

CITY OF BELLEVUE
CITY COUNCIL

Summary Minutes of Study Session

July 16, 2012
6:00 p.m.

Council Conference Room
Bellevue, Washington

PRESENT: Mayor Lee, Deputy Mayor Robertson, and Councilmembers Balducci¹,
Chelminiak, Davidson, Stokes, and Wallace

ABSENT: None.

1. Executive Session

Deputy Mayor Robertson called the meeting to order at 6:03 p.m., and declared recess to Executive Session for approximately 35 minutes to discuss three matters of potential litigation.

The meeting resumed at 6:41 p.m., with Mayor Lee presiding.

2. Study Session

(a) Bel-Red Plan and Reuse of Existing Buildings and Sites

City Manager Steve Sarkozy said the Council requested an update on the Bel-Red Plan and how it affects the reuse of existing buildings and sites.

Dan Stroh, Planning Director, recalled that the new Bel-Red zoning, adopted in May 2009, positions the area to be one of the major growth centers in the region. However, given the slowed economy in recent years, the focus of tonight's discussion is to determine whether there is sufficient flexibility to allow the reuse and/or change in tenants of existing buildings and sites during the transition period.

The Bel-Red Steering Committee worked to find the right balance between existing uses and preparing the way for the area's future in its review of the Bel-Red Plan. The Committee recommended that existing uses be allowed to continue and to expand. However, in transit-oriented development nodes and residential areas, it would be appropriate to place limits on the establishment of certain new uses. This approach was carried forward into the Bel-Red plan adopted in 2009.

¹ Councilmember Balducci arrived to the Executive Session at 6:05 p.m.

Mike Brennan, Director of Development Services, noted a summary of Bel-Red area permits issued from 2009-2012 beginning on page SS 2-9 of the meeting packet. Most of the permits represent development investments in existing buildings and sites that are broadly distributed throughout the Bel-Red corridor. Mr. Brennan said that vacancy rates are lower in the Bel-Red area than citywide in retail, office, and industrial development.

Mr. Stroh presented staff's suggested next steps. He noted that light rail will eventually travel through the Bel-Red corridor. While current leasing activity is healthy, if additional flexibility for development is desired, two potential Land Use Code refinements are to: 1) Extend the period for the continuation of existing but inactive uses; and, 2) Extend the timeframe for exempting certain interior improvements to existing uses from triggering proportional compliance (i.e., landscaping and other code requirements). The three-year exemption period established in 2009 expired at the end of June 2012. Mr. Stroh said these issues could be explored in a future separate study session or rolled into the Land Use Code discussion scheduled for later in the month.

Mayor Lee observed that there is no urgency to addressing the issue.

Councilmember Stokes concurred, noting that the Council has a number of more immediate issues and projects in its work plan. He said things appear to be going well in the Bel-Red area for now.

Councilmember Wallace questioned the definition of a new tenant for the same use. Mr. Brennan said the Land Use Code provides tables of defined uses. If a use is no longer allowed under the Bel-Red Plan rezone, a new tenant of the same use would be allowed if the vacancy had been less than 12 months.

Councilmember Wallace said he would be interested in outreach to property and business owners in the Bel-Red area to gather their feedback on how things are going.

Dr. Davidson observed that the map of Bel-Red development reflects dollars invested. However, there are many properties and parcels that have not experienced reinvestments. He would like to take another look at the concepts developed in 2009. He would be more inclined to consider extending them before establishing new incentives or provisions.

Deputy Mayor Robertson agreed with reviewing the relevant policies in the 2009 Bel-Red Plan. Responding to Ms. Robertson, Mr. Stroh said the land use work plan has a general notation about addressing additional flexibility for Bel-Red land use.

Ms. Robertson said she was on the Planning Commission when the Bel-Red Plan was being updated. She was concerned at the time that the non-conforming use rules were too rigid, and she wanted to be sure that existing businesses could continue to operate as redevelopment occurs. She observed that nearly all of the permit activity since 2009 relates to tenant improvements and not new development.

Ms. Robertson said the objective of the Bel-Red Plan is for development to take advantage of incentives that will make the area a great place to live. She questioned whether, in the current economic market, the lease rates that could be generated justify the cost of development under the City's aggressive incentive system in the Bel-Red corridor.

Deputy Mayor Robertson requested information providing projections about when redevelopment and the implementation of the Bel-Red plan can be expected. She said that higher property values projected with the rezoning have not materialized.

Ms. Robertson said that, for next week's discussion, she would like to know the cost of proportional compliance. She would like to discuss whether this provides a disincentive for redevelopment. She supports Councilmember Wallace's suggestion for outreach to property owners.

Mayor Lee thanked staff for the presentation. He appreciates Councilmember Wallace's perspective that property owners and businesses might identify additional issues for consideration. He questioned whether staff will be able to provide requested information by the following week's meeting. Mr. Lee cautioned against meddling too much or making any changes too quickly.

Councilmember Stokes reiterated that he does not see an urgent problem to address. However, he does not want there to be disincentives to redevelopment.

Councilmember Chelminiak concurred with Mayor Lee's comment about not tinkering with the Land Use Code at this time. He noted that a major development project is planned for the Bel-Red area, pending a State Environmental Policy Act (SEPA) appeal. He is encouraged by the re-tenanting in the corridor. He suggested that it would be appropriate to consider extending the time period for the continuation of existing uses.

Mr. Chelminiak would like the City to ask property owners whether there is a use that has been eliminated due to rezoning that the site would not be able to continue because 12 months of vacancy have elapsed. He is open to reviewing proportional compliance. However, he noted that the approach provides a way for infrastructure to be built.

Mr. Chelminiak recalled that the Bel-Red Steering Committee thoroughly discussed these issues. The resulting plan continues to allow a number of uses. However two nodes were identified for significant rezoning. He believes there is not a reason at this time to make wholesale changes. He would favor short-term (i.e., six month) extensions of the two policies presented earlier in the discussion.

Councilmember Balducci concurred that these issues were very seriously considered at the time that the Bel-Red Plan was established, and many of the concepts in the Plan grew out of input from property and business owners. She agrees with Councilmembers' suggestions to not do anything too quickly or to make this a high priority relative to other land use issues.

Mr. Brennan stated his understanding that the Council does not see an immediate need to make changes to the Bel-Red Plan. However, the issues are worth exploring with current property and business owners.

Mayor Lee endorsed continuing to involve stakeholders in monitoring the implementation of the Bel-Red Plan. He noted that the Bel-Red Plan includes significant elements for a sustainable community in terms of transportation, housing, and the environment. He believes that the City's role is to encourage and facilitate development to the extent that it can.

- (b) Consideration of Land Use Code Amendments necessary to accommodate Light Rail Transit Facilities in Bellevue and to allow for a Consolidated Permit Process

City Manager Sarkozy opened discussion regarding the consideration of Land Use Code Amendments related to light rail transit facilities outlined in the East Link Memorandum of Understanding (MOU) with Sound Transit. A number of issues need to be addressed as light rail transit was not contemplated in the development of the City Code.

Mr. Brennan said the purpose of tonight's discussion is to introduce the topic for study and consideration. The MOU reflects a commitment to provide certainty and predictability with regard to the applicable codes and permit process. This involves creating a comprehensive and consolidated permit process leading to a Development Agreement that accommodates light rail facilities as a permitted use. Mr. Brennan noted the intent to create an administrative process to address the impracticable or infeasible issues that surface as design continues and new issues emerge.

Mr. Brennan said the City is obligated to complete this work by the end of the year because the MOU allows Sound Transit to opt out of the agreement if the City does not meet this obligation. This work is part of the ongoing collaborative design process outlined in the MOU.

Land Use Director Carol Helland said that she co-chairs the Code Amendment Process Technical Working Group (CAP TWG) with a Sound Transit staff member. She described staff's work to prepare for code amendment processing. Code development involves outreach and compliance with the State Environmental Policy Act (SEPA), and the City Council will hold a Public Hearing as part of the process.

Ms. Helland said the work to date has focused on identifying gaps and process inconsistencies in the Land Use Code. The light rail project travels through 20 land use districts and variable geographic conditions including urban development, critical areas, right-of-way, and private property.

Ms. Helland described the suggested overlay approach that would apply to the length of the light rail alignment. This approach has been used for the Downtown Design District and for critical areas. She noted that the overlay approach is efficient for drafting the code and provides all of the regulations within one code section.

Ms. Helland reviewed the proposed work schedule. Staff anticipates returning to the Council in mid-September to discuss the list of code conflicts and potential code amendment ideas that will define the scope of the overlay. Staff will complete the required noticing in late September, and the draft LUCA will be prepared for the Council's review in October.

Deputy Mayor Robertson stated for the record how she expects the process to work. She said it is important to not use the process to weaken existing codes, reduce the Council's standards, or reduce mitigation requirements. She believes the process should put standards in place where none exist in order to implement the Comprehensive Plan requirements for light rail, as reflected in the Light Rail Best Practices Report. She wants to make sure the process is open and transparent. Ms. Robertson said the public will have opportunities to provide feedback on the work. Staff will provide the Council with an analysis of the code impacts and a full understanding of the effects of the overlay. She wants to understand how Bellevue's standards will remain in place.

Ms. Robertson questioned whether recommendations on the overlay will come directly from City staff or as a joint recommendation from Sound Transit staff as well. Mr. Brennan said the purpose of the collaborative design process is to work closely together to ensure that all interests are understood. He said the process will be similar to the experience of identifying options for Segment B and for the Downtown tunnel. Mr. Brennan said the final overlay will be adopted through a legislative decision of the City Council. Deputy Mayor Robertson said she wants to hear the recommendations of City staff and of the joint staff committee.

Mayor Lee concurred with the importance of hearing both sets of recommendations.

Mr. Brennan reiterated that there is not always agreement in the collaborative design process, but the MOU process is in place to work out differences as much as possible. Staff's goal is to find solutions that work well for Bellevue and that can facilitate implementation of the light rail project for Sound Transit. The process will require a great deal of work going forward, and differences will be addressed throughout the process.

Mayor Lee clarified that staff will recommend what it considers to be the best technical solution. However, the Council will determine the best solution for the community. Mr. Lee said he wants to hear unfiltered information based on the technical expertise of staff.

Dr. Davidson observed that both staffs are ignoring the appeal of the Record of Decision, which he has with him tonight. He believes this is unwise. He requested a staff report on the appeal, which he believes should be incorporated into the City's discussions and analysis.

Councilmember Chelminiak stated that the City, Sound Transit, and residents all want consistency, certainty, and clarity. He said the project goes through a number of residential neighborhoods, including the Downtown and the Bel-Red corridor. The resulting code overlay should be consistent with the City's best practices work, which helped guide the Comprehensive

Plan. The goal should be to build a light rail system that everyone is proud of and that works for the vast majority of local citizens and the region.

Mr. Chelminiak observed that amending the Land Use Code is a legislative process, which is significantly different in terms of clarity and transparency than the work related to finding alignment alternatives with cost savings. He believes it would be difficult to say that the process is clear and transparent if there are only three Councilmembers and three members of the Sound Transit Board involved in negotiations regarding land use. He believes that this process should be open to the public, and that the best approach is for the staff of both agencies to develop a plan. Mr. Chelminiak wants to know where City staff differ from Sound Transit staff.

Councilmember Stokes said that, in general, he agrees with Deputy Mayor Robertson and Councilmember Chelminiak. He believes the collaborative design process has merit. However, he does not see a distinction between the previous cost savings collaborative design process and the pending land use amendment process. He agrees that the process should be as open as possible.

Mr. Stokes cautioned against introducing into the discussion the issue of a complaint/lawsuit that has barely gotten off the ground in terms of a determination of its substantive value. He said he respectfully disagrees with Dr. Davidson on that issue.

Councilmember Balducci thanked staff for presenting the proposed course of action. She agreed with the Mayor and Deputy Mayor that citizens will want to be assured that the City is not lowering its standards for the light rail project in a way that it would not for other projects. She suggested it might be helpful going forward if staff could compare standards that might apply in other situations to proposed standards for the light rail project, including those identified in the Light Rail Best Practices Report. As recommendations are presented by staff, Ms. Balducci said it would be helpful for staff to share the history of the discussions to enhance transparency in the process.

Councilmember Wallace expressed support for the overlay approach, but noted that he is concerned with the schedule to complete the work this year. He noted that the decisions on the cost savings alternatives identified for further study were not as complete as he would have liked. He is not going to consider changes in the City Code without a full understanding of the implications of the changes.

Mr. Wallace said it is important to maintain that the City's Noise Ordinance applies to light rail. It is important that the City continue to insist on strict mitigation. Portions of the East Link project border residential areas. He believes that relying on the experience of Seattle's light rail alignment, past Husky Stadium for example, is not valid or relevant.

Mr. Wallace said the holiday shopping season is an important issue for Bellevue. The Construction Code calls for reduced construction activity during the holiday shopping season, and it is critically important to address this issue with regard to the East Link project. Mr. Wallace would like an expanded discussion of cost savings and mitigation.

Mayor Lee concurred with Councilmember Wallace's concern about the timeline for completing this work by the end of the year.

Mr. Wallace noted that the Council will be reviewing and establishing the City's budget throughout the rest of the year as well.

Mr. Brennan said staff and Council will have a better understanding of the scope of work by the September discussion.

Mayor Lee wants to ensure that the Land Use Code amendment/overlay work is not rushed and does not compromise mitigation objectives.

Councilmember Stokes believes it is important to try to maintain the timeline, acknowledging that it represents a great deal of work.

At 8:06 p.m., Mayor Lee declared recess to the Regular Session.

Myrna L. Basich, MMC
City Clerk

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