



# MEMORANDUM

DATE: September 24, 2008

TO: Chair Orrico and Members of the Planning Commission

FROM: Cheryl Kuhn, Neighborhood Outreach Manager, 4089  
Steph Hewitt, Community Involvement Coordinator, 2564  
Matthews Jackson, Neighborhood Development Team Planning Manager, 2729

SUBJECT: Neighborhood Character Phase Two – Second follow-up to City Council questions

The Planning Commission and staff are currently engaged in preparing responses to questions posed during the City Council's July 14, 2008 discussion of proposed Neighborhood Character Phase Two regulatory changes. The Commission first met on September 10 to formulate its responses to Council. At that time, Commissioners:

- Reached agreement on issues concerning building permit length, guest cottage placement, and alternatives for complying with size and scale threshold requirements;
- Asked staff to provide additional information concerning building height as a threshold factor triggering development standards related to size and scale.

The Planning Commission is asked to review and discuss material to be presented by staff on September 24, and approve Neighborhood Character Phase Two recommendations for presentation at an upcoming City Council meeting.

## BACKGROUND

Planning Commission discussion of Neighborhood Character issues began in April 2007 and culminated in December 2007 with City Council adoption of Phase One regulatory solutions to address relatively straightforward concerns about neighborhood redevelopment impacts, including loss of trees and greenscape, loss of light and privacy, and impacts of construction-related activity. The Council directed that a second phase of outreach and discussion focus on more complex solutions.

The Commission re-engaged in the Neighborhood Character discussion in February 2008 and worked on Phase Two recommendations over the course of three meetings – March 19, May 7, and May 27. The Commission's Phase Two recommendations received generally favorable comments when presented to the Council at the July 14 study session. At the same time, Council members asked for more information on the impacts of certain proposals and, in some instances, discussion of additional options.

## COUNCIL QUESTIONS AND COMMISSION RESPONSES

The City Council had no major objections to either of the Planning Commission recommendations in the category of *trees and greenscape*. (See revised Commission recommendations – Attachment A).

In the category of *construction-related impacts*, Commissioners agreed on a response to Council's interest in reducing the lifespan of building permits from three years to two years, and imposing an additional fee for one-year renewal. The Council had no objections to other Commission recommendations in the construction impacts category.

In the category of *light and privacy* issues, the Council:

- Agreed with Commissioners that the option of restricting lot assembly should not be pursued;
- Suggested that issues concerning size, scale and placement of guest cottages and other accessory structures be referred for consideration as part of the upcoming Innovative Housing Initiative. The Planning Commission expressed its agreement with this suggestion.

Also in the category of *light and privacy*, Council members questioned two aspects of the Commission's recommendation to establish development standards for structures exceeding a threshold of .5 Floor Area Ratio (FAR):

1. Whether this is the best approach compared to other options, including options for addressing concerns about height; and
2. Whether it acknowledges the unique dilemma of houses already impacted by redevelopment.

With regard to No. 1 above, Commissioners asked staff to return with information comparing the Commission's original recommendation with a similar recommendation adding height as a threshold factor. With regard to No. 2 above, the Commission agreed to recommend the variance process as a remedy for the "last house on the block."

#### FINAL ISSUE TO BE RESOLVED

On September 24, staff will provide information requested by Commissioners to assist in finalizing their recommendations to the City Council. Information to be presented includes:

- Data on the anticipated frequency of applying development standards based on FAR;
- Data on the anticipated frequency of applying development standards based on a height threshold of two-plus stories;
- Data, including photographs, on the types of lots likely to be affected by a height threshold;
- Photographs of specific sites, requested by the Planning Commission.

#### STAFF RECOMMENDATION

Discuss and modify, as appropriate, the Planning Commission's initial Phase Two Neighborhood Character recommendations in light of City Council comments and direction.

#### ATTACHMENTS

- A Planning Commission Recommendations for Neighborhood Character Phase Two – Revised per Commission direction of September 10, 2008

## Neighborhood Livability Action Agenda – Planning Commission Recommendations for Neighborhood Character Phase Two

### INTRODUCTION

The Planning Commission has been engaged since April 2007 in a lively public discussion of neighborhood infill and redevelopment impacts. In June of 2007, the Commission presented its initial recommendations for addressing citizen concerns about the negative impacts of redevelopment on the character and livability of existing neighborhoods. Some of those recommendations – identified by the City Council as relatively straightforward and easy to implement – were written into the City Code and adopted by the Council in December. Other recommendations, involving more complex changes, were referred back to the Planning Commission for additional study and refinement.

The Commission has concluded its discussion of this second phase of potential changes to address three major impacts of redevelopment: (1) loss of trees and greenscape; (2) loss of light and privacy due to incompatible size and scale of new homes on redeveloped lots; and (3) impacts of construction activity.

### THEMES AND PRINCIPLES

Staff and Planning Commission identified key themes and principles to guide discussion and decision making in Phase One. These principles continue as appropriate and necessary guidelines to ensure that Phase Two decisions are:

1. *Balanced* – The best solutions balance the legitimate interests of stakeholders, respecting the rights of owners to utilize their property while addressing the needs of surrounding property owners for relief from certain negative impacts of redevelopment.
2. *Targeted* – The City recognizes the significant benefits of neighborhood investment. Bellevue solutions encourage graceful neighborhood transitions; they are not a broad assault on redevelopment, but a thoughtful and focused set of tools to address specific harmful effects, including:
  - a. *Loss of trees and greenscape*
  - b. *Loss of sunlight, privacy and territorial views due to structure size and scale*
  - c. *Construction impacts (noise, dirt, traffic, neglected structures).*
3. *Flexible* – Effective solutions acknowledge special circumstances and conditions, and provide alternatives and work-arounds to accommodate the reasonable use of property.

## EVALUATION CRITERIA

Based on the above principles, and on the need to limit impacts on City and private resources, the following criteria were applied in the evaluation of potential solutions.

1. Is this tool focused on one of the specific impacts identified by the community and verified by the City as harmful to neighborhood character?
2. Is this tool the least intrusive solution that can be used to address the problem effectively?
3. Can this tool be applied fairly; does it provide for reasonable alternatives when merited by special conditions and circumstances?
4. Does this tool have no, or few manageable, negative impacts or consequences?
5. Can this tool be implemented in a way that keeps City staffing impacts and bureaucracy to a minimum?

### **Planning Commission Recommendations: Loss of Trees and Greenscape**

#### **Intervention goals:**

- Preserve green character of Bellevue neighborhoods.
- Prevent unnecessary loss of trees in neighborhoods that value trees as part of community character and identity.

#### **1. ACTION TO PRESERVE TREES IN NEIGHBORHOODS**

**Amend code to require 30 percent retention of significant trees in new subdivisions.**

2. **REFER to the Environmental Stewardship Initiative** – the issue of tree removal immediately preceding or following redevelopment. It is recommended that the City consider any steps to address actions that are counter to the intent of Phase One tree protection code changes (e.g., limitations on tree cutting on private lots prior to and following redevelopment) within the broader context of the Environmental Stewardship Initiative.

#### **Discussion:**

The City Council has decided that any broad public discussion of citywide tree preservation should take place in the context of the Environmental Stewardship Initiative. Concerns about greenscape loss, and about tree loss due to redevelopment, were addressed in Phase One with the decision to require 50 percent greenscape in front setbacks and 30 percent tree retention in cases of redevelopment. A remaining issue for Phase Two is the tree retention requirement for infill development. To avoid public confusion and to fulfill the original intent of the Neighborhood Character work, the Commission recommends that the current 15 percent tree retention requirement for subdivisions be increased to be consistent with the 30 percent retention requirement for redeveloped lots.

## **Planning Commission Recommendations: Loss of Light and Privacy due to Incompatible Size and Scale**

### **Intervention goals:**

- Encourage graceful transitions in neighborhoods.
- Address the major negative impacts of out-of-scale development – loss of sunlight and privacy.

### **1. ACTION TO PROTECT PRIVACY AND ACCESS TO SUNLIGHT**

**Calculate gross Floor Area Ratio (FAR) for new single family homes in existing neighborhoods. For projects exceeding the FAR threshold of 0.5, establish the following additional requirements:**

- a. Establish minimum setbacks of 7.5 feet on both sides; AND,**
- b. Incorporate EITHER daylight plane standards (roof pitch of 45 degrees beginning 10 feet above grade), OR second story step-back, with step-backs occurring on both sides).**
- c. Apply the above rules to new single family homes in existing neighborhoods (teardowns and vacant lots), new short plats, and existing single family homes adding more than 20 percent of gross floor area. Provide exemption for single lots in new neighborhoods where the character of the neighborhoods is just being established.**

### **Discussion:**

Aside from addressing certain height issues, Phase One left size and scale issues to be considered in Phase Two. The Planning Commission identified several approaches of interest, and staff pursued all of these approaches in various ways:

- By meeting with staff of various cities and discussing at length their experience with these methods;
- By visiting neighborhoods inside and outside Bellevue to view first-hand how various approaches work, or don't work, in practice;
- By talking with Bellevue city staff and seeking their opinions on the effectiveness of these methods, the appropriateness for Bellevue, the potential impacts on staff workload, and the degree of clarity for applicants; and
- By talking with residents and groups – including focus groups, neighborhoods, community meeting attendees, and stakeholders – to ascertain their opinions of these methods.

The majority of discussion focused on tools – FAR standards, daylight plane, setbacks, building articulation – to address the impacts of housing bulk. At the conclusion of Phase One, the Planning Commission asked staff to evaluate single family FAR as an option to imposing development standards for homes over a certain size threshold.

**Floor Area Ratio vs. Development Standards** – Staff found FAR to be the tool that cities most commonly use (in conjunction with lot coverage and height limits) to address bulk of single family homes. In discussing FAR with various groups:

- The majority of focus group members preferred FAR as the simplest and most reasonable method of addressing size and scale issues. In general, residents were supportive.
- Builders and developers are generally opposed to single family FAR, and claim that it would unnecessarily restrict both size and architectural creativity.
- Other cities facing similar issues see FAR as working well, especially when combined with increased setbacks.
- Some Planning Commissioners expressed doubt that single family FAR is an appropriate tool for Bellevue, and staff agrees that FAR fails to address the two major complaints about size and scale; i.e., loss of light and loss of privacy.

**Development Standards Based on FAR Threshold** – Initially staff looked into the concept of development standards (daylight plane, setbacks, etc.) for homes over a certain square footage. This approach missed the mark because homes on very small lots may fall below the square footage threshold and still – because they are out of scale with the lot – intrude on neighbors’ sunlight and privacy. Commissioner Hal Ferris proposed establishing a gross FAR threshold, above which building projects would have to comply with certain requirements. Staff agreed that this approach addresses the real problems of daylight loss and privacy encroachment, and focuses on the “outlier” situations without placing unnecessary restrictions on every project. Staff proposed and Commissioners agreed that the regulatory changes should focus on the infill that occurs within mature neighborhoods with established character, and not on new neighborhoods establishing a new character (i.e., new full subdivisions).

2. **REFER to the Innovative Housing Initiative** – Proposals to establish separate setbacks for guest cottages and proportional requirements for guest cottages and other accessory structures.

**Discussion:**

The proposal to establish separate setbacks for guest cottages received broad public support. Stakeholders and Planning Commissioners agreed that it is a logical step to ensure sensitive placement of these buildings. Staff also favors consideration of a proportional requirement for guest cottages and other accessory structures. These issues are more appropriately considered as part of the Innovative Housing Initiative, which is scheduled to get underway in early 2009.

3. **NO ACTION RECOMMENDED: LOT ASSEMBLY**

**Discussion:**

One of the options studied was the suggestion to limit the ability to combine lots. However, research has shown lot assembly to be a rare practice in Bellevue. The public has shown no interest in pursuing this approach. The Commission recommends no action.

## **Planning Commission Recommendations: Construction Impacts**

### **Intervention Goals:**

- Mitigate the impacts of construction on the surrounding neighborhood.
- Encourage sensitive development practices and establish disincentives for practices that are both avoidable and harmful to neighborhood quality of life.
- Provide neighborhoods with information about development regulations and procedures for resolving construction-related concerns.

### **1. ACTION TO REVISE REMODELING CONSTRUCTION HOURS**

**Revise hours for remodels and additions: 7 a.m. to 8 p.m. on weekdays, and 9 a.m. to 8 p.m. on Saturdays and Sundays**

#### **Discussion:**

An original proposal was to change the definition of remodels, based on citizen concerns that teardowns for all practical purposes – leaving a tiny remnant of the original building – were being classified as additions. However, Building and Land Use staff pointed out that changing the definition – while possible – would accomplish little of benefit to neighborhoods. Focusing on the actual differences between the types of permits involved, the biggest disparity is in construction hours. Currently, new home construction is permitted from 7 a.m. to 6 p.m. on weekdays; 9 a.m. to 6 p.m. on Saturdays; and not allowed on Sundays and holidays. Construction for remodels and additions is permitted from 7 a.m. to 10 p.m. on weekdays, and 9 a.m. to 10 p.m. on Saturdays and Sundays.

Some relief from construction impacts can be afforded by revising the permitted hours for outdoor construction on additions and remodels. Focus groups and others agreed that a change is in order, but they concurred with Planning Commissioners' wish to maintain the ability of do-it-yourselfers to improve their homes in their spare time. The Commissioners' recommendation proposes a compromise adjustment – changing the ending time for remodels and additions from 10:00 to 8:00 p.m.

### **2. ACTION TO REDUCE MECHANICAL EQUIPMENT IMPACTS**

**Require new single family homes and homes adding more than 1,000 square feet to locate HVAC in the back yard or, if HVAC units are located in the side yard, require sound screening and prohibit placement within the five-foot minimum side setback.**

#### **Discussion:**

The proposal to establish separate setback requirements for mechanical equipment generated a tepid public response. Residents were generally in favor as long as the regulation is applied *only to new* single family homes. On the other hand, strong support came from:

- Code Compliance staff – Even though the number of HVAC noise complaints is relatively small (six in 2007), staff believes that preventing this very contentious situation is better than trying to fix it later.
- Industry professionals – Experts on HVAC agree that units should be placed in back yards. To quote one of these experts, “the worst placement for an a/c unit is between two houses” because noise reflects off the walls and actually bounces back and forth. Options to back yard placement include insulated jackets, sound barrier fencing, and sound curtains.

Some staff have pointed out that HVAC complaints are currently addressed through the Noise Ordinance. However, research has shown that most HVAC units are not able to meet code requirements. (Residentially generated noise cannot exceed 55 db at the property line.) A realistic answer is to place units away from neighboring properties, or use screening materials to reduce noise to legal levels.

### **3. ACTION TO LIMIT IMPACTS OF VACANT OR ABANDONED HOMES AND CONSTRUCTION SITES**

**Establish property maintenance standards specifically applicable to abandoned building sites and vacated houses; enforce on a complaint basis.**

#### **Discussion:**

This issue was raised in response to concerns about an abandoned single family construction site. Neither residents nor Planning Commissioners strongly identified with the problem – in part because the recent housing market has minimized such possibilities. However, the situation – when it does occur – is a burden on the entire neighborhood.

At the same time, many residents testified that they are far more concerned with previously occupied houses that are left vacant and become both eyesores and attractive nuisances.

With regard to both abandoned construction sites and vacated homes, the City is currently able to address code/safety violations, but has no way to address aesthetic concerns. The City has no abatement fund, should the City wish to pursue abatement proceedings as a remedy. Requiring a bond for project completion would be technically possible, but the addition to bureaucracy would have to be weighed against the infrequency of cases.

Commissioners and staff support a direct approach to addressing the aesthetic affront to the neighborhood that is created by both situations – abandoned construction sites and neglected, vacant homes.

### **4. REFER to the Innovative Housing Initiative – Consideration of code or procedural changes that address community concerns about reduced setbacks and other Planned Unit Development characteristics that may be out of character with the surrounding neighborhood.**

#### **Discussion:**

Phase One generated concerns about certain characteristics of Planned Unit Developments (PUDs) and Conservation Plats. Again in Phase Two discussions, residents have complained increasingly that PUDs within or adjacent to existing single

family developments often disrupt or compromise the character of the original neighborhood. The Planning Commission expressed interest in exploring these concerns, but decided that inquiry should be pursued separately from Phase Two.

**5. ACTION to REDUCE BUILDING PERMIT LIFESPAN from three years to two years and to establish a fee for one-year renewal based on the value of remaining improvements**

**Discussion:**

In Bellevue, all types of building permits are issued for a period of three years – longer than the effectiveness period for permits in most other cities. However, all cities provide for renewal of expiring permits. Most residential projects in Bellevue are completed within two years of the permit being granted, but those extending beyond two years can cause long-term neighborhood disruption. This incentive to complete projects within two years would be implemented in concert with other methods of addressing the negative impacts of construction activity (e.g., debris containment, informational signs for resolving neighborhood concerns, etc.)

**6. PROCEDURAL IMPROVEMENT  
Publish Guidelines for Reasonable Development**

**Discussion:**

To facilitate communication and positive relationships between residents and representatives of the development community, Land Use and Outreach staff will collaborate on a publication that outlines required and suggested practices for developments in single family neighborhoods.