

CITY OF BELLEVUE
BELLEVUE PLANNING COMMISSION
MEETING MINUTES

October 26, 2005
7:00 p.m.

Bellevue City Hall
City Council Conference Room

COMMISSIONERS PRESENT: Chair Bonincontri, Vice-Chair Mathews, Commissioners Bach, Lynde, Orrico, Robertson, Sheffels

COMMISSIONERS ABSENT: None

STAFF PRESENT: Kathleen Burgess, Mary Kate Berens, Heidi Bedwell, Michael Paine, Steve Cohn, Department of Planning and Community Development; Patrick Foran, Dan DeWald, Kevin LeClair, Parks & Community Services

GUEST SPEAKERS: None

RECORDING SECRETARY: Gerry Lindsay

1. CALL TO ORDER

The meeting was called to order at 7:05 p.m. by Chair Bonincontri who presided.

2. ROLL CALL

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

3. APPROVAL OF AGENDA

The agenda was approved by consensus.

4. STAFF REPORTS

Comprehensive Planning Manager Kathleen Burgess provided the Commissioners with copies of emails received regarding the Crossroads Center Plan, a press release, and a new Commission calendar. She reminded the Commissioners about the APA short course on Monday, October 31.

5. PUBLIC COMMENT

Mr. Barton Ellison, 17104 NE 5th Place, said over the last 36 years he has seen the maturing of the Crossroads Shopping Center. He said he and his wife walk daily on routes that pass through Crossroads Park and into the shopping center. Many of the owners of single family homes near Crossroads take a protective interest in plans for redeveloping the Crossroads Shopping Center site, especially where those plans might contribute to traffic congestion or threaten the security of area residents. There have been two killings in the area in the last six months: one by police, and the other a murder. While the events are extraordinary, they are nonetheless threats to the quality of life of the Crossroads area and have been brought about in part by the forces of urban congestion and mean-spiritedness on the part of transient residents. Allowing up to 900 residential units within the study area is viewed by the property owners and staff as a way to enhance revenue streams. The proposal, however, is potentially harmful to the viability of retail sales and service enterprises in Crossroads due to overcrowding. The proposed multifamily units

would consume most of the available parking for the shopping center area. Any plan for the area will need to have the support of the neighborhood residents. The plan for the area should focus on retail sales and services and ensure easy access and adequate and safe parking. The long-standing position of the city that additional multifamily housing should be excluded from the Crossroads subarea should be retained.

Mr. Paul Sanders, 2680 169th Avenue SE, said he lives in Beaumont Division 1 overlooking Lake Sammamish and the West Lake Sammamish Parkway. He suggested that the development should be exempted from the critical areas ordinance. The area has panoramic views of the lake and the Cascade Mountains, and the city should not approve any ordinance that is contrary to the adopted covenants aimed at protecting the views. The development was within unincorporated King County until two years ago and was annexed into Bellevue under an illegal state statute that was subsequently thrown out by the state Supreme Court. The critical areas ordinance should be amended to allow the topping of trees, a practice the development has been engaged in for the last 40 years to protect views and the economic value they bring to properties. Before the development was constructed, all of the trees were removed in accordance with the development permit issued by King County. The division was developed with the views in mind; all of the homes face the views. The city has no right to pass an ordinance and take away from the views the property owners have been enjoying for most of their lives. If the trees cannot be topped, the character of the community will be lost. At the September 7 Commission meeting a Commissioner stated that topping trees eventually kills them, but that is not true; a number of trees in the development have been topped for the past 40 years and the lower part of the tree continues to grow; it is necessary to top the trees every three years or so because of the continued growth.

Mr. Steven Colbert, 5710 143rd Place SE, spoke against allowing tree removal and topping in Native Growth Protection Areas and greenbelts to improve individual homeowner views. The issue has come before the Council several times over the past 20 years, and each time it has failed because it is a bad idea. Native Growth Protection Areas and greenbelts are areas set aside to mitigate development impacts and protect forested areas. Cutting or topping trees to improve views goes completely against the purpose of the areas. Topping, trimming up or windowing are not sound forestry practices. The city's forester strongly opposes such practices. Topping has been shown to weaken tree health; it also makes trees look very ugly. In the Forest Park Meadows greenbelt area of South Bellevue, a much better solution was recently implemented. A comprehensive forest management plan was drafted by the city's forester with input from local residents, with the goal of removing unhealthy trees and invasive species and replanting with a healthy mixture of nature plants. The plan was not focused on improving views, but uphill property owners have benefited and are satisfied with the results.

Mr. Frank Klein, 4721 Somerset Avenue, spoke on behalf of the Somerset Community Association, the Somerset Covenant Review Committee, and himself. He suggested that the Parks & Community Services department is not doing everything it can for the safety and benefit of the people who use the park system; they are in fact creating a very dangerous situation and are completely blind to the fire hazards. While trees in publicly owned land should not be allowed to be topped, in many cases they should simply be cut down and replanted with a lower-growing species. Two things are needed by the view communities in Bellevue to keep the property owners and those charged with enforcing the critical areas ordinance from being at each other continually. First, residential owners of view properties should be permitted to top, trim, replace and window any trees located on private properties restricted by covenants without having to get a permit. Second, the critical areas ordinance should be drafted with the rights of those who live under the control of a formal plat in mind. Those who have views paid for the right to have the view at the point of purchase, and they pay again every year in their taxes. They pay a third time in the form of increased maintenance necessary to protect the views. An

ordinance containing unduly burdensome requirements will add another layer of cost. No examples have been found to show that the current practices of maintaining home landscaping has in any way injured the public interest. The city's current practices, however, do offer examples of how the public health, safety and welfare have been compromised. The new layer of government is not likely to be enforced evenly or with parity and will create an unnecessary environment of defiance. It does not meet the test of broad public good.

Mr. Michael Oxman, 13721 Greenwood Avenue North, Seattle, said he is a certified arborist and spoke against allowing topping for views. The city's forestry staff belong to the International Society of Arboriculture, an organization consisting of 18,000 professional arborists; the organization has a great deal to say on the subject of topping and pruning of trees. The American National Standards Institute crown pruning standards call for crown clearing, pruning or reduction in measurable terms. The term "topping" as used in the critical areas ordinance is vague and inappropriate. Regrowth of pruned trees negates the action of topping, and it becomes a futile exercise; trees are genetically programmed to reach a certain height.

Mr. Tim Rogers, 2617 169th Avenue SE, asked the Commission to allow the topping of trees. The residents of Beaumont Division 1 have been trimming and topping trees for view purposes for the last 40 years. Trimmed and topped trees thrive, and the practice improves the neighborhood. By the time the trees must be trimmed again, one cannot tell they were trimmed in the first place. The local residents should be permitted to manage their own neighborhoods as they have always done. He added that a 40 percent slope should not be considered a steep slope; it has a rise of only four feet in 10 feet. The ordinance should be revised to refer to 40 degrees instead, which would be a more reasonable explanation of a steep slope. Additionally, there is a ten-foot limit where slopes are over 40 percent; he submitted that if the section were written to refer to a ten-foot average it would be less ambiguous and less argumentative.

Mr. Dutch Sidentopf, 15723 SE 58th Place, shared with the Commissioners pictures of a property along a protected area in which clusters of maples and firs have been cut down to between six and nine feet. He said the city has been working for a long time to get the property owner involved in mitigation efforts, but the property owner has been non-responsive. The issue is the enforcement capabilities of the city. An adjacent property owner has removed a number of alder in order to re-navigate a natural trail on a city utility road to prevent people from walking on what is part of a city easement. Yet another property owner has effectively blocked the trail with his property fences. The enforcement capability of the city is not going to be great enough to monitor and regulate the amount of variability that will occur if people are allowed to top trees. The city should not rely on homeowners associations as a reliable mechanism for enforcement; such organizations change over time as residents come and go.

Ms. Diane Pottinger, 13626 Main Street, a member of the Environmental Services Commission, said the focus for the past few years has included stormwater, which is one of the things the Utilities Department regulates. She expressed disappointment at the proposed ordinance that will allow tree topping, something that will increase stormwater runoff. The practice is directly opposed to the city's environmental philosophy. She urged the Commission not to allow tree topping on either private or public lands.

Mr. Benjamin (?) Thompson, 1346 Marion Street NE, Olympia, said he works for the Washington State Department of Natural Resources Urban and Community Forestry Program. He said he works with communities all over the state providing assistance in managing community trees and noted that the topping issue is one that comes up all around the state. Across the state cities have learned that topping is in fact harmful to trees and is not a good idea. Topping causes trees to become stressed, weaker, more hazardous, and susceptible to pest and disease problems. Topping trees also creates more stormwater runoff and soil erosion problems.

Some trees can survive being topped, but that does not mean they remain healthy. He provided the Commissioners with a matrix showing what other cities are doing relative to topping. He said both Olympia and Vancouver have launched aggressive education campaigns to stem the tide of topping in their community because they have recognized the negative effects. Bellevue is used as an example because of its legacy of natural resource management; Bellevue has always lived up to its Tree City USA status. If an allowance is created for tree topping in Native Growth Protection Areas, the city would no longer stand out as a good example to follow.

Mr. Allen Toelle, 14845 NE 13th Street, said he has been a resident of the Chevy Chase neighborhood for over 40 years. He said he attended both public meetings on the topic of redesigning the Crossroads Shopping Center area. At those meetings it was stated that the commercial area is currently in a very healthy condition, but is expected to become unhealthy over the next few years. The remedy proposed was to add 900 units of multifamily housing. He said he eats three meals a day and is able to maintain his weight and health; he said eating four meals a day would not make him healthier. Adding housing to the Crossroads Shopping Center will not make it financially healthier.

Mr. Roy Eisenbaum, 12110 SE 16th Place, said his property in the Woodridge neighborhood has a good view. Property values in Bellevue are based on many factors, one of which is views. He said the residents of his neighborhood are diligent in maintaining their properties to make sure the landscaping is well maintained. Over the years the neighborhood has hired various arborists and foresters to provide expertise. On occasion their advice has included topping, a practice which has not proven to harm the trees. Some trees are in an unhealthy condition and need to be topped. The proposed critical areas ordinance is wrong because of its position on tree topping; it should be pulled out and re-thought. The homeowners association has gone to court on the issue in the past and the court has upheld the covenants that are aimed at maintaining views.

Ms. Maggie Bentley, 15027 NE 11th Place, spoke against the proposal to allow up to 900 multifamily housing units in the Crossroads Shopping Center commercial area. She noted that one of the issues raised at the community meeting was the need for better connections between Crossroads Park and the shopping center. She said there is currently a path connecting the two locations, as well as a sidewalk. On another topic, she said the reader board at Interlake High School needs to be replaced but the city's sign code is getting in the way. She suggested that there must be a way for the city to work together with the school district to get the current reader board replaced.

Ms. Burgess informed Ms. Bentley that she will get back to her with information on who to contact about the reader board.

Mr. Ken Schiring, 16223 NE 28th Street, suggested that everything being proposed for upgrading the Crossroads Shopping Center, including the creation of a new circulation pattern, green space, broad entrances, better connections to the park and an amphitheater, can all be accomplished without a Comprehensive Plan change or a rezone action. The only exception is the proposed multifamily housing units. The Crossroads area residents have worked very hard over the years to get in place the restrictions against additional multifamily units, and the reasons behind the restrictions are all still there. Multifamily housing does not necessarily equate directly to increased crime rates, but if the area has the perception of crime, the units likely will not rent well; unfortunately, Crossroads has the perception of crime. The Commission was asked to carefully consider the proposal and to reject the notion of allowing multifamily units.

Ms. Jane Paige, 245 Lake Hills Boulevard, suggested that Crossroads has served as the density dump for the city. It cannot be said with any degree of certainty what will work commercially 35 years in the future. Ten years ago it appeared that big box stores would be the wave of the

future; now big box stores are downsizing. The claim that it will take housing units in commercial areas in the future in order to keep commercial areas viable cannot be substantiated. The Crossroads area is functioning, largely because the community worked very hard to get a community park in place to help compensate for the damage done by too much density. If land use changes are to be considered for the Crossroads area, the considerations should be put off for five years or so until some of the current problems of crime and density can be addressed.

Ms. Pamela Toelle, 14845 NE 13th Street, said her neighborhood is strongly opposed to allowing multifamily housing in the Crossroads Center Plan. In the community meetings a number of drawings have been presented, each with a different layout. The common element in each has been more apartments. It makes no sense at all to propose the addition of apartments in an area where they are prohibited. Before more multifamily units can be allowed, the Comprehensive Plan will have to be changed, and changing the Comprehensive Plan can only occur where the established criteria are met. The criterion of changed circumstances will be difficult to prove given that the circumstances that brought about the current policy prohibition against more multifamily units have not changed. There is a disproportionate percentage of multifamily units in the Crossroads area; that has resulted in a relatively transient population and impacts to both the neighborhood and the schools. There continues to be a very high demand for social services in the community and in the schools. The efforts of staff to present the proposal to the community are appreciated, but the notion of changing the Comprehensive Plan to allow additional multifamily housing should be rejected.

Mr. Eli Kunsman, 5620 University Way NE, said he is employed as a tree trimmer. He said trees that are properly pruned do not die or become hazardous. He said there are two reasons for topping a tree: for views and to provide for powerline clearance. Where there are not views or powerlines, there is generally no reason for topping a tree. When trees are topped, the practice must be kept up on a regular basis. The critical areas ordinance should allow for the topping of trees.

6. COMMUNICATIONS FROM CITY COUNCIL, COMMUNITY COUNCILS, BOARDS AND COMMISSIONS – None
7. STUDY SESSION
 - A. Land Use Code Amendment
– Critical Areas

By way of background, Legal Planner Mary Kate Berens said the critical areas ordinance originally recommended by staff included more flexibility than the current code allows. Under the present code, the pruning of trees in or the removal of trees or vegetation in critical areas is not allowed. The version of the code recommended at the time of the public hearing allowed for pruning and replacing taller growing trees through a Vegetation Management Plan. After hearing from citizens, the Planning Commission modified the code to include an allowance for pruning trees without a permit, and continued to allow for the potential removal of trees provided they are replaced with lower-growing species through a Vegetation Management Plan. In the proposal currently before the City Council, pruning, crown thinning, windowing, limbing and other techniques would have to be in accordance with guidelines approved by the Director. The recommendation of staff continues to be against allowing topping as one of the pruning techniques.

Ms. Berens said the purpose of the critical areas ordinance is to protect the functions and values of critical areas. The functions and values include wildlife habitat, water quality, and improved hydrology. The vegetation in critical areas plays a key role in providing and protecting some of

those functions and values. Opening the canopy in a forest, even under the practices allowed under the proposed ordinance, has an impact. With more clearing, light can reach the understory level which can encourage invasive plants to move in. It is hoped that in their protective state the critical areas will mature and recover from past impacts associated with development.

Ms. Berens introduced Department of Parks & Community Services Director Patrick Foran, Natural Resource Manager Dan DeWald, and Urban Forester Kevin LeClair.

Mr. DeWald said a noticeable change in public attitude was observed in Bellevue in the 1980s. Rapid growth was changing the identity of the community and having an impact on quality of life. There was an increasing loss of natural areas, air pollution was an issue, and water quality was impacted by urbanization. As a result, Bellevue adopted its first sensitive areas ordinance supported by surveys showing strong support on the part of the citizens for the purpose of open space, greenways and critical areas. A major bond issue was approved by the voters in 1988 and the funds were used to purchase natural areas; the purposes included the Mercer Slough, the Lake Hills Greenbelt, Wilburton Hill Park, and many corridors to the south of I-90.

Satellite imagery from 1972, 1986 and 1996 show a decreasing tree canopy cover in Bellevue. Between 1972 and 1986 the number of acres with a tree cover was reduced by 36 percent; between 1986 and 1996 there was an additional 12 percent reduction. The slowed loss of canopy can be tied to the passage of Bellevue's first sensitive areas ordinance and the acquisition of critical areas by the city.

Mr. DeWald said Bellevue comprises 23,000 acres. Of that, 4,300 acres remain heavily forested, primarily in critical areas. Of the remaining heavily forested land, 2,500 acres is in the park system and the balance is under private ownership and they primarily serve as buffers to critical areas. Fully 76 percent of the city's land base now has low canopy cover; that is 17,000 acres. The remaining heavily forested areas must now absorb the full impacts of urbanization. When the Council adopted the first sensitive areas ordinance, the Council directed implementation of the proactive program to manage the city's open space, greenbelts and natural areas, and said the city should not set a precedent of creating, preserving or enhancing private views across city property. It became the city's policy not to prune, cut or remove trees to enhance or create private views. Funding was provided by the Council in 1989 for the Parks Department to implement a forest management program. The foundation for the program is the fundamental belief that natural systems need to be managed with the same skill and diligence as any other community resource in order to achieve their functions and values.

Mr. LeClair commented that much of the forest acreage the city manages is on steep slopes that weave their way through neighborhoods across the city. The city manages some 200 different sites with 250 miles of public/private boundary line abutting 2,500 private properties. The management plans for each area are developed with the wants and desires of the local community in mind. There is a lot of time and energy put into discussing different interests and goals, but public safety, water quality, wildlife habitat and the like always are given top billing.

Mr. LeClair said one of the things always talked about is vegetational succession. In Western Washington there is a set pattern forests go through over time as they mature. They begin with what is called a pioneering forest; in that phase plants colonize a site after there has been a disturbance. That forest is dominated by species like cottonwood, alder, willow and big leaf maple. As the forest evolves, seedlings of conifer trees begin to grow in the shade of the forest floor. Invasive species come in then as well. As the Douglas firs grow up through the canopy of the alders and big leaf maples, they begin to shade out the trees that were there first. Ultimately old growth forest dominates, with fewer, large conifer trees having a closed canopy and very little vegetation in the understory other than ground covers and mosses.

In Bellevue, the middle stage forest where conifers are mixed with alders and big leaf maples maximizes the functions and values of the forest. Wildlife habitat is at its peak, and the rainfall interception and water quality are greatest. From an aesthetic standpoint, the middle forest is most pleasant because it offers the greatest diversity of plant and animal life.

Much of Bellevue's critical areas are dominated by the early pioneering stage. Around the turn of the century the city's old growth forest was logged. No one replanted in those days. The second growth conifer forest was logged again around the time of coal mining and urban development activities. The pioneer forest found in most areas of the city represent the growth that has occurred after the second round of logging. Most of the properties taken over by the city have been in very poor condition due to detrimental practices that have included tree topping, debris dumping and encroachment by ornamental landscapes.

Mr. LeClair said in developing a management program an entire site is studied and a specific inventory is developed. Hazard trees are documented, the boundary ownerships are clarified, and specific management plans are written to guide the implementation of operational activities based on site conditions. Upper slopes are often dominated by scrub trees such as alder and cottonwood, while the lower slopes have more forest differentiation as they move into the middle stage. The management plans developed for sites generally include the removal of the scrub trees and the planting of conifer trees and understory shrubs that will compete with non-native species that want to come in and colonize the site. The competition is also managed on the ground so the scrub trees cannot take over again. The ultimate goal is a mixed forest that maximizes the functions and values of the forest, something that could result in increased value for the surrounding properties by gaining views both through the forest and into the forest.

Mr. LeClair said he is often contacted by residents wanting the city to come out and top trees. He said he is able to say the city does not cut or prune trees on city property. He said he is then able to work with the property owners to explain to them why a forest management plan is the best approach to take for the long run for everyone concerned. The healthy canopy of a mature tree can intercept the first half inch of rainfall during a rainstorm. If trees are topped, the rain is not captured and falls to the ground, increasing the storm runoff levels.

Mr. Foran asked the Commission to reevaluate the proposal forwarded to the Council and consider revising it to require forest management plans for all Native Growth Protection Area tracts. Such plans should not include any authorization for tree topping as an appropriate operational practice. The city's practice of not cutting, pruning or removing trees solely for the purpose of views on Native Growth Protection Area tracts should be upheld. What happens on private properties is a different issue altogether.

Commissioner Lynde noted that a recommendation from the Commission has already been forwarded to the Council; she asked if the Commission could act to revise that recommendation. Ms. Berens said the Commission is free to do that. The Council has not yet acted on the original recommendation and will welcome any additional guidance from the Commission.

Commissioner Lynde commented that the Commission heard from a number of citizens concerned about their ability to top trees in order to preserve and enhance views, and the Commission chose to include in its recommendation to the Council a provision to allow the practice. That position, however, has the unintended consequence of gutting one of the principle legs of the critical areas ordinance and compromising the functions and values of the buffer areas. She allowed that she lives in a view area where topping trees is necessary to maintain views. Once topped, trees do not serve the functions of providing habitat and protecting stream corridors and wetlands. She proposed backing off from the earlier recommendation and

allowing for the topping or pruning of trees only in areas where covenants have existed for a number of years. There are areas where the trees have been topped for 40 years, and continuing that practice will not ultimately hurt a lot of habitat in those areas. Tree topping and pruning should under no circumstances be permitted to occur in Native Growth Protection Areas for any reason.

Commissioner Mathews expressed hesitance toward allowing the practice in some areas but not in others. City policies should be equitably applied in all areas of the city.

Ms. Berens confirmed for Chair Bonincontri that the ordinance as proposed allows for tree pruning and topping in all critical areas, including steep slopes and buffer areas. Chair Bonincontri suggested that even so no citizen would be allowed to prune or top a tree on city-owned land without permission, and regardless of what the code allows the city would have the final say on what should be done on its property. She asked if all Native Growth Protection Areas are owned by the city. Ms. Berens explained that Native Growth Protection Areas and Native Growth Protection Easements are mechanisms used to impose restrictions on properties that have critical areas. They are usually imposed at the platting stage to make clear to future property owners that there are certain restrictions involved. Where the Native Growth Protection Areas are located on tracts, they are usually owned by homeowners associations or by the owners of the lot and the plat in common. Frequently, the protected tracts have been turned over to the city for management, though there are some tracts that have not been turned over to the city; those continue to be maintained by homeowners associations. Native Growth Protection Easements typically cross individual property owners' lots and are managed by them. The easements are recorded on the plat.

Ms. Berens said the language as proposed would not force the Parks Department to do any pruning outside of their management policies. The concern, however, is that the proposal sets up the expectation that such properties can be managed for views, and it sets up an inequity between those property owners and subdivisions that have turned their Native Growth Protection Area plats to the city for management and those who have not. Over time, it may be that property owners and subdivisions will be less likely to want the city to take over management of Native Growth Protection Areas if they feel they will lose their ability to manage for views.

Mr. Foran said the job of the Parks Department is to implement public policy. It is always in the best interest of the public to have the public policy be stated in the clearest possible terms. In every neighborhood in the city there are opinions on both sides of the issue of whether or not trees should be cut or not, and each side will be able to cite legitimate reasons given their individual perspectives. The public policy should be based on the purpose for having Native Growth Protection Areas and Native Growth Protection Easements, which is to protect the functions and values of critical areas. It would be an untenable situation to have a policy that would leave to individual property owners the decision of managing the protected areas. The consensus approach taken with property owners and homeowners associations throughout the community is to work with the affected property owners to develop forest management plans that balance all of the competing interests. That approach has proven to be very successful. Where it has not been possible to reach a consensus opinion in neighborhoods where the overriding issue is cutting trees exclusively to enhance and preserve views, the Parks Department has always fallen back on the public policy that is opposed to that approach.

Mr. DeWald said stream corridors and wetlands provide an environmental backbone for the city. The critical areas ordinance provides the policy guidance for tying the system together. Not all of the 4300-odd acres left along the stream corridors is in public ownership. In order to create a system that allows for connectivity, it is necessary to treat the private critical areas the same as the public critical areas. Where the disparate areas complement each other, the city's

environment is able to achieve its highest function, and the overall community will benefit as a result. If the components are fragmented, a great deal of pressure is put on certain segments when it comes to absorbing the impacts.

Mr. Foran said the motivation for homeowners associations who have chosen to transfer management of Native Growth Protection Areas to the city has been the realization that they will save money in the long run while still having the bulk of their interests addressed by the development and implementation of a forest management plan.

Senior Environmental Planning Manager Michael Paine said his staff have worked diligently with neighborhood associations to come up with management plans and have been successful in developing plans for areas that are environmentally valuable both to the city as a whole and to the individual neighborhoods. The pruning and topping policy that is contained in the proposed ordinance would completely undercut those efforts.

Commissioner Orrico said it was never her understanding that the allowance for pruning and topping applies to Native Growth Protection Areas. She said the focus was on individually owned properties where historically topping has been the norm. Bellevue is an urbanized area, and there needs to be a balance between the protections offered by the critical areas ordinance and the rights of property owners to continue using their properties as they have for many years.

Commissioner Sheffels asked if allowing pruning and topping for views will set a precedent for property owners to prevent the locating of power poles or buildings where they will block views. She added that where one person's views may be enhanced by topping a tree, the neighbor may view the topped tree as an eyesore. Ms. Berens allowed that the code does not generally address view preservation because opinions as to what constitute a view vary from person to person. The placement of buildings on a property are not determined based on anything other than the required setbacks, and height is restricted solely based on what the code allows. She proposed that the critical areas ordinance should not include language allowing the pruning or topping of trees for view preservation purposes in order to continue that philosophy and to make it easier to administer.

Commissioner Robertson suggested that the Commission should clarify the intent of the pruning provisions of the critical areas ordinance that has been forwarded to the Council. She agreed with Commissioner Orrico that the contemplation of the Commission to permit pruning applies only to private properties, not Native Growth Protection Areas, and is allowed without the requirement for a critical areas permit and a Landscape Management Plan. What needs to be clarified is whether or not the pruning language as drafted includes topping. She said in her view the language is intended to include topping; the minutes of every Commission meeting on the subject reflect that the focus was on both pruning and topping.

Commissioner Sheffels said it was her recollection that what the Commission had forwarded to the Council included the notion of requiring a permit and some level of oversight to guarantee acceptable methods of pruning. There has not been testimony from any of the experts to bolster the notion that topping is an acceptable method of pruning. Where a permit is required, the Director will have the say as to what is acceptable. She said it was never her understanding that pruning and topping should be allowed outright on either private or public property, and certainly not in critical areas.

Chair Bonincontri agreed that the Commission never intended to include Native Growth Protection Areas as places where pruning is permitted. She further agreed that the position of the Commission with regard to whether or not pruning includes topping should be clarified.

Ms. Berens said the language written into the draft code does not specifically include topping because the practice can only rarely be managed in a way that will ensure the continued survival of the tree. The language focuses on pruning techniques that will ensure the continued survival of the tree. The pruning guidelines to be developed by the Director will be written with input from the experts. She allowed that the code as drafted and forwarded to the Council does not require a permit for pruning, but the pruning must be in accord with the guidelines developed by the Director.

Mr. Paine commented that beyond trimming and topping trees in critical areas to enhance and create views, the same approach could be used to open the canopy and let in more light. Without some consideration of the impacts, that practice could completely change the benefit of the critical area with respect to stream temperature and other issues. With an approved stewardship plan, some less harmful pruning could be permitted to occur.

Commissioner Orrico said she could find no reference in the minutes to the notion of pruning excluding topping. The discussion was focused on allowing pruning and topping in areas where property owners have historically topped their trees for view preservation. She stressed that such pruning and topping should be allowed only on private property, not in Native Growth Protection Areas.

Mr. LeClair said the American National Standards Institute standards do not include topping as a pruning technique; topping is not considered to be pruning in the classic sense. People do top trees, and a large number of those trees continue to live for many years, provided the right techniques are employed. Trees cannot be topped, however, in a way that will permanently reduce the height of the tree; trees are genetically programmed to reach a certain height. Trees that have been topped are noticeable, especially if they do not get re-topped over time. The exclusion of topping from the definition of pruning is because it is not considered to be an acceptable practice.

Mr. Foran suggested the Commission should clarify its intent with regard to the desired outcome of pruning and leave to staff the task of crafting ordinance language that will achieve that outcome.

Mr. DeWald commented that the newly annexed areas around West Lake Sammamish Parkway were platted more than 40 years ago at a time when there was no such thing as a Native Growth Protection Area or Native Growth Protection Easement. There are isolated steep slopes areas with trees that have been managed by topping over time. Where those trees are located on private property, the property owner should have the right to continue with the practice. The opinion of the Parks Department, however, is that trees that continually need to be topped are the wrong trees in the wrong place and should be cut down and replaced with a lower-growing species. In the long run, that practice would be less expensive. In Native Growth Protection Areas, however, topping should never be allowed for any area.

There was consensus that the language of the ordinance should be clarified to state that pruning activities in Native Growth Protection Areas is not permitted.

Answering a question asked by Chair Bonincontri, Ms. Berens said the city currently manages landslide hazard areas and will continue to do so under the proposed ordinance language. The definition of steep slopes does not broaden the proposed ordinance; the definition of what constitutes a landslide hazard area is changed in the proposed ordinance to match the best available science, though the impact on private property owners with regard to restrictions against removing vegetation in landslide hazard areas is no different than under the current code. As written, the proposed ordinance allows pruning without a permit on individually owned

properties in all critical areas. Chair Bonincontri said the issue of determining whether or not a property is within a geologically hazardous area or not remains.

Commissioner Lynde asked if a property with a drop of 20 feet in 30 feet would be considered a critical area. Mr. Paine said a property with a slope that steep would certainly be deemed a critical area. It could be removed from critical area status, however, through a critical area report; with the area removed from critical area status, the issue of pruning any trees in the area would be eliminated. The geotechnical engineer, however, would likely advise against cutting down all the trees on the slope.

Commissioner Lynde asked if there are lower-growing native species that provide for good soil stability. Mr. LeClair said vine maple, hazelnut and Indian plum are good examples.

Commissioner Bach suggested that continued topping every few years of trees that have been continually been topped for the last 40 years can be considered to be pruning. Topping generally refers to the lopping off of the top of mature trees; pruning is more focused on maintaining a certain height over time. Mr. LeClair said his recommendation to property owners who must every few years re-top trees is to cut the trees down and replace them with a lower-growing species. Topping is always more expensive than pruning, which by definition is focused more on shaping a tree and does not need to occur very often. If a person wants to continue topping the same trees year in and year out on their own properties, they should have the right to do so, but it is not the right thing to do for the tree.

Commissioner Lynde asked if the city is able to identify in a general way the neighborhoods in which the soils are not prone to sliding. Mr. Paine said the potential landslide hazard areas were identified as part of the critical areas policy work; they are all where they might be expected to be along Lake Sammamish and Lake Washington and some places in the Cougar Mountain area. There is the potential for a landslide hazard on any site, however, given site-specific conditions and property owner actions, such as the discharge of water onto steep slopes.

Ms. Berens commented that the proposed ordinance defines a number of different critical areas, including geologic hazardous areas, wetlands, streams, shorelines and frequently flooded areas. She suggested that there is no reason to marry the pruning issue to landslide hazard areas, because as drafted the ordinance allows pruning in all five of the critical area categories without a permit. It would seem the most straightforward to simply say whether or pruning should be allowed in each category as they are currently defined.

Commissioner Mathews reiterated his opposition to allowing pruning and topping. He said the prudent approach is to have the property owners work with the city to develop vegetation plans to address the need to maintain a tree canopy and protect critical areas. To chip away at requirements will ultimately harm the desired outcomes and objectives. By working together, both the property owners and the city can achieve what they want. Wholesale pruning should not be permitted absent working with the city to determine the best approach.

Answering a question asked by Commissioner Lynde, Ms. Berens said the city has worked with a number of communities to develop Vegetation Management Plans. Property owners would not be left to their own devices if the ordinance were to require Vegetation Management Plans in critical areas. Existing plans could be used as templates. Commissioner Lynde suggested that if a property owner follows the guidelines established by the Director, which are aimed at protecting the functions and values of critical areas, no permit should be necessary. If the guidelines are not followed, the city should follow up with enforcement actions.

Commissioner Orrico said there is no way the city would put out a brochure that says topping

trees is okay. Ms. Berens said staff could develop a brochure that outlines proper pruning techniques and guidelines to be followed, and could also make it relatively simple to work with the city in developing a Vegetation Management Plan based on a template that will allow for the replacing of trees that need to be continually topped. Commissioner Orrico agreed that that approach would be the best for all involved, but added that the city would have a very difficult time enforcing it. The owners of private property should be allowed to maintain their trees as they have been doing for years.

Chair Bonincontri called for a show of hands with regard to allowing pruning in geologic hazard areas; Chair Bonincontri and Commissioners Lynde, Robertson and Orrico were in favor, and Commissioners Bach, Mathews and Sheffels were opposed.

The Commission then discussed whether it should add the word “topping” to the ordinance language. Mr. Foran commented that “topping” is a term that is used in the industry; it is defined as radically amending a tree to the extent necessary to achieve a purpose that is not related to the health of the tree. Crown reduction is a term that relates to reducing the overall height of a tree in a proportional manner; there are standards relating to crown reduction that are recognized as pruning techniques. Crown reduction is a fundamentally different action from topping.

Mr. LeClair allowed that the American National Standards Institute has guidelines for tree pruning. Power companies have traditionally topped trees to keep them out of powerlines, but owing to complaints by their customers they have begun to revise their practices. A number of utilities adhere to the tree line program that prunes trees instead of topping trees for line clearance. The practice trims trees back to growth points the trees can respond to; the health of the tree is maintained, and the objective in height reduction is achieved.

Chair Bonincontri said she would prefer to use the term “vegetation height maintenance” rather than the word “topping” in the ordinance language.

Commissioner Mathews proposed that changing the terminology in the ordinance but not the intent will not address the root issue.

Ms. Berens pointed out that the phrase “tree topping” as used in the industry and the phrase “to maintain the health of the tree” are diametrically opposed and should not be used together. She suggested allowing staff time to review the American National Standards Institute materials and bringing back to the Commission terms of art and pictures to review.

Commissioner Robertson argued against using language that only allows a property owner to maintain the height of a tree given that some may want to actually reduce the height of a tree. At the same time, people should not have to have Vegetation Management Plans and a critical areas permit in order to trim their trees for views. She agreed that all pruning must be done in a manner that will not kill the tree. The language of the ordinance should be worded something along the lines of “...the pruning of existing trees and vegetation, including pruning to reduce the height or width of the tree, shall be performed in accordance with guidelines established by the Director....”

Commissioner Sheffels pointed out that if a permit were required for pruning, the city would be permitted the opportunity to discuss with the homeowner seeking a permit the development of a Vegetation Management Plan that would be better in the long run for all concerned. The permit should apply even for re-topping trees that have been topped for years and years.

Ms. Berens suggested letting staff work on establishing pruning guidelines and discuss them on

November 9. The Commission concurred with the suggestion.

B. Comprehensive Plan Amendment
– Crossroads Center Plan

Ms. Burgess noted that the planning principles shown beginning on Page 2 of the Commission packet were used to help form the basis for the various alternatives. She said staff has been very happy to see the high level of community interest in and awareness of the Crossroads Center Plan.

Ms. Burgess informed the Commission that following the September 13 community meeting staff received a lot of comments from the community that the study timeline is too short. Staff has agreed to slow down the process and not include the amendment in the 2005 CPA package of amendments, allowing for more time for the technical and community analysis. Staff has also been hearing a great deal of concern on the part of local residents about the proposal to allow additional multifamily housing units.

There have been a series of meetings to date with neighborhood groups. In each meeting the alternatives have been outlined, and those present have been asked to comment on them. It has been clearly stated that none of the options has been selected. Some have commented that Crossroads as it exists is okay but think the level of additional development proposed will not be healthy for the area. There have been concerns voiced about safety, schools, area stability, the park, and traffic. As part of the study, staff is working with the police department to determine existing conditions, and traffic modeling is being done. Whatever the final outcome of the study, all of the elements will need to work both in the present and into the future. Most of the analysis will be completed by November 30 and will be presented to the Commission on that date.

Commissioner Orrico asked where the proposal to include housing came from. Ms. Burgess said there is no single source. Crossroads Shopping Center owner Ron Sher has indicated an interest in having a residential component to help level out the economics of the site. Associate Planner Steve Cohn added that in looking at what will fit on the 60-acre site, the consultant developed the 900-units number. He said the number is not suggested for the site; it is only a number used for scenario purposes.

From a policy perspective, the area is not appropriate for office uses, and the site is unlikely to redevelop with those uses due to its geographic location. Mr. Sher and others are clear that additional retail stores will not naturally gravitate to the area either. Residential uses will diversify the income stream and even out the market over time; that works well for both the property owner and the lending institution.

Mr. Cohn said the mix of rental and condominium units that might develop on the site will ultimately be up to the individual property owners; the zoning does not control residential ownership. Mr. Sher has indicated a preference for rental units, but nothing is set in stone. Ms. Burgess added that the study is contemplating market-rate units that will demand higher rents, not low-income units or any form of subsidized housing. Structured parking will be required, and in order to afford that it will be necessary to build amenities into the units that will generate higher rents. Even if developed as condominiums, they will likely be targeted toward the higher end of the price scale.

Commissioner Lynde said she would like to see a scenario developed that includes no residential units at all, or at least substantially fewer units overall. She noted that in looking at future land uses for a particular area, there is no guarantee that current ownership patterns will continue. Accordingly, the Commission must focus on land uses alone, not proposals put on the table by

specific property owners. Mr. Cohn concurred, noting that there are no specific plans that have been brought to bear by any of the current property owners. He added that the anticipation is that some tight design guidelines will be developed for the area to help inform the public what will ultimately come out of the process.

Commissioner Sheffels said she also would like to see a scenario developed that includes no multifamily housing units. She said the city has made a promise to the community that should be taken into consideration.

Commissioner Sheffels asked what is generating the perception that things should not be changed in the Crossroads area. Ms. Burgess said what staff has heard is there is the perception that the Crossroads area has a high crime rate and schools that are in trouble. Concerns have also been raised about what the proposal would do to traffic and how it would impact the park. Staff has no intention of touting a plan that will cause crime rates to soar or traffic to get worse.

Commissioner Mathews said he cannot say with any certainty what number of housing units is right for the site. In looking 20 to 30 years out, it must be recognized that the city will continue to grow and that additional housing will be needed. The Downtown area will not be able to handle the entire housing load and places to put additional units will have to be ferreted out. The Commission should be open minded and should not automatically rule out the Crossroads area as right for mixed use development that includes housing units.

Commissioner Lynde urged the staff to supply the Commission with legible zoning maps and a rough analysis of the existing uses on the ground.

Commissioner Bach commented that several of the apartment complexes in the Crossroads area have changed hands recently; some are slated for conversion to condominiums. Over time as the complexes are sold for higher and higher prices, it will become necessary for the new owners to increase the rental rates; that will mean that the low-income nature of the units will gradually change over time, and that will have an impact on the entire neighborhood.

Chair Bonincontri stressed that the desire of the city is to improve the overall quality of the Crossroads area through revitalization. She agreed that the options should not be overly limited up front. She asked staff to supply the Commission with examples of what some older developments have done to maintain their vitality.

Ms. Burgess said the issue will be back before the Commission on November 30.

11. PUBLIC COMMENT

Mr. Barton Ellison, 17104 NE 5th Place, said he knows several people who worked on the Comprehensive Plan many years ago and who hold the belief that absolutely no additional multifamily units should be allowed in the Crossroads area. While that approach may be a bit extreme, there are areas within the Crossroads community where additional housing units could be constructed without being as disruptive as they would be at Crossroads Shopping Center. The consultant's concept with 900 housing units is so drastic that commercial uses take a back seat to the housing units. The area where the Catholic residential units are, and across the street where there is a strip mall, are potential areas. The businesses now located in the strip mall area could be relocated to the shopping mall. The properties along 156th Avenue NE where the donut shop and the convenience store is located may be right for redevelopment, but for business uses, not housing. No attempts should be made to shoehorn housing into retail/commercial areas.

Ms. Pamela Toelle, 14845 NE 13th Street, said all of the apartments in Crossroads from 164th

Avenue NE to 136th Avenue NE between NE 8th Street and Northup attend the Crossroads schools, as do those who live in the apartments in Bridle Trails on 148th Avenue NE north to the city limits. The three neighborhood schools in Crossroads have an average of 45 percent free and reduced lunch students, and a very high percentage of ESL students. That is not a changed circumstance; it was the same when the policy against additional multifamily housing units in Crossroads was established. The transient nature of the apartment dwellers has had an impact on the stability of the neighborhood. Making the apartment units fancier will not change that. Crossroads does not need any more apartments.

Mr. Frank Klein, 4721 Somerset Avenue, suggested the position taken by the Commission with regard to landscape maintenance by private property owners is not working. The city is overstepping its legal bounds, and some day a citizen will take on the city in court and will ultimately win the day. It is simply not necessary to go there; the way out is to let private property owners tend their properties in accord with local covenants.

Mr. Dutch Sidentopf, 15723 SE 58th Place, suggested that the discussion relative to trees mirrors almost identically the discussion that occurred many years ago about tobacco use and seatbelt use. In both of those cases it was found that there was a public good that outweighs the rights of a few. Where the environment is concerned, the public good must outweigh individual rights to views.

8. NEW BUSINESS – None

9. OLD BUSINESS – None

10. APPROVAL OF MINUTES

A. September 7, 2005

Motion to approve the minutes as submitted was made by Commissioner Orrico. Second was by Commissioner Mathews and the motion carried unanimously.

12. ADJOURNMENT

Chair Bonincontri adjourned the meeting at 10:31 p.m.

Chair of the Planning Commission

Date

Staff to the Planning Commission

Date