

CITY OF BELLEVUE
BELLEVUE PLANNING COMMISSION
MEETING MINUTES

May 28, 2014
6:30 p.m.

Bellevue City Hall
City Council Conference Room 1E-113

COMMISSIONERS PRESENT: Chair Tebelius, Commissioners Carlson, Ferris, Hamlin, Hilhorst, Laing, deVadoss

COMMISSIONERS ABSENT: None

STAFF PRESENT: Paul Inghram, Mike Bergstrom, Department of Planning and Community Development; Catherine Drews, Development Services

GUEST SPEAKERS: None

RECORDING SECRETARY: Gerry Lindsay

1. CALL TO ORDER

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

2. ROLL CALL

Upon the call of the roll, all Commissioners were present with the exception of Commissioner deVadoss who arrived at 6:38 p.m.

3. PUBLIC COMMENT

Mr. James Lowe, a resident of 145th Place NE, said the principles provided by the Council for the development of permanent regulations relating to single family rental housing stated that the new regulations should ensure it would not encourage the commercial use of housing in single family neighborhoods. It is apparent that if an owner does not reside in a house, then the house is certainly being used only for commercial purposes. Therefore, the new regulations should require the owner to reside in the rental house. The proposed regulations state that onsite parking must be provided. The rental house in his neighborhood has onsite parking for four cars, but they do not all park onsite because they would have to park behind each other. The regulations should state that all renters must park onsite and not in the street. Single room rentals impact the value of single family housing in any given neighborhood. Where there is a rental close by, property values are very likely to be reduced. Potential buyers likely would not be inclined to purchase a home adjacent to a rental if their intent is to live there for the long term. Impacts on property values translate directly into reduced property taxes for the city.

Mr. Bernie Hayden, 2622 134th Avenue NE, said current Bellevue code is quite onerous relative to what persons in single family neighborhoods can do relative to parking a boat trailer or RV in a neighborhood. It would seem that regulations on renters should be every bit as strict, if not more strict. With regard to a family counting as a single person in high-occupancy buildings, he said as worded there could be six families with six members each living in a single home and

still be in compliance with the regulations.

Ms. Kayla Schott-Bresler, policy associate with the Housing Development Consortium of King County (HDC), 1402 3rd Avenue, Seattle, said the organization is pleased with the proposed changes to the Housing Element. One of the best ways to prevent and address homelessness is to ensure quality, permanently affordable housing is available across the income spectrum. Meaningful affordable housing incentives can help make that happen. HDC does not expect the private sector to meet the needs of Bellevue's lowest-income residents. Strong public subsidy, including investments in ARCH, will continue to be critical. The Commission was encouraged to adopt the revisions to the Housing Element that supports funding for low- and very low-income households, as well as the policies supporting regional partnerships and planning to address homelessness. The shared vision of Bellevue as a city that meets the housing needs of all citizens is attainable, but everyone will need to work together to get there.

Mr. Sean Martin with the Rental Housing Association of Washington (RHA), 2414 SW Andover Street, Seattle, suggested that some of the language within the proposal is overly complicated. The definition of family is certainly one issue as described by a previous speaker. A less complicated approach would simply be to limit the number of bedrooms that can be rented out in single family homes. That approach could also ease the concerns the RHA previously expressed about fair housing issues related to protected class status.

Ms. Loretta Lopez, 13419 NE 33rd Lane, spoke as president of the Bridle Trails Community Club. She said the Club has been following the Housing Element issue since January 2012 when it was made known the city might want to allow detached accessory dwelling units. One of the Club's subcommittees, chaired by Norm Hanson, is focused on the issue; she noted that Mr. Hanson had forwarded to the Commission an email in which he pointed out that detached accessory dwelling units are not a good fit with neighborhood character in most Bellevue neighborhoods and in particular in the Bridle Trails area. Such units, if allowed, would substantially change single family residential zones. Attached accessory dwelling units are acceptable, but not detached accessory dwelling units. Policy HO-16 calls for allowing both attached and detached accessory dwelling units in single family districts subject to specific development design and owner-occupancy standards. While it could be argued that the policy is big-picture language, experience indicates that big-picture statements can easily be interpreted as the basis for allowing what previously has not been allowed, which in the current instance is detached accessory dwelling units. Single family residential zones are important to the city for all kinds of reasons. The Bridle Trails Community Club does not believe allowing detached accessory dwelling units would be wise. Allowing them would in effect be changing the single family zoning without notice.

Ms. Barbara Benson, 14405 SE 17th Street, thanked the Commissioners for helping to identify solutions to the influx of room rentals in Bellevue's single family neighborhoods. She said over the last year she has watched a developer change the character of the Spiritwood neighborhood by purchasing and then converting houses into single room rentals. A home with three bedrooms was converted into a structure with many more bedrooms by eliminating the living spaces and the garage. An 8000-square-foot home has been built between two homes that are only about 2000 square feet. She said she has learned that single-room renters have month-to-month leases, probably with no background checks. Those living in single-room rental situations do not operate as families any more than strangers staying at a hotel do. When related persons are counted as one, a single family house can be packed, all without anyone seeking proof that the residents are related. The single-room rental business is far different from a single home rental,

and one band aid cannot apply to both. Where rent is charged by the room rather than on the house, the motivation is to create more rooms in order to maximize the return on investment. The more profitable the business model, the more houses that get purchased for the same intention. Families searching for affordable housing are no match for investors with deep pockets who pay full price with cash and no inspections. Soon those families will be squeezed out of buying any home in Bellevue. The invasion can be controlled by reducing the allowable number of rented rooms. Absent large profits, investors will either sell or rent the entire home to a family. Because the average number of bedrooms is three, the limit should be three single room renters, or two if the owner lives there as well. Such an approach would be easy to understand and would eliminate the disfiguring of houses while dissuading profiteers from erecting dormitory-like structures. The city needs to stop enabling the housing model. There are a lot of great people in Bellevue who love their single family neighborhoods and are invested in maintaining the character for which they were designed. Those people need help from the city.

Ms. Irene Fernands, 1705 146th Avenue SE, requested that the Commission's discussion on the single family housing rental code amendment be postponed for further review and input. The public has had less than a week to review the amendment, and half of that time was over a holiday weekend. Of particular concern are the amendments to the Land Use Code that would cover high-occupancy dwellings but which puts no limit on the number of persons who could occupy a home as long as they are under one lease, have one leasee in charge, and provide onsite parking. The purpose-built mega home in the Spiritwood neighborhood has nine-plus bedrooms, a six-car garage, and a driveway that could accommodate at least four additional cars. The landscaping for the house has been completed so it can only be assumed the home will soon be ready to be occupied. Filling the house with Bellevue College students will greatly impact the neighborhood. The house will be a dormitory, a business in a single family neighborhood. If the amendment is approved as written, it will be a disaster for the families in the neighborhood. Discussion on the amendment should be postponed until more input from the community is given, even if that means renewing the emergency ordinance now in place.

Mr. David Paynter, 1614 144th Avenue SE, voiced his support for the comments made by the RHA relative to tying the single room rental issue to the boarding house/bed and breakfast definition of limiting them to two rooms. He also voiced concern about the accelerated schedule being pursued and said property owners need adequate time to review the additional option of the high-occupancy dwelling administrative conditional use permit off-ramp. The main purpose of the emergency ordinance was to reduce the inappropriate uses in the neighborhoods, but the high-occupancy option seems to open the door to the uses. Bellevue has an affordable housing crisis, but haphazardly allowing multifamily uses in single family neighborhoods is not the right way to deal with the problem. If the high-occupancy off-ramp becomes part of the ordinance in the end, the owner or property manager should be the designated contacts and one or the other should be required to live at the house. With regard to legal onsite parking, the reference should be to legal offsite parking as required in the boarding house/bed and breakfast regulations. The impacts a high-occupancy dwelling may have on the residential character of a neighborhood should be defined and connected with the single family residential zoning requirements. The cumulative impacts notion as stated in the draft ordinance is very general and should be tightened up. The high-occupancy dwelling definition needs to be tightened up as well; it is far too open-ended and needs a maximum number of unrelated individuals.

Ms. Nanette Fricky, 14430 SE 19th Place, called attention to an email sent to the Commission ahead of the meeting by her husband. She noted that at all of the public hearings there has been overwhelming support to limit the number of houses being used for room rentals in a specific

area. If the high-occupancy permit approach is adopted, there should be a limit to the number of room rentals allowed in an area, otherwise it will be a slippery slope toward turning single family neighborhoods into multifamily neighborhoods. Undoubtedly the city does not intend to let that happen, but it needs to have a mechanism in place to prevent such consequences from even occurring. Limiting the number of rooms available for rent in any given house should also be adopted. The boarding house provisions only allow two rooms to be rented in an owner-occupied house, presumably to lessen the impact on single family neighborhoods. As currently proposed the amendment would allow an unlimited number of rooms for rent. Prior to adoption of any approach there should be a discussion of what other jurisdictions have tried, and it would be helpful to review both successes and failures. In drafting the amendment, the calendar should not be the driving force, even if the emergency ordinance will need to be renewed.

Ms. Stephanie Walter, 14418 SE 19th Place, said she had read the draft permanent ordinance intended to replace the emergency ordinance. The draft ordinance includes language referencing a new high-occupancy administrative conditional use permit. The Commission discussed at its April 23 meeting the administrative conditional use permit, but the extent it covers in the draft ordinance is unexpected. It appears effort has been put into the exceptions to the rule while not significantly refining the rule in response to public comments. Some elements favorably discussed by Planning Commissioners are not included. There is nothing new to aid in verification and enforcement, nor is the discussed intention to drop from four unrelated persons to three. Individual room rentals in a dwelling that is not occupied by an owner or registered agent can have serious consequences to persons or property. The swift approach the city has taken to address the issue of individual room rentals is to be lauded, but speed is secondary to accuracy. If necessary, the Spiritwood neighborhood would support passage of an additional temporary ordinance to allow time to hone the proposed permanent ordinance.

Ms. Margo Blacker, 2011 100th Avenue NE, spoke on behalf of the Northtowne Neighborhoods Association, which is the old Northtowne Community Club. She said there simply is no affordable housing in west Bellevue. There are no homes on the market under \$750,000. Ten houses within a three-block radius of her home are being torn down so that very large homes can be built. She agreed that the city either needs to extend the emergency ordinance or incorporate the comments made by the public into the proposed permanent ordinance. Northtowne is also concerned about single room rentals. Homes in the neighborhood are being constructed with as much as 10,000 square feet and nine bathrooms. The homes are being built for the foreign market. They will not be lived in by the owners. They will be rented out and used for businesses, and the neighborhood character will be lost. Many fear the large homes will eventually become little more than boarding houses. One solution may be the city's R-7.5 zone, which is not used very much and which accommodates cottage housing through a PUD. Northtowne needs an emergency ordinance to require setbacks on the downhill side of houses to stop the practice of building sheer walls on property lines. Additionally, front, back and side setbacks should increase as lot sizes increase.

Ms. Linda McClanahan, 14823 SE 18th Place, said she would like the Planning Commission to safeguard single family residents by including a more comprehensive definition of land use compatibility in policy L-29, and to promote neighborhood quality to facilitate healthy changes in neighborhoods while protecting residents from new housing that is out of character. Exactly what is meant by compatibility should be clearly spelled out. The 6700-square-foot home proposed for her cul-de-sac, designed architecturally in a style unlike any other nearby structure, is not compatible.

Mr. Ron Murk, 14824 SE 18th Place, supported the comments made by the Spiritwood residents. He said his property adjoins the 6700-square-foot home. The Commission should understand that the house is being built with the intent of operating an adult family home. The house will have ten bedrooms and nine bathrooms, but only a one-car garage and a twelve-foot driveway. The foundation pushes to the very limits of the setbacks required, and it will meet the height restrictions, all of which simply flaunts the restrictions put on single family homes. The house must be constructed before the owner can apply to the DSHS for an adult family home license; if the license is not approved, another use will need to be found for the house. Most families have at least two vehicles and most have more, so the current requirement to provide off-street parking for two vehicles is outdated. The city spends hours drafting the Comprehensive Plan, but it has no teeth when it comes to the Land Use Code. Once specific regulations in the Land Use Code are established, the Comprehensive Plan grants no authority to approve or deny individual single family building permits. He disagreed wholeheartedly with the high-occupancy dwelling definitions and with allowing it in single family dwellings. All garage conversions should be mandated to obtain a building permit.

Ms. Jane Mueller, 2420 123rd Avenue NE, voiced her support for the Spiritwood neighborhood. She said she has been following the single room rental issue and was supportive of the request to allow for ample time to draft a permanent ordinance. She said it took her years to save up money to put down as a deposit for her house, and even more years to pay off the mortgage. She said she chose the house based on its location in a single family neighborhood and on the character of the neighborhood. A neighbor chose to renovate his home and is now renting out single rooms in it to Bellevue College students and others, many of whom must park on city streets rather than in the driveway. A foreign buyer recently purchased a home in the Woodridge neighborhood and began modifications to accommodate renting out single rooms. When it was discovered the work was being done without proper permits, the work was halted. She said a friend of hers has gone through the experience of having an adjacent home turned into a frat house, an issue she has been dealing with for ten years. The number of persons allowed to live in a home should be limited, and the owner should be required to live in the home as well. People are understandably concerned about single-room rentals changing the character of their neighborhoods.

4. APPROVAL OF AGENDA

There was agreement to move agenda item 9 to precede agenda item 5.

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

9. OTHER BUSINESS

A. Recognition of Commissioner Ferris' Service on the Planning Commission

Chair Tebelius remarked that Commissioner Ferris has served the Commission and the city for the past eight years. She said his service has been exemplary.

Commissioner Hamlin said he had enjoyed working with Commissioner Ferris for the past six years. He noted that Commissioner Ferris is always very logical and educated in regard to subjects, particularly the subject of housing.

Commissioner Laing said his first experience with Commissioner Ferris was as a land use

attorney attending the meetings of the Meydenbauer Bay Park master plan committee of which Commissioner Ferris was a member. He said Commissioner Ferris's thoughtfulness and perspective have been invaluable to the Commission and will be sorely missed.

Commissioner Carlson said Commissioner Ferris is the most listened-to member of the Commission because of his great experience as a Commission member, his understanding of how policy is implemented, his practical experience in development, and his love for the city of Bellevue where he has been a resident for many years. He said Commissioner Ferris will be missed.

Commissioner Hilhorst thanked Commissioner Ferris for welcoming her to the Commission and for giving her support. She said Commissioner Ferris always has the best in mind for Bellevue and wants to keep it vibrant.

Councilmember Stokes said Commissioner Ferris is legendary in the community and will continue to influence the city in the years to come. The list of issues addressed by the Commission over the last eight years is substantial and Commissioner Ferris has been an integral part of the work. He said replacing Commissioner Ferris will be a difficult task given the professional expertise and experience Commissioner Ferris brought to the table.

Commissioner deVadoss highlighted Commissioner Ferris's thoughtful and measured approach to thinking through the pros and cons of each issue. He said Commissioner Ferris is also very good at listening to feedback, both from within the Commission and from the community.

Chair Tebelius noted that Commissioner Ferris served as chair of the Commission for two years, served on the Meydenbauer Bay Park master plan committee, and is currently serving on the Downtown Livability Initiative CAC. The list of issues tackled over the past eight years includes the Crossroads Center plan, Wilburton/Bel-Red, Eastgate/I-90, neighborhood livability, electrical facilities, Comprehensive Plan update, Downtown Livability Initiative, Shoreline Master Program, and light rail best practices. The code amendments taken up during that time include the Factoria design guidelines, medical institution district, shopping carts, marijuana, flood insurance regulations, helicopter landing pads, and electrical vehicle infrastructure.

Chair Tebelius said when she first was appointed to the Commission she was not sure she and Commissioner Ferris would ever agree on anything, but in fact numerous points of agreement have been found. She said she came to appreciate the advice Commissioner Ferris shared with the Commission. As a volunteer, Commissioner Ferris has spent hours and hours of his time in seeking to benefit the citizens of Bellevue.

Commissioner Ferris thanked the Commissioners for their kind words. He said his tenure on the Commission had been enjoyable and that he had learned a lot. While there has not always been full agreement on every point, the process has allowed for full and open discussions, and there has always been respect for the opinions of others. He said he will miss participating as a member of the Commission.

5. COMMUNICATIONS FROM CITY COUNCIL, COMMUNITY COUNCILS, BOARDS AND COMMISSIONS – None
6. STAFF REPORTS

Comprehensive Planning Manager Paul Inghram informed the Commissioners that an open house on the Downtown Livability Initiative is scheduled for June 3 from 4:30 to 6:30 p.m. at City Hall.

7. STUDY SESSION

A. Land Use Code Amendment Regarding Recreational Marijuana

Councilmember Stokes said there is some urgency to the need to develop permanent land use regulations regarding recreational marijuana. It will also be important, however, to make sure it is done right. The Council understands the need to implement the will of the voters and to make sure the law is implemented. The law, however, is not perfect and some issues are still not clearly defined. The temporary ordinance that was implemented set out ground rules aimed at making sure there are protections in place. The interim ordinance will expire on October 21 and the schedule that has been penned is focused on having the permanent regulations ready ahead of that date, though it may become necessary to renew the interim ordinance.

Councilmember Stokes said the city is working closely with the school districts, the police department and others to make sure implementation in Bellevue will be done right.

Commissioner Carlson asked what the four lottery winners from Bellevue are guaranteed. Legal Planner Catherine Drews said they must each go through the application process with the Washington State Liquor Control Board, so all they have really won is the ability to be vetted for a license. The parameters of where they can operate are set forth in the Liquor Control Board's implementing rules and in the rules set up by the city. The state will make its licensing decisions based on its rules, however, without taking into consideration Bellevue's regulations. Any conflict with local jurisdiction rules and regulations will be up to the local jurisdiction to enforce.

Councilmember Stokes said the state will issue licenses to businesses, and those businesses will have registered an address with the state. That is not to say, however, that they will be able to actually operate at the address given due to the city's regulations, including the notion of avoiding having the businesses geographically concentrated. Three of the four lottery winners have addresses within the zones where the interim ordinance allows the use.

Chair Tebelius clarified that a motion for a moratorium on the use was defeated by the Council on the strength of a 5-2 vote. Accordingly there will be no moratorium and the work to develop a permanent ordinance must proceed. The Council also expressed certain concerns, including the thousand-foot distance restriction from schools. The distance rule is consistent with the federal sentencing enhancement under the Controlled Substance Act. There is a similar rule for alcohol retailers which must be located no closer than 500 feet from a school. Chair Tebelius asked if the Commission could recommend a requirement for more than a thousand feet from a high school and Ms. Drews allowed that could be done.

Commissioner Laing noted that on page 8 of the packet there is reference to an emergency rule being filed relative to measuring the thousand feet as the shortest distance property line to property line. The WAC, however, includes the old measurement approach. Ms. Drews said the emergency rule was filed and has been adopted.

Commissioner Laing said there is language in the Council's December 13 implementing principles that talks about conforming with and not frustrating the purpose of state law. The city

of Kent prevailed in a lawsuit that essentially disallowed the use completely. Bellevue has elected not to go in that direction, but the Council has not dismissed the notion of imposing a more stringent approach. The thousand-foot rule is one issue that could be more stringent. Another is hours of operation which under state law is limited to between 8:00 a.m. to midnight. Ms. Drews said the Commission could recommend a much shorter time period for hours of operation.

Commissioner Laing noted that the state statute is very careful in talking about parks, libraries and other public facilities. There are, however, private parks and facilities that should be taken into account. One use that is ostensibly missing from the list is churches which, as part of their operations, may include child care centers, recreation centers and other elements that do not meet the WAC definition. Ms. Drews allowed that the Commission is free to add to the list.

Answering a question asked by Chair Tebelius, Ms. Drews commented that under the state definition the privately owned Vasa Park would not be included. She pointed out that under the interim ordinance marijuana uses are prohibited in any residential neighborhood. Many churches are located in residential areas, as is Vasa Park. Chair Tebelius said she would favor adding language specifically including privately owned institutions or entities that operate as parks. She said she also wanted to make the Boys and Girls Club as well as Boy Scouts and Girl Scout locations included. Ms. Drews said all recognized charitable organizations operating recreational centers fall within the state definition.

Commissioner Laing said the state definitions are too limiting as to types of facilities for uses, making it impossible to draw a practical distinction between them. If there is a police power reason for protecting a public park or playground, the same reasoning should apply to non-public parks and playgrounds. He said in suggesting a more Bellevue-specific approach than the state law, the Commission should be make sure it is not running afoul of what the Council intends. Councilmember Stokes said in approving having marijuana retail shops in Bellevue the Council chose to honor the will of the adults to have access. Caution will need to be taken in recommending limits that are so restrictive they essentially keep the use from locating in Bellevue. Certain classes certainly need to be protected, but not at the expense of effectively prohibiting the use.

Commissioner Carlson asked if the four chosen by lottery to be vetted for a license would have a legal claim had the Council followed the lead of Kent and other jurisdictions in disallowing the sale of marijuana. Commissioner Laing said there is no vested right. Councilmember Stokes said the Council does not believe they would.

Chair Tebelius said under case law jurisdictions have the right to prohibit the sale of marijuana, so the lottery winners would have no case. She asked, however, if changes made to the regulations for Bellevue after July 1 will trigger potential legal problems. Ms. Drews said the July 1 date comes from the stated intent of the Washington State Liquor Control Board to have the retail licenses issued in early July. Bellevue already has one recreational marijuana retailer who has applied and submitted a complete building permit application for their location, and they would be vested to the codes currently in place. Depending on circumstances, some retailers could end up vested under the interim regulations and some could end up vested under the new regulations. Chair Tebelius suggested that given that position, time is indeed of the essence and the better off everyone will be by having the new regulations in place sooner rather than later.

Answering a question asked by Chair Tebelius, Mr. Inghram said it would not be possible to issue a notice of application, notice of hearing, a staff report, conduct a public hearing, provide a transmittal to the Council and have the Council accept the transmittal and take action, putting a new ordinance into effect, by July 1.

Commissioner Carlson pointed out that if the four license holders rush ahead, fill out and submit applications to the city, whatever is done to draft new regulations will be superfluous. Ms. Drews said that is true.

Commissioner Laing stated the Council could do what it has already done, which is amend the existing interim ordinance. An action of that sort could be done very quickly. If there are recommendations the Commission has it believes the Council should consider immediately as part of amending the interim regulations prior to having a vesting issue, the Commission should act to submit those recommendations quickly. The point made by Councilmember Stokes about the Council wanting to honor the vote of the people is well taken, so no attempts should be made to recommend regulations that would essentially obviate the use. However, there are some things that should be done to address the larger concerns the Council, members of the Commission and the public have voiced. A recommendation from the Commission along those lines could easily be before the Council ahead of July 1.

Chair Tebelius noted that according to the Council principles recreational marijuana uses must have sufficient security measures to protect the public but said it is not clear what that means. Ms. Drews said one of the issues is that the Liquor Control Board implementing regulations have very strong security requirements. Their security requirements have been married to the medical marijuana/collective gardens regulations. Beyond the state requirements, the Bellevue regulations also require a secure safe or way to lock up cash, and screening to shield transfers from producers and processors to retailers.

Commissioner Laing observed that under the interim regulations, recreational marijuana retail outlets are outright permitted uses in the identified zones. He asked why the use is not required to go through administrative conditional use instead. Ms. Drews explained that the Land Use Code includes a provision that allows for miscellaneous retail uses and the provision includes the sale of alcohol and drugs. Marijuana retail outlets will operate similarly to alcohol stores, so it makes sense to fit them under those regulations.

Commissioner Laing commented that a property owner was recently convicted for growing marijuana in his home. Some people came to rob him, he shot them, and everyone will be going to jail. There is a distinction between marijuana and alcohol in that marijuana is still illegal under federal law. The use cries out for a conditional use permit, not to make it more difficult but to recognize the concerns that exist in the gray area.

Commissioner Hamlin said the regulations as they have been established are acceptable. The lead charted by the Liquor Control Board is okay to follow.

Commissioner deVadoss echoed the concerns voiced by Commissioner Laing regarding churches and the like and said that issue needs to be addressed. At the very least, the regulations regarding recreational marijuana is that they should be at least consistent with those pertaining to alcohol.

Answering a question asked by Commissioner Hilhorst, Ms. Drews said the use is currently

banned in the R-1 through R-30 zones. There are, however, some locations in the Bel-Red corridor and in the downtown MU district where the use is allowed even though housing is also allowed. Commissioner Hilhorst asked if the use would be allowed in a neighborhood shopping center. Ms. Drews said the Neighborhood Business zone is specifically prohibited under the interim zoning. Mr. Inghram said staff would bring to a future Commission meeting maps showing the locations where the use is permitted.

Commissioner Ferris agreed that the will of the voters needs to be accommodated in a reasonable manner. He agreed with the need to add to the list churches, private parks and facilities, particularly recreational sites that cater to children. The hours of operation need to be reasonable but should not include evenings.

Commissioner Carlson asked if the retail outlets will be limited as to size. Ms. Drews said they are not under the state rules. There are, however, many limitations on retail sizes throughout the Land Use Code, especially in the downtown. Anyone looking to site in a downtown location will also need to meet all the requirements of the downtown, including the design guidelines and all footnotes in the use charts. Commissioner Carlson pointed out that after the privatization of liquor, a business called Total Wine located just seven blocks from his house began advertising hundreds of kinds of wine, beer and spirits. He asked if there could be a store named Total Pot. Ms. Drews said she presumed there could be, though she added that the advertising of retail marijuana is strictly regulated by the state.

Commissioner Carlson suggested there is a difference between a liquor store and a head shop relative to how each impacts the neighborhood. A liquor store does not have much of an impact, but a marijuana store might for a number of reasons. The voters were clear about wanting to allow people to have marijuana legally in their homes and on their persons, but it would be interesting to know what the voters would have to say about selling the product in Bellevue. He suggested that the same threshold of support would not exist.

Commissioner Laing reiterated the need to include any kind of park or recreational facility that caters to children in the ordinance. With regard to permitting the use, he suggested the use should be processed as an administrative conditional use permit to address site-specific issues. With regard to zoning, he recommended that the use not be allowed in the perimeter design districts around the downtown and in Old Bellevue. He said he would prefer to see the separation requirement set at 1200 feet, which is more like three city blocks.

Chair Tebelius said she also would like to see more than a thousand feet of separation but said she would like to hear from staff about what would be reasonable.

Mr. Inghram said the issue will be before the Commission again on June 25.

A motion to extend the meeting to 9:00 p.m. was made by Commissioner Laing. The motion was seconded by Commissioner Hamlin and it carried unanimously.

B. Single Family Rental Housing Code Amendments

Principle Planner Mike Bergstrom said the notion of taking the time necessary to get it right has been espoused by many. If an extension of the interim ordinance is to be effected, the Council will need to act prior to its August break in order to give the East Bellevue Community Council time to ratify it; if it is put off until October, there will be a week of coverage exposure. The

other issues highlighted include dispersal requirements, off-street versus on-site parking, the number of unrelated persons allowed to occupy a house, and the definition of "family." During the Commission's previous discussions several different numbers were tossed around relative to how many unrelated persons should be allowed to occupy a house, but to date there has been no consensus. He allowed that the current definition of "family" is troubling even to staff, in part because of what the public brought up about actually related persons all counting as one under the definition, and the fact that as proposed the language could allow for four families of six or more members each. A better option might be to allow a single family of any number of related persons, and up to a set number of additional adults regardless of their relationship.

Mr. Bergstrom said it has also been noted that the issue of residential character needs to be better defined. Capping the number of rooms has been suggested along with allowing an increase only through an administrative conditional use permit. Other comments made include a requirement for the property owner or registered agent should be onsite, and the need for verification and enforcement. The high-occupancy dwelling/administrative conditional use concept was meant to substitute for the concept in the interim regulations of a functionally equivalent family. In early commenting there was a lot of pushback on that because of the parsing and monitoring of relationships that would be required. The idea of establishing a number that would be permitted outright and including a higher level of scrutiny for anyone wanting to exceed that cap, including the administrative conditional use process, with additional criteria specific to high-occupancy dwelling impacts.

Mr. Bergstrom said the term "onsite" as applied to parking relative to the high-occupancy dwelling use is interpreted to mean within the property boundaries. Saying "off-street" could mean close to the same thing, but that could also mean parking at a nearby school or church. The administrative conditional use process can also address the issue of residential character.

Chair Tebelius observed that the permit process is already established under city statutes and asked how anyone would know when the administrative conditional use approach should be used. Mr. Bergstrom said there are many uses allowed in the city through administrative conditional use approval. If someone were to construct a high-occupancy dwelling without seeking the correct permits, it would become an enforcement issue under which the remedy is acquiring all necessary permits and making sure all codes are met. The process can be difficult and lengthy, and there are penalties involved.

Chair Tebelius asked how the city could permit a 6000-square-foot home in a neighborhood in which all of the other houses are 1800 square feet. Commissioner Ferris said there are neighborhood livability regulations on the books that deal with things such as light and shadow, but even so where all required setbacks and stepbacks, along with the height and pervious surface requirements are met, the city can issue a building permit for a very large house even if they are out of scale with nearby houses. Many property owners choose to build very large homes with far more bedrooms and bathrooms than are needed to accommodate those who will live in those homes. The issue of whether or not a house will be lived in by the owner or rented out does not factor in.

Commissioner Carlson said it sounds like where someone is determined to break the rules and rent out individual rooms in a single family home in order to make some money, the only thing the city is telling them after all due process plays out is that they cannot continue doing what they are doing. He asked if the city could impose penalties like seizing the rents. Mr. Bergstrom said there are enforcement penalties written into the compliance codes, and those penalties can

lead to very hefty fines and property liens. There will clearly be people who just do not care, but some educational outreach would be in order given that most people will want to know what the rules are and will follow them.

Answering a question asked by Commissioner Carlson, Mr. Bergstrom said the issue of whether or not more time will be needed going forward is entirely up to the Commission to recommend to the Council. As currently envisioned, the schedule calls for a public hearing on July 9, transmittal of the issue to the Council later in July, and adoption by the Council at its only meeting in August. That will give the East Bellevue Community Council time to schedule action early in September ahead of the expiration of the interim ordinance.

Commissioner deVadoss noted that he had previously recommended allowing only up to three rather than four unrelated persons to share a house. He said he found the notion of a high-occupancy dwelling in a single family neighborhood to be a bit of an oxymoron. That approach could end up adding more complexity to the process. Additionally, the whole idea of counting related individuals as one is a bit of a step backwards. Mr. Bergstrom said that approach has been on the books for decades, and there is some tie-in to federal law as well.

Commissioner Hilhorst said she preferred setting the cap at three rather than four. She suggested that no strong arguments against that approach have been voiced. Mr. Bergstrom said the magic number between being reasonable and being too restrictive is an unknown. It can be argued that three is above the average household size in Bellevue. Setting the cap at two could certainly be problematic.

Commissioner Laing commented that the draft amendment was a lot to take in. He said he was not prepared to delve into it in depth and would prefer to see more time allowed. He agreed with the point made by Commissioner deVadoss about high-occupancy dwellings being inconsistent with the notion of single family neighborhoods. The issues of bulk and scale fall outside of the single room rental sphere. One major problem, however, is the lack of accountability in situations where a large number of persons are just cohabitating under different lease agreements; in those instances, there is no acting as a unit and there is no accountability as a unit.

With regard to section 20.20.455.A.3 of the proposed amendment, Commissioner Laing highlighted the language that allows for a tenant to designate as the party of record in lieu of an owner or registered agent under the terms of the approved administrative conditional use. He said in college he shared a house with other students and always ended having to be the one who did the dishes and who had to explain to the owner why the rent was late. No one wants to be that person. In order to have full accountability, everyone in the house should feel the pressure to be a good neighbor and a good community neighbor. Everyone signing a lease should be jointly and severally liable. Where a single tenant decides not to pay his or her share of the rent, or to damage the property in some way, or to park on the sidewalk, everyone else should feel the compulsion to bring them around. He said he appreciates the work that has gone into drafting the amendment, but section A.3 represents a step in the wrong direction and does not actually get at the bottomline issue of accountability.

Commissioner Hamlin said he did not see any incongruity in the high-occupancy dwelling approach. As drafted, the provision would apply only when there are five or more unrelated individuals sharing a house. Where individuals come together to share a house there should in fact be just such a designation and the associated restrictions.

Commissioner Ferris said Bellevue has both single family and multifamily zones, and the proposed amendment appears to be an attempt to fit multifamily into a single family zone. He suggested the Commission should step back and address the issue of whether or not the approach really addresses the problem at hand. He said in listening to the public and the comments of the Commission he reached the conclusion that everyone is on the same page. The sticky part is how to draft the amendment in a way that will address all of the particulars while still allow people the right to rent out their homes. The high-occupancy dwelling approach looks and feels inconsistent with the nature of the single family zone. More time should be spent dealing with the allowed number of unrelated adults. He said he was supportive of capping it at four but more needs to be done to figure out how that would work and what it would look like. The single lease notion is a good idea, and having a greenscape requirement in the front yard is another good idea. Any property owner has the right to park along the curb in front of their home, so absolutely denying that right to single-room renters would be difficult to enforce; the best option of course would be to require a sufficient amount of off-street parking. The amendment needs to recognize that many extended families choose to live together. That task will not be easy to solve.

Chair Tebelius said she also was uncomfortable with the high-occupancy dwelling approach. It simply creates another layer without solving the problem. People will find ways to sneak in the back door to get what they want if the high-occupancy dwelling option is implemented. As drafted, the proposed amendment states that an owner or registered agent must reside on site, and also states that in lieu of an owner or registered agent a tenant can be designated as the responsible and accountable party; that inconsistency will need to be addressed. Mr. Bergstrom said the intent is to require an accountable person to live on site, be it the owner, a registered agent, or a designated tenant. The language of the amendment goes on to say that regardless of who the responsible party is, in the event of an enforcement action the city will be going after the owner and the landlord. Chair Tebelius said requiring the property owner or registered agent to live on site will lock it in.

Commissioner Carlson asked how the issue can be solved without accidentally ensnaring allowed uses such as adult family homes under the definition of family. Mr. Bergstrom explained that under the definition of family they are a protected class, which means they have rights the city cannot abridge.

Chair Tebelius said she could not see wrapping up the issue on the proposed schedule. She suggested the Commission should recommend to the Council an extension of the interim ordinance.

A motion to recommend to the Council extending the interim ordinance was made by Commissioner Carlson. The motion was seconded by Commissioner Laing and it carried unanimously.

C. Comprehensive Plan Update - Housing Element Policy Review

Chair Tebelius asked Commissioner Ferris to share his thoughts regarding the Housing Element and its policies.

Commissioner Ferris said housing affordability has been a passionate interest of his for more than 25 years. He said both he and his wife volunteer in that arena because having housing affordable to a full spectrum of residents is important to the health of the community, particularly

to its economic diversity. Not everyone will be able to find a place to live in Bellevue, but the city should do all it can to make housing available to them. Bellevue has an affordability problem; it is very difficult to buy a single family home on a modest income in the city. West Bellevue is completely out of reach as is most of the rest of the city. Bellevue along with some neighborhoods in Seattle led the nation in rental rate increases in 2013. Rents are increasing by as much as eight percent per year while workforce wages are either stagnant or increasing by only one or two percent per year. The increasing affordability gap will not be solved simply by increasing the zoning capacity and supply; the highrise towers in the downtown are expensive and the rents the owners need to support the structures are not affordable to the working class.

The Housing Element is a policy document. It establishes a framework but implementation is the key. The Commission should push to make sure implementation is addressed to avoid going another ten years looking at a policy statement that is dead with very little implementation to make it happen. Bellevue has good policy statements but very little production of housing that is affordable to the working force.

The single room rental issue is one manifestation of Bellevue's housing affordability problem. It is not just Bellevue College students who need affordable housing options. People do not go out seeking to just rent a single room, but they do so when they cannot find a more affordable option. At the other end of the spectrum is the issue of people buying oversize homes but not living in them.

Dupre and Scott is a recognized organization that surveys rental rates in various cities and neighborhoods. According to the organization, the rents charged for units in downtown Bellevue over the last five years have been affordable only to people who average 125 percent of the area median income, or those making \$100,000 and up. There are tools that have been adopted by cities across the country that have not been adopted in Bellevue or Seattle. The tools do not necessarily relate to zoning or land use; many of them involve ways in which funds and guarantees can be set up to reduce financing costs to help make rental rates more affordable. The Council should appoint a short-term ad hoc committee to research and recommend various tools. Unless something constructive is done, the issue will only grow worse. Historically, economic health suffers in communities that become stratified when there is a separation between those who work in the city and those who can afford to live in the city.

Chair Tebelius said Bellevue enjoys a very highly educated workforce, and also enjoys the fact that most of those people work for successful companies that pay high wages. Those individuals are in a position to pay more for housing, and that continues to drive up the price of housing. Commissioner Ferris said he is not aware of any tool that restricts the sale or rent of an existing privately owned property. There are active non-profits in the city that can take ARCH funds and combine them with tax credits and other sources of financing to buy an existing apartment building, the result of which is a restriction on rents in those buildings for long periods of time. There is, however, only so much money to go around and the longer the problem exists, the more expensive it will be to solve.

Commissioner Ferris said one tool cities can use is zoning that creates additional capacity. There are also tax credit approaches and access to HUD loans with lower upfront costs in exchange for lower rental rates over time. Reducing the amount of required parking in areas well-served by transit can also reduce development costs that can be translated into lower rental rates. No one tool will solve the problem; it will take a combination of tools. That is why a broad study is needed.

Chair Tebelius asked if the private sector is positioned in such a way that it can access tools from HUD that will translate into lower rents. Commissioner Ferris said there is not much by way of zoning actions that needs to be taken. One problem is that currently there is a big demand for high-end housing, and the greatest reward for the private landowner is to maximize rental rates. There will never be a true supply and demand economic model that will translate into building out of the affordable housing situation. There will need to be other mechanisms in place to make affordable housing happen.

Commissioner Carlson asked what percentage of Bellevue residents rent their units rather than own them. Commissioner Ferris said it is close to 50 percent. In Seattle the number of renters is a little over 50 percent. Mr. Inghram added that rentals make up about 15 percent of all single family housing units in Bellevue.

8. COMMITTEE REPORTS - None

9. OTHER BUSINESS - None

10. PUBLIC COMMENT

Mr. Jerry Hughes, 10231 44th Place SE, said the fact is that nearly any student in high school can explain how and where to obtain marijuana or other drugs. In most cases, the substances are available at the schools. The city is only playing a game aimed at determining where to locate four recreational marijuana retail stores where adults will be able to buy the product. It is not unlike claiming that barring sex stores in the city will keep kids from having sex.

Mr. Steve Kasner, 1015 145th Place SE, thanked the Commissioners for the work they do on behalf of the city and for the members of the public who spent time over the Memorial Day weekend reading through the proposed single room rental amendment. The issues are weighty and they will not be resolved over the course of a single weekend. Time needs to be allowed for some give and take with the community and with the Council. If the Council wants to see the interim ordinance extended, the East Bellevue Community Council can at any time schedule a special meeting to approve the Council's action. Kirkland has on occasion held joint Community Council and Planning Commission meetings for the purpose of focusing on specific topics, allowing people the opportunity to only have to testify once.

Ms. Patsy Murk, 14824 SE 18th Place, said she recently realized that the state is defying the federal government on the marijuana issue. But when the community seeks help from the city for protections against having large homes built, the city says it cannot help where group homes are involved because there are federal issues are involved. If the state is willing to defy the federal government relative to marijuana, the city should be willing to do the same in seeking to protect its citizens.

11. DRAFT MINUTES REVIEW

A. April 23, 2014

Action to approve the minutes was not taken.

12. NEXT PLANNING COMMISSION MEETING

A. June 11, 2014

13. ADJOURN

A motion to adjourn was made by Commissioner Hamlin. The motion was seconded by Commissioner Laing and it carried unanimously.

Chair Tebelius adjourned the meeting at 9:20 p.m.



Paul Inghram
Staff to the Planning Commission

5/13/15
Date



Aaron Laing
Chair of the Planning Commission

5/13/15
Date

* Approved July 9, 2014