

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Study Session

September 4, 2012
6:00 p.m.

Council Conference Room
Bellevue, Washington

PRESENT: Deputy Mayor Robertson and Councilmembers Balducci, Chelminiak, Davidson, Stokes, and Wallace

ABSENT: Mayor Lee

1. Executive Session

Deputy Mayor Robertson called the meeting to order at 6:02 p.m., and declared recess to Executive Session for approximately 30 minutes to discuss one item of pending litigation and one item of property acquisition.

The meeting resumed at approximately 6:45 p.m., with Deputy Mayor Robertson presiding.

2. Study Session

- (a) Action to Establish the 2012 Annual Comprehensive Plan Amendment (CPA) Work Program

Deputy Mayor Robertson explained that the applicants of the Comprehensive Plan Amendments were only notified on Friday that these would be on tonight's agenda, and there is no opportunity for public comment until later in the evening. She suggested deferring Council action on the work program to the later Regular Session or to next week.

Ms. Robertson said she will be recusing herself from discussion of the Banner Bank CPA proposal. She noted the need to appoint a temporary chair while she is out of the room.

→ Councilmember Chelminiak moved to appoint Councilmember Davidson as temporary chair, and Councilmember Balducci seconded the motion.

→ The motion carried by a vote of 6-0.

Councilmember Balducci said she would rather not make the applicants come back next week.

Councilmember Chelminiak suggested going forward with the presentation before deciding whether or not to take action this week or next week.

City Manager Steve Sarkozy introduced staff's presentation regarding the 2012 annual Comprehensive Plan Amendment (CPA) work program. He introduced Aaron Laing, Planning Commission Member.

Paul Inghram, Comprehensive Planning Manager, provided an overview of the CPA process. The City processes CPA proposals once each year and conducts a threshold review before determining whether to add each proposal to the CPA work program. CPA proposals that advance to final review will come back to the Council late in the year for action on whether to adopt the requested amendment.

Mr. Inghram said the Planning Commission held a public hearing and reviewed four applications that were received. On May 31, 2012, the Holy Cross Lutheran Church withdrew its application.

Responding to Councilmember Davidson, Mr. Inghram confirmed the three-year waiting period for resubmittal if a CPA proposal is denied. If the applicant withdraws a proposal before action is taken, the three-year waiting period does not apply.

Nicholas Matz, Senior Planner, described the three proposed CPAs. The first is the Lorge-Benis/Newport Professional application to change the map designation for parcels in the Factoria area from PO (Professional Office) to CB (Community Business). Mr. Matz explained that the applications were reviewed and evaluated within the context of their surrounding uses.

Aaron Laing, Planning Commissioner, thanked staff for their thorough work in preparing for this evening and in working with the Commission on a regular basis. The Commission's recommendation, by a vote of 6-1, is to initiate the Lorge-Benis CPA, as geographically expanded.

Mr. Laing said that remodeling is not feasible due to the history of uses and the present state of the existing buildings. He noted that the Commission, in considering expanding the geographic scope, did not want to cause any non-conformity or unintended consequences for the subject property or surrounding properties, especially given that the property owner did not initiate the CPA. The Planning Commission determined that recent changes, including development across the street, suggest that the area is beginning to see some infill development. The Commission believes that CPA proposal meets the criteria for changed circumstances, including transportation improvements.

Responding to Councilmember Davidson, Mr. Laing said the owner of the northwest parcel has resisted the rezone. The Planning Commission determined that it would not make sense to leave one small property surrounded by other zoning designations and that the rezone would not have any detrimental impact on the property. The Commission felt it made sense to expand the scope of the rezone.

Responding to Dr. Davidson, Mr. Inghram said the parking requirements are outlined in the Land Use Code and are based on the category of use. Mr. Inghram acknowledged that parking is an issue in terms of the economics of redeveloping the site.

Responding to Councilmember Chelminiak, Mr. Inghram confirmed that the site is adjacent to Newport High School.

Mr. Chelminiak observed that, while infill development has occurred, the Planning Commission did not consider the significantly changed conditions criterion being met based on surrounding redevelopment.

Mr. Laing said the City Code looks at unintended consequences, and if an area is not experiencing redevelopment as intended, the question is whether this is an unintended consequence.

Mr. Chelminiak questioned the uses allowed under the Professional Office (PO) designation versus the Community Business (CB) designation.

Mr. Inghram said the Professional Office designation allows medical and other offices, as well as relatively low intensity residential use. The proposed CB designation allows building heights up to 45 feet or to 60 feet with a parking bonus, residential units, retail, professional office, and some general office uses. The applicant has proposed that they would support restrictions on retail uses as well as other provisions that would make redevelopment more compatible with concerns that have been expressed about the intensification of this property.

Responding to Councilmember Balducci, Mr. Inghram said that staff's recommendation to not initiate the CPA focused on the changed circumstances criterion. While changes have occurred in the area, for example at Factoria Shopping Center and the new housing at St. Margaret's Church, staff did not see those as changed circumstances warranting a Comprehensive Plan Amendment.

In further response to Ms. Balducci, Mr. Inghram said this CPA was submitted in 2008 and 2009, but was withdrawn both times by the applicant. Mr. Inghram confirmed that the previous submittals were withdrawn after the Planning Commission indicated it would not recommend initiating it into the work program, but before the proposals were taken to the Council.

For the current submittal, Mr. Inghram said the dissenting vote was Commissioner Hamlin, who agreed with staff's analysis that there had not been significantly changed circumstances to warrant threshold review of the proposed rezone.

Councilmember Stokes observed that there has been significant change in the area in terms of development and density. The high school has been expanded and increased its population. Mr. Stokes said he favors moving the CPA forward to threshold review.

Deputy Mayor Robertson questioned how this application is different from the previous two times it was submitted. Mr. Inghram said the applicant describes it as being a different application.

Mr. Matz said staff's determination was that this application is not substantially different from the 2009 application. However, it is different from the 2008 submittal, which did not propose restrictions on the development potential related to residential housing and retail uses.

Ms. Robertson questioned the maximum buildout under the current zoning. Mr. Inghram said it would be very similar to what is already there. The property owners could remodel or rebuild but it would be at a similar level of intensity.

Ms. Robertson questioned whether granting threshold review and ultimately approving the CPA would trigger changed circumstances for adjacent and nearby properties. Mr. Inghram said that was a good question and certainly a possibility.

In further response, Mr. Matz said there have been other CPA proposals in the vicinity in recent years. His recollection was that those were withdrawn by the applicant. He will provide the information.

Responding to Councilmember Davidson, Mr. Inghram said the Factoria Area Transportation Study (FATS) looked at transportation patterns throughout the area including Factoria Boulevard, the high school, and the mall. He said staff can provide more information on that.

Dr. Davidson observed that high school traffic patterns are unusual and can be very intense at certain times.

Councilmember Wallace said he would be interested in the Planning Commission's discussion about traffic impacts. He questioned whether the expansion of uses in this zone could lead to uses that would not be appropriate next to a high school, child care center, church, and neighborhood.

Mr. Laing said the Commission tried to keep in mind that this is just initiating applications for threshold review. The Commission avoided extensive discussion about the specific merits of the CPA proposals and whether or not they should be approved. Initiating the proposals into threshold review will enable further study of the impacts. At that point, the developer/property owner will likely be more willing to invest in consultants and analysis to expand on the details.

Councilmember Chelminiak commented on the difficulty in addressing the changed circumstances criterion. He said that change to an area is not equivalent to a changed circumstance. He is having difficulty getting to threshold review due to the issue of changed circumstance. However, he respects that the Planning Commission voted 6-1 to initiate the CPA proposal into threshold review.

Mr. Chelminiak recalled that the concept of changed circumstance has been discussed a number of times in the past. He believes the City Council has made good decisions in how it has handled that issue.

Mr. Matz described the Leggate-Balwada CPA proposal, which applies to parcels just north of Bellevue High School on 105th Avenue SE. It requests a change in map designation from SF-H (Single Family High) to MF-M (Multifamily-Medium). He noted that there is a fairly significant topographic break between commercial development along Bellevue Way and the stable single-family neighborhood surrounding the site.

Mr. Laing said the Planning Commission voted 4-3 to not initiate this CPA into the work program. He said the neighborhood continues to have the stable look and feel of a single-family neighborhood which is largely protected by topography and the limited street network. The rezone would allow multifamily development on the parcels.

Responding to Councilmember Balducci, Mr. Matz confirmed that staff's recommendation is to not initiate this proposal into the CPA work program. In further response, Mr. Matz said there are already four housing units on the parcels, and the topography would make it difficult to develop many more even with a higher density zoning designation. Councilmember Balducci commented on the ongoing issue of not letting Downtown development encroach into adjacent neighborhoods.

Responding to Deputy Mayor Robertson, Mr. Matz confirmed that there have been a number of CPA proposals for rezones along Bellevue Way South in recent years. None advanced beyond threshold review. Mr. Inghram said a key issue has been geographic scoping, and a concern that if you make a change for one site, whether that sets up a changed circumstance for adjacent and nearby properties. Mr. Inghram said that is a possible outcome.

Councilmember Wallace observed that there is a relatively significant drop in topography between the lots and the single-family homes to the east. Responding to Mr. Wallace, Mr. Matz said the two homes to the south were rebuilt in approximately 2004. Mr. Wallace questioned whether the Planning Commission considered those two single-family homes in the discussion about the threshold analysis and whether the CPA proposal is appropriate.

Mr. Laing said a minority of the Planning Commission recommended expanding the geographic scope to include those two parcels. The issue for the Commission was essentially whether the properties on the west side of 106th are more like the properties to the east or to the west. Topography was certainly a consideration as well.

Mr. Laing read from the City Code regarding changed circumstances: "The proposed amendment addresses significantly changed conditions since the last time the pertinent Comprehensive Plan map or text was amended." The Code then expands on the definition. Mr. Laing said the staff report points out that the last time this area was amended was 1996. The Planning Commission had a fairly robust discussion about what has happened since that time.

Responding to Councilmember Stokes, Mr. Laing said there have been no zoning changes since 1996. One of the homes has been converted to essentially a boarding house, so the effective density on that site is equal to or greater than what would be allowed if the rezone went into effect. However, the structure is a detached single-family home. Mr. Laing said the applicant has relied on that use of the property as evidence of changed conditions.

Mr. Stokes observed that that line of reasoning would raise an issue for other neighborhoods as well.

Councilmember Chelminiak concurred, noting that he does not see that as a changed circumstance. He stated that part of the history of this area is that development of the Downtown core will not result in upzoning into adjacent neighborhoods. Councilmember Chelminiak said he believes that the four Planning Commissioners are correct in recommending against initiating this CPA into the work program.

Moving on, Deputy Mayor Robertson recused herself for the Banner Bank item and left the room. Councilmember Davidson proceeded as temporary chair.

Mr. Matz described the Banner Bank CPA proposal which requests a change in the map designation for parcels at 124th Avenue NE and Bel-Red Road NE from BR-ORT (Bel-Red Office/Residential Transition) to BR-CR (Bel-Red Commercial/Residential). He said the Planning Commission recommended expanding the geographic scope of this CPA proposal.

Mr. Laing said this was another close vote for the Planning Commission, with four Commissioners in favor of initiating this CPA proposal. He said this goes back to Councilmember Chelminiak's comments regarding the concept of changed conditions. The Commission was presented with a unique situation, which is the fire that destroyed the adjacent property to the east. The Commission heard from that property owner, who is not seeking to be a part of the rezone, that he intends to take advantage of non-conforming use and non-conforming structure status to rebuild what was there before. The reason is that the zoning implemented as part of the Bel-Red Plan does not provide the flexibility or incentive for an economically viable project.

Mr. Laing said the Planning Commission saw this as an unintended consequence of an adopted policy, and heard corroborating testimony from the CPA applicant and from the property owner immediately to the west. When the matter first came before the Commission there was some discussion about expanding the geographic scope moving eastward along Bel-Red Road to include two additional parcels. This was in an effort to identify like properties to avoid spot zoning. Ultimately, the recommendation was to expand only to the one parcel immediately to the west.

Responding to Councilmember Balducci, Mr. Laing said the changed circumstance was considered to be the unintended consequence of an adopted policy. He explained that the type of development that would be allowed under the Bel-Red Plan does not make sense from an economic standpoint.

Councilmember Davidson suggested continuing the discussion to the Regular Session.

- (b) Proposed Amendment to the Right-of-Way Use Code to address relocation of facilities for City or other projects in the Right-of-Way

[Agenda Item moved to Regular Session.]

At 8:03 p.m., Councilmember Davidson declared recess to the Regular Session.

Myrna L. Basich, MMC
City Clerk

/kaw