

CITY OF BELLEVUE
BELLEVUE PLANNING COMMISSION
STUDY SESSION MINUTES

December 9, 2015
6:30 p.m.

Bellevue City Hall
City Council Conference Room 1E-113

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

COMMISSIONERS ABSENT: None

STAFF PRESENT: Mike Kattermann, Emil King, Patti Wilma, Erika Rhett, Planning and Community Development Department; Carol Helland, Patricia Byers, Development Services Department; Camron Parker, Parks and Community Services Department; Mike Ingram, Transportation Department

COUNCIL LIAISON: Councilmember Stokes

GUEST SPEAKERS: None

RECORDING SECRETARY: Gerry Lindsay

1. CALL TO ORDER

The meeting was called to order at 6:38 p.m. by Chair Hilhorst who presided.

2. ROLL CALL

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

3. APPROVAL OF AGENDA

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

4. PUBLIC COMMENT

Mr. Todd Woosley, PO Box 3325, spoke representing the Kramer family, owners of the RV park in Eastgate. He urged the Commission to continue moving the issue forward to avoid the risk of missing the boom part of the boom/bust cycle of the market. With regard to concomitant agreements, he said it would be good to clean them up as they may limit the development of existing properties. However, trying to undo all of them could become a quagmire taking quite a while. One option would be to get the rezone in place ahead of working out the details of the concomitant agreements. Some of the goals of the Eastgate/I-90 plan are called out in the staff memo, including revising building heights and the allowed FAR. In moving forward, things should get done in a timely fashion.

Commissioner Carlson asked where things stand relative to the boom/bust cycle. Mr. Woosley said the forecast through 2016 is for the market to remain very strong. However, if there are four

quarters to the game, it is likely the game is in the third quarter. Rents are continuing to rise, absorption is strong, there is a supply and jobs keep getting created. All things change, though, and as they do the funding for additional housing, even where the need is high, could be jeopardized.

Mr. Carl Vander Hoek, 342 102nd Ave SE

3421 2nd Avenue SE, expressed an interest in having the Planning Commission meetings broadcast on Bellevue TV just as the City Council meetings are. He said he has heard from members of the community that they would be much more participatory in the process if the meetings were on TV. In time all boards and commissions should be broadcast. The residents and the business community would be very grateful.

5. COMMUNICATIONS FROM CITY COUNCIL, COMMUNITY COUNCILS, BOARDS AND COMMISSIONS

Councilmember Stokes complimented the Commission on the joint meeting with the Council. He said the Councilmembers are still talking about what they saw as a very positive experience. With regard to downtown livability, he said he looked forward to hearing what the public had to say about the proposed early wins. He also agreed with the public comments made relative to moving things forward in a timely manner. The work being done will have an impact on economic development, but it is all being done within the current boom portion of the economic cycle. Hopefully the work can be done and implemented during the current positive part of the cycle.

6. STAFF REPORTS

Senior Planner Mike Kattermann called attention to the award received by the city for the integrated outreach plan associated with the Comprehensive Plan update. He noted that the Council initiated the Comprehensive Plan update in October 2012 and adopted the update in August 2015. Public engagement was a cornerstone of the entire project; it included an emphasis on reaching diverse and underserved stakeholders. The overall outreach strategy was tailored to the different purposes and phases of the update to engage citizens in a wide range of environments. The outreach program included the online Bellevue's Best Ideas tool that generated 126 unique ideas and garnered over 1700 votes. The tool was promoted online through social media and by directly engaging the public at venues like Crossroads Mall, Downtown Park, the pedestrian corridor and the Microsoft store in Bellevue. The ideas were turned into draft policies, vetted, and further developed through six Bellevue boards and commissions.

The Planning Commission had the primary role of making sure all the pieces fit together. The draft plan with new and revised policies was presented to the community through in-person and online methods. In all, 75 community groups were contacted; a series of open houses and public forums were held; and there was wide distribution and solicitation of feedback through an online open house and social media. The online open house alone had over a thousand unique visitors, and the draft plan content received over 70,000 views.

The electronic outreach took the city to a new level of public engagement, and the Planning Commission was critical to the effort in its support and involvement in the outreach, and in ultimately putting together a plan that furthers the vision of the community.

On behalf of the Planning Association of Washington and the Washington Chapter of the American Planning Association, Mr. Steve Pilcher presented the award to Chair Hilhorst who accepted it on behalf of the city. He said the award program has been in place for 29 years and

annually receives between 15 and 20 submittals in a number of categories. A jury of planning professionals review the award submittals and determine who should receive the awards in various categories. He noted that with regard to Bellevue's submittal, the jury was very impressed with the level of participation and the different means utilized to involve the public.

In accepting the award, Chair Hilhorst stressed that it belongs to the members of the Planning Commission, the members of all the other boards and commission that were involved, and the staff who worked tirelessly in capturing thoughts and putting them into understandable line items for review. The award speaks volumes about the caliber of volunteers Bellevue has and the degree to which by working together everyone can have a say in the future of the city.

7. DRAFT MINUTES REVIEW

A. November 18, 2015

Chair Hilhorst called attention to the sixth paragraph on page 7 and noted that the reference to "Councilmember Wallace" should in fact read "Deputy Mayor Wallace."

A motion to approve the minutes as amended was made by Commissioner Laing. The motion was seconded by Commissioner Carlson and the motion carried without dissent; Commissioner Morisseau abstained from voting as she had not attended the meeting.

8. STUDY SESSION

A. Downtown Livability

Code Development Manager Patricia Byers called attention to page 18 of the packet and noted that a comment had been received about vocational schools being allowed in the O1 and O2 zones.

Ms. Byers reminded the Commissioners that the Council initiated the Downtown Livability Initiative and appointed a Citizen Advisory Committee to conduct public outreach and develop broad recommendations. The recommendations were forwarded to the Council which in turn directed them to the Commission to address. It was at the Commission level where the decision was made to focus on early wins first before moving on to the bulk of the recommendations. The Commission's recommendations regarding the early wins and the rest of the issues will ultimately be forwarded to the Council for deliberation and final action.

None of the selected early wins issues are intertwined with topics that will be addressed later. The early win topics were also deemed to be less complex, and they were consistent with direction from the CAC. The early wins are permitted uses, signage for public open spaces, mechanical equipment locations and screening, street trees and planter strips, the downtown boundary, weather protection, and extending the pedestrian corridor to 112th Avenue NE. The topics to be addressed in 2016 are height and form, the amenity incentive system, the design guidelines, public open space, and procedures.

A motion to open the public hearing was made by Commissioner Carlson. The motion was seconded by Commissioner deVadoss and the motion carried unanimously.

Mr. Patrick Bannon spoke representing the Bellevue Downtown Association, 400 108th Avenue NE, and noted that he had served as a member of the Downtown Livability Initiative CAC. He said BDA members have been engaged with the livability initiative at all levels since its

inception and will follow through to the conclusion. One theme the BDA has been focused on from the start is flexibility. The changes that are enacted should not preclude future viable and creative ideas. While it cannot be known in advance what some of those uses might be, there should be in place a review process to consider all opportunities. One example is manufacturing uses and the changes that are being considered. It makes good sense to eliminate some of the language regarding manufacturing uses that would be inappropriate for the downtown, but the language should be written so as not to preclude things like game development or technology applications. With regard to microbreweries, the definition should be drafted so as not to preclude micro-distilleries or wine making operations. The note tying microbreweries to eating and drinking establishments makes sense, but there should be some clarification as to whether that means eating “and” drinking establishments or if it could also mean eating “or” drinking establishments. With regard to drive-through uses in the downtown, there should be a clear rationale for limiting them in the future, but the code and the charts should not necessarily impair a creative application of a drive-through use as an accessory use outdoors.

Mr. Walter Scott with the Legacy Corporation, 400 112th Avenue NE, complimented the Commission for moving quickly ahead and for having some very good ideas. One example is the additional credits developers can gain for what amounts to a coolness factor relative to architecture that represents a well-placed element of trust in city staff. For the most part the area of the downtown that includes City Hall is a sterile environment, or put another way it is a clean sheet of paper. There has been a lot of attention focused on what should be built in the area. The city could benefit greatly by giving additional focus on what should not be allowed. Public safety is clearly important where plazas are concerned and the call for spaces to have 24-hour activation should be made very cautiously. Consideration should also be given to the benefit of public versus private plazas. With the latter there is a certain element of control, which is clearly desirable. Parking is a necessary evil, but it can benefit the downtown. It should be allowed in the perimeter districts and less so in the center of the city. Public amenities like transportation and meeting halls could benefit from having overflow parking provided by private companies, but exceptions should be made where there are problems with groundwater tables. Legacy Corporation focuses on retail and its closest property to the downtown is the Bellevue Design Market next to Whole Foods. The call for flexibility made by the BDA is laudable. A system that is more loosely regulated is preferred because it lets the market determine what is needed. Ultimately developers want a safe environment that will draw customers and families.

Mr. Carl Vander Hoek, 3421 2nd Avenue SE, called attention to the proposed land use chart changes relative to culture, entertainment and recreation, and said it appeared to him that the changes with regard to recreation activities such as miniature golf, tennis courts, community clubs, athletic fields, play fields and swimming pools for Old Bellevue and Office/Limited Business would be permitted outright rather than requiring administrative review. The attached note indicates the revision was requested by the parks department. It is not clear why the “A” was deleted and the “P” was inserted. He asked for clarification.

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

Commissioner Laing asked if there is something in the code language that allows the Director to determine if a proposed use not specifically spelled out in the code is similar to a use that is listed in the code. Land Use Director Carol Helland said there is and pointed him to section 20.10.014. Commissioner Laing suggested adding a reference to that section in 20.25A.015(A) Permitted Uses. Ms. Helland agreed to include it.

Commissioner Walter called attention to page 14 and the chart references to healthcare. She

noted that there is a new model that is on the rise nationally and is being lobbied in Washington state, namely freestanding emergency rooms. One such facility in Tampa Bay, Florida, accepts ambulances. She suggested either adding a separate category for freestanding emergency rooms, or have the use be the same disposition as a hospital. Allowing a use that could include ambulances rushing to them could be problematic for the notion of a pedestrian community in the downtown. The use certainly does not fit under the heading of other healthcare related services. If treated as a hospital, the use would be allowed only in a couple of specific areas. Community Development Manager Patti Wilma suggested allowing the use in Office/Limited Business might be reasonable given that district's proximity to the freeway.

Commissioner Walter clarified for Commissioner Carlson that she wanted a freestanding emergency room use classified as a hospital rather than a drop-in medical clinic.

Addressing the comments made by Mr. Vander Hoek, Chair Hilhorst asked if in fact the downtown could be expanded to allow more recreational uses, such as tennis courts and lighted facilities. Ms. Byers said the previous footnote indicated administrative use approval was required in the DNTN-R district where lighting or amplified sound was involved. A non-recreational use put into a park required conditional use permit approval. The move toward a more permissive code, and the desire to encourage more open space, is the reason for the proposed approach. Everything that occurs in the downtown is subject to design review, which addresses traffic and parking, but not lighting and amplified sound. By including a requirement for administrative conditional use, uses that could affect the residential districts can be given more scrutiny.

Ms. Wilma added that events that occur in Downtown Park and Old Bellevue are generally required to obtain special events permits, which is a separate process and analysis that involves consideration by all city departments. Under the proposed approach, a lighted tennis court or playfield would require administrative conditional use. Ms. Byers said the process would not preclude lighting or amplified sound, but it could result in certain restrictions, such as limiting the hours during which the lighting and sound is allowed. Things like special events generally require a special events permit, but something like a ballfield would not, and the issues of lighting and sound would not be addressed unless subject to administrative conditional use.

Commissioner Laing called attention to Footnote 2 on page 9 and asked if the intent is to omit the size limitation or to limit to a maximum of 2000 square feet per establishment. He also said it was unclear what is meant by "establishment." Ms. Wilma said Footnote 2 applies on Page 8. Ms. Byers said the 2000-square-foot limit was originally proposed, and the requested revision was to delete that.

Commissioner deVadoss referenced Page 14 and reference number 639 relating to rental and leasing services and noted that new virtual uses are emerging that do not necessarily have an associated physical infrastructure. Accordingly, the use should be clarified in the chart. Ms. Wilma said virtual rental and leasing services would fall under the administrative office category, and it would be up to the Director to make the determination what the actual business is.

Chair Hilhorst observed that on the transportation and utilities chart, on-sight hazardous waste treatment and storage facilities are currently permitted with an administrative conditional use permit. Ms. Byers said the category is entirely related to hazardous waste and the proposal is to eliminate the use. Storage facilities is a different use.

Commissioner Walter pointed out that some medical facilities use radioactive pharmaceuticals

and the like and she asked if they are considered hazardous materials. Ms. Byers said hazardous waste has a specific definition in the RCW. Waste generated by medical facilities are a subordinate use and would still be allowed.

Commissioner Carlson referred to allowing microbreweries so long as they are combined with an eating and drinking establishment. He asked about eating establishments connected with an on-site distillery or winery. Ms. Byers said that would fall under the category of unclassified uses. A coffee roaster use wanting to include a café would be the same thing. The Director may treat an unclassified use as a similar classified use. So, in this instance an eating and drinking establishment with a micro-distillery would be treated the same as an eating and drinking establishment with a microbrewery. As drafted, there is flexibility to locate a distillery or winery in the downtown.

With regard to drive-through banking facilities, Commissioner Walter said she contacted a bank manager friend to ask about the logistics and safety of locating a drive-through in a parking garage. The response was that with banking moving more to electronic banking, the logistics of building a drive-through in a parking facility would be highly unlikely. Additionally, there can be a lot of congestion within a parking garage with cars trying to get in and out, particularly toward the end of a business day. She suggested the drive-through banking issue should be reconsidered in light of all the complications. Ms. Wilma said her research of drive-through banking facilities turned up a number of articles focused on the fact that the use is dying out. Some 70 percent of banking is now done online, and many financial institutions are choosing to close their drive-through windows. Requiring them to be below ground will hasten their demise, but the benefit of achieving more open space, which will make the downtown more livable, has the greater weight. Commissioner Walter proposed continuing to allow drive-throughs as they are currently on the assumption that the use will die out over time of its own accord. There could be a new type of business in the future for which drive-throughs would make a great deal of sense, but as proposed they could not even be considered.

Commissioner Laing commented that where there is a valid police power reason to regulate drive-throughs, it does not matter what type of business is involved, be it a bank, a pharmacy or some future unknown use. It would be arbitrary to single out bank drive-throughs while allowing pharmacy drive-throughs. If drive-throughs are to be allowed in a parking structure, any use should be allowed to have them. The easiest way to address them would be to simply say drive-throughs for any use are permitted in structured parking in specific zones. Additionally, if a drive-through is to be located outside of structured parking, there should be screening and other requirements imposed.

Commissioner Carlson noted that some types of drive-throughs have not been allowed in the downtown for years. Ms. Wilma said food drive-throughs are prohibited.

Commissioner Laing said just because something has been done in a certain way does not mean that is the way it should continue to be done. There is simply no good reason for drawing a distinction between drive-throughs based on what they dispense. Ms. Wilma said the studies done concerning obesity and public health have driven reductions in the number of food drive-throughs across the country. Discouraging congestion in downtown areas is another big factor.

Chair Hilhorst said she was not willing to legislate how people live their lives. However, there is logic in keeping cars and people separate from each other. The code should include flexibility for unforeseen future businesses. For many, drive-throughs represent a convenience and in fact a need. Ms. Wilma reiterated that as drafted the proposal allows drive-throughs.

Ms. Helland said drive-throughs associated with food have not been allowed in the downtown since the code was written. Congestion is one of the evils the downtown faces; if it continues to worsen, the pedestrian environment of the downtown will suffer. The proposed approach does not seek to eliminate cars, but it does seek to eliminate things that create undo congestion at the expense of the pedestrian environment. To allow drive-throughs associated with food would be putting something back that would then create a new challenge through the permitting process. When Chick Fil A opened in Wilburton, there were long lines of cars backing up through the intersection that required a great deal of recalibrating. Once a use is allowed, it is much more difficult to remove. Congestion also increases emissions from cars, which is yet another health concern. The proposal allows for drive-through facilities if they are located away from the pedestrian environment. The approach has met with success in other jurisdictions. She agreed that no distinction should be made with regard to what is dispensed from drive-through windows provided they are located in structured parking. The nonconforming use provisions do not let existing drive-throughs swap out to a new use, say from a bank to a pharmacy. The section could be drafted, however, to allow drive-through uses to continue provided they meet certain characteristics.

Commissioner Carlson asked if drive-through coffee businesses are allowed. Ms. Byers said they are considered eating and drinking establishments and as such drive-throughs associated with them are not permitted. The code could be revised to allow them in structured parking.

There was agreement drive-throughs associated with cannabis businesses should not be allowed.

Ms. Helland commented that over time the Commission has grown very fond of the comment boxes usually included as part of the code review process. Creating them, however, increases the code drafting time significantly. The new approach seeks to shorten that time, in part because of the Commission's stated desire to finish the review by the end of the year. It would be helpful if the Commissioners were to submit their comments for inclusion in the next packet, with comments regarding content and grammatical revisions noted separately.

Commissioner Barksdale asked if there is a way by which the comments offered by the Commissioners can be shared publicly, with the public allowed to comment as well. Ms. Helland said the technique works well as part of outreach efforts, but in order to stay in line with the requirements for public meetings, the Commissioners could not engage in what amounts to a serial public meeting.

The Commissioners worked through the document page by page. With regard to page 4 there was agreement to include a cross reference to 20.10.014 as previously discussed.

With regard to Footnote 2 on page 8, Ms. Helland noted the Bellevue Downtown Association's request to remove the previously existing 2000-square-foot limitation. There was consensus to accept the suggestion of the BDA.

Commissioner Laing called attention to page 11 and observed that under congregate care senior housing there is a reference to Footnote 1 which requires the recording of an agreement restricting senior dwellings or congregate senior housing to remain in perpetuity. However, in *City of Olympia vs Paulser* makes it clear zoning authority cannot be used to impose perpetual use restrictions on property. He suggested the footnote should be redrafted to comply with the court's finding. The idea in the Paulser case is that a future council's legislative authority cannot be restricted with regard to changing the use of a property. Ms. Helland said that was a good catch and noted that the change had been made elsewhere in the code to refer to the life of a project rather than in perpetuity. She said she would make the change on page 11 as well.

Commissioner Laing noted that the comments made by the BDA relative to drive-throughs refers to page 13 and the need to delete Footnote 11 and add Footnote 10 allowing drive-throughs in structured parking as an accessory use. He said he agreed with the comment and recommended making the change. Ms. Helland agreed to put Footnote 10 in all places Footnote 11 appears in the draft.

With regard to page 14, Ms. Helland addressed the issue of freestanding emergency rooms by noting that the healthcare industry is very specific in the state of Washington and there is no such thing as standalone emergency rooms, only urgent care facilities. She proposed stating that emergency rooms will only be permitted with hospitals. Commissioner Walter said healthcare nationwide is changing rapidly in ways that cannot be imagined. That is why something should be included prohibiting freestanding emergency rooms independent of hospitals. Ms. Helland reiterated her call to allow emergency rooms only in conjunction with hospitals in hospital district and to address any future changes as they arise. There was consensus to take that approach.

Also on page 14, Commissioner Laing agreed with the staff recommendation regarding pet grooming and pet daycare being permitted outright where less than 2000 square feet, and by administrative conditional use where the use exceeds 2000 square feet.

Ms. Byers called attention to the special schools use on page 15 and noted a request that they be permitted outright in the O1 and O2 zones. The Commissioners agreed to make that change to the chart.

Commissioner Laing called attention to the new Footnote 3 on page 16 and pointed out the need to insert the word “and” following the code reference and “only if located.”

Commissioner Laing referenced the gasoline service station use on page 24 and asked if there is an existing station in the Old Bellevue district. Ms. Wilma allowed that there is and noted that it is a legal nonconforming use.

With regard to the veterinary clinic and hospital use listed on page 29 and the associated Footnote 2 pertaining to Old Bellevue, Commissioner Laing said his preference would be to permit the use outright up to 2000 square feet and through an administrative conditional use permit above 2000 square feet. He proposed using the same language as the comment on page 14.

Commissioner Walter called attention to item 3.c on page 35 and suggested that “designed to form logical routes” could be interpreted to mean different things to different people. She also suggested the word “diversity” as used in item 3.d is vague. Ms. Byers pointed out that the only change from the existing code is use of the term “through-block pedestrian connections” rather than “pedestrian connections.” Commissioner Walter proposed using “variety” or something broader in 3.d. The Commissioners proposed “direct,” “clear” and “shortcut” for 3.c.

Commissioner Laing observed that the footnote referred to item 3.h on page 35 calls for striking the highlighted sentence, but it is unclear exactly what is being referred to. He proposed replacing the sentence that begins with “the Director shall specify” with the contents of the comment box, and leaving the last sentence as it is. Ms. Byers said that was the intention.

A motion to extend the meeting to 9:15 p.m. was made by Commissioner Laing. The motion was seconded by Commissioner deVadoss and the motion carried unanimously.

Commissioner Laing drew attention to page 36 and item c.ii, hours of operation of minor publicly accessible spaces. He recommended replacing “greater” with “lesser” to always have eyes on the site. The comment is in regard to pedestrian bridges but there is an important difference in that they exist over city rights-of-way and are allowed in the public space subject to certain conditions. McCormick Park and Ashwood Park in the downtown have hours of operation of dawn to dusk, which is reasonable. Downtown Park has dawn to 11:00 p.m. as its hours of operation. As drafted, c.ii would require a private property owner to keep its property open to the public for more hours than the city keeps its own parks open to the public. Using “lesser” will present a much fairer approach. Ms. Byers said staff looked at the minor publicly accessible spaces that are in existence or close to being in existence and found that in almost every case they are on or close to corners very close to public rights-of-way. People will naturally assume that a publicly accessible space located adjacent to a corner and having a bench on it is in fact public property. Commissioner Laing pointed out that the proposed code change will not be applied retroactively, so for those existing spaces the code will require them to be open at least during normal business hours. The private property owner is ultimately responsible for what occurs on publicly accessible spaces, and they should have the ability to ask folks to vacate the space outside of normal business hours.

Commissioner Carlson said he could support establishing the hours as dawn to 10:00 p.m. Other cities have adopted a shoulder shrugging attitude that has led to the problems they currently face. Bellevue should be proactive in making sure property owners can shoo people out after hours as a way to prevent loitering, vandalism and criminal activities.

Ms. Helland said her preference would be to indicate specific times, such as the greater of normal business hours or 8:00 a.m. to 10:00 p.m. There was agreement to make that change.

Commissioner Laing reiterated his comment about signage relative to item iv on page 39.

There was agreement to have staff draft and circulate to the chair and vice-chair the transmittal memo for review and agreement, allowing the packet to be forwarded to the Council without having to take time at the Commission’s next meeting.

B. Eastgate/I-90 Corridor Implementing Regulations

Senior Planner Erika Rhett explained that development agreements were authorized by the state legislature in 1995. Concomitant agreements were the construct used before there were development agreements. In short, they involve regulations that are specific to a particular site. They are applied at the time of zoning or rezoning and they remain with the site until they are amended or repealed. Concomitant agreements sit at the level of regulations and supersede all regulations in cases of inconsistency. If a concomitant agreement says something cannot be done that is otherwise allowed by the underlying zoning, the thing cannot be done.

Much of the Eastgate area is covered by concomitant agreements. The Eastgate/I-90 CAC recommended repealing them all as they are an added layer of regulation that adds complexity for development that is usually unnecessary. Many of the concomitant agreements were put in place before the types of rules and regulations now in place even existed. As they stand, they could prevent a full implementation of the corridor as envisioned by the CAC.

In some instances, the concomitant provisions are redundant to citywide regulations that were subsequently enacted. A typical example is in transition areas where concomitant agreements spell out exactly what the Transition Area Design District or Critical Areas regulations now

address. There are also provisions that talk about compliance with state and federal requirements, something that is required regardless of any concomitant agreement.

There are also some one-time requirements spelled out in concomitant agreements. A good example is the I-90 Office Park which requires the construction of several public roads in order to implement the development. The roads have all been completed and should anyone seek to redevelop the site an extensive public process would be required to get rid of the public right-of-way. The one-time improvements agreements are no longer needed.

There are also provisions that are inconsistent with the Eastgate vision. Eastgate Plaza is a good example in that only a handful of uses is allowed there under the concomitant agreement that is in place. The wide range of uses talked about and recommended by the CAC relative to the Neighborhood Mixed Use zoning would not be allowed unless the concomitant agreement is repealed, including residential development.

Ms. Rhett noted that there are some provisions that should be retained. One way to accomplish that would be to add them to the code. Examples include provisions that talk about things like design review or master plan developments.

A few things will need a more careful review, and in approaching the code and talking about the specifics, they will be pulled out for more detailed discussion. Such provisions are typically specific to individual sites and include affordable housing requirements on the Sunset Corporate Campus, and specific environmental and traffic monitoring requirements in the I-90 Office Park. Staff are working with the city attorney's office on a strategy that will allow the provisions to be retained once the concomitant agreements are eliminated.

Ms. Rhett said staff are also working on an outreach strategy that will involve a stakeholder analysis. Each one of the concomitant agreements in place have a specific group of stakeholders and a targeted outreach is planned to make sure everyone is talked with about the agreements. The code language will be brought forward in 2016 along with specific provisions to incorporate into the Land Use Code, and as many of the concomitant agreements as possible will be addressed.

Commissioner deVadoss asked how many concomitant agreements are entered into in a typical year. Ms. Rhett said the city no longer enters into concomitant agreements, though it does on occasion enter into development agreements. The full breadth of regulations now in place that address design, critical areas, transition areas and the like, there is far less need for property specific agreements.

Ms. Rhett said the preliminary information from the city attorney is that if there is going to be a legislative rezone for the Eastgate/I-90 corridor that will involve repealing the concomitant agreements, all of the agreements subject to the rezone will need to be repealed; it will not be possible to pick and choose. If there are provisions housed in certain existing concomitant agreements, it will be necessary to either take a different legal course or not repeal the agreements.

Chair Hilhorst asked if the Eastgate area has more concomitant agreements than other areas of the city. Mr. Rhett allowed that it does and likely has to do with the vintage of the first wave of development there.

Commissioner Morisseau commented that some of the issues addressed by the concomitant agreements, such as affordable housing, overlap with items the Commission will be working on

in the future. She asked what steps will be taken to ensure that decisions made relative to Eastgate/I-90 will mesh with the decisions to be made in later studies. Mr. Rhett said as issues such as affordable housing are addressed relative to the Eastgate/I-90 code, the Commission will be asked to carefully consider the broader implications.

Commissioner Laing said one approach would be to leave the concomitant agreements in place and move ahead with rezone actions that say once redevelopment occurs the concomitant agreements are voided. That would keep in place the mitigations and protections for the specific projects to which the agreements apply. Redevelopment under the new zoning would eliminate the concomitant agreement and the new code provisions would apply. Mr. Rhett said that would be a viable strategy in the event the concomitant agreements are not simply eliminated.

C. Eastside Rail Corridor

Senior Planner Camron Parker with the Department of Parks and Community Services shared with the Commissioners a map showing the extent of the Eastside Rail Corridor. The section through Bellevue stretches some seven miles and runs north and south and intersects and connects with several non-motorized transportation facilities, including the SR-520 trail and the Mountains to Sound Greenway. The opportunity exists to connect a future trail along the rail corridor to the city's parks and trail system. Many of the major parks in Bellevue, such as Coal Creek, Mercer Slough, Wilburton Hill and the Bellevue Botanical Garden, are aligned such that providing connections between them and the corridor could be accomplished relatively easily. Additionally, the grand connection concept has the rail corridor as its eastern terminus; the upcoming Wilburton land use and transportation project will involve the corridor; and the light rail station to be constructed in Wilburton all point to the need to get a step up in planning for connections with the corridor. To that end the Council has put a \$1 million placeholder in the CIP to further collaborative efforts.

The Eastside Rail Corridor has its northern terminus in the city of Snohomish and its southern terminus in Renton. For the most part, King County owns the portion of the corridor located in King County, though Sound Transit owns two miles of the segment running through Bellevue. The city of Bellevue does not own any of the corridor. Along the corridor there are a series of easements that exist. There is an easement along the corridor for a trail; Puget Sound Energy has a utility easement; and Sound Transit has a high-capacity transit easement. Additionally, the ability to take the corridor and keep it intact is provided through the federal rail banking program, which means should a viable freight rail use return, it would have some rights to use of the corridor.

Mr. Parker said there are in fact more easements in the corridor than there is land to put them, which is a complicated tangle that will need to be sorted out. To make sense of it all, a regional advisory council for the Eastside Rail Corridor has been formed. The members include the owners, namely King County, Sound Transit, the cities of Redmond and Kirkland, and Puget Sound Energy. The advisory council has been in place for a few years but now that discussions are moving into the future of the corridor, King County is looking to restructure the council to permit additional stakeholders, including the city of Bellevue, to play a greater role.

Commissioner Morisseau asked why the city does not own any of the corridor. Mr. Parker explained that Burlington Northern/Santa Fe sold the entire corridor to the Port of Seattle, which subsequently sold chunks of it to different entities. King County owns the bulk of it and made the purchase based on its vision of having regional trails throughout the county.

Answering a question asked by Commissioner deVadoss about the utility easement in the

corridor, Mr. Parker said the fact that the corridor stretches north and south in a single piece over a long distance makes it very attractive to regional utility providers, not necessarily for planned projects but rather for future flexibility.

Mr. Parker said the key element of the various potential uses along the corridor that is getting the most focus currently is the development of a trail. King County is in the midst of producing a trail master plan. A draft plan is expected in 2016 along with an associated environmental impact statement. In general, King County is looking at a trail alignment that uses the bed of the existing rail, and one that would be off of the existing rail bed. A preferred alternative will be identified that involves one or the other or a combination of both.

Senior Transportation Planner Mike Ingram said in conjunction with the trail master planning process, Bellevue staff have been in discussion with the owners of the rail corridor in Bellevue, namely King County and Sound Transit, regarding opportunities to implement interim trail improvements. Kirkland has done similar things by removing the rails and ties, smoothing out the ballast rock, and applying a course of crushed gravel, the result of which has been a satisfactory trail surface. The projects and conditions are very promising in the northern part of Bellevue relative to the segment from the boundary with Kirkland to SR-520, and the segment from SR-520 to NE 8th Street. The King County Council recently approved funding to remove the rails through Bellevue and indeed all the way south to Renton, and funding for interim trail improvements between 108th Avenue NE and SR-520. The work will include a connection to Northup Way, which will serve as the primary east-west bicycle route through the northern part of the city.

Commissioner Barksdale asked how removing the rails keeps the corridor available for use as a future freight rail operation. Mr. Ingram explained that the current rails are not usable for freight or rail transit.

The expectation is that King County will remove the existing rails and implement the interim trail by the end of 2017. With regard to the segment between SR-520 and NE 8th Street, Sound Transit will be developing interim trail improvements in conjunction with the Memorandum of Agreement signed with Bellevue.

A motion to extend the meeting to 9:25 p.m. was made by Commissioner deVadoss. The motion was seconded by Commissioner Morisseau and the motion carried unanimously.

Mr. Ingram noted that certain locations present challenges. The NE 8th Street crossing is one and King County staff are currently analyzing what it would take to create an overpass for the trail while still meeting all functional access needs. The city recognizes the prominence of the location and the opportunity to implement a connection that will have an aesthetic quality and reinforce the identity of the Wilburton area and the rail corridor itself. In the coming year the city will collaborate with King County and Sound Transit. The hope is that the crossing will be operational by the time East Link is operational in 2023.

Another challenge is the gap over I-405 southbound. The expansion of I-405 in 2008 triggered the loss of the rail corridor bridge over the freeway. How to reconnect the missing section will be a key consideration. WSDOT is committed to restoring the connection, but what it will look like is yet to be determined. The hope is the project can be tied to and completed in conjunction with the Bellevue-to-Renton I-405 expansion project which is funded and slated for construction beginning in 2019.

Mr. Ingram reminded the Commissioners about the upcoming summit event on January 9 that is

aimed at bringing in the broader community and building excitement around the trail and opportunities along the corridor. Key speakers will be brought in to talk about examples from around the nation of how investment from a number of parties have helped bring projects online. As the planning work moves forward, it will be meshed with the grand connection concept and Wilburton land use update work.

Commissioner Morisseau asked how the city intends to mitigate any potential issues that might be tied to having a trail adjacent to a reactivated rail line. Mr. Parker said should a rail use come forward, the trail in most instances would be replaced by the rail line. Most experts hold the view that the section through Bellevue will never see a freight rail use again in the future, but the potential for it will need to be considered, thus steps will be taken to leave an envelope for it. Mr. Ingram added that the county's master planning process will be looking at how to fit everything into the corridor to the degree possible, including potential freight rail.

9. PUBLIC COMMENT – None

10. ADJOURN

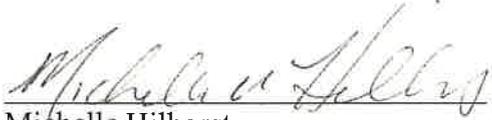
A motion to adjourn was made by Commissioner Laing. The motion was seconded by Commissioner Morisseau and the motion carried unanimously.

Chair Hilhorst adjourned the meeting at 9:24 p.m.



Michael Kattermann
Staff to the Planning Commission

1-28-2016
Date



Michelle Hilhorst
Chair of the Planning Commission

2/1/2016
Date

* Approved as written, January 13, 2016

