

CITY OF BELLEVUE  
BELLEVUE PLANNING COMMISSION  
MEETING MINUTES

December 11, 2013  
6:30 p.m.

Bellevue City Hall  
City Council Conference Room 1E-113

COMMISSIONERS PRESENT: Chair Tebelius, Commissioners Carlson, Ferris, Hamlin, Hilhorst, Laing

COMMISSIONERS ABSENT: None

STAFF PRESENT: Paul Inghram, Janet Lewine, Department of Planning and Community Development; Carol Helland, Mike Bergstrom, Department of Development Services; Camron Parker, Emily Leslie, Department of Parks and Community Services

GUEST SPEAKERS: Jon Talton, *Seattle Times*; Greg Johnson, Wright Runstad

RECORDING SECRETARY: Gerry Lindsay

1. CALL TO ORDER

The meeting was called to order at 6:35 p.m. by Chair Tebelius who presided.

2. ROLL CALL

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

3. SPEAKERS EVENT - Economic Growth & Development

Chair Tebelius welcomed Jon Talton, economics columnist for the *Seattle Times*.

Mr. Talton commented that Bellevue has created a success story within a success story. Metropolitan Seattle is one of the most successful metro areas in the country and one of the most prosperous places on the planet, and within its sphere Bellevue has risen to become an amazing community in its own right with much to be proud of.

The area is facing unprecedented competition for the very reason that every place in the world wants what Seattle and Bellevue have. The next 30 years will not be a repeat of the past 30 years for a host of different reasons.

Mr. Talton cautioned against letting growth be Bellevue's god. Population growth is not as important as growth in the number of patents Bellevue companies hold, growth in venture capital, growth in the ratio of PhD's per capita, and growth in the number of people completing high school and going on to higher education. Population growth brings with it heavy carrying costs. Bellevue and the region are competing for talents and capital, assets that are mobile and can go anywhere; the competition is worldwide, not just nationwide. There is a natural competition between downtown Bellevue and downtown Seattle, and between Bellevue and

other Eastside cities, that is to some degree unavoidable, but unless the entire metro pie keeps growing, no one jurisdiction will prosper; metro cannibalism should be avoided and thinking regionally is healthy.

Quality urbanism should be embraced. Sprawl is costly. During the recent recession sprawl cities did poorly, and for a host of reasons it will continue to do poorly into the future. Bellevue is a good size and there are a host of ways Bellevue can become urban in a good way that will enhance the city's competitiveness. Bellevue should seek to be many flavors and offer many things, including variety in architecture. Good civic design was lost in the 60s and 70s and it is just beginning to return with things like walkable districts and fine-grained human-scale streetscapes. Careful attention should be given to best practices nationwide in planning and development but in economic development as well, and the practices should be adopted to fit the specific needs of Bellevue. Tolerance and openness are economic values too. They tend to attract the creative class.

Bellevue should prepare itself for further economic disruptions. For a host of reasons there will be economic ups and downs in the future that cannot be controlled. The coming years will not be like the last half of the 20th Century.

Mr. Talton urged the city to think beyond office parks. Innovation districts are a hot new trend, one that is unlikely to be temporary. Innovation districts bring people together in an atmosphere of creative friction, the free sharing of ideas, and collaboration. There is no reason to deny that Bellevue in ten years will be even more prosperous and moved on to the next level, but it is not something that can be taken for granted. Light rail will be a great friend to the city; if anything the city should be pushing harder to get it sooner. Those who drive can already get to the city. What is needed is seamless connectivity and a variety of choices.

Commissioner Laing suggested that the lack of architectural creativity in Seattle is evidence of code restrictions that are in place there. He said Bellevue is looking at issues such as design review to avoid that trap. Mr. Talton said there must be a balance between providing incentives for developers and making them feel wanted. Livability is important, but so is making it easy for developers to bring projects online. Mandating architectural variety can backfire, however. The City Beautiful movement that began in the early part of the 20th Century prior to the Great Depression still has much to teach the modern age.

Commissioner Hamlin asked for comment on the idea of developing the Bel-Red corridor as proposed and allowing for competition with the downtown and other activity areas within the city. Mr. Talton said the Bel-Red corridor represents a once-in-a-lifetime opportunity to do something amazing. Having a dense downtown is a good thing, but choices need to be made about the densities throughout the corridor to keep the area in balance with the downtown.

Commissioner Carlson commented that density is something a lot of urban planners have fallen in love with. In some parts of Seattle, the urban village approach appears to be working pretty well, but in other places it seems forced and out of place. Mr. Talton said Seattle has been pushing density without having the infrastructure necessary to support density. Paris has high quality density, and in the right setting that is what should be aimed for by Bellevue. Density must be looked at in an organic fashion in terms of transportation options and human-scale design.

Chair Tebelius read a question from someone in the audience wanting to know if the Seattle-

Bellevue metro area still has the ability to generate startups like Microsoft and Amazon. Mr. Talton said the metro area is seen as one of the best startup places in the world. The problem is that lately the startups that have come online have tended to stay small or have been bought out. The area cannot, however, just count on what it already has.

Chair Tebelius introduced Greg Johnson, president of Wright Runstad Company.

Mr. Johnson said Wright Runstad has been in the development business for the past 42 years and during that time has developed 16 million square feet, much of it in Bellevue. The current focus for the company is the Spring District, the largest single project ever taken on.

Wright Runstad purchased the 36-acre Safeway property in Bel-Red in 2007, and the city adopted the zoning code for the Bel-Red corridor in 2009 that closely mirrored the proposal made by the citizen advisory committee. Light rail was at the time reputed to be coming to the area and the Council wanted to influence where the infrastructure would be placed. The code was in fact adopted before the station locations were determined. Even without light rail, there are many factors that make the Spring District site a good real estate investment given that it is in a path of growth between the downtown and employment centers to the east, including Microsoft.

The spring district is a designated transit node in the code. It has a maximum FAR of 4.0 and height limits of up to 150 feet. Its large size qualified the site for catalyst treatment in the code. Wright Runstad will be developing over \$50 million of infrastructure that will eventually get turned over to the public. A development agreement involving a master plan was negotiated and put in place shortly after the zoning was approved. Significant public open spaces will be constructed as part of the project. The incentive zoning approach requires purchasing FAR from the city at a significant cost. While the recession slowed things somewhat, a master plan was finally approved in 2012. Administrative design review has been completed for two office buildings and an application is in for the multifamily portion.

Mr. Johnson said light rail is not expected to begin operations in the Bel-Red corridor until 2023. Accordingly the master plan includes a phasing plan and identifies how much infrastructure is to be built in each phase. The development of office space involves accommodating other people's businesses. The built environment people work in has become one of the things that differentiates companies, so companies wanting to attract talent must provide engaging work, competitive salaries, and office and neighborhood environments that are engaging and creative; that has become the underlying principle in designing the Spring District. Sustainability is another underlying principle.

Answering a question asked by Commissioner Carlson regarding mobility options, Mr. Johnson said the focus is on allowing for choices. A person may not ride their bike to work every day but they should know that they can and could be comfortable doing it; the same is true for walking or taking the bus. The hope is that those using single-occupant vehicles will be in the 25 to 40 percent range on any given day.

Mr. Talton pointed out that Seattle has seen one of the largest declines in the use of single-occupancy auto travel of any metro area in the country. Mr. Johnson said employers and bankers alike are calling out the need for a big bike room in every apartment building as a must-have amenity.

Mr. Johnson shared with the Commissioners a video orienting the Spring District site within the region, and schematic drawings showing what the development will look like. He noted that a different architect will be hired for every building to avoid creating a faux village. Bellevue has a wonderful mix of distinct neighborhoods. The Spring District will represent a unique choice.

Commissioner Laing asked if there is any need to hang onto light industrial uses and land in the city. Mr. Johnson said the choice in the Bel-Red corridor was made with the zoning change and was predicated on the infrastructure investments that are to be made by the region in the form of light rail. Certainly light industrial uses existing in the area should be allowed to remain as they are for as long as they want, but the corridor will not continue to serve its old function into the future. Mr. Talton added that large distribution centers are needed by the regional economy, and such facilities need to be logically sited.

Answering a question asked by Commissioner Hamlin, Mr. Johnson said the feeling being sought by the Spring District is distinctly urban, though without tall buildings. Entrances facing the neighborhoods will be designed to be open and inviting, however, as a sort of transition.

Chair Tebelius observed that the Growth Management Act limits the boundaries of every jurisdiction in the state. She asked if down the road the Act will result in everyone living in a highrise building and Bellevue looking more like New York. Mr. Talton urged caution about getting into binary choices. One of the wonderful things about Washington state is that its residents can still feed themselves, something that will continue to be important in the future. Sensible growth planning is and will continue to be absolutely necessary. Density can be done well or it can be done very poorly.

Chair Tebelius thanked Mr. Talton and Mr. Johnson for their time and insights.

**\*\*BREAK\*\***

#### 4. APPROVAL OF AGENDA

There was agreement to amend the agenda to move items 6, 7 and 8 to follow item 10.

A motion to approve the agenda as amended was made by Commissioner Carlson. The motion was seconded by Commissioner Hamlin and it carried unanimously.

#### 5. PUBLIC COMMENT

Mr. Steve Kasner, 1015 145th Place SE, referred to the proposed new subarea boundaries and said people should be included in the neighborhood area that they identify with. Phantom Lake has said it would prefer to be with Lake Sammamish rather than Lake Hills, and that makes sense. There is a little bit of Bel-Red that could either be in Crossroads or Northeast Bellevue, but it does not belong in Bel-Red. In working on the various subarea plans, the Commission should strive to make sure contiguous areas do not have wildly different plans.

#### 9. PUBLIC HEARING

##### A. Shoreline Master Program Conformance Amendments

A motion to open the public hearing was made by Commissioner Laing. The motion was

seconded by Commissioner Hilhorst and it carried unanimously.

Principal Planner Mike Bergstrom briefly reviewed the steps taken to date to develop the conformance amendments. He explained that the amendments do not represent changes to the Shoreline Master Program or the Shoreline Overlay District, rather they are amendments to other parts of the Land Use Code to make sure that the code in its entirety contains no conflicts. The proposed amendments are predicated on the Shoreline Master Program as drafted by the Planning Commission; in the event the City Council makes changes to the Shoreline Master Program, additional conformance amendments may be necessitated.

At the courtesy public hearing for the East Bellevue Community Council, the group asked about the status of the Shoreline Master Program review and future steps, and asked for a briefing on the shoreline overlay as recommended by the Planning Commission. Phantom Lake residents were present and expressed concerns about the water quantity and quality of Phantom Lake.

Land Use Director Carol Helland said the Council will hold study sessions beginning in 2014 on both the shoreline overlay and the conformance amendments. The East Bellevue Community Council has approval/disapproval jurisdiction over the ordinances. Once approved by the city, the ordinances will be forwarded to the Department of Ecology for review and approval. Ms. Helland said there was no intention to have the conversation be about amending the substantive provisions of the critical areas overlay, including floodplain issues. The Council has said it will review the critical areas code as required to be updated by the state in the next couple of years. There is also some outstanding litigation the Council would like to see resolved before the update work is undertaken. The Shoreline Master Program process was not intended for the purpose of making changes to the critical area code. Stakeholders that would need to be engaged have not been notified, and the environmental review under SEPA has not included any analysis of any substantive critical area ordinance changes beyond those necessary to conform with the recommended shoreline overlay.

Mr. Daniel Himebaugh, 181 112th Avenue Northwest, Puyallup, said two suggestions that will make the Shoreline Master Program more effective were made to the Commission at its last study session. The suggestions relate to the regulations that will control landscaping and the expansion and remodel of single family homes in shoreline areas where there are also flood hazard areas present. The suggestions do nothing more than clarify that where there are flood hazard areas in a shoreline jurisdiction the regulations under the Shoreline Master Program should control the landscaping and expansion and remodel activities. Neither suggestion is a substantive change to the critical areas ordinance. The Commission should strongly consider adding those suggestions to the conformance amendments. The handbook provided to local governments by the Department of Ecology says once a Shoreline Master Program is updated it will supersede the critical areas ordinance. The Shoreline Master Program should be the controlling regulations on the shoreline even where there is a critical area involved, such as a flood hazard area.

Ms. Anita Skoog-Neil, 9302 SE Shoreland Drive, spoke on behalf of the Washington Sensible Shorelines Association (WSSA) in asking the Commission to recommend to the Council adoption of an interim ordinance to address the interim existing conflict between the old Shoreline Master Program and the 2006 critical areas ordinance. It may take most of 2014 for the city to adopt the proposed Shoreline Master Program, and the Department of Ecology is taking up to two years to complete their reviews. That could mean the Shoreline Master Program update will not go into effect until 2016 or later. In the meantime shoreline owners will

be faced with two conflicting sets of regulations. In 2010 the legislature adopted EHB1653 to address the controversy regarding whether critical areas ordinance's adopted after 2003 would apply in the shoreline areas, or if only old Shoreline Master Program's would apply in shoreline areas while waiting for an updated Shoreline Master Program. The bill is specific in stating that a use or structure is considered conforming and may be redeveloped or modified according to two requirements: the project is consistent with the current Shoreline Master Program, and the project demonstrates no net loss. Where those conditions are met, the old critical areas ordinance regulations do not apply. Bellevue's critical areas ordinance was adopted in 2006, but not as an amendment to the old Shoreline Master Program and it was not approved by the Department of Ecology. Accordingly, redevelopment and modification must comply with the existing Shoreline Master Program. Bellevue's shorelines are highly developed so it should not be difficult to meet the no net loss standard. Other jurisdictions have followed the law without implementing regulations of the sort suggested. The Council should adopt an interim ordinance implementing EHB 1653 by simply adopting the language in the statute.

Ms. Joanna Buhler, 4129 185th Place SE, Issaquah, spoke on behalf of Save Lake Sammamish. She noted that the letter sent to the Commission by the attorney for the organization details the legal issues concerning the critical areas ordinance and the Shoreline Master Program and the order in which they can be adopted. The Shoreline Master Program is required to provide a level of protection of critical areas at least equal to that provided by the adopted critical areas ordinance. Under the proposed Shoreline Master Program, the restrictions are slightly more restrictive. The proposed Shoreline Master Program is a draft only and will have no legal effect until adopted by the Council and approved by the Department of Ecology. Changing the critical areas ordinance to conform to an unapproved proposal would not be in conformance with the regulations. There are some very good reasons for not allowing development in flood plains, including safety, preventing property damage, and protecting water quality and other natural resources. Lake Sammamish has suffered high water levels in recent years and conditions are likely to get worse with warmer, wetter winter weather as well as the huge amount of new impervious surfaces draining water into the lake. People who build in designated flood plains will be hurt as a result. There should be no weakening of the flood plain regulations. An interim ordinance is not needed.

Ms. Erica Tiliacos, 18707 SE Newport Way, Issaquah, spoke on behalf of Friends of Pine Lake. She noted that WSSA has testified that the Bellevue critical areas ordinance is more onerous than what other jurisdictions have. They have also said critical areas ordinances should not be applied to the shoreline because of the court ruling that concluded shorelines are not critical areas by virtue of being a shoreline. There are, however, critical areas within the shoreline. The critical areas ordinance regulates wetlands, streams, habitat and other critical areas in the shoreline area. The city of Sammamish has had its Shoreline Master Program adopted with the inclusion of its critical areas ordinance that was adopted in 2005; it is more protective of the shoreline and requires a lot of native vegetation for impacts. Their 45-foot buffer can be reduced to 20 if a full menu of mitigations is followed, with the harder ones employed first, including the removal of bulkheads. Impervious surface area is limited to 50 percent in shoreline residential zones and 45 percent in the urban conservancy zone. Sammamish allows for some intrusion into flood plains provided there is a strict demonstration of need, and then only to the minimum necessary and only with compensatory storage and extensive revegetation. The Sammamish Shoreline Master Program recognizes that any development will risk an environmental impact, but also recognizes that through the revegetation and mitigation sequencing the immediate impact can be minimized and the long-term impacts will not be permanent. Regulating the shoreline includes restoring environmental functions where possible.

Mr. Norm Bollenger, 16226 SE 24th Street, said he is a Phantom Lake resident. He said the amendments under consideration should be opened to more in-depth public comment and understanding, and the critical areas ordinance requirements in the Shoreline Master Program should not be included. The process has not been open and transparent to Phantom Lake residents. The materials presented to the Commission in support of the proposed conformance amendments is confusing to the lay person. It appears that the requirements and restrictions in the critical areas overlay are being integrated into the Shoreline Master Program. That will have significant implications with respect to Phantom Lake. It appears the city is continuing to restrict further development on Phantom Lake; the few properties not yet developed may be prevented from developing or at the very least severely restricted. It appears the city is pushing Phantom Lake into becoming a wetland and detention pond.

Mr. Jim Mackey, 1408 West Lake Sammamish Parkway SE, said the critical areas ordinance overly amendment put in several years ago was largely without notice to residents. For many years shoreline property owners have been working to see created a Shoreline Master Program that is workable. Complying with the critical areas ordinance has over the years cost many shoreline property owners thousands of dollars seeking permits for simple projects. The challenge of having multiple processes is something the city should avoid. Clearly the Commission has worked hard to simplify the Shoreline Master Program, and it should hold the line and not include the critical areas document as recommended by the WSSA.

Mr. Brian Parks, 16011 SE 116th Street, spoke as president of the Phantom Lake Homeowners Association. He voiced support for the recommendations of WSSA. Over the past four years, the efforts put in by Phantom Lake homeowners have had no effect on the Shoreline Master Program put in place by city staff. The 1977 master drainage plan specifies Phantom Lake for detention via a control structure weir; the 1984 detention site weir design memo states the same. The weir was installed in 1990 under the cover of a water quality improvement. Recently, a city utility employee indicated that the 1990 weir and other efforts made no significant water quality improvements. The Phantom Lake/Larson Lake basin study newsletter from August 1988 stated that the outlet control structure would not affect the flooding level around the lake. Flooding, however, was inevitable given the high initial weir design in relation to the surrounding property elevations. Don Miles, an engineer residing on Phantom Lake at the time, prophetically stated that both the ordinary high water mark and wetlands would increase. Utilities refutes the claims that the lake has raised, though they cannot seem to provide any annual data pre-1980; their data drops off abruptly in 1990 when the weir and berm was put in. Long-term lake residents all agree that lake levels increased after 1990. FEMA's base flood elevation is twice the historic record lake level, yet one property owner cannot rebuild in place because part of a deck barely clips the FEMA FIRM line of NAVD 265 feet. The current lake level is NAVD 261 feet and reaching the FIRM line would put the Walmart parking lot on 148th Avenue SE ten feet under water. The restoration plan fails to include hardly any of the suggestions from residents on any of the three lakes.

Answering a question asked by Chair Tebelius, Mr. Parks suggested the Commission should send to the Council a separate letter indicating that the Commission did not add provisions relating to Phantom Lake to the Shoreline Master Program.

Ms. Eileen Stahl, 21533 SE 28th Lane, Sammamish, said her city recently finished its Shoreline Master Program and critical areas ordinance updates. It was very frustrating to see the waterfront homeowners dominate and take over the process. The larger public was not

represented, nor was the health of Lake Sammamish. The same has happened in Bellevue and the larger public interest is not being addressed. WSSA now wants protections provided by the critical areas ordinance removed from shoreline and flood plain areas. Shorelines are not automatically critical areas, but where a critical area does exist in the shoreline jurisdiction the critical areas ordinance applies, and the more restrictive regulations are needed to help maintain the health of the lake. The only ones who would benefit from seeing the protections removed are the homeowners who want to sell or redevelop. Lake Sammamish belongs to all the people of the state and should be protected for the benefit of all.

Mr. Elliot Severson, 1600 West Lake Sammamish Parkway NE, voiced support for the work already done by the Commission. He urged the Commission to complete the work by making it effective. Without the amendments put forth by WSSA, a lot of work could go down the drain. In Bellevue, a piling does not affect the flood level, so building a dock does not count. He said his house has a five-inch section in the flood plain, and that has prevented him from building or providing compensatory storage because of new construction. The city would approve, however, cantilevering the entire house over the flood plain. Without the proposed amendment, the flood plain will be used as a way to stop what everyone has worked through in the shoreline plan.

Mr. Dallas Evans, 2254 West Lake Sammamish Parkway, said as things stand, because he has a shoreline property that is in a critical area, he must spend up to \$10,000 to do an environmental impact statement to make any changes to his house. The same amount of money could be used to plant a large number of trees along the Sammamish River to create shade for the benefit of the fish. If the property were to flood, water left on the property could be considered to be a wetland. The critical area issue needs to be reconsidered. Some properties have steep slopes or creeks or rivers, and they should be critical areas, but to put the shoreline in the mix and cause a lot of extra money to be spent on what amounts to nothing makes no sense. With regard to bulkheads, he noted that less than a quarter of the properties on the Bellevue side of Lake Sammamish have sandy beaches because of the wave action they receive, especially in the winter months. Bulkhead removal is not the answer. The lake level has in fact fallen in large part to WSSA and others working to get the weir cleaned out. Bear Creek, which runs into a lower part of the weir, likely does put some hydraulic backwater pressure on the weir, but the creek is not stopping the water coming out of Lake Sammamish; the problem is a clogged weir.

Mr. Merwin Hannaburg, a Phantom Lake resident, said 27 years ago city staff promised to maintain the level of the lake to preclude shoreline flooding. The city installed a flood weir gate and constructed a berm on the northwest side of the lake and allowed Ponds A and B on the south side of the lake to instead become water treatment channels. The measures have created flood events which during wet seasons have inundated one-third of his lakefront property with water up to two feet deep, causing shoreline trees to die and willows to flourish in a tangled mess. Runoff from SE 24th Street and the intervening properties cascades through his property into a holding pond and drainage ditches which stand full of water most of the time. The proposed deletion of platforms at the ends of floating docks is troubling in that the use of floating docks would be severely limited. Making improvements to existing properties under the requirements of the city to create or increase wetlands seem superfluous when most Phantom Lake properties already have large wetland areas.

Ms. Carman McDermott, 4024 West Lake Sammamish Parkway SE, voiced concern about the efforts to weaken the critical areas ordinance for shorelines. It is extremely important for waterfront properties to be managed in a way that will preserve the environmental health of the lake. Healthy water quality for recreational and environmental purposes will maintain property

values. No reduction in construction setbacks should be allowed. The requirement for native plant buffers is important for the ecological health of the lake. WSSA does not represent the views of all lakeshore property owners relative to the management of critical areas. No interim ordinance should be approved. She said a remodel of her backyard using a design from The Watershed Company included native plant gardens has resulted in an increase in the amount of wildlife present in the yard and has reduced the need for watering or for using pesticides and fertilizers. No changes to the critical areas ordinance should be adopted before the Shoreline Master Program is finally approved. The issues facing Phantom Lake are very different from those facing Lake Sammamish and as such it should be treated as a completely separate entity in terms of regulations.

Ms. Cheryl Eberting, 1845 164th Avenue SE, said she has lived in her home on Phantom Lake since 1964 and has seen a steady increase in the lake level since that time. She said her home is located 30 feet from the water and the current regulations are making it very difficult to remodel the home. She said she also owns three lots that have become worthless because of the regulation stating that homes must be set back 110 feet from the ordinary high water mark.

Mr. Chris Stanton, 2668 West Lake Sammamish Parkway SE, said many do not fully understand the mischief the critical areas ordinance can create. He said he took out 50 tons of concrete impervious surface from his property with the intention of replacing it with pervious grass. It cost \$15,000 in permit fees and designer costs. None of that expense should have been necessary.

Ms. Lori Lyford, 9529 Lake Washington Boulevard, spoke on behalf of WSSA. She pointed out that WAC 365.191.130 relative to fish and wildlife conservation areas is specific in stating that efforts to increase such areas should occur within the species' natural geographic areas so that habitat will be sufficient to support viable populations not creating isolated subpopulations. Violating the code will endanger people's lives, pets and properties by encouraging wildlife in areas where people live. WSSA believes that in developing the greenscape conservation component of the draft Shoreline Master Program the Commission will achieve the proper balance between wildlife, humans and urban vegetation.

Mr. Scott Sheffield, 2220 West Lake Sammamish Parkway SE, spoke as a member of WSSA, an organization that is seeking sensible shoreline solutions. He voiced his support for amendments A and B. The Department of Ecology handbook says critical areas can be modified to be specific for the shorelines. Standards proposed should control when there is a conflict with the critical areas within the shorelines, and amendments A and B clarify the code and should be read that way. The Shoreline Master Program trumps the critical areas ordinance when dealing with critical areas in the shoreline.

A motion to close the public hearing was made by Commissioner Carlson. The motion was seconded by Commissioner Laing and it carried unanimously.

## 10. STUDY SESSION

### A. Shoreline Master Program Conformance Amendments

Land Use Director Carol Helland said it is not the intention of staff to ask the Council to adopt the conformance amendments in such a way that would create a gap in the Shoreline Master Program. The conformance amendments cannot become effective before the Shoreline Master

Program is approved by the Department of Ecology. The Department of Ecology wants to see both the Shoreline Master Program and the conformance amendments because it has jurisdiction over at least the wetland provisions of the critical areas ordinance. They also look to ensure that the critical areas provisions are at least as protective in the shoreline jurisdiction as they are elsewhere in the city, thus they need the conformance amendments to understand what is being removed from the critical areas ordinance. The effective dates of the Shoreline Master Program and the conformance amendments must coincide.

Answering a question asked by Commissioner Laing regarding section 20.50.016D, Mr. Bergstrom said the draft Shoreline Master Program includes a definition of shoreline development. Staff initially held the view that that definition should be expanded to fit the rest of the city. However, the conclusion reached was that approach is probably not possible. There will, accordingly, be two definitions. The citation in 20.50.016D will refer to the correct reference.

Commissioner Laing suggested that the comments made during the public hearing led him to believe the city has failed to explain well exactly what is being proposed by the conformance amendments. All that is being done is exactly what state law says, which is that with the new Shoreline Master Program updates, the shorelines themselves can no longer be regulated as critical areas. However, critical areas within the shorelines are still to be regulated as critical areas. No substantive changes are being proposed to the critical areas ordinance. What is being taken away is the labeling of shorelines in and of themselves as critical areas.

Commissioner Laing said one of the things jurisdictions are supposed to do in adopting shoreline regulations, according to the state legislature, is to make sure they are tailored to local circumstances. Arguments have been made throughout the process about what regulations are in place in other jurisdictions, but the fact is circumstances in Bellevue are different. The draft Shoreline Master Program has been neatly tailored to Bellevue's unique circumstances.

Commissioner Laing said Amendments A and B along with the request to incorporate the language from EHB 1653 have been proposed to be considered for forwarding to the Council. The letter received from Ms. Buehler on behalf of Save Lake Sammamish lays out the issues very well. In the end, however, what it really comes down to is no net loss of ecological functions. WSSA claims the city is drawing an arbitrary distinction between constructing a new home and expanding or remodeling an existing home. The argument has been made that the approach would keep development from moving toward the water and encroaching on the views of the neighbors. While that might be good for neighbors, it is not a proper basis for an environmental regulation for flood plains. The flood plain regulations should not be used to draw a wholly arbitrary line of distinction when the bottom line is meeting the no net loss standard. Commissioner Laing said he could not come up with a scenario in which meeting the Shoreline Master Program no net loss standard would involve noncompliance with the critical areas ordinance. It is a lawful use of the police power to try to mitigate impacts, but not to require restoration or the conferring of a benefit. If required in the calculus to exceed no net loss and meet an actual net gain, the regulations have gone too far. He voiced support for Amendments A and B to avoid using the critical areas ordinance, and specifically the flood plain regulations, to keep many shoreline property owners in exactly the same situation they were in under the 2006 critical areas ordinance.

With regard to EHB 1653, Commissioner Laing noted that the Department of Ecology extols the bill as a win for environmentalists. The bill is touted as an optional route forward for

redeveloping and modifying uses and structures within buffers. At a minimum the Commission should send to the Council a recommendation to look at what it would take to implement that portion of EHB 1653.

Commissioner Hamlin pointed out that both amendments seek changes to the critical areas ordinance, and changing the critical areas ordinance is out of the scope of what the Commission has been directed to do. Changing the critical areas ordinance would impact many different areas of the city in ways the Commission has not even considered. He said for those reasons he did not favor Amendments A and B.

Commissioner Ferris noted that the Shoreline Master Program update process kicked off not long after the Council had adopted the critical areas ordinance. One of the principles handed down was to honor the work that was done on the critical areas ordinance and not take it on again. The Council is now on record as saying they want to see the critical areas ordinance reviewed again in the not-too-distant future. For the Commission to jump in and seek to piecemeal the critical areas ordinance update would not be right. If the Council wants to approve an interim ordinance, they are free to do so.

Commissioner Carlson asked if the critical areas ordinance could be applied in a way that will adversely affect the hard work done to update the Shoreline Master Program. Commissioner Ferris said during the process it was made generally clear that there are areas in the shoreline jurisdiction that are also in flood zones, and that in those cases the flood zone regulations would govern. Having the flood plain serve as a governor over where one can build is in fact logical.

Chair Tebelius suggested that former Commissioner Daniel Himebaugh's argument in favor of Amendments A and B, that neither represents a substantive change to the critical areas ordinance, was persuasive. She agreed that both simply clarify the critical areas ordinance and will not actually change the ordinance. She noted the arguments favoring the approach used in Sammamish but pointed out that their shoreline is different and in fact has spawning grounds for salmon, something the Bellevue side does not have. The legal standard of no net loss clearly does not include restoring ecological functions. State law is clear that the critical areas ordinance does not apply to the shoreline; that is the very reason for having the Shoreline Management Act. The critical areas ordinance should not be weakened by approving Amendments A and B.

Chair Tebelius added that the waters of Lake Sammamish and Lake Washington are cleaner now than they were 30 years ago primarily because sewer lines have replaced septic systems and sewage is no longer being allowed to flow into the lakes. Additionally, she agreed that flooding on Lake Sammamish has been reduced as a result of clearing the debris and vegetation from the weir.

Ms. Helland said the time is not ripe for considering Amendments A and B. The amendments are in fact substantive. The distinction between when expansion is allowed on new versus old was not made arbitrarily and is in fact very important to the framework of the critical areas ordinance. Changing it for the purpose of the flood plain area in the shoreline area but not in all other areas will fundamentally result in two different standards applicable in the city. The critical areas code was adopted into the Shoreline Master Program for the exact purpose of meeting the requirements of state law to regulate critical areas within the shoreline jurisdiction. That does not create a conflict though it may create a layer of regulation, something that happens a lot in zoning. The Shoreline Master Program includes footnotes stating that in some locations the flood plain locations will create a more restrictive outcome than the Shoreline Master

Program. She added that the flood plain regulations have been in place since 1978. For the most part, houses in Bellevue are farther than 35 or 50 feet away from the lake, but if approved the amendments would have the unintended consequence of allowing houses to move closer to the lake.

Chair Tebelius said from her perspective the unintended consequence is that the addition of the flood plain on top of the Shoreline Master Program means that the flood plain regulations rather than the Shoreline Master Program regulations will apply to a number of properties.

Commissioner Hilhorst allowed that she is new to the conversation but said her take was that most of those who want the Commission to approve Amendments A and B are those who are paying a lot of money out to make changes to their properties. Shoreline property owners are for the most part good stewards of the lakes. To not work toward clearing up the issue and making it easier for the general citizen to understand which regulations apply and where is to do the waterfront property owners a disservice. WSSA has been working in good faith with the city and has actually given in to many of the proposed changes. In the final analysis, the city needs to make it easy for the citizens to be able to have some control over their properties without extraordinary costs. Ms. Helland said both section 20.25E and the proposed conformance amendments were intended to remove the multiple permit process requirements, but not the substantive requirements in place to protect specific critical areas. The cost issue has been addressed, but the standards must still be met.

A motion to recommend that the City Council approve the proposed Shoreline Master Program conformance amendments as presented in Attachment A dated December 11, 2013, with the following revisions: to include Amendment A and Amendment B as set forth of pages 95 and 96 of the December 11, 2013, Planning Commission packet, and to include a recommendation in the transmittal communication to the City Council that it review EHB 1653 as it considers the draft Shoreline Master Program, was made by Commissioner Laing. The motion was seconded by Commissioner Hilhorst.

Speaking to the motion, Commissioner Laing explained that under the Shoreline Master Program as drafted, a property owner in a flood plain area could expand a portion of their house inside the magic 50-foot line and thus trigger the greenscape standard, but then run afoul of the critical areas ordinance because the greenscape standard would require them to create some disturbance such as removing hardscape and removing greenscape down by the shoreline. That is not something the Commission intended. Amendment A is nothing more than a footnote pointing out that in such instances the greenscape conservation standards would apply. Amendment B goes to the distinction between the expansion of an existing single family primary residents and a tear down and/or new construction. No jurisdiction should try to regulate views using their critical areas ordinances or other environmental regulations. The Shoreline Management Act has provisions that limit the height of structures to prevent them from adversely impacting the views from adjacent and upland residential structures. It simply is not proper for the city to use environmental regulations to regulate views.

Commissioner Ferris said Amendment B says that within the shoreline jurisdiction expansion of existing single family homes and new single family homes are allowed in the special flood hazard areas. The amendment would in fact allow someone to build entirely new homes in flood zones that have been regulated since the 70s. That is something that the Commission has never talked about allowing. The amendment does not reflect an insignificant change, it is in fact a back door way of making a significant change to everything that has been developed in Bellevue

around shorelines as it relates to the flood plain and the flood zone. Throughout the process of updating the Shoreline Master Program, the Commission has held to the notion that the critical areas within the shoreline would be maintained.

Answering a question asked by Commissioner Carlson, Ms. Helland explained that flood plains are mapped by FEMA, not the city.

Commissioner Hamlin pointed out that not voting to approve the two amendments will not result in the issues never being addressed. The Council has already signaled its intent to update the critical areas ordinance in due course and the issues rightly will be part of that process.

Commissioner Carlson said he would be voting in favor of the motion.

The motion carried 4-2, with Chair Tebelius and Commissioners Carlson, Hilhorst and Laing voting for, and Commissioners Ferris and Hamlin voting against.

A motion to extend the meeting by 20 minutes was made by Commissioner Hamlin. The motion was seconded by Commissioner Hilhorst and it carried unanimously.

#### B. Comprehensive Plan Update - Housing and Human Services

Associate Planner Janet Lewine reported that a great deal of work has been done by the Human Services Commission in reviewing the Housing and Human Services Element of the Comprehensive Plan, and in preparing recommendations for the Commission to consider. She noted that the specific recommendations were outlined in the attachments to the agenda memo, and made it clear that the recommendations of the Bellevue Network on Aging were included in Attachment 3.

Human Services Commission member Michael Yantis commented that 25 percent of the money the city spends on human services goes to homelessness and housing in one form or another. That is one area where the work of the two commissions overlaps.

Human Services Manager Emily Leslie said the major interest the Human Services Commission has in the Housing Element is centered on the sections that refer to affordable housing, special needs housing, and homeless housing. The countywide Ten Year Plan to End Homelessness is in its eighth year and Councilmember Chelminiak sits on the governing board of the Committee to End Homelessness. There are many changes in the way services for homeless persons are being delivered, and changes to the homeless housing model. For those reasons, the homeless sections of the Housing Element need to be aligned with the countywide initiatives that are under way. Every two years Bellevue produces a comprehensive needs assessment, the latest edition of which will be published in January. The update includes conducting surveys of community residents and for nearly 20 years affordable housing has been the top problem identified.

Answering a question asked by Chair Tebelius, Mr. Yantis explained that the city has documented goals it has agreed to relative to meeting certain levels of affordable housing for various populations. While the intent is there, the city has not delivered to the degree necessary to meet the goals using the current regulations. The recommendation of the Human Services Commission is for the Planning Commission to look at the manner in which the development regulations are written with an eye on achieving the goals.

Commissioner Carlson observed that the recommendations from the Human Services Commission make several references to shelters. He said over the years through his efforts working to help the homeless he has learned that there are right ways to go about it and wrong ways to go about getting people back on their feet. Some measures put in place over the years have actually enabled the behavior that made and keeps people homeless. He asked if the proposed language would allow for something like a tent city in Bellevue, which is an example of how not to help the homeless. Ms. Leslie said in 2011 and 2012 a countywide task force was appointed to address the issue of single adult shelters. The recommendations, which were adopted as investment priorities by the governing board, did not include tent cities because they are not considered to be shelter. One of the main recommendations of the task force was that all shelters should be a pathway to permanent housing. The shelters on the Eastside already take that approach and the Seattle shelters only recently began to make that shift.

Mr. Yantis noted that one of the Human Services Commission's recommendations is to allow for on-site offices for service providers in supportive housing developments. He said just providing shelter will yield a certain result, but providing services around the family housed in a shelter can help them out of the conditions that has created their homelessness. Current city regulations do not permit the siting of provider offices within supportive housing facilities.

Commissioner Hilhorst asked what Bellevue's estimated homeless population is and how many of them are families. Ms. Leslie said the most recent annual One Night Count conducted at the end of January found 178 unsheltered homeless individuals across the Eastside. However, during the 2012-2013 season the winter shelter operated just for men served 210 unduplicated homeless men. The estimation is that there are some 200 to 300 homeless men in Bellevue. The shelter currently operating in Bellevue serving women and children on average serves 16 persons per night, and their regular shelter serves 21 women per night. There is a new system in place to serve homeless families and within King County there are over 3000 homeless families currently in need of housing, about 400 of which are living in places unfit for human habitation.

A motion to extend the meeting for ten minutes was made by Commissioner Laing. The motion was seconded by Commissioner Hamlin and it carried unanimously.

Commissioner Laing asked to have on the table for the next discussion of the issue statistics that talk about the type of housing stock Bellevue has, the housing stock the city anticipates it will get, and what the cost is of the housing stock by unit size.

C. Comprehensive Plan Update - Urban Design Policy

This item was postponed to a later meeting.

11. OTHER BUSINESS - None
12. PUBLIC COMMENT - None
13. MINUTES

The Commissioners submitted changes to the minutes in writing to the staff.

- A. July 20, 2013
- B. July 24, 2013

- C. September 11, 2013
- D. September 25, 2013
- E. October 9, 2013
- F. October 23, 2013
- G. October 30, 2013

A motion to approve all seven sets of minutes as amended was made by Commissioner Ferris. The motion was seconded by Commissioner Hilhorst and it carried unanimously.

14. NEXT PLANNING COMMISSION MEETING

- A. January 8, 2013 at Interlake High School

Mr. Inghram noted that construction at Crossroads Community Center precludes the possibility of holding the meeting there as originally planned.

15. ADJOURN

Chair Tebelius adjourned the meeting at 11:05 p.m.

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

4/4/2014  
Date

  
\_\_\_\_\_  
Diane Tebelius  
Chair of the Planning Commission

4/7/14  
Date

Approved January 22, 2014

