

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 is not significant. A developer 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 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.)

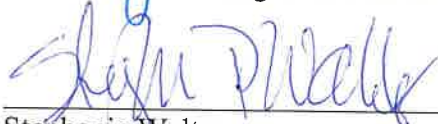
A motion to adjourn was made by Commissioner Barksdale. The motion was seconded by Commissioner Morisseau and the motion carried unanimously.

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



Terry Cullen
Staff to the Planning Commission

7/24/17
Date



Stephanie Walter
Vice-Chair of the Planning Commission

7/26/17
Date

