

CITY OF BELLEVUE
BELLEVUE PLANNING COMMISSION
MEETING MINUTES

July 30, 2014
6:30 p.m.

Bellevue City Hall
City Council Conference Room 1E-113

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

COMMISSIONERS ABSENT: None

COUNCIL LIAISON: Councilmember Stokes

STAFF PRESENT: Paul Inghram, Nicholas Matz, Carol Helland, Department of Planning and Community Development; Catherine Drews, Department of Development Services

GUEST SPEAKERS: None

RECORDING SECRETARY: Gerry Lindsay

A. OPMA AND PRA TRAINING

The Commissioners Laing, Hamlin, Hilhorst, Tebelius, deVadoss, and Walter receiving training regarding the Open Public Meetings Act and the Public Records Act from 5:30 p.m. to 6:25 p.m.

1. CALL TO ORDER

The meeting was called to order at 6:37 p.m. by Chair Laing who presided.

2. ROLL CALL

Upon the call of the roll, all Commissioners were present.

3. PUBLIC COMMENT

Mr. Steve Kasner, 1015 145th Place SE, noted that at a previous Commission meeting the comment was made that there is no need to enhance the tree canopy. He stressed that every decision the Commission makes, especially decisions about the tree canopy, will affect the city for years to come. There should be no attempt to seek out and implement the lowest common denominator or the easiest way out. The Commission should listen carefully to the staff and seek to fully understand the issues.

Mr. Ian Morison, an attorney with McCullough Hill Leary, 701 5th Avenue, Seattle, spoke on behalf of the applicant for the Bellevue Technology Center Comprehensive Plan amendment. He said the site is generally known as the Unigard site, the 46-acre campus at 156th Avenue NE and NE 24th Street. The applicant is bringing forward a Comprehensive Plan amendment that in essence seeks to start a conversation. The current development was created in the early 1970s as

the headquarters campus for Unigard under a planned unit development (PUD). The last phase of the development was completed in the 1990s. In essence the site has zoning that has been static for over 40 years. The policy in the Crossroads subarea section of the Comprehensive Plan that allows office as a conditional use has been in place for more than 25 years. A conversation about the future of the Crossroads subarea, particularly where it abuts the Bel-Red subarea, is needed. When the site was developed the SR-520 extension did not even exist, and numerous other changes have occurred in the intervening years. The site has a .16 FAR, while just across 156th Avenue NE FARs as high as 5.0 are allowed. The property owner has reached out to stakeholders in the local community and by certified letter they politely but firmly indicated they have no interest in having that conversation. While respecting their position, the time is right to initiate a conversation about the long-range vision for the site. If the proposed amendment is docketed, a more detailed conversation will ensue.

Commissioner Carlson asked Mr. Morison what his client would like to see on the Bellevue Technology Center site. Mr. Morison stressed that there is no proposed design and no new proposed uses on the table. The desire is simply to start a conversation to talk about potential future uses that would be neighborhood and context sensitive.

Mr. Edward McDonald, 15936 NE 27th Place, said he has lived in the Sherwood Forest community for 30 years, raised his family there and retired there. He said he had participated in all of the land use planning regarding the Unigard property during those 30 years. The PUD for the site was developed with the community, the developer and the city working together. The document remains contemporary, not a relic of the past. It represents an agreement that defines the full use of the property. The community made concessions and agreed to the PUD with the understanding that it was a permanent agreement. The old farm would have been residential homes if it were not for Unigard and the PUD. A deal is a deal and it would be wrong to vacate the PUD. Every new owner of the Unigard property has wanted to push development and vacate the PUD. The Commission should respect and honor the agreement that was meant to be a contract. The current strategic plan should be retained given that it is not broken. Development within the strategic Bel-Red plan should be encouraged. The decision should be made that 156th Avenue NE is a clear red line protecting the residential community from highrise developers and ad hoc requests for expansion.

Chair Laing noted for the record a large number of hands raised in support of the comments made.

Mr. Ken Clark, 14860 SE 51st Street, said the Horizon View A neighborhood in which he lives was annexed into the city in 2012 along with Hilltop and Horizon View C. The zoning changes negotiated in Hilltop and Horizon View C came to the attention of the Horizon View A residents after a short plat application was filed in the neighborhood, which primarily has large lots. The short plat sought to divide a lot that is only 130 feet wide. The result will be the introduction of houses to the neighborhood that are completely out of character and out of scope. A meeting was called at which the prospective developer presented his plan. There was a huge turnout and of the 59 responses made to date, none have been in favor. The neighborhood is united in wanting to see its zoning downgraded to R-2.5. Horizon View A when platted instituted CC&Rs that required renewal every few years, but through what appears to be an oversight the restrictions lapsed some 30 years ago. Initially the maximum height was 22 feet and setbacks of 15 feet on each side were required. The houses in the short plat that is working toward approval will have only five-foot setbacks and will put two houses on a lot that is only 130 feet wide. That will be completely out of character with the neighborhood. The Commission was asked to

see the equitableness of allowing the downzone. The neighborhood has engaged Thorpe and Associates to represent it.

Chair Laing noted for the record a large number of hands raised in support of the comments made.

Dr. Russ Paravecchio, 2495 158th Place NE, said he obtained from the city a summary of the land use actions concerning the Unigard site that represented a 28-year tug-o-war between office development capacity and the retention of natural features on the site and the surrounding neighborhoods. The document summarizes the actions chronologically from 1972 to 2000. It should be recognized as a striking fact that the community has had to defend itself from a variety of actions designed to change the ability of the Unigard site to development beyond what the community agreed to. The community's focus has always been on preserving and protecting safety, property values, and in no small or exaggerated way their constitutional right to pursue happiness. Changes of an impacting nature should only be entertained in the community wants it, not just because they are being nagged to death. Only the community's wish to change the status quo matters. The fact is that the community does not want change that will result in further transgression past the buffer zone into the neighborhood and all the negatives that would bring with it, including decreased property values, the loss of open space and trees, and increased traffic.

Chair Laing noted for the record a large number of hands raised in support of the comments made.

Ms. Gail Toney, 1910 160th Avenue NE, said she is a member of the Bellwood East community directly east of the Bellevue Technology Center site. The community remains concerned about potential traffic congestion, environmental and safety issues as highlighted at the May 14 Commission meeting. At that meeting Jack McCullough representing the Bellevue Technology Center property owner indicated that they had reached out to the neighborhoods with an invitation to sit down and talk about a vision for the site. The only neighborhood that was contacted, however, was Sherwood Forest. More communities than just Sherwood Forest would be impacted by any changes to the site. Mr. McCullough also stated that the policy governing the site is a relic and that a 21st Century conversation is needed about what should be allowed on the site. It can only be assumed that in the 21st Century all open areas will be developed; air quality will be diminished due to a lack of trees filtering the air; and family time will be eroded due to sitting in cars on congested streets trying to get home. The fact is there have already been numerous conversations as the property has changed hands. A firm PUD is in place and it should be honored. The current property owner, KBS Realty Advisors, is headquartered in Newport Beach, California. Their website does not give the impression of a company with a desire to be a long-term community partner and to keep the best interests of the community in mind. If further development is allowed, the long-term citizens of the community will be left behind to deal with the aftermath. Bellevue is a French word meaning beautiful view, but sadly the city's beautiful views are being eroded and destroyed bit by bit and plot by plot. The once beautiful views of downtown Seattle, sunsets and the Olympic Mountains have been obliterated by the enormous buildings going up on the former Angelo's Nursery site. Once development occurs there is no going back. The Commission should keep in mind the citizens who have lived in and supported the community for many years; they are the ones with a real interest in the community. The Bellevue Technology Center proposal should be rejected.

Chair Laing noted for the record a large number of hands raised in support of the comments

made.

Ms. Michelle Neithaumer, 15897 Northup Way, spoke as president of the Foxborough Homeowners Association. She explained that Foxborough is a community of 60-plus townhomes. The Association has very strict covenants in place, including a rule against renting. Every purchaser is informed about the rules, and if they do not like them they do not buy in the community. The same thing should be said for the Unigard property. The property owner knew what the rules were when the site was purchased but is now seeking to change them. The issue is not about having a conversation, it is about making a profit. There are over 400 commercial properties for rent in the greater Bellevue area; there are vacant buildings that are being vandalized. The Angelo's property sat vacant for quite some time and it saw vandalism. Top Food and Drugs has been vacant for more than a year. A look at a map reveals that 156th Avenue NE is a line drawn between residential and commercial properties. It should be kept that way.

Chair Laing noted for the record a large number of hands raised in support of the comments made.

Mr. Bruce Whitaker, 1924 160th Avenue NE, agreed with the comments made by Ms. Toney. He provided the Commission with copies of a map showing that the east property line of the Bellevue Technology Center is his west property line. He also shared with the Commission a photo of what he sees out his back window looking toward the Bellevue Technology Center site; he pointed out that nothing of the development can be seen because of the buffer of trees. He said his concerns relative to the tree buffer are with the south, east and the north areas of the site. He said 20 years ago when he purchased his property he looked very carefully at the PUD documents and talked to the then-owner of Unigard and was convinced the PUD was ironclad. The agreement in place should not be changed.

Chair Laing noted for the record a large number of hands raised in support of the comments made.

Mr. John Harrow, 2431 161st Avenue NE, said he has lived in the Sherwood Forest community for 28 years and currently serves as vice president of the Sherwood Forest Community Club. He concurred with the statements made by Dr. Parvecchio and Mr. McDonald. He thanked the community members who have taken the time to follow the issue and attend the meetings. The intent of the PUD as a transition area when initially adopted in 1972 by the City Council is as valid currently as it was then, possibly even more so considering the increases in traffic and noise to the west of 156th Avenue NE. The Commission was urged to follow the recommendation of the staff not to include the proposal in the annual Comprehensive Plan amendment work program.

Chair Laing noted for the record a large number of hands raised in support of the comments made.

Mr. Manuel Solis, 2447 161st Avenue NE, said the new owner of the Unigard site are arguing that it has been 20 years since an agreement was reached not to develop the property and to retain the buffer zone between it and the residential areas. That argument is a perfect example of why the threshold needs to be kept in place. Even though many years have passed, things are working exactly as designed. It would be ludicrous to make the same argument about portions of Central Park in New York, that it has been many years since the park was built and that a

conversation should be had about making changes that will result in more development. The Commissioners were urged to follow the recommendation of the staff to not include the proposed amendment in the annual Comprehensive Plan amendment work program.

Chair Laing noted for the record a large number of hands raised in support of the comments made.

Mr. John Emmel, 15849 Northup Way, said he lives directly across the street from the Unigard property. He allowed that while his knowledge of urban planning is limited, he is an expert when it comes to living in Crossroads. Anyone who passes through the Crossroads area during the noon hour or during the morning and evening commutes is aware of the horrible congestion. A plan has been developed for the Bel-Red subarea that will result in many new residences and businesses. The Madison House on 156th Avenue NE is under construction and it will add 109 housing units to the mix. The Bel-Red Apartments redevelopment is under way with about 250 housing units. Further congestion should not be triggered by allowing development of the Unigard property.

Chair Laing noted for the record a large number of hands raised in support of the comments made.

Mr. Greg Rosalini, 15011 SE 51st Street, said his home is in the Horizon View A development. He said he serves as president of the Horizon View Citizens Association. He agreed with the comments made by Mr. Clark and said no one has opposed the proposed rezone.

Chair Laing noted for the record a large number of hands raised in support of the comments made.

4. APPROVAL OF AGENDA

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

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

Councilmember Stokes commended the public for the crispness and depth of the comments made. He said he hoped the Commission would be able to work through the issues expeditiously while giving them due consideration.

6. STAFF REPORTS - None

7. STUDY SESSION

A. Horizon View Areawide Rezone Proposal

There was consensus on the part of the Commissioners in support of scheduling a public hearing on September 10.

B. Annual Comprehensive Plan Amendments - Bellevue Technology Center

Comprehensive Planning Manager Paul Inghram reminded the Commissioners that a public hearing on the topic was held on May 15. A vote was taken by the Commission at that meeting but the 2-2 tie vote means that there was no decision or recommendation by the Commission. He sought from the Commission a specific recommendation either for or against the proposal.

Commissioner Tebelius noted that the motion made by Commissioner DeVadoss to recommend no further consideration of the Bellevue Technology Center Comprehensive Plan amendment application failed because of the tie vote. She observed, however, that the same motion could be made again.

Chair Laing said according to Roberts Rules of Order, anyone can make a motion to renew a motion previously made. He added that absent having a motion on the floor there would be no further discussion of the issue.

A motion to accept the recommendation of staff not to include the Bellevue Technology Center proposal in the 2014 Comprehensive Plan amendments work program was made by Commissioner Tebelius. The motion was seconded by Commissioner Hilhorst.

Commissioner Walter voiced support for the recommendation of staff. She said she carefully read over all of the materials and could find no compelling argument for moving the proposal forward.

Commissioner Carlson commented that any time actions are taken to deviate from the Comprehensive Plan, there should be a compelling and justifiable reason for doing so. In the case of the Bellevue Technology Center there are no changed circumstances that warrant revising the Comprehensive Plan. The argument made by Mr. McDonald that a deal is a deal and that there are many commercial properties, both in Bellevue and in the area where the Bellevue Technology Center is located, was right on point. An argument simply cannot be made that commercial development should be allowed in an area where it is clearly not wanted, especially given that other commercial properties are in want of lessees. He voiced his support for the staff recommendation.

Commissioner Hilhorst agreed with Commissioners Walter and Carlson. The owners of the residential properties surrounding the Bellevue Technology Center site purchased their homes with an understanding of the agreement that is in place, and the new owner of the Bellevue Technology Center clearly understand the limitations that are in place. If approved and the property is allowed to redevelop, there will be no opportunity to turn the clock back. A natural barrier has been retained because of the agreement and it should be preserved at all costs.

Commissioner DeVadoss noted that he lives near the Bellevue Technology Center property. He said he could see no compelling reason to change the deal that is in place.

Commissioner Hamlin commented that while he was sympathetic with those who have addressed the Commission, the fact remains that none of the discussion has focused on the threshold review. What it really comes down to is whether or not there have been significantly changed circumstances sufficient to meet the threshold. There have indeed been changed conditions in the surrounding areas, though the rate and timing of the growth that has taken place was anticipated by the city. However, previous to the Bel-Red rezone, the property across the street on the west side of 156th Avenue NE was zoned Community Business; it has since been rezoned to BR-RCS and BR-CR with building heights of up to 70 feet. It can easily be argued that that is

a significantly changed condition which the developer of the property across the street is taking advantage of. The significantly changed condition meets the threshold review criteria and the Comprehensive Plan amendment should be carried forward to the 2014 Comprehensive Plan amendment package.

Commissioner Tebelius agreed with the statement made by staff at the May 14 meeting that the development activity occurring on the old Angelo's site was contemplated at the time of the Bel-Red planning effort. The decision of the city at the time was to make sure not to include the area to the east of 156th Avenue NE. Nothing has changed that would suggest reconsideration that position. She said she would vote in favor of the motion.

The motion carried 5-1, with Commissioner Hamlin voting against. Chair Laing abstained.

Chair Laing pointed out that the Chair may vote in the case of a tie. He indicated, however, that in previous discussions he had agreed with the position taken by Commissioner Hamlin. At the threshold review stage, the merits of a particular proposal are not at issue; the question at the threshold review stage is whether or not the criteria are met. He concurred with Commissioner Hamlin that in fact the criteria had been met. For the benefit of the audience, however, he stressed that the Commission's action represents only a recommendation to the City Council which ultimately will make the decision of whether or not to include the amendment in the work plan.

Mr. Inghram said the issue could be before the Council the first week of September.

8. PUBLIC HEARING

A. Land Use Code Amendment to Address Recreational Marijuana

Chair Laing asked if any reason existed why the Commission could not make changes to either Option A or Option B and make a recommendation based on those changes. Legal Planner Catherine Drews allowed the Commission could do that under the broad notice that was published.

Mr. Inghram reminded the Commissioners that under state law retail recreational marijuana stores are not permitted to locate within a 1000 feet of various uses. He shared with the Commission maps highlighting the land use districts where retail marijuana stores and production and processing operations could be located under the interim regulations adopted by the Council; the impact of increasing the state separation requirement from 1,000 feet to 1320 feet; and the impact of including private parks and religious institutions to the mix of uses requiring separation from recreational marijuana uses.

Ms. Drews commented that two retailers applied to locate in the downtown, but with the establishment of the first near 106th Avenue NE and Main Street, the second was ruled out because of the 1,000 separation requirement between marijuana retail outlets.

Chair Laing noted that four possible retail locations and three possible production and processing sites were shown on the maps and asked if any of the sites were eliminated by the direction given by the Commission on June 25. Ms. Drews said two of the three production and processing sites east of Richards Road and both north and south of SE 30th Street would be ruled out by increasing the separation requirement to 1,320 feet.

Commissioner Carlson asked what production and processing uses entail and how large they can be. Ms. Drews said they are limited by the state relative to canopy production. There are three different tiers, with the smallest being 1000 square feet of canopy. A producer actually grows the plants while a processor takes the final product and readies it for sale, which can include making extracts. Every time marijuana is handled there is a 25 percent excise tax. The state allows entities to act as both producer and processor and to pay only a single excise fee. The Light Industrial zone is the only zone in the city where agricultural processing is allowed.

Commissioner Carlson asked why the city would even allow for the growing and processing of an agricultural product that is illegal under federal law. Ms. Drews said the Council made a policy decision to allow the use. Chair Laing said the question is well taken but is beyond the scope of what the Commission has been tasked with addressing.

Chair Laing noted that the state has set a limit of four on the number of recreational marijuana retailers in Bellevue and asked if the state has also set a limit on the number of production and processing facilities that can locate in the city. Ms. Drews allowed that the state has chosen not to limit production and processing facilities in the same way it has set limits on retail operations. However, the number of available Light Industrial parcels in the city is limited and that fact will serve as a limiting factor. The three production and processing facilities in the Richards Road area are licensed and two of them are operating. If made nonconforming under the permanent ordinance, the use would be grandfathered and allowed to continue even if sold to another state-licensed producer/processor.

Commissioner Carlson asked if the City Council intended for the city to become a major wholesale processing center for marijuana. Councilmember Stokes said the use is allowed under the interim ordinance. When the interim ordinance was adopted, the Council was aware that the opportunities to locate producers in the city would be limited. The Council was also aware that the number of recreational marijuana retailers would be limited.

Answering a question asked by Commissioner Tebelius, Ms. Drews noted that of the four retail licensees, two have submitted building permit applications to the city for processing; one is on Main Street between Bellevue Way and 110th Avenue NE, and one is on 130th Avenue NE to the south of Northup Way. One retailer is looking for a new location and the fourth has not been heard from.

Commissioner Carlson asked how many recreational marijuana retailers were currently operating in the city. Ms. Drews allowed that there were none but indicated that within 90 days there could be as many as two. To date only one retailer has the permits required by both the state and the city.

Commissioner Carlson asked if the Commission would be within its scope to declare support for a moratorium on any additional retail or production and processing facilities in the city. Chair Laing suggested the Council would not have placed the issue on the Commission's plate seeking a recommendation if it was simply asking for a rubber stamp of what the Council has already done. Implicit in the Council's asking the Commission to provide a recommendation is the idea that the interim regulations are not what the final regulations will be. The Council has, however, provided parameters and orienting principles for the Commission to operate under, and among them is the clear principle that an outright moratorium or ban is not acceptable. The Commission has been asked to look at a Bellevue-specific approach, but it would be inconsistent

with the direction handed down by the Council to come up with a de facto or otherwise effective moratorium.

Councilmember Stokes said the Council did not send the matter to the Commission seeking a wholesale revision of the interim ordinance. The Council addressed the matter twice and each time entertained a 5-2 vote in favor; that is not going to change. The Council has been clear about wanting to implement the will of the voters in a way that is consistent with state law and in the best way possible from a public safety standpoint. To develop rules that will effectively ban retail recreational marijuana sales would be going against the Council direction. The information received from the police chief was very helpful. If there are issues about signage or how the stores should operate, the Commission should address them in a Bellevue-specific way.

Commissioner Carlson commented that what the people of Bellevue voted for was that residents in the privacy of their own homes should be allowed to use marijuana. Similarly the residents of Bellevue would probably agree that people have the right to view hardcore pornography in the privacy of their own homes, but they might feel very differently about an X-rated bookstore down the block. He said it was his guess that those who voted to allow for the use of marijuana behind closed doors might think differently about having a marijuana store down the block.

Chair Laing urged the Commissioners to save their questions and discussion until after the public hearing.

Answering a question asked by Commissioner Tebelius, Ms. Drews said the Commission asked staff to take a look at increasing the separation distance from 1000 feet to 1320 feet, or one-quarter mile; that was done and the increased distance is indicated on the maps. The Commission also asked staff to include parks, particularly private parks, in the distance separation calculations; that was done using data available in the city's GIS system and is reflected on the maps. The staff was also asked to look at prohibiting recreational marijuana stores from subdistrict A of the perimeter design district in the downtown; that also was done and is reflected on the maps. The staff was directed to look at using the administrative conditional use permit process, which also was done. The Commission also asked the staff to map religious institutions as uses for which there should be a distance separation requirement; that was done and the results included on a separate map.

Ms. Drews said given the June 25 direction from the Commission, the staff identified a clustering of potential retail locations in the Wilburton and Bel-Red areas. The increased distance separation and the inclusion of private parks means there is no ability for the city to locate stores in the northeast and southeast portions of the city.

Chair Laing observed that while the sites along 156th Avenue NE were lost, there still would be a dispersion of the uses under the Commission's June 25 direction, though there would be fewer total parcels.

Commissioner Tebelius asked if under state law the city could limit the total number of retail stores. Ms. Drews said local jurisdictions are not preempted under the state statute from doing so.

Commissioner Hamlin asked if including parks and grandfathering the producer/processors would be acceptable to the City Council. Ms. Drews said she could not speak to what the City Council might agree to but allowed that grandfathering uses is consistent with how the city

treats current uses under the code that become nonconforming. Commissioner Hamlin asked if ruling out the possibility of adding new uses to that area should be perceived as an issue. Mr. Inghram answered that the options available to the Commission were to allow new producer/processors within the allowed spaces; seek to somehow freeze the status quo; and to seek disallowing the uses altogether. In the end it comes down to a question of policy.

Councilmember Stokes said generally the policy position of the Council is not to be more restrictive than state law. To act in a more restrictive manner would need to be predicated on a strong rationale, particularly where the result would be a narrowing of opportunities or potential.

Commissioner deVadoss asked if the separation requirement applies to recreational marijuana retail stores as well as to retail alcohol sales stores. Ms. Drews said it does not and that retail marijuana and alcohol stores could be located proximate to each other.

Commissioner deVadoss asked if modeling could be done to determine the expected number of retail marijuana stores required to prevent an influx of consumers coming in from elsewhere. Mr. Inghram said that is essentially what the state has tried to do. The limits set by the state on retail licenses are based on a population distribution model. That model concluded that four stores would be appropriate for Bellevue. Ms. Drews said the I-502 webpage on the Liquor Control Board site includes a white paper outlining how the conclusions were reached.

Commissioner deVadoss said he favored requiring a separation between marijuana retail stores and stores that sell alcohol. Councilmember Stokes said that requirement could effectively rule out all locations for siting a recreational marijuana retail store in Bellevue.

Answering a question asked by Commissioner Tebelius, Ms. Drews said the separation requirement does not apply to producer/processor uses. There are limited Light Industrial zoned parcels in Bellevue and that alone will serve as a limiting factor. Councilmember Stokes added that the Council did not include in the interim ordinance the separation requirement for producers and processors but did limit the use to the Light Industrial zone, which was seen as the most appropriate place for the use.

Commissioner Carlson suggested that any zoning changes that might be recommended by the Commission will be essentially fruitless unless accompanied by a recommendation on a maximum number of retail outlets to be allowed in the city.

Chair Laing called attention to paragraph E in Option A and asked why staff was proposing to strike it. Ms. Drews said the paragraph was proposed to be removed because it was included in paragraph D. The requirement for all producers, processors and retailers to comply with all applicable state ordinances, standards and codes is in the interim ordinance and serves as the starting point for the permanent ordinance.

Chair Laing asked if anyone from the city has talked to the Bellevue School District about the proposal to locate a recreational marijuana retailer four blocks north of Bellevue High School. Councilmember Stokes said the school district is aware of it. Ms. Drews reported that police department representatives will be traveling with city staff to Denver and Boulder in about a week to meet with law enforcement agencies and to visit retail facilities to get a better idea of what some of the impacts are.

A motion to open the public hearing was made by Commissioner Tebelius. The motion was

seconded by Commissioner Hilhorst and it carried unanimously.

Dr. Fred Charb, 14150 NE 20th Street, Suite 7, said his office is located approximately 300 feet from the front door of where The Novel Tree recreational marijuana retail store intends to locate. He asked if the business is already approved to be operational; Ms. Drews allowed that the use is still under consideration by the state but has submitted a building permit to the city. Dr. Charb noted that a notice posted to the door of the building in which the use intends to locate indicates the business will be opening soon. He added that the sign makes it clear the use will be selling cannabis products. Ms. Drews said the use has open permits and if there is an issue with signage it will be dealt with before a temporary certificate of occupancy will be issued. Dr. Charb said he addressed the Commission on June 25 regarding the issue of safety relative to businesses that deal largely on a cash and carry basis. Local merchants are concerned about armed robberies and thefts occurring at the use. As proposed, the use will be located 300 feet away from a martial arts studio the Little Gym, 600 feet from the Blue Sky church, and just under 300 feet from a Girl Scouts administrative center, all of which are frequented by children. Chief Montgomery's presentation on June 25 about the impact of product being sold was very good. Most people have the conception that people will go to recreational marijuana retail stores to purchase leaf marijuana to be rolled into a cigarette and smoked, but the fact is the stores will also handle the extracted product. Just two weeks before his presentation the Bellevue fire department had to respond to six persons in need of resuscitation after using marijuana extract products. In Denver there was an issue where a person having consumed one and a half marijuana cookies walked off the top of a tall building. A moratorium should be placed on the non-leaf products until further studies can be done by the state.

Ms. Teri Olsen, 1830 130th Avenue NE, said she and her husband operate the small business Unique Art Glass, directly across the street from the proposed pot store. A retail marijuana store will not be a good fit for the business neighborhood. Most of the local business focus on home improvement, though there is also a gas station and a couple of restaurants. None of the businesses are open late into the evening. She said her residence is in Cherry Crest near the pocket park that is only about three blocks from the proposed pot store on 130th Avenue NE. The park includes a basketball court and a tennis court and there are kids there all the time, including teens on bicycles.

Ms. Terra Martin, 18707 SE Newport Way, Issaquah, spoke representing Green Theory, the dba for Par 4 Investments. She said she is one of the store managers and also the founder of a local non-profit for breast cancer. She said she had breast cancer at the age of 28 and that got her involved with medicinal marijuana. If a child can tell that a store is a recreational marijuana retail establishment, then the store is not in compliance with the city's ordinance. Green Theory understands the importance of safety and following the laws, and believes children should be educated as to the use of marijuana. The product should be kept out of the reach of children. Bellevue High School recently held an assembly focused on the sale of marijuana in the city of Bellevue; information about side effects was shared along with what will happen to minors who choose to go into a retail marijuana business. The store owner will automatically be in violation of state and local laws should a minor walk into their store. Green Theory will be developing outreach programs aimed at educating and providing safety for children, and will work with the police department on risk management programs. Cannabis commerce is a business opportunity and a community responsibility. The community can be assured that Green Theory will adhere to all relevant laws and regulations, will restrict access to minors, and will run a safe, secure and discreet operation. The business will contribute to the local economy and will set aside a portion of its revenues for local philanthropies. Green Theory is dedicated to setting the highest

standards in Washington cannabis retail.

Ms. Kim Lillian, 1813 130th Avenue NE, said she owns Restaurant Design and Sales, directly in between the proposed Novel Tree and the currently operating Hemp and Cannabis Foundation. She said her business will certainly not benefit from having two cannabis operations as neighbors and would prefer not to see cannabis legalized. City code limits signs for cannabis businesses to no larger than 11 square feet, but the sign for the Novel Tree is larger than that and an enforcement action may be necessary. There are also going to be parking issues given the projected amount of volume the store is expected to see, and lighting issues during the evening hours, all of which is going to have to be addressed by the city. The way things are shaping up it appears the city is creating a sort of red light district for cannabis uses that centers on the 130th Avenue NE area.

Mr. Mike Griffith, 13419 NE 37th Place, said he has lived in Bellevue his entire life and is a principal at Par 4 Investments. He noted that the business has worked very hard over the last few months to obtain a license from the state Liquor Control Board, and has been working with the city to obtain the necessary permits. Par 4 Investments is one of the few entrants that met all of the requirements for Bellevue. It owns the site, intends to provide adequate capital to run the business in a compliant manner, and has no criminal history. The desire is to run the business in a professional manner and to observe all applicable rules of the state and the city of Bellevue. John and Debbie Bacon, also principals of Par 4 Investments, have operated the Bacon Family Foundation for two decades and partners with United Way and supports four organizations on the Eastside that focus on children: Hopelink, Bellevue Boys and Girls Club, Jubilee Reach, and the Bellevue Schools Foundation. The Bacons raised their children in Bellevue and just as their kids did their grandkids are attending Bellevue schools. They are very concerned about kids and the need to educate them with regard to prevention. The vision for the store is to have a safe and secure environment that complies with all the rules. Every step will be taken to avoid conflicts.

Answering a question asked by Commissioner Carlson, Mr. Griffith said under the state rules no person under the age of 21 is allowed to even enter the premises. Accordingly, people must be screened before they enter the store.

Mr. Matthias Reeba, 1830 130th Avenue NE, spoke as co-owner of the Salt Mine Arium. He said the business was opened two years ago and at that time experienced how difficult it is to open a business. He said the business also serves children and having The Novel Tree located nearby is not a good idea for the reasons cited by other speakers who have businesses along 130th Avenue NE. The cannabis store will not be a good fit with the plans Bellevue has for the Bel-Red area.

Ms. Annette Reeba, 1830 130th Avenue NE, agreed with her husband.

Chair Laing noted for the record that a number of persons had raised their hands in support of the comments made by the owners of businesses along 130th Avenue NE.

Mr. Blaise Bouchand, 1950 130th Avenue NE, spoke as owner of Maison de France. He said the recreational marijuana store at 1817 130th Avenue NE does not meet the I-502 code. The proposed location is within 1000 feet of the Girl Scouts of America office that includes a recreational center; a martial arts academy that caters to children and young teens; The Little Gym, a training center for children aged two to ten; a science preschool for children aged three to five; Blue Sky Church, which operates children and youth programs; and the Hemp and

Cannabis Foundation, an existing medical marijuana business. The question is why a recreational marijuana reseller would be allowed to locate there. Bellevue is facing a legacy issue, and the Commission is responsible for not trashing the health of the city.

Answering a question asked by Chair Laing, Mr. Inghram said it was his understanding that the Hemp and Cannabis Foundation located on 130th Avenue NE provides consulting and prescriptions but does not sell or dispense marijuana.

An attempt was made to contact Ms. Sandy Dryling by telephone to allow her to provide testimony. The attempt was unsuccessful but Chair Laing asked to have the record reflect Ms. Dryling's opposition to allowing the recreational marijuana retail store on 130th Avenue NE.

Mr. Bouchand read into the record a statement from Greg Katz, vice president of administration, facilities and risk management for BECU, in which he noted that BECU has two ATMs located in the 130th Avenue NE area accessible 24 hours per day by the general public. BECU is very concerned about the safety of its members and the general public relative to the opening of a recreational marijuana retail store in the area, something which could lead to an increase in crime.

Chair Laing noted for the record that several hands were raised in support of Mr. Bouchand's testimony.

Commissioner Carlson asked if the 1000-foot rules includes medical marijuana dispensaries. Chair Laing explained that it does not under the interim ordinance as adopted, though it does include collective gardens. Ms. Drews clarified that medical marijuana dispensaries are not allowed in the city. Collective gardens are allowed in certain areas only and the separation rule applies to them.

Ms. Aching Wood, 12422 NE 7th Place, voiced concern about allowing the drug store to locate on 130th Avenue NE so close to residential neighborhoods. She said her daughter attended The Little Gym when young and also took dance classes in the area. The notion that the drug store owners will be teaching children in the schools about marijuana will be misleading. Kids are being told that they cannot use the product when they are young and that they will be able to use it when they are older, but they are not being told how it will hurt their bodies. Those looking to open retail stores to sell marijuana want to make money, and they will be making money from drug users. The sale of marijuana in Bellevue will not be good for the community.

Chair Laing noted that several hands were raised in support of the comments made.

Ms. Brenda Jones, co-owner of the Academy of Kempo Martial Arts, 1950 130th Avenue NE, said while personally against allowing the sale of marijuana in the city, it is a moot point. In deciding where the use should be allowed the Commission has looked parks and churches, but it should also look at businesses that cater to children. Kempo Martial Arts has been in operation for ten years and The Little Gym has been going for a very long time as well, and there are a number of children in and out of those businesses every day. Allowing a recreational marijuana retailer to locate there is inappropriate.

Mr. Chris McAboy, owner and founder of The Novel Tree, 1817 130th Avenue NE, noted that in 1999 there was a general scare that as the year 2000 rolled in all computers would cease functioning and there would be a general shutdown. None of that came about, however. Now

there are voices raised against the legal sale of recreational marijuana and they are saying all manner of bad things will happen. None of the claims, however, will come true. The arguments raised by the businesses located along 130th Avenue NE that cater to children are arbitrary and capricious because they do not fit the state definitions. The picture of the basketball hoop at the Girl Scouts facility that was submitted to the Commission is actually located in a striped parking lot. The Novel Tree has received its permits from the city, and the sign was approved by the city, but if in fact it does not meet the requirements it will be removed. The Novel Tree has complied with all state and local regulations to date and fully intends to continue doing so. The projections show the business will generate between \$100,000 and \$300,000 in tax revenues for the city. The fear mongering being carried out by the 130th Avenue NE business owners amounts to discrimination against a single business; they are not calling for an outright ban on the sale of marijuana in Bellevue, they are only arguing against allowing a single store to be located near their businesses. Ten to fifteen percent of the population will anonymously admit to using marijuana. Up to 50 percent of the population has actually tried it and have not become junkies as a result; those who do not like it cease using it. Marijuana is not an addictive product. All applicable laws will be followed, including those requiring a high degree of security measures to be taken.

Mr. Chuck Right, a member representative of the Blue Sky Church, 1720 130th Avenue NE, noted that the church is within 300 feet of the proposed location for The Novel Tree. He expressed the objection of the church to allowing a recreational marijuana retailer on the 130th Avenue NE corridor. The church has been in its current location for ten years and recently purchased its building. There are 500-plus members who are currently meeting at Lincoln Cinema while renovations are carried out to expand the facility. The anticipation is that in the coming years the church will be serving a thousand members. The demographics of the church are geared largely toward young families and college students. There have been abuses reported to the police department about apparent sales transactions and persons smoking marijuana around the church facility. The use could contribute to an erosion of the corridor. While the use is permitted by the city, it is inappropriate for 130th Avenue NE given all the youth activities that occur there. The church has chosen to commit to the community and the hope is that the Commission will make a similar commitment to the 130th Avenue NE community. With regard to the proposed separation requirement of 1320 feet, it was noted that the new 130th light rail station will be within that buffer sphere; that alone should represent a compelling argument against allowing the use on 130th Avenue NE.

Chair Laing noted for the record that about a dozen hands were raised in support of Mr. Right's comments.

Answering a question asked by Chair Laing, Ms. Drews explained that the light rail station is some 860 feet from the location of The Novel Tree. Land Use Director Carol Helland noted that Sound Transit is in for design and mitigation permits for the station but not yet for building permits and thus currently has no vested rights.

Ms. Deborah Tudor, address not given, said she has lived in Bellevue for ten years and has three children who will be in Bellevue schools in the fall. She said she has been greatly concerned over the news that the Green Theory store being located within walking distance of Bellevue High School. When the school lets out in the afternoon or during open lunches there is always a large number of students in downtown Bellevue. When they see signs advertising buds, edibles and more, marijuana will look very enticing to them. There is already a huge drug problem at Bellevue High School; at one time the stink of marijuana was so bad in one classroom the

teachers could not tell which student was high. No one really knows what the impact of having a recreational marijuana retailer located so close to the high school. Because edible marijuana products are allowed, they may very well show up in the schools. Many kids have fake IDs they use to buy alcohol, and the same thing can be expected to happen in order to buy marijuana. The city may do a great job talking about education, but that will not prevent upper classmen who look older from being able to buy drugs and sell them to younger kids.

Chair Laing observed another dozen hands or so were raised in support of the comments made.

Mrs. Bishop Lampman, 3806 130th Avenue NE, said she has for the past 20 years served as a commercial real estate broker and has an MBA in finance. She said she is very familiar with nonconforming uses and what the city leaders have done is effectively create a mini-monopoly for two stores in Bellevue. While the city may not have meant to do that, it is the result. Since addressing the Commission on June 25, several calls have been received from property owners and represented tenants. The tenants operating in the vicinity of recreational marijuana stores have been asking about their rights and whether or not their leases can be broken, and they have been advised that they cannot but can seek to move at the end of their lease terms. The risk is that once businesses vacate an area to avoid being located near or next to a marijuana distributor, the vacancies will be difficult to fill on the perception of having a recreational marijuana store nearby will increase costs and security needs. The risk to the city is the possibility of lower property values as rents drop. The Commission should not be afraid to recommend the maximum buffer.

Ms. Helen Foehr, 224 107th Place SE, said she lives on the hill above where Green Theory is set to open. She said the City Council and the Commission needs to look at the fact that the hill is home to residences that have been there for many years. Many who live there raised their children there and now have grandchildren. She said she supports the legalization of marijuana, but retail stores handling the product should not be allowed to locate only two blocks away from single family homes. It feels as though homeowners and residents have been overlooked. When Bellevue High School lets out for lunch the kids leave the campus and frequent places like the burger joint that is directly across the street from Green Theory. The 1000-foot buffer is too small and should be increased.

Chair Laing indicated a number of hands were raised in support of the testimony.

A motion to extend the meeting by 30 minutes was made by Commissioner Hamlin. The motion was seconded by Commissioner Hilhorst and it carried unanimously.

Ms. Annie Liu, 200 107th Place SE, said she is Ms. Foehr's neighbor. The location of the Green Theory store on Main Street is too close to the residential area. She voiced concern about rising crime rates resulting from having the store there. The store owner has articulated that they will be performing security checks, and while that is good there will be some who drive in to purchase pot, some of whom may be under the influence. That could have safety implications for the school children in the area.

Chair Laing indicated a number of hands were raised in support of Ms. Liu's testimony.

A motion to close the public hearing was made by Commissioner Tebelius. The motion was seconded by Commissioner Hamlin and it carried unanimously.

7. STUDY SESSION

A. Land Use Code Amendments to Address Recreational Marijuana Deliberate and Make a Recommendation to the Council

Commissioner Hamlin voiced his support for Option B, which would extend the interim regulations.

Commissioner Walter added her support for Option B but said she would add administrative conditional use permitting. The businesses are new and there are a number of unknowns, and having them subjected to increased scrutiny would be good. The major concern is having the producer/processor functions all together in one area and the fact that that may result in an odor. If the result is an odor, those living nearby will need to be afforded some recourse.

Commissioner DeVadoss echoed Commissioner Hamlin's support for Option B as outlined.

Commissioner Carlson commented that he read recently an article talking about the explosion of homeless young adults in Colorado. Many of them have been drawn to the state by the prospect of easily being able to obtain recreational weed. He said marijuana is being viewed and treated as just another legal product the city needs to accommodate, but it appears the real impacts are being missed. The statement of the owner of The Novel Tree saying marijuana is not addictive is like a tobacco executive saying cigarettes do not cause cancer. He said he would support putting a small number cap on the number of retail outlets. Not to do so will be to simply waste the Commission's time.

Chair Laing asked Commissioner Carlson if he proposed a cap of less than what the state has determined to be appropriate for Bellevue, which is four. Commissioner Carlson said his preference would be to allow only one recreational marijuana retailer in the city.

Asked by Commissioner Carlson his preference for either Option A or Option B, Commissioner Carlson said he was not fully in support of either one.

Commissioner Tebelius asked if it would be overly difficult to include both public and private parks as buffered uses. Ms. Drews said it would not be difficult to reference both. Commissioner Tebelius reiterated her support for not allowing recreational marijuana retail in the downtown area, including subdistrict A of the Perimeter Design District. She said she was not concerned about making a distinction between a buffer of 1000 feet and a buffer of 1320 feet.

Commissioner Hilhorst said she also was not enamored with either Option A or Option B. She supported putting steps in place to monitor the recreational marijuana retail use over time and to keep open the possibility of making changes should unintended consequences arise. Because the majority of cities around Bellevue will not be participating in the experiment, Bellevue could easily become a hub drawing people in from a wide area, some of whom could potentially consume the products in Bellevue and drive on the roads on their way back home. She said she could be persuaded to agree to Option B given that it includes the conditional use permit process.

A motion to approve Option B, modified to not allow recreational marijuana retail sales in subdistrict A of the Perimeter Design District, and to require the administrative conditional use permit process, was made by Commissioner Tebelius.

Chair Laing clarified that the motion would continue with the existing regulations, including the separation distance of 1000 feet, but would require the administrative conditional use permit process, would remove subdistrict A of the Perimeter Design District as an area where recreational marijuana retail sales are permitted, and would reference all parks, not just public parks.

Ms. Drews clarified that under the motion the Green Theory use would still be allowed to locate on Main Street.

The motion failed for lack of a second.

Answering a question asked by Commissioner Walter, Chair Laing explained that he had previously proposed excluding the Perimeter A district. The stated purpose of the district has always been and continues to be to provide a buffer between the commercial uses in the downtown and the residential uses abutting the downtown. Given the uncertainties with how the use will play out in practice, the city should err on the side of caution by preserving the transition area. During the Downtown Livability Initiative process there was discussion of opening a school in the downtown and not having an open and vested recreational marijuana retail establishment could obviate concerns down the road.

Ms. Helland clarified for the Commissioners the borders of subdistrict A. She further explained that the Perimeter Design District is what it is called, a design district. In the context of the Land Use Code, it is used to identify massing, bulk, size and scale differentiations. There is no construct in the Land Use Code to use the Perimeter Design District to regulate uses. To do so would require footnoting a footnote. In practice, nearly all of subdistrict A is eliminated already, except for the location where Green Theory is already a vested use. It is true that actions that result in the creation of nonconforming uses do result in the creation of monopolies and conditions that often result in uses staying where they are for a very long time.

Commissioner deVadoss commented that the voters have spoken and said it is up to the city to determine how to deal with the issue.

Commissioner Carlson said he would love to see the issue of retail marijuana on the ballot in Bellevue. He suggested that the sentiment expressed would be very different from the statewide vote that legalized the use.

A motion to approve Option B as outlined was made by Commissioner Hamlin. The motion was seconded by Commissioner DeVadoss.

Answering a question asked by Commissioner Hilhorst, Ms. Helland said the act of siting and permitting uses involves looking at the existing uses nearby. While a recreational marijuana use would not be allowed to be sited within 1000 feet of an existing light rail station, there is nothing that precludes a light rail station from being sited within 1000 feet of an existing recreational marijuana retailer. Once the light rail station is vested, no restricted uses will be allowed to locate around it, and The Novel Tree will become a nonconforming use.

The motion failed 2-4, with Commissioners Hamlin and DeVadoss voting yes, and Commissioners Tebelius, Hilhorst, Carlson and Walter voting no. Chair Laing did not vote.

A motion to extend the meeting for 30 minutes was made by Commissioner Hamlin. The motion

was seconded by Commissioner Hilhorst and it carried unanimously.

Chair Laing pointed out that the primary differences between the motion made by Commissioner Tebelius and the motion made by Commissioner Hamlin were the conditional use permit process, which he noted had the support of the majority; including publicly owned parks only or both public and private parks, which he noted also had a support of the majority; and the issue of including the Perimeter Design District subdistrict A, which he noted did not have a clear majority one way or another.

Commissioner Carlson said he would extend the parks issue to include public, private and wetlands as areas that could be used or abused by recreational marijuana users.

Commissioner Hamlin said he would vote to include private parks and requiring conditional use in the spirit of moving things forward, though he clarified he did not personally agree with doing so.

A motion to recommend adoption of Option B, with the addition of parks mapped in the city's GIS system and requiring administrative conditional use, was made by Commissioner Tebelius. The motion was seconded by Commissioner Walter.

Ms. Helland explained that under the interim ordinance the conditional use process is not required. Recreational marijuana retail uses are allowed subject to meeting a laundry list of performance criteria. The additional steps that the conditional use process requires, including notice and the potential for appeal to the hearing examiner, are not currently required. If approved, the motion will add a layer of process.

The motion carried 5-1, with Commissioner Hamlin voting no. Chair Laing did not vote.

Chair Laing said the most important element of the conditional use process is that it includes public notice.


10. OTHER BUSINESS - None
11. PUBLIC COMMENT - None
12. DRAFT MINUTES REVIEW
 - A. June 25, 2014

Action to approve the minutes was not taken.

13. NEXT PLANNING COMMISSION MEETING
 - A. September 10, 2014
14. ADJOURN

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

Chair Laing adjourned the meeting at 10:10 p.m.



Paul Inghram
Staff to the Planning Commission

1/14/15
Date



Aaron Laing
Chair of the Planning Commission

1/14/15
Date

* Approved November 12, 2014

