CITY OF BELLEVUE
BELLEVUE PLANNING COMMISSION
STUDY SESSION MINUTES

February 8, 2017
6:30 p.m.

Bellevue City Hall
City Council Conference Room 1E-113

COMMISSIONERS PRESENT:	Chair deVadoss, Commissioners Carlson, Hilhorst, Laing, Morisseau, Walter
COMMISSIONERS ABSENT:	Commissioner Barksdale
STAFF PRESENT:	Terry Cullen, Emil King, Department of Planning and Community Development; Carol Helland, Department of Development Services
COUNCIL LIAISON:	Mayor Stokes
GUEST SPEAKERS:	None
RECORDING SECRETARY:	Gerry Lindsay

CALL TO ORDER
(6:36 p.m.)

The meeting was called to order at 6:36 p.m. by Chair deVadoss who presided.

ROLL CALL
(6:36 p.m.)

Upon the call of the roll, all Commissioners were present with the exception of Commissioner Laing, who arrived at 6:37 p.m., and Commissioner Barksdale, who was excused.

APPROVAL OF AGENDA
(6:37 p.m.)

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

COMMUNICATIONS FROM CITY COUNCIL, COMMUNITY COUNCILS, BOARDS AND COMMISSIONS
(6:37 p.m.)

Mayor Stokes said he was very glad to see the Commission reviewing the work accomplished at the annual retreat. Planning is a skill that tends to move along at a certain pace, which is good when it comes to being thorough. There is a need, however, to keep moving things forward and getting things done in a timely fashion. All of the city's boards and commissions do important work, but the work of the Planning Commission is the bedrock in terms of fitting everything together. The materials and framework that flowed from the retreat will be very helpful in moving forward. The city is not what it was five years ago or even two years ago, and the Commission needs to keep that in mind in seeking to determine how the city can be better in the

future. Bellevue is seeing international as well as local business investment, and it must all be balanced with investments made by the citizens and the neighborhoods. There is a clear need to begin reviewing and revising the neighborhood subarea plans, but the work should not take a decade.

Commissioner Walter said she attended the rooming house hearing as it related to an Airbnb operating two blocks from her house. The amount of background work done by the attorney was impressive. The outcome was that the parties responsible signed acknowledgment of having not followed city ordinance, and they will now be held to a higher standard.

STAFF REPORTS
(6:44 p.m.)

Comprehensive Planning Manager Terry Cullen informed the Commission that the error made in how the transient lodging issue related to the Eastgate Land Use Code amendments has been corrected and transmitted to the Council.

With regard to transient lodging in the Neighborhood Mixed Use district, Mr. Cullen said the record reflects the use was shown as allowed with a conditional use at the January 27, 2016 meeting, but somehow it came through as a permitted use when it got adopted. He said the correction will be made and sent back to the Council. The Eastgate Land Use Code amendments are tentatively scheduled to be before the Council on March 6.

Mr. Cullen said he had received a couple of follow-up questions regarding the Factoria land use districts. He said the Eastgate Land Use Code amendments as they relate to Factoria reflect transient lodging as allowed with a conditional use in F1 and as a permitted use in F2 and F3, which is how it is reflected in the current code.

Commissioner Walter commented that transient lodging was an add-on to hotels and motels, which are permitted uses in Factoria. She asked if there ever was a discussion about adding the transient lodging use. Mr. Cullen said transient lodging is a subset of hotels and motels. The use was parsed out into two separate uses.

Land Use Director Carol Helland apologized for the errors that had been made. She explained that the use charts follow standard land use classifications and utilize standardized numbers. For hotels and motels, two numbers are provided, 13 and 15. The standard land use classifications refer to hotels, motels and transient uses such as shelters, YWCAs and YMCAs. For the sake of transparency, the Commission has been interested in making sure the code is understandable and that information is not buried in the charts or the footnotes, so the uses were broken apart. The Commission's task then became deciding the zones in which the uses should be allowed and under what process. The mistakes that were made have been corrected.

With regard to the Commission's upcoming schedule, Mr. Cullen said the Comprehensive Plan amendment cycle for 2017 has begun. Staff is working through a completeness review. Four possible amendments are under consideration: one map amendment, one combination map and text amendment, and two text amendments. A threshold review public hearing will be held in the spring. Certain hard deadlines must be met where plan amendments are concerned, and if the Commission's overall workload starts to back up, it will be necessary to schedule additional meetings.

Mr. Cullen offered his congratulations to the three Commissioners who made it into the final

eight for filling the vacant Council position: Chair deVadoss and Commissioners Laing and Walter. He said in every community he has worked in, the Planning Commission is a proving ground for elected officials.

PUBLIC COMMENT
(6:52 p.m.)

Mr. Alex Smith spoke representing the 700 112th LLC and addressed the issue of base FAR and height. He introduced his development advisor Jeff Taylor and his land use attorney Larry Martin.

Mr. Jeff Taylor, address not given, called attention to the proposed base and max FAR and allowed that in order to get from the base to the max it is required that certain public amenities be provided or pay a fee in-lieu, currently proposed to be $25 per FAR foot. He showed a map of all the different zones in the downtown that had on it a comparison of how the base FAR compares to the max FAR. He noted that the higher percentages meant less needed to be provided by way of public amenities, and the lower percentage meant more needed to be provided. The map indicated that 70 percent of the zones had a percentage above 75 percent; 20 percent of the zones had a percentage of between 50 and 75; and 10 percent of the zones had a ratio below 5 percent. A similar map using the same kind of analysis except for building height was also shared with the Commissioners. In 53 percent of the zones, the ratio between the base height and the max height was shown to be above 75 percent; 28 percent had ratios of between 50 and 75 percent; and 18 percent had ratios below 50 percent. The ratios, which were in part based on the BERK analysis, are not consistent. In some cases, building to the max height will require development to do nothing by way of providing amenities or a fee in-lieu, while in other zones, 77 percent of the max height will trigger additional payments. He also produced a chart comparing the zones with a 5:1, 6:1 or better FAR. In the case of a ratio of 5:1, he said given the example of 50,000 square feet of land would be allowed a 250,000 square foot office building. For the exact same building, in one building the developer would be required to pay a $2 million or $3 million fee, while in another zone the developer would need to pay zero, putting the former zones at a disadvantage in a competitive world.

Mr. Smith suggested there should be something more unilateral implemented, such as 85 percent of the new max as the base. In some instances where the base is so low compared to the max, it will be very difficult to provide enough public amenities to gain what is needed, defeating the purpose.

Commissioner Laing asked why it should be 85 percent rather than 90 percent or 80 percent. Mr. Smith said the majority of the higher pieces where most of the office development is going to take place falls into the 85 percent range.

Commissioner Laing allowed that the BERK analysis takes a snapshot of data in what can be called a robust real estate market. He asked if any pause should be triggered about the fact that what is being talked about is a percent or two difference from what the consultants identified as the absolute threshold of success in some of the models, and questioned whether or not 85 percent will in fact be a de facto downzone that will impose some unintended consequences. Mr. Taylor said he was trying not to be overly aggressive in using the 85 percent figure.

Mr. Larry Martin urged the Commission to move in the direction of uniformity. Applying an approach involving the FAR base to the max would be very arbitrary and would rest on old and outdated zoning laws. The Council gave direction to ensure that the amenity incentive system is

consistent with state and federal law, in particular the process should be sensitive to the requirements of RCW 82.02.020 and to nexus and rough proportionality. The state statute regulates taxing authority and precludes cities from imposing any tax, fee, charge, direct or indirect, on development, on construction, on the classification or reclassification of land. The system that has been set up could not be more clearly a charge on development. The BERK analysis goes to great pains to show how that is the case. It takes the current zone and looks at the amount of allowed development, and looks at the proposed new zone and taxes each zone by how much development will increase under the proposed zoning code. That is absolutely a charge on development. There is case law that is on point. Adopting the approach in anything close to its current form will force a property owner who is disproportionately affected to challenge the system. The system is going to go down because it is clearly illegal. Moving toward uniformity would deter future lawsuits. The amenity system clearly seeks to gain open space in the downtown. The exception in 82.02.020 regarding fees on development is Growth Management Act impact fees, one of which is for parks and open space. The city has thus far elected not to impose a park impact fee. The right thing to do will be to recommend to the City Council the elimination of the amenity incentive system in favor of adopting an impact fee system. The two ideas could be combined by setting the base FAR for everyone at 85 percent of the new maximum height and by setting in motion the adoption of a park impact fee.

Commissioner Carlson noted that adequate parking in the downtown area is one of the current items on the amenity incentive system. He asked what impacts might result from moving to the proposed approach and away from the incentive amenity system. Mr. Martin noted the proposed approach eliminates parking as a bonusable amenity. Everyone wants to accomplish the major objectives, including the pedestrian corridor and open space in the downtown. Moving toward uniformity and adopting a park impact fee would shift the burden between developers and others and put the control and responsibility of determining where the elements end up on the city.

Mr. Andy Lakha, 500 108th Avenue NE, spoke as principal of the Fortress Development Group. He said he has been a citizen of Bellevue for 20 years and has developed projects in the United States, Latin America and Europe, but not previously in Bellevue. He said he has for many years been searching for an iconic project and has finally found it. Fortress Development has been working collaboratively with the Commission for almost a year, and has brought forward a vision and worked through it. In the summer of 2015, it was agreed that a development agreement would be the way to clear the path for development. The Commission directed the staff to prepare the concept and to come back with it for the Commission to reconsider. More than six months have passed since then and nothing has come forward. No efforts have been made by the staff to respond to the Commission or to prepare the development agreement concept. The Commission was asked to direct the staff again to do what they were supposed to do six months ago. It was surprising to learn a week ago that the latest draft of the new ordinance includes an entirely new concept of a 40-foot tower setback from all internal property lines. Fortress Development has been working on its plans for four years through the CAC process and the Commission process, and the new idea has been sprung at the eleventh hour. The new concept was not recommended by the CAC, nor was it proposed by the Commission. It has received no public review or input. He said to date he has spent hundreds of thousands of dollars working through the project plan, only to discover at a late hour that it may all have been a waste. The 40-foot setback rule would make it impossible to locate even a single realistic tower on the Fortress site. When compounded with the 45-foot podium height limit and the throughblock connector requirements, it will not be possible to achieve the allowable FAR on many sites, and in other cases it will prevent development of anything taller than 45 feet. The approach will produce an apparent downzone when compared to the existing code allowances. The Commission was asked to direct staff to restore the 20-foot tower stepback that has been the

rule for the entire process.

Mr. Jack McCullough, 701 5th Avenue, Suite 6600, Seattle, introduced project manager Arnie Hall. He agreed that Fortress Development has spent much of the last year making presentations to the Commission. In the first part of the exercise, attempts were made to persuade the Commission to increase the allowed height. The CAC had recommended 300 feet but the Commission had reduced that to 250 feet. It became clear the Commission was not going to increase building heights as requested so the idea of leaving the height as proposed was floated along with the concept of a development agreement that would serve as a vehicle for allowing the Council in the future to change the height should the project warrant it. On July 27, the Commission gave direction to the staff to work with Fortress Development on the development agreement concept and to bring something back to the Commission for review. Chair deVadoss suggested the approach could possibly be used elsewhere in the downtown. Fortress Development drafted language to jumpstart the process and met with staff on October 27. The thinking at the time was that staff would begin working on language to be brought back to the Commission. More time passed, and two new versions of the ordinance came forward, and still nothing was included regarding the development agreement concept. The staff likely will say the Commission did not give them direction to include the development agreement concept in the ordinance, and they will be right in saying that. The fact is the Commission has not yet had the chance to make that decision. The concept needs to be brought before the Commission for a determination as to whether or not it belongs in the ordinance. It is understood that everyone is under pressure to get the process done, but the development agreement concept is work that has been left undone. The Commission was asked to direct staff to bring the issue to the table. With regard to the 20-foot rule, he noted that the stepback occurs above the podium height. That has been the approach operated under for the last year or more in working through the code. The midblock connector and 80-foot tower spacing requirements can be accommodated on the Fortress Development site, but when the 40-foot tower setback from all internal property lines requirement is added into the mix, less than 32 percent of the site is left to build on, meaning there is not enough roof to develop a tower that anyone would live in. The assumption is that the 40-foot rule was based on a concept of fairness and enshrining the 80-foot tower spacing by requiring a 40-foot setback on either side of each internal property line. The problem is that the approach protects the rights of parcels that may not be built on for decades and interferes with those who want to build in the near term. The 20-foot setback should be retained and a departure process should be created that would allow some future development from having to assure a full 80-foot tower separation. Seattle has a tower separation code that was adopted in 2006, and in the 11 years since there has only been one case involving a tower separation battle in the downtown, even though their blocks are a fraction of the size of those in Bellevue.

Commissioner Carlson asked if the proposed 40-foot rule would kill the Fortress Development project. Mr. Lakha said it absolutely would.

Mr. Brian Franklin, 15015 Main Street, Suite 203, spoke on behalf of PMF Investments. He said he has watched the downtown process for the almost five years it has been ongoing. Throughout the process there has been a consistent message from the East Main CAC and from the Council to avoid effectively creating a downzone. Property owners have not tried reaching for anything extra and has tried to stay consistent throughout the process. He voiced support for applying the 85 percent concept throughout the downtown in order to be consistent. In the OLB the current max FAR is 3.0 and that can easily be achieved through the current incentive system. Under the proposal, much of what is now incented will be required, so the base FAR should be increased to 4.25 for the OLB district. Nothing should be put in place that would hamper development of what are arguably the most underutilized areas of the downtown, which is the OLB along the

freeway.

Commissioner Laing said he understood the call for giving everyone 85 percent of the new max across the board as a way to be fair. He asked, however, if 85 percent is the correct number. He noted that under the current incentive system, a developer could gain sufficient bonus points for providing structured parking to max out the FAR and even have points left over. He asked how going to 85 percent while requiring the development of parking could be determined to be the right number. Mr. Franklin said the word he used was consistent, not fair. If the new base FAR were to be set at 2.5 instead of the current 3.0, and if the current incentives needed to achieve 3.0 are removed and some of what currently are incentives become requirements, developers will either have to pay $25 per foot or provide certain amenities, which is something developers have not previously had to do. In the end, to do the same project under the proposed approach would cost more than under the current approach, and that effectively would be a downzone.

Mr. Phil McBride, 11040 Main Street, spoke representing Lennox Scott and John L. Scott Realtors. He said Andrew Miller's property is adjacent and over a year ago he came forward with the notion of considering doing a project together on the two respective properties. All who have seen the proposed project have embraced it. However, with the way the new code has been proposed, it does not appear the project will get built.

Mr. Andrew Miller, 11100 Main Street, spoke representing BDR. He said his property along with the John L. Scott property will serve as the front door to the downtown from the East Main station. The desire is to build a project that continues to offer a lower scale face toward Main Street and that pushes the bulk toward the higher density downtown. The incentives should be crafted to make the project feasible. In May 2016 renderings of the project were shared with the Commission and met with a favorable response. The notion of averaging the FAR out between the A and B districts was raised at the meeting, and there was a discussion about office versus residential in the front building, and the Commission indicated a preference for form over the uses located inside. However, under the first draft or the latest version of the code, the project cannot be done, even though the project fits the desired height limits and FAR. What is missing is a mechanism in the code to get from point A to point B. In addition to the concerns raised by others, he said the biggest challenge to be addressed is how to average out the FAR. It was previously suggested that it could be done through the use of a footnote, but another way would be to include the notion as an exception to the dimensional requirements allowing projects within a walkshed having transit-oriented developments of a certain size to create a single building concept within the project limit. The proposed two buildings, which would all be built on a single parking garage, would be deemed a single building. As envisioned, the single building would need to be more than 50 percent residential in order to utilize the FAR. If the Commission likes the project as outlined, it should direct the staff to find a way to make it happen.

Mr. David Dowd, 3211 Evergreen Point Road, Medina, spoke on behalf of the Fortin Group. He pointed out the need to make a small correction in the draft code. There are several instances in which the document indicates 101st Avenue NE is a public right-of-way. The fact is that 101st Avenue NE is owned by the Fortin family and it has a tax parcel number recorded by the King County tax assessor. The city does not own an easement to turn it into a public right-of-way, and all such references should be removed.

Mr. Walter Scott, 400 112th Avenue NE, spoke on behalf of Legacy Companies. He said he has been following the process and has seen that the various developers who have stepped forward have highlighted specific problems for their specific sites. Some sites are too narrow. The Legacy site in the winter has ground water at about ten feet. Sound Transit will be driving in two

pylons on the southwest corner of the site to support the light rail line, and that will be problematic given that the load spreads as it goes deeper and will impact the ability to dig down and construct parking. Some flexibility will likely be needed, particularly in regard to parking. Legacy would like to provide plenty of parking, particularly given that Meydenbauer Center does not have enough to accommodate their events, and the close proximity of the transit station. The development community trusts the city staff having worked with them over the years and having found them to be very professional. The BERK report is to be applauded and represents a real effort to understand current market conditions. The numbers in the draft code, however, are just not where they need to be. The 85 percent rule work is workable. Some level of flexibility certainly will be needed, and the staff should be authorized to approve those exceptions. Legacy is currently acting to extend leases with its tenants, which in turn will extend the timeframe in which new development will occur. The longer the process goes on, the longer it will take to see the future development of the downtown.

STUDY SESSION
(7:47 p.m.)

Downtown Livability – Review Draft of Downtown Land Use Code Amendment

Chair deVadoss asked for some clarification based on the public comment. Land Use Director Carol Helland said the issue of the amenity incentive system would be discussed as part of the study session. With regard to the development agreement, she noted that it was included in the legislative departures found on pages 18 and 19 of the packet materials. The actual development agreement process would be part of a conformance amendment. It was never the intention of the staff to move forward without a development agreement. The staff has been working to weave together the direction received from the CAC and from the Planning Commission in response to the work of the CAC. She said she did not dispute that the notion of allowing for flexibility in the form of a development agreement regarding the property referred to by Mr. Lakha was identified, but the Commission also held a robust conversation regarding height in the Deep B district. Accordingly, the staff has not felt enabled to actually exceed the height limit given the Commission's specific conversation, and that is why the footnote proposed by the property owner's representatives was not included. To run with the proposed format would be to create an approach applicable only to the one site, which raises issues of fairness relative to piercing the maximum height limits citywide.

Commissioner Carlson agreed that the Commission had been clear about setting a height limit of 250, but never insinuated moving the 20-foot setback to 40 feet. Ms. Helland allowed that the process of writing code is iterative and is full of unintended consequences. Feedback was offered about the 80-foot tower separation requirements, and the inclusion of the 40-foot setback was an attempt at fairness. Other developers raise the "what about us" question relative to how the 80-foot separation requirement would be measured across intervening property lines when someone else goes first. The concern was that should someone put the tower portion of a building 20 feet from an interior property line, the adjacent development would have to step back 60 feet. If directed, the approach can be calibrated differently.

Commissioner Carlson commented that the 20-foot setback was developed after a great deal of negotiation, research and public input. He asked why it suddenly was doubled. Ms. Helland said the intention was not to double the setback, rather to apply the direction of the Commission with regard to separating towers by 80 feet. In amending the code, it was concluded that the 80-foot building separation applies to multiple buildings on a single site. That left the need to deal with the edges and separating towers on adjacent properties. The 40-foot setback was intended to

accommodate the 80-foot separation the Commission had directed staff to draft. If the conclusion of the Commission is that the approach ushers in an unintended consequence, the Commission can direct the staff to make a change.

Ms. Helland clarified for Commissioner Walter that the setback relates to towers and is measured from interior property lines. The existing setback from the side and rear property lines for towers above 40 feet is 20 feet.

With respect to the development agreement, Ms. Helland suggested the Commission should think more broadly across all of the downtown about a system that will work fairly for piercing the maximum building height on a single property. If deviations from the maximum building height are going to be allowed, the citywide consequences will need to be considered.

Chair deVadoss suggested there is merit to the approach proposed by Mr. Miller and Mr. McBride for their respective properties. He said he wanted to see the staff engage with them to explore an agreeable outcome. Ms. Helland said staff has in fact engaged with them. The rub comes in trying to reconcile the direction received from the Commission with their proposed project. The project as depicted in renderings is easy to approve of; drafting the approach into code is more problematic. The Commission had a conversation about the downtown boundary and the associated setbacks. The site is constrained by its location across the street from the tunnel portal and the fact that the downtown border runs along Main Street. The site is faced with a 20-foot setback, something the Commission talked about, and something the Commission expressed concerns about eliminating. The required setback serves to shrink the developable portion of the site. Additionally, while the form-based code concept is understandable, functionally there is a reason for taking a tower-by-tower approach and treating each as a separate building. Sometimes the locations of towers and the uses within them are important to the activities seen on the streets adjacent to them. While the form of the gateway project has been rearranged in keeping with the wedding cake approach, the uses proposed for the space right along Main Street are just office. What will happen between 5:00 p.m. and 6:00 a.m. daily, the space will be dark, it will not be pedestrian activated, and it will not create the desired environment in what has been noted to be a major connection between the East Main station and the downtown. The proposed building form makes for a good theoretical argument, but would be difficult to make work in light of the expectations of the CAC about activities at the street level and the Commission's feedback with regard to livability at locations where pedestrian activity will be very dense.

Chair deVadoss thanked Ms. Helland for her detailed clarification of the issues. He asked how the Commission and the staff should engage with those who have for many months been seeking closure in a timely fashion. Ms. Helland said feedback will be needed from the Commission in regard to the appropriate level of latitude when it comes to departures. To date there has been mixed feedback on the maximum height limits that have been attached, and the opportunity to pierce the maximum height limits, even through a legislative process involving Council approval of a development agreement, has ramifications.

Chair deVadoss asked staff to carry on with their agenda items.

Strategic Planning Manager Emil King briefly reviewed the process to date and the Commission's engagement points since June 2015 when the Council directed the Commission to begin working on the downtown code amendments. A number of topics have been addressed in the 20 meetings held to date. The joint Council/Commission workshop in November 2015 was a milestone, as was the early wins package in March 2016 and the two iterations of the draft Land

Use Code in November 2016 and February 2017.

Ms. Helland said the latest draft of the code includes comment bubbles with information regarding what has changed and where sections came from. In addition, all references to King County Records and Elections were changed to King County Recorder's Office; graphics and maps were added; a footer was added at the bottom of pages to help with navigation; and definitions were added and alphabetized. She said she worked with Commissioner Laing on some of the procedural requirements and identified the need for some changes which are essentially clarifications, namely that the general definitions apply in the downtown until specifically noted otherwise; clarification of how the departures have been characterized as being legislative when in fact they are project specific; clarification of the nature of the departures, where they are possible and the criteria for approving them; and identification of a flexible amenity package and clarification that support for a development not specifically identified in the amenities charts would need to come from the Council. Staff wrote the departure to reflect what was deemed to be the direction from the CAC and the Commission, but should the Commission see the need to tinker with them, additional conversation will be needed. No changes were made relative to the use charts. Commissioner Laing did note, however, the need to make it clear there is an interpretation process for the use charts and recommended that a cross reference be made to the general interpretations provisions of the code.

With respect to the dimensional charts beginning on page 41 of the packet, Ms. Helland pointed out that in the third column the minimum tower setback above 45 was added for buildings that exceed 75 feet. She reiterated that the 40-foot setback was an attempt to reconcile the 80-foot tower separation requirement as it relates to side property lines. She allowed that the approach would in fact end up being a greater separation than is currently required under the code.

Commissioner Laing noted that Mr. McCullough made reference to the issue coming up only once in Seattle. The fact is there was an article published in the *Puget Sound Business Journal* that focused on the tower spacing issue in Seattle. The basic issue is first in time, first in right. Seattle's code, however, is somewhat more nuanced than what has been proposed for Bellevue. Seattle has a rule that says the tower width cannot be more than 80 percent of the north-south façade width. The tower spacing requirements are different for the east-west side. Often where there are within a single block alley ways or public or private rights-of-way, the concern is focused on maintaining the tower spacing. That works out well when the measurement is between adjoining towers. The approach of basing it on property lines can be complicated where there is a 30-foot-wide alley. The concerns voiced by Mr. McCullough and Mr. Lakha are well taken. With regard to who should have to request a departure to allow for a de facto encroachment, he suggested it should be both the first person and the second person. Otherwise there could be the unintended consequence of rendering someone's property undevelopable.

Commissioner Hilhorst asked what problem the proposed approach was intended to fix, and what unintended consequence might result from staying with the current code requirement. Ms. Helland said the problem was the staff did not believe they had appropriately addressed the Commission's direction relative to tower separation. As previously written, the code simply required an 80-foot separation. For the owner of a property adjacent to a tower constructed under the current code requirements, which call for only a 20-foot setback, maintaining a separation of 80 feet would require setting any new tower back 60 feet, even if the existing tower is ripe for redevelopment. The 40-foot setback requirement flowed from an attempt to distribute the 80-foot tower separation requirement across an interior property line to effectuate the direction received from the Commission for 80-foot tower separations. Part of the complexity associated with the Lakha property is that it is filled with interior property lines, resulting in an even bigger hit.