

CITY OF BELLEVUE
BELLEVUE PLANNING COMMISSION
STUDY SESSION MINUTES

May 11, 2016
6:30 p.m.

Bellevue City Hall
City Council Conference Room 1E-113

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

COMMISSIONERS ABSENT: None

STAFF PRESENT: Terry Cullen, Dan Stroh, Emil King, Department of Planning and Community Development; Carol Helland, Betty Cruz, Development Services Department; Lacy Hatch, City Attorney's Office; Arthur Sullivan, ARCH

COUNCIL LIAISON: Mayor Stokes

GUEST SPEAKERS: None

RECORDING SECRETARY: Gerry Lindsay

1. CALL TO ORDER

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

2. ROLL CALL

Upon the call of the roll, all Commissioners were present with the exception of Commissioner Morisseau, who arrived at 7:08 p.m., and Commissioner Laing, who arrived at 8:09 p.m.

3. APPROVAL OF AGENDA

(6:31 p.m.)

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

4. PUBLIC COMMENT

(6:32 p.m.)

Mr. Dave Meisner, 888 108th Avenue NE, said he reached out to the Commission via email on April 8 and in person on April 13 as the owner of one of the few remaining undeveloped parcels in the R zone. Permits are currently being sought for a 200-foot 19-story tower with 158 units, a little retail, and 211 parking stalls. He asked to have the Conner building included in the O-2 zone to be consistent with the efforts of the CAC, the Commission, and the city's current vision for the future of the downtown. The site in question is across the street from DT-MU, and to the south is DT-O2. The Commission was applauded for its efforts to enhance downtown livability and vibrancy with the Downtown Livability Initiative. The Conner building is one of the few remaining undeveloped parcels and it is one inch away from the O2 zone in the heart of the

downtown. It is within walking distance of employment centers, the transit center, and freeway access is only two blocks away on NE 10th Street and NE 8th Street. Support from the community for the idea has been received. Including the site in the O2 zone will allow for participation in the future vision of the downtown core, and the additional density will aid in creating a better product for residents and the community at large. The CAC's final report recommended that additional height and density for the DT-OLB zone to take advantage of the district's freeway access and proximity to the future light rail stations. To leave the site out of the future vision of Bellevue will be to miss a great opportunity.

Mr. David Sharon, 12522 NE 4th Place, said the Conner building is located next to the US Bank building on NE 8th Street. The specific request is to change the zoning on the site from DNTN-R to DNTN-O2. The action would create an additional 20 units on the site. He noted that large suburban homes tend to consume more energy than rural homes. About 20 percent of the United States' carbon dioxide emissions are related to residential energy use, and another 20 percent are associated with motor vehicles. The average family in the United States buys about a thousand gallons of gasoline per year, which produces some ten tons of carbon dioxide. Those who live in suburban areas uses double the amount of gasoline annually that urban dwellers use. Mass transit is not the only way to lower energy use. When people live in denser areas, they travel less and use much less gasoline. Urban density is also good for the downtown economy.

Mr. Andrew Miller, 11100 Main Street, with BDR Capital addressed the concept for a transit-oriented development on the northeast corner of Main Street and 112th Avenue NE, including an activated mix of retail, commercial, office space, a grand staircase leading to an interior retail street, and residential units. The massing of the project is such that it stairsteps down to Main Street to ease the transition from the new park and train tunnel. Staff has recommended building height up to 200 feet at the gateway intersection, and the East Main Station Area Plan CAC is entertaining up to 300 feet. He agreed with the proposed FAR for both residential and non-residential. The staff recommendation for height in this portion of the A perimeter design district is 70 feet for residential and 40 feet for non-residential, but a non-residential building at 70 feet would feel right.

Mr. Matt Roewe, 11100 Main Street, said John L. Scott Realty building and the BDR building where Windemere is located have existing large floor plates of 15,000 to 19,000 square feet. The proposal is for two smaller, more boutique scale office buildings of 9000 to 11,000 square feet per floor. It seems appropriate to have a form-based code rather than a use-based code. The code should allow for smaller buildings in the district along Main Street and a resulting nice scale and buffer. The result could be boutique office space in which the current tenant would like to remain. There is a 40,000 square foot floor plate building on the same block, but that is the wrong scale for Main Street. Building height to 70 feet should be allowed for both non-residential and residential in the A perimeter in this area. If the decision is made to limit floor plate size regardless of the use, it would be better to go with 15,000 square feet. Additionally, structure width should be limited to about 175 feet.

Mr. Miller summarized that staff has proposed building height to 70 feet for residential along Main Street, and that height limit should apply to either residential or non-residential.

Mr. Andy Lakha with Fortress Development, focused on the development project at NE 8th Street and Bellevue Way. He said he has for many years been looking to create a signature project in downtown Bellevue and the site in question offers the opportunity. To do the project properly, however, the Land Use Code will need to be in sync with the opportunity.

Mr. Jack McCullough, 701 5th Avenue, Suite 6600, Seattle, said NE 8th Street is the single most

important street in the downtown. It serves as the gateway into the downtown and it feeds everything. Over the years, NE 8th Street has significantly densified. The concept of the Grand Connection, which will be worked on over the next couple of years, will help to frame the area. The grand shopping street on Bellevue Way is also a major influence. All of those forces and patterns coalesce at NE 8th Street and Bellevue Way. Three of the intersection corners are effectively built out, leaving only the site Mr. Lakha would like to develop. The single ownership site, however, has split zoning, making it necessary to deal with two sets of rules. The District B boundary should be moved to the west, allowing DNTN-MU to exist for the entire site. The site is also situated in the middle of a superblock, giving it both the burden and the benefit of having to deal with two through-block connectors. While that will yield improved circulation and public activity, the burden is that the requirement takes up a lot of the site. If there were a single zoning that allows buildings up to 300 feet, the need to deal with the circulation patterns could be compensated for. In order to build a compliant project that honors tower spacing and the new dimensional standards, FAR of about 5.5 will be needed. The Commission was asked to allow an increase in the FAR for the site to 5.5. The Commission previously considered building height of 250 feet for the site, but the problem is that once a building goes above 240 feet it is necessary to get into structural peer review, a process that adds months to the project and millions of dollars of additional steel and concrete. Accordingly, 250 feet is not a height developers will use. Going up to 300 feet can allow for amortizing the additional structural costs. Building to 300 feet would yield about 99 additional units, triggering about 41 additional trips during the evening peak. The city's transportation forecasts say by the year 2030 there will be about 116,000 evening peak trips in the downtown, of which 80 percent will be going to the east and south. Traffic will not be significantly impacted by adding 41 trips to the grid. Some early design concepts were shared with the Commission, including ways to complete the intersection of NE 8th Street and Bellevue Way, and how a building height of 300 feet fits into the wedding cake pattern. He noted that shadows from two 300-foot towers would not reach the residential neighborhoods to the west or to the north at the summer solstice.

Ms. Nicole Deleon, 524 2nd Avenue, Seattle, a land use attorney with Cairncross and Hempleman, spoke on behalf of Aegis Living. She thanked the Commission for its continued effort to take advantage of the opportunity presented by Aegis by recommending the proposed Land Use Code amendment that addresses the need for affordable housing and assisted living. The proposed amendment makes bonus FAR available for assisted living uses in the BR-MO and the BR-OR zones in exchange for an affordable housing contribution. As envisioned, the contribution can either be in the form of a fee in-lieu or the provision of on-site affordable housing units. She called attention to a letter previously submitted to the Commission in which Aegis addressed the feasibility of providing the affordable units on site and concluded that it is not feasible for various reasons. The fee in-lieu payment in fact provides a greater incentive for developers of assisted living facilities. The affordable housing issue is very complex and the Commission was encouraged not to let that fact overshadow the important amendment and the success that could be achieved by it. The proposed amendment will take advantage of the opportunity provided by Aegis and will result in immediate gains. It will result in a number of assisted living units and will fund nearly a million dollars in fees to be applied toward affordable housing. The Commission was encouraged to recommend the amendment as proposed by city staff.

Ms. Margo Blacker, 200 99th Avenue NE, Apt 24, thanked the Commissioners for their hard work on behalf of the city. She noted that the Fortress Development site is partly in the Deep B section of the northwest corner, which currently allows buildings up to 90 feet. The request is to be allowed to go up to 300 feet. She said she is very much in favor of the downtown and the Growth Management Act. While increased density in urban areas is the right approach, the Downtown Livability Initiative needs to also be about downtown neighborhood livability. The

downtown has always been planned to service the surrounding neighborhoods. One of the major components of the downtown plan involves keeping in mind the impact on the neighborhoods. There should be no increase in the allowed height and FAR anywhere in the downtown without requiring affordable housing. She noted that with a few exceptions she was opposed to increased height in the downtown. The downtown concepts that were adopted initially continue to be valid. They were designed to scale down the high sides of the wedding cake to the residential areas to avoid Seattle- and New York-type buildings. When the current provisions were adopted, all the same arguments were made about buildings not penciling out and developers not making enough money in downtown Bellevue, but in fact the downtown has built out just fine. The bottom line is there can be good looking buildings that are short and good looking buildings that are tall; it all depends on the developer's ethics. Allowing buildings up to 600 feet in the core of the downtown will not guarantee great designs. Allowing for more height and density could in fact kill the golden goose through increased congestion and higher prices. Many already cannot afford to live in Bellevue. More building height and FAR makes sense for the OLB adjacent to the freeway, but not on the west side of the downtown. When Sumiyoshi is torn down at the entrance to Vuecrest and a five-story wall is constructed, the Commission will learn how the folks in Vuecrest and Northtowne feel about building on the edges of the downtown. Driving 100th Avenue NE after school or during the evening peak shows how the area has already been impacted. Bellevue Square is in the DT-MU district but it is not fully built out; under the proposal, buildings on the back side of the mall could rise to 300 feet. The folks in West Bellevue are not going to want to see that. The fact that the Fortin site in the Deep B area is under a single ownership offers a unique opportunity and a compromise for that site should be sought. Allowing several towers up to 240 feet in height would not be acceptable, however. The purpose of the perimeter areas is to provide stability both to the downtown and the surrounding residential areas through the promotion of residential, institution and convenient service retail for the neighborhoods.

Commissioner Carlson asked if affordable housing units that are the result of legislation should be located in the downtown or elsewhere in the city. Ms. Blacker said affordable units are needed everywhere in the city. She urged the Commissioners to drive through Northtowne. What is needed there is a little upzoning to allow for cottage housing rather than huge mansions that someday may become boarding houses. The city had inclusionary housing policies in place at one time and they worked, but it was voted away.

Ms. Kat Hughes, 10203 NE 31st Place, spoke representing the steering committee of 12 people that make up the Northtowne neighborhood. She said the group is strongly opposed to the Fortress idea of building up to 300 feet in the Deep B area. In 1993, the Northwest Village area, which is mostly owned by the Fortin Group, was allowed building height of between 75 and 90 feet and an FAR of 5.0, an approach that represented a compromise to which the neighborhood agreed. When the Downtown Livability CAC did its work, it was supposed to either recommend retaining the current standards or make recommendations for change; they recommended allowing building height to 300 feet in the Deep B area for residential, and 200 feet for non-residential, but no increase in the FAR. After staff analysis and recommendation, it was agreed that open space should be required along with diminishing floor plates. At its last meeting, the Commission concluded the maximum height for the area should be scaled back to a maximum of 200 feet, not counting mechanical equipment. With up to five towers a possibility, the neighborhoods will not feel protected.

Mr. Mike Nielson, 10650 NE 9th Place spoke representing West 77 Partners, said if no increase and height or FAR is allowed, the result will not be a project built to a lesser standard. With regard to the northern portion of the O2 district, he stressed that NE 8th Street serves as a gateway to the downtown, and that the O2 north area is considered to be the downtown core and

is an appropriate place for increased density and height. What is being proposed is an FAR of 10.0 in the O1 district, stepping down to 6.0 in the O2 district across NE 8th Street, and then 5.0 in the MU district. He proposed stepping down more gradually to the O2 district by allowing an FAR of about 8.0. To properly increase building height of up to 400 feet, some increase in the FAR will be appropriate. The opportunity exists to make something great in the O2 zone, with robust landscaping, sidewalks and gathering places.

Ms. Jean Magladry, 11512 NE 19th Street, spoke representing the 1920 group, a group of property owners in the BR-MO that controls about two acres. She said the group was delighted when Aegis stepped up with a project for the zone. Everyone in the group believes the elderly are not being well serviced in Bellevue. There is, however, a pallet of other needs for the elderly that cannot be addressed in the BR-MO should the FAR continue to be limited to only 1.0. There are no family neighborhoods in the BR-MO; all the uses are medical. Facilities for the elderly in the zone makes sense given that the hospital is there.

Mr. Carl Vander Hoek, 9 103rd Avenue NE, spoke representing the Vander Hoek Corporation. He asked the Commission to not feel rushed but to take the time needed to make sound decisions everyone can be comfortable with. With regard to the information in the Commission's packet relative to the amenity incentive system framework, he cited his recent project on the corner of Main Street and Bellevue Way in the Perimeter B district of Old Bellevue. The base FAR is 3.0 and the max is 5.0. The project provided about 625 parking stalls in a four-level underground garage, as well as pedestrian-oriented frontage and weather protection around the majority of the project. By providing those incentivized amenities, the project was able to achieve an FAR of about 4.5. The value of providing the amenities equated to an FAR of about 1.5. What is being proposed is lifting the base FAR while not adjusting the max FAR for most areas of the downtown. That will essentially mean lifting the base to adjust for the amenities that are currently required. He said for his recent project, that would have equated to lifting the base to an FAR of 4.5 while maintaining the current max of 5.0. That would mean that only 0.5 would be available through the provision of incentivized amenities. The Commission should seek to understand if an FAR of 0.5 is enough to achieve the exceptional amenities desired by the public, especially in areas like the Perimeter B where no height increase is being considered and the cost of construction for providing the amenities is unknown. No economic analysis has been conducted, so the question really cannot be answered yet. He said it is likely that the provision of amenities such as open space, artwork and skybridges will not be economically feasible in exchange for only 0.5 FAR. An economic analysis is needed and should be done with public oversight, open disclosure and transparency. The Bellevue Downtown Association should be included in the meetings to work alongside the city and the consultant. It will be important for the community to know how any conclusions were arrived at.

Mr. Patrick Bannon, 400 108th Avenue NE, Suite 110, spoke representing the Bellevue Downtown Association. He reinforced the organization's strong support for the posture of flexibility that has been voiced by the Commission and in the materials to date. Design guidelines, incentives and departures will hopefully create opportunities that will lead to better outcomes. The flexibility can be translated as recommended through FAR and height. He also voiced the support of the Bellevue Downtown Association for the off-ramp opportunity that is detailed in the staff materials. The opportunity should be investigated, whether through a development agreement or some other process yet to be defined, where at the developer's option equal or greater than value can be yielded in exchange for certain bonus requirements. He allowed that it will be difficult to consider the merits of the incentive system direction outlined in the packet without understanding the values behind them. There are percentages assigned to certain categories of amenities, but that approach should be avoided early in the process to refrain from locking in predetermined outcomes relative to values. Consistent with the Council's

principles, any unintended economic downzoning should be avoided through recalibration of the incentive system. The design review processes of other cities should be reviewed, though the Bellevue Downtown Association is not recommending establishment of a design review board.

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

(7:25 p.m.)

Mayor Stokes noted his appreciation for the Commission taking on the Aegis issue and said he looks forward to seeing the Commission's final recommendation. He said he was particularly happy to see the Commission look at the issue of affordable housing for seniors throughout the city. The Commission's feedback and concern about the downtown livability piece and how to address affordable housing relative to assisted living was helpful. The Council is seeking action by the Commission on the specific Aegis request; the balance of the issues will be addressed in due time. The issue of how and where collected fees in-lieu are used is a policy matter the Council will need to look at. Going forward with the affordable housing action plan, the emphasis will be broad based.

Mayor Stokes said he looked forward to hearing suggestions for how the work of the Commission can be made more effective. Getting the right information at the right time, and making sure Council direction is clear, will be important. The ideas will be focused on by the Council at its upcoming retreat.

Mayor Stokes left the meeting to attend another event.

6. STAFF REPORTS

(7:30 p.m.)

Comprehensive Planning Manager Terry Cullen briefly reviewed with the Commission the schedule of meetings and agenda items through the end of July.

7. DRAFT MINUTES REVIEW

(7:33 p.m.)

A. April 13, 2016

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

B. April 27, 2016

A motion to approve the minutes as submitted was made by Commissioner Walter. The motion was seconded by Commissioner Morisseau and the motion carried without dissent; Commissioners deVadoss and Carlson abstained from voting as they were not present for the meeting.

8. STUDY SESSION

(7:35 p.m.)

A. Single Family Room Rental Update on Enforcement

Code Compliance Officer Betty Cruz said she has been meeting regularly with the City Attorney's Office since the single family room rental ordinance was adopted. The focus has been on interpretation of the ordinance and on reviewing example cases. A conclusion has been reached under which complaints about instances of four adults or fewer living in a house, whether they are related or unrelated, will be determined not to involve a code violation. Where complaints of four or more unrelated individuals living in house are received, a code compliance office will contact the complainant and ask specific questions aimed at identifying whether the site fits the definition of family or not. The investigation could involve having the officers talk with the tenants and/or the homeowner. Generally, three site visits will be involved. Observations will be made at different times of the day and different days of the week

Ms. Cruz shared two cases with the Commission. In the first, a phone call reported nine adults living in a home. An investigation was launched and the conclusion reached was that the lower half of the home was an approved accessory dwelling unit that had been rented by the homeowner for almost ten years to the same couple. The homeowners lived in the home along with their children and their elderly parents. It was discovered the homeowners also rented out to a couple of foreign exchange students who were required to be 18 years old or older, and that there was a disabled unrelated adult also living in the home. That made a total of nine adults living in the home.

The code allows up to four unrelated individuals to live in a home. To exceed that number, the residents must be related either by blood or marriage. If everyone living in the home were in fact related to each other, the finding would be that there was no code violation. However, the introduction of a single unrelated person triggered the restriction to no more than four unrelated persons living in the home. The homeowners were informed that either everyone living on the first floor could stay, or they would have to ask all four of the unrelated adults, the two foreign exchange students and the couple in the accessory dwelling unit, to leave. It was explained to the homeowners that the total number of related individuals is not counted as one but rather as the actual number.

The other half of the definition of family in the code requires a determination of the functional equivalent of family. Ms. Cruz said that entails looking to see if all persons living in the house are sharing the entire house together and living as a family, including minor dependent children, and sharing expenses. She said it is also necessary to determine if situations are temporary or permanent, a sorority or fraternity, and any other factors that should be taken into consideration.

Ms. Cruz said a report was filed by a complainant that five to eight people were living in a house. The investigation included a meeting with the homeowners where it was discovered that they lived in the house together along with their two children and two high school kids who stayed for the duration of a school year, with different students every year. The students were under the age of 18 but over the age of 16, and the homeowners would lend them cars to use. The homeowner also found out about a foreign exchange worker program in which people would come in from outside the country and stay with the couple for six months to a year at a time. The investigation concluded that all who were living in the house worked closely as a unit and very much resembled the functional equivalent of a family. No code violation was found to exist. Even if everyone living in the house had been over the age of 18, it is possible that they would have been determined to be the functional equivalent of a family because of the way they were living together.

Chair Hilhorst commented that the complaints that generated the drafting of the ordinance initially was less focused on families that take in foreign exchange students and more focused on situations in which single family homes were effectively used as dormitories inhabited by unrelated individuals. She asked how many of those cases have been reported and/or investigated. Ms. Cruz said she could get back to the Commission with an exact number. She noted, however, that code compliance officers have met with success in working with some of the homeowners they interacted with, and changes were made to comply with the code. Chair Hilhorst said those are the cases the Commission was most interested in hearing about, along with whether or not the ordinance is in fact working.

Commissioner Carlson asked if the problem that was first identified has gotten better, has gotten worse, or is much the same since the ordinance went into effect. Ms. Cruz said the process kicked off with about 130 cases that were questionable and which required research. In 71 of the cases, the homes were brought into compliance, and 63 are still pending. She said she would get back to the Commission with regard to whether or not complaints have increased or decreased.

Commissioner deVadoss suggested the data should be published on a regular basis for the benefit of all citizens. Assistant City Attorney Lacy Hatch said she would need to look into the feasibility of doing that given the restrictions and restraints in place regarding publishing information on cases that are pending. Commissioner deVadoss said he was really more interested in the aggregate data regarding the number of incidents, how many have been resolved successfully, and how many are pending.

Ms. Hatch reminded the Commissioners that the ordinance includes an amortization period of one year that applied to those residences that were conforming to the previous ordinance in terms of occupancy. That period of time expired in April, so any circumstances that are now prohibited by the new definition of family have the potential for investigation and enforcement. To date, it has been found that education as a compliance measure is working very well. There are, however, a host of other properties that are being investigated, some of which are very challenging. A variety of enforcement tools are being used to determine what is working and what is not working. There have been meetings between code compliance officers and the police department to determine if there are any underlying criminal activities that are driving the need for the occupancies, and the building department is on board with making sure that anyone coming with seeking permits for new development is made aware of the regulations.

Commissioner Walter read aloud part of a letter she wrote to the East Bellevue Community Council in which she stated that given the challenges of enforcing an ordinance that was created to protect the quality of livability and character of single family neighborhoods, it seems clear that due to a few unscrupulous landlords, the city needs to develop a more objective mechanism to assure that single family neighborhoods stay single family neighborhoods. The cities of Pullman and Seattle both have rental registration regulations under which properties are periodically inspected to ensure that they are safe and following city codes. The approach is one Bellevue should pursue. Having a system in place that requires rental properties to undergo inspections would be an equitable process that would uncover individual room rentals along with other infractions. Bellevue renters deserve quality rentals, and Bellevue neighborhoods deserve a good quality of life, and rental registration would go a long way toward providing both.

Commissioner Barksdale asked about providing the data by neighborhood. Ms. Hatch said the data will most likely be given by subarea, though a mechanism for reporting the data will need to be worked out.

Chair Hilhorst stressed the importance of knowing whether or not the ordinance as it was