030 under findings of intent in 2003 where it is stated that the Act is intended to affirm the intent of the legislature that shorelines of statewide significance may include critical areas, but that shorelines of statewide significance are not critical areas simply because they are shorelines of statewide significance. The statement goes on to say that the intent of the legislature was that critical areas within the jurisdiction of the Shoreline Management Act shall be governed by the Shoreline Management Act and that critical areas outside the jurisdiction of the Shoreline Management Act will be governed by the Growth Management Act. It further states that the protection of critical areas within shorelines of the state are not to be limited or changed by the provisions of the Growth Management Act. Shorelines are not in and of themselves critical areas, though there may be critical areas within the shorelines. Even under the Growth Management Act planning section, part of HB-1933 was codified as RCW 36.70A.480.5; the section states that shorelines of the state shall not be considered critical areas under the chapter, except to the extent that specific areas located within shorelines of the state qualify for critical area designation. Despite such clarity, the city staff, hired consultants and Planning Commission in 2004 and 2005 proceeded to the contrary and recommended a blanket critical area designation of all reaches of the shorelines within Bellevue's boundaries. The City Council then illegally adopted and implemented the proposal. Most shoreline property owners do not yet realize that their properties have been declared critical areas by the city contrary to state law. The fundamental flaw with the Shoreline Master Program process is that it is simply a continuation and expansion of the illegal action

previously taken by the city. The process directs individuals to continue thinking that shorelines are critical areas. Under the Shoreline Management Act each city and county with shorelines of the state must adopt a Shoreline Master Program that is based on state laws and regulations. The Planning Commission is obligated to reevaluate the far-reaching changes being proposed and correct the mistakes made in the past.

Mr. Allen Bolling, 3911 Lake Washington Boulevard SE, indicated his support for the proposed marina designations under the Shoreline Master Program. He said the proposed uses under the designation are agreeable to him in that they are appropriate and comparable to the waterways of many communities in the state, including Everett, Des Moines, Tacoma, Edmonds and Seattle. All of the proposed uses should be retained as a way to offer the greatest opportunity for public access and economic vitality. The Commission should take one additional step related to the marina designation and change the underlying residential zoning to a commercial zoning. That would be appropriate and would prevent confusions related to the allowed uses and their underlying zoning requirements.

Mr. Jerry Baruffi, 9236 SE Shoreland Drive, said the Meydenbauer Bay park steering committee does not have a single member who lives on the lake or even near the lake. There is only one person on the steering committee who has a boat. One of the members at the last meeting indicated he has an inner ear problem that makes him seasick even being around boats. It is interesting that a committee with such a makeup has been charged with developing a recommendation that will directly impact actual shoreline property and boat owners. It would seem that whoever selected the steering committee members had a specific outcome in mind, and it is not quiet residential. There were two proposals on the table at the last steering committee meeting. The so-called undeveloped proposal having a park with grass and trees was not even presented. If the city were to pay back to the state the \$1 million paid for the marina site, there would be no need to include transient moorage in the bay. Many have referred to Bellevue as being a waterfront city, but the fact is it was not built that way; it has only one quiet little bay. Transient boaters make a lot of noise at all hours of the day and night. One thing the city seems to want is for property owners to plan native plants in the 25-foot setback on the shoreline, but native plants foster geese whose droppings foul the bay.

#### 4. APPROVAL OF AGENDA

The agenda as submitted was approved by consensus.

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

#### 6. COMMITTEE REPORTS

Commissioner Ferris reported that the Meydenbauer Bay park steering committee has been meeting for just over two years. To date there have been 20 meetings, and two more are scheduled for the end of July. A Draft Environmental Impact Statement was issued and the public comment period will close on July 20. A public hearing was held on the document. All of the public comments on record will be addressed and incorporated in the Final Environmental Impact Statement. Every member of the steering committee attended the public hearing on the DEIS.

Commissioner Ferris said the significant votes taken by the steering committee have to do with some of the elements of the park master plan. One of those was whether or not to include any buildings within the park itself. In the recommendation, there are three buildings and some

parking, though a decision was made not to include the environmental education center. The recommendation does include a community center located near the existing Meydenbauer Bay park. A café to be located near the corner of 100<sup>th</sup> Avenue SE and Lake Washington Boulevard, but the decision was made not to include any commercial structures in the park. A decision was made to include a small number of seasonal kiosks near the waterfront. There was also a decision made to reduce the number of private moorage slips from just over 80 to just over 40. The committee also recommended the closure of 100<sup>th</sup> Avenue SE south of Lake Washington Boulevard or Main Street.

7. STAFF REPORTS – None

8. PUBLIC HEARING

A. Shopping Cart Land Use Code Amendments

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

Land Use Director Carol Helland said the issue before the Commission was a regulation that would ensure consistency in the Land Use Code with the Bellevue City Code amendments that were adopted by the City Council on July 6. Those regulations require retailers to have containment areas for their shopping carts, to identify them, and manage them appropriately. The Council also approved giving the police department the authority to cite individuals who take shopping carts without permission.

Ms. Helland said the provisions for the Commission's consideration could be found on page 7 of the packet materials. She noted that the language mirrors that included in the Bellevue City Code amendment that was adopted by the City Council.

There were no members of the public wishing to address the proposed code amendment.

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

9. STUDY SESSION

A. Shopping Cart Land Use Code Amendments

Ms. Helland sought from the Commission a vote to forward a recommendation to include the consistency amendment in the Land Use Code for consideration and adoption by the Council. She indicated that the Council is hoping to have the Land Use Code amendment acted on by the end of July so that it can go into effect at the same time as the Bellevue City Code amendment.

Commissioner Sheffels suggested that the requirement to place shopping carts in the right locations should be posted in more than one language. She recommended including that notion in the transmittal memo. Ms. Helland said the city intends to notify all retailers who use shopping carts for the convenience of their customers about the new labeling requirements. Neighborhood Outreach is actively involved in translating the cart labeling requirements into several different languages.

Commissioner Robertson observed that the code change approved by the City Council makes the taking of a shopping cart a theft, whereas the proposed Land Use Code amendment makes the act

a Class III civil infraction. She asked for clarification. Ms. Helland explained that the ordinance approved by the City Council adopted the Class III civil infraction language. The theft provision is already contained in state law. Police have the option of citing individuals for theft if they take carts that are labeled.

Commissioner Robertson referred to a discrepancy between sections four and six of the amendment as to when the ordinance is to take effect. Ms. Helland said the error was corrected in the copy of the ordinance that went to the City Council. The ordinance adopted by the Council will go into effect 30 days from the date of publication, which will be the first week of August.

Commissioner Ferris pointed out that the Commission had not been involved in the discussion of the shopping cart issue. He said his understanding was that the greatest problem with shopping carts is in the Crossroads area, which is home to the highest percentage of residents who live in low-income housing, many of whom do not speak English or own a car. At the same time, the city is encouraging people in the community to reduce their dependence on the automobile. The choice the residents is being given is to carry their groceries home in bags or be fined for taking a shopping cart outside the 100-foot containment area. He asked if options such as establishing cart corrals near bus stops adjacent to the shopping areas was explored, an option that would allow shoppers to take their purchases with them to the bus and leave the shopping carts in designated areas, or working with apartment building owners to set up cart corral areas. In large parking lots, many who drive their cars to the store leave shopping carts randomly in the parking lots or run up on landscape areas, yet they are not cited for doing that. The proposed amendment picks on the very portion of the population that does not engage in the civic process and who cannot hire an attorney to represent their interests. Ms. Helland said those options and others were considered by the City Council. Investigation was made into educating the public, and there were meetings with property owners in the Crossroads area, including apartment complex managers who indicated they do not like having the carts on their properties for a variety of reasons. Their maintenance personnel often end up collecting carts and putting them in designated areas; the problem is the retailers do not choose to go and get the carts once they are collected. The approved ordinance provides a mechanism for the police department to have conversations with people who have taken carts and ask them to return them; those who take carts will not be cited for first time offenses. The ordinance also put the onus on retailers to provide for the collection of carts without being specifically directed how that is to be accomplished.

Motion to eliminate Item B from the proposed Land Use Code amendment was made by Commissioner Ferris. The motion failed for lack of a second.

Commissioner Robertson said her preference would be to have the retailers in the Crossroads area install a coin-operated cart system to reduce or eliminate the illegal taking of carts. In cities where similar programs are in play carts that are taken where they are not supposed to be are routinely returned by people who are seeking the return payment. Ms. Helland explained that the ordinance does not preclude this option, but it is not directive with regard to how the retailers choose to comply.

Motion to approve the proposed Land Use Code amendment as drafted was made by Commissioner Robertson. Second was by Commissioner Hamlin and the motion carried 5-1, with Commissioner Ferris casting the only vote against.

## B. Wayfinding Kiosks

Senior Transportation Planner Kevin McDonald noted by way of background that several years

ago the Department of Transportation and the Department of Planning and Community Development collaborated to create the downtown wayfinding manual, the goal of which was to provide wayfinding tools for visitors and residents alike in the downtown area. The intent was to focus on pedestrians and direct them to public uses, shopping centers, restaurants, transit and other neighborhoods. The manual that was developed included a series of wayfinding components consisting of everything from obelisk components to small icons to guide pedestrians through private developments on public easements.

Several of the components have been initiated so far in an assortment of different locations in the downtown. The first phase included pole-mounted directional signs that focused on getting people to and from the transit center, Meydenbauer Center and other important public locations in the downtown.

Most recently kiosks were developed and installed. The kiosks are more comprehensive wayfinding and informational components that include maps and other information. Four of them have been installed along the Pedestrian Corridor: at the Bellevue Arts Museum, in front of the California Pizza Kitchen, at Compass Plaza, and in front of the Meydenbauer Center. In most cases the new kiosks replaced older kiosks that were difficult to maintain and not particularly functional.

Arts Specialist Mary Pat Byrne explained that while the wayfinding program was being developed, the Arts Commission developed a public art work plan. One element of that plan is the creation of an art walk extending from City Hall to the waterfront; the art installed in City Hall makes a good start to accomplishing that goal. The Commission saw the wayfinding kiosk project as a good opportunity for making progress creating the art walk. The art element of the Great Streets plan supports the art walk as well.

Finding effective art treatments along the whole route will be a challenge. The route begins at City Hall and continues down the Pedestrian Corridor. Ms. Byrne detailed the route, noting that it extends about three-quarters of a mile. Because there are already artworks established along the Pedestrian Corridor, one of the first steps will be a public information piece pointing pedestrians to the corridor.

Ms. Byrne said a call was put out to a limited number of artists with direction to create proposals for including artistic touches to the kiosks. Local artists Maria Cristalli and Marc Brown were selected for their work titled *Topos*. The art attaches to the kiosk as a tree-like canopy that is modern yet organic, finding a middle ground between the surrounding built objects, street trees and plantings. Because each element is handmade, there are slight differences in each of the four kiosks.

Assistant Planner Radhika Nair explained that each kiosk has two panels, one with a map and the other with location-specific messaging or local history. The kiosk panels are made of a very light material and will be refreshed and replaced periodically. The artist's elements of each kiosk will remain. Unlike traditional street signs, the kiosk maps are designed with the experience of pedestrians in mind. The maps orient pedestrians to their surroundings, inform them about places of interest, and provide directions. The maps are designed to be clear, legible and simple. Symbols and icons are used to cut across language boundaries.

Ms. Nair said there is no universal formula for designing maps other than common sense. What works for New York might not work for Seattle or Bellevue. In Bellevue's case, one of the challenges faced was the rapidly evolving downtown. For example, an icon was created for the Bravern for shopping and restaurants even though the development is not open yet. There was

also an icon for the movie theater at the Galleria that closed while the maps were being designed. Replacement of the maps does not involve an overly large cash investment.

Another design challenge faced involved orientation of the maps. Ms. Nair said each map includes a "You Are Here" icon, but beyond that it is very helpful to have the map pointing the right way. The traditional method of having north at the top of a map is more helpful for handheld maps. Nevertheless, to remain cartographically consistent, north is consistently shown at the top of the maps. Another challenge was how to display topography, something that is important to pedestrians. That issue was not resolved so topography is not depicted on the maps, though in the future it may be. Each kiosk includes location-specific information.

Commissioner Robertson said the kiosks are absolutely beautiful and asked how much each cost. Mr. McDonald said the cost to fabricate the four kiosks was about \$48,000. Installation brought the total to about \$72,000.

Answering a question asked by Commissioner Ferris, Mr. McDonald said two of the former kiosks were in locations that included an electrical connection. The new kiosks are not, however, lighted.

Commissioner Hamlin asked what guidelines are in place to trigger the creation of new maps over time. Mr. McDonald allowed that no threshold has been determined as yet. It is understood, however, that over time the maps will need to be updated. The slowed pace of development may afford each map a longer lifespan.

Commissioner Sheffels said the artwork is outstanding and the artists are to be congratulated. She said they add a great deal to the ambiance of the downtown.

There was agreement to revise the agenda to take up the Shoreline Master Program issue next.

#### D. Shoreline Master Program

Senior Planner David Pyle briefly outlined for the Commissioners the materials included in the packet.

Assistant City Attorney Kate Berens explained that the Anacortes decision was handed down by the state supreme court about a year ago and was recently reconfirmed when motions for reconsideration were denied. The context of the Anacortes decision was something the city struggled with at the time work was under way to update the critical areas ordinance. At the time, there was a case that came out of the courts dealing with how the Shoreline Management Act and the Growth Management Act were supposed to work with respect to critical areas. There was a case involving the city of Everett that implied certain inconsistencies between the two statutes; the legislature acted very quickly to clarify things by enacting ESHB-1933. As a result of that action, the city during its critical areas update folded shorelines critical areas into the critical areas update. That process came to a conclusion in 2006.

The Anacortes decision responds to challenges to how that jurisdiction responded to ESHB-1933; the decision is primarily a process-based decision about the critical areas and shoreline areas update processes and how the critical areas update in particular is to respond to the shorelines given that the two processes are on different timelines. Gleaning precedent from the decision is difficult with regard to how it would apply in any other jurisdiction. There is no clear decision that rises to the top with a majority of the members signing on to a rationale. It is important, however, to keep in mind that the decision is focused on critical areas processes.

Ms. Berens said there is nothing in the Anacortes case that necessitates a change in the path the city is on for its shorelines update process. In broad brush strokes, the city had planned to take the critical areas provisions for shorelines from the critical areas ordinance and move them into the shorelines update process. That would accomplish what the legislature clarified was its intent for the Shoreline Master Program to govern within 200 feet of the ordinary high water mark and the Growth Management Act to govern outside of that. There is nothing about the Anacortes decision that changes that path.

The confusion that appears to be evident from the public comments has to do with what the city means by saying some of the provisions developed as part of the critical areas process should be moved wholesale into the shorelines update process. Ms. Berens clarified that in no way does taking provisions from critical areas and putting them in the shorelines update mean they additional discussion of them is off the table. It is clear that critical areas within the shorelines must be governed by the Shoreline Management Act, and that is being done as part of the update process. There were a number of policy decisions and analyses associated with the critical areas process, particularly with respect to docks and bulkheads, that were carried out with the full knowledge that the process for updating the shorelines would be under way sooner rather than later. Accordingly, there was a desire to address some of the issues in a way that preclude having to reopen them during the shorelines update. Staff believes much of what was developed during the critical areas update are fully applicable to the shorelines update; the provisions meet the intent of the guidelines and the requirement not to have less protective regulations in the shorelines than in the critical areas outside the shorelines. It is, however, the role of the Commission to delve into the regulations to determine if they are the right ones for the shorelines.

Commissioner Robertson asked about the statement made during public comments that Bellevue identifies all shorelines as critical areas even though ESHB-1933 says shorelines are not necessarily critical areas. Ms. Berens said according to ESHB-1933 shorelines do not automatically equate to being critical areas. At the time the critical areas ordinance was updated, there was analysis to determine which areas of the shorelines in fact have the characteristics of critical areas. It was determined that because of the features of Lake Sammamish and Lake Washington, the shorelines are in fact fish and wildlife critical areas. Commissioner Robertson asked if there are any shorelines within the city that are not designated critical areas, and Ms. Berens said she was not aware of any.

Mr. Pyle said the 200 feet landward of the ordinary high water mark, as well as the area on the water side of that demarcation, is the area in need of protection from the point of view of fish and wildlife. That approach is consistent with WRIA-8. There are multiple layers of regulations that apply to the resources within those boundaries.

By way of background, Mr. Pyle explained that the city regulates six types of critical areas under Land Use Code 20.25H, specifically streams, riparian corridors, wetlands, habitat geologic hazard areas, flood hazard areas and shorelines. Critical areas regulations exist to protect society and development from risk to property and infrastructure as well as to protect essential ecological functions. Critical areas can be degraded by individuals acting on their own self interests. Critical areas functions are shared resources that have intrinsic values. Everyone shares the responsibility of protecting areas that are common to all.

An inventory of lake functions was undertaken at the onset of the shorelines update.

Critical areas were originally protected through the 1987 sensitive areas ordinance. Passage of

the ordinance by Bellevue occurred at a time when few jurisdictions had taken similar steps. As a result, many critical areas were preserved. The critical areas ordinance was updated in 2006 and after three years of administering it there may be specific areas in which the ordinance could be improved.

The general regulatory approach of 20.25H primarily involves the application of proscriptive standards. The regulations direct the avoidance of impacts by imposing buffers and setbacks and requiring uses to be located in the areas with the least sensitivity. The regulations include a list of allowed or specified uses. There is a great deal of flexibility built into the code to address sites that are difficult to develop due to restrictions and encumbrances. The critical areas report process allows for deviation to the proscribed standards through superior site design.

Associate Planner Heidi Bedwell said some provisions were adopted in the context of the critical areas ordinance, and the Growth Management Act requirement for adherence to the best available science, and are specific to structure setbacks and buffers, moorage standards, and shoreline stabilization. Prior to the 2006 critical areas update, there was not established buffer along the shoreline, though there was a 25-foot structure setback within which it was required for property owners to maintain existing vegetation. Through the critical areas update there was recognition that many parcels with critical areas were already developed, so there is a distinction in the code between a developed site and a vacant site; developed sites have a 25-foot buffer and a 25-foot structure setback, whereas vacant sites are subject to a 50-foot buffer.

The code contains several modification processes. With particular to areas along the shoreline, there is something commonly referred to as the string test under which allows for administratively modifying the setback by connecting the two closest points on the adjacent properties. Buildings that exist in the buffer areas are grandfathered in, and there are even provisions that allow for tearing down existing structures and rebuilding them within the same footprint. That provision applies only to primary structures; accessory structures can be maintained but cannot be structurally improved without triggering the standards to move outside of the buffer area, except through the critical areas report process.

Environmental Planning Manager Michael Paine said the Commission struggled with regard to the issue of nonconformities. The question was whether or not a buffer should extend into an existing structure footprint and render it nonconforming. There was a provision in the prior code for riparian systems that allowed buildings to expand, and that triggered the notion of footprint preservation. The Commission explicitly felt at that time that detached accessory structures within a buffer should not be grandfathered and must conform to the new regulations if rebuilt for any reason.

Mr. Pyle commented that in Bellevue there are many shoreline properties that sit on bluffs and have stairs leading down to the water. He said the city has worked with property owners to achieve the construction of storage facilities at the base of the slope in which some limited boating equipment can be stored. Such facilities cannot be sized to serve as guest cottages.

Mr. Paine said staff is not certain that the Department of Ecology will allow processes that allow for departures from the regulations. Generally departures in a Shoreline Master Program are done through a variance or conditional use permit. Staff intends, however, to craft an approach that will allow for the maximum level of flexibility.

Commissioner Ferris said it would be helpful to see examples of things people have done and an outline of the process they would have to go through. He said he would also want to know more about what specific mitigation would be required. Mr. Paine said those details will come out as

the ordinance is developed. He called attention to the permit process that is in place and briefly reviewed the steps involved.

Ms. Bedwell said another provision of the ordinance deals with moorage standards. One of the conversations at the time of adoption recognized that property owners building a new dock must obtain permits from multiple agencies. There was a desire to streamline the proscriptive standards to avoid conflicts with different agencies. Dimensional standards were adopted as part of the critical areas update, and they are related to the regional general permit development by the Army Corps of Engineers; the process authorizes the building of a dock through their permitting process. In an attempt to be aligned with their standards, some of the provisions related to dimensional standards were adopted into city code. The code does allow for revisions to some of the dimensional standards through the critical areas report process.

Ms. Bedwell said minor repairs to existing moorage do not trigger compliance with the standards. There is a list of repair work that does trigger compliance along with a list of menu options for improvements primarily within the nearshore area. Information about the permits received is being compiled along with specifics about how many have come close to meeting the provisions of the new standards and how many have triggered proportional compliance.

With regard to stabilization standards, which takes into account bulkheads or anything that produces a hardening at the shoreline edge, Ms. Bedwell said the updated standards relate to allowances for minor repairs; ongoing repairs are encouraged for bulkheads and rockeries. However, at the point of a major repair, there is an analysis required focused on whether or not alternatives are feasible, things that could be referred to as a softer shoreline approach that provide stabilization while mimicking the functions provided along the waterfront.

Commissioner Robertson asked if the speaker during public comments was correct in saying the city changed the ordinary high water mark during the process to update the critical areas ordinance. Ms. Bedwell said there was a study done, which she said staff would be happy to provide to the Commission. The intent of the study was to provide predictability for property owners relative to the point from which setbacks are measured. Of course, individual property owners are permitted to conduct their own study of where the ordinary high water mark is. The study is for the purpose of measuring setbacks only; it does not relate to determining the jurisdictional boundary.

Commissioner Robertson suggested that when the Commission has the issue of critical areas as they apply to the shorelines on the table for discussion it would be very helpful to have the minutes of the Commission discussions during the critical areas ordinance update process.

Mr. Paine stressed that two different datum are being used. The Corps of Engineers uses a 1929 datum called NGVD, whereas the city uses a more modern datum, NAVD-88. There is a 3.6-foot conversion difference between the two. When they are talking about the 27-foot measurement, they are asking for 30.6 where the city has 31.8. The fact that the Corps as a pool height of 27 is irrelevant in the context of the Shoreline Master Program which has very specific guidance about how to develop the ordinary high water mark. The process involves the usual and constant action of the water on the shoreline and the vegetative changes that occur. What the city did was study many individual sites before coming up with an average of 31.8. The actual mark might be less on one site and more on another, so individualized determinations can be made, and often are. The 27-foot mark is a totally different issue, one that the Shoreline Master Program cannot deal with.

Mr. Pyle stressed that the shoreline regulatory area extends both landward and waterward from

the ordinary high water mark. As such, there is no zone that is left unregulated.

Commissioner Sheffels asked if both Lake Washington and Lake Sammamish are regulated in exactly the same way. Mr. Paine said because of the locks the pool height fluctuates in a very small range. The ordinary high water mark in Lake Washington is generally determined by an elevation handed down by the Corps. However, individual determinations are still required even though the mark is fairly consistent on Lake Washington.

With regard to the proposed environment designations, Mr. Pyle reminded the Commission that staff is recommending something different from what the Department of Ecology is recommending because of the specific environments in Bellevue. Staff had initially recommended the aquatic environment, the urban conservancy environment, urban conservancy-low intensity, marina, marina-civic, and shoreline residential. With regard to urban conservancy-low intensity, staff has since changed its recommendation to urban conservancy-open space which more appropriately reflects a lower intensity use.

The determination was made to go out and talk to all of the people who might be affected by a site-specific designation. Staff met with the Sisters of St. Joseph Peace, one of the Meydenbauer Bay condominium developments, the Bellefield Office Park, and all four of the marina owners.

Ms. Bedwell said the zoning and Comprehensive Plan designation for the Sister of St. Joseph Peace site is single family, though the use is more of a retreat. Within the shoreline jurisdiction there is very little development. The options discussed with the Commission in the past were full urban conservancy along the entire 200 feet above the ordinary high water mark; urban conservancy on the first 100 feet and shoreline residential on the second 100 feet; and urban conservancy on the first 50 feet and shoreline residential on the balance. The site has been very well cared for from a stewardship point of view. The urban conservancy designation does not appear to be in conflict with the current activities on the site, though shoreline residential could be applied to the site just as easily. There are some significant critical areas that will constrain some of the development potential of the site; they include steep slopes in addition to the buffer and structure setbacks.

Mr. Paine said staff is comfortable with the direction requested by the representative of the Sisters of St. Joseph Peace, which was a continuation of the shoreline residential. He said the reason urban conservancy was selected was that the site is an unusual in that it has been beautifully maintained and is largely undeveloped. The site has great potential for significant restoration if the bulkhead is removed. Removing the bulkhead will be a major undertaking and is an action that would be way down the road, and then only if the property owner is willing.

Mr. Inghram asked if a designation of shoreline residential would fit with the requirements of the Shoreline Management Act for no net loss given the maximum level of development that could occur on the site under that designation. Mr. Paine allowed that there may need to be some way of dealing with the no net loss requirement that would be different than for other shoreline properties. However, the level of development would still be relatively modest under any scenario given the steep slopes. Some mitigation would be needed, one component of which likely would be the removal of the bulkhead.

Commissioner Robertson reiterated her position that the Sisters of St. Joseph Peace should not be saddled with more onerous requirements simply because they have done an excellent job of being good stewards of the land. Given that the site will be subject to the critical areas regulations, she said she would not be in favor of increasing the burden on the property owner, unless that is something they want.

Chair Orrico agreed that the discussion with the property owner should be continued in an effort to find common ground.

From the audience, the property owner's representative Jack McCullough endorsed the recommendation of Mr. Paine. As the work progresses toward developing the regulations, the property owner would like to be involved in identifying potential restoration values.

Mr. Pyle said when referencing the Meydenbauer Bay condominiums, staff is referring to the general area that encompasses three properties. He said he met with several of the property owners at the Bayshore East condominium development to talk with them about the update process. He said staff feels that urban conservancy for the first 50 feet and a split designation of shoreline residential for the balance matches the characteristics of the properties due to the presence of the wetland. However, it is apparent that the residents feel a shoreline residential designation would be more appropriate. Due to the condition of the property and the presence of a wetland in the area of confluence of Meydenbauer Creek and Meydenbauer Bay, the area is already protected under other components of the critical areas ordinance. That does not necessarily change the way the shoreline zone is regulated, assuming of course that that section of code is brought into the Shoreline Master Program. In addition, there is a Type F stream that runs between a few of the buildings. Under the critical areas ordinance, the building footprints are exempted from the buffer requirements; that may not be the case under the Shoreline Master Program given that the Department of Ecology may object.

Mr. Pyle said the proposal of staff to keep the area shoreline residential was made because of the protections the current regulations provide. It is clear that the local residents have a strong bent toward stewardship and that they are interested in preserving the natural environment. There are no plans to redevelopment the property.

Chair Orrico said it would have been very helpful for staff to have had the conversations with local property owners prior to the discussion with the Commission about the proposed designations. Too many people were upset by taking that approach.

Commissioner Hamlin asked if staff would change their view with regard to which designation to recommend if the critical areas regulations were not brought into the Shoreline Master Program. Mr. Paine said they would not. The Shoreline Master Program does not allow for the creation of regulations that are less protective than those that already exist. In any case, there will be some level of protection sufficient to protect the wetlands.

Commissioner Robertson asked how the cabana with an apartment fits in. Mr. Paine said from a critical areas standpoint, the structure is not a primary dwelling and therefore is probably not protected. However, what gets decided in the shoreline update may be a completely different issue, provided the final regulations must be as protective as current regulations.

Commissioner Ferris thanked the staff for taking the effort to go out and talk with property owners about the issues.

Commissioner Sheffels suggested that it is somewhat inconvenient that the Meydenbauer Bay park planning issue has gotten mixed in with the shorelines update process. She said too many of the issues overlap. The Commission will need to remember during the update process not to get sidetracked. She agreed that the staff should be commended for reaching out to the public to get their views on the shoreline designation issues.

Turning to the issue of Bellefield Office Park, Mr. Paine said staff has talked with Brian Woidneck, the property manager, on several occasions. The position being taken by Mr. Woidneck is that he wants to be able to operate the office park successfully, preferably with the way things are currently. Mr. Woidneck seemed open to the Option 2 approach provided the impact would be limited to vegetation restoration and management. He is, however, concerned about the ongoing costs and the notion that the loss of one of the buildings would trigger the conditional use process, nor is he intrigued by the ability to move buildings on the site because he feels they are find just where they are. The available FAR on the site has already been used up, so there is not much the city can offer by way of incentive. The city could choose to rezone the site to something that would allow for a wider selection of uses.

Commissioner Mathews asked if the notion of reducing the overall parking on site had been discussed. Mr. Paine said that issue was raised and that during the discussion Mr. Woidneck pointed out that the site has three stalls per thousand square feet and said as such he is not underparked. Mr. Paine said aerial photographs taken over the years seem to indicate that the parking lots are rarely full. At three per thousand, the ratio is not far off the average for King County suburban office developments and is at the low end for Bellevue, even in the downtown.

Commissioner Robertson said it was her recollection that the environmental functions are fairly high in and around the Bellefield Office Park site. Mr. Paine said the study did document a high level of ecological function on the site. The reason the site rated so high is likely due to its proximity to much better functioning areas. When there is a slightly degraded site surrounded by better sites, the values all tend to rise. Generally speaking, though, there is a fairly substantial wetland right in the middle of the office park site, and there are little wetlands scattered around the site. Parts of the shoreline are vegetated and as such the site functions much higher than the average office park use.

Commissioner Robertson asked how much improved functioning can be realized under Option 2. Mr. Paine outlined that under Option 2 there would be much heavier vegetative plantings along the water's edge, particularly along Mercer Slough to the north. That would offer a significant advantage for migrating fish. If some of the buildings to the north along the Slough were moved closer to 112<sup>th</sup> Avenue SE and thereby gain some proximity to light rail, the advantages might be fairly significant over time in that more areas could be more fully restored.

Commissioner Ferris asked if the Commission's recommendation could be crafted in a way that would not preclude a change in use, additional height, or a concentrating of the buildings on the site. He added that light rail is a few years out yet but when it comes the property owner may recognize the benefits associated with a redevelopment scheme that would benefit from having the amenity nearby. Mr. Paine said the Department would be very supportive of taking that approach, adding that there would be no guarantee that the property owner would ever avail himself of the opportunity.

Mr. Pyle stressed that the recommendation carried forward to the Department of Ecology will need to be something that can be approved. The site is a difficult one in that it does not fundamentally meet the intent of the Shoreline Management Act.

Commissioner Robertson said she would prefer to see incentives offered to the property owner to take an innovative approach that will ultimately make things better. She reiterated her support for Option 1 over Option 2 given that the site does have good function. Property owners with a viable use should not be required to engage in a lot of mitigation just to do anything more than modest maintenance. She said she could, however, go along with the direction outlined by Commissioner Ferris.

With regard to the marinas, Mr. Pyle said staff has met over time with the Meydenbauer Yacht Club, the Newport Yacht Basin Association, Seattle Boat Newport, and a representative of the Newport Shores Homeowners Club. He pointed out that generally all of property owners were supportive of the marina designation, whether it be marina civic or marina. They felt the designations adequately memorialize the uses that are in place and said they would welcome changing the process to one that would provide them with more predictability. Some of the property owners did express concerns over certain of the uses listed in the tables.

Mr. Pyle said staff intends to put together a summary of the various meetings identifying the specific issues of concern and outlining what performance standards could be put in place that would alleviate the concerns. He said that document will be presented to the marina interests for their feedback before bringing it to the Commission for review.

Commissioner Sheffels asked staff to clarify the term “person propelled vessel storage” in Table 3 of the packet. Mr. Paine said the term of art is intended to refer to kayaks, rowboats and small sailing dinghies that are stored in racks on docks or elsewhere. He agreed with Commissioner Sheffels that “non-motorized vessel storage” would be more understandable.

Mr. Paine referred to the fact that the chart did not include a “P” in the marina civic box for boat repair and maintenance. He allowed that people need to get to the docks to perform maintenance on boats. It is not the intention of staff to eliminate light maintenance, though a slightly different category may need to be created. The chart as drafted is intended to steer away from much larger-scale maintenance done in dry docks or cradles.

Answering a question asked by Commissioner Ferris, Mr. Paine said that if the performance standard approach is adopted, the assumption is the list of uses will be allowed. The approach will bring with it concerns about certain types of uses in certain circumstances, and where those concerns arise the conditional use process is probably appropriate. There are many options the Commission could suggest. Commissioner Ferris said his concern would be in inadvertently allowing through the Shoreline Master Program a backdoor way in which a use could be allowed that does not currently exist. There should be some other way to apply for uses that do not already exist.

Mr. Pyle pointed out that any development will be required to obtain a Shoreline Substantial Development permit if they exceed the threshold value. Under the current regime the conditional use process is triggered, which requires a hearing. The proposed approach requiring a Shoreline Substantial Development permit does not involve a hearing, but any appeal would go to the Shorelines Hearings Board. Commissioner Ferris said he would support keeping the hearing process in place.

The Commission reiterated its support for shoreline residential for the Sisters of St. Joseph Peace and Meydenbauer Bay sites; Option 2 for the Bellefield Office Park site; and for proceeding with the performance standard approach for the marinas.

### C. 2009 CPAs

Mr. Inghram reported that following the Commission’s initial review of the 2009 applications, all of them withdrew before a Council decision could be made. The Council has directed moving forward on two staff proposed amendments, one involving a biennial update to the Capital Facilities Element, and the second involving figure TR-2 in the Transportation Element.

## 10. OTHER BUSINESS

### A. Election of New Officers

Motion to nominate Commissioner Sheffels to serve as Chair and Commissioner Ferris to serve as Vice Chair was made by Commissioner Robertson. Second was by Chair Orrico and the motion carried unanimously.

## 11. PUBLIC COMMENT

Mr. Marv Peterson, 9840 SE Shoreline Drive, president of the Meydenbauer Bay Neighbors Association, agreed the Meydenbauer Bay park plan issue should await the time when it is properly before the Commission. He suggested, however, that the extensive comments made by Commissioner Ferris warranted a response. The EIS was issued June 4, and the review by the Association paid particular attention to the proposed alternatives. Professionals were hired to assist with the review. At the June 30 steering committee meeting the Association had prepared a carefully written three-page document containing the group's preliminary findings and comments. Disappointingly, the document and its contents were not discussed at all by the steering committee. Rather, the consultant moved the steering committee to making significant decisions. Final decisions on the EIS are not due until July 20. The Association has serious concerns with the decisions made by the steering committee and hope and expect that the concerns will be fully and completely considered by the Commission when the issue comes before it later in the year.

Mr. Jerry Baruffi, 9236 SE Shoreland Drive, said from what he gathered all the shorelines of Lake Washington are critical areas given that salmon are found in the lake. The statement made that shorelines are not automatically critical areas does not mesh. During the winter the Corps of Engineers lowers the lake level; the original reason for doing that was so that property owners could use those months to work on their bulkheads. Bulkheads exist to protect the shoreline; without them the shoreline will continue to erode away. No bulkheads were constructed until very large powerboats were built and operated in the lake; their wake is devastating to the shoreline.

Ms. Anita Skoog-Neil, 9302 SE Shoreland Drive, said her concerns regarding the civic marina designation for the Meydenbauer Bay park land are growing. The designation could allow for uses that are not even under consideration for the park, including eating and drinking establishments, miscellaneous retail and boat launches. No action should be taken that would make it easy for a new use to appear without a public hearing. Just how the critical areas issue affects individual property owners has yet to be made clear. There should be some clarification of what a gap analysis is. She expressed concern over the issue of nonconforming accessory structures not being grandfathered in. A neighbor recently sought from the city a second boat permit and found they were required to conduct shoreline restoration, which does not relate at all to the issue of a second boat permit.

Mr. Rory Crispin, PO Box 40443, Bellevue, noted that under state law areas with fish and wildlife habitat are referred to as fish and wildlife conservation areas. The area containing a bald eagle nest is clearly defined and delineated as a fish and wildlife conservation area. Delineating a fish and wildlife habitat is far more complicated, because the eagle flies everywhere; that would argue for making all areas of the city a critical area. When staff calls the entire lake shore a fish and wildlife habitat, that makes perfect sense. But a fish and wildlife habitat conservation area is typically where fish spawn. The proposed approach is in violation of state law. The critical areas that have been assigned to the shoreline do not conform to the Shoreline Master Program

process.

Mr. Jeff Hoyt, a resident of Tulalip Key in Newport Shores, noted that the Newport marina facility is privately owned. The requirement to permit public access is troublesome and must be reviewed. There are plenty of ways for the public to gain access to the shoreline without utilizing privately owned facilities.

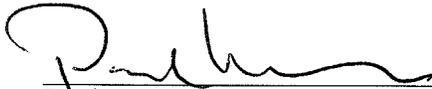
12. Next Planning Commission Meeting

July 22, 2009

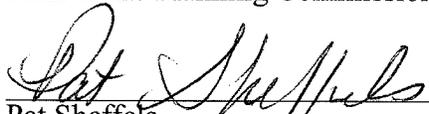
The Commissioners were reminded that the annual Commission retreat was scheduled for July 29.

13. ADJOURN

Chair Sheffels adjourned the meeting at 9:57 p.m.

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

11/18/09  
Date

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

11/18/09  
Date

