

CITY OF BELLEVUE
BELLEVUE PLANNING COMMISSION
MEETING MINUTES

April 28, 2004
7:00 p.m.

Bellevue City Hall
City Council Conference Room

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

COMMISSIONERS ABSENT: Chair Schiring

STAFF PRESENT: Nicholas Matz, Mary Kate Berens, Department of Planning
and Community Development

GUEST SPEAKERS: None

RECORDING SECRETARY: Gerry Lindsay

1. CALL TO ORDER

The meeting was called to order at 7:03 p.m. by Vice-Chair Lynde who presided.

2. ROLL CALL

Upon the call of the roll, all Commissioners were present with the exception of Chair Schiring who was excused.

3. APPROVAL OF AGENDA

The agenda was approved by consensus.

4. STAFF REPORTS – None

5. PUBLIC COMMENT - None

6. COMMUNICATIONS FROM CITY COUNCIL, COMMUNITY COUNCIL, BOARDS
AND COMMISSIONS - None

7. STUDY SESSION

- A. 2004 Update to the Comprehensive Plan
– Environmental Element

Mary Kate Berens, Legal Planner, noted that the Planning Commission had several study sessions in October 2003 concerning the work done by the Critical Areas Citizens Advisory Committee (CAC), which was focused on revising the entire Environmental Element to bring it into compliance with the requirement of the Growth Management Act to use the best available science in all policies and regulations. The Commission offered only a few revisions to the recommendation of the CAC at that time.

Continuing, Ms. Berens said in anticipation of developing the regulatory piece to implement the Environmental Element, staff has begun drafting Land Use Code language. That effort has caused staff to focus closely on how the policies will be implemented, especially the two-zone approach. As recommended by the CAC, the two-zone approach deals most specifically with the regulations that govern uses and structures on properties immediately adjacent to a critical area. Typically such areas are regulated by buffers. The CAC-suggested two-zone approach is very innovative. It divides the area into two pieces: the Protection Zone, which functions much like traditional buffers in limiting the amount of development and the number of uses allowed; and the Conservation Zone, in which the regulations would be more flexible in allowing uses and development subject to regulations and incentives more protective of the critical area than the more generally applicable citywide regulations. The CAC talked about imposing impervious surface limits within the Conservation Zone, and regulations more protective of vegetation.

In preparing regulations to implement the two-zone concept, staff outlined the kinds of regulations that would apply in the Conservation Zone. Those regulations were to be designed to allow the uses of the underlying land use district, and were to focus on flexibility, incentives and requirements to ensure the most sensitive site design. With flexibility and protection of the critical area as the main goals of the Conservation Zone regulations, staff developed a hierarchical approach to regulations in that area that placed the highest priority on retaining undisturbed that portion of the Conservation Zone immediately adjacent to the Protection Zone because many of the protections offered by a buffer come from the intact nature of the buffer. Intervening structures or other disturbances can interfere with some of the water quality and vegetation recruitment functions of a buffer.

As an example of how these regulations might work, Ms. Berens said the Land Use Code provisions would require a certain amount of vegetation within the Conservation Zone to be retained or provided, and would prioritize placement of that vegetation nearest the Protection Zone. But flexibility would dictate allowing the required vegetation to be located elsewhere on the site in order for a property owner to get reasonable use of the property. Similar priorities would be established for placement of structures and other impervious surfaces and for the location of other disturbed areas. As a result of this flexible approach, and the best available science indications that a fragmented buffer may be less able to provide some of the protections of a contiguous buffer, regulations would de facto lead to the establishment of a wider Protection Zone on a given property.

Because the result of development on the ground will look much the same under either approach, and because the two-zone approach results in a lack of predictability, staff is recommending having only a Protection Zone, albeit it a wider one than is required under the current regulations. Ms. Berens said staff envisions reevaluating the vegetation retention requirements and adopting an impervious surface standard citywide.

Commissioner Mathews asked if best available science will be used to determine the width of buffers in different areas depending on the type of critical area. Ms. Berens said that will be the basis for determining buffer widths. She allowed that there is wide disparity in best available science recommendations for any given resource. For streams in particular a wide range of buffer widths have been recommended depending on the kind of benefit the buffer is to provide. In addition to best available science, staff will develop recommendations for buffer widths based on the nature of adjacent parcels and other factors. Commissioner Mathews observed that fixed

measurable limits will not necessarily work because the conditions to some degree determine how wide the buffers should be. Ms. Berens said a fixed limit will be determined for each type of resource, but flexibility will be built in to allow individual property owners to be creative in proposing approaches that will work just as well.

Commissioner Bonincontri asked if the existing setbacks will be expanded to some degree. Ms. Berens said staff envisions expanding the setbacks for some resources, such as streams, in order to meet best available science and address the deficiencies in the current buffers. Commissioner Bonincontri asked if more restrictions will be imposed as well, and Ms. Berens allowed that the current buffer is quite restrictive when it comes to uses. The biggest change will likely be in relation to existing development that encroaches into buffers and focus on when expansion will and will not be allowed.

Commissioner Maggi asked where the new regulations will apply primarily, and how often staff comes across situations involving new development or redevelopment associated with critical areas. Ms. Berens said the two-zone approach would apply to all critical areas, not just streams, though it would have the most impacts in areas where there are streams. Where applications for redevelopment along streams has been very limited in years past, more and more such applications are being filed now; there are currently three under review. The same is true for lakes and shoreline areas.

Commissioner Lynde noted that a meeting with the CAC was held on April 19. At that meeting staff outlined their concerns. The CAC members were not asked at that time to approve or deny the staff approach. She said that though she understands the dilemma, much will depend on where the numbers fall and what protections are necessary.

From the audience, CAC Chair Nan Campbell said the group had some real concerns following the staff presentation. In developing the two-zone approach the CAC had thought that within the Conservation Zone the city could require a pervious surface driveway and other approaches. The two-zone approach had been proposed by staff to the CAC in the first place, though the CAC embraced the concept. Ultimately the Council will make the final decision.

Commissioner Robertson said she would like to hear a response from the CAC to the staff proposal to back off on the two-zone approach. She allowed that the one-zone approach would be much easier to draft regulations for and to implement. However it falls out, the regulations should provide the same level of protection envisioned by the CAC.

Commissioner Bonincontri indicated that she was still on the fence wavering between the two approaches. The two-zone approach allows for more creative approaches to development and redevelopment. She said she would want to know more about what protections the staff option would provide and how they compare with the recommendation of the CAC.

Ms. Berens said the best available science component is driving the staff decision to a large degree. The ultimate approach will have to pass the best available science test. That test when applied to the two-zone approach is difficult to pass because of the flexibility inherent in the Conservation Zone and the lack of certainty about where development would ultimately be

permitted. Staff will be coming forward with a recommendation that will include increasing the size of the buffers to increase the level of protection.

Answering a question asked by Commissioner Mathews, Ms. Berens said if someone were to want to build into the Protection Zone on vacant land, the only way it could be permitted would be through a biological evaluation. The property owner would have to demonstrate that their proposal will provide as much protection as the buffer requirement. Where there is existing development within a Protection Zone, the regulations will not preclude expansion, repairs or replacement under either set of regulations; a preference will be created for any expansion to occur first away from the resource, then along the line of the existing structure, next within the existing footprint, and only as a last resort closer to the resource.

Ms. Berens said the two-zone option was considered by King County, but ultimately it was either eliminated entirely or recommended as part of the rural piece but not the urban piece, presumably for a lot of the same reasons staff has identified. Ms. Berens agreed to bring back further information about the specific outcome of the two-zone approach in the King County proposal.

Commissioner Lynde suggested that before the Commission is asked to make a final recommendation there should be an attempt made to determine what other jurisdictions, if any, are using the two-zone approach and what their experience with it has been. Ms. Berens allowed that there should be time to get that information prior to the July 7 public hearing.

Commissioner Mathews said he would be reluctant to revise the CAC recommendation without good reasons for doing so.

Commissioner Bach said he would like to see some good examples for how each approach would work. He added that he is all for flexibility for landowners but understood the need to evenly implement whatever approach is ultimately chosen. It would be good to have quantitative measures for each buffer depending on what is being protected.

Commissioner Lynde commented that one of the challenges to quantifying the functions and values of buffers is that there are so many variables involved. A 100 percent vegetative buffer could even fall short if the wrong vegetation were used. The CAC utilized an excellent table showing functions and values, and she suggested that it might be helpful for the Commission to see that table.

Commissioner Maggi asked why any flexibility should be permitted to allow development to occur closer to the resource, especially if the whole idea is to protect the resource. Ms. Berens said the approach is allowed under the current regime, and there is some recognition of the fact that many properties are nonconforming. To avoid forcing those properties from degrading in place, it will be necessary to allow for both restoration and expansion. Commissioner Maggi said she would prefer to see a system that is not based primarily on negotiations and tradeoffs.

Commissioner Lynde thought it would be helpful for the Commission to review the regulations being proposed by King County.

B. 2004 Update to the Comprehensive Plan
– General Element Updates

Nicholas Matz, Senior Planner, said the general reference element updates involve issues not related to other elements. There are two main issues involved in the general element updates: 1) clarifying policies and updating the discussions, charts and references, including updating the format of the plan; and 2) deleting the Evergreen Highlands Subarea Plan and incorporating the relevant parts within the city limits into other subarea plans.

Four specific amendments will be needed to reach that goal. First, a new format for the plan is envisioned in order to improve electronic readability and usability. A number of policy discussion paragraphs will also be changed to eliminate references which are quickly outdated, and to delete or update things that are no longer accurate.

Mr. Matz said the other three amendments include combining the Downtown Subarea Plan and the Downtown Transportation Plan; amending site-specific discrepancies between zoning and Comprehensive Plan designations for sites in Wilburton and Bridle Trails; and deleting the Evergreen Highlands Subarea Plan, including the maps. With regard to the latter, the portions within Bellevue will be moved into the Northeast Bellevue and Crossroads subarea plans, along with the relevant policies.

The Commissioners were informed that the Land Use Division has had some concerns about policy CP-5. As it exists, the language is fairly direct, and there is some confusion about which set of criteria are to be used. The actual regulatory criteria needs to be consistent with the Comprehensive Plan, so land use decisions can be bounced back to the specific list under CP-5. The concern is that at the site-specific or conditional use level it may be necessary to go through two sets of criteria which may or may not ultimately end up in the same place.

The proposed revision to the policy left intact the considerations but buffers them with a purposeful policy statement and an added discussion paragraph.

Commissioner Lynde noted that one of the policies shown on page 48 of the packet refers to the “Sherwood Forest Neighborhood,” while another policy on the same page refers to the “Sherwood Forest Community.” She suggested that both references should be consistent. Mr. Matz concurred.

Commissioner Robertson noted that some policies reference “Bel-Red Road” and some reference “Bel-Red.” Mr. Matz agreed that those references should also be consistent.

With regard to policy CP-5, Commissioner Robertson said she referenced the policy in her testimony before the Hearing Examiner regarding the Sunset Village matter. She said the policy as written is good and should not be revised as proposed. The policy contains a specific list of items that should be considered to determine whether a project is consistent with the Comprehensive Plan. As proposed, consistency with the Comprehensive Plan would not necessarily be required. The proposal is too limiting. Mr. Matz said the Commission was not being asked to make a decision regarding the policy, but noted that the issue is to be added to the list to be reviewed.

Answering a question asked by Commissioner Mathews, Mr. Matz explained that in making a conditional use or rezone decision, a list of specific criteria must be met. The more site-specific the issue, the more specific the criteria become. One of the main criterion is consistency with the Comprehensive Plan. Usually that is interpreted to be a very wide term necessitating a qualitative discussion. The concern is that the list of decision criteria under CP-5 includes a requirement to see even more decision criteria, and the result is confusion and additional burden for all involved.

8. OLD BUSINESS

Commissioner Robertson said the file before the Hearing Examiner does not include a single comment in favor of the Sunset Village conditional use permit, with the exception of the staff report and the application itself. The Hearing Examiner has until May 13 to issue a decision. Any person desiring to appeal the Hearing Examiner ruling will have two weeks following that date to file an appeal with the City Council. The argument of staff is that the underlying zoning should rule, not the Comprehensive Plan, but Commissioner Robertson said she argued that point because the first criteria for approving a conditional use is consistency with the Comprehensive Plan. She said the hearing ran very late given that the applicant took nearly two hours presenting his position.

9. NEW BUSINESS

The Commission briefly reviewed the schedule of upcoming meetings and the topics to be covered.

10. PETITIONS AND COMMUNICATIONS – None

11. ADJOURNMENT

Commissioner Lynde adjourned the meeting at 8:29 p.m.