1209-ORD
02/02/11

ORIGINAL

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 5990

AN ORDINANCE amending the Bellevue Land Use Code relating to building floor plate exceptions and setback exceptions for performing arts centers, and adding a definition of performing arts center; specifically amending Land Use Code Sections 20.25A.020.B.1, 20.25A.020.B.2 and 20.50.040 of the Bellevue Land Use Code; providing for severability and establishing an effective date.

WHEREAS, On July 19, 2010, the Director of the Development Services Department (DSD) initiated a code amendment work program for the balance of 2010 and 2011; and

WHEREAS, the City seeks to allow for the reasonable development of Performing Arts uses consistent with Comprehensive Plan policy changes that were adopted as part of the Downtown Implementation Plan (DIP) work completed in 2004; and

WHEREAS, the Environmental Coordinator for the City of Bellevue determined that this proposal will not result in any probable, significant, adverse impacts and as such a final threshold determination of non-significance (DNS) was issued on November 10, 2010; and

WHEREAS, the Planning Commission held a public hearing on December 1, 2010 with regard to the proposed Land Use Code amendment contained herein; and

WHEREAS, the Planning Commission recommends that the City Council approve such proposed amendments, now, therefore;

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

Section 1. Section 20.25A.020.B.1 of the Bellevue Land Use Code is hereby amended as follows:

20.25A.020.B Exceptions to Dimensional Requirements

1. Floor Plate Exceptions.

   a. For residential buildings, the "Maximum Floor Area per Floor above 40 Feet" may be increased by not more than 10 percent through Design Review, Part 20.30F LUC, if the applicant demonstrates that the increase is necessary for reasonable development of the building, and will not

have a significant adverse effect on other properties. Each square foot of floor area above the maximum requires a proportionate square footage of amenity in conformance with LUC 20.25A.030.C; however, the amenity area provided under this requirement may not be used to exceed the basic floor area ratio.

b. For buildings on streets designated "A" or "B" in LUC 20.25A.115, Design Guidelines – Building/Sidewalk Relationships, the limitation of "Maximum Building Floor Area per Floor Above 40 Feet" may be modified through Design Review to apply to floor area above 45 feet. In this case, the applicant must demonstrate that the modification is necessary for creating higher, more prominent and distinctive ground-level pedestrian-oriented frontage; and the minimum retail floor height shall be 16 feet.

c. For structures that do not exceed 70 feet in height (as defined by the International Building Code, as adopted and amended by the City of Bellevue), the Director may allow the connection of floor plates above 40 feet such that those floor plates exceed the "Maximum Building Floor Area per Floor Above 40 Feet"; provided, that:

i. The connection is to allow for safe and efficient building exiting patterns. The connecting floor area shall include required exiting corridor area and may include the floor area of units or other building uses;

ii. The connection occurs on no more than three floor levels above 40 feet; and

iii. The alternative design results in a building mass that features separate and distinct building elements.

d. Diminishing Floor Plate. A nonresidential building in the Downtown O-1, Downtown O-2, Downtown MU, and Downtown OLB Land Use Districts can exceed the "Maximum Building Floor Area per Floor Above 40 Feet," to a maximum of 30,000 square feet, if the building incorporates two floor plates which are each at least 20 percent smaller than the floor plate of the floor below it. If only one floor of a nonresidential building exceeds the "Maximum Building Floor Area per Floor Above 40 Feet," the building must incorporate one floor plate which is at least 20 percent smaller than the floor plate of the floor below it. Exposed roof area at the level of the diminished floor must have some amount of landscaping and be physically accessible for use; or, if not a flat surface, must provide a visually interesting roof form

e. Performing Arts Centers may have unlimited floor area per floor up to 100-feet in height, measured from average finished grade, provided that:

i. The proposal site abuts 106th Ave NE, between the south side of NE 10th Street and the north side of NE 2nd Street, and where feasible, an entrance is provided on 106th Avenue NE; and,

ii. The floor plate exception applies only to that portion of the building which contains the performing arts use and subordinate uses do not exceed 25% of the total area; and,

iii. The ground floor design is consistent with the Building/Sidewalk Design Guidelines for "A" rights-of-way, excluding the arcade provision; and,

iv. The exception from the floor plate limitation is the minimum necessary to accommodate the performing arts center use, or equipment functionality related to that use.

Section 2. Section 20.25A.020.B.2 of the Bellevue Land Use Code is hereby amended as follows:

20.25A.020.B Exceptions to Dimensional Requirements

2. Setback/Stepback Exceptions

a. Marquees or awnings which comply with the requirements of LUC 20.25A.030.C are permitted to extend over the public right-of-way upon approval of the Director of the Transportation Department and the Director of the Department of Planning and Community Development notwithstanding the provisions of the Sign Code, Chapter 22B.10 BCC, or any other City Code.

b. The Director of the Department of Planning and Community Development may approve an intrusion into the 20-foot front yard setback from the east side of 112th Avenue NE in the Downtown-OLB District to permit the location of pedestrian-oriented frontage retail uses within a portion of the required setback area. The intrusion shall be limited to a maximum of 30 percent of the required front yard setback area. All building areas within the setback areas shall be devoted to pedestrian-oriented uses and meet the design criteria of LUC 20.25A.030 for pedestrian-oriented frontage. Amenity floor area earned may be used to exceed the permitted basic floor area ratio.

c. The Director may allow modifications to the minimum side and rear setback required above 40 feet for buildings with a building height in excess of 75 feet if:

i. The applicant can demonstrate that the resulting design will be more consistent with the Design Review criteria of LUC 20.25A.110; and

ii. The building design, with the modification, will create sufficient spacing between towers to encourage a feeling of an open and airy Downtown.

d. Minor building elements may intrude into any required setback of this section, subject to all the terms and conditions of LUC20.20.025.C.

e. The Director may allow modifications to the setback requirements above 40 feet for performing arts centers meeting the locational requirements of LUC 20.25A.020.B.1.e.i if:

i. The applicant can demonstrate that the resulting design will be more consistent with the Design Review criteria of LUC 20.25A.110; and;

ii. Interesting roof forms, significant floor plate modulation, significant façade modulation, or other such unique architectural features are provided to minimize impacts to abutting structures.

Section 3. Section 20.50.040 of the Bellevue Land Use Code is hereby amended as follows:

20.50.040 P definitions.

. . . .

Performing Arts Centers. Any structure intended and designed to house a use for the presentation of live performances of dance, drama, and music.

. . . .

Section 4. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this ordinance.

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

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Passed by the City Council this 7th day of February, 2011 and signed in authentication of its passage this 7th day of February, 2011.

(SEAL)

Don Davidson, DDS
Mayor

Approved as to form:

Lori M. Riordan, City Attorney

Lacey Madche, Assistant City Attorney

Attest:

Myrna L. Basich, City Clerk

Published February 10, 2011