

CITY OF BELLEVUE  
BELLEVUE PLANNING COMMISSION  
STUDY SESSION MINUTES

March 22, 2017  
6:30 p.m.

Bellevue City Hall  
City Council Conference Room 1E-113

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

COMMISSIONERS ABSENT: None

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

COUNCIL LIAISON: Mayor Stokes

GUEST SPEAKERS: None

RECORDING SECRETARY: Gerry Lindsay

CALL TO ORDER  
(6:35 p.m.)

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

ROLL CALL  
(6:35 p.m.)

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

APPROVAL OF AGENDA  
(6:36 p.m.)

Commissioner Hilhorst proposed moving approval of the meeting minutes to follow public comment.

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

COMMUNICATIONS FROM CITY COUNCIL, COMMUNITY COUNCILS, BOARDS AND COMMISSIONS – None  
(6:36 p.m.)

STAFF REPORTS  
(6:37 p.m.)

Comprehensive Planning Manager Terry Cullen introduced Eric Synn, a member of the Parks and Community Services Board.

Mr. Synn reported that staff gave the Parks and Community Services Board a presentation on March 14 on the Land Use Code and the Board was asked if the proposed code would meet Bellevue's needs for parks and community services. After a full discussion, the conclusion reached was that it would not, particularly in relation to the incentive system. The proposed code does not do enough to ensure that additional park land will come through development in the near future, and the options presented to developers through the incentive system historically have been passed over. The proposal has pet amenities as part of the incentive system. Downtown Park, Ashwood Park, the waterfront and the other park elements are sufficient to sustain the current population, but it is clear that those resources will not be sufficient to sustain the projected population increases.

Commissioner Hilhorst said it would be very helpful to have the Parks and Community Services Board develop a detailed written synopsis of where the proposed code falls short. Mr. Synn said the Board looks forward to working closely with the Commission moving ahead.

Commissioner Morisseau added that the Commission would benefit from having the Board provide specific ideas for addressing the specific issues and needs. Mr. Synn said one issue is the fact that as drafted the incentive for providing open space does not define the aspects of the space. Open space can take several forms and can incorporate various elements to make them welcoming places for the public, but they can just as easily simply be a bit of landscaping with concrete planters located near a road or vehicle entrance that would not be used at all by the public. In making their presentation to the Board, the staff offered a number of very good open space examples. He agreed to have the Board offer additional comments in writing. He suggested it would also be helpful for Chair deVadoss to meet with the Parks and Community Services Board chair.

Mayor Stokes reported that the Council appointed former Transportation Commission member and chair Ernie Simas to fill the vacant Council seat. Councilmember Simas was involved in the Downtown Livability Initiative by serving as co-chair of the CAC. He will be a good addition to the Council.

With regard to the remarks made by Mr. Synn, Mayor Stokes expressed an interest in knowing more about why the issues were just being raised by the Parks and Community Services Board given that the Commission has been working on the proposed code amendment for a long time. He said if there are any additional meetings to be held, he as liaison would want to be involved in coordinating them. The Commission has a lot of work to do without adding anything to the list. He said neither he nor the Council were aware of concerns by the Parks and Community Services Board.

Mayor Stokes said during the study session, the staff would present a process for moving forward. The goal is to have the transmittal memo ready for review by May 24 and to transmit the package to the Council in June. If extra meetings are needed, they will be scheduled. The Council wants the schedule followed so it can receive the recommendation and start its work on the code amendment.

Mr. Cullen noted that the Commission's desk packet included an email from Michelle Herman. He said the email came with an attachment that was 143 pages long and accordingly was not printed out. It was, however, sent to all Commissioners electronically.

Mr. Cullen introduced new senior planner Deborah Munkford, a certified planner with extensive

experience in the planning field. She was most recently a principal in 3 Square Blocks, a well regarded consulting firm. She has both private and public sector experience, having worked many years ago in Bellevue's parks department. Her specialties include comprehensive planning, neighborhood planning, community engagement and environmental review. She is currently assigned to assist with development of the city's affordable housing strategy and is expected to be working on the multiyear neighborhood area planning project as well as other work.

PUBLIC COMMENT  
(6:54 p.m.)

Ms. Michelle Herman, a resident of Bellevue Towers, said she lives in unit 3616 which faces south and west. She said there are several things that would be helpful for downtown residents in evaluating the proposals. It would be helpful to know if the maximums listed in the chart on page 36 showing height and FAR and other data are actually maximums or if there are exemptions allowed, if there are bonuses that will allow for going beyond the stated maximums, and if rooftop equipment is included. It is also difficult to compare the proposed changes to the current code and it would be helpful to have a table comparing the two. With regard to the developments constructed after 2000 under the current code, it is difficult to say for sure what their FARs and actual heights are, and it would be useful to have information about some currently developed properties. From Bellevue Towers, DT-O2 South offers the only remaining view corridor. Early on in the process there was a proposal from the CAC to go from 250 feet to 400 feet in the zone. The residents argued against increasing heights beyond 250 feet, and the Commission decided during the meeting to keep the height at 250 feet. There is historical fact that the Commission intended to keep the DT-MU district the same as the DT-O2 South district, and the Commission should do so for the one lot on the southwest corner of 106th Avenue NE and NE 4th Street that is not currently developed.

Commissioner Carlson asked Ms. Herman to clarify the statement in her materials relative to the promise that residents depended on when buying. Ms. Herman said when she purchased her unit on the 36th floor, she looked at the code and was informed that the maximum height south of NE 4th Street was 250 feet. A huge premium was paid to be on a higher floor, and the premiums for the higher floors is even more now. It turns out the maximum 250 feet was not in fact a maximum given that the code allows an additional 15 percent for providing some amenities, and an additional 15 feet for rooftop equipment, taking the actual height up to 302 feet, something those not schooled in the code can easily determine. The code said 250 feet maximum and that was relied on in buying a unit on the higher floors for which a premium was paid.

Mr. Bill Herman, a resident of Bellevue Towers, said he was frustrated by the fact that the current amenity incentive system is being interpreted as a lifetime entitlement. The system should be no more than a ten-year promise after which it should be reviewed and renewed. It is infuriating that structured parking is proposed to be made a permanent incentive. The old maximum height based on the parking requirement blows all of the potential lift that could be put toward amenities. The basic height should be lowered even if no one wants parking anymore. In the future parking may not be needed at all, and moving the new base height to the old maximum height means the value to the amenity system will be lost forever. The code should go forward on the understanding that all amenities will be phased out. The issue of livability is supposedly at the heart of the discussion, but it is not really being discussed and as such is not really understood by downtown residents. Additionally, what the Commission is being told about traffic, that it will not get worse and that everything will be transit in the future, does not make sense to downtown residents because it does not jive with what they see happening.



Ms. Pamela Johnston, 3741 122nd Avenue NE, called attention to a video called driving downtown Bellevue, Washington, USA. She said the film just shows a car driving around the downtown. She said she counted the number of pedestrians she saw coming from her house to City Hall and came up with only 36. She said recently she met some late 20s/early 30s visitors to Bellevue who commented that Bellevue is not really a city and had not found anything to do once their conference ended for the day. The Commission should be looking at how things are put together so that the end result will be a lively city, but growth should not occur too fast and ahead of figuring out how to get the right things done first.

Mr. Todd Woosley with Hal Woosley Properties, PO Box 3325, said he was not speaking as a member of the Transportation Commission but rather on behalf of the Kramer family, owner of property in Eastgate. He noted that somewhat late in the process of updating the Eastgate Land Use Code, local citizens who believed they would be impacted by the proposal raised concerns about traffic congestion in the area. The Council recognized the problem and authorized an additional study that resulted in some relatively affordable recommendations that are poised for approval. For a modest investment of about \$6 million, the congestion going from Bellevue College down 148th Avenue SE and 150th Avenue SE to Newport Way can be reduced by 40 percent, significantly improving the mobility and accommodating additional development in the area. The approach taken serves as a great example of how the city can respond to concerns about increasing congestion resulting from continued development. A broader study for the area is also being initiated, and the Washington State Department of Transportation is currently designing a new shoulder lane on I-90 that will help Eastgate traffic get onto the freeway eastbound. Studies looking at how to accommodate existing congestion and additional trips in the downtown should be done as part of the livability update.

Mr. Jonathan Kagle, 9342 Vineyard Crest, said he was representing himself only and not the Vuecrest Community Association. He said he has attended many of the Commission's meetings focused on downtown livability and participated to some extent in the CAC process. The CAC process began with a focus on creating a balance between amenities and additional height and density, but it seems like with the Commission the balance is changing as things like spacing and incentives are being chipped away. Getting community members to participate in the process has been difficult given the volume of information. The Commission should seek ways to gain broader community involvement in getting closer to making a recommendation. Some specific development examples would be very helpful in comparing the existing code to the proposed code.

Mr. Patrick Bannon, president of the Bellevue Downtown Association, said he recently took the opportunity to look at the early wins ordinance and compare it to language in the draft code. He said he made contact with city staff seeking clarification with regard to where and in what cases the code language has actually changed, such as the midblock connection conditions that are a bit different from the actual ordinance language that was adopted by the Council. The Commission should be supplied with the information. He said he was looking forward to hearing from the Parks and Community Services Board about their concerns regarding the amenity incentive system. He noted that he served as a member of the Downtown Livability Initiative CAC and pointed out that the March 9 staff memo does a very good job of listing how the draft Land Use Code connects to the Council principles and the CAC's recommendations.

Councilmember Kevin Wallace provided the Commissioners with copies of a table of information from Strategic Planning Manager Emil King about what amenity points have been used in the past. He noted that the Council principles included compliance with the law and avoiding downzones. If amenities are taken away without adding new ones, or adding new ones

that are more expensive, the effect is a downzone. The table showed amenities proposed to be taken away and those proposed to remain, which he noted are few in number. Of those remaining, their utilization averaged only 9.47 percent. In the current paradigm that involves going from a base of 3.0 FAR to a maximum of 5.0, ten percent of the difference would be 0.3. In other words, going from 90 percent of the base to the maximum in the new paradigm will be about three times more than the average of the projects. Taking the pedestrian corridor out of the mix yields an even worse number at 5.48 percent average. The median is only 0.57. Most developers have used the parking and residential bonuses, and very few have used the other things. He encouraged adding more amenities to the list to avoid an effective downzone. The early wins ordinance, which was unanimously recommended by the Commission and unanimously adopted by the Council just a year ago, should serve as a guide.

Mr. Carl Vander Hoek, 9 103rd Avenue NE, spoke representing the Vander Hoek Corporation. He said he generally supported the comments made by the Bellevue Downtown Association in the letter presented to the Commission on March 8, specifically the need for a comprehensive transportation study and a use-specific parking study to measure the effects of the changes to the Land Use Code. He said he also concurred with the need to revisit the issue after five years. Referencing section 20.25A.160 and the issue of throughblock connections, he called attention specifically to NE 1st Place in Old Bellevue half a block north of Main Street and a block west of Bellevue Way. The little portion of alley is on a relatively small-sized block. The alley is in place and is used by pedestrians. It should be removed from the map because it does not go all the way through the block. Promoting it as a pedestrian thoroughfare will take people away from the Main Street businesses.

#### DRAFT MINUTES APPROVAL (7:25 p.m.)

Mr. Cullen explained that the city attorney in reviewing the Commission's by-laws made the finding that conducting business once a quorum is no longer present is not allowed. The minutes from January 25, 2017 and February 8, 2017 were previously approved by the Commission but without a quorum being present.

##### A. January 25, 2017

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

##### B. February 8, 2017

A motion to approve the minutes as submitted was made by Commissioner Laing. The motion was seconded by Commissioner Hilhorst and the motion carried without dissent; Commissioner Barksdale abstained from voting because he had not been present at the meeting.

Commissioner Hilhorst proposed addressing the March 1, 2017 and March 8, 2017 meeting minutes later in the meeting.

#### STUDY SESSION (7:27 p.m.)

##### A. Downtown Livability

Planning Director Dan Stroh noted that he was joined by Department of Development Services director Mike Brennan. He allowed that it has taken a great deal of work to update a code that is 35 years old. Throughout the process, the theme has been building on the success of downtown Bellevue. Livability has been the driving force of taking the downtown to the next level. The formal public hearing on March 8 marked a milestone in the process going back to the days of the Downtown Livability Initiative CAC. He said the plan for moving forward takes into account the comments made by Mayor Stokes about the need to keep the issue moving toward the finish line, as well as the procession discussion that occurred at the Commission's annual retreat.

Chair deVadoss agreed that the journey had been a long one for the Commission and the staff as well as the public. The public hearing was very successful. He asked the Commissioners to comment on the hearing and to offer advice on how to expedite things going forward.

Commissioner Hilhorst said the public hearing involved some very good feedback. She said there are possibly some early wins that could be tackled first, including the site at 112th Avenue NE and Main Street. The proposal made by the property representatives might be the way to go. The recommendation of the Bellevue Downtown Association was excellent and she said she agreed with much of what the organization recommended. She said she was not solidified on the issue of 80-foot tower spacing, which is complicated by the 40-foot setback. The Commission has asked staff to identify some options for mitigating the issue.

Commissioner Carlson said the fundamental question that should be addressed at the outset is whether or not downtown Bellevue has been served well by the existing code. He said he believed the answer to the question is yes and by almost every measure. All that exists in the downtown was made possible by the existing plan. That raises the issue of whether or not major revisions to the plan are actually needed. He said he did not concur with those who believe that major changes are needed, but he allowed that some minor revisions would be in order. The new base FAR should be set at 90 percent of the new maximum, and the proposed 40-foot setback should be swept through. The downtown code has served the area well and will continue to do so into the future with only a few minor adjustments.

Commissioner Walter commented that with change comes winners and losers. She said she did not want to see anyone lose, however, especially where the focus is on improving livability. What is lacking is a clear indication of how the proposed code will actually improve livability for those who live in the downtown. She said she would like to see closer discussions occur between downtown residents and those who want to build there. The tables in the document are confusing and could use some clarification. She said she liked the idea that setting the base FAR at 90 percent of the new maximum would be equitable, but said she would like to hear either from BERK or the Urban Land Institute if the approach would work for them. It has been explained that parking has been pulled in, which is why the proposal was made relative to 90 percent, and it has been said that it will be difficult to achieve the last ten percent, yet the concept of a super bonus has been floated, which creates more questions. She said she is a proponent of having affordable housing built on the same property where it is earned. If the real issue is return on investment, everyone should be open and honest about saying so. She said she likes the idea of separating towers by 80 feet and would not want to see the idea completely swept away, but it may be better to develop a ratio system aimed at getting light and air at the ground level given existing conditions. The issue raised by the Parks and Community Services Board is also important. When adding density, it will be important to keep and enhance all existing parks while adding more park facilities in the geographic areas where the amenities are earned. She added that she would like to see a parks designation adopted so that park land will remain park land in perpetuity.



Commissioner Laing said he keeps coming back in his mind to the problem the solution is trying to solve. The original orientation of the Downtown Livability Initiative CAC included a walking tour of the downtown in the spring of 2013 that focused on the outcomes the current code has produced over the last 35 years. At the heart of it all, what is being discussed is a rezone. Typically, the basis for a rezone is changed circumstances. Rezones are also made to implement the Comprehensive Plan, and they must be in the public interest. At the macro level, only two things have changed over the last 35 years: the coming of light rail to the city, and the significant increase in the residential population of the downtown to more than 15,000. Those are in fact profound changes that impact the concept of livability. As the downtown has filled in under the current code, the lack of publicly accessible ground-level open space has become apparent. It is not that there is less of it, but the lack has been felt more as development has gone vertical. One challenge over the past four years has been less about the need to preserve ground-level open space and more about the need to incentivize the provision of more of it going forward. The CAC operated under the do no harm principle. There is no problem in the pejorative sense, rather there are opportunities at hand. The Commission should seek to identify consensus around some high-level things. One of the big things is the Council direction to not effect a downzone; another is to have an incentive system that is actually an incentive system. The most profound changes under consideration, which the Commission has rather tacitly accepted, are the ideas that the city will no longer provide an FAR bonus for structured parking or residential development. Historically, developers have achieved 90 percent to 100 percent of their allowed FAR just by providing parking, residential, or both. If those are taken away and the base FAR is not increased to the 90 percent level, the effect will be a de facto downzone, and the incentive system will become an extortion system.

Commissioner Barksdale encouraged the Commission to keep the community and the notion of livability in mind in thinking through the proposal. He said developer economics are clearly important, but there needs to be a balance with the interests of downtown residents, pedestrians and bicycle riders.

Commissioner Morisseau said she grew up in Haiti where the systems in place in Bellevue do not exist. She said she appreciates the fact that the community is allowed to be part of the process. To the point that the current code does not need to be changed, she said she strongly disagreed. Bellevue is growing whether anyone likes that fact or not. The Commission has the responsibility to accommodate the growth. The update needs to be done thoughtfully and needs to take into account the concerns of the community. Change is always difficult because people are afraid of losing something. In this case, the Commission needs to find ways to acknowledge the feared losses and mitigate for them. In terms of the incentive system, she said her fear was that the new system will do nothing differently from the existing system. Affordable housing is clearly needed in the community and something should be put in place that will actually work. The fee in-lieu approach is not the answer.

Chair deVadoss asked the Commissioners to point out any big rock issues.

Commissioner Laing agreed with Commissioner Morisseau about the need for affordable housing. He moved that the code be amended to include a 1.0 FAR exemption for affordable housing, and that the exemption be used in conjunction with the multifamily tax exemption program. The motion was seconded by Commissioner Carlson and the motion carried without dissent.

Commissioner Walter said she simply did not have enough information to weigh in on the

motion and said she would abstain.

Commissioner Hilhorst asked if the multifamily tax exemption exists currently in the downtown or if it would need to be added. Commissioner Laing said the Council adoption of the program included the downtown.

Mr. Stroh said the process began on the strength of the notion that much about the downtown codes continues to work well and that nothing should be done to harm those facets. The Land Use Code audit clarified what works well, what should be tweaked and where there is room for improvement to take things to the next level. He said staff had hoped to have the chance to process the input from the public hearing and to in some cases bring forward some additional analysis and options before making a final recommendation.

Chair deVadoss said if a few of the big rock issues could be cleared out, the Commission could progress much quicker through the rest of the proposal.

Commissioner Hilhorst said she would prefer to have Commissioner Laing work through his list without making a motion on each one.

Commissioner Laing said if the Commission does not start working on the draft document and turning it into something, it will soon be May and things will not be done. Nothing will be final until the Commission acts on a recommendation to send forward to the Council. Unless the Commission takes votes and directs staff to make changes, the process will not move forward.

Given that statement, Commissioner Barksdale said he would prefer to see any motion taken to be in the form of directing staff to revise the draft document.

Commissioner Laing accepted the friendly amendment to revise his motion to direct staff to include a 1.0 FAR exemption for affordable housing, and that the exemption be used in conjunction with the multifamily tax exemption program.

Commissioner Walter said her concern was in regard to making sure any affordable housing units are built on site. Commissioner Laing said under his suggestion, affordable units would have to be built on site, and a developer could not receive the FAR exemption where the choice was made to pay a fee in-lieu. Additionally, the multifamily tax exemption program would not come into play where a fee in-lieu was paid.

The motion carried unanimously.

A motion to direct staff to revise the draft code so that the base FAR in all zones and in all instances is 90 percent of the proposed maximum FAR. The motion was seconded by Commissioner Carlson.

Commissioner Laing clarified that his motion would change the FAR base/maximum column in the dimensional requirement table in section 20.25A.060 to show the base FAR to be 90 percent of the proposed maximum FAR in all instances.

Commissioner Walter reiterated her call for some analysis by the consultants to the notion of setting the base FAR at 90 percent of the new maximum FAR. Some clarification is needed in regard to what the change would yield.



Commissioner Morisseau concurred. She reminded the Commission that the recommendation of the CAC did not include making the same increase across the entire area. In some areas the CAC recommended an increase in the FAR, but in other areas they did not.

Commissioner Hilhorst agreed as well. She suggested adding a column to the chart to show the delta so everyone can be on the same page.

Commissioner Laing pointed out that the Commission has all of that information. The Commission has heard from virtually every stakeholder as well as from the Bellevue Downtown Association that setting the base FAR at 90 percent of the proposed new maximum is not only the equitable way to address the removal of parking and residential from the incentive system, it is the only way to ensure that across all zones building the exact same building in different zones would not trigger different provisions under the amenity system. The BERK analysis said if the parking and residential bonus is removed, the base FAR would need to be increased to about 85 percent of the maximum just to maintain threshold viability. The bottom line of the data presented to the CAC, which was the same data presented earlier in the meeting by Councilmember Wallace, was that providing structured parking under the existing code earned developers over 90 percent of the maximum FAR, and in many cases it was closer to 100 percent, leaving left over bonus FAR unused. Based on the data in the BERK analysis and 35 years of actual permit data, the base FAR needs to be recalculated to 90 percent of the maximum FAR. The CAC did not have the BERK analysis to consider, but the CAC was cognizant of the data and was concerned from day one that the removal of the parking bonus would result in a massive downzone for the downtown. The only way to avoid it based on the data is to set the new base FAR at 90 percent of the maximum FAR.

Commissioner Carlson said it was his understanding that the intent of the motion was not to deviate from the existing code but rather to restore what would otherwise be a deviation.

Commissioner Walter said her struggle was with the fact that various experts have said different things. She said she did not have the clarity she needed to vote one way or another on the motion.

Commissioner Barksdale asked what policy outcomes the BERK analysis intended to achieve. Mr. Stroh allowed that the staff had hoped to key up the conversation with a lot more context in hand. One thing the consultant was looking at was the Council principles, one of which was where properties were allowed greater height and FAR there should be some offsetting provision in the incentive system that would compensate for the impacts. The difference is not just between 85 percent and 90 percent, it is the context between the existing FAR versus the new FAR. Where properties are being upzoned and where new FAR is being created, there is no difference being asked for in terms of offsetting the impacts through the incentive system. There are actually pros and cons about the various ways to go, and there are arguments on both sides. The intent of staff was to bring the information back in a more systematic way so the Commission could fully understand what was analyzed, what the alternatives are, and what the actual tradeoffs are for the various alternatives.

Commissioner Hilhorst pointed out that the BERK data came relatively late to the process and said it would not be unreasonable to ask for a little more clarity. Adding a column to the chart showing the delta could provide that.

Chair deVadoss called for the vote. The motion carried with Commissioners deVadoss, Carlson, Barksdale and Laing voted for; Commissioners Morisseau and Hilhorst voted against;