

CITY OF BELLEVUE
BELLEVUE PLANNING COMMISSION
STUDY SESSION MINUTES

January 16, 2013
6:30 p.m.

Bellevue City Hall
City Council Conference Room 1E-113

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

COMMISSIONERS ABSENT: None

STAFF PRESENT: Paul Inghram, Department of Planning and Community Development; Carol Helland, Mike Brennan, Michael Paine, Catherine Drews, Heidi Bedwell, Department of Development Services

GUEST SPEAKERS: None

RECORDING SECRETARY: Paul Inghram

1. CALL TO ORDER

The meeting was called to order at 6:36 p.m. by Chairman Carlson who presided.

2. ROLL CALL

Upon the call of the roll, all Commissioners were present

3. PUBLIC COMMENT

Mr. Marty Nizlek, 312 West Lake Sammamish Parkway NE, called attention to a memo from the Washington Sensible Shorelines Association (WSSA) in which four topics were highlighted. He said the greenscape concept as initially discussed was intended to serve as an incentive, but since the initial discussion most stipulations have become disincentives. True incentives include bonuses. The language of paragraphs 20.25E.065.F.2.a and 20.25E.065.F.2.b needs to be clarified relative to placement of new structures and hardscape. The concern is that the draft language does not clearly state that only actions outside the existing footprint trigger further restrictions. The added requirement that where an applicant proposes expanding an existing structure or construction of a new structure within 50 feet of the ordinary high water mark, the applicant must reduce any hardscape within ten feet of the ordinary high water mark to no more than 15 percent of the lot width is troubling as well. The result for small lots, such as those less than 60 feet wide, hardscape such as a path would be restrained below practical limits. The city of Sammamish has incorporated a 15-foot minimum. Bellevue should include a minimum allowance of ten feet. Broader authority on the part of the Director is needed to provide an escape hatch for special circumstances since no one has sufficient knowledge to foresee what issues the changes to the Shoreline Master Program may bring about. With broader authority comes the need for oversight.

Mr. Charlie Klinge, 10900 NE 8th Street, spoke on behalf of WSSA. He presented a flip chart that outlined three of WSSA's recommendations: 1) Changing the wording regarding the footprint exception to "Placement of structure means any new structure and also means any

reconstructed structure, reconfigured structure, and additions to an existing structure where the resulting change includes structure outside of the footprint of an existing legally established structure;" 2) Allowing a minimum width of 10 feet of hardscape near the shoreline; and 3) Broadening the scope of the director's authority to cover unseen issues. He recognized the work done by the subcommittee since the last Commission meeting. He explained that the language regarding broadening the Director's authority is needed to allow a path out if a property owner presents an unusual situation, or where only a minor change is needed. He further clarified that the proposed revisions to paragraphs 20.25E.065.F.2.a and 20.25E.065.F.2.b would clarify the sentence structure and would be consistent with the memo from WSSA. Lastly, he stressed the need to including language allowing for a minimum of ten feet of hardscape to facilitate access to the water.

4. APPROVAL OF AGENDA

Commissioner Laing moved to approve the agenda submitted. The motion was seconded by Commissioner Turner and it carried unanimously.

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

6. STAFF REPORTS

Comprehensive Planning Manager Paul Inghram reminded the Commissioners about the January 24 Comprehensive Plan forum which will be attended by the members of seven city boards and commissions. The forum will be an opportunity for commissioners to discuss the Comprehensive Plan and provide thoughts concerning the update. He noted that a public event is slated for January 29 and will afford the public an opportunity to be heard. He encouraged the Commissioners to attend both events.

7. STUDY SESSION

A. Shoreline Master Program Update

Chairman Carlson reminded the commissioners that at the Commission's December 12, 2012, meeting the decision was made to have commissioners Ferris, Laing and Tebelius work on the outstanding issues of setbacks and vegetation protection prior to the next meeting. He noted that he had been notified by the City Attorney that the group could not divulge their proposal and as such he had not seen it until the Commission packet was delivered.

Commissioner Tebelius reported that commissioners Ferris, Laing and she conducted two half-day meetings in which the issues were discussed at length. The group then met with staff on January 9.

Commissioner Laing thanked Commissioners Tebelius and Ferris for their efforts, as well as Land Use Director Carol Helland and Mr. Inghram for their assistance. He noted that following publication of the draft proposal in the Commission packet the three commissioners met again to discuss a number of issues and possible edits aimed at making the final version as clear as possible.

Commissioner Laing said the primary concerns raised by the Commission at its meeting on December 12, 2012, were in regard to the 25-foot setback and the lack of vegetation preservation. The three commissioners considered ways to encourage property owners to look

elsewhere before adding structures or hardscape features near the water. The group carefully considered the practicality of what it proposed, noting that most zones require a 70- or 80-foot lot width even though many existing lots are narrower. Accordingly, the calculations they used were based on a lot 50 feet wide and 100 feet deep.

Commissioner Tebelius explained that the group divided the theoretical lot into three zones: the area landward 25 feet from the ordinary high water mark; the area between 25 feet and 50 feet from the ordinary high water mark; and everything landward of 50 feet from the ordinary high water mark. The group concurred that the preference is for building to occur in the area beyond the 50-foot mark, not towards the water. The group also recognized, however, that the area between 25 feet and 50 feet from the ordinary high water mark should accommodate compromise in recognition of the fact that many existing structures and landscape features are already located there.

Commissioner Laing described how Commissioner Ferris originally proposed the concept of how adding new structure or hardscape in the 25- to 50-foot area would serve as a trigger for additional restrictions. The group did a number of math calculations in evaluating how the proposal would work, all with an eye on finding the right balance and avoiding having the requirement become punitive. Commissioner Tebelius added that the group spent hours looking at aerial photos of the shoreline studying what currently exists relative to structures and hardscape features. She stressed that were things have already been constructed, impacts to the shoreline have already occurred. Ultimately, the compromise hammered out is not one that any of the group members individually preferred.

Commissioner Ferris described how the proposal would work. He said if an existing structure were to be expanded beyond its current footprint in the 25- to 50-foot area, the action would trigger the greenscape requirement in which at least 50 percent of the area 25 feet landward of the ordinary high water mark would need to be vegetated greenscape, plus one additional square foot of greenscape for every square foot of structure expansion. Under the proposal, a property owner could expand a structure to the full width of their lot, minus the side yard setbacks, up to the 25-foot shoreline setback, though in doing so they would trigger a requirement for greenscape across the shoreline setback and along the side yard setbacks.

Commissioner Laing added that the group did not want the greenscape requirement to turn into a de facto larger setback. The group agreed that property owners should have the option of building to the 25-foot setback. The proposal also allows for a 15 percent hardscape area adjacent to the water to ensure that property owners can have a path to the water.

Answering a question asked by Commissioner Sheffels about how the requirement would apply, Commissioner Ferris said one might have to remove existing hardscape in order to comply when expanding a structure. Commissioner Sheffels suggested the approach in effect would be giving away quite a lot, and voiced concern that it could be a cause of contention given that many properties have hardscaped side yards and the property owners likely would be opposed to removing it. At the very least the proposed language would need to be clearer.

In response to a question asked by Commissioner Hamlin, Ms. Helland stated that that the proposed code language was sufficiently clear to allow staff to apply and enforce it.

Commissioner Laing said the three commissioners discussed extensively the language relative to the Director's authority right up to the start of the meeting. Various options were reviewed and discussed relative to how they would apply on the ground. He said the most recent version is consistent with the intent of the group.

Commissioners Sheffels noted that if the Director can modify the requirements, that could open the door to special circumstances and possibly allow for too much wiggle room. Commissioner Tebelius responded that while some may have concern over too liberal an application, she would be concerned over it not being applied liberally enough. She said the Commission needs to rely on the good faith efforts of those who administer the code.

Commissioner Ferris observed that the previous draft allowed an exception for 200 square feet of structure in the shoreline setback area. Under the new proposal, the extension of a structure would trigger the greenscape requirement and a one-to-one replacement of vegetation for each square foot of new structure. With the 200 square foot exception, the requirement for native vegetation to be located near the water would come into play. For hardscape, the trigger would be expansion within the shoreline setback, the area 25 feet landward of the ordinary high water mark. There would be no trigger in the 25- to 50-foot area. A property owner could replace hardscape in the same footprint as it exists without triggering the requirement, which is similar to the rules for structures. Like the requirement for structures, if there is an expansion of hardscape beyond the existing footprint, the greenscape requirement and a one-to-one replacement of vegetation for each square foot of additional hardscape would be triggered.

Commissioner Ferris noted that the three commissioners all agreed that the first ten feet of land adjacent to the water's edge is the most important relative to the shoreline. Accordingly, the group proposed requiring vegetation covering 85 percent of that area as part of the overall 50 percent greenscape requirement applicable to the first 25 feet landward from the water. The earlier draft included no vegetation requirement. The Commission debated adding a greenscape requirement that would call for maintaining at least 50 percent of the shoreline setback in a vegetative state. The new proposal improves the condition of the shoreline by either adding greenscape or by moving structures back from the water.

Continuing, Commissioner Ferris said the group used the provisions established by the city of Sammamish as a guide. That jurisdiction has a similar Department of Ecology-approved standard requiring the zone near the water's edge to have at least 85 percent greenspace and no more than 15 percent hardscape. The math calculations done by the group were an attempt to understand how the proposal would apply and to make sure property owners would not be penalized for having less developed properties. The group discussed how the trigger would apply where a property owner sought to add only a single additional square foot of hardscape, and the conclusion reached was that the action should be treated the same as for structures. He stressed that the requirement is for greenscape, not native vegetation.

Ms. Helland pointed out that many shoreline properties have hardscaped areas that were not permitted. She said going forward it will be important to have a public education program to ensure property owners are aware of and understand the new rules. Commissioner Tebelius said it was her understanding that the city lacks the resources to go out and enforce the regulations on anything other than a complaint basis.

Commissioner Laing answered a question from Commissioner Turner by saying that armoring

would be exempt from the definition of hardscape because armoring structures can add up to a significant amount of square footage, detracting from what the rules allow. He said the group was unanimous in not wanting the area of the armoring to count against the allowed hardscape area.

Commissioner Laing said the new draft language regarding the Director's authority satisfies the point made by WSSA. He suggested the language revision proposed by WSSA relative to paragraphs 20.25E.065.F.2.a and 20.25E.065.F.2.b would help to clarify the intent and would avoid an incorrect legal interpretation. Commissioners Tebelius and Ferris concurred and recommending making the changes.

With regard to the WSSA proposal to revise the language of paragraphs 20.25E.065.F.3.b.ii relative to a minimum hardscape width, Commissioner Laing said ADA compliance would certainly be one exception the Director could address. He said the group worked hard to get the language right and he would not support changing it.

Commissioner Tebelius said she would be willing to accept the WSSA-proposed language, but would also be willing to leave the language alone if the full Commission preferred.

Commissioner Ferris said his inclination was to leave the language unchanged. The 15-percent rule adjusts to lot width and is consistent with the approach taken by the city of Sammamish. He reiterated that the first ten feet from the ordinary high water mark is the most important to protect. Mercer Island, Sammamish and other cities have very similar requirements to provide protection for the first ten feet.

Commissioner Hamlin lauded the work of commissioners Ferris, Laing and Tebelius. He said while their proposal is not exactly what he wanted, it addresses some of his concerns and represents a good balance. He indicated his support for the clarification regarding footprint. He said he did not see a need to allow for a minimum ten-foot hardscape in the area closest to the water, and added that he did not favor the two-to-one concept. He said ultimately he favored approving the Shoreline Master Program.

Commissioner Turner added his support for the proposal as well. He said while he did not think originally the proposal was needed, it does represent a good compromise. He noted his willingness to accept the proposals of WSSA relative to the changing the wording regarding the footprint exception and broadening the scope of the Director's authority, but suggested that allowing for a minimum ten-foot hardscape in the nearshore area was not needed.

Commissioner Sheffels also thanked the commissioners for their diligent work at reaching a good compromise position. She allowed that there was an urgent need to address greenspace. She added that there is so much hardscape existing in the shoreline that not much will change, though the provisions will prevent more hardscape from being developed.

Chairman Carlson said the work by commissioners Ferris, Laing and Tebelius was to be commended. He thanked the group members as well as all of the commissioners for their work

on the Shoreline Master Program. He said the final proposal represents a program that will enhance property rights and the quality of the environment, and added that he would vote to approve the Shoreline Master Program.

A motion to modify the language of paragraphs 20.25E.065.F.2.a and 20.25E.065.F.2.b to change the wording of the last sentences to read "Placement of structure means any new structure and also means any reconstructed structure, reconfigured structure, and additions to an existing structure where the resulting change includes structure outside of the footprint of an existing legally established structure" and " Placement of hardscape means any new hardscape and also means any reconstructed hardscape, reconfigured hardscape, and additions to existing hardscape where the resulting change includes hardscape outside of the footprint of existing legally established hardscape" was made by Commissioner Laing. The motion was seconded by Commissioner Turner and it carried unanimously.

A motion to incorporate the new sections presented in the desk packet that modify Chart 20.25E.065.C, Section 20.25E.280, and Section 20.25E.065.F, as amended, into the draft Shoreline Master Program dated December 12, 2012, was made by Commissioner Laing. The motion was seconded by Commissioner Hamlin and it carried unanimously.

A motion to recommend to the City Council approval of the draft Shoreline Master Program, including amendments to the Shoreline Element of the Comprehensive Plan; amendments to the "Shoreline Overlay District," part 20.25E of the Land Use Code; the City of Bellevue Shoreline Restoration Plan; and Shoreline Environment Maps, was made by Commissioner Tebelius. The motion was seconded by Commissioner Laing and it carried unanimously.

A motion to recommend to Council consideration of those issues that have been discussed during the Shoreline Master Program update process, but fall outside of the Shoreline Master Program document or require additional efforts beyond that directed by the Shoreline Master Program, including Phantom Lake management, including weir operation, beaver dams and other aspects that result in flooding of the lake; Lake Sammamish flooding, including management of the Sammamish River weir and outlet, coordination with King County, floodplain regulation, and mapping of the floodplain; regulatory enforcement philosophy to ensure that regulations are enforced in a fair and consistent manner; watershed and stormwater impacts on shoreline property and shoreline functions and values; and other issues that the Commission may wish to include in the transmittal, was made by Commissioner Sheffels. The motion was seconded by Commissioner Hamlin and it carried unanimously.

Mr. Inghram said staff would prepare a draft transmittal of the Commission's recommendations to Council. He said the draft will be circulated among the Commissioners electronically and finalized by the chairman prior to the next Commission meeting.

Chairman Carlson thanked Ms. Helland for the hard work done by staff over the course of the project. Commissioner Tebelius particularly thanked Ms. Helland and Mr. Inghram for assisting the work of the three commissioners. Commissioner Ferris concurred, noting that staff helped to make the draft proposal more concise and clear. Commissioner Laing said he agreed

wholeheartedly.

Chairman Carlson also took a moment to thank Mr. Nizlek for his participation in the project.

- 8. OTHER BUSINESS – None
- 9. PUBLIC COMMENT – None
- 10. APPROVAL OF MINUTES
 - A. November 14, 2012

Commissioner Ferris noted a correction to the minutes on page 20. A motion to approve the minutes as amended was made by Commissioner Sheffels. The motion was seconded by Commissioner Turner and it carried unanimously.

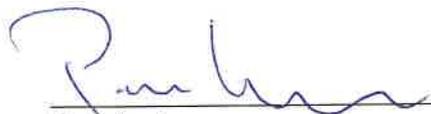
- B. December 12, 2012

Commissioner Turner noted a correction to the minutes. A motion to approve the minutes as amended was made by Commissioner Sheffels. The motion was seconded by Commissioner Laing and it carried unanimously.

- 11. NEXT PLANNING COMMISSION MEETINGS
 - A. January 24, 2013 - Joint Commission Forum on the Comprehensive Plan Update
 - B. January 29, 2013 - Comprehensive Plan Update Public Event at Crossroads Community Center
 - C. February 13, 2013 - Regular Commission Meeting

12. ADJOURNMENT

Chairman Carlson adjourned the meeting at 8:00 p.m.



Paul Inghram
Staff to the Planning Commission

3/13/13
Date



John Carlson
Chairman of the Planning Commission

3-13-13
Date

* Approved February 13, 2013

