

2017 PLANNING COMMISSION



BELLEVUE

Meeting
6:30 pm June 14

Location

Commission meetings are held in the Council Conference Room unless otherwise posted.

Public Access

All meetings are open to the public and include opportunities for public comment.

425-452-6800
planningcommission@bellevuewa.gov

www.bellevuewa.gov

JUNE 14



Bellevue Planning Commission

AGENDA

Public Hearing

June 14, 2017

6:30 PM – Public Hearing

City Hall, Room 1E-113, 450 110th Avenue NE, Bellevue WA

6:30 PM – 6:35 PM	Call to Order Roll Call Approval of Agenda
6:35 PM – 6:50 PM	Public Comment Comments regarding the topic of the public hearing should be made during that part of the agenda. This portion of the agenda is for people who wish to make comments unrelated to the topic of the public hearing.
6:50 PM – 7:10 PM	<i>Introductory Comments by Staff</i> Staff: Nicholas Matz, AICP, Senior Planner, Planning & Community Development General Order of Business – Staff will describe the comprehensive plan amendment process, and review the threshold review plan amendment report with the Planning Commission.
7:10 PM – No end time specified	PUBLIC HEARING <i>Comprehensive Plan Amendments – Threshold Review – Bellevue Technology Center Plan Amendment</i> General Order of Business – The public is invited to address the Planning Commission regarding the threshold review of the Bellevue Technology Center plan amendment. <i>Anticipated Outcome – The Planning Commission will hear all parties that wish to speak on the matter at hand. The information provided by interested parties will help inform the Planning Commission’s action regarding threshold review. That is scheduled and expected to occur in a study session scheduled for June 28, 2017.</i>

Following Public Hearing

Minutes to be Signed (Chair):

April 19, 2017

April 26, 2017

Draft Minutes Previously Reviewed & Now Edited:

-

New Draft Minutes to be Reviewed:

May 10, 2017

May 24, 2017

Public Comment

Adjourn

Please note:

- Agenda times are approximate only.
- Public comment is limited to 5 minutes per person. The Chair has the discretion at the beginning of the comment period to change this.

Planning Commission Members:

John deVadoss, Chair

Stephanie Walter, Vice Chair

Jeremy Barksdale

John Carlson

Aaron Laing

Anne Morisseau

John Stokes, Council Liaison

Staff Contacts:

Terry Cullen, Comprehensive Planning Manager 425-452-4070

Emil King, Strategic Planning Manager 425-452-7223

Janna Steedman, Administrative Services Supervisor 425-452-6868

Kristin Gullledge, Administrative Assistant 425-452-4174

** Unless there is a Public Hearing scheduled, "Public Comment" is the only opportunity for public participation. Wheelchair accessible. American Sign Language (ASL) interpretation available upon request. Please call at least 48 hours in advance: 425-452-5262 (TDD) or 425-452-4162 (Voice). Assistance for the hearing impaired: dial 711 (TR).*



City of Bellevue *MEMORANDUM*

DATE: June 7, 2017

TO: Chair deVadoss and members of the Bellevue Planning Commission

FROM: Nicholas Matz AICP, Senior Planner 452-5371
nmatz@bellevuewa.gov
Terry Cullen AICP, Comprehensive Planning Manager 452-4070
tcullen@bellevuewa.gov

SUBJECT: June 14, 2017, Public Hearings on the Crossroads Subarea/Bellevue Technology Center 2017 site-specific Annual Comprehensive Plan Amendment (CPA) Threshold Review and Geographic Scoping

PLANNING COMMISSION ACTION

On June 14, 2017, the Planning Commission holds a Threshold Review public hearing to consider the sole 2017 site-specific application for Comprehensive Plan amendment.

At the meeting, staff will first review the request and the staff recommendation, and then ask the Planning Commission to open the public hearing for the application. Public testimony will follow. After the Commission conducts the hearing, we will ask you to set a June 28, 2017, Study Session date to deliberate and to recommend whether the application should be initiated into the 2017 Comprehensive Plan amendment work program under LUC 20.30I.140 and to recommend the appropriate geographic scope for the application in accordance with LUC 20.30I.130.A.1.a.ii.

The staff recommendation for the 2017 application is summarized in the Recommendations Summary (below.) The full report is available [online](#) and can be requested in print. Both versions include the staff recommendation, the application materials, public comment summary, and a site map; the online version has active links.

RECOMMENDATIONS SUMMARY

The Threshold Review Decision Criteria for a proposed Comprehensive Plan Amendment are set forth in the Land Use Code in Section 20.30I.140. Based on the criteria, Department of Planning and Community Development staff recommendation is shown below in summary, and in detail in the report materials provided to Commissioners along with the May 25, 2017, notice of Threshold Review public hearing.

1. **Crossroads Subarea/Bellevue Technology Center** 17-104627 AC): The application proposes new policies in the General Land Use, Economics and Transportation sections of the Crossroads Subarea plan; amend existing Policies S-CR-16, S-CR-22, S-CR-26, S-CR-63 and S-CR-66; and amend Figure S-CR.1 accordingly in order to enable redevelopment of the 46-acre Bellevue Technology Center site.

- **Staff recommendation:** Do not include in the CPA work program; do not expand the geographic scope of the proposal. The proposal does not meet two of the Threshold Review Decision Criteria:

20.30I.140.E. It does not address significantly changed conditions on the subject property or its area where such change has implications of a magnitude that need to be addressed for the Comprehensive Plan to function as an integrated whole. Placing more growth capacity on this site is not part of Bellevue’s overarching growth strategy of managing growth and development while working to protect and enhance neighborhoods;

20.30I.140.G. It is inconsistent with current general policies in the Comprehensive Plan for site-specific proposals. Increased commercial density on this site is not aligned with the Comprehensive Plan’s identified target areas for major mixed use/commercial growth.

PUBLIC COMMENT

As of June 6, 2017, one hundred [comments](#) have been received. An online petition at [change.org](#) has 759 supporters and includes 281 comments. All of these are part of the public record.

Commission and public access to these extensive comments and the petition and its comments directed the creation of an online “book.” This device is searchable and includes a table of contents. The book also references the online petition text. The comments are documented as they are received, although it is inevitable that some duplication of signers and comment occurs across the email and petition comment platforms. For example, 26 of the written comments received were copies of the signed online petition. It is likely that some of these people wanted to assure that their online comments were received into the public record.

BACKGROUND

The 2017 list of initiated applications has been established to consider amendments to the Comprehensive Plan. The list is the tool the city uses to consider proposals to amend the Comprehensive Plan. Such consideration is limited to an annual process under the state Growth Management Act.

Threshold Review action produces proposed amendments for the annual CPA work program. This 2017 annual CPA work program consists of four steps:

Threshold Review

1. Planning Commission study sessions and public hearings to recommend whether initiated proposals should be considered for further review in the annual work program (*current step*);
2. City Council action on Planning Commission recommendations to establish the annual work program (July);

Final Review

3. Planning Commission study sessions and public hearings to consider and recommend on proposed Comprehensive Plan Amendments (early fall);
4. City Council action on Planning Commission recommendations (late fall).

PUBLIC NOTICE

The 2017 annual CPAs were introduced to the Planning Commission with a March 1, 2017, management brief. The Crossroads Subarea/BTC application was introduced to the Commission during an April 26, 2017 study session. Notice of the Application was published in the Weekly Permit Bulletin on February 23, 2017, and mailed and posted as required by LUC 20.35.420. Notice of the June 14, 2017, Threshold Review Public Hearing before the Planning Commission was published in the Weekly Permit Bulletin on May 25, 2017, and included notice sent to parties of record.

RESEARCH REQUESTED BY PLANNING COMMISSION FROM APRIL 26 STUDY SESSION

- *How many times has there been a request to change the BTC PUD or plan designation since the original 1972 PUD/plan? - Commissioner Hilhorst*

There appear to be **seventeen** separate permitting actions associated with the full site including the original 1972 PUD/plan. **Five** of actions were to requests to change the PUD development capacity or plan designation. **Seven** were to build out or modify the terms of the PUD without changing the development capacity or plan designation because the PUD was completed in different stages. The permitting actions included **three** rezone actions and **two** PUD attempts predating the 1972 approval; one in 1966 and another in 1968. The site was annexed in 1964 (Sherwood Forest.)

- *How many rezoning, recent or pending have or are about to happen in neighboring Redmond? - Commissioner Hilhorst*
- *There is building across the border in Redmond that affects this area. Bring data to the next meeting. - Commissioner Morisseau*

How does Bellevue account for Redmond and its Urban Centers development in our growth strategies? Data provided by the City of Redmond indicates buildout of its designated areas continues apace; this data is incorporated into the transportation modeling the cities conduct using the joint Bellevue/Kirkland/Redmond (BKR) traffic model. It is also incorporated into the other infrastructure planning such as water and sewer that occurs. We are not, however, planning for infrastructure outside of these currently planned areas being built out. That was affirmed in the 2015 major Comprehensive Plan Update and in growth projections in city MMAs in the Northeast Bellevue area.

As of early May, 2017, citywide information provided by the City of Redmond shows:

- # Twenty-seven residential subdivisions (773 Dwelling Units or DU) are under construction with seventeen more (169 DU) under review
- # Three commercial projects (18,000 square feet) are under construction and thirteen more (218,000 square feet) are under review
- # Thirteen mixed-use projects (720 DU, 3,000 square feet) are under construction with fifteen more (936 DU, 43,000 square feet) under review

The City of Redmond continues to focus its city-initiated Comprehensive Plan Amendments on policy implementation for these build-out areas of southeast Redmond. The following items of interest in the [2016-2017](#) docket show the following items of interest:

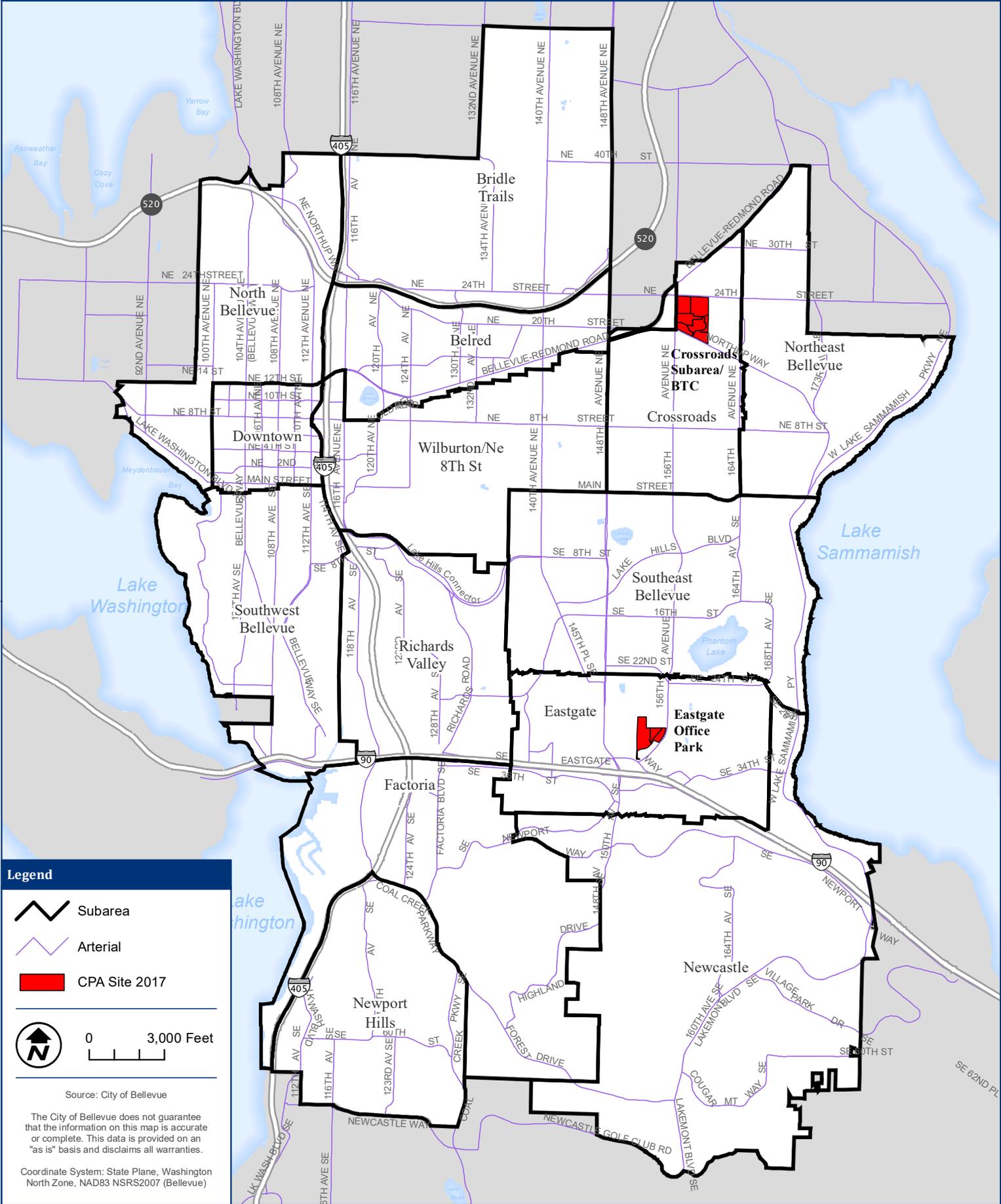
- #3: Updates to Overlake Urban Center boundary
- #6: Updates to policies and regulations as follow up to the Growing Transit Communities Partnership, including East Corridor implementation
- #11: Potential policy amendment to designate one or more local centers
- #17: Update for Marymoor Subareas of SE Redmond
- #18: Updates for Overlake Village (infrastructure)
- #23: Updates for the area near Southeast Redmond light rail station and park and ride

ATTACHMENTS

1. 2017 site-specific CPAs citywide map
2. Application site map
3. Threshold Review Decision Criteria (LUC 20.30I.140) and Consideration of Geographic Scope (LUC 20.30I.130.A.1.a.ii)



2017 Comprehensive Plan Amendments



Legend

- Subarea
- Arterial
- CPA Site 2017

0 3,000 Feet

Source: City of Bellevue

The City of Bellevue does not guarantee that the information on this map is accurate or complete. This data is provided on an "as is" basis and disclaims all warranties.

Coordinate System: State Plane, Washington North Zone, NAD83 NRS2007 (Bellevue)

20.30I.140 Threshold Review Decision Criteria

The Planning Commission may recommend inclusion of a proposed amendment to the Comprehensive Plan in the Annual Comprehensive Plan Amendment Work Program if the following criteria have been met:

- A. The proposed amendment presents a matter appropriately addressed through the Comprehensive Plan; and
- B. The proposed amendment is in compliance with the three year limitation rules set forth in LUC 20.30I.130.A.2.d; and
- C. The proposed amendment does not raise policy or land use issues that are more appropriately addressed by an ongoing work program approved by the City Council; and
- D. The proposed amendment can be reasonably reviewed within the resources and time frame of the Annual Comprehensive Plan Amendment Work Program; and
- E. The proposed amendment addresses significantly changed conditions since the last time the pertinent Comprehensive Plan map or text was amended. Significantly changed conditions are defined as:

LUC 20.50.046 Significantly changed conditions. Demonstrating evidence of change such as unanticipated consequences of an adopted policy, or changed conditions on the subject property or its surrounding area, or changes related to the pertinent Plan map or text; where such change has implications of a magnitude that need to be addressed for the Comprehensive Plan to function as an integrated whole. This definition applies only to Part 20.30I Amendment and Review of the Comprehensive Plan (LUC 20.50.046); and

- F. When expansion of the geographic scope of an amendment proposal is being considered, shared characteristics with nearby, similarly-situated property have been identified and the expansion is the minimum necessary to include properties with those shared characteristics; and
- G. The proposed amendment is consistent with current general policies in the Comprehensive Plan for site-specific amendment proposals. The proposed amendment must also be consistent with policy implementation in the Countywide Planning Policies, the Growth Management Act, other state or federal law, and the Washington Administrative Code; or
- H. State law requires, or a decision of a court or administrative agency has directed such a change.

(ii) Consideration of Geographic Scope

Prior to the public hearing, the Planning Commission shall review the geographic scope of any proposed amendments. Expansion of the geographic scope may be recommended if nearby, similarly-situated property shares the characteristics of the proposed amendment's site. Expansion shall be the minimum necessary to include properties with shared characteristics...

Upcoming Planning Commission Meeting Schedule

<u>Mtg</u>	<u>Date</u>	<u>Agenda Item Topic</u>	<u>Priority</u>	<u>Agenda Type</u>	<u>Location</u>
17-11	June 14, 2017	Comprehensive Plan Amendment Cycle Threshold Review	1	Public hearing	City Hall
17-12	June 28, 2017	Comprehensive Plan Amendment Cycle Threshold Review	2	Study Session to make recommendation to City Council regarding threshold determination for plan amendments in cycle.	City Hall
		Planning Commission Elections	1	Annual elections for Chair and Vice-Chair officer positions.	
17-13	July 12, 2017	Digital Transition	3	Commission get an orientation on digital packets and iPads.	City Hall
		Planning Commission Post Retreat - Guiding Principles & Public Engagement	3	Commission reviews current guiding principles and public engagement practices and amends, as needed.	
17-14	July 26, 2017	Affordable Housing Strategy - Presentation	3	Commission receives an information only presentation.	City Hall
	Summer Break	No meetings will be held in August.			

The Planning Commission will set public hearings, as needed, when the Commission approaches the conclusion of their deliberations.

PLANNING COMMISSION DESK PACKET - CORRESPONDENCE



June 14, 2017

Planning Commission Meeting

Please note: This is correspondence not related to the Bellevue Technology Center Comprehensive Plan Amendment Review public hearing being held June 14. Please refer to that agenda item in the packet for further information and an electronic link to that correspondence.

Cullen, Terry

From: Lewine, Janet
Sent: Monday, June 05, 2017 10:29 AM
To: filip.lazar@gmail.com
Cc: PlanningCommission; Matz, Nicholas; Munkberg, Deborah; Cullen, Terry
Subject: RE: Proposed ADU rule change

Hello Filip,

As you point out, Bellevue's current ADU regulations are complex. Generally ADU regulations in Bellevue are more restrictive than other eastside cities, and Bellevue's rate of ADUs as a percent of housing is lower than other eastside cities.

The City has policy direction to look at ways to expand ADUs ([Comprehensive Plan Policy HO-15](#)). City Council has also included review of ADU regulations in the City's [Affordable Housing Strategy](#). In both of these plans, any changes would be reviewed and implemented by neighborhood through the neighborhood planning process. This means that changes to ADU regulation would only be enacted in the neighborhoods that support proposed changes.

Housing affordability is a concern for the City, however Bellevue's neighborhood planning process is just beginning and I don't expect changes to ADU regulation to be considered by Planning Commission for a couple of years. Also, owner occupancy of ADUs is a restriction that is important to neighborhoods and is included in most ADU regulations that I am aware of.

We will keep your suggestions for consideration in this process, and I encourage you to become involved in your neighborhood planning process. I am including the neighborhood planning managers in this response. Please call or email me if you have other questions.

Thank you for being involved in your community,
Janet Lewine

Janet Lewine

Associate Planner
City of Bellevue Department of Planning & Community Development
(425) 452-4884
jlewine@bellevuewa.gov

From: PlanningCommission
Sent: Monday, June 05, 2017 9:01 AM
To: Lewine, Janet <JLewine@bellevuewa.gov>
Subject: Proposed ADU rule change

From: Filip Lazar [<mailto:filip.lazar@gmail.com>]
Sent: Sunday, May 28, 2017 7:53 PM
To: PlanningCommission <PlanningCommission@bellevuewa.gov>
Subject: Re: Proposed ADU rule change

Hi,

very carefully considered as the owner will need to live in the house for a substantial period of time (~10 years in many cases) to reach break-even on the investment, and they may not know if that will be the case.

A counter argument that could be raised is to simply use Duplex's for this purpose, but that would actually address a different need. A duplex would increase density by not being limited to the unrelated number of individuals requirement, would be substantially larger than the smaller 800 sqft ADUs, and wouldn't actually help in terms of affordable housing. It's also not something that would fit as well in the middle of a single family community, and could reasonably impact the character of the neighborhood.

I think this really is a rare case where a small code adjustment carries nothing but benefits, which is a pretty unique situation.

Please let me know your thoughts, and whether there is any additional information that I could provide to allow for this proposed update to be accepted.

Filip

- We also proactively manage and maintain nearly 8,000 trees along major city-owned arterials and downtown to promote long-term health, keeping visibility and safety in mind.

Tree Canopy Strategic Plan

We recently completed our Parks, Arts, Recreation, Culture and Conservation (PARCC) 2017 – 2030 plan. During community engagement, the Redmond community reaffirmed their desire for conservation and broadly supported an aspirational tree canopy coverage goal.



City of Redmond Tree Canopy Map

Tree canopy refers to the percentage of a city that's covered by trees when viewed from above. The great news is that we've successfully maintained our City's tree canopy of 39%--less than a 1% difference between 2009 and 2013. It's a testament to our environmental stewardship and value we as a community place on preserving the natural beauty that surrounds us.

To ensure we continue to increase tree canopy across the city, city staff is currently developing a Tree Canopy Strategic Plan. This plan will establish a canopy goal, proposed timeline, and methods for achieving that goal, focusing on policies, cost and public support.

80

On the other hand, if it were possible to rent the ADU without living in the house, it can still make sense to keep the house and rent out the ADU + main house.

The communities primary worry, having many unrelated individuals bring traffic / noise pollution is not a concern as homeowners would need to retain 4 unrelated individuals across the entire house, which will necessitate families or a small number of students (4), just like today. Parking space requirements already exist for ADUs, so no traffic impact would be expected either.

Implicit in this argument is that home owners are now more incented to create an ADU. They will know that should they consider moving, the investment in the ADU would not be lost. Currently, an ADU needs to be very carefully considered as the owner will need to live in the house for a substantial period of time (~10 years in may cases) to reach break-even on the investment, and they may not know if that will be the case.

A counter argument that could be raised is to simply use Duplex's for this purpose, but that would actually address a different need. A duplex would increase density by not being limited to the unrelated number of individuals requirement, would be substantially larger than the smaller 800 sqft ADUs, and wouldn't actually help in terms of affordable housing. It's also not something that would fit as well in the middle of a singe family community, and could reasonably impact the character of the neighborhood.

I think this really is a rare case where a small code adjustment carries nothing but benefits, which I a pretty unique situation.

Please let me know your thoughts, and whether there is a additional information that I could provide to allow for this proposed update to be accepted.

mlp

Specifically, the objectives of the Downtown Livability Initiative:

better achieve the vision for downtown as a vibrant, mixed-use center;

enhance the pedestrian environment;

improve the area as a residential setting

It is hoped that the planning commission's final draft to the City Council will amend the code to incorporate the Downtown Livability Initiative objectives and not just reward developers to better their profits.

Summary:

1 - Before we make any changes to the LUC it would be better for all if we waited until the Kemper Expansion and Centre 425 are fully occupied and the impact to traffic, pedestrians, and parking can be fully evaluated.

2 - Let's wait until the new City Council is installed later this year.

CITY OF BELLEVUE
BELLEVUE PLANNING COMMISSION
STUDY SESSION MINUTES

May 10, 2017
6:30 p.m.

Bellevue City Hall
City Council Conference Room 1E-113

COMMISSIONERS PRESENT: Commissioners Carlson, Barksdale, Laing, Morisseau, Walter

COMMISSIONERS ABSENT: Chair deVadoss, Commissioner Hilhorst

STAFF PRESENT: Terry Cullen, Emil King, Department of Planning and Community Development; Carol Helland, Patricia Byers, Department of Development Services

COUNCIL LIAISON: Not Present

GUEST SPEAKERS: None

RECORDING SECRETARY: Gerry Lindsay

CALL TO ORDER
(6:34 p.m.)

The meeting was called to order at 6:34 p.m. by Vice-Chair Walter who presided.

ROLL CALL
(6:34 p.m.)

Upon the call of the roll, all Commissioners were present with the exception of Commissioner Laing, who arrived at 6:59 p.m., and Chair deVadoss and Commissioner Hilhorst, both of whom were excused.

APPROVAL OF AGENDA
(6:35 p.m.)

Commissioner Carlson suggested the agenda should be amended to take public comment only until 7:00 p.m., to take up the study session at that time, and to follow the study session with presentations from staff.

Comprehensive Planning Manager Terry Cullen pointed out that staff planned to include in their comments information germane to the study session discussion. It would be challenging to have the Commission discussion first and follow it up with the staff comments.

Land Use Director Carol Helland said the Commission had previously asked staff to return with additional information. She said some of that information was included in the packet materials, but added that staff planned to supplement that information through the use of slides and illustrations. It would be helpful to allow staff to go through the requested information ahead of each topic.

A motion to amend the agenda to conclude public comment at 7:00 p.m., and to approve the agenda as amended, was made by Commissioner Barksdale. The motion was seconded by Commissioner Morisseau and the motion carried unanimously.

COMMUNICATIONS FROM CITY COUNCIL, COMMUNITY COUNCILS, BOARDS AND COMMISSIONS - None
(6:39 p.m.)

STAFF REPORTS - None
(6:39 p.m.)

PUBLIC COMMENT
(6:39 p.m.)

Mr. Mike Latori, 500 106th Avenue NE, Unit 611, said he serves as a member of the board of the Bellevue Towers Condominium Association. He said Bellevue Towers has 539 units in two towers in the DT-O1 district. The residents will all be impacted in one way or another as a result of any changes to the Land Use Code and are therefore interested in actively involved in following the process. The work done to date is appreciated but it must be said that after reviewing the multiple studies, reports and hearing testimony it is not an easy task to comprehend or disseminate to others much of the data. One of the goals of the Downtown Livability Initiative was to promote open space and light by building taller and skinnier buildings. The proposed changes, however, do not translate into skinnier buildings, just taller buildings. That will be especially true if the currently proposed 40-foot setback, 80-foot tower separation and ten percent floor plate reduction requirements are removed. Maximum building heights should be true maximums and there should be no tradeoff allowed to exceed the maximum. Specifically in the DT-O2 South district, the 250-foot maximum height in the current code is not in fact the maximum; there are footnotes and appendices that allow 15 percent additional height for amenities and another 15 feet for roof equipment and enclosures, making the true maximum height 302 feet. Many Bellevue Towers residents purchased south-facing units at a premium based on the current 250-foot maximum height, and the proposal to raise the maximum height to 365 feet would negatively impact the views and values for many Bellevue Towers residents. It is not a matter of protecting views, rather it has to do with making sound decisions based on actual data. To change the parameters after the fact will require well-thought-out and explainable justifications, none of which can be found in any of the studies or reports. Height limits should be maintained as written for the core of the DT-O1 and DT-O2 districts. The current amenity incentive system should be simplified by the listing of very specific community needs and not what is incorporated into the design of a new building. The various reports stipulate 23 specific amenities, each of which can be interpreted in many ways, and which may result in very little community benefit. Amenities should be more specific and defined as contributing to the community. Amenities built into the design of proposed buildings should be eliminated because their value is more toward marketing the building rather than benefiting the community.

Mr. Kevin Whitaker, 10770 NE 4th Street, Unit 2802 in Bellevue Towers, concurred with the previous speaker. He said many downtown people are frustrated because of the opacity of the process, the regulations and the governing documents that are defining the rules in the downtown. Most did their due diligence when they sought to purchase units in the downtown, and they made certain assumptions based on what was included in the regulations with regard to building height and setbacks. The regulations directly impact their investments in their homes. The process has created some cynicism in regard to what is going on, and the dense data is not

something lay persons can dig into and understand. The data is seemingly being used as justification for what amounts to a wealth transfer. Many feel the rug is being pulled out from under them by the process and by interests seeking to take advantage of a lack of sophistication on the part of downtown residents.

Commissioner Carlson asked if downtown residents who purchased units under the old building height rules could have a claim that changing the rules to allow taller buildings that take away views amounts to a taking.

Mr. Jack McCullough, 701 5th Avenue, Suite 6600, Seattle, said the short answer is no. If conditions are placed on a project that prevent it from being used, or which are out of proportion to an impact a project creates can be interpreted as a taking. However, in terms of loss of value, which is the implication relative to loss of views, the courts have said that to create a taking a property's value must be diminished by something like 85 to 90 percent. A good example would be downzoning a property so that it could only be used for a park. He called attention to the fact that several weeks ago Chair deVadoss sent him off to address and resolve the height issue, and said that mission had been accomplished. The language in the proposed footnote 12 creates opportunity to allow for additional height under limited circumstances in the B2 district. With regard to parking, he suggested leaving the 20 percent discount alone. There may be some issues in Old Bellevue, but not in the rest of the downtown relative to mixed use projects. To tinker on one part of the parking formula but not another could lead to unanticipated results. He suggested the information in the Commission's packet wraps up the direction given to staff except for the issue of tower separation relative to 60 feet versus 80 feet.

Mr. Arnie Hall, 17227 SE 40th Place, thanked the Commissioners for their hard work. He suggested that two important issues are yet to be determined. The first is the trigger height. The Commission made the difficult decision of agreeing to raise the new base FAR to 90 percent of the new maximum FAR. To be consistent, the trigger height should be set at 90 percent of the new maximum height to avoid any unintended consequences or advantages between properties in the downtown. Developers contribute in many ways, including through traffic impact fees, frontage improvements, on-site and off-site traffic mitigation, and in other ways. Making things even across the downtown will be consistent with the Commission's decision on the base FAR. The second issue is the parking reduction. He agreed that the 20 percent reduction for mixed use projects in the downtown has worked well. It has caused some concern in Old Bellevue and any revisions to the parking code should address the challenges in that part of the city.

Mr. Patrick Bannon spoke as president of the Bellevue Downtown Association (BDA). He said one issue that has come up several times centers on the usability of and how to navigate the code. He suggested the Commission should provide direction to the Council in the transmittal memo to ensure that a very clear index and understandable guide to the new code is included in the Land Use Code update. With regard to the base height issue, he said there remains on the table a significant discrepancy in the DT-OLB where the base height is at 26 percent of the new maximum, which results in having to provide far more amenities when compared to the other zones. He said he has had opportunity to have conversations with Bellevue Downtown Association members and with downtown residents, some of whom are new to the process and some of whom have been with the process for a long time. There appears to be some confusion about where additional FAR has been proposed. Consistent with the CAC, the process to date has continued to emphasize additional FAR in the DT-OLB district along I-405. The Commission has also looked at possible additional FAR relative to the site at Main Street and 112th Avenue NE. The CAC and the Commission both reached the conclusion that the non-residential FAR should be matched with the residential FAR in the DT-MU district. Otherwise,

the height changes considered for the downtown do not include additional density, though there is still on the table consideration for exempting some FAR for affordable housing.

Mr. Bill Herman, 10770 NE 4th Street, spoke representing L for Bell, a group of about 150 people who oppose the draft Land Use Code. He said the issue of equalization is bad for livability and was controversial at the CAC level. He proposed leaving equalization out of the final recommendation. The justification for it is to balance incentives between commercial and residential in the DT-MU. The proposed FAR increase is a 100 percent increase, which is not justified. Commercial traffic in the DT-MU is not wanted. Rush hour traffic is the downtown's biggest problem, and putting commercial traffic a half a mile away or more from the transit center is not the answer. It would be preferable to have the new density in the DT-OLB. Tall and skinny buildings are better than short and boxy buildings for reasons of livability. The 425 Center had the option of building half the floorplate and twice the height and chose not to. Developers will not want to build taller and skinnier unless forced to do so. The Commission should vote to remove all of the additional height.

Mr. Brian Brand with Baylis Architects said he also serves as co-chair of the BDA's livability committee. He said he has been involved in pushing for the code update for the past 13 years and especially over the last four years. The BDA supports flexibility in height increases minus FAR density increases. Taller and slimmer buildings will improve the design and livability benefits. Flexibility is needed to create the opportunity for more creative designs. Tower height cannot be increased without making floorplates smaller. The BDA has not proposed increasing the FAR and in fact does not want to see additional density except in the DT-OLB. Taller buildings that do not include more density are necessarily slimmer buildings. The benefits are more light and air, improved view corridors, and more spacing between towers. As currently written, FAR and height are pretty well matched, so buildings that achieve their maximum FAR end up being shorter and fatter, the very type of design that blocks views through their sites and cutting out light and air.

Ms. Michelle Herman, 10770 NE 4th Street, encouraged Commissioner Carlson to broaden his question about new building height resulting in a taking. Given that there have been numerous concerns raised about the process and the lack of ability for certain parts of the community to participate effectively, and given the number of objections that have been raised with regard to not only the proposed changes but also the current code, she suggested asking if the collective changes could result in a takings claim. She thanked Mr. Bannon for recently reaching out to her and initiating a very good conversation about residents and developers who appear to be completely opposed on various issues could work better together going forward. There is potential common ground. Upzoning the DT-OLB would be a good compromise given that it is close to both transit and I-405, meaning that additional traffic will not be brought into the downtown core. The argument has been made that people will walk from the light rail station into the downtown core, but that will require that they walk uphill for three quarters of a mile. Most will likely choose to drive instead. Adding density to the DT-OLB only makes sense. With regard to the amenity incentive system, the city should try a staged approach, beginning with some upzoning in the DT-OLB and fixes to the amenity system to see what happens before changing them for the entire downtown. Adherence to the wedding cake design is a red herring; there is no wedding cake design for the DT-OLB and there is no reason to adhere to it strictly and rigorously because upzoning the district will not impact transitions to the neighborhoods.

STUDY SESSION
(7:05 p.m.)

Downtown Livability – Review of Draft Downtown Land Use Code Amendment

Strategic Planning Manager Emil King noted that the packet included a reprint of the materials from the May 3 meeting packet, as well as the consolidated code draft capturing the Commission's direction to date following the March 8 public hearing.

With regard to downtown parking, Mr. King said the direction received from the Commission on April 26 was to remove the flexibility that had been included in the public hearing draft of the code to allow developers to go either above or below the parking ratios through a parking study. The Commission had also expressed a desire to have more discussion about the current code provisions about the 20 percent shared parking discount.

Land Use Director Carol Helland commented that the consolidated code provisions reflecting the Commission's direction had the code flexibility removed with respect to the modification. The only modification left relative to the 20 percent shared parking discount was to allow it only through a parking study rather than automatically.

Mr. King shared with the Commissioners a graph showing the cumulative parking demand by type of use. He explained that overlapping businesses can operate with different peak hours, which is the philosophy behind shared parking.

Commissioner Walter said she was satisfied with changing the language to allow for a 20 percent shared parking reduction through a parking study. Ms. Helland said that code language could be found on page 68 of the packet.

Commissioner Morisseau said the 20 percent shared parking reduction has been highlighted as being a problem in the Old Bellevue area. She asked why that would be the case given that the code applies citywide. Mr. King acknowledged that there are a number of issues related to parking in Old Bellevue that have been raised before the Commission over the last year. Others have said there are parts of the city that are becoming built out and where shared parking exists it is not signed and operated appropriately, making it difficult to use.

Commissioner Carlson suggested the problem is not exclusive to Old Bellevue. Old Bellevue is in fact the canary in the coal mine and the issue is going to be a downtown-wide issue if the city does not get a handle on it. He said he questioned why the city was expanding Downtown Park without including a single additional parking space. With the residential and the commercial on Main Street in Old Bellevue, the parking issue is a collision that did not need to happen. The issue will pop up in more and more places throughout the city over time. Ms. Helland reminded him that the Commission had previously recommended including in the transmittal memo to the Council a request that a comprehensive parking study be undertaken soon. The study has in fact been funded and staff have started cataloging ideas to put forward as part of the recommendation in the transmittal memo relative to items that go beyond the code.

Commissioner Laing said the language regarding the shared parking provision should be clear that it is for non-residential uses only, and that required residential visitor parking cannot be used as part of the shared parking. Mr. King called attention to page 153 of the packet and suggested using the language that was drafted in talking about the parking reductions. Commissioner Laing said that would work for him. Ms. Helland agreed to make the change.

Answering Commissioner Morisseau's request to clarify the 20 percent reduction, Ms. Helland explained that under the current code the 20 percent discount is provided automatically without

any parking study. The language of the consolidated code includes a requirement for a parking study to ensure that the parking supply will meet the demand based on the peak usage requirement. Other jurisdictions allow a discount of anywhere between 20 and 30 percent on the hope that things will work out in the wash, though some jurisdictions do in fact require a parking study to justify up to a 20 percent discount.

Commissioner Laing said it was his understanding that Commissioner Carlson was going to need to leave the meeting early and suggested focusing on the big rocks prior to his departure.

Commissioner Laing commented that a letter from Wallace Properties had been included in the Commission's May 3 packet. The letter contained some very specific recommendations.

A motion to direct staff to incorporate the proposed changes from the Wallace Properties May 10, 2017, letter to the Commission into the draft code was made by Commissioner Laing.

Commissioner Morisseau said she was not entirely comfortable in doing that. She noted the need to discuss floorplate size and stated that part of the Wallace letter makes reference to floorplate size. Commissioner Laing said the intent of his motion was to generally accept the suggestions made in the letter. Once incorporated into the draft, the Commission will be able to see how the changes play out before going forward.

Commissioner Morisseau pointed out that the Wallace letter states that the fee in-lieu rate should be \$25 per square foot rather than \$28 per square foot, and that is not something the Commission has talked about. The letter also proposes larger floorplates. She said she was not comfortable having either of those items in the draft. Commissioner Laing said he would accept carving out those two items as a friendly amendment to his amendment.

Commissioner Carlson said he would be willing to second the motion without the friendly amendment. He added, however, that he was amenable to the amendment.

Commissioner Laing said he had been working on the downtown livability issue for the past four years along with others in the room. He suggested that with the way the conversation was going, the Commission would spend the entire meeting talking about minor variations of the same information that has been under discussion for four years. What will happen is the Commission will find itself on May 24 having run out of time to make recommendations and will try to do something meaningful without having meaningfully moved the draft forward. He said he wanted to move things forward, taking advantage of having five Commissioners in the room before there would be only four.

Commissioner Walter suggested that putting everything into the draft for review on May 24 would not necessarily serve as a productive use of the Commission's time.

Commissioner Carlson said the Commission has been talking about most of the topics for a very long time. He said the direction set forth in the Wallace letter is the direction the Commission should take. He said he would be willing to carve out the issues Commissioner Morisseau had expressed concern about and discuss them separately.

Commissioner Carlson seconded Commissioner Laing's motion.

Commissioner Barksdale called out the need to notate the source for the various changes to the draft. Code Development Manager Patricia Byers said staff could do that.

The motion carried with Commissioners Barksdale, Carlson and Laing voting for, and Commissioner Morisseau voting against.

Commissioner Laing called attention to a letter dated May 10, 2017, from PMF Investments in which a suggestion was made to allow floorplates only in the DT-OLB South zone between 80 and 150 feet to be increased by 25 percent, up to 25,000 square feet, subject to the same standards of tower separation and light and air impacts as proposed in the staff recommendation.

A motion to direct staff to incorporate into the draft the change recommended in the May 10, 2017, PMF Investment letter was made by Commissioner Laing. The motion was seconded by Commissioner Carlson and the motion carried unanimously.

Commissioner Laing said he would not take part in any discussion of the Elan/Fortress project. He said during his tenure as co-chair of the Downtown Livability Initiative CAC, he was contacted on a few occasions, without any bad intent, by representatives of the property owner asking him in his professional capacity as a land use attorney to assist with a rezone of the property. He clarified that the proposal before the Commission is not something he ever had a substantive conversation about. He said he disclosed his communications with the property owner to the city attorney and to the city's ethics officer a little over a year ago, and subsequently made the decision not to participate in any way in discussion anything that involves the Elan/Fortress property or their proposal. Ms. Helland noted that the Elan/Fortress property representative has come to the table claiming satisfaction with the information that is in the packet.

Commissioner Carlson left the meeting.

With regard to the amenity incentive system, Mr. King said the two items for which the Commission previously requested follow-up information were the list of bonusable amenities and a shorter periodic review cycle of seven years rather than ten. The Wallace letter covers about half of the proposed amenities. Additionally, the list of suggested bonusable amenities highlighted by the public included sports and recreation facilities; public open air markets; museums; publicly accessible amenity spaces on rooftops or tops of podiums; roof gardens; residential amenity space; mid-block pedestrian crossings; and through-block connections. He said five of those items were included in the Wallace letter and accordingly would be added to the draft code.

Commissioner Barksdale asked how likely it was the market would provide the listed amenities without an incentive to do so. Mr. King said certainly a few of them would be incorporated into develops without being incentivized. Commissioner Barksdale said he would favor not including the listed items.

Ms. Helland said one item on the list is currently a requirement and the request has been to make it a bonusable amenity, namely the through-block connections. Commissioner Walter asked what would qualify as a residential amenity space and Ms. Helland said that would be things like an exercise room, swimming pool or meeting rooms just for the use of residents in the building.

Commissioner Barksdale said any item the market will take care of or which does not provide a public benefit should not be on the list of amenity incentives. He suggested residential amenity space is one such item. Ms. Helland clarified that the Wallace letter calls for bonusing publically accessible spaces on building rooftops or on the top of podiums, which is not the same as

residential amenity space.

Commissioner Morisseau said anything that is already a requirement should remain a requirement. She noted that some from the public and stakeholder community have actually recommended getting rid of the amenity incentive system, making some of the items on the list requirements instead. Ms. Helland said as part of the initial discussion with the Commission, questions were asked about the items currently in the consolidated code, with a focus on whether there are too many of them, or whether there are too few of them and new ones should be added. Commissioner Morisseau agreed with Commissioner Barksdale that items the market will take care of on its own should not be added to the list.

Commissioner Laing pointed out that as drafted, ten percent of the allowable FAR must be earned by providing bonusable amenities. If the amenity incentive system is done away with, it will be necessary to just give every development the full amount of FAR and to simply require different items. Determining what should and should not be required would take a long conversation. He suggested focusing instead on what should and should not be on the list of bonusable amenities.

Ms. Helland said the list of amenities starting on page 161 of the packet are consistent with the amenity principles discussed by the Council and the Commission in the joint meeting. The question is whether the amenities suggested in the Wallace letter should be added, or if any of the amenities suggested by the public should be added.

Commissioner Laing pointed out that what is suggested in the Wallace letter is a way of allowing small lots the opportunity to actually earn the last ten percent of the maximum FAR. Small lots are problematic for a number of reasons, including limited space for including ground-level amenities. Rooftops and the upper level of podiums are in many instances the only place to provide amenities on small lots. He agreed that interior residential amenity space should not be bonusable. Ms. Helland said the items listed, absent the interior residential amenity space, could be drafted as applying only to small lots.

Commissioner Walter asked if the flexible amenity could be written to apply to small lots. Commissioner Laing said the flexible amenity should be allowed to stand on its own. The list of amenities serve as a menu of items developers can order, whereas the flexible amenity is intended to allow for creative alternatives. Mr. King allowed that as written the flexible amenity gives developers the opportunity to suggest alternatives through a specific process. It has historically been viewed as encompassing larger and more grandiose items that are not on the list, but it could be interpreted as taking into account a number of small things as well. Ms. Helland said the flexible amenity essentially serves as a departure for small sites.

Mr. King sought clarification from the Commission as to whether the proposed amenities highlighted in the Wallace letter should be considered as applying to small lots only or for all lots.

Commissioner Morisseau said she would prefer to not add the Wallace suggestions and instead rephrase the flexible amenity to address alternative amenities for small lots. Ms. Helland said there are a couple of approaches that could be taken that would neck down the need to expand the list of amenities. One option would be to rely on the flexible amenity, which would not require much rewriting. Another option would be to acknowledge that small sites of 40,000 square feet or less face different challenges by creating a departure for them, which is an approach the Commission has been amenable to in the past. The third option would be to retain

the body of amenities as they have been drafted.

Commissioner Laing said things like sports and recreation facilities, public open air markets, museums and through-block connections are all items that developers can only avail themselves of if they have a substantial project limit. Midblock pedestrian crossings could be done by any developer. He stressed the importance of having items on the list that small property owners can take advantage of and said he could support adding the highlighted items suggested by the public, with the exception of interior residential amenity space.

Commissioner Walter suggested a small lot might or might not have room for a public open air market. She proposed including the list of amenities suggested by the public as examples under the flexible amenity, though not as an exhaustive list. The Commissioners concurred and Ms. Helland said staff would take a stab at it.

There was also agreement to include from the Wallace letter small sites amenities publically accessible rooftops or amenity spaces, amenity spaces on roofs of podium or tower structures, roof gardens that are not necessarily publically accessible, and enhanced landscaping.

With regard to adaptive management, Commissioner Barksdale said the approach is data driven rather than time driven. He said developers put their stake in the ground at the permit stage. Given the plans that are already in the works, plus those coming through in permits, it is possible to project the effects on the downtown area. The city should be able to revisit the amenity incentive system based on what is coming through and make adjustments accordingly rather than waiting for a specific number of years.

Commissioner Walter asked how the approach would be administered, where the data would be collected and monitored, and how the city would know it was time to revise the amenity incentive system. Commissioner Barksdale agreed it would be easier to do the look back on a set time schedule, but he suggested that what is easy is not always effective. By tracking the data, the city could shift the weighting of the individual items or sunset particular amenities based on what is coming through development projects.

Ms. Helland said an approach that has been used by the state legislature and indeed by the city in some cases involves reporting on implementation. She said the seven- to ten-year update could be retained while agreeing to report out on an annual basis on the amenities that are being used. Where the need to make course corrections is identified, the corrections could be made based on that information. An annual reporting form could be developed to track the amenities used.

Commissioner Laing reminded the Commission that the Downtown Livability Initiative CAC unanimously recommended a five-year look-back. Of course there is a concern that even given the best intentions, the look-back might not happen unless prioritized by the Council. Mr. King noted that as drafted, the code calls for a period review every seven to ten years as initiated by the Council. The Commission previously discussed shortening the time interval or undertaking an alternative approach. Commissioner Barksdale said he would prefer to see both the backstop and the tracking report included in the code.

There was agreement to use five to seven years as the backstop timeline.

With regard to the tower separation issue, Mr. King noted that the Commission had previously given direction to have a 20-foot setback from interior property lines between project limits. That direction has been written into the code. The definition of a tower has also been revised to reflect

100 feet rather than 75 feet, and to indicate that the tower spacing must occur at 80 feet rather than 45 feet in line with previous direction given by the Commission.

Mr. King noted that the Commission had asked for additional discussion in regard to 80-foot versus 60-foot tower spacing. He said the Wallace letter addresses the subject but mainly focuses on one site for which an analysis was done. He asked the Commissioners to comment as to whether the direction in the Wallace letter should apply everywhere in the downtown or just to the site highlighted in the letter.

Commissioner Laing commented that ever since the stakeholder started to understand the tower spacing issue, the Commission has engaged in whack-a-mole. Staff has been amazing at bringing forward research on approaches used by other cities and indeed other countries. He proposed leaving the language in the draft as is and challenge someone to come in on May 24 with something that will actually work. If the Commission likes it, it can adopt it or make changes.

A motion to retain the language in the current adopted Land Use Code relative to tower setback and tower spacing for the May 24 meeting was made by Commissioner Laing.

Commissioner Laing clarified that the current code calls for 40-foot tower separation based on the building code. Ms. Helland added that the current code carries the separation requirement across property lines, and pointed out that the building code does not apply a tower separation requirement on an individual property, thus under the existing code there is no tower separation on a single project limit. Commissioner Laing said he understood that.

Commissioner Barksdale asked what the setback is in the current code. Ms. Helland said it defaults to the building code, which is 20 feet from property lines unless property lines are combined. On a single site, there is no prescribed limit between buildings given that multiple buildings on a single site are considered to be a single building for purposes of administration of the building code. There is no provision in the current Land Use Code about building separation. She reminded the Commission that the notion of building separation was a hallmark of the Downtown Livability Initiative CAC recommendation for light and air.

Commissioner Laing respectfully disagreed that building separation was a hallmark of the CAC's recommendation. He said he did not recall having any meaningful conversations at the CAC level about tower separation. There was talk about light and air, but no specific call to increase tower separation, just as the CAC did not make a recommendation for taller buildings with the exception of the DT-OLB district and some minor tweaks. The CAC operated on the principle of doing no harm.

Commissioner Barksdale said if the CAC advocated in favor of more light and air, and if the code does not currently require tower separation within a single property, the goal of achieving more light and air will not be reached. Commissioner Laing pointed out that projects would still have to meet the building code, and the draft also proposes new design guidelines that talk about reducing floor plates for taller buildings. No one has come forward screaming that their towers are too close together. As outlined, tower separation feels like a solution looking for a problem. The Commission has spent a huge amount of well-intentioned time trying to come up with something different from the existing code that will not gut redevelopment in the downtown. It has not found it yet, so things should be kept as they are, leaving the door open to someone coming forward with a compelling case for why things should be different.

Commissioner Barksdale asked if the CAC discussed the issue of light and air on the

understanding that currently there is insufficient light and air, or because it was being aspirational. Commissioner Laing said the conversations at the CAC level about light and air were nowhere near as in-depth as the conversations had to date on the topic by the Commission. Light and air is certainly not an unimportant thing. The CAC talked a lot about the amenity system, about the DT-OLB district, about the sidewalk and landscaping standards, and about the need for more park land in the downtown. Very little time was spent on tower separation outside of considering taller buildings if they are skinnier.

Commissioner Morisseau said the recommendations of the CAC represent a vision, and the work done by the Commission is focused on implementing that vision. The vision of the CAC was to increase light and air, and requiring towers to be separated is how to implement the vision. For stakeholders, the issue has been the combination of an 80-foot tower separation and a 40-foot set from interior property lines. The Commission concluded that separating towers by 60 to 80 feet would be workable for many stakeholders if done in conjunction with a setback of only 20 feet, and would also achieve the goal of increasing light and air. If there are going to be taller buildings, it makes sense that the distance between them should be increased. She also noted that Commissioner Carlson had asked for more discussion of 60 feet versus 80 feet but was not present to participate in the discussion. The language of the consolidated code should be retained, allowing for either a 60- or 80-foot tower separation requirement.

Ms. Helland said the tower separation issue has been in the draft since November. In multiple meetings between staff and stakeholders, tower separation of 60 or 80 feet was not the lightning rod. The problem was the setback from interior property lines. The draft code has removed the initial 40-foot setback in favor of the current 20-foot setback, which is consistent with the building code.

The motion made by Commissioner Laing was not seconded.

Commissioner Walter said she would be comfortable with a 60-foot tower separation in place of the 80-foot requirement in the draft code.

A motion to change the 80-foot tower separation requirement to 60 feet was made by Commissioner Morisseau. The motion was seconded by Commissioner Barksdale and the motion carried unanimously.

****BREAK****

(8:26 p.m. to 8:37 p.m.)

With respect to reducing floorplate size above the trigger height, Mr. King noted staff had previously received from the Commission direction to remove the ten percent outdoor plaza requirement. A related element and one of the objectives was to yield a more slender urban form. Good examples were previously given in regard to how the proposed ten percent floorplate reduction would play out. One argument made by Commissioner Laing was that floorplate reductions would probably be more important in some parts of the downtown and less important in others.

For the DT-O1 district, the draft code is written to require a ten percent reduction in the maximum floorplate size of 13,500 square feet for a residential tower where it exceeds the current building height of 450 feet. If done equally on each façade, the ten percent ~~reduction~~ ~~reduce~~ is not significant. A ~~developer~~ ~~develop~~ could choose to reduce the floorplate on a single side or on all four side. There are provisions in the code that allow for diminishing

floorplates and averaging them from 80 feet and up, provided that no one floorplate exceeds the maximum allowed in the zone. The intent is to result in a more elegant structure. Non-residential office towers in the same zone typically have larger floorplates, up to 24,000 square feet above 80 feet. A reduction of ten percent will result in a reduction of each façade by about five feet if done equally.

Mr. King commented that office floorplates can be more impactful given that they are larger than residential floorplates. He urged the Commissioners to keep in mind the feasibility of reducing floorplate size in new development, noting that stakeholders had questioned the feasibility of dropping below 20,000 square feet for office. The Commission should consider where floorplate reductions of more than ten percent might make sense for given uses and given zones.

Commissioner Laing reiterated the statement ~~he~~ made at the last meeting about the ten percent reduction in the floorplate would result in an almost imperceptible change from outside the building. He said he understood the concern expressed by the BDA about not getting taller and slimmer buildings, just taller buildings with essentially the same mass. He said he was not in a position to just pick a square footage and require developers to make it work. At the same time, it would be disingenuous to allow for height increases in exchange for skinnier buildings without having something specific in the code that requires skinnier buildings.

Commissioner Morisseau said she had previously asked staff to come to the Commission with examples of approaches used by similar cities. Mr. King said staff's research on office development has shown that the floorplate sizes of 20,000 square feet to 24,000 square feet are fairly typical. Some jurisdictions allow larger floorplates closer to ground level. The interesting forms of some of the iconic skylines across the country clearly to involve a tapering down of floorplate size, though it is typically done to achieve a sculptural element. Vancouver, B.C. allows residential floorplates below 12,000 square feet. Clearly floorplate reduction is more of an issue for office developments given their need for more space per floor. However, a highrise with 24,000 square foot floorplates going up to 600 feet would require some land assemblage of up to 28 acres. There are bonuses available in the DT-O1, but some creativity would need to come into play to have an office building go up to the maximum height.

Commissioner Laing said he hoped input would be received from design professionals before the Commission makes a final recommendation to the Council that will be absolutely opposed to the notion of livability. Mr. King proposed retaining in the draft the ten percent floorplate reduction requirement while keeping an ear open to hear from the public and stakeholders about how to assure taller and more slender towers.

Ms. Helland noted that the Wallace letter suggests alternative directions for the maximum floor plates in the DT-MU. The suggestion was that the maximum floor plate for office should be increased so that once the ten percent reduction is applied it would be effectively brought back down to 20,000 square feet.

Commissioner Morisseau asked what the lowest floorplate size would be in the DT-MU with the ten percent reduction. Ms. Helland said in that district above 80 feet the floorplate would be less than 20,000 square feet. As drafted, the DT-MU allows floorplates up to 22,000 square feet up to 40 feet and 20,000 square feet above 80 feet. The suggestion is to equalize the floorplate sizes in the district at 22,000 square feet so that when the ten percent reduction kicks in the floorplate will not be reduced to less than 20,000 square feet. Commissioner Morisseau said if the goal is more slender buildings, a smaller floorplate will achieve that.

Commissioner Walter agreed that mathematically that makes sense, but the question is whether or not such buildings would get built. A smaller floorplate would ensure thinner buildings, but it might also make invisible buildings.

Commissioner Laing said that was his concern as well. He said he had been running scenarios with 22,000 square feet as the basic commercial floorplate to determine what actual heights would be achievable and the types of properties that would be needed. In the Denny Triangle in Seattle, which is admittedly a unique circumstance, the tower width above 75 feet cannot be more than 80 percent of the north-south façade. The purpose is allow for light from the east-west exposure and by having some restriction on the north-south façade, allowance is made for the sun at its lowest angle in the sky to shine between buildings. He stressed that he was not endorsing that approach, rather that he was saying there are other ways of putting a metric in the code that might have the same effect, though in a more flexible manner.

Commissioner Walter allowed that Bellevue has both sunshine and shadows to address. Bellevue also has the issue of livability. What the code should bring about is buildings that can get built, buildings that are appealing, and a downtown people will want to live in.

There was agreement to retain the code as drafted with the ten percent reduction in floorplate size.

Commissioner Walter asked to have the materials for the May 24 meeting delivered to the Commissioners sooner rather than later to allow for thoroughly reviewing it. Said it would also be helpful to ask the public to submit comments a week in advance of the meeting so they can also be reviewed and considered.

Commissioner Barksdale agreed but added that while developer economics are important, the Commission should have a balanced perspective with a focus on both livability and developer economics.

Ms. Helland said staff went over the materials previously prepared by them and compared them to the Wallace letter and the PMF Investments letter from May 10 and concluded that the DT-OLB floorplate issue had been subsumed in the direction given by the Commission with respect to PMF Investments. Additionally, suggested language has been drafted in regard to the Elan/Fortress project which the property representative has indicated is consistent with the needs of his client, so it could be moved to the consolidated code.

Commissioner Morisseau said she and Commissioner Hilhorst were concerned after speaking to the Elan/Fortress stakeholder that the proposed approach could be deemed spot zoning. She asked how many sites within the DT-MU B-2 overlay would be impacted by the change. Ms. Helland said staff conducted a review and found the approach not dissimilar to what was done with the Bellevue Gateway site. She said the approach acknowledges that there are thin areas where a zoning line essentially bisects a site, triggering the need for flexibility for development across the zoning line. In the B-2, the Elan/Fortress site is the only property assemblage that is bisected by the Deep B line, so the footnote would apply to the site but would not currently apply to any other site. It would not, however, be a spot zone because there could be other sites assembled that could meet the same characteristics within the B-2. The footnote allows for some flexibility with regard to variable building height for multiple towers on the site, with a maximum height of 288 feet.

Commissioner Walter said it was her recollection that the maximum tower height would be no

more than 220 feet. Ms. Helland the footnote only addresses situations where properties are split by a zoning line. The building height of 288 feet is allowed for a single building in the B-2 perimeter district adjacent to the DT-MU.

Commissioner Morisseau pointed out that the Wallace letter called for adjusting the fee in-lieu rate from \$28 per square foot to \$25 per square foot. Ms. Helland said the rate seeks to incent the amenities earned to place them on the property rather than paying the fee in-lieu. Commissioner Morisseau agreed with that notion and commented that the purpose of the amenity incentive system is to get the community what it wants and needs to the advantage of all. However, 75 percent of open space was put on the amenity incentive list for a reason and it should be built on site. The difference between \$25 per square foot and \$28 per square foot could potentially make that happen.

Commissioner Laing said his take on the fee in-lieu was different. At the CAC level and since, the big thing has been the idea of publically accessible ground floor open space, the best example of which is Downtown Park. The CAC and the Commission has recognized the difficulties associated with coming up with an assemblage. The city could choose to exercise its condemnation authority to get the land it needs for park facilities, but the Commission has been sensitive to the idea of investing fees in-lieu in the area of the project that generated the fees. He said rather than getting into the specific dollar amount of the fee in-lieu, he would prefer to do a downtown-only park impact fee, an approach that is allowed by state law by designating the downtown as a district. Any impact fees collected within the district must be kept in a segregated account and must be spent in the district. One thing about park, school and transportation impact fees is that property owners cannot be charged twice. Where there is a transportation impact fee to address a needed intersection improvement, if the developer opts to build the intersection improvement, a credit against the impact fees is awarded. In a situation in which downtown property owners and developers had a choice between putting publicly accessible ground level open space on their properties or paying a park impact fee, there would be some integrity many could buy into. Making the fee as high as possible to encourage developers to provide facilities on their properties could run up against the legal challenge of nexus proportionality, and requiring the payment of more money to not build something could be tenuous. Probably the only way to actually see more publicly accessible park space in the downtown will be by instituting a park impact fee.

Commissioner Walter noted the Commission had previously discussed the notion of having a park impact fee and she indicated her support for the approach. For every square foot of space people will live and work in, there should be an amount of space dedicated for them to recreate. Ms. Helland said a park impact fee would require a considerable amount of research and preparation to calibrate. The Comprehensive Plan calls for looking for ways and financial avenues to create park space. That could certainly be added as a recommendation in the transmittal memo.

Commissioner Walter asked Commissioner Laing if he would support a fee in-lieu of between \$25 per square foot and \$28 per square foot for amenities other than park facilities. He voiced concern over a tacit admission of overcharging. He said he would not support anything that would become a deterrent to development.

Commissioner Morisseau said she wanted to see a system put in place that will benefit the citizens and the community.

Commissioner Laing agreed but stressed that downtown Bellevue is the golden goose. The

property taxes that are generated by the downtown, along with the retail sales taxes collected there, comprise a significant bulk of the city's operating budget. The vitality and viability of the downtown is what allows the vast majority of the residents of Bellevue to pay some of the lowest property taxes in the state. Bellevue is a world-class city because of the downtown, and that is why getting the downtown code right is so important.

Commissioner Morisseau agreed but said the question is how to make sure what the Commission is trying to accomplish will actually work.

Commissioner Walter said the fee in-lieu largely comes down to do it now versus do it later somewhere else. There is invariably more cost involved in the do it later somewhere else scenario. ~~There~~The needs to be transparency and comparability so downtown residents will know how things might change over time. She said she supported \$28 per square foot.

Commissioner Barksdale asked what the difference is between a fee in-lieu and an impact fee. Ms. Helland explained that the fee in-lieu involves participation in the amenity incentive system. Instead of building an amenity, the developer pays a fee instead. The funds flow into a pool that is used to construct the amenities for which the fees are collected. An impact fee is a construct of state law. State law allows for the collection of impact fees for transportation, parks, fire and schools. Bellevue currently collects transportation impact fees and collects for schools on behalf of school districts in the area. There must be a master plan and a capital facilities plan, and the city must demonstrate where the facilities are that are needed and how they will be charged. A component of obligation is then assigned to the development community to support building out the capital facilities plan. Impact fees are relatively complex to set up.

Commissioner Laing said the Wallace letter makes it clear that some projects have no choice but to pay the fee in-lieu. If there is a fee in-lieu that is intentionally set higher than what the impact is in order to encourage people to build rather than pay, some will be forced to pay the fee by virtue of literally not having enough property. The fee in-lieu at whatever level it is set should not have a disparate impact on those with smaller properties. Those who cannot provide amenities on their sites should not have to pay more than it would cost if they could provide amenities on their sites.

Commissioner Morisseau asked if staff could include in the code language that takes into account those situations. Ms. Helland said there are other approaches that could be utilized. One approach would be not to adjust the cost but rather to include another small site departure. She offered to have staff come back with a recommendation for a departure approach.

MINUTES TO BE SIGNED/REVIEWED (9:25 p.m.)

Commissioner Walter gave staff direction to seek review and approval of the minutes at the May 24 meeting.

PUBLIC COMMENT (9:26 p.m.)

Mr. Don Hassen, 650 Bellevue Way spoke as a resident of One Lincoln Tower. He said the 425 Center building and the Bellevue expansion will be coming online by the end of the summer. He said it would be nice to wait for those two huge buildings to be occupied in order to determine what the actual and real impact will be on the city relative to parking and traffic, as well as

livability generally. There should be no rush to come to a decision on May 24 when a much more informed decision could be made six months or so after the buildings are built and occupied.

Mr. Eric Sinn, 10906 NE 39th Place, spoke representing the Parks and Community Services Board. He said the Board recognizes the work done by the Commission and does not want to be a stopper in the process that is under way. The Board is working to develop a definition of open space and when done will share it with the Commission. On the question of whether a plaza constitutes an open space, specific examples were reviewed in which the incentive structure might not benefit the community or be sustainable to Bellevue. One example shared involved the open space or plaza that is behind Bakes Place in downtown Bellevue. The site fits the requirements but actually provides very little value to the community in regard to accessibility or visibility. It is a green space that is approached via a number of stairs, and the main access point is through the entrance to the building. The Board concluded that for a plaza to be considered open space it should be publicly visible, accessible, on publicly or privately owned land that operates or is available for leisure, play or sport, or serves to protect or enhance the natural environment, and is consistent with the desired uses of the community. He noted the willingness of the Board to continue supporting the process by addressing any particular questions.

Commissioner Walter asked if the Board reached any conclusion as to whether open space is park space. Mr. Sinn said that issue is still under discussion by the Board. There is in place a comprehensive parks and open space plan that the city follows. It is part of the long-term strategy relative to the sustainability of parks within the city. That plan, however, provides no set definition of open space. There is a clear need to come up with a definition

Mr. Jeff Taylor with the Keldoan Group, 10400 NE 4th Street, Suite 500, represented 700 112th LLC that has a property in the DT-OLB Central where the floorplate sizes if reduced by ten percent would fall to only 18,000 square feet. An efficient office floorplate wants to be around 22,000 square feet to 24,000 square feet. It all has to do with distance from the core. The Z corridors from exiting need to be a certain distance from the interior side of the hallway to the window line, making the space as efficient as possible around the entire building. The same approach is utilized across the country. The exception is high-tech companies which want bigger floorplates to get as many employees in the space as possible. The concept of reducing floorplates is good, but there should be a minimum size for office to avoid structures that will not be competitive. He voiced support for the flexible amenity but said if approval will involve going before the City Council, not too many developers will opt for it. Staff should be given flexibility to approve flexible amenities up to a maximum number of points.

Mr. Larry Martin with Davis Wright Tremaine, 777 108th Avenue NE, said he continued to find confusion the ramification of the base height and the trigger height. The dimensional standards chart beginning on page 42 in the packet has two identical columns that sets a base and trigger height for each zone. The base height appears to reflect the FAR discussions the Commission had. Properties are not allowed to build beyond the base height unless it earns amenity points. The trigger height for each zone is the very same height, but it is a separate section in the code. Developers will no longer have to provide ten percent open space upon exceeding the trigger height, but the code still calls for reducing floorplate size. There is an arbitrariness and unfairness associated with having different base height and trigger height numbers for each zone. There is no ramification for base height or trigger height in the DT-O1 district until 345 feet or 450 feet, depending on residential or non-residential. However, in the DT-OLB Central district the trigger height and the base height both kick in at 90 feet or 105 feet, depending on residential or non-residential. The same 400-foot building in those two zones would be treated differently. The correction made to set the base FAR at 90 percent of the new maximum FAR should be

made to the base height and trigger height requirements by setting each at 90 percent of the new maximum for each zone. Where DT-OLB gets a big increase in development, they end up paying for a lot of amenities disproportionate to other zones where the increase in development capacity was not as great, even though they can build bigger buildings. It has nothing to do with impacts, it is all based on how additional development capacity is given. That takes things into the unfair and illegal zone.

Mr. Alex Smith with 700 112th LLC, 700 112th Avenue NE, noted that Mr. Martin's argument had been summarized in prior submissions to the Commission. He thanked the Commissioners for their dedication and said he looked forward the meeting on May 24.

Commissioner Barksdale asked why developers would not want to go before the Council for approval of a flexible amenity. Mr. Taylor said the assumption is that it would take a long time and be very expensive. It is also unclear when it would occur, at the beginning of the process or at some time partway through the process.

ADJOURN
(9:44 p.m.)

A motion to adjourn was made by Commissioner Barksdale. The motion was seconded by Commissioner Morisseau and the motion carried unanimously.

Commissioner Walter adjourned the meeting at 9:44 p.m.

CITY OF BELLEVUE
BELLEVUE PLANNING COMMISSION
STUDY SESSION MINUTES

May 24, 2017
6:30 p.m.

Meydenbauer Center
11100 NE 6th Street, Rooms 401-403

COMMISSIONERS PRESENT: Chair deVadoss, Commissioners Carlson, Barksdale, Hilhorst, Laing, Morisseau, Walter

COMMISSIONERS ABSENT: None

STAFF PRESENT: Terry Cullen, Dan Stroh, Emil King, Liz Stead, Department of Planning and Community Development; Patricia Byers, Department of Development Services

COUNCIL LIAISON: Mayor Stokes

GUEST SPEAKERS: None

RECORDING SECRETARY: Gerry Lindsay

CALL TO ORDER
(6:30 p.m.)

The meeting was called to order at 6:30 p.m. by Chair deVadoss who presided.

ROLL CALL
(6:30 p.m.)

Upon the call of the roll, all Commissioners were present

APPROVAL OF AGENDA
(6:31 p.m.)

A motion to approve the agenda was made by Commissioner Laing. The motion was seconded by Commissioner Hilhorst and the motion carried unanimously.

COMMUNICATIONS FROM CITY COUNCIL, COMMUNITY COUNCILS, BOARDS AND COMMISSIONS – None
(6:31 p.m.)

PUBLIC COMMENT
(6:32 p.m.)

Mr. Richard Gary, 10700 NE 4th Street, said he and his wife live in Bellevue Towers. He noted that the downtown livability effort is in its fifth year but despite the passage of time, the Commission and the Council was urged to defer adoption of any Land Use Code changes until the Lincoln Tower expansion and Center 425 projects are fully occupied and their impact on downtown traffic and safety is measured. Together the two projects comprise almost two million square feet of leasable space, with 3000 new parking stalls. The projects will bring thousands of

new users into the area, and like the proposed code amendments will result in added density and congestion and will have a profound impact on livability. It would be unwise and unnecessary to act until all the facts that can possibly be known are known. There is an additional reason for deferring action, namely that the terms of three City Council members expire at the end of the year. One Councilmember, Kevin Wallace, president and COO of Wallace Properties, has announced he will not seek reelection. The two other Councilmembers have said they will seek reelection. The impact of changes to the code will be both substantial and permanent, and they should be deferred to 2018 when a new Council with a longer-term outlook, and without the presence of a member with conflicted interests, will be seated. The livability initiative process has been heavily weighted in favor of developers since its inception. Nothing illustrates that better than the Commission's actions on May 10 when Commissioner Laing, a partner in the law firm that represents Wallace Properties, proposed that numerous Land Use Code modifications set forth in a letter dated April 26 from Wallace Properties, and supplemented on May 10, be incorporated directly into the amendments without discussion. The Commission adopted the motion with only one Commissioner dissenting. The action was an insult to downtown residents and confirmed the suspicions of bias and self-interest that many downtown residents hold.

Mr. Bill Herman, 10700 NE 4th Street, a resident of Bellevue Towers, ~~tried to present~~ showed the Commissioners a video showing traffic on Bellevue Way backed up between NE 4th Street and I-90. The video was taken at 3:00 p.m. on a Friday. The video could not be opened on the presentation computer. The Commission has said that traffic has not changed in 20 years, that all added trips in the downtown have been absorbed by public transit, and that traffic is not currently a problem and will not be a problem. The experience, however, is different and there is still half the downtown to be built out under the existing code. The 2013 transportation study calls for another 200,000 cars per day. The study did not account for the upzone, which is about a 50 percent density increase. The draft land use audit states that only about 78 percent of available FAR has been used to date. Just increasing height will still yield a 28 percent increase in the FAR. In the DT-OLB and the DT-MU there will be a doubling of the FAR. The 1.0 FAR affordable housing exemption will apply everywhere. The residential FAR in the DT-O1 will be set at 10, and adding 1.0 for affordable housing and another 1.0 for the retail exemption will yield an FAR of 12. The Lincoln expansion weighs in at 6.5 FAR, so what is contemplated is twice that. Once action is taken by the city it will be irreversible. There should at least be a study about what should be done with the 200,000 cars but also the extra 100,000 that will come from the upzone. The methods for traffic studies that do not account for trip time, only volume, are broken. The corridor capacity report showed a drop in volume but a 46 percent increase in trip time in two years.

Mr. Andrew Miller with BDR, 11100 Main Street, noted that a few months ago the Commission proposed meeting with staff to discuss how to make reality out of a responsive design to an interesting corner of the downtown. Staff took the Commission's direction about the East Main area and looked at the properties facing Main Street. He said after a full discussion with the staff, he concurred with what was in the code. The project is reliant on getting a bump of 1.0 FAR for affordable housing. He said he was happy to see the staff and the Commission all viewing the site as a unique opportunity to do something better for the city.

Mr. Phil McBride, 11040 Main Street, took a moment to thank the Commission and the staff for their work. He said the result will be a good project for the city. It will certainly take advantage of the investment in light rail being made by Sound Transit.

Mr. Don Rich, 10700 NE 4th Street, said he moved to Bellevue from Silicon Valley six years ago and said as a result of living in a highrise in San Francisco he understood the value of the

view and aesthetics of highrise living. Business brought him to Bellevue and he said he was impressed with the wedding cake concept for the downtown and made his decision to buy in downtown Bellevue accordingly. He said his unit in Bellevue Towers faces the south side of the DT-O1 district and is high above what he anticipated to be any future development. The Fanta Group presented its plans in 2016, and concerns were expressed about light and so forth in regard to their project going up to 300 feet. It appeared to be a done deal, but now they have come back asking for more height. It is difficult to understand exactly how much height the project might be allowed. The Commission was encouraged to hold the line on the wedding cake design which offers integrity and understanding of future development, both for residents and developers. The Fanta Group's original plans apparently penciled out and they should hold the line on that and not seek to go any higher. The wedding cake should not be allowed to bleed over into other areas.

Mr. Mike Lattore, 500 106th Avenue NE, said he is a Bellevue Towers resident. He said the time for the Commission to present its recommendation to the City Council was approaching and said he would not take the time to readdress any specific codes. However, downtown residents believe the Land Use Code update has become so convoluted and complex that few know what to expect. The input from the residential community has seemed to have very little effect; it has been overshadowed by the commercial developers. There have been concerns raised about questionable participation by Councilmembers and Commissioners, with members of each having strong ties with commercial development. The Downtown Livability Initiative CAC did not have a single member who was a resident of the downtown area. Downtown residents do not believe their interests are being taken into consideration. Much input has been offered by downtown residents, but when and if considered it has been outweighed by the commercial perspective to enhance building. The proof is in the size and complexity of the proposed amendments. The codes have so many varied, undefined or unclear interpretations along with a flawed amenity incentive system, and has no follow-up or accountability built into any of the amendments that would conclude a developer met the commitment to the community. If the recommendations go forward as drafted, they will only confuse everyone with regard to what is going to be allowed in the future and with the potential of the community being taken advantage of. The objectives of the Downtown Livability Initiative was to better achieve the vision for the downtown as a vibrant mixed use center; enhance the pedestrian environment; and improve the area as a residential setting. Hopefully the Commission will present to the Council a very clear summary that is specific to how those objectives will be met.

Mr. Lance Ramsey, 500 106th Avenue NE, said he has lived in Bellevue Towers for four years. He said no one in the room was anti development, but many believe the process has not equally represented the interests of the residents. He said the people were looking for appropriate due diligence and a thoughtful process. They do not believe that has been achieved. While the process has admittedly been difficult and challenging for everyone involved, there are some on the Commission who have stood up for the residents. Furthermore, while the process has been at least in name focused on improving livability, the process has instead been largely focused on upzoning and catering to the interests of developers rather than downtown residents. Livability issues like parking and parks have been kicked down the road. The process has not been transparent and has been very hard to track. The process should be paused. There are many elements of the proposal for which their impact remains unknown. It would be irresponsible not to assess the results of all the changes to have a full public discussion about them.

Ms. Jackie Ramsey, 500 106th Avenue NE, said for four years downtown residents have been voicing their concerns regarding livability, both in person and in writing. The appearance of the numerous signs held by members of the audience was intended to call attention to the fact that

the interests of downtown residents have been subsumed by the attention and activity of those who lobby the Commission for a living, none of whom live in the downtown and must deal with the results of their decisions. It is disturbing to see the requests of a single developer become immediately incorporated into recommendations, while the recommendations of residents are routinely swept aside. That does not feel good to downtown residents who are not anti-development but who also are not for development at any cost. The Commission and the Council was urged to better understand the infrastructure, safety and traffic impacts of the recommendations before proceeding.

Mr. George Hatune, 10700 NE 4th Street, said he has been a resident and homeowner in Bellevue for 20 years and has worked in the downtown for the last ten years. He said he loves being able to walk to work, the park and the grocery store. Downtown Bellevue is a much better place than it was 20 years ago, with much more to do and better entertainment options. He said he is not against development and in fact wants to see more healthy development in the downtown. He said his recent purchase of a condominium in Bellevue Towers involved talking to real estate agents and planners at city hall, and reading over the current land use rules and the preliminary livability report. That did not, however, yield an accurate picture of what the true height restrictions were, what the density would be, what the buildings would be shaped like, and if the wedding cake design would be followed. He suggested revising the report to be more transparent and clear about the actual maximum heights and densities will be for each zone, including any amenities and mechanical screening around which there remains room for interpretation. A visualization of what things will actually look like if built up to the maximum heights should be created and included in the report; that would show what the wedding cake would actually look like. That would help folks make an informed decision about whether or not the plan is good.

Ms. Gina Attilo, 177 107th Avenue NE, said she is a resident of Bellevue Pacific Tower, having recently moved to Bellevue from Colorado. She said she has a child attending Chinook middle school and another at Spirit Ridge, so much of her time is spent traveling back and forth. She said she is often stuck on Bellevue Way, and things have gotten worse. She voiced concern over what things will be like in the next ten years and said she has considered moving out of the downtown. Other families have the same issues. There is currently a safety issue for pedestrians in downtown Bellevue. She said she and her children have been nearly hit by cars many times while walking to Safeway for milk, and was present when a pedestrian recently was hit and killed. She suggested adding something to the amendments a requirement for all builders to put aside money into a downtown Bellevue pedestrian safety fund. Working with the department of transportation or the police chief, a safety plan should be developed that incorporates best practices, such as speed humps on NE 2nd Street so fast cars would bottom out and have to slow down. Traffic is going to increase and pedestrian safety will suffer.

Mr. Sesh Vilapor, 500 106th Avenue NE, said he is a resident of Bellevue Towers and has for 25 years conducted research in the field of future studies and has written and spoken all over the world, especially about climate change. He said over the long term, the proposed upzone along with the existing conditions in Bellevue will add millions of tons of carbon dioxide to the atmosphere. Consideration should be given to making the upzones and the existing conditions carbon neutral. Unless the Commission assumes that climate change is a hoax perpetrated by the Chinese.

Ms. Michelle Herman, 10700 NE 4th Street, a resident of Bellevue Towers, pointed out that at the April 26 Commission meeting Commissioner Laing commented that the proposed code would not result in taller and skinnier buildings. He said if there was going to be a conversation

about changing building height, massing and form, the focus should be on requiring what will actually be a skinnier building and not just the portion of the building that exceeds the old maximum height. That is something the residents have been saying for a long time. Commissioner Laing went on to say he would consider potentially not supporting any increases, but by May 10 Commissioner Laing made a full about face by moving right off the bat to incorporate the recommendations of Wallace Properties that had been distributed just prior to the meeting and which the residents had not had time to review. His motion was approved. The proposal recommends increased floor plates, reducing the setbacks and eliminating open spaces, which are all things downtown residents oppose. The livability process has been flawed and heavily biased toward the development community since its inception. The concerns of residents about substantive and due process issues have been ignored over and over again. In recent weeks and in light of the notable shift, residents began looking into things and found real conflicts of interest which are pervasive from the City Council all the way through the Planning Commission. There is a duty for Councilmembers and Commissioners to recuse themselves from decisions where they have conflicts of interest. Violations in the context of legislative policy decisions require a showing that an official specifically intended for his or her actions to create a special benefit for himself or herself, or for another person. It seems like that has happened during the process in spades. According to the *Seattle Times*, Councilmember Wallace, an owner of Wallace Properties, was the one who appointed Commissioner Laing to the Planning Commission. According to the article, other Councilmembers objected, which is unusual, and felt the process by which Commissioner Laing was appointed was covert and unauthorized. There are real issues of process. Downtown residents have felt ignored; they really do care about their homes and would like the Commission to correct the mistakes that have been made over the last four-plus years.

Commissioner Laing took a moment to speak to the issue. He said of all the comments received by the Commission from the various downtown residents, he found Ms. Herman's to be the most persuasive and on point relative to the recommendation of the Downtown Livability Initiative CAC, which he co-chaired, and his own view on downtown livability. In one of her comment letters, Ms. Herman pointed out that the issue is not what goes on in the DT-OLB. Supporting an upzone and height increases and increased density in that zone might be okay, but the changes proposed for the core and other parts of the downtown, especially with regard to height increases, could be problematic. He said he had uniformly raised questions going all the way back to the CAC process about increasing heights anywhere but in the DT-OLB. The Commission meeting minutes from May 10 indicates that subsequent to his motion, the issue of heights was carved out of the recommendation and was tabled for further discussion. The minutes also reflect in the discussion subsequent to his motion that he continued to raise questions about why the city should be considering increased heights anywhere but in the DT-OLB.

Continuing, Commissioner Laing added that a little over a year ago he was accused of having another conflict of interest relating to the Fortress project. A property owner's representatives contacted him in his professional capacity as a land use attorney about helping them upzone their site. He said three times he declined to represent them. They are represented by able counsel, but he said he has continued to recuse himself from any discussion of their issue. During the past week he said he has been accused of two additional conflicts of interest, one relating to his law firm's representation of Wallace Properties on wholly unrelated matters, and his alleged representation of the Bellevue Towers residents association given his outspokenness about the proposed height increases. He said he was asked on May 23 by the City Manager if he represented the Bellevue Towers residents for those reasons. He said he had spent a couple of hours on the phone and in face-to-face meetings with other stakeholders who are concerned at

his vocal opposition to the proposed height increases and the concerns raised by the Bellevue Towers residents going all the way back to the end of the CAC process. It is ironic and somewhat hurtful that the issues are being raised at the eleventh hour. A careful review of the motion made on May 10 indicates inclusion of recommendations from five letters into the draft code for discussion purposes only without taking a position on any of them. The Wallace letter was primarily focused on the DT-OLB, and the changes made to the draft code have nothing to do with looking at heights outside of the DT-OLB. He said if the Bellevue Towers residents believe he should recuse himself from the discussion of tower heights and the proposed height increases, they are free to do so. He said he would take counsel from his fellow Commissioners accordingly, but he stressed that no other Commissioner has been more opposed to the proposed height increases.

Mr. Don Hassen, 650 Bellevue Way, said he is a resident of One Lincoln Tower. He suggested the lack of attendance of the meeting was due to comments from residents falling on deaf ears. He suggested a town hall meeting should be scheduled to allow for open discussion about how to cooperate and get things done. He said his main concern is that time is not of the essence. The Commission was asked to wait for nine months to allow the Lincoln Tower expansion and the Center 425 projects are fully occupied and their impacts are determined. Once decisions are made, they cannot be undone. The whole problem could have been largely addressed by saying the building height is 302 feet rather than 250 feet, with a footnote indicating the taller height is allowed only by meeting certain requirements. When condominium buyers are seeking to purchase units, they ask their real estate agents what the surrounding heights are, and everyone is saying it is 250 feet. The documentation needs to be cleaned up very soon.

Mr. Kevin Whitaker, 10700 NE 4th Street, said he is a Bellevue Towers resident. He agreed with the comments made by the previous Bellevue Tower residents. The process has lacked transparency and access. He suggested including education pieces to help people understand the code. The actual maximum heights should be clear. He also agreed that there should be opportunity for a full back and forth between community members and Commissioners.

Mr. Ian Morrison, 701 5th Avenue, Suite 6600, Seattle, spoke on behalf of PMF Investments. He thanked the Commission for undertaking a thoughtful and deliberative process and for the work done by the Commission, the community and the staff to reach consensus on the big rock issues. He said PMF Investments has the Sheraton site at the corner of 112th Avenue NE and Main Street and is very excited about the opportunities that will result by the work done by the Commission and the staff. The DT-OLB district will support some strategic density. The Commission tasked the property owner to work with staff to find a solution relative to the treatment of the parking garages facing I-405. The idea was to yield an attractive façade for the garages. He reported that after much work and discussion with staff, a solution has in fact been identified that will work for staff and the property owners.

Mr. Patrick Bannon, president of the Bellevue Downtown Association, thanked the Commissioners for their time and commitment to shaping the draft Land Use Code. The Commission throughout the process has been receptive to public comment and thoughtful in discussing the issues. After four years of discussion, the BDA is pleased to see the draft code reach the point of transmittal from the Commission to the Council where the conversation will continue. The proposed code is far superior to the existing code. The intent of the CAC in recommending height increases has been to see more slender buildings constructed that create more light and air and a better outcome for the downtown. The Commission has limited density increases to the DT-OLB, and has leveled at 5.0 the FAR for residential and non-residential in the DT-MU district and on the gateway corner at Main Street and 112th Avenue NE. A few

additional changes to the code will continue to be strongly recommended as the process moves forward, including the base height calculation, especially in the DT-OLB where there is a dramatic gap between the base height and the maximum height where the amenity calculation occurs. Based on the comments made by downtown residents, there is a need for additional community conversation, particularly around transportation and safety in the downtown. Fortunately, the residents passed a transportation levy in 2016 that will yield funds for safety projects. The Council has also adopted a Vision Zero policy that hopefully everyone will get further engaged with.

Mr. Jack McCullough, 701 5th Avenue, Suite 6600, Seattle, spoke on behalf of Fortress Development. He observed that Commissioner Laing has brought to his deliberations a possibly unnecessarily conservative approach to disqualifying himself from discussing certain issues. For the record, he said no one from Fortress Development contacted Commissioner Laing in the early part of the proceedings. He said he has been serving as counsel for the group from the beginning. Possibly a prior owner contacted Commissioner Laing. From the point of view of Fortress Development, Commissioner Laing's recusal relative to the matters is unnecessary, though additional conservatism harms no one. He added that there are two or three projects that have been in the process for two years or more that have permits and ADRs that are waiting to come out. He said he is working with them and suggested it would be unfair and inequitable to change the rules on them at the last minute after investing hundreds of thousands of dollars. Some transition vesting language is being worked on to be incorporated into the final ordinance. He said the Commission's process, though long, has been good. Through two Commission chairs, the Commission has done a good job of providing for transparency and allowing for public input and participation. There is a certain urgency to see things wrapped up given the number of persons with sites who have been watching the process and who are looking forward to proceeding to invest in the downtown under the new code.

STUDY SESSION (7:26 p.m.)

With regard to the proposal made to delay the process, Commissioner Hilhorst explained that the Commission has clearly been directed by the Mayor to complete the process. She said forwarding the package to the Council at the conclusion of the meeting should not be interpreted as the Commission not having heard the requests made by the residents. The Commission serves at the pleasure of the Mayor and the Council.

Comprehensive Planning Manager Terry Cullen said the public hearing for the Downtown Livability Initiative Land Use Code amendment was held on March 8 and noted that subsequently there had been several study sessions. He said the understanding is that the Commission would conclude its work by the end of the meeting and transmit the package to the Council.

Planning Director Dan Stroh said the work began with the Downtown Livability Initiative CAC which undertook a lengthy process to determine what about the code was working well and what could work better. Their findings were forwarded to the Council who in turn passed the work on to the Commission. He said the term "downtown livability" is part of a much larger agenda that includes the Downtown Transportation Plan, parks, public safety and other elements of livability. The code piece is one part of the livability agenda but not the only piece. It hones in on what the city can do to influence private development to do what it can and should to mitigate the impacts of growth for a better outcome. The downtown code has been amended at times over the years, but each amendment has been very surgical. The proposed code represents the first sweeping

update of the code since its 1981 adoption. The ~~proposed code~~ ~~complex~~ is very complex with many moving parts, and that is why the process has taken so long.

Continuing, Mr. Stroh said the agenda called for discussing a few outstanding issues, reviewing the final package for consistency with the Council principles and the intent of the CAC, and reviewing the transmittal memo.

Strategic Planning Manager Emil King said the work of the Commission will be forwarded along with the transmittal memo to the City Council. The Council will then hold a series of study sessions before acting to approve the package. He noted that two open questions had been included in the packet, specifically any additional direction on the ten percent floorplate reduction, and the DT-OLB South alternative design treatment for parking garages. With regard to the latter, he said the district is a gateway into the downtown and noted that agreement had been reached relative to design that includes art and green space at the lower levels, and glazing that replicates either a residential or office building from freeway height and above, though without resulting in a need to fully ventilate the space by means other than natural ventilation.

Mr. King pointed out that all public comments received had been included in the packet and the desk packet. He also clarified that the matrix on pages 17 to 22 of the packet included an annotated table of contents indicating the changes and new content for each code section. The packet from pages 23 to 169 contained the March 8 public hearing draft with strike underline of all the direction given by the Commission over the last four meetings. The Council principles were included on page 7 of the packet, along with the principles relating to the incentive zoning system that were adopted by the Council in January 2016. The packet on pages 177 and 178 included the relationship to livability statement or objectives that went out with the public hearing draft. Direction received from the Commission at the May 10 meeting was itemized on pages 2 to 6.

With regard to the issue of floorplate reduction above the trigger height, Mr. King reminded the Commission that the issue was raised by Commissioner Laing who questioned ~~if~~ the ten percent reduction in the draft code was sufficient to result in taller and more slender buildings. The Commission previously discussed the fact that the DT-O1 and DT-O2 districts were the zones where the issue was most pertinent given that the districts typically yield floorplates of a bigger size because of the allowances for office buildings in the 20,000 to 24,000 square foot range. Given that residential towers are not as big, the question was whether or not anything more than a ten percent reduction for residential is needed.

Turning to the DT-O2 district, Mr. King said the area is split between the area to the north of NE 8th Street, east of 110th Avenue NE, and south of NE 4th Street. He allowed that the Commission had discussed the development potential in those areas and what it could mean for that general part of the downtown and how it would be consistent with the wedding cake. Staff took the approach of looking at the Commission's current code recommendation and looking at whether redevelopment would yield buildings that could pierce the building heights. The district was reviewed in terms of the area west of 106th Avenue NE, which includes the northern part of the Avalon/Safeway project, and the area east of 106th Avenue NE, which includes Expedia and the Fanta properties. The Avalon/Safeway project did not build to the maximum building height allowed by code. The west area essentially has two 25,000 square foot redevelopment sites, provided lot ownership were to be aggregated. There is an existing 20-foot public right-of-way that runs from NE 4th Street to NE 2nd Street and it could severely limit building heights that could be achieved without taking some extraordinary measures.

Mr. King said staff looked at each of the properties. The DT-O2 zone allows FAR to 6.0, but it would take going through a process to get even a full 1.0 FAR exemption for retail. Staff also assumed the affordable housing exemption of 1.0 FAR. In a nutshell, development of each of the 20,000 square foot sites, with floorplates below the typical 9000 square feet for residential, would see buildings of up to 240 feet in height, assuming a podium filling the site and accounting for rooftop mechanical equipment. The city is not interested in vacating the 20-foot public right-of-way given that it serves a unique function.

The Commissioners were informed that the staff recommendation for the DT-O2 South was to split it into two segments divided by 106th Avenue NE and to retain the current height limit of 250 feet and the provision for an additional 15 percent increase most developments get for a total of 288 feet, as well as the five-foot increase for mechanical equipment.

Commissioner Morisseau asked if staff considered the possibility of someone coming in and buying all of the sites and pulling together a single 50,000 square foot site, and whether a building that includes an overpass over the right-of-way could achieve 345 feet in height. Mr. King said the city has in the past been approached about options to build over the 20-foot right-of-way, and has also been approached about vacating the right-of-way. The conclusion reached was that there would be no merit to pursuing either approach. If the two sites functioned as a single combined development site, the development potential could be put into a single tower exceeding 250 feet. However, given the unique circumstance of the right-of-way and the city's commitment to retaining it would mean a development could not get enough FAR to build above 250 feet or so.

Mr. Stroh said given how unlikely it is to achieve a tower in the DT-O2 South west of 106th Avenue NE, it would be a better outcome to adopt into the code the existing height limit. He said that was the staff recommendation.

Commissioner Morisseau said it was her recollection that height in the DT-O2 South district was recommended to be 345 feet. Mr. King said the current recommendation is essentially 300 feet plus an extra 45 feet, plus up to 20 feet for mechanical equipment. The currently adopted code lists 250 feet plus up to 38 feet.

With regard to the original concept for the, Mr. Stroh said the issue of requiring ten percent of the ground floor of sites be required to be a publicly accessible open space came from trying to follow through on the promise of taller buildings resulting in more slender building forms and additional open space. He said staff holds the view that the required open space is an important element of allowing additional building height, and would recommend retaining the provision in the draft code. The provision would not affect buildings that are maxing out under the existing height allowances, but if additional height is to be used, it should be accompanied by a requirement for ten percent open space.

Chair deVadoss opened the floor to input from the Commissioners.

Commissioner Laing said he would like to see a global change within the draft document to spell out all numbers using words followed by numerals in parentheses. Code Development Manager Patricia Byers said she had no issue with taking that approach, except in the tables the approach would not be practical. Commissioner Laing agreed the tables should show only numerals.

Commissioner Laing pointed out that throughout the part 20.25A, the downtown overlay section, the area the overlay applies to is alternately referred to as "downtown," "downtown subarea,"

with the word subarea sometimes capitalized and sometimes not, and “downtown district,” sometimes capitalized and sometimes not. He recommended that in 20.25A.010, the general section, a single term should be defined and used. Commissioner Carlson concurred.

Commissioner Laing commented that throughout the code draft there are references to “this code” and “the code” with the word code being capitalized and not. There are also references to “Land Use Code” and “LUC” without it being clear whether the reference is to the entire Land Use Code or just the downtown subarea. He recommended at a minimum the term should be capitalized and it should be clear what is being referred to.

Commissioner Laing said there is in the draft no definition of “alley” in 20.25A.020. A definition is needed given that there is an entire section about alleys with addresses. In the definition section it is specifically stated that among the definitions not applicable to the downtown is the definition in the general code to alley. He recommended either using the existing definition for alley or creating a new one and expressed a preference for using the existing definition. Commissioner Hilhorst agreed. Commissioner Laing said the first definition not applicable to the downtown in subsection 20.25A.020.B should be stricken.

In that same vein, Commissioner Laing referred to the definition of project limit in 20.25A.020.A, the definitions that only apply in the downtown. He noted that a project limit is defined as a lot, portion of a lot, combination of lots, or portions of combined lots treated as a single development parcel for purposes of the Land Use Code. In reading through the downtown code, the most common word used to refer to the project limit is “site” which under the existing code is defined as a lot or group of lots associated with a certain application, building or buildings, or other development. The draft code repeatedly uses the word “site” even though the new project limit definition sounds a lot like what is also defined as site. Additionally, “lot” is defined as a single parcel of land irrespective of the method of legal description. He recommended eliminating the reference to “project limit” and use the definition for “site” as it is already used through the existing code. Commissioner Hilhorst said she would support making that change.

Commissioner Laing said the definition section defines “public realm” as streets, parks and other open spaces and the accessible parts of private buildings. He said it should instead refer to the publically accessible parts of private buildings. Additionally, all instances in which “public realm” is used throughout the code include the concept of publicly accessible, except in the definition.

Commissioner Laing said the definition for “interior property line” in the draft code refers to a property line other than the build-to line. He said it should refer to a property line other than the build-to line within a project site. There could be an aggregation of lots and therefore multiple property lines, but what the term refers to is the interior exterior line.

Commissioner Laing pointed out that the definition for “small site” refers to a lot equal or less than and should in fact say equal to or less than 40,000 square feet in area.

Commissioner Laing said the definition of “tower” refers to any building located in the downtown subarea. He suggested striking “in the downtown area” given that the definitions only apply in that area.

With regard to subsection B of 20.25A, Commissioner Laing noted that the section refers to definitions that do not apply in the downtown. However, the definition section of the Land Use

Code includes multiple subsections regarding building height. He recommended that the definitions that start out with building height should be listed in subsection B if the intent is that they do not apply in the downtown.

Commissioner Laing commented that throughout the code the word “which” is used where the word “that” should be used. Additionally, the words “should” and “must” are used where the word “shall” is correct.

Commissioner Carlson said it has always been his view that laws should be written as clearly and comprehensible as possible for the average lay person to read. Often the code says the building height is something like 300 feet, but then it allows 15 percent more through incentives and another 12 feet for mechanical equipment. Rather than saying 300 feet, the code should say 360 and include a footnote or asterisk indicating what the base height is and how that number can be increased. Commissioner Barksdale agreed and suggested that images providing graphical clarity should be included. He said he would also like to see included links or references to places outside the code where additional information can be found regarding the key concepts.

Commissioner Walter agreed, particularly with regard to including graphics to compare what was with what is coming. It would be best if on the website the images could be in 3-D. Chair deVadoss noted that members of the public had also called for visual representations.

Commissioner Laing pointed out that throughout the draft the word “will” should be replaced with “shall.”

Commissioner Barksdale recommended having periodic focus groups with the community and use the input to iteratively improve the code. With regard to the annual performance review of the amenity incentive system, he emphasized the need to use it to identify the amenities that actually get used. He said he also would like to see targets set for each amenity and language included in the code indicating that once a set percentage of a given target is reached, there should be a discussion about whether or not to continue with that amenity.

Chair deVadoss asked how that would be done. Commissioner Barksdale said underground parking has been an amenity for many years, yet the market has shifted to where it will provide underground parking whether it is incentivized or not. As the market shifts toward including other amenities, even if they are not incentivized, the amenity should be dropped from the list. Ms. Byers said if there are amenities that are simply not used at all, it would be an easy thing to remove them from the list and possibly replace them with something else. It would be far more difficult, however, to determine an upper limit and phase out an amenity by virtue of it being routinely selected. Open space as an amenity should probably be kept on the list even if every development incorporates it. Commissioner Barksdale said the weighting for the amenities all developments are using could be changed over time as the result of a performance review, and Ms. Byers agreed.

Commissioner Morisseau commented that in order to determine trends relative to the use of various amenities, the review period should be longer. Reviewing the list of amenities used every year or every other year would not paint a true picture. The review period should be at least five years long. Commissioner Barksdale said his concept of an annual review entailed looking every year at all of the permits applied for or granted and taking stock of the extent to which the various amenities were used. Commissioner Morisseau said she understood that but reiterated that it would take several years of data to show true trend lines. Ms. Byers said an annual review could be done to mark down which amenities are used, and the five- to seven-year review could

take up those annual reports and use them to identify trends. Commissioner Barksdale agreed and said setting thresholds could trigger the need for a deeper review.

Commissioner Walter said it was her understanding that the Commission had directed staff to show building height as the maximum, including the 15 percent/10 percent and the allowance for mechanical equipment. Mr. King said the amended land use charts that start on page 58 have the 15 percent/10 percent included, but the allowance for mechanical equipment is not included. If directed to do so, staff could change the maximum building height to be inclusive of the mechanical equipment.

There was consensus to show maximum building height as being inclusive of mechanical equipment. Mr. Stroh said that change could be made, but he clarified that the mechanical height is non-habitable space. It needs to be enclosed for aesthetic purposes, but it is height of a different kind. That is why it has traditionally been listed as a separate height calculation. He said in making the change staff would seek to make clear that mechanical equipment height is different. He clarified that where the maximum building height is set at 250 feet, it will be shown as 308 feet. A footnote will be included to indicate the height includes 20 feet for mechanical equipment.

Commissioner Walter pointed out that when comparing the new code with the old code it will appear as though the Commission has recommended significant height increases in all areas. It will no longer be possible to compare apples to apples when it comes to height.

Commissioner Laing allowed that he had from the start raised the issue of the build-to line. He said the problem with it is that as defined the build-to line is the back of the required sidewalk unless upon the request of the applicant it is designated otherwise by the director. There does not appear to be criteria for the director to adhere to in making a determination, and a standardless standard is not a lawful standard. The definition is in 20.25A.020 on page 27 of the packet, and the dimensional requirements in 20.25A.060.A.1 on page 53 states that buildings are built to the build-to line which is either the property line or the right-of-way line unless otherwise determined by the director. Seattle's zoning designations often include a hyphen and a "P" standing for pedestrian-oriented overlay. Under the "P" all of the streets in the city associated with the pedestrian-oriented overlay applies is listed. Bellevue's code should at a minimum list the types of streets shown in 20.25A.010.B.4 and 20.25A.010.B.5. The draft should be clear based on street type. He proposed changing the definition of the build-to line to include the specific types of streets to which the build-to line is applicable. If it is all of them, there should be some very clear language setting for on what basis the director can designate otherwise.

Land use director Liz Stead said it would fall to her to make such decisions. She explained that flexibility is needed in the code to allow developers to pull their buildings back from the sidewalk to provide space for things like outdoor cafés and outdoor plazas. A strict interpretation of the code that all buildings must be at the build-to line, accommodation for the open spaces residents have said they appreciate would not be possible. The flexibility allows for providing some relief while keeping most of the buildings at the sidewalk in support of livability. Commissioner Laing thanked Ms. Stead for her explanation but pointed out that there is nothing said about if, when and how such flexibility decisions are to be made. Absent criteria to follow, the director is left to make decisions for personal reasons.

Commissioner Hilhorst agreed that if flexibility is to be allowed, there should be criteria governing it. Commissioner Walter added that if positions were to change in between a project that spans two different directors could wind up with a huge financial burden based on what was

on someone's mind that was not written down versus what someone else may decide.

Ms. Stead said further information about when deviating from the build-to line would be appropriate could be added to the design guidelines.

Commissioner Laing suggested language along the lines of "buildings are built to the build-to line, which is either the property line or the right-of-way line, except where a plaza, building modulation or other ground-level open space is proposed." That would put it on the developer to design it in.

Chair deVadoss commented that where the builder is given the flexibility to pull back from the build-to line, their building would have a smaller footprint and the site would have more open space. He asked why they should be restricted from being allowed to do that. Commissioner Laing suggested the concern of the city is that a regular pulling back of buildings from the build-to line to accommodate landscaping or something else could have the effect of creating a separation and obviating the pedestrian connection with what is going on inside the buildings. Retreating from the build-to line should be allowed but for specific reasons.

There was agreement to include Commissioner Laing's suggested language.

Commissioner Laing thanked staff for respectfully disagreeing with the Commission about the ten percent open space issue. He suggested flagging the fact that the outdoor plaza space was listed in paragraph B of 20.25A.030. Going forward with the Commission's recommendation, subsection B.1.a.v would need to be stricken.

With regard to 20.25A.030, Commissioner Laing noted the section talks about the applicable review. All of 20.25A.030 talks about design review but confusingly it says the director shall not approve the design review unless the master development plan is amended to include certain elements. It should refer to the design review permit. Developers ~~don't to do~~ receive design review, rather they must go through design review. The effective approval section, 20.25A.030.A.1, should also refer to a design review permit rather than design review, and should be revised to read "Approval of the design review permit, the master development plan and/or any development agreement where required shall constitute the terms and conditions governing the development."

With regard to the departures in 20.25A.D.1, Commissioner Laing reiterated the importance of the lower case code issue in paragraph (b), the decision criteria. He referred to (b)(v) and suggested revising it to read "...allowed through a development agreement approved pursuant to...."

Commissioner Laing pointed out that 20.25A.030.D.2, which used to be titled legislative departures but which has been changed to City Council departures, and which could simply be called Council departures, the word "legislative" continues to appear in the text on the top of page 35 in the packet. He suggested the word should be deleted but said he was most concerned about "process to foster adaptive reuse of buildings that existed as of adoption date of this code..." and the same provision below. He said it amounts to spot zoning and seems to indicate the City Council can enter into a development agreement with a single property owner and allow a prohibited use in their building for adaptive reuse. The language is not consistent with RCW 36.70B.180, the state enabling legislation for development agreements which require development agreements to be consistent with adopted development regulations. He said "...process to foster adaptive reuse of buildings that existed as of adoption date of this code..."

should be stricken along with subsection (a)(i). There was general agreement to make the change.

Commissioner Hilhorst drew attention to the issue of tower spacing and said it was her understanding the Commission had previously landed on 60 feet instead of 80 feet. She proposed creating an amenity for 80-foot tower spacing to encourage developers. Mr. King said that is a recommendation that could be included in the transmittal memo.

Commissioner Hilhorst said her intent in recommending removal of the ten percent open space requirement was tied to creating a park impact fee instead. By pooling the fees, a more cohesive and planned park amenity could be created for downtown residents. Mr. Stroh said open space is very important in dense urban environments and is clearly important to livability. There are instances of dense urban development where open space has not a consideration and the resulting environment is not as livable. In the case of the downtown, there is a combination of things needed to achieve the desired level of open space. One way is through park capital investment on the part of the city, and a park impact fee would be one engine driving such investments. It is not known, however, if a park impact fee is something the Council will ultimately look favorably on, and it would take quite a while to set it up. The thinking is that at least for buildings that are going to take advantage of additional height, there should be an offset in terms of the impact resulting from the additional height. The ten percent open space tied to allowing additional height would capture that. The Commission could in the transmittal to the Council outline its commitment to achieving open space in the downtown and suggest that adoption of a park impact fee would be a better mechanism for meeting the ten percent open space. Adoption of a park impact fee could be coupled with eliminating the ten percent open space requirement, but until then the opportunity to achieve open space in exchange for height should not be lost.

Commissioner Hilhorst pointed out the need for the Commission to reach a conclusion with regard to reducing floorplate size above a certain height as a way of ensuring taller and skinnier buildings.

Commissioner Walter agreed. She commented that in the DT-O1 district, the draft code will yield skinnier residential buildings but not non-residential buildings. For non-residential, the floorplates remain the same size all the way up both under the current code and the proposed code. Residential floorplates reduce from 24,000 square feet to 22,000 square feet above 40 feet, and to 13,500 above 80 feet. Mr. King said residential floorplates will always be smaller under both the current code and the proposed code. A developer in the DT-O1 district wanting to exceed 345 feet must reduce floorplate size by ten percent based on a 24,000 square foot floorplate. Commissioner Walter pointed out that a reduction of ten percent from 24,000 square feet is much less than the reduction for residential floorplates that drop from 22,000 square feet to 13,500 square feet. She said the issue is very complex and having a drawing would be very helpful. She also noted that the definition section includes nothing about the trigger for additional height.

Commissioner Morisseau pointed out that the Wallace letter sought an increase in floorplate size in some areas. She asked how the 30,000 square foot floorplates in the DT-OLB work with the 25 percent increase allowed between 80 feet and 150 feet, and what the new maximum floorplate size is. Mr. King called attention to page 59 of the packet and said the direction given previously by the Commission was to incorporate the changes outlined in the May 10 Wallace Properties letter, as well as the May 10 PMF Investments letter. Changes were made to the draft code relative to the non-residential or office floorplate in the DT-OLB South district. The maximum floorplate above 80 feet is 20,000 square feet, and footnote 16 allows a 25 percent increase

between 80 feet and 150 feet. The required ten percent reduction in floorplate size would occur above 150 feet. The maximum floorplate size between 40 feet and 80 feet is 30,000 square feet.

Commissioner Hilhorst referred to the DT-O2 building heights and asked if the Commission needs to approve the recommendation of staff as it was presented. Mr. King said if the Commission wants to incorporate the staff recommendation, it should either be accepted or kept as it is in the current draft.

A motion to accept the recommendation of staff relative to building heights in the DT-O2 district was made by Commissioner Hilhorst. The motion was seconded by Commissioner Laing and the motion carried unanimously.

With regard to the ten percent floorplate reduction issue, Commissioner Hilhorst said she was not ready to lock in that specific percentage. She said she would prefer to leave the issue open in the transmittal to the Council.

Chair deVadoss noted that the Parks and Community Services Board addressed the Commission on several occasions and he said he did not believe the Commission addressed their concerns around the metrics for parks and open space. He said he would rather push for a stronger case toward meeting the metrics outlined by the Parks and Community Services Board. Commissioner Morisseau agreed the transmittal memo should include a bullet point addressing the issue.

Commissioner Walter applauded the input from the Parks and Community Services Board regarding parks and open space. She proposed including the ten percent open space in the code as outlined by staff, and including in the transmittal a strongly worked recommendation to institute a park impact fee.

Commissioner Barksdale argued that open spaces provided should be more accessible by the public. The public should not have to walk far to access non-concrete open space areas in the downtown.

Commissioner Laing spoke in favor of setting the new base height or trigger height at 90 percent of the new maximum height as recommended by the BDA. He said that will level the playing field for all districts in the downtown.

A motion to maintain the requirement for ten percent open space until such time as a park impact fee is adopted was made by Commissioner Walter. The motion was seconded by Commissioner Morisseau.

Commissioner Morisseau said she would not want to see the ten percent requirement restricted to a park impact fee. She said she wants to see the park impact fee issue addressed, but not in the code itself.

Commissioner Walter said funds collected through a park impact fee, once adopted, could only be used for parks. Bellevue needs parks in the downtown, especially as more people chose to live in the downtown.

Commissioner Morisseau agreed that the issue of instituting a park impact fee should be addressed, but not in code language. She also pointed out that it has not yet been determined if open space can be termed park space.

Commissioner Barksdale said even if a park impact fee is ultimately adopted, the ten percent open space requirement should not be done away with.

Commissioner Hilhorst said her concern with going forward with the ten percent open space requirement and a request for the Council to consider a park impact fee was that the park impact fee could end up being layered on top of the ten percent open space. She said she would prefer to have a single approach for achieving park space in the downtown.

Commissioner Walter said the park impact fee could possibly be used to create open space and prioritized to creating parks in the northern and southern parts of the downtown first.

Commissioner Barksdale pointed out that as development in the downtown continues, there will be less and less land available for park facilities. The ten percent open space requirement allows for the establishing of open space on private land. Mr. Stroh agreed and said the approach is aimed at assuring there will be publicly accessible open space at the ground level of buildings that are allowed to be taller. In terms of having adequate space for parks elsewhere, land would have to be publically acquired. There are some areas identified in the subarea plan for new parks in the downtown, and they are on larger pieces of land. There are some deficits that hopefully can be addressed in a coordinated fashion in time. The staff stressed that publicly accessible open spaces are not in fact public parks, but they do offer a significant amenity value. They must be designed to be attractive places and people will want to use, but they are not actually parks.

Commissioner Carlson said the interpretation he drew from the presentation made by the Parks and Community Services Board was that open spaces are less than parks. Plazas where people can go to relax and enjoy the outdoors, even if they are privately owned, are de facto parks and are good things to have. He stressed the need to keep an eye on the big picture.

Commissioner Laing said the impact of the trigger height associated with the ten percent rule varies significantly depending on where a property is located. He noted that the maximum height in the DT-OLB Central district is 403 feet, and the trigger height for non-residential is 90 feet. For the same height in the DT-MU Civic Center, the trigger height is at 115 feet. This equates to about an additional 2.0 of FAR before triggering the open space requirement. With regard to residential buildings, in the DT-MU, where the building height is 400 feet, the trigger height is 230 feet, and in the DT-OLB the trigger height is 105 feet. The unanimous recommendation of the CAC was to extend the DT-MU zoning to the DT-OLB. As proposed, the new DT-OLB zoning has many of the characteristics in terms of height and other things, but there is a vast disparity. For the exact same building on opposite sides of the street but in different zones, the ten percent open space would kick in for residential projects at 125 feet lower. Similar issues arise in comparing DT-OLB South with the DT-MU. In regard to the DT-MU, the building will not even meet the definition of a tower as outlined in the proposed code. The 90 percent rule proposed by the BDA is simple and fair across all zones, but at a minimum the trigger heights should be equalized for the DT-OLB zones.

As a friendly amendment, Commissioner Laing said the DT-OLB Central non-residential trigger height should be 115 feet, and the residential should be 230 feet; and in the DT-OLB South the trigger height for non-residential should be 115 feet and 230 feet for residential. Commissioner Walter said she would accept the friendly amendment.

With regard to the motion on the floor relative to having both the ten percent rule and a park impact fee, Commissioner Laing pointed out that under state law a developer cannot be required

to mitigate the same impact twice.

Commissioner Carlson urged Commissioner Walter to withdraw her motion in favor of introducing a motion that incorporates what Commissioner Laing proposed.

Commissioner Walter withdrew her motion and Commissioner Morisseau withdrew her second to the motion.

A motion to reintroduce the ten percent open space requirement per the recommendation of the staff for the trigger heights, and to amend the DT-OLB Central and DT-OLB South trigger heights so that the non-residential trigger height for each is 115 feet and the residential trigger height for each is 230 feet, was made by Commissioner Laing. The motion was seconded by Commissioner Walter and the motion carried unanimously.

With regard to the floorplate reduction requirement above the trigger height, Mr. Stroh noted that as drafted the requirement is for a ten percent reduction.

Commissioner Laing said he had spent a lot of time talking to downtown stakeholders who very much want the additional height and very much want the flexibility needed to design a building. They have assured him that taller, slender buildings will be built. He said he had not heard anything that makes him believe that will in fact happen, and there is nothing in the code as drafted that actually requires that outcome. He said he wanted the record to reflect that he did not support any of the additional height increases in the downtown, with the exception of the modest increase that was proposed for the perimeter district and what has been proposed for the DT-OLB, two areas that were thoroughly discussed at the CAC level and which were unanimously recommended by that group. The CAC punted the issue of additional heights in other portions of the downtown. As drafted, there is nothing prescriptive that requires a developer going from 400 feet to 600 feet to make the building more slender. He said while he is generally supportive of the carrot over the stick, but when it comes to taller more slender buildings, the stick approach might be the better approach.

Commissioner Walter suggested that any floorplate reduction of less than 20 percent would be imperceptible. She recommended 25 percent as a starting point for discussion. Commissioner Hilhorst said that seemed fair to her.

Mr. King remarked that the market generally wants to deliver floorplates of 24,000 square feet for office. A ten percent reduction would take that down to 21,600 square feet. A 25 percent reduction would take it down to 18,000 square feet above the trigger height. The point of the floorplate reduction is to result in more slender buildings, but the market dynamics need to be taken into account.

Commissioner Laing said the conversations at the CAC level included the notion of increasing building height as a way of achieving an iconic skyline. There was a concern voiced about not wanting everything to look like a well-manicured lawn with everything the same. There is nothing in the draft code that requires any developer to do that. As a practical matter, allowing more height without additional FAR will mean floorplates will have to be reduced. A 25 percent reduction would result in a meaningful and noticeably reduced façade length. Several stakeholders, however, have stated that in reality no one will ever build an office building to the maximum height because they will run out of FAR well short of that mark. It will be residential buildings that will seek to go higher, and their floorplates are smaller anyway. Reducing residential below 13,000 square feet may not even be viable. A ten percent floorplate reduction

will not stop anyone from developing a building, but it potentially will not result in a form the Commission has talked about.

Commissioner Walter said if that is the case, there is no reason to allow buildings up to 600 feet in the downtown core. Commissioner Laing said there conceivably could be a site in the DT-O1 that is large enough to accommodate a single tower up to 600 feet, with all floorplates up to 345 feet at the full 24,000 square feet and all subsequent floors reduced to 21,600 square feet. In that scenario, however, the single tower would have a massive amount of space around it.

Commissioner Hilhorst asked if the Commission could offer a recommendation for the Council to review a floorplate reduction of between 10 and 25 percent above the trigger height and allow them to have the thorough discussion. Mr. King asked if the focus would be only on the downtown core or in all of the zones, and if the floorplate reduction of more than ten percent would apply only to office buildings. Commissioner Hilhorst allowed that the focus had been on just the downtown core.

Mr. Stroh said the way to translate the approach into the code would be to say where there is height above the trigger height, the recommendation would be to include a range of between 10 and 25 percent for non-residential buildings, then in the transmittal memo explaining the thinking behind the recommendation and what the intent is. He said he would have the same apply across the downtown. On the residential side, there would be no floorplate reduction given the smaller floorplates.

Commissioner Laing said it would require a site about nine acres in size in order to get to 288 feet in the DT-O2 zone, and an additional nine acres in order to get to the 460 feet with full-sized floorplates.

A motion giving direction for non-residential buildings to include above the trigger height a floorplate reduction ranging from 10 to 25 percent across the downtown districts, and a ten percent reduction for residential buildings above the trigger height, was made by Commissioner Walter. The motion was seconded by Commissioner Laing and the motion carried unanimously.

With regard to the issue of setting the base building height at 90 percent of the new maximum building height for each district, Commissioner Morisseau said she would be uncomfortable doing so given that the Commission had not thoroughly discussed it. Mr. Stroh said the original staff recommendation took into account the need to have enough height to use the base FAR. It recognized the fact that increasing the base FAR triggers the need for additional height to use it. In the original proposal where the FAR was being increased, the new base heights were set at what are currently the maximum heights. For example, in the DT-O1 district, the base height in the current code is 450 feet. The current code provides for a substantial increase across the board in the base heights. The notion of setting the base height at 90 percent of the new maximum heights applies more broadly than the FAR because as has been pointed out there are only a few areas in the downtown where additional FAR is being added. There are, however, numerous districts in the downtown where additional height is provided under the draft code. In the DT-O1, for instance, no FAR is added, but the height increases from 450 feet to 600 feet. The eighth Council principle for downtown incentive zoning calls for ensuring participation in the updated incentive system in order to achieve any increases in the currently permitted maximum densities and/or heights. The idea is that with additional height there will be opportunities for more slender buildings, additional open space, and some charging for the amenity system to offset some of the impacts of additional height. If the 90 percent rule were adopted, in the DT-O1 district, the base height would become 540 feet. That would mean an increase from 450 feet to 540 feet without

any participation in the incentive system. Some developers might decide that 540 feet is high enough and they would not have to participate in the incentive system at all. As previously directed by the Commission, the base FAR is set at 90 percent of the new maximum FAR. Because the FAR will not change in most districts, with the old maximum heights becoming the new base heights, the old maximum FARs can be achieved. It is possible that with the new higher bases, additional height will be needed, but that analysis has not been done.

Commissioner Laing said his biggest concern lies with the DT-OLB and the vast disparity with the base building height, which is the same issue associated with the trigger height.

A motion to make the base height and trigger height for both residential and non-residential in the DT-OLB Central and DT-OLB South districts the same as the trigger height for the additional height in those zones was made by Commissioner Laing. The motion was seconded by Commissioner Carlson.

Commissioner Laing noted for the record that the trigger height for non-residential is 115 feet, and for residential it is 230 feet.

The motion carried unanimously.

Commissioner Morisseau said she would like to see the Commission add to its recommendation to the Council the legal ramifications of the amenity incentives. She noted that the staff on several occasions promised a presentation to the Commission but did not follow through.

Commissioner Laing noted that a written communication had been received from PMF Investments regarding parking structures in the DT-OLB. He said it was his understanding that the PMF Investments representatives and staff met and came to an agreement but said he was not sure that agreement had made its way into the draft code. Mr. King said it would be proper for the Commission to move inclusion of the agreement.

A motion to include in the draft code the recommendation outlined in the May 24, 2017, PMF Investments letter delivered to the Commission by Ian Morrison was made by Commissioner Laing. The motion was seconded by Commissioner Morisseau and the motion carried unanimously.

Commissioner Laing called attention to veterinarian hospitals and clinics in the use tables on page 52 and suggested “hospital” should be changed to read “animal hospital.” He noted that the use table regarding culture, entertainment and recreation has a category for boarding and commercial kennels. The associated footnote 6 explains that boarding and commercial kennels are allowed as subordinate uses to veterinary clinics and hospitals, which should also read “animal hospitals.” There is also a provision in the code that allows for boarding or commercial kennels on page 46 in footnote 9, which refers back to the table on page 44, which refers to boarding and commercial kennels being permitted as subordinate uses to pet grooming or pet daycare. He suggested that footnote 6 should also refer to pet grooming or pet daycares.

There was agreement to make that change.

Commissioner Laing called attention to the limitations on modification in part 20.25A.D.2 on page 36. He noted that in paragraph (c)(ii) it states that development agreements may not be used to depart from the FAR bonus values, and suggested that it should say “shall not be used.” He further noted that in paragraph (c)(iii) the phrase “are not appropriate” should read “shall not be

used.” The changes are needed to avoid having developers make an end run around staff to get four Councilmembers to vote for something that they could not get the staff to approve. Additionally, in paragraph (c)(iv) “shall not be used” should replace “may not be used” for much the same reason.

There was agreement to make the changes.

Commissioner Walter called attention to section 25.25A.C. page 86 regarding shared parking and suggested the language of paragraph (C)(3)(b)(i) should refer to an independent parking analysis performed by a professional traffic engineer. She also proposed eliminating paragraph (c)(iii) entirely. The analysis must be focused on the specific site in the specific location.

There was agreement to make the changes.

Chair deVadoss commented that the Parks and Community Services Board serves the Council, and the Council is able to get their feedback directly and to make sure the Board is in agreement. Additionally, he said he has on multiple occasions reached out to the Transportation Commission for feedback but has not met with success. He said he would like that group to provide input regarding traffic directly to the Council.

Mr. Stroh said that is certainly something that could be included in the transmittal memo. He said the transmittal memo will also capture the Commission’s comments regarding establishing a parks impact fee; the floorplate reduction range of 10 to 25 percent; ensuring the incentive zoning system is on solid legal ground; the 1.0 FAR affordable housing exemption with the use of the multifamily tax exemption; the need for a comprehensive downtown parking study; and the need for a fund accounting system for collected fees-in-lieu;

Commissioner Walter pointed out the need to including a timeline on the use of fees in-lieu so that they cannot be collected and allowed to build up indefinitely. She noted that in some jurisdictions, fees not used within a set period of time are refunded. Mr. Stroh said he could include mention of that in the transmittal memo.

REVIEW OF MINUTES (10:18 p.m.)

A. April 19, 2017

Commissioner Walter noted that in the last paragraph on the first page “Steward Heath” should read “Stewart Heath.”

A motion to approve the minutes as amended was made by Commissioner Laing. The motion was seconded by Commissioner Hilhorst and the motion carried unanimously.

B. April 26, 2017

A motion to approve the minutes as submitted was made by Commissioner Laing. The motion was seconded by Commissioner Barksdale and the motion carried unanimously.

C. May 10, 2017

There was agreement to defer approval of the minutes until the next Commission meeting.

PUBLIC COMMENT
(10:20 p.m.)

Mr. Jack McCullough, 701 5th Avenue, Suite 6600, Seattle, provided the Commissioners with written copies of information regarding the Bellevue Technology Center Comprehensive Plan amendment. He said the site was the subject of a Comprehensive Plan amendment three years ago in which the focus was on setting up a process. The amendment was ultimately withdrawn on the encouragement to go forward with a rezone. Two and a half years were spent working on a rezone with the staff to the tune of hundreds of thousands of dollars. During last winter issues arose regarding traffic modeling and the suggestion was made that the better course of action would be to seek a Comprehensive Plan amendment. The intent is to get in front of the City Council with information regarding the issues and to have the Council make a decision. If the Commission passes the proposed amendment through the first round, which will not equate to an endorsement, there will be key issues to be evaluated, including public benefit, additional traffic analysis specific to the site, and looking at phasing development keyed to traffic improvements. One approach would be to pass the amendment through to the next round but add special conditions to it to make it clear certain information needs to be carried forward to the Council.

Mr. Eric Sinn with the Parks and Community Services Board reaffirmed the commitment of the Board to work in partnership with the Commission. He noted that the Board is actively working with the Department of Parks and Community Services to developing a definition of open space. He also noted that a suggested definition of plaza had been submitted. The Commissioners were thanked for discussing the issue of a park impact fee and recognizing the value of having park facilities. There was a definitive example of the financial benefit of parks highlighted in the *Bellevue Reporter* when the Spark apartments in the Spring District were opened. In the article, reference was made to the fact that REI made the decision to locate its headquarters there was made on Bellevue's commitment to green space. The Commission was asked to recognize that parks create value.

ADJOURN
(10:26 p.m.)

A motion to adjourn was made by Commissioner Carlson. The motion was seconded by Commissioner Laing and the motion carried unanimously.

Chair deVadoss adjourned the meeting at 10:26 p.m.