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CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 5820

AN ORDINANCE denying an appeal and granting a Planned Unit Development with conditions, on the Application of D. R. Horton for a 10 unit Multi-Family Planned Unit Development Preliminary Plat, on an 1.007 acre site east of Bellevue Way SE in the Southwest Bellevue Subarea, commonly known as the "Torello PUD", File Nos. 06-105832-LK and 06-120824-LD.

WHEREAS, D.R. Horton submitted an application for a Planned Unit Development to construct a Multi-Family Planned Unit Development with 10 Units on an 1.007 acre site zoned R-10 within a Transition Area Design District in the Southwest Bellevue Subarea commonly known as the "Torello PUD" located on the east side of Bellevue Way SE between SE 10<sup>th</sup> Street (vacated) and SE 11<sup>th</sup> Street; and

WHEREAS, a Notice of Application and Public Meeting was first published in the Land Use Bulletin on July 6, 2006 and said public meeting was held on July 27, 2006, and subsequently the Notice was revised and a second Public Meeting was held on August 31, 2006; and

WHEREAS, the Applicant then withdrew its application for Preliminary Plat and revised the application as a condominiumized PUD; and

WHEREAS, on, November 15, 2008, the Bellevue Hearing Examiner commenced a hearing on the application of D.R. Horton for a Planned Unit Development, Application File Nos. 06-105832-LK and 06-120824-LD, and continued the hearing on December 6, 11, 12 and 19, 2007, pursuant to notice as required by law; and

WHEREAS, on January 30, 2008, the Hearing Examiner issued Findings of Fact, Conclusions of Law and Decision, approving the Planned Unit Development with conditions; and

WHEREAS, on February 13, 2008 an appeal was timely filed by Colleen and Michael Broaddus and Erin Powell-Dilloo and George Dilloo; and

WHEREAS, following an appeal hearing by the City Council on May 5, 2008, the City Council considered the Examiner's Recommendation on May 27, 2008 and voted to deny the appeal and grant the application; and

WHEREAS, the City has complied with the State Environmental Policy Act and the City Environmental Procedures Code, now, therefore,

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES  
ORDAIN AS FOLLOWS:

Section 1. The City Council adopts the Findings of Fact and Conclusions of Law of the Hearing Examiner as set forth in "Findings of Fact, Conclusions of Law and Decision" on Planned Unit Development Application File Nos. 06-105832-LK and 06-120824-LD.

Section 2. Based on the foregoing Findings of Fact and Conclusions, the City Council enters the following Decision:

The City Council concludes that appellants failed to meet their burden to prove that the Hearing Examiner's Decision was not supported by substantial evidence in the record. The appeal is hereby denied, and the Decision of the Hearing Examiner approving the Planned Unit Development, with conditions, is approved, subject to the following Conditions:

#### **CONDITIONS OF APPROVAL**

The following conditions are imposed by referenced Permit Authorities to ensure compliance with the Planned Unit Development and Preliminary Plat criteria, with provisions of Code as cited.

#### **COMPLIANCE WITH BELLEVUE CITY CODES AND ORDINANCES**

The applicant shall comply with all applicable Bellevue City Codes and Ordinances including but not limited to:

##### **Applicable Ordinances**

Clearing & Grading Code – BCC 23.76  
Construction Codes – BCC Title 23  
Fire Code – BCC 23.11  
Land Use Code – BCC Title 20  
Noise Control – BCC 9.18  
Sign Code – BCC Title 22  
Transportation Code – BCC 14.60  
Utility Code – BCC Title 24

#### **A. GENERAL CONDITIONS**

##### **1. UTILITIES DEPARTMENT APPROVAL**

Utilities Department approval is based on the preliminary utility design only. Final civil engineering of the utility design may require changes to the site layout to accommodate the utilities. A Developer Extension Agreement shall be required for water and storm drainage improvements to the site. Sewer

service shall be permitted through the over the counter permit process. (Bellevue City Code Title 24.02, 24.04, 24.06.120)

**2. CONSTRUCTION HOURS**

Construction noise is allowed from 7:00 a.m. to 6:00 p.m. Monday through Friday and from 9:00 a.m. to 6:00 p.m. on Saturday. Exceptions to these days and hours MAY be granted pursuant to 9.18.020C.1 for construction that cannot be undertaken during exempt hours. Requests for expanded construction hours shall be limited and will be reviewed on a case by case. All work outside the permitted hours requires a written request two weeks prior to the onset of extended hour construction activity. (Bellevue City Code 9.18.040)

**3. HOLIDAY CONSTRUCTION & TRAFFIC RESTRICTIONS**

Construction activities such as hauling and lane closures between November 15<sup>th</sup> and January 5<sup>th</sup> will be allowed only between the hours of 10:00 pm and 6:00 am due to holiday traffic. The Transportation Department will be monitoring traffic and may modify this moratorium accordingly.

The applicant shall contact the Transportation Department Right-of-Way Section to confirm the specifics of this restriction prior to applying for a Right-of-Way Use Permit, which is issued directly by the Transportation Department. (BCC 14.30.060)

**4. VEHICULAR ACCESS RESTRICTIONS**

Access to this site from Bellevue Way SE will be restricted to right-turn-in and right-turn-out only. (BCC 14.60.150)

**5. ANNUAL REPORT ON THE BUFFER**

A Vegetation Management Plan for the Transition Area buffer shall be provided by the applicant on an annual basis for a period of three (3) years following City inspection and approval of this landscape, the report shall assess the condition of the Transition Area buffer and inventory the natural system within the tract including: plant health, invasive plants, and hazardous trees. In addition, the plan shall confirm the existence of two snags to function as structural habitat components. The report shall be prepared by a certified arborist. All recommended tree and vegetation pruning, removal, planting shall be completed between November 1 and December 15 each year of each year for the three year period. (LUC 20. 30D.150.D)

**B. PRIOR TO ISSUANCE OF CLEAR AND GRADE PERMIT**

**1. RIGHT-OF-WAY USE PERMIT**

Prior to issuance of any construction or clearing and grading permit, the applicant shall secure applicable right-of-way use permits from the City's Transportation Department, which may include:

- Designated truck hauling routes;

- Truck loading/unloading activities;
- Location of construction fences;
- Hours of construction and hauling;
- Requirements for leasing of right of way or pedestrian easements;
- Provisions for street sweeping, excavation and construction;
- Location of construction signing and pedestrian detour routes; and
- All other construction activities as they affect the public street system.

In addition, the applicant shall submit for review and approval a plan for providing pedestrian access during construction of this project. Access shall be provided at all times during the construction process, except when specific construction activities such as shoring, foundation work, and construction of frontage improvements prevents access. General materials storage and contractor convenience are not reasons for preventing access.

The applicant will secure sufficient off-street parking for construction workers before the issuance of a clearing and grading, building, a foundation or demolition permit. (BCC 11.70 & 14.30)

## **2. CIVIL ENGINEERING PLANS – TRANSPORTATION**

Civil engineering plans produced by a qualified engineer must be approved by the Transportation Department prior to issuance of the clearing and grading permit. The design of all street frontage improvements and driveway access points must be in conformance with the requirements of the Americans with Disabilities Act, the Transportation Development Code, the provisions of the Transportation Department Design Manual, and specific requirements stated elsewhere in this document. All relevant standard drawings from the Transportation Department Design Manual shall be copied exactly into the final engineering plans. Specific requirements for the engineering plans include, but are not limited to:

- Traffic signs, channelization and pedestrian facilities, signal equipment, etc.
  - Curb, gutter, sidewalk, and driveway approach design.
  - Handicapped ramps, crosswalk revisions, and crosswalk equipment such as pushbuttons.
  - Installation or relocation of streetlights and related equipment.
  - Sight distance. (Show the required sight triangles and include any sight obstructions, including those off-site.)
  - Location of fixed objects in the sidewalk or near the driveway approach.
  - Trench restoration within any right of way or access easement.
- (BCC 14.60; Transportation Department Design Manual)

## **3. BUFFER & RETAINED TREE PROTECTION**

Work in the buffer shall be limited to invasive species removal, indigenous under-story planting consistent with approved plans, and the installation of a temporary irrigation system. All work must be accomplished using hand tools.

a) Construction Fencing at Clearing Limits: Prior to any site work, six-foot chain link construction fencing with driven posts, or an approved alternative, shall be installed at the clearing limits (transition area buffer) and at the driplines of retained trees that are located outside of the clearing limits.

b) Buffer Work: Work inside the transition area buffer is limited to invasive species removal, indigenous under-story planting consistent with approved plans, and the installation of a temporary irrigation system. All work must be accomplished using hand tools; no excavation or clearing may be performed within drip lines of retained trees except to remove invasive species and plant indigenous plant material as specifically approved on plans. All such work shall be done by under the supervision of the project arborist.

c) To the extent that any work within the clearing limits invades the dripline of any retained tree, the work shall be monitored by a certified arborist who shall insure that damage to tree roots does not endanger the survival of the tree. (PUD Criteria A, Land Use Code 20.20.900, Bellevue City Code 23.76.060)

#### **4. SITTING NODE**

The trail within the buffer on the east side of the property shall be eliminated from the project. In its place the applicant shall construct a sitting node within the buffer in the vicinity of the end of the PUD's private roadway. Care shall be taken to locate and construct this node so as to avoid damage to the roots of retained trees. The node shall not exceed 50 square feet and shall be screened by understory plantings. For consistency with the context, seating must be provided by rocks, or rock assemblies, set approximately 12-inches into grade and 18-inches above grade. The replacement of the rock shall be at the direction of the Landscape Architect, in collaboration with the project Arborist based on the actual conditions on site. All work within the RVA must be accomplished using hand tools, per the direction of the project Landscape Architect and based on the written recommendations of the project Arborist. (PUD Criteria A, Land Use Code 20.20.520, Bellevue City Code 23.76.060)

### **C. PRIOR TO ISSUANCE OF ANY BUILDING PERMIT**

#### **1. TRANSPORTATION IMPACT FEE**

Payment of the traffic impact fee will be required at the time of building permit issuance. The impact fee is estimated to be \$229.43 per multi-family unit. This fee is subject to change and the fee schedule in effect at the time of building permit issuance will apply. (BCC 22.16 )

#### **2. EXISTING EASEMENTS**

There are several existing public utility easements contained on this site which may be affected by this development. It is the responsibility of the developer to work with the appropriate parties (PSE, COB, etc.) to ensure that all requirements for each easement are met. (BCC 14.60.100)

**3. EASEMENTS FOR SIGNAL CONTROL AND STREET LIGHT BOXES AND VAULTS**

The applicant shall provide easements to the City for the locations of all signal and street light facilities such as above-grade boxes and below-grade vaults where needed. (BCC 14.60.100)

**4. PEDESTRIAN EASEMENTS**

The applicant shall provide sidewalk and utility easements to the City covering the entire required area of the new sidewalk adjacent to the site such that sidewalks outside of the City right of way along the property frontage are located within a pedestrian easement area. (BCC 14.60.100)

**5. TRANSITION AREA BUFFER**

The Transition Area buffer shall be designated as a Retained Vegetation Area (RVA), with the following requirements and use restrictions:

- a) Work within the buffer is limited the removal of invasive plant material, the planting of indigenous under-story plants consistent with the landscape plan, and the installation of a temporary, on- grade irrigation system. The temporary irrigation system shall be designed by the project landscape architect, based on the written recommendations of the project arborist, and shall be installed and maintained for a period of three years.
- c) The project landscape architect shall inspect the buffer during the fall of each year and submit a letter to the City project manager which summarizes the exact number and type of plants that need to be replaced. Each plant identified for replacement shall be replaced with the same size and type of plant between November 1<sup>st</sup> and December 15<sup>th</sup>.
- d) Uses within the buffer shall be limited to passive recreation activities, such as bird watching, and limited to the woodchip trail and nodal areas, and
- e) The right of the City of Bellevue to enforce the terms of the restriction.

Authority: (Land Use Code 20.25H.110.D)

**6. AUTOMATIC SPRINKLERS**

Automatic sprinklers are required in units 4,5,6 and 7 because they are proposed farther than 150 feet from Bellevue Way SE. (International Fire Code (IFC) 503)

**7. ON-STREET PARKING PROHIBITED**

Parking is prohibited along the 20-foot wide access road. Both sides of the roadway shall have a "No Parking" sign. (IFC 503 and Bellevue Fire Department Development Standards (BFDDS))

**8. FIRE TRUCK LOADS**

The access road shall be capable of supporting fire apparatus with a gross vehicle weight of 64,000 lbs (rear axle = 48,000 lbs. and front axle = 19,000 lbs. and shall support the weight of the ladder truck outrigger which is 45,000

lbs. over an 18in square. Secondly, the project engineer shall verify that the storm water detention vault will support these loads. (Bellevue Fire Dept. Development Standards)

**9. ADDRESS SIGN**

Because access to the proposed units is proposed from a private roadway, the plans shall include a sign at the roadway entrance which shows the address and location of each residence. (Bellevue Fire Dept. Development Standards)

**10. DEMOLITION AND CONSTRUCTION**

The demolition and construction shall conform to the requirements of the International Fire Code. (International Fire Code, Chapter 14.)

**11. TRACTS A & B**

The site plan shall divide the site into two tracts: Tract A shall include the transition area buffer and all site perimeter landscape area; Tract B shall include all the structures and the infrastructure. (Land Use Code 20.30D.160)

**12. BOUNDARY LINE ADJUSTMENT**

The lots must be adjusted. The applicant shall file and receive approval of a Boundary Line Adjustment. (Land Use Code 20.30D.170)

**D. PRIOR TO ISSUANCE OF ANY CERTIFICATE OF OCCUPANCY**

**1. STREET FRONTAGE IMPROVEMENTS**

All street frontage improvements and other required transportation elements must be constructed by the applicant and accepted by the City Inspector. All existing street light and traffic signal apparatus impacted by this development, including traffic controllers, pedestrian signal poles, traffic signal poles, and power sources, must be relocated as necessary. Transformers and utility vaults to serve the building shall be placed inside the building or below grade, to the extent feasible. Bonding or other types of assurance devices will not be accepted in lieu of construction. Specific requirements are detailed below.

- Replacing existing driveway access to the site off of Bellevue Way SE with matching frontage improvements. Limited pavement widening along the north property line.
- ADA ramp at the southeast corner of the site and Bellevue Way SE.
- Traffic channelization to enforce right-in / right-out access restrictions.
- Miscellaneous:

City standards for driveway widths range from 30 to 36 feet on arterial streets, and 26 to 30 feet for local streets. Driveway aprons must be constructed in accordance with Design Manual Standard Drawing DEV-6.

Landings on sloping approaches are not to exceed a 7% slope for a distance of 30 feet approaching the back edge of sidewalks. Driveway grades must be designed to prevent vehicles from bottoming out due to abrupt changes in grade.

Vehicle and pedestrian sight distance must be provided per BCC 14.60.240 and 14.60.241. Sight distance triangles must be shown at all driveway locations and must consider all fixed objects and mature landscape vegetation. Vertical as well as horizontal line of sight must be considered when checking for sight distance.

(BCC 14.60.090, 110, 120, 150, 181, 200, 210, 240, 241; Transportation Department Design Manual)

## **2. PAVEMENT RESTORATION**

Pavement restoration associated with street frontage improvements or the repair of damaged street surfaces shall be provided as follows: Bellevue Way SE: Based on this street's excellent condition, it is classified with the City's overlay program as "Overlay Required." Street cutting is permitted only with extraordinary pavement restoration. Pavement restoration requirements will be specified in the right-of-way permit.

(Authority: BCC 14.60. 250; Design Manual Design Standard #21)

## **3. LANDSCAPE MAINTENANCE ASSURANCE DEVICE(S)**

The applicant shall file, with the Department of Planning & Community Development, two landscape maintenance assurance devices in the form of an assignment of savings or maintenance bond for 20% of the cost of all labor and materials for the landscaping. For site landscape areas outside the Transition Area buffer, the City shall have access to the funds for a minimum of 1-year. For the landscape inside the Transition Area buffer the City shall have access to the funds for a minimum of 3-years. Each device shall be released at the end of each period provided that the landscaping has been inspected by City staff, conforms to the approved plan and the plants are healthy. Dead or dying plants shall be replaced by the applicant prior to the release of the maintenance device. (Land Use Code 20.40.490)

## **4. BUILDING & SITE LIGHTING**

All building exterior and garage lighting shall be shielded to direct the light downward, not toward the sky or the surrounding properties. (LUC 20.20.522)

## **5. MONUMENT SIGN**

The proposed monument sign requires a separate permit and must meet the applicable Sign Code requirements. (City Code 22B.10.040)

## **6. RECORDING REQUIRED**

The approval of the Planned Unit Development plan constitutes the City's acceptance of the general project, including its density, arrangement and

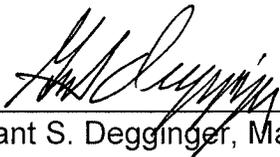
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design. Upon final City approval of the Planned Unit Development, the applicant shall forward the approved Planned Unit mylars to King County Department of Records and Elections for recording. No administrative approval of a Planned Unit Development is deemed final until the Planned Unit Development is recorded and proof of recording is received by the Department of Planning and Community Development. See Chapter 20.45 LUC for recording requirements of Planned Unit Developments merged with subdivisions. (Bellevue City Code 22B.10.040)

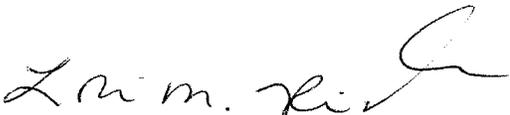
Section 3. This ordinance shall take effect and be in force five (5) days after its passage and legal publication.

Passed by the City Council this 2nd day of June, 2008  
and signed in authentication of its passage this 2nd day of June,  
2008.

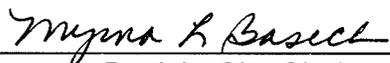
(SEAL)

  
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Grant S. Degginger, Mayor

Approved as to form:

  
\_\_\_\_\_  
Lori M. Riordan, City Attorney

Attest:

  
\_\_\_\_\_  
Myrna L. Basich, City Clerk

Published June 5, 2008