

CITY OF BELLEVUE
BELLEVUE PLANNING COMMISSION
STUDY SESSION MINUTES

May 24, 2017
6:30 p.m.

Meydenbauer Center
11100 NE 6th Street, Rooms 401-403

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

COMMISSIONERS ABSENT: None

STAFF PRESENT: Terry Cullen, Dan Stroh, Emil King, Liz Stead, Department of Planning and Community Development; Patricia Byers, Department of Development Services

COUNCIL LIAISON: Mayor Stokes

GUEST SPEAKERS: None

RECORDING SECRETARY: Gerry Lindsay

CALL TO ORDER
(6:30 p.m.)

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

ROLL CALL
(6:30 p.m.)

Upon the call of the roll, all Commissioners were present

APPROVAL OF AGENDA
(6:31 p.m.)

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

COMMUNICATIONS FROM CITY COUNCIL, COMMUNITY COUNCILS, BOARDS AND COMMISSIONS – None
(6:31 p.m.)

PUBLIC COMMENT
(6:32 p.m.)

Mr. Richard Gary, 10700 NE 4th Street, said he and his wife live in Bellevue Towers. He noted that the downtown livability effort is in its fifth year but despite the passage of time, the Commission and the Council was urged to defer adoption of any Land Use Code changes until the Lincoln Tower expansion and Center 425 projects are fully occupied and their impact on downtown traffic and safety is measured. Together the two projects comprise almost two million square feet of leasable space, with 3000 new parking stalls. The projects will bring thousands of

new users into the area, and like the proposed code amendments will result in added density and congestion and will have a profound impact on livability. It would be unwise and unnecessary to act until all the facts that can possibly be known are known. There is an additional reason for deferring action, namely that the terms of three City Council members expire at the end of the year. One Councilmember, Kevin Wallace, president and COO of Wallace Properties, has announced he will not seek reelection. The two other Councilmembers have said they will seek reelection. The impact of changes to the code will be both substantial and permanent, and they should be deferred to 2018 when a new Council with a longer-term outlook, and without the presence of a member with conflicted interests, will be seated. The livability initiative process has been heavily weighted in favor of developers since its inception. Nothing illustrates that better than the Commission's actions on May 10 when Commissioner Laing, a partner in the law firm that represents Wallace Properties, proposed that numerous Land Use Code modifications set forth in a letter dated April 26 from Wallace Properties, and supplemented on May 10, be incorporated directly into the amendments without discussion. The Commission adopted the motion with only one Commissioner dissenting. The action was an insult to downtown residents and confirmed the suspicions of bias and self-interest that many downtown residents hold.

Mr. Bill Herman, 10700 NE 4th Street, a resident of Bellevue Towers, tried to present the Commissioners a video showing traffic on Bellevue Way backed up between NE 4th Street and I-90. The video was taken at 3:00 p.m. on a Friday. The video could not be opened on the presentation computer. The Commission has said that traffic has not changed in 20 years, that all added trips in the downtown have been absorbed by public transit, and that traffic is not currently a problem and will not be a problem. The experience, however, is different and there is still half the downtown to be built out under the existing code. The 2013 transportation study calls for another 200,000 cars per day. The study did not account for the upzone, which is about a 50 percent density increase. The draft land use audit states that only about 78 percent of available FAR has been used to date. Just increasing height will still yield a 28 percent increase in the FAR. In the DT-OLB and the DT-MU there will be a doubling of the FAR. The 1.0 FAR affordable housing exemption will apply everywhere. The residential FAR in the DT-O1 will be set at 10, and adding 1.0 for affordable housing and another 1.0 for the retail exemption will yield an FAR of 12. The Lincoln expansion weighs in at 6.5 FAR, so what is contemplated is twice that. Once action is taken by the city it will be irreversible. There should at least be a study about what should be done with the 200,000 cars but also the extra 100,000 that will come from the upzone. The methods for traffic studies that do not account for trip time, only volume, are broken. The corridor capacity report showed a drop in volume but a 46 percent increase in trip time in two years.

Mr. Andrew Miller with BDR, 11100 Main Street, noted that a few months ago the Commission proposed meeting with staff to discuss how to make reality out of a responsive design to an interesting corner of the downtown. Staff took the Commission's direction about the East Main area and looked at the properties facing Main Street. He said after a full discussion with the staff, he concurred with what was in the code. The project is reliant on getting a bump of 1.0 FAR for affordable housing. He said he was happy to see the staff and the Commission all viewing the site as a unique opportunity to do something better for the city.

Mr. Phil McBride, 11040 Main Street, took a moment to thank the Commission and the staff for their work. He said the result will be a good project for the city. It will certainly take advantage of the investment in light rail being made by Sound Transit.

Mr. Don Rich, 10700 NE 4th Street, said he moved to Bellevue from Silicon Valley six years ago and said as a result of living in a highrise in San Francisco he understood the value of the

view and aesthetics of highrise living. Business brought him to Bellevue and he said he was impressed with the wedding cake concept for the downtown and made his decision to buy in downtown Bellevue accordingly. He said his unit in Bellevue Towers faces the south side of the DT-O1 district and is high above what he anticipated to be any future development. The Fanta Group presented its plans in 2016, and concerns were expressed about light and so forth in regard to their project going up to 300 feet. It appeared to be a done deal, but now they have come back asking for more height. It is difficult to understand exactly how much height the project might be allowed. The Commission was encouraged to hold the line on the wedding cake design which offers integrity and understanding of future development, both for residents and developers. The Fanta Group's original plans apparently penciled out and they should hold the line on that and not seek to go any higher. The wedding cake should not be allowed to bleed over into other areas.

Mr. Mike Lattore, 500 106th Avenue NE, said he is a Bellevue Towers resident. He said the time for the Commission to present its recommendation to the City Council was approaching and said he would not take the time to readdress any specific codes. However, downtown residents believe the Land Use Code update has become so convoluted and complex that few know what to expect. The input from the residential community has seemed to have very little effect; it has been overshadowed by the commercial developers. There have been concerns raised about questionable participation by Councilmembers and Commissioners, with members of each having strong ties with commercial development. The Downtown Livability Initiative CAC did not have a single member who was a resident of the downtown area. Downtown residents do not believe their interests are being taken into consideration. Much input has been offered by downtown residents, but when and if considered it has been outweighed by the commercial perspective to enhance building. The proof is in the size and complexity of the proposed amendments. The codes have so many varied, undefined or unclear interpretations along with a flawed amenity incentive system, and has no follow-up or accountability built into any of the amendments that would conclude a developer met the commitment to the community. If the recommendations go forward as drafted, they will only confuse everyone with regard to what is going to be allowed in the future and with the potential of the community being taken advantage of. The objectives of the Downtown Livability Initiative was to better achieve the vision for the downtown as a vibrant mixed use center; enhance the pedestrian environment; and improve the area as a residential setting. Hopefully the Commission will present to the Council a very clear summary that is specific to how those objectives will be met.

Mr. Lance Ramsey, 500 106th Avenue NE, said he has lived in Bellevue Towers for four years. He said no one in the room was anti-development, but many believe the process has not equally represented the interests of the residents. He said the people were looking for appropriate due diligence and a thoughtful process. They do not believe that has been achieved. While the process has admittedly been difficult and challenging for everyone involved, there are some on the Commission who have stood up for the residents. Furthermore, while the process has been at least in name focused on improving livability, the process has instead been largely focused on upzoning and catering to the interests of developers rather than downtown residents. Livability issues like parking and parks have been kicked down the road. The process has not been transparent and has been very hard to track. The process should be paused. There are many elements of the proposal for which their impact remains unknown. It would be irresponsible not to assess the results of all the changes to have a full public discussion about them.

Ms. Jackie Ramsey, 500 106th Avenue NE, said for four years downtown residents have been voicing their concerns regarding livability, both in person and in writing. The appearance of the numerous signs held by members of the audience was intended to call attention to the fact that

the interests of downtown residents have been subsumed by the attention and activity of those who lobby the Commission for a living, none of whom live in the downtown and must deal with the results of their decisions. It is disturbing to see the requests of a single developer become immediately incorporated into recommendations, while the recommendations of residents are routinely swept aside. That does not feel good to downtown residents who are not anti-development but who also are not for development at any cost. The Commission and the Council was urged to better understand the infrastructure, safety and traffic impacts of the recommendations before proceeding.

Mr. George Hatune, 10700 NE 4th Street, said he has been a resident and homeowner in Bellevue for 20 years and has worked in the downtown for the last ten years. He said he loves being able to walk to work, the park and the grocery store. Downtown Bellevue is a much better place than it was 20 years ago, with much more to do and better entertainment options. He said he is not against development and in fact wants to see more healthy development in the downtown. He said his recent purchase of a condominium in Bellevue Towers involved talking to real estate agents and planners at city hall, and reading over the current land use rules and the preliminary livability report. That did not, however, yield an accurate picture of what the true height restrictions were, what the density would be, what the buildings would be shaped like, and if the wedding cake design would be followed. He suggested revising the report to be more transparent and clear about the actual maximum heights and densities will be for each zone, including any amenities and mechanical screening around which there remains room for interpretation. A visualization of what things will actually look like if built up to the maximum heights should be created and included in the report; that would show what the wedding cake would actually look like. That would help folks make an informed decision about whether or not the plan is good.

Ms. Gina Atillo, 177 107th Avenue NE, said she is a resident of Bellevue Pacific Tower, having recently moved to Bellevue from Colorado. She said she has a child attending Chinook middle school and another at Spirit Ridge, so much of her time is spent traveling back and forth. She said she is often stuck on Bellevue Way, and things have gotten worse. She voiced concern over what things will be like in the next ten years and said she has considered moving out of the downtown. Other families have the same issues. There is currently a safety issue for pedestrians in downtown Bellevue. She said she and her children have been nearly hit by cars many times while walking to Safeway for milk, and was present when a pedestrian recently was hit and killed. She suggested adding something to the amendments a requirement for all builders to put aside money into a downtown Bellevue pedestrian safety fund. Working with the department of transportation or the police chief, a safety plan should be developed that incorporates best practices, such as speed humps on NE 2nd Street so fast cars would bottom out and have to slow down. Traffic is going to increase and pedestrian safety will suffer.

Mr. Sesh Vilapor, 500 106th Avenue NE, said he is a resident of Bellevue Towers and has for 25 years conducted research in the field of future studies and has written and spoken all over the world, especially about climate change. He said over the long term, the proposed upzone along with the existing conditions in Bellevue will add millions of tons of carbon dioxide to the atmosphere. Consideration should be given to making the upzones and the existing conditions carbon neutral. Unless the Commission assumes that climate change is a hoax perpetrated by the Chinese.

Ms. Michelle Herman, 10700 NE 4th Street, a resident of Bellevue Towers, pointed out that at the April 26 Commission meeting Commissioner Laing commented that the proposed code would not result in taller and skinnier buildings. He said if there was going to be a conversation

about changing building height, massing and form, the focus should be on requiring what will actually be a skinnier building and not just the portion of the building that exceeds the old maximum height. That is something the residents have been saying for a long time. Commissioner Laing went on to say he would consider potentially not supporting any increases, but by May 10 Commissioner Laing made a full about face by moving right off the bat to incorporate the recommendations of Wallace Properties that had been distributed just prior to the meeting and which the residents had not had time to review. His motion was approved. The proposal recommends increased floor plates, reducing the setbacks and eliminating open spaces, which are all things downtown residents oppose. The livability process has been flawed and heavily biased toward the development community since its inception. The concerns of residents about substantive and due process issues have been ignored over and over again. In recent weeks and in light of the notable shift, residents began looking into things and found real conflicts of interest which are pervasive from the City Council all the way through the Planning Commission. There is a duty for Councilmembers and Commissioners to recuse themselves from decisions where they have conflicts of interest. Violations in the context of legislative policy decisions require a showing that an official specifically intended for his or her actions to create a special benefit for himself or herself, or for another person. It seems like that has happened during the process in spades. According to the *Seattle Times*, Councilmember Wallace, an owner of Wallace Properties, was the one who appointed Commissioner Laing to the Planning Commission. According to the article, other Councilmembers objected, which is unusual, and felt the process by which Commissioner Laing was appointed was covert and unauthorized. There are real issues of process. Downtown residents have felt ignored; they really do care about their homes and would like the Commission to correct the mistakes that have been made over the last four-plus years.

Commissioner Laing took a moment to speak to the issue. He said of all the comments received by the Commission from the various downtown residents, he found Ms. Herman's to be the most persuasive and on point relative to the recommendation of the Downtown Livability Initiative CAC, which he co-chaired, and his own view on downtown livability. In one of her comment letters, Ms. Herman pointed out that the issue is not what goes on in the DT-OLB. Supporting an upzone and height increases and increased density in that zone might be okay, but the changes proposed for the core and other parts of the downtown, especially with regard to height increases, could be problematic. He said he had uniformly raised questions going all the way back to the CAC process about increasing heights anywhere but in the DT-OLB. The Commission meeting minutes from May 10 indicates that subsequent to his motion, the issue of heights was carved out of the recommendation and was tabled for further discussion. The minutes also reflect in the discussion subsequent to his motion that he continued to raise questions about why the city should be considering increased heights anywhere but in the DT-OLB.

Continuing, Commissioner Laing added that a little over a year ago he was accused of having another conflict of interest relating to the Fortress project. A property owner's representatives contacted him in his professional capacity as a land use attorney about helping them upzone their site. He said three times he declined to represent them. They are represented by able counsel, but he said he has continued to recuse himself from any discussion of their issue. During the past week he said he has been accused of two additional conflicts of interest, one relating to his law firm's representation of Wallace Properties on wholly unrelated matters, and his alleged representation of the Bellevue Towers residents association given his outspokenness about the proposed height increases. He said he was asked on May 23 by the City Manager if he represented the Bellevue Towers residents for those reasons. He said he had spent a couple of hours on the phone and in face-to-face meetings with other stakeholders who are concerned at

his vocal opposition to the proposed height increases and the concerns raised by the Bellevue Towers residents going all the way back to the end of the CAC process. It is ironic and somewhat hurtful that the issues are being raised at the eleventh hour. A careful review of the motion made on May 10 indicates inclusion of recommendations from five letters into the draft code for discussion purposes only without taking a position on any of them. The Wallace letter was primarily focused on the DT-OLB, and the changes made to the draft code have nothing to do with looking at heights outside of the DT-OLB. He said if the Bellevue Towers residents believe he should recuse himself from the discussion of tower heights and the proposed height increases, they are free to do so. He said he would take counsel from his fellow Commissioners accordingly, but he stressed that no other Commissioner has been more opposed to the proposed height increases.

Mr. Don Hassen, 650 Bellevue Way, said he is a resident of One Lincoln Tower. He suggested the lack of attendance of the meeting was due to comments from residents falling on deaf ears. He suggested a town hall meeting should be scheduled to allow for open discussion about how to cooperate and get things done. He said his main concern is that time is not of the essence. The Commission was asked to wait for nine months to allow the Lincoln Tower expansion and the Center 425 projects are fully occupied and their impacts are determined. Once decisions are made, they cannot be undone. The whole problem could have been largely addressed by saying the building height is 302 feet rather than 250 feet, with a footnote indicating the taller height is allowed only by meeting certain requirements. When condominium buyers are seeking to purchase units, they ask their real estate agents what the surrounding heights are, and everyone is saying it is 250 feet. The documentation needs to be cleaned up very soon.

Mr. Kevin Whitaker, 10700 NE 4th Street, said he is a Bellevue Towers resident. He agreed with the comments made by the previous Bellevue Tower residents. The process has lacked transparency and access. He suggested including education pieces to help people understand the code. The actual maximum heights should be clear. He also agreed that there should be opportunity for a full back and forth between community members and Commissioners.

Mr. Ian Morrison, 701 5th Avenue, Suite 6600, Seattle, spoke on behalf of PMF Investments. He thanked the Commission for undertaking a thoughtful and deliberative process and for the work done by the Commission, the community and the staff to reach consensus on the big rock issues. He said PMF Investments has the Sheraton site at the corner of 112th Avenue NE and Main Street and is very excited about the opportunities that will result by the work done by the Commission and the staff. The DT-OLB district will support some strategic density. The Commission tasked the property owner to work with staff to find a solution relative to the treatment of the parking garages facing I-405. The idea was to yield an attractive façade for the garages. He reported that after much work and discussion with staff, a solution has in fact been identified that will work for staff and the property owners.

Mr. Patrick Bannon, president of the Bellevue Downtown Association, thanked the Commissioners for their time and commitment to shaping the draft Land Use Code. The Commission throughout the process has been receptive to public comment and thoughtful in discussing the issues. After four years of discussion, the BDA is pleased to see the draft code reach the point of transmittal from the Commission to the Council where the conversation will continue. The proposed code is far superior to the existing code. The intent of the CAC in recommending height increases has been to see more slender buildings constructed that create more light and air and a better outcome for the downtown. The Commission has limited density increases to the DT-OLB, and has leveled at 5.0 the FAR for residential and non-residential in the DT-MU district and on the gateway corner at Main Street and 112th Avenue NE. A few

additional changes to the code will continue to be strongly recommended as the process moves forward, including the base height calculation, especially in the DT-OLB where there is a dramatic gap between the base height and the maximum height where the amenity calculation occurs. Based on the comments made by downtown residents, there is a need for additional community conversation, particularly around transportation and safety in the downtown. Fortunately, the residents passed a transportation levy in 2016 that will yield funds for safety projects. The Council has also adopted a Vision Zero policy that hopefully everyone will get further engaged with.

Mr. Jack McCullough, 701 5th Avenue, Suite 6600, Seattle, spoke on behalf of Fortress Development. He observed that Commissioner Laing has brought to his deliberations a possibly unnecessarily conservative approach to disqualifying himself from discussing certain issues. For the record, he said no one from Fortress Development contacted Commissioner Laing in the early part of the proceedings. He said he has been serving as counsel for the group from the beginning. Possibly a prior owner contacted Commissioner Laing. From the point of view of Fortress Development, Commissioner Laing's recusal relative to the matters is unnecessary, though additional conservatism harms no one. He added that there are two or three projects that have been in the process for two years or more that have permits and ADRs that are waiting to come out. He said he is working with them and suggested it would be unfair and inequitable to change the rules on them at the last minute after investing hundreds of thousands of dollars. Some transition vesting language is being worked on to be incorporated into the final ordinance. He said the Commission's process, though long, has been good. Through two Commission chairs, the Commission has done a good job of providing for transparency and allowing for public input and participation. There is a certain urgency to see things wrapped up given the number of persons with sites who have been watching the process and who are looking forward to proceeding to invest in the downtown under the new code.

STUDY SESSION

(7:26 p.m.)

With regard to the proposal made to delay the process, Commissioner Hilhorst explained that the Commission has clearly been directed by the Mayor to complete the process. She said forwarding the package to the Council at the conclusion of the meeting should not be interpreted as the Commission not having heard the requests made by the residents. The Commission serves at the pleasure of the Mayor and the Council.

Comprehensive Planning Manager Terry Cullen said the public hearing for the Downtown Livability Initiative Land Use Code amendment was held on March 8 and noted that subsequently there had been several study sessions. He said the understanding is that the Commission would conclude its work by the end of the meeting and transmit the package to the Council.

Planning Director Dan Stroh said the work began with the Downtown Livability Initiative CAC which undertook a lengthy process to determine what about the code was working well and what could work better. Their findings were forwarded to the Council who in turn passed the work on to the Commission. He said the term "downtown livability" is part of a much larger agenda that includes the Downtown Transportation Plan, parks, public safety and other elements of livability. The code piece is one part of the livability agenda but not the only piece. It hones in on what the city can do to influence private development to do what it can and should to mitigate the impacts of growth for a better outcome. The downtown code has been amended at times over the years, but each amendment has been very surgical. The proposed code represents the first sweeping

update of the code since its 1981 adoption. The proposed code is very complex with many moving parts, and that is why the process has taken so long.

Continuing, Mr. Stroh said the agenda called for discussing a few outstanding issues, reviewing the final package for consistency with the Council principles and the intent of the CAC, and reviewing the transmittal memo.

Strategic Planning Manager Emil King said the work of the Commission will be forwarded along with the transmittal memo to the City Council. The Council will then hold a series of study sessions before acting to approve the package. He noted that two open questions had been included in the packet, specifically any additional direction on the ten percent floorplate reduction, and the DT-OLB South alternative design treatment for parking garages. With regard to the latter, he said the district is a gateway into the downtown and noted that agreement had been reached relative to design that includes art and green space at the lower levels, and glazing that replicates either a residential or office building from freeway height and above, though without resulting in a need to fully ventilate the space by means other than natural ventilation.

Mr. King pointed out that all public comments received had been included in the packet and the desk packet. He also clarified that the matrix on pages 17 to 22 of the packet included an annotated table of contents indicating the changes and new content for each code section. The packet from pages 23 to 169 contained the March 8 public hearing draft with strike underline of all the direction given by the Commission over the last four meetings. The Council principles were included on page 7 of the packet, along with the principles relating to the incentive zoning system that were adopted by the Council in January 2016. The packet on pages 177 and 178 included the relationship to livability statement or objectives that went out with the public hearing draft. Direction received from the Commission at the May 10 meeting was itemized on pages 2 to 6.

With regard to the issue of floorplate reduction above the trigger height, Mr. King reminded the Commission that the issue was raised by Commissioner Laing who questioned if the ten percent reduction in the draft code was sufficient to result in taller and more slender buildings. The Commission previously discussed the fact that the DT-O1 and DT-O2 districts were the zones where the issue was most pertinent given that the districts typically yield floorplates of a bigger size because of the allowances for office buildings in the 20,000 to 24,000 square foot range. Given that residential towers are not as big, the question was whether or not anything more than a ten percent reduction for residential is needed.

Turning to the DT-O2 district, Mr. King said the area is split between the area to the north of NE 8th Street, east of 110th Avenue NE, and south of NE 4th Street. He allowed that the Commission had discussed the development potential in those areas and what it could mean for that general part of the downtown and how it would be consistent with the wedding cake. Staff took the approach of looking at the Commission's current code recommendation and looking at whether redevelopment would yield buildings that could pierce the building heights. The district was reviewed in terms of the area west of 106th Avenue NE, which includes the northern part of the Avalon/Safeway project, and the area east of 106th Avenue NE, which includes Expedia and the Fanta properties. The Avalon/Safeway project did not build to the maximum building height allowed by code. The west area essentially has two 25,000 square foot redevelopment sites, provided lot ownership were to be aggregated. There is an existing 20-foot public right-of-way that runs from NE 4th Street to NE 2nd Street and it could severely limit building heights that could be achieved without taking some extraordinary measures.

Mr. King said staff looked at each of the properties. The DT-O2 zone allows FAR to 6.0, but it would take going through a process to get even a full 1.0 FAR exemption for retail. Staff also assumed the affordable housing exemption of 1.0 FAR. In a nutshell, development of each of the 20,000 square foot sites, with floorplates below the typical 9000 square feet for residential, would see buildings of up to 240 feet in height, assuming a podium filling the site and accounting for rooftop mechanical equipment. The city is not interested in vacating the 20-foot public right-of-way given that it serves a unique function.

The Commissioners were informed that the staff recommendation for the DT-O2 South was to split it into two segments divided by 106th Avenue NE and to retain the current height limit of 250 feet and the provision for an additional 15 percent increase most developments get for a total of 288 feet, as well as the five-foot increase for mechanical equipment.

Commissioner Morisseau asked if staff considered the possibility of someone coming in and buying all of the sites and pulling together a single 50,000 square foot site, and whether a building that includes an overpass over the right-of-way could achieve 345 feet in height. Mr. King said the city has in the past been approached about options to build over the 20-foot right-of-way, and has also been approached about vacating the right-of-way. The conclusion reached was that there would be no merit to pursuing either approach. If the two sites functioned as a single combined development site, the development potential could be put into a single tower exceeding 250 feet. However, given the unique circumstance of the right-of-way and the city's commitment to retaining it would mean a development could not get enough FAR to build above 250 feet or so.

Mr. Stroh said given how unlikely it is to achieve a tower in the DT-O2 South west of 106th Avenue NE, it would be a better outcome to adopt into the code the existing height limit. He said that was the staff recommendation.

Commissioner Morisseau said it was her recollection that height in the DT-O2 South district was recommended to be 345 feet. Mr. King said the current recommendation is essentially 300 feet plus an extra 45 feet, plus up to 20 feet for mechanical equipment. The currently adopted code lists 250 feet plus up to 38 feet.

With regard to the original concept for the, Mr. Stroh said the issue of requiring ten percent of the ground floor of sites be required to be a publicly accessible open space came from trying to follow through on the promise of taller buildings resulting in more slender building forms and additional open space. He said staff holds the view that the required open space is an important element of allowing additional building height, and would recommend retaining the provision in the draft code. The provision would not affect buildings that are maxing out under the existing height allowances, but if additional height is to be used, it should be accompanied by a requirement for ten percent open space.

Chair deVadoss opened the floor to input from the Commissioners.

Commissioner Laing said he would like to see a global change within the draft document to spell out all numbers using words followed by numerals in parentheses. Code Development Manager Patricia Byers said she had no issue with taking that approach, except in the tables the approach would not be practical. Commissioner Laing agreed the tables should show only numerals.

Commissioner Laing pointed out that throughout the part 20.25A, the downtown overlay section, the area the overlay applies to is alternately referred to as "downtown," "downtown subarea,"

with the word subarea sometimes capitalized and sometimes not, and “downtown district,” sometimes capitalized and sometimes not. He recommended that in 20.25A.010, the general section, a single term should be defined and used. Commissioner Carlson concurred.

Commissioner Laing commented that throughout the code draft there are references to “this code” and “the code” with the word code being capitalized and not. There are also references to “Land Use Code” and “LUC” without it being clear whether the reference is to the entire Land Use Code or just the downtown subarea. He recommended at a minimum the term should be capitalized and it should be clear what is being referred to.

Commissioner Laing said there is in the draft no definition of “alley” in 20.25A.020. A definition is needed given that there is an entire section about alleys with addresses. In the definition section it is specifically stated that among the definitions not applicable to the downtown is the definition in the general code to alley. He recommended either using the existing definition for alley or creating a new one and expressed a preference for using the existing definition. Commissioner Hilhorst agreed. Commissioner Laing said the first definition not applicable to the downtown in subsection 20.25A.020.B should be stricken.

In that same vein, Commissioner Laing referred to the definition of project limit in 20.25A.020.A, the definitions that only apply in the downtown. He noted that a project limit is defined as a lot, portion of a lot, combination of lots, or portions of combined lots treated as a single development parcel for purposes of the Land Use Code. In reading through the downtown code, the most common word used to refer to the project limit is “site” which under the existing code is defined as a lot or group of lots associated with a certain application, building or buildings, or other development. The draft code repeatedly uses the word “site” even though the new project limit definition sounds a lot like what is also defined as site. Additionally, “lot” is defined as a single parcel of land irrespective of the method of legal description. He recommended eliminating the reference to “project limit” and use the definition for “site” as it is already used through the existing code. Commissioner Hilhorst said she would support making that change.

Commissioner Laing said the definition section defines “public realm” as streets, parks and other open spaces and the accessible parts of private buildings. He said it should instead refer to the publically accessible parts of private buildings. Additionally, all instances in which “public realm” is used throughout the code include the concept of publicly accessible, except in the definition.

Commissioner Laing said the definition for “interior property line” in the draft code refers to a property line other than the build-to line. He said it should refer to a property line other than the build-to line within a project site. There could be an aggregation of lots and therefore multiple property lines, but what the term refers to is the interior exterior line.

Commissioner Laing pointed out that the definition for “small site” refers to a lot equal or less than and should in fact say equal to or less than 40,000 square feet in area.

Commissioner Laing said the definition of “tower” refers to any building located in the downtown subarea. He suggested striking “in the downtown area” given that the definitions only apply in that area.

With regard to subsection B of 20.25A, Commissioner Laing noted that the section refers to definitions that do not apply in the downtown. However, the definition section of the Land Use

Code includes multiple subsections regarding building height. He recommended that the definitions that start out with building height should be listed in subsection B if the intent is that they do not apply in the downtown.

Commissioner Laing commented that throughout the code the word “which” is used where the word “that” should be used. Additionally, the words “should” and “must” are used where the word “shall” is correct.

Commissioner Carlson said it has always been his view that laws should be written as clearly and comprehensible as possible for the average lay person to read. Often the code says the building height is something like 300 feet, but then it allows 15 percent more through incentives and another 12 feet for mechanical equipment. Rather than saying 300 feet, the code should say 360 and include a footnote or asterisk indicating what the base height is and how that number can be increased. Commissioner Barksdale agreed and suggested that images providing graphical clarity should be included. He said he would also like to see included links or references to places outside the code where additional information can be found regarding the key concepts.

Commissioner Walter agreed, particularly with regard to including graphics to compare what was with what is coming. It would be best if on the website the images could be in 3-D. Chair deVadoss noted that members of the public had also called for visual representations.

Commissioner Laing pointed out that throughout the draft the word “will” should be replaced with “shall.”

Commissioner Barksdale recommended having periodic focus groups with the community and use the input to iteratively improve the code. With regard to the annual performance review of the amenity incentive system, he emphasized the need to use it to identify the amenities that actually get used. He said he also would like to see targets set for each amenity and language included in the code indicating that once a set percentage of a given target is reached, there should be a discussion about whether or not to continue with that amenity.

Chair deVadoss asked how that would be done. Commissioner Barksdale said underground parking has been an amenity for many years, yet the market has shifted to where it will provide underground parking whether it is incentivized or not. As the market shifts toward including other amenities, even if they are not incentivized, the amenity should be dropped from the list. Ms. Byers said if there are amenities that are simply not used at all, it would be an easy thing to remove them from the list and possibly replace them with something else. It would be far more difficult, however, to determine an upper limit and phase out an amenity by virtue of it being routinely selected. Open space as an amenity should probably be kept on the list even if every development incorporates it. Commissioner Barksdale said the weighting for the amenities all developments are using could be changed over time as the result of a performance review, and Ms. Byers agreed.

Commissioner Morisseau commented that in order to determine trends relative to the use of various amenities, the review period should be longer. Reviewing the list of amenities used every year or every other year would not paint a true picture. The review period should be at least five years long. Commissioner Barksdale said his concept of an annual review entailed looking every year at all of the permits applied for or granted and taking stock of the extent to which the various amenities were used. Commissioner Morisseau said she understood that but reiterated that it would take several years of data to show true trend lines. Ms. Byers said an annual review could be done to mark down which amenities are used, and the five- to seven-year review could

take up those annual reports and use them to identify trends. Commissioner Barksdale agreed and said setting thresholds could trigger the need for a deeper review.

Commissioner Walter said it was her understanding that the Commission had directed staff to show building height as the maximum, including the 15 percent/10 percent and the allowance for mechanical equipment. Mr. King said the amended land use charts that start on page 58 have the 15 percent/10 percent included, but the allowance for mechanical equipment is not included. If directed to do so, staff could change the maximum building height to be inclusive of the mechanical equipment.

There was consensus to show maximum building height as being inclusive of mechanical equipment. Mr. Stroh said that change could be made, but he clarified that the mechanical height is non-habitable space. It needs to be enclosed for aesthetic purposes, but it is height of a different kind. That is why it has traditionally been listed as a separate height calculation. He said in making the change staff would seek to make clear that mechanical equipment height is different. He clarified that where the maximum building height is set at 250 feet, it will be shown as 308 feet. A footnote will be included to indicate the height includes 20 feet for mechanical equipment.

Commissioner Walter pointed out that when comparing the new code with the old code it will appear as though the Commission has recommended significant height increases in all areas. It will no longer be possible to compare apples to apples when it comes to height.

Commissioner Laing allowed that he had from the start raised the issue of the build-to line. He said the problem with it is that as defined the build-to line is the back of the required sidewalk unless upon the request of the applicant it is designated otherwise by the director. There does not appear to be criteria for the director to adhere to in making a determination, and a standardless standard is not a lawful standard. The definition is in 20.25A.020 on page 27 of the packet, and the dimensional requirements in 20.25A.060.A.1 on page 53 states that buildings are built to the build-to line which is either the property line or the right-of-way line unless otherwise determined by the director. Seattle's zoning designations often include a hyphen and a "P" standing for pedestrian-oriented overlay. Under the "P" all of the streets in the city associated with the pedestrian-oriented overlay applies is listed. Bellevue's code should at a minimum list the types of streets shown in 20.25A.010.B.4 and 20.25A.010.B.5. The draft should be clear based on street type. He proposed changing the definition of the build-to line to include the specific types of streets to which the build-to line is applicable. If it is all of them, there should be some very clear language setting for on what basis the director can designate otherwise.

Land use director Liz Stead said it would fall to her to make such decisions. She explained that flexibility is needed in the code to allow developers to pull their buildings back from the sidewalk to provide space for things like outdoor cafés and outdoor plazas. A strict interpretation of the code that all buildings must be at the build-to line, accommodation for the open spaces residents have said they appreciate would not be possible. The flexibility allows for providing some relief while keeping most of the buildings at the sidewalk in support of livability. Commissioner Laing thanked Ms. Stead for her explanation but pointed out that there is nothing said about if, when and how such flexibility decisions are to be made. Absent criteria to follow, the director is left to make decisions for personal reasons.

Commissioner Hilhorst agreed that if flexibility is to be allowed, there should be criteria governing it. Commissioner Walter added that if positions were to change in between a project that spans two different directors could wind up with a huge financial burden based on what was

on someone's mind that was not written down versus what someone else may decide.

Ms. Stead said further information about when deviating from the build-to line would be appropriate could be added to the design guidelines.

Commissioner Laing suggested language along the lines of "buildings are built to the build-to line, which is either the property line or the right-of-way line, except where a plaza, building modulation or other ground-level open space is proposed." That would put it on the developer to design it in.

Chair deVadoss commented that where the builder is given the flexibility to pull back from the build-to line, their building would have a smaller footprint and the site would have more open space. He asked why they should be restricted from being allowed to do that. Commissioner Laing suggested the concern of the city is that a regular pulling back of buildings from the build-to line to accommodate landscaping or something else could have the effect of creating a separation and obviating the pedestrian connection with what is going on inside the buildings. Retreating from the build-to line should be allowed but for specific reasons.

There was agreement to include Commissioner Laing's suggested language.

Commissioner Laing thanked staff for respectfully disagreeing with the Commission about the ten percent open space issue. He suggested flagging the fact that the outdoor plaza space was listed in paragraph B of 20.25A.030. Going forward with the Commission's recommendation, subsection B.1.a.v would need to be stricken.

With regard to 20.25A.030, Commissioner Laing noted the section talks about the applicable review. All of 20.25A.030 talks about design review but confusingly it says the director shall not approve the design review unless the master development plan is amended to include certain elements. It should refer to the design review permit. Developers don't receive design review, rather they must go through design review. The effective approval section, 20.25A.030.A.1, should also refer to a design review permit rather than design review, and should be revised to read "Approval of the design review permit, the master development plan and/or any development agreement where required shall constitute the terms and conditions governing the development."

With regard to the departures in 20.25A.D.1, Commissioner Laing reiterated the importance of the lower case code issue in paragraph (b), the decision criteria. He referred to (b)(v) and suggested revising it to read "...allowed through a development agreement approved pursuant to...."

Commissioner Laing pointed out that 20.25A.030.D.2, which used to be titled legislative departures but which has been changed to City Council departures, and which could simply be called Council departures, the word "legislative" continues to appear in the text on the top of page 35 in the packet. He suggested the word should be deleted but said he was most concerned about "process to foster adaptive reuse of buildings that existed as of adoption date of this code..." and the same provision below. He said it amounts to spot zoning and seems to indicate the City Council can enter into a development agreement with a single property owner and allow a prohibited use in their building for adaptive reuse. The language is not consistent with RCW 36.70B.180, the state enabling legislation for development agreements which require development agreements to be consistent with adopted development regulations. He said "...process to foster adaptive reuse of buildings that existed as of adoption date of this code..."

should be stricken along with subsection (a)(i). There was general agreement to make the change.

Commissioner Hilhorst drew attention to the issue of tower spacing and said it was her understanding the Commission had previously landed on 60 feet instead of 80 feet. She proposed creating an amenity for 80-foot tower spacing to encourage developers. Mr. King said that is a recommendation that could be included in the transmittal memo.

Commissioner Hilhorst said her intent in recommending removal of the ten percent open space requirement was tied to creating a park impact fee instead. By pooling the fees, a more cohesive and planned park amenity could be created for downtown residents. Mr. Stroh said open space is very important in dense urban environments and is clearly important to livability. There are instances of dense urban development where open space has not a consideration and the resulting environment is not as livable. In the case of the downtown, there is a combination of things needed to achieve the desired level of open space. One way is through park capital investment on the part of the city, and a park impact fee would be one engine driving such investments. It is not known, however, if a park impact fee is something the Council will ultimately look favorably on, and it would take quite a while to set it up. The thinking is that at least for buildings that are going to take advantage of additional height, there should be an offset in terms of the impact resulting from the additional height. The ten percent open space tied to allowing additional height would capture that. The Commission could in the transmittal to the Council outline its commitment to achieving open space in the downtown and suggest that adoption of a park impact fee would be a better mechanism for meeting the ten percent open space. Adoption of a park impact fee could be coupled with eliminating the ten percent open space requirement, but until then the opportunity to achieve open space in exchange for height should not be lost.

Commissioner Hilhorst pointed out the need for the Commission to reach a conclusion with regard to reducing floorplate size above a certain height as a way of ensuring taller and skinnier buildings.

Commissioner Walter agreed. She commented that in the DT-O1 district, the draft code will yield skinnier residential buildings but not non-residential buildings. For non-residential, the floorplates remain the same size all the way up both under the current code and the proposed code. Residential floorplates reduce from 24,000 square feet to 22,000 square feet above 40 feet, and to 13,500 above 80 feet. Mr. King said residential floorplates will always be smaller under both the current code and the proposed code. A developer in the DT-O1 district wanting to exceed 345 feet must reduce floorplate size by ten percent based on a 24,000 square foot floorplate. Commissioner Walter pointed out that a reduction of ten percent from 24,000 square feet is much less than the reduction for residential floorplates that drop from 22,000 square feet to 13,500 square feet. She said the issue is very complex and having a drawing would be very helpful. She also noted that the definition section includes nothing about the trigger for additional height.

Commissioner Morisseau pointed out that the Wallace letter sought an increase in floorplate size in some areas. She asked how the 30,000 square foot floorplates in the DT-OLB work with the 25 percent increase allowed between 80 feet and 150 feet, and what the new maximum floorplate size is. Mr. King called attention to page 59 of the packet and said the direction given previously by the Commission was to incorporate the changes outlined in the May 10 Wallace Properties letter, as well as the May 10 PMF Investments letter. Changes were made to the draft code relative to the non-residential or office floorplate in the DT-OLB South district. The maximum floorplate above 80 feet is 20,000 square feet, and footnote 16 allows a 25 percent increase

between 80 feet and 150 feet. The required ten percent reduction in floorplate size would occur above 150 feet. The maximum floorplate size between 40 feet and 80 feet is 30,000 square feet.

Commissioner Hilhorst referred to the DT-O2 building heights and asked if the Commission needs to approve the recommendation of staff as it was presented. Mr. King said if the Commission wants to incorporate the staff recommendation, it should either be accepted or kept as it is in the current draft.

A motion to accept the recommendation of staff relative to building heights in the DT-O2 district was made by Commissioner Hilhorst. The motion was seconded by Commissioner Laing and the motion carried unanimously.

With regard to the ten percent floorplate reduction issue, Commissioner Hilhorst said she was not ready to lock in that specific percentage. She said she would prefer to leave the issue open in the transmittal to the Council.

Chair deVadoss noted that the Parks and Community Services Board addressed the Commission on several occasions and he said he did not believe the Commission addressed their concerns around the metrics for parks and open space. He said he would rather push for a stronger case toward meeting the metrics outlined by the Parks and Community Services Board. Commissioner Morisseau agreed the transmittal memo should include a bullet point addressing the issue.

Commissioner Walter applauded the input from the Parks and Community Services Board regarding parks and open space. She proposed including the ten percent open space in the code as outlined by staff, and including in the transmittal a strongly worded recommendation to institute a park impact fee.

Commissioner Barksdale argued that open spaces provided should be more accessible by the public. The public should not have to walk far to access non-concrete open space areas in the downtown.

Commissioner Laing spoke in favor of setting the new base height or trigger height at 90 percent of the new maximum height as recommended by the BDA. He said that will level the playing field for all districts in the downtown.

A motion to maintain the requirement for ten percent open space until such time as a park impact fee is adopted was made by Commissioner Walter. The motion was seconded by Commissioner Morisseau.

Commissioner Morisseau was agreed with Commissioner Walter about the 10 percent park and open space threshold and in agreement with Commissioner Walter about park impact fees but she did not necessarily agree that the motion should address both issues together.

Commissioner Walter said funds collected through a park impact fee, once adopted, could only be used for parks. Bellevue needs parks in the downtown, especially as more people chose to live in the downtown.

Commissioner Morisseau agreed that the issue of instituting a park impact fee should be addressed, but not in code language. She also pointed out that it has not yet been determined if open space can be termed park space.

Commissioner Barksdale said even if a park impact fee is ultimately adopted, the ten percent open space requirement should not be done away with.

Commissioner Hilhorst said her concern with going forward with the ten percent open space requirement and a request for the Council to consider a park impact fee was that the park impact fee could end up being layered on top of the ten percent open space. She said she would prefer to have a single approach for achieving park space in the downtown.

Commissioner Walter said the park impact fee could possibly be used to create open space and prioritized to creating parks in the northern and southern parts of the downtown first.

Commissioner Barksdale pointed out that as development in the downtown continues, there will be less and less land available for park facilities. The ten percent open space requirement allows for the establishing of open space on private land. Mr. Stroh agreed and said the approach is aimed at assuring there will be publicly accessible open space at the ground level of buildings that are allowed to be taller. In terms of having adequate space for parks elsewhere, land would have to be publically acquired. There are some areas identified in the subarea plan for new parks in the downtown, and they are on larger pieces of land. There are some deficits that hopefully can be addressed in a coordinated fashion in time. The staff stressed that publicly accessible open spaces are not in fact public parks, but they do offer a significant amenity value. They must be designed to be attractive places and people will want to use, but they are not actually parks.

Commissioner Carlson said the interpretation he drew from the presentation made by the Parks and Community Services Board was that open spaces are less than parks. Plazas where people can go to relax and enjoy the outdoors, even if they are privately owned, are de facto parks and are good things to have. He stressed the need to keep an eye on the big picture.

Commissioner Laing said the impact of the trigger height associated with the ten percent rule varies significantly depending on where a property is located. He noted that the maximum height in the DT-OLB Central district is 403 feet, and the trigger height for non-residential is 90 feet. For the same height in the DT-MU Civic Center, the trigger height is at 115 feet. This equates to about an additional 2.0 of FAR before triggering the open space requirement. With regard to residential buildings, in the DT-MU, where the building height is 400 feet, the trigger height is 230 feet, and in the DT-OLB the trigger height is 105 feet. The unanimous recommendation of the CAC was to extend the DT-MU zoning to the DT-OLB. As proposed, the new DT-OLB zoning has many of the characteristics in terms of height and other things, but there is a vast disparity. For the exact same building on opposite sides of the street but in different zones, the ten percent open space would kick in for residential projects at 125 feet lower. Similar issues arise in comparing DT-OLB South with the DT-MU. In regard to the DT-MU, the building will not even meet the definition of a tower as outlined in the proposed code. The 90 percent rule proposed by the BDA is simple and fair across all zones, but at a minimum the trigger heights should be equalized for the DT-OLB zones.

As a friendly amendment, Commissioner Laing said the DT-OLB Central non-residential trigger height should be 115 feet, and the residential should be 230 feet; and in the DT-OLB South the trigger height for non-residential should be 115 feet and 230 feet for residential. Commissioner Walter said she would accept the friendly amendment.

With regard to the motion on the floor relative to having both the ten percent rule and a park impact fee, Commissioner Laing pointed out that under state law a developer cannot be required

to mitigate the same impact twice.

Commissioner Carlson urged Commissioner Walter to withdraw her motion in favor of introducing a motion that incorporates what Commissioner Laing proposed.

Commissioner Walter withdrew her motion and Commissioner Morisseau withdrew her second to the motion.

A motion to reintroduce the ten percent open space requirement per the recommendation of the staff for the trigger heights, and to amend the DT-OLB Central and DT-OLB South trigger heights so that the non-residential trigger height for each is 115 feet and the residential trigger height for each is 230 feet, was made by Commissioner Laing. The motion was seconded by Commissioner Walter and the motion carried unanimously.

With regard to the floorplate reduction requirement above the trigger height, Mr. Stroh noted that as drafted the requirement is for a ten percent reduction.

Commissioner Laing said he had spent a lot of time talking to downtown stakeholders who very much want the additional height and very much want the flexibility needed to design a building. They have assured him that taller, slender buildings will be built. He said he had not heard anything that makes him believe that will in fact happen, and there is nothing in the code as drafted that actually requires that outcome. He said he wanted the record to reflect that he did not support any of the additional height increases in the downtown, with the exception of the modest increase that was proposed for the perimeter district and what has been proposed for the DT-OLB, two areas that were thoroughly discussed at the CAC level and which were unanimously recommended by that group. The CAC punted the issue of additional heights in other portions of the downtown. As drafted, there is nothing prescriptive that requires a developer going from 400 feet to 600 feet to make the building more slender. He said while he is generally supportive of the carrot over the stick, but when it comes to taller more slender buildings, the stick approach might be the better approach.

Commissioner Walter suggested that any floorplate reduction of less than 20 percent would be imperceptible. She recommended 25 percent as a starting point for discussion. Commissioner Hilhorst said that seemed fair to her.

Mr. King remarked that the market generally wants to deliver floorplates of 24,000 square feet for office. A ten percent reduction would take that down to 21,600 square feet. A 25 percent reduction would take it down to 18,000 square feet above the trigger height. The point of the floorplate reduction is to result in more slender buildings, but the market dynamics need to be taken into account.

Commissioner Laing said the conversations at the CAC level included the notion of increasing building height as a way of achieving an iconic skyline. There was a concern voiced about not wanting everything to look like a well-manicured lawn with everything the same. There is nothing in the draft code that requires any developer to do that. As a practical matter, allowing more height without additional FAR will mean floorplates will have to be reduced. A 25 percent reduction would result in a meaningful and noticeably reduced façade length. Several stakeholders, however, have stated that in reality no one will ever build an office building to the maximum height because they will run out of FAR well short of that mark. It will be residential buildings that will seek to go higher, and their floorplates are smaller anyway. Reducing residential below 13,000 square feet may not even be viable. A ten percent floorplate reduction

will not stop anyone from developing a building, but it potentially will not result in a form the Commission has talked about.

Commissioner Walter said if that is the case, there is no reason to allow buildings up to 600 feet in the downtown core. Commissioner Laing said there conceivably could be a site in the DT-O1 that is large enough to accommodate a single tower up to 600 feet, with all floorplates up to 345 feet at the full 24,000 square feet and all subsequent floors reduced to 21,600 square feet. In that scenario, however, the single tower would have a massive amount of space around it.

Commissioner Hilhorst asked if the Commission could offer a recommendation for the Council to review a floorplate reduction of between 10 and 25 percent above the trigger height and allow them to have the thorough discussion. Mr. King asked if the focus would be only on the downtown core or in all of the zones, and if the floorplate reduction of more than ten percent would apply only to office buildings. Commissioner Hilhorst allowed that the focus had been on just the downtown core.

Mr. Stroh said the way to translate the approach into the code would be to say where there is height above the trigger height, the recommendation would be to include a range of between 10 and 25 percent for non-residential buildings, then in the transmittal memo explain the thinking behind the recommendation and what the intent is. He said he would have the same apply across the downtown. On the residential side, there would be no floorplate reduction given the smaller floorplates.

Commissioner Laing said it would require a site about nine acres in size in order to get to 288 feet in the DT-O2 zone, and an additional nine acres in order to get to the 460 feet with full-sized floorplates.

A motion giving direction for non-residential buildings to include above the trigger height a floorplate reduction ranging from 10 to 25 percent across the downtown districts, and a ten percent reduction for residential buildings above the trigger height, was made by Commissioner Walter. The motion was seconded by Commissioner Laing and the motion carried unanimously.

With regard to the issue of setting the base building height at 90 percent of the new maximum building height for each district, Commissioner Morisseau said she would be uncomfortable doing so given that the Commission had not thoroughly discussed it. Mr. Stroh said the original staff recommendation took into account the need to have enough height to use the base FAR. It recognized the fact that increasing the base FAR triggers the need for additional height to use it. In the original proposal where the FAR was being increased, the new base heights were set at what are currently the maximum heights. For example, in the DT-O1 district, the base height in the current code is 450 feet. The current code provides for a substantial increase across the board in the base heights. The notion of setting the base height at 90 percent of the new maximum heights applies more broadly than the FAR because as has been pointed out there are only a few areas in the downtown where additional FAR is being added. There are, however, numerous districts in the downtown where additional height is provided under the draft code. In the DT-O1, for instance, no FAR is added, but the height increases from 450 feet to 600 feet. The eighth Council principle for downtown incentive zoning calls for ensuring participation in the updated incentive system in order to achieve any increases in the currently permitted maximum densities and/or heights. The idea is that with additional height there will be opportunities for more slender buildings, additional open space, and some charging for the amenity system to offset some of the impacts of additional height. If the 90 percent rule were adopted, in the DT-O1 district, the base height would become 540 feet. That would mean an increase from 450 feet to 540 feet without

any participation in the incentive system. Some developers might decide that 540 feet is high enough and they would not have to participate in the incentive system at all. As previously directed by the Commission, the base FAR is set at 90 percent of the new maximum FAR. Because the FAR will not change in most districts, with the old maximum heights becoming the new base heights, the old maximum FARs can be achieved. It is possible that with the new higher bases, additional height will be needed, but that analysis has not been done.

Commissioner Laing said his biggest concern lies with the DT-OLB and the vast disparity with the base building height, which is the same issue associated with the trigger height.

A motion to make the base height and trigger height for both residential and non-residential in the DT-OLB Central and DT-OLB South districts the same as the trigger height for the additional height in those zones was made by Commissioner Laing. The motion was seconded by Commissioner Carlson.

Commissioner Laing noted for the record that the trigger height for non-residential is 115 feet, and for residential it is 230 feet.

The motion carried unanimously.

Commissioner Morisseau said she would like to see the Commission add to its recommendation to the Council the legal ramifications of the amenity incentives. She noted that the staff on several occasions promised a presentation to the Commission but were not allocated the time to follow through.

Commissioner Laing noted that a written communication had been received from PMF Investments regarding parking structures in the DT-OLB. He said it was his understanding that the PMF Investments representatives and staff met and came to an agreement but said he was not sure that agreement had made its way into the draft code. Mr. King said it would be proper for the Commission to move inclusion of the agreement.

A motion to include in the draft code the recommendation outlined in the May 24, 2017, PMF Investments letter delivered to the Commission by Ian Morrison was made by Commissioner Laing. The motion was seconded by Commissioner Morisseau and the motion carried unanimously.

Commissioner Laing called attention to veterinarian hospitals and clinics in the use tables on page 52 and suggested “hospital” should be changed to read “animal hospital.” He noted that the use table regarding culture, entertainment and recreation has a category for boarding and commercial kennels. The associated footnote 6 explains that boarding and commercial kennels are allowed as subordinate uses to veterinary clinics and hospitals, which should also read “animal hospitals.” There is also a provision in the code that allows for boarding or commercial kennels on page 46 in footnote 9, which refers back to the table on page 44, which refers to boarding and commercial kennels being permitted as subordinate uses to pet grooming or pet daycare. He suggested that footnote 6 should also refer to pet grooming or pet daycares.

There was agreement to make that change.

Commissioner Laing called attention to the limitations on modification in part 20.25A.D.2 on page 36. He noted that in paragraph (c)(ii) it states that development agreements may not be used to depart from the FAR bonus values, and suggested that it should say “shall not be used.” He

further noted that in paragraph (c)(iii) the phrase “are not appropriate” should read “shall not be used.” The changes are needed to avoid having developers make an end run around staff to get four Councilmembers to vote for something that they could not get the staff to approve. Additionally, in paragraph (c)(iv) “shall not be used” should replace “may not be used” for much the same reason.

There was agreement to make the changes.

Commissioner Walter called attention to section 25.25A.C. page 86 regarding shared parking and suggested the language of paragraph (C)(3)(b)(i) should refer to an independent parking analysis performed by a professional traffic engineer. She also proposed eliminating paragraph (c)(iii) entirely. The analysis must be focused on the specific site in the specific location.

There was agreement to make the changes.

Chair deVadoss commented that the Parks and Community Services Board serves the Council, and the Council is able to get their feedback directly and to make sure the Board is in agreement. Additionally, he said he has on multiple occasions reached out to the Transportation Commission for feedback but has not met with success. He said he would like that group to provide input regarding traffic directly to the Council.

Mr. Stroh said that is certainly something that could be included in the transmittal memo. He said the transmittal memo will also capture the Commission’s comments regarding establishing a parks impact fee; the floorplate reduction range of 10 to 25 percent; ensuring the incentive zoning system is on solid legal ground; the 1.0 FAR affordable housing exemption with the use of the multifamily tax exemption; the need for a comprehensive downtown parking study; and the need for a fund accounting system for collected fees-in-lieu;

Commissioner Walter pointed out the need to including a timeline on the use of fees in-lieu so that they cannot be collected and allowed to build up indefinitely. She noted that in some jurisdictions, fees not used within a set period of time are refunded. Mr. Stroh said he could include mention of that in the transmittal memo.

REVIEW OF MINUTES (10:18 p.m.)

A. April 19, 2017

Commissioner Walter noted that in the last paragraph on the first page “Steward Heath” should read “Stewart Heath.”

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

B. April 26, 2017

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

C. May 10, 2017

There was agreement to defer approval of the minutes until the next Commission meeting.

PUBLIC COMMENT

(10:20 p.m.)

Mr. Jack McCullough, 701 5th Avenue, Suite 6600, Seattle, provided the Commissioners with written copies of information regarding the Bellevue Technology Center Comprehensive Plan amendment. He said the site was the subject of a Comprehensive Plan amendment three years ago in which the focus was on setting up a process. The amendment was ultimately withdrawn on the encouragement to go forward with a rezone. Two and a half years were spent working on a rezone with the staff to the tune of hundreds of thousands of dollars. During last winter issues arose regarding traffic modeling and the suggestion was made that the better course of action would be to seek a Comprehensive Plan amendment. The intent is to get in front of the City Council with information regarding the issues and to have the Council make a decision. If the Commission passes the proposed amendment through the first round, which will not equate to an endorsement, there will be key issues to be evaluated, including public benefit, additional traffic analysis specific to the site, and looking at phasing development keyed to traffic improvements. One approach would be to pass the amendment through to the next round but add special conditions to it to make it clear certain information needs to be carried forward to the Council.

Mr. Eric Sinn with the Parks and Community Services Board reaffirmed the commitment of the Board to work in partnership with the Commission. He noted that the Board is actively working with the Department of Parks and Community Services to developing a definition of open space. He also noted that a suggested definition of plaza had been submitted. The Commissioners were thanked for discussing the issue of a park impact fee and recognizing the value of having park facilities. There was a definitive example of the financial benefit of parks highlighted in the *Bellevue Reporter* when the Spark apartments in the Spring District were opened. In the article, reference was made to the fact that REI made the decision to locate its headquarters there was made on Bellevue's commitment to green space. The Commission was asked to recognize that parks create value.

ADJOURN

(10:26 p.m.)

A motion to adjourn was made by Commissioner Carlson. The motion was seconded by Commissioner Laing and the motion carried unanimously.

Chair deVadoss adjourned the meeting at 10:26 p.m.