

CITY OF BELLEVUE  
BELLEVUE PLANNING COMMISSION  
STUDY SESSION MINUTES

May 16, 2018  
6:30 p.m.

Bellevue City Hall  
City Council Conference Room 1E-113

COMMISSIONERS PRESENT: Chair Barksdale, Commissioners Malakoutian, Morisseau, Moolgavkar

COMMISSIONERS ABSENT: Commissioners Carlson, Laing, deVadoss

STAFF PRESENT: Terry Cullen, Deborah Munkberg, Department of Planning and Community Development; Carol Helland, Trish Byers, Department of Development Services; Matt McFarland, City Attorney's Office

COUNCIL LIAISON: Not Present

GUEST SPEAKERS: None

RECORDING SECRETARY: Gerry Lindsay

1. CALL TO ORDER  
(6:56 p.m.)

The meeting was called to order at 6:56 p.m. by Chair Barksdale who presided.

2. ROLL CALL  
(6:56 p.m.)

Upon the call of the roll, all Commissioners were present with the exception of Commissioners Carlson, Laing and deVadoss, all of whom were excused.

3. APPROVAL OF AGENDA  
(6:56 p.m.)

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

4. REPORTS OF CITY COUNCIL, BOARDS AND COMMISSIONS – None  
(6:57 p.m.)

5. STAFF REPORTS  
(6:57 p.m.)

Comprehensive Planning Manager Terry Cullen reminded the Commissioners that the next Commission meeting was scheduled for June 13. He noted that public hearings are slated for that meeting along with the June 27 meeting.

6. ORAL AND WRITTEN COMMUNICATIONS

(6:58 p.m.)

Mr. Todd Woosley with Hal Woosley Properties, 12001 NE 12th Street, Suite 44, noted that he currently serves as vice chair of the Transportation Commission. On behalf of his business and all property managers in the city, he said the Land Use Code amendment process is critical in that it determines what kinds of businesses can locate in the different zones. He requested a Land Use Code amendment to allow bicycle rentals as a permitted use in the city. The city is moving toward allowing bike share on public property through a right-of-way use permit that will include various conditions for performance. The code is silent about whether or not bicycle rentals should be a permitted use in the city and if so in what zoning districts, and if there should be any conditions on the use. Open questions include whether or not a vacant space can be used to house a bicycle rental business, and if a parking stall can be used for a bike rack to store bicycles. Every other type of business in the city must be listed in the Land Use Code as a potential permitted use by district. The city needs a Land Use Code amendment to consider bicycle rentals in Bellevue.

7. PUBLIC HEARING – None  
(7:01 p.m.)

8. STUDY SESSION  
(7:01 p.m.)

A. Planning Commission Educational Series: Reviewing Land Use Code Amendments

Land Use Director Carol Helland commented that everyone can relate to a cookbook whether they cook or not. She went on to say that the Land Use Code amendment process is not unlike a cookbook. It gives the flavor of development that should be occurring in the city, something that is based on community consensus. Undertaking a Land Use Code amendment is similar to creating a recipe. The policy work is usually done at the Council level and it involves direction from the Commission along with feedback from community advisory committees and other sources, which in essence equate to the cuisine to be focused on. During the development of the recipe, the focus is on creating something that will suit the tastes of the community using the ingredients outlined during the policy process. Once the recipe is complete, it is written down very carefully so that it can easily be replicated, something that helps to create continuity over time.

Ms. Helland said the Land Use Code itself is made up of component parts, not unlike nested cooking pots. The land use districts describe areas of the city and relate them to a cuisine. The neighborhoods are different from the downtown and other areas of the city. Some areas will be more spicy, such the downtown which has more of a nightlife and high-rises. The neighborhood might be more about comfort food in the form of houses that make one feel at home and evoking a sense of place. The development requirements talk about bulk, size and scale for uses that are allowed in the specific districts. In the cooking scenario, the development requirements do not allow dairy products in some areas but do allow for lots of vegetables. The permit processes and appeals section are the specific cookbook directions; they are specific in regard to how to do what is done in the code. Administration and enforcement equates to ensuring that taste buds will like what is created by the recipes. Substitutions are not generally allowed because the result may not be palatable, although there is some flexibility allowed for the purpose of creativity and individualism. Platting and subdivision essentially relates to food portions and how it is dished out. Clarity of the words used is needed to ensure that recipes can be replicated over time.

Ms. Helland said there can be questions about whether something is a tart or a pie. Similarly, there are sometimes questions between what a Comprehensive Plan amendment is and what a Land Use Code amendment is. The components of a Comprehensive Plan amendment are driven by state law, but the components of a Land Use Code amendment have to nest within the Comprehensive Plan; they are dictated by what is in the Comprehensive Plan in order to be consistent. In the cooking analogy, if everyone is told to bring a sweet pie to a potluck, the one pot pie that is brought will not work well as something to follow an excellent main course.

Continuing the analogy, Assistant City Attorney Matt McFarland explained that the Commission is the chef at the PC Café. The role of the Commission/chef is to serve as a fact-finding body, acting as citizen advisors to the City Council. The Commission is not, however, a substitute for the Council. The Commission is charged with reviewing and applying the decision criteria in the Bellevue City Code and the Land Use Code in developing a recommendation to be forwarded to the Council for consideration.

The PC Café Cookbook is Process IV in the Land Use Code at 20.25.410. The section addresses the processing of Land Use Code amendments. The section describes the points at which the Commission is involved in the Council's legislative process. It sets forth the role of the Commission relative to conducting study sessions and requires the Commission to schedule a public hearing.

Mr. Cullen commented that a handful of ingredients can be used in various ways to create the combinations and tastes that are collectively known as Thai food. Mr. McFarland said the same is true when it comes to Land Use Code amendments. The basic ingredients are found in the recipe, which outlines the decision criteria that must be applied. The criteria are found in LUC 20.30J.135. Where the cookbook is the process, the actual criteria are the recipe. In the case of Land Use Code amendments, there are only three ingredients: A) consistency with the Comprehensive Plan; B) enhancing the public health, safety or welfare; C) and avoiding that which is contrary to the best interest of the citizens and property owners of the city.

Just as turtle soup cannot be made without turtle, the most important ingredient for the PC Café and its chefs is consistency with the Comprehensive Plan; that is criterion A. Turtle soup should not be made too spicy, and criteria B and C are essential ingredients in the City Council's recipe, but not necessarily in the Commission's recipe; they must be considered by the Commission, but putting too much emphasis on them could make the soup too spicy instead of focusing on the Comprehensive Plan. The Commission is in a unique position to understand the Comprehensive Plan because it deals with it more so than any other body. The Commission should always bring its area of expertise to bear in the criteria analysis and have it baked into the decision making.

Commissioner Malakoutian asked what it means to hold criterion A as the most important of the three, and by not making something too spicy by focusing too much on criteria B and C. Mr. McFarland explained that the Commission must consider all three criteria in addressing a Land Use Code amendment. However, the Commission has the specific role of taking public input, applying the criteria, and making an appropriate recommendation to the City Council. Within that role, the Commission is particularly well equipped to evaluate criterion A, thus that is where the focus of the Commission's review should be. Through adoption of the Comprehensive Plan, the Council has already found that it serves the public health, safety and welfare and is in the best interest of the public, thus criteria B and C are embedded. A finding that a proposed amendment is consistent with the Comprehensive Plan to a certain extent is a finding that criteria B and C are also met.

Mr. Cullen said in cooking there is an art and science to creating a masterpiece. The science part is that at certain temperatures there are chemical reactions that occur resulting in certain effects. Beyond that creative artistry is required. The same is true of the work of the Commission, and that should be both acknowledged and embraced by the Commission. The Comprehensive Plan is a hugely important vision and policy document adopted by the Council. It sets the direction for the city. No other citizen board deals with the Comprehensive Plan; it remains the sole prerogative of the Planning Commission. The Commission needs to embrace the science and the artistry of that document. Too often during public hearings when the heat is on, the focus drifts away from the Comprehensive Plan toward reacting to the sentiment of the public. While important, the Commission must stay focused on consistency with the long-range Comprehensive Plan. The role of the Commission in crafting recommendations that are consistent with the adopted policy document cannot be overstated.

Mr. Cullen said the Comprehensive Plan and the work of the Commission go together like pie and ice cream. The Commission is required to ensure that any code amendment is consistent with and implements the Comprehensive Plan. A pie crust, if done right, is truly a work of art, even though the ingredients are very simple. What it takes to accomplish, however, is technique. Consistency in making a crust is critical: if too chunky or too fine the crust will not turn out right. The same is true of the Comprehensive Plan.

There are two factors to consider in regard to consistency, the first is compatibility. Combining strawberries with pepper transforms the flavor of the berries into something sweeter than what they actually are. In Mexican cuisine, chocolate and hot pepper are combined in making mole, which makes things sweeter. Compatibility by definition refers to coexisting in a stable fashion without unduly negatively impacting the plan, or a state of not being in conflict. The second factor is implementation. In terms of Comprehensive Plan amendments, they must be consistent and compatible with the Comprehensive Plan, and they must implement or further the Comprehensive Plan by making it come even more alive. At the simplest level, Comprehensive Plan amendments must further the goals and policies of the Comprehensive Plan, and advance or assist moving forward creating an affirmative action.

Mr. Cullen said he would be looking for the sublime when it comes to the Planning Commission's Comprehensive Plan amendment recommendations, specifically ones of such excellence, grandeur or beauty that they will inspire great admiration or awe.

The Commission took a short break to eat pie served by Chair Barksdale.

After the break, Mr. Cullen provided an example involving a policy from the Land Use Element of the Comprehensive Plan that was focused on the city's growth strategy. He noted that the policy language calls for directing most of the city's growth to the downtown regional growth center and to other areas that are designated for compact mixed use development served by a full range of transportation options. Additionally, the policy calls for enhancing the health and vitality of existing single family and multifamily neighborhoods, and continuing to provide for commercial uses and development that serve community needs. It was noted that the subtext was that locating growth in the downtown and other designated areas will take pressure off the existing single family neighborhoods.

Mr. Cullen commented that recently the Commission worked on and development a new code amendment for the Eastgate transit-oriented district, which is located adjacent to the park and ride in Eastgate. A plan amendment was effected along with a code amendment that included

creating a new zoning district, the EG-TOD. The zoning map was also changed. The work was found to have been consistent with the growth strategy policy previously quoted. The district was already a compact mixed use development area that is well served by a full range of transportation options.

Mr. Cullen directed the Commissioners to bring up the Bellevue Technology Center site on Google Maps, noting that the site was the subject of a huge plan amendment in 2017 that did not make it through threshold review. The community came out in an organized fashion and debated with and presented findings to the Commission regarding the threshold criteria. One of the things the community said was that the proposed amendment was not consistent with the Comprehensive Plan. While Bel-Red is designated as one of the city's growth areas for compact mixed use development, the border does not extend far enough east to include the Bellevue Technology Center site.

Chair Barksdale said the community also raised the point that a planned unit development agreement was in place. He asked if the amendment could have made it beyond threshold review despite that agreement if the site had in fact been within the Bel-Red boundary. Mr. Cullen said if the site had been within the confines of the growth center, the proposal would have been consistent with the Comprehensive Plan direction to direct most of the city's growth toward areas designated for compact mixed use development. Whether or not it would have been approved, however, would have been dependent on taking other factors into account. The Commission rarely makes a decision based on a single criterion.

Ms. Helland said the planned unit development agreement would not have been the basis for determining the Comprehensive Plan criteria had not been met because a planned unit development agreement is actually a permit, which is not part of the recipe book the Commission reads from. Mr. McFarland added that with the criteria in one hand, it is always necessary to look at the specific facts that can frequently be overwhelming. All of the facts must be filtered through the criteria. Facts should never be confused with criteria, however.

With regard to the East Main plan and code amendments, Mr. Cullen said the intention is to designate the area as appropriate for compact mixed use development. The Commissioners were asked to open the Comprehensive Plan on their iPads and to go to the Land Use Element. Mr. Cullen pointed out that although policy is very important, there is a lot that is not written in policy form that provides important context information to the policy itself. There is much in the element by way of facts and figures around the conditions that inform the policy direction in the document. When a deep dive is done on plan and code amendments, the Commissioners should take the time to review the Land Use Element as an important part of the policy work.

Mr. Cullen noted that policy LU-35 calls for adopting and maintaining policies, codes and land use patterns that promote walking in order to increase public health. He asked the Commissioners to be creative in suggesting a proposal that could be in front of the Commission where the policy could be used.

Chair Barksdale said the policy could come into play in relation to the Grand Connection. Mr. Cullen agreed and said it could also be utilized in dealing with a code amendment describing safe pathways to schools, or a code amendment describing streetscapes that have wide sidewalks with shade and benches. It could also be used in commercial area plans that include walk scores.

Mr. Cullen called attention to policy LU-2, retain the city's park-like character through the preservation and enhancement of parks, open space, and tree canopy throughout the city, and policy LU-13, support neighborhood efforts to maintain and enhance their character and appearance. In the event a proposal were put forward for a Land Use Code amendment to create an overlay in the Bridle Trails neighborhood that would reduce the minimum lot size to allow for more development and increase the amount of impervious surface. He asked if such a proposal would be consistent with those two policies.

Commissioner Malakoutian said the proposal would not be in keeping with those policies. Mr. Cullen said Bridle Trails prides itself on its tree canopy and its park-like appearance, and the neighborhood is very protective of those things. The area also has the only equestrian overlay in the city. Somerset, however, is quite different and in fact prefers views to trees that block views. The proposal may work for Somerset where it would not work for Bridle Trails.

Mr. Cullen added in policy EN-12 which calls for working toward a citywide tree canopy target of at least 40 percent canopy coverage that reflects our "City in a Park" character and maintain an action plan for meeting the target across multiple land use types including right-of way, public lands, and residential and commercial uses. He the policy could allow for a different application in Somerset versus Bridle Trails, particularly given that Bridle Trails has its own tree standard.

Mr. Cullen then tossed into the mix the housing policy HO-12, provide incentives to encourage residential development for a range of household types and income levels in multifamily and mixed use commercial zones. He asked if the policy could be used to consider a proposal to dramatically increase density on a site in exchange for making five percent of the density increase affordable.

Commissioner Malakoutian said he would want to negotiate for a higher percentage. Mr. Cullen said that could be done. The policy establishes the direction but not the magnitude. Circumstances must be taken into consideration.

Chair Barksdale asked how the fee in-lieu approach aligns with HO-12. He said some fees that come in through that approach flow to ARCH and asked if that necessarily means the funds will be allocated to housing in a multifamily or mixed use commercial zone. Mr. Cullen said the housing developed with the funds will be in a multifamily development, but not necessarily in a multifamily and mixed use zone. Single family is not typically an option for affordable housing.

Commissioner Moolgavkar pointed out that ARCH dollars from Bellevue are not necessarily spent on projects in Bellevue. Mr. Cullen agreed and said in evaluating that issue it is necessary to look through the plan to see if there is any other direction provided. He clarified that money designated for ARCH is not kept in the city's affordable housing trust fund until a worthwhile project is identified and the Council approves the transfer.

Mr. Cullen said another major challenge for Bellevue and other Eastside cities is to provide affordable housing opportunities for all economic segments of the community. The lack of affordable housing regularly ranks very high as a community problem in the city's biennial

human services needs surveys. The Puget Sound Regional Council conducts a statistically valid regional survey every ten years to shed light on major issues that detract from the quality of life. In the survey conducted in the 1990s, and again in 2008, traffic was the top issue identified. In the 2018 version of the survey, the cost of living rose to the top, primarily because of housing costs. Housing is now so expensive that by a factor of two it was cited as detracting from the quality of life when compared to traffic.

Mr. Cullen asked the Commissioners to focus in on housing policies HO-23, encourage the development of affordable housing through incentives and other tools consistent with state enabling legislation, and HO-24, develop and implement an effective strategy to ensure affordable housing opportunities are available in downtown and throughout the city at a range of affordability levels. He asked the Commissioners if the two policies swayed their view in light of the example where a property owner presents a proposal seeking a 400 percent increase in density in exchange for five percent of it set aside for affordable housing.

Commissioner Malakoutian said he still would want the city to negotiate for more. Most Commissioners indicated the policies would not change their views. Mr. Cullen stated that to planners the policies make it clear that affordable housing is a critically important issue for the city that strengthens the argument in favor of at least considering if the five percent figure was high enough.

Commissioner Morisseau said location would be a factor in her considerations. Mr. Cullen said in that instance fee in-lieu may not always be the best strategy.

Mr. Cullen stressed that in all actions taken by the Commission in considering Comprehensive Plan and Land Use Code amendments, every effort needs to be put into making sure they are consistent with and further the vision and the policy incorporated in the Comprehensive Plan. In the cooking scenario, becoming a master chef requires practice.

Mr. McFarland said the public hearing provides a forum to obtain public testimony or comment on a proposed Land Use Code amendment. The role of the Commission is to gather public input prior to transmitting a recommendation to the City Council. Taking the Commission back to the idea of the PC Café, he stressed the need to make guests welcome. In processing Comprehensive Plan and Land Use Code amendments, it must be kept in mind how they will affect the city as a whole, not just a specific area or property. The public comments offered during a public hearing are often very specific, but they are not necessarily representative of the entire city.

Mr. McFarland said walk-ins are welcome at the PC Café. The meetings are governed by the Open Public Meetings Act and while the public is often allowed to participate, both in public meetings and in public hearings, participation is not required under state law or the Bellevue code. However, public hearings held in connection with a proposed Land Use Code amendment are required by law. He said he would award five Michelin Stars to the PC Café because it does such a good job. The Commission does not represent the public; only the Council does that. The Commission serves at the pleasure of the Council. The Commission considers public testimony

as part of its fact-finding role in order to effectively advise the Council. The Commission is a creature of statute and is bound by the authority set forth in BCC 3.64.

Senior Planner Deborah Munkberg turned the attention of the Commission to the recipe for the cake known as the East Main Transit-Oriented District. She said the ingredients are the draft Comprehensive Plan policies; the draft Land Use Code amendment; the Comprehensive Plan; the City Council guiding principles; the CAC recommendations; and the staff expertise. She stressed the need when starting out to have all of the ingredients pulled together and ready, which for East Main will include the package containing the draft Land Use Code amendment and the draft Comprehensive Plan policies. The list of secret ingredients that will help the bring the finished product to life includes a solid understanding of transit-oriented development and a healthy amount of comment from interested members of the public and other stakeholders.

In making a cake, the first step is to combine and sift together the ingredients. For East Main that will mean sifting the code and policy amendments through the CAC recommendations, the guiding principles and the Comprehensive Plan policies with an eye on removing the extraneous and unnecessary and identifying anything that might be missing. Those actions occur during the Commission study sessions in the first step. In the second step the focus is on whisking together the additional ingredients, namely oral and written public comment and public hearing comments.

Code Development Manager Patricia Byers said combining all of the ingredients constitutes the third step. She said staff would provide the Commission with all of the draft Land Use Code amendments together so they can be considered together. The draft Comprehensive Plan policies will be supplied to the Commission with the staff report prior to the public hearing.

Mr. Cullen said those familiar with the process used in the past will recall going page by page through the code amendments. That approach makes it difficult to have an integrated or holistic discussion. Ms. Byers said staff will deliver to the Commission in July the draft Land Use Code amendments and will discuss them with the Commission. Then about a month prior to the public hearing in October staff will deliver to the Commission the staff report, and the Land Use Code amendment revised based on direction from the Commission. The Commission will then be able to take a look at both the Comprehensive Plan that is already in effect, the things the staff believe apply to the Land Use Code with respect to the Comprehensive Plan, and the draft amendments to the Comprehensive Plan.

Continuing the metaphor, Ms. Byers explained that the baking of the cake compares to evaluating the draft Comprehensive Plan policies and the Land Use Code amendments for consistency with the Comprehensive Plan. If the draft policies and code amendments are in fact consistent with the Comprehensive Plan, which equates to checking for doneness, the Commission votes to approve the package and forward a recommendation to the Council. If not, more work will need to be done. The Chair then delivers the finished product to the Council while it is still fresh.

The Commissioners unanimously agreed following the presentation that they understood what a Land Use Code amendment is, that they understood how a Land Use Code amendment is processed, and that they understood the Commission's primary role of assuring consistency with the Comprehensive Plan and how that is accomplished.

Staff served cupcakes and cookies to everyone present.

9. OTHER BUSINESS  
(8:42 p.m.)

Ms. Helland provided a follow-up on the May 9 Commission meeting and the conformance amendments that were the subject of a public hearing. She said she reviewed the materials and the comments made with staff and concluded that there had been enough uncertainty about the topic of building height in Factoria to warrant coming back for an additional conversation and another public hearing with a broader sphere of noticing. She said the issue in Factoria is that the zoning is related to a pre-annexation zoning agreement that was entered into between the city and the property owners in the 1980s. The Factoria regulations were eventually codified in the Bellevue code relative to building height, setbacks, bulk and scale. An overlay was developed for and applied to the mall properties, after which the building code was amended to allow for the five over two building form. Where the building code originally only allowed for five layers of wood frame construction over a single layer of above-grade concrete parking, the amendment allowed for five layers of wood frame construction over two layers of concrete parking. The building code change did not take place until assurances were made that the fire department could deploy and fight fires in a five over two construction. The building code change occurred after the Factoria provisions went into place. Aligning the Factoria height limits with the building code will allow the cost of development to be reduced, potentially leading to more development affordable to a broader range of individuals. The proposed amendment will not add any density or additional dwelling units that would result in additional trips on the road, it only is a height adjustment to accommodate the additional layer of above-grade parking.

The Commission was asked to set a new public hearing for June 13 at 6:00 p.m. Ms. Helland noted that there is a time sensitivity. She explained that conformance amendments are often related to changes in other codes that allow the Land Use Code to be administered efficiently. The major conformance amendments in the package are related to code changes for the downtown and Eastgate that occurred in August and September 2017 and there are some friction points in the code that are creating some problems in administering the code through the permitting process, thus the sooner the amendments are made the better.

Commissioner Moolgavkar allowed that the issues in the conformance amendment are mostly relatively minor, but the height change in Factoria appears to go beyond that. The presentation given by the representative for the mall properties was that there originally was an intent to have a certain height, but the intent has changed given that the use of the site has changed. That does not appear to be a conformance amendment issue. Ms. Helland said Jack McCullough, the property representative, is working on a project in the area. The amendment is specific to the relationship between the building code measurement of height and the Factoria measurement of

height. The amendment will offer them additional flexibility. Factoria Mall is in what is called F1 zoning which has several components of development areas that are dedicated to specific types of uses. There was in the past talk of putting residential uses on the southern edge of the mall property, and now they are talking about shifting that use to the western edge. That flexibility is allowed within the terms of the permit. The mall property owner is currently in the process of revising their master development plan and the flexibility to be brought about by the conformance amendment will allow them to maintain the price point of the development they are creating but will not allow for new density. Mr. McCullough testified in regard to conformance to the master development plan, while the proposed conformance amendment is related to conformance with the building code mechanism for measuring height that would allow five over two construction. It will be made clear in the notice for the public hearing and in the staff report.

A motion to set a public hearing for 6:00 p.m. on Wednesday, June 13, was made by Commissioner Malakoutian. The motion was seconded by Commissioner Moolgavkar and the motion carried unanimously.

10. APPROVAL OF MINUTES – None  
(8:52 p.m.)

11. CONTINUED ORAL COMMUNICATIONS – None  
(8:52 p.m.)

12. EXECUTIVE SESSSION – None  
(8:52 p.m.)

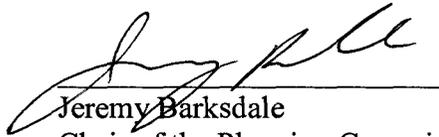
13. ADJOURN  
(8:53 p.m.)

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

Chair Barksdale adjourned the meeting at 8:53 p.m.

  
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Terry Cullen  
Staff to the Planning Commission

9/13/18  
Date

  
\_\_\_\_\_  
Jeremy Barksdale  
Chair of the Planning Commission

9/12/18  
Date