

0991-ORD
12/03/07

ORIGINAL

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 5790

AN ORDINANCE amending the Land Use Code and Bellevue City Code relating to process based proposals to delete unnecessary language, bring current code provisions into compliance with state law, and make efficiency improvements, which includes amendments to the following sections of the Land Use Code and Bellevue City Code: 20.30B.175(D), 20.30.D.285(D), 20.45A.250(D), 20.20.590(F), 20.45A.190, 20.35.030(D), 3.64.160, 20.30J.125, 20.30J.130, 20.35.400, 20.35.410, 20.35.200(C), and adoption of the following new sections: 20.45A.270, 20.45A.280, 20.35.200(D), and 20.35.035; providing for severability; and establishing an effective date.

WHEREAS, throughout the process of administering the Land Use Code and related sections of the Bellevue City Code, the City has identified necessary process based amendments, which fall into one of three categories (1) unnecessary language; (2) inconsistencies with state law; and (3) efficiency improvements; and

WHEREAS, the City seeks to modify the Land Use Code and related sections of the Bellevue City Code to improve the administration of these codes; and

WHEREAS, the proposed amendments to the Land Use Code and Bellevue City Code are exempt from environmental review under the State Environmental Policy Act (SEPA), Chapter 43.21C RCW, and the City's Environmental Procedures Code, BCC 22.02; and

WHEREAS, the Planning Commission held a public hearing on November 14, 2007 with regard to such proposed Land Use Code amendments; and

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

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

Section 1. Section 20.30B.175(D) of the Bellevue Land Use Code is hereby amended to read as follows:

20.30B.175(D) Administrative Amendment.

1. Scope. A proposed amendment which the Director determines meets the criteria of this section will be decided as an administrative amendment unless the applicant has chosen to have the amendment reviewed as a new application.
2. Decision Criteria. The Director shall approve a proposed amendment to an approved project or decision if:
 - a. The amendment maintains the design intent or purpose of the original approval; and
 - b. The amendment maintains the quality of design or product established by the original approval; and
 - c. The amendment is not materially detrimental to uses or property in the immediate vicinity of the subject property;
3. The applicant carries the burden of proof and must demonstrate that the application merits approval or approval with modifications.
4. Conditions. The Director may include conditions as part of the approval or approval with modifications to ensure conformance with the decision criteria for an administrative amendment and for the original approval.
5. Written Decision. The Director shall issue a written decision on the administrative amendment which contains the following:
 - a. A description of the original project or decision and the proposed administrative amendment; and
 - b. An analysis of the proposed administrative amendment using the applicable decision criteria, including the facts upon which the decision and any conditions for the project are based; and
 - c. A statement that the administrative amendment is approved, approved with modifications or denied subject to the provisions of this section.

Section 2. Section 20.30.D.285(D) of the Bellevue Land Use Code is hereby amended to read as follows:

20.30D.285(D) Administrative Amendment of Planned Unit Development.

The Director may approve modifications to an approved Planned Unit Development as an administrative amendment subject to the procedures set forth in LUC 20.35.200 et seq., if the following criteria are met:

1. The amendment maintains the design intent or purpose of the original approval; and
2. The amendment maintains the quality of design or product established by the original approval; and
3. The amendment is not materially detrimental to uses or property in the immediate vicinity of the subject property; and

Section 3. Section 20.45A.250(D) of the Bellevue Land Use Code is hereby amended to read as follows:

20.45A.250(D) Modification of an approved preliminary plat.

D. Administrative Amendment.

1. Scope. A proposed amendment which the Director determines meets the criteria of this section will be processed as an administrative amendment unless the applicant has chosen to have the amendment reviewed as a new application.
2. Decision Criteria. The Director shall approve or approve with modifications a proposed amendment to an approved preliminary plat if:
 - a. The amendment maintains the design intent or purpose of the original approval; and
 - b. The amendment maintains the quality of design or product established by the original approval; and
 - c. The amendment does not cause a significant environmental or land use impact on or beyond the site; and
 - e. Circumstances render it impractical, unfeasible or detrimental to the public interest to accomplish the subject condition or requirement of preliminary plat approval.
3. Conditions. The Director may include conditions as part of an approval or approval with modifications to ensure conformance with the decision criteria above.
4. Written Decision. The Director shall issue a written decision on the administrative amendment which contains the following:
 - a. A description of the original preliminary plat approval and the proposed amendment; and
 - b. An analysis of the proposed administrative amendment using the applicable decision criteria, including the facts upon which the decision and any conditions for the project are based; and

c. A statement that the administrative amendment is approved, approved with modifications or denied subject to the provisions of this section.

Section 4. Section 20.20.590(F) of the Bellevue Land Use Code is hereby amended to read as follows:

20.20.590(F) Parking, circulation, and walkway requirements.

F. Minimum/Maximum Parking Requirement by Use.

1. Specified Uses. Subject to LUC 20.20.590.G and 20.20.590.H, the property owner shall provide at least the minimum and may provide no more than the maximum number of parking stalls as indicated below:

	Use	Minimum Number of Parking Spaces Required	Maximum Number of Parking Spaces Allowed
a.	Auditorium/assembly room/exhibition hall/theater/commercial recreation (4)	1:4 fixed seats or 10:1,000 nsf (if there are no fixed seats)	No max.
b.	Boat moorage, public or semi-public	1:2 docking slips	No max.
c.	Financial institution	4:1,000 nsf	5:1,000 nsf
d.	Funeral home/mortuary	1:5 seats	No max.
e.	High technology/industry (1)	4:1,000 nsf	5:1,000 nsf

f.	Home furnishing-retail and major appliances-retail	1.5:1,000 nsf	3:1,000 nsf
g.	Hospital/in-patient treatment facility/outpatient surgical facility	1:patient bed	No max.
	Retail:		
	Less than 15,000 nsf	1:1,000 nsf	No max.
	More than 15,000 nsf	1.5:1,000 nsf	No max.
i.	Manufacturing/assembly (other than high technology/light industry)	1.5:1,000 nsf	No max.
j.	Office (1) business services/professional services/general office	4:1,000 nsf	5:1,000 nsf

k.	Office (2) Medical/dental/health related services	4.5:1,000 nsf	5:1,000 nsf
l.	Personal services:		
	Without fixed stations	3:1,000 nsf	No max.
	With fixed stations	1.5:station	No max.
m.	Residential:		
	Single-family detached	2:unit	No max.
	Multiple unit structure:		
	One-bedroom or studio unit	1.2:unit	No max.
	Two-bedroom unit	1.6:unit	No max.
	Three or more bedroom unit	1.8:unit	No max.
n.	Restaurant:		
	Sitdown only	14:1,000 nsf	No max.
	With takeout service	16:1,000 nsf	No max.
o.	Retail/mixed retail/shopping center uses (3):		
	Less than 15,000 nsf	5:1,000 nsf	5.5:1,000 nsf

	15,000-400,000 nsf	4:1,000 nsf	4.5:1,000 nsf
	400,000-600,000 nsf	4:1,000 nsf	5:1,000 nsf
	More than 600,000 nsf	5:1,000 nsf	5:1,000 nsf
p.	Senior housing:		
	nursing home	0.33:bed	1:bed
	congregate care senior housing	0.5:unit	1.5:unit
	senior citizen dwelling	0.8:unit	1.5:unit
q.	Rooming/boardings	1:rented room	No max.
r.	Wholesale, warehouse	1.5:1,000 nsf	No max.
s.	Vendor cart	1:cart	No max.

Section 5. Section 20.45A.190 of the Bellevue Land Use Code is hereby amended and Sections 20.45A.270 and 20.45A.280 are hereby adopted to read as follows:

20.45A.190 Final plat – Applicable procedure.

The City shall process an application for a final plat and any amendment or vacation thereof as provided in LUC 20.45A.180 through 20.45A.280. The Director of Planning and Community Development is the applicable Department Director.

20.45A.270 Final Plat –Modification.

A. Scope. Any person seeking to modify or amend a subdivision or any portion thereof shall comply with the requirements set forth in Chapter 58.17 RCW and submit an application to request the amendment to the City.

B. Application.

1. The application shall contain the signatures of the majority of those persons having an ownership interest of lots, tracts, parcels, sites, or divisions in the subject subdivision or portion to be modified.

2. If the subdivision is subject to restrictive covenants which were recorded at the time of the approval of the subdivision, and the application for modification would result in the violation of a covenant, the application shall contain an agreement signed by all parties subject to the covenants providing that the parties agree to terminate or modify the relevant covenants to accomplish the purpose of the alteration of the subdivision or portion thereof. Modification to existing covenants

shall be recorded simultaneous with recoding of the approved modification to the final plat pursuant to LUC 20.45A.270(E)

C. Notice. Upon receipt of an application for modification, the City shall provide notice of the application to all owners of property within the subdivision pursuant to the requirements of LUC 20.45A.110, LUC 20.35.120, and LUC 20.35.135. The notice shall either establish a date for a public hearing or provide that a hearing may be requested by a person receiving notice within fourteen days of receipt of the notice.

D. Decision Criteria. The Director may administratively approve or approve with modifications an application for amendment to a final plat provided:

1. The proposed amendment to final plat makes appropriate provisions for, but not limited to, the public health, safety and general welfare; for open spaces, drainage ways, streets, sidewalks, alleys, other public ways, water supplies, sanitary waste, parks, playgrounds, sites for schools and school;

2. The public use and interest is served by the amendment;

3. The proposed amendment to final plat appropriately considers the physical characteristics of the subdivision site;

4. The proposed amendment complies with all applicable provisions of the Land Use Code, BCC Title 20, the Utility Codes, BCC Title 24, the City of Bellevue Development Standards and Chapter 58.17 RCW;

5. The proposed amendment is consistent with the Comprehensive Plan, BCC Title 21; and

6. Each lot in the proposal can reasonably be developed in conformance with current Land Use Code requirements without requiring a variance; however, requests for modifications to the requirements of Part 20.25H LUC, where allowed under the provisions of that part, may be considered together with an application for amendment to a final plat provided the resulting lots may each be developed without individually requiring a variance.

E. Limitations.

1. If any land within the proposed amendment is part of an assessment district, any outstanding assessments shall be equitably divided and levied against the remaining lots, parcels, or tracts, or be levied equitably on the lots resulting from the alteration.

2. If any land within the proposed modification contains a dedication to the general use of persons residing within the subdivision, such land may be altered and divided equitably between the adjacent properties.

3. This section shall not be construed as applying to the modification or replatting of any plat of state-granted shorelands.

F. Recording Required. After approval of the amendment, the applicant shall produce a revised drawing of the approved modification to the final plat, which after signature by the City, shall be filed with the County Auditor to become the lawful plat of the property.

20.45A.280 Final Plat – Vacation.

Any person or entity seeking to vacate a final plat shall follow the procedures set forth in RCW 58.17.212.

Section 6. Section 20.35.030(D) of the Bellevue Land Use Code is hereby amended to read as follows:

20.35.030(D) Applications.

D. Project Timelines.

Subject to Chapter 36.70B RCW, the Director shall establish reasonable and predictable timelines for review of land use applications and shall provide target dates for decisions on such applications. The project timelines established by the Director may be modified for a proposal including a critical areas report as set forth in LUC 20.25H.270.

Section 7. Section 3.64.160 of the Bellevue City Code is hereby amended to read as follows:

3.64.160 Duties and responsibilities.

A. The planning commission shall review the comprehensive plan of the city and shall make recommendations concerning this to the city council.

B. The planning commission shall review land use ordinances and regulations of the city and make recommendations regarding such to the city council. The City Council may take action on land use amendments without prior review or recommendation by the planning commission pursuant to the provisions set forth in LUC 20.35.400 through 20.35.450, provided a public hearing is held by the City Council and a finding of necessity is made.

C. The planning commission shall recommend, establish priorities for, and review studies of geographic sub-areas in the city.

D. The planning commission shall be encouraged to maintain liaison with the planning agencies of other Eastside municipalities and regional planning agencies.

E. All other city boards, committees, and commissions shall coordinate their planning activities, as they relate to land use or the city comprehensive plan, with the planning commission.

F. The planning commission may hold public hearings in the exercise of its duties and responsibilities as it deems necessary.

G. The planning commission shall have such other duties and powers as heretofore have been or hereafter may be conferred upon the commission by city ordinances or as directed by council resolution, the performance of such duties and exercise of such authority to be subject to the limitations expressed in such enactments.

H. The planning commission should provide at least monthly communications to the city council highlighting major activities, future work plans, any changes in work plans and any policy direction requested.

Section 8. Section 20.30J.125 of the Bellevue Land Use Code is hereby amended to read as follows:

20.30J.125 Who may initiate.

A. The City Council, the Planning Commission or the Director of Planning and Community Development, with the concurrence of either body, may initiate an amendment to the text of the Land Use Code.

B. Although the Planning Commission is generally the Advisory Body for land use amendments as set forth in LUC 20.30J.130, the City Council may amend the text of the land use code without prior review or recommendation from the Planning Commission, provided a public hearing is held by the City Council and a finding of necessity is made.

Section 9. Section 20.30J.130 of the Bellevue Land Use Code is hereby amended to read as follows:

20.30J.130 Applicable procedure.

The City will process an amendment to the text of the Land Use Code using Process IV, LUC 20.35.400 et seq. The Planning Commission is generally the Advisory Body and the Director of Planning and Community Development is the applicable Department Director.

Section 10. Section 20.35.400 of the Bellevue Land Use Code is hereby amended to read as follows:

20.35.400 Process IV: City Council legislative actions.

LUC 20.35.400 through 20.35.450 contain the procedures the City shall use to make legislative land use decisions (Process IV actions). The process shall include a public hearing, held by either the Planning Commission or City Council, and action by the City Council. Review under the State Environmental Policy Act (SEPA) and the Bellevue Environmental Procedures Code may be required. An action by a Community Council may also be required, in which case, the Community Council may hold a courtesy public hearing at any time prior to the City Council action.

Section 11. Section 20.35.410(A) of the Bellevue Land Use Code is hereby amended to read as follows:

20.35.410 Planning Commission procedure.

A. General.

Process IV proposals may be introduced to the Planning Commission, which may schedule study sessions as needed to consider the proposal. Prior to making a recommendation, the Planning Commission shall schedule a public hearing. After the public hearing, and after any further study sessions as may be needed, the Planning Commission shall transmit its recommendation to the City Council through the applicable Department Director and the City Clerk. Alternatively, the City Council may conduct its own process and hold its own public hearing when the proposal is for a change to the text of the Land Use Code, provided a finding of necessity is made.

Section 12. Section 20.35.200(C) of the Bellevue Land Use Code is hereby amended and a new subsection (D) adopted as follows:

20.35.200(C) and (D) Process II: Administrative decisions.

C. Process II decisions of the Director and SEPA threshold determinations are final decisions, effective on the day following the expiration of any associated administrative appeal period, except that for projects where no person or entity submitted comments prior to the date the final decision was issued pursuant to LUC 20.35.250(A)(1), the process II decision is a final decision effective on the date of issuance. If an administrative appeal is filed by a person or entity that submitted comments prior to the date the final decision was issued as set forth in LUC 20.35.250(A)(1), the decision is not final until the appeal is heard and decided by the City Hearing Examiner, the Shoreline Hearings Board pursuant to LUC 20.35.250.B and RCW 90.58.180, or the Growth Management Hearings Board pursuant to LUC 20.35.250.C and RCW 36.70A.290.

D. Where no person or entity has submitted comments prior to the date the final decision was issued, as set forth in LUC 20.35.250(A)(1), the City may issue project permits during the appeal period, provided the applicant submits a waiver of appeal

statement to the City. Nothing in this provision shall require the City, however, to issue project permits prior to the expiration of the appeal period.

Section 13. Section 20.35.035 of the Bellevue Land Use Code is hereby adopted to read as follows:

20.35.035 Method of Mailing and Publication.

A. Mailing. For purposes of this Chapter, reference to "mailing" shall include either US postal mail or electronic mail. The City shall, however, provide notification by electronic mail only when requested by the recipient, provided nothing in this subsection negates the City's responsibility to provide notice by U.S. postal mail where state or local law requires that form of notification.

B. Publication. For purposes of this Chapter, reference to "publication" shall include either publication in the City's official newspaper of record, electronic notification through use of the City's official website, or by inclusion in the City's weekly permit bulletin, provided nothing in this subsection negates the City's responsibility to provide notice by publication in its official newspaper of record where state or local law requires that form of publication.

Section 14. 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 15. This ordinance shall take effect and be in force five (5) days after legal publication.

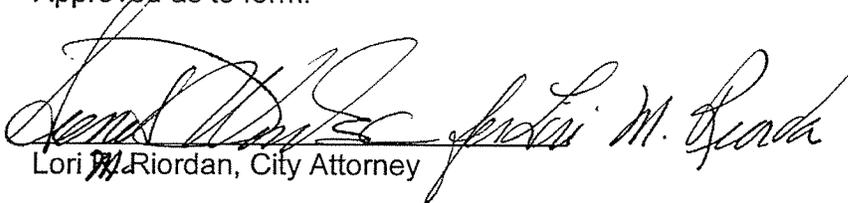
PASSED by the City Council this 3rd day of December, 2007,
and signed in authentication of its passage this 3rd day of December,
2007.

(SEAL)



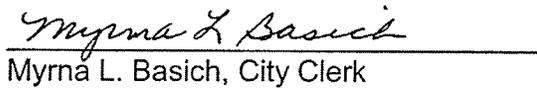
Grant S. Degginger, Mayor

Approved as to form:



Lori M. Riordan, City Attorney

Attest:



Myrna L. Basich, City Clerk

Published December 6, 2007



MEMORANDUM

DATE: January 2, 2008
TO: Chair Bell, Members of the East Bellevue Community Council
FROM: Lacey Madche, Legal Planner 452-6134
SUBJECT: Process Based Amendments; File No. 07-130299 AD

On January 2, 2008, the East Bellevue Community Council (EBCC) is scheduled to hold a public hearing on Ordinance No. 5790. This ordinance was approved by the City Council on December 3, 2007 and contains amendments, which are process based rather than substantive changes to the Land Use Code. Throughout the process of administering the LUC, staff has identified process based modifications that fall into one of three categories: (1) superfluous language, (2) consistency with state law, and (3) efficiency improvements.

Background

The following describes specific code amendments as they relate to the three categories set forth above.

Unnecessary Language.

- Proposal: Deletion of unnecessary language relating to administrative amendments for conditional use permits, planned unit development, and subdivision of land.

Staff proposes to delete the following decision criteria from the above referenced land use processes: "The amendment is not precluded by the terms of the Bellevue City Code or by state law from being decided administratively." The City's adoption of an administrative amendment process for a conditional use permit, planned unit development, or for subdivision of land, inherently means amendment to the original approval is permitted provided all decision criteria are met. Accordingly, inclusion of the above quoted decision criteria is unnecessary, confusing, and should be deleted.

- Proposal: Amend LUC to treat hotel, motel, and religious institutional uses as unspecified uses for purposes of determining required parking under LUC 20.20.590.

Currently all uses specified in LUC 20.20.590 are subject to minimum and maximum parking requirements. Under LUC 20.20.590, hotel, motel, and religious institutional uses, however, are not subject to a maximum parking requirement. Because hotel, motel, and religious institutional uses have unique parking demands based on the nature of such uses and because institutional uses do not typically fall below the set

minimum number of parking spaces set forth in LUC 20.20.590, the City customarily uses a parking demand analysis to impose parking requirements for these uses rather than rely on LUC 20.20.590. Accordingly, treating hotel, motel, and religious institutional uses as specified uses under LUC 20.20.590 is inaccurate and should be deleted.

Consistency with State Law.

- Proposal: Inclusion of LUC text relating to Amendment and Revocation of Final Plats.

State law, codified at Chapter 58.17 RCW, governs the process by which land is divided and sets forth the basic guidelines by which cities adopt procedures relating to subdivision. Currently the City has relied on provisions of Chapter 58.17 RCW because the LUC does not provide a process by which final plats may be amendment or revoked. The proposed amendment adopts a local amendment and revocation process in the LUC based on the parameters set forth in Chapter 58.17 RCW.

- Proposal: Amend LUC to ensure project timelines comport with the Growth Management Act.

Recent legislation relating to the Growth Management Act (GMA) requires cities establish time periods for local government actions on specific project permit applications; a term defined by statute to include any land use or environmental permit required from a local government for a project action. Specifically, local governments must establish minimum requirements for complete project permit applications that should not exceed the statutory 120-day period. Staff proposes an amendment to LUC 20.35.030(D) which would authorize the PCD Director to establish reasonable and predictable timelines for review of land use applications.

- Proposal: Amend LUC authorizing the City Council to take action on land use amendments without prior review or recommendation from the Planning Commission if and when necessary but not as a matter of practice.

Currently the LUC contemplates that the Planning Commission will review, recommend, and hold a public hearing relating to adoption of land use code amendments. Similarly, although not before the Planning Commission, Chapter 3.64 of the Bellevue City Code (BCC) requires the Planning Commission to review and make recommendations to the City Council relating to all land use code amendments.

Provided a public hearing is held, state law permits the City Council to take action on land use code amendments without prior review and recommendation from the Planning Commission. Accordingly, the proposed amendment modifies the language in the BCC that requires the Planning Commission review and make recommendations on all land use code amendments prior to final action by the City Council and otherwise clarifies provisions of the LUC relating to the same.

This proposed amendment is intended to track the City's land use amendment process with the available authority under state law not to promote or modify the City's long standing practice that the Planning Commission reviews and provides recommendations to the City Council on land use code amendments. In the event the City should need to take immediate or emergency action relating to amendment of the LUC, this proposal would ensure the City Council maintains the authority under the BCC and LUC to do so.

Efficiency Improvements

- Proposal: Amend LUC to allow the City to issue land use approvals during Process II appeal periods if no parties submitted written comments prior to the date the final decision was issued and the applicant submits a waiver of appeal statement to the City.

Currently LUC 20.35.200 (relating to Process II Administrative Decisions and Appeals) prohibits the City from issuing permits for projects during Process II appeal periods. PCD proposes to amend this prohibition to allow the City to issue project permits during Process II appeal periods provided the City has not received written comments from third parties and receives a waiver of appeal from the applicant. The basis for PCD's recommendation is that if the City has not received written comment from third parties prior to the date the final decision was issued and the applicant waives his/her right to appeal, no person or entity (except the City) would have a cognizable appeal (otherwise referred to as "standing"). Accordingly, it is more efficient for the City and the applicant for the City to issue project permits when capable rather than waiting for an appeal period to run wherein no legal risk of a cognizable appeal exists.

- Proposal: Amend LUC to allow the City to provide notification by electronic mail and publish the availability of documents electronically in addition to providing notification by U.S. Postal mail or by publishing documents in the City's official newspaper.

Staff proposes the above referenced alternative notification and publication processes to reduce publication costs and to more efficiently notify citizens of land use applications and decisions. Currently the City provides notification of land use matters by U.S. Postal Mail, publication in the City's permit bulletin, and by publication in the City's official newspaper. This proposal would allow the City to provide electronic notification to citizens that otherwise request that form of notification. This proposal would also allow the City to publish documents by way of the City's permit bulletin, which is accessible by the City's official website. This proposal would not, however, negate the City's responsible to publish certain land use matters in the City's official newspaper as required by state law. This proposal, as well, would not negate the applicant's responsibility to post notification signs of proposed land use actions on the subject site.

Conclusion

Following the public hearing, the EBCC is requested to take action on Ordinance No. 5790. Staff will be present at the January 2, 2007 EBCC meeting to answer any questions that may arise.

Attachment: Ordinance No. 5790

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WHEREAS, the proposed amendments to the Land Use Code and Bellevue City Code are exempt from environmental review under the State Environmental Policy Act (SEPA), Chapter 43.21C RCW, and the City's Environmental Procedures Code, BCC 22.02; and

WHEREAS, the Planning Commission held a public hearing on November 14, 2007 with regard to such proposed Land Use Code amendments; and

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

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

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a. The amendment maintains the design intent or purpose of the original approval; and

b. The amendment maintains the quality of design or product established by the original approval; and

c. The amendment is not materially detrimental to uses or property in the immediate vicinity of the subject property; and

~~d. The amendment is not precluded by the terms of the Bellevue City Code or by state law from being decided administratively.~~

3. The applicant carries the burden of proof and must demonstrate that the application merits approval or approval with modifications.

4. Conditions. The Director may include conditions as part of the approval or approval with modifications to ensure conformance with the decision criteria for an administrative amendment and for the original approval.

5. Written Decision. The Director shall issue a written decision on the administrative amendment which contains the following:

a. A description of the original project or decision and the proposed administrative amendment; and

b. An analysis of the proposed administrative amendment using the applicable decision criteria, including the facts upon which the decision and any conditions for the project are based; and

c. A statement that the administrative amendment is approved, approved with modifications or denied subject to the provisions of this section.

Section 2. Section 20.30.D.285(D) of the Bellevue Land Use Code is hereby amended to read as follows:

20.30D.285(D) Administrative Amendment of Planned Unit Development.

The Director may approve modifications to an approved Planned Unit Development as an administrative amendment subject to the procedures set forth in LUC 20.35.200 et seq., if the following criteria are met:

1. The amendment maintains the design intent or purpose of the original approval; and

2. The amendment maintains the quality of design or product established by the original approval; and

3. The amendment is not materially detrimental to uses or property in the immediate vicinity of the subject property; and

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Section 3. Section 20.45A.250(D) of the Bellevue Land Use Code is hereby amended to read as follows:

20.45A.250(D) Modification of an approved preliminary plat.

D. Administrative Amendment.

1. Scope. A proposed amendment which the Director determines meets the criteria of this section will be processed as an administrative amendment unless the applicant has chosen to have the amendment reviewed as a new application.

2. Decision Criteria. The Director shall approve or approve with modifications a proposed amendment to an approved preliminary plat if:

a. The amendment maintains the design intent or purpose of the original approval; and

b. The amendment maintains the quality of design or product established by the original approval; and

c. The amendment does not cause a significant environmental or land use impact on or beyond the site; and

~~d. The amendment is not precluded by the terms of the Bellevue City Code or by state law from being decided administratively; and~~

e. Circumstances render it impractical, unfeasible or detrimental to the public interest to accomplish the subject condition or requirement of preliminary plat approval.

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modifications or denied subject to the provisions of this section.

Section 4. Section 20.20.590(F) of the Bellevue Land Use Code is hereby amended to read as follows:

20.20.590(F) Parking, circulation, and walkway requirements.

F. Minimum/Maximum Parking Requirement by Use.

1. Specified Uses. Subject to LUC 20.20.590.G and 20.20.590.H, the property owner shall provide at least the minimum and may provide no more than the maximum number of parking stalls as indicated below:

	Use	Minimum Number of Parking Spaces Required	Maximum Number of Parking Spaces Allowed
a.	Auditorium/assembly room/exhibition hall/theater/commercial recreation (4)	1:4 fixed seats or 10:1,000 nsf (if there are no fixed seats)	No max.
b.	Boat moorage, public or semi-public	1:2 docking slips	No max.
c.	Financial institution	4:1,000 nsf	5:1,000 nsf
d.	Funeral home/mortuary/religious institution	1:5 seats	No max.
e.	High technology/industry (1)	4:1,000 nsf	5:1,000 nsf
f.	Home furnishing-retail and major appliances-retail	1.5:1,000 nsf	3:1,000 nsf

g.	Hospital/in-patient treatment facility/outpatient surgical facility	1:patient bed	No max.
h.	Hotel/motel and associated uses:	-	-
-	Basic guest and employee	0.9:guest room	No max.
-	Restaurant/lounge/bar	10:1,000 nsf of seating area	No max.
-	Banquet/meeting rooms	6:1,000 nsf of seating area	No max.
	Retail:		
	Less than 15,000 nsf	1:1,000 nsf	No max.
	More than 15,000 nsf	1.5:1,000 nsf	No max.
i.	Manufacturing/assembly (other than high technology/light industry)	1.5:1,000 nsf	No max.
j.	Office (1) business services/professional services/general office	4:1,000 nsf	5:1,000 nsf
k.	Office (2) Medical/dental/health related services	4.5:1,000 nsf	5:1,000 nsf

l.	Personal services:		
	Without fixed stations	3:1,000 nsf	No max.
	With fixed stations	1.5:station	No max.
m.	Residential:		
	Single-family detached	2:unit	No max.
	Multiple unit structure:		
	One-bedroom or studio unit	1.2:unit	No max.
	Two-bedroom unit	1.6:unit	No max.
	Three or more bedroom unit	1.8:unit	No max.
n.	Restaurant:		
	Sitdown only	14:1,000 nsf	No max.
	With takeout service	16:1,000 nsf	No max.
o.	Retail/mixed retail/shopping center uses (3):		
	Less than 15,000 nsf	5:1,000 nsf	5.5:1,000 nsf
	15,000-400,000 nsf	4:1,000 nsf	4.5:1,000 nsf
	400,000-600,000 nsf	4:1,000 nsf	5:1,000 nsf
	More than 600,000 nsf	5:1,000 nsf	5:1,000 nsf
p.	Senior housing:		

	nursing home	0.33:bed	1:bed
	congregate care senior housing	0.5:unit	1.5:unit
	senior citizen dwelling	0.8:unit	1.5:unit
q.	Rooming/boardings	1:rented room	No max.
r.	Wholesale, warehouse	1.5:1,000 nsf	No max.
s.	Vendor cart	1:cart	No max.

Section 5. Section 20.45A.190 of the Bellevue Land Use Code is hereby amended and Sections 20.45A.270 and 20.45A.280 are hereby adopted to read as follows:

20.45A.190 Final plat – Applicable procedure.

The City ~~shall~~ will process an application for a final plat and any amendment or vacation thereof as provided in LUC 20.45A.180 through 20.45A.280. The Director of Planning and Community Development is the applicable Department Director.

20.45A.270 Final Plat –Modification.

A. Scope. Any person seeking to modify or amend a subdivision or any portion thereof shall comply with the requirements set forth in Chapter 58.17 RCW and submit an application to request the amendment to the City.

B. Application.

1. The application shall contain the signatures of the majority of those persons having an ownership interest of lots, tracts, parcels, sites, or divisions in the subject subdivision or portion to be modified.

2. If the subdivision is subject to restrictive covenants which were recorded at the time of the approval of the subdivision, and the application for modification would result in the violation of a covenant, the application shall contain an agreement signed by all parties subject to the covenants providing that the parties agree to terminate or modify the relevant covenants to accomplish the purpose of the alteration of the subdivision or portion thereof. Modification to existing covenants shall be recorded simultaneous with recoding of the approved modification to the final plat pursuant to LUC 20.45A.270(E).

C. Notice. Upon receipt of an application for modification, the City shall provide notice of the application to all owners of property within the subdivision pursuant to the requirements of LUC 20.45A.110, LUC 20.35.120, and LUC 20.35.135. The notice shall

either establish a date for a public hearing or provide that a hearing may be requested by a person receiving notice within fourteen days of receipt of the notice.

D. Decision Criteria. The Director may administratively approve or approve with modifications an application for amendment to a final plat provided:

1. The proposed amendment to final plat makes appropriate provisions for, but not limited to, the public health, safety and general welfare; for open spaces, drainage ways, streets, sidewalks, alleys, other public ways, water supplies, sanitary waste, parks, playgrounds, sites for schools and school;

2. The public use and interest is served by the amendment;

3. The proposed amendment to final plat appropriately considers the physical characteristics of the subdivision site;

4. The proposed amendment complies with all applicable provisions of the Land Use Code, BCC Title 20, the Utility Codes, BCC Title 24, the City of Bellevue Development Standards and Chapter 58.17 RCW;

5. The proposed amendment is consistent with the Comprehensive Plan, BCC Title 21; and

6. Each lot in the proposal can reasonably be developed in conformance with current Land Use Code requirements without requiring a variance; however, requests for modifications to the requirements of Part 20.25H LUC, where allowed under the provisions of that part, may be considered together with an application for amendment to a final plat provided the resulting lots may each be developed without individually requiring a variance.

E. Limitations.

1. If any land within the proposed amendment is part of an assessment district, any outstanding assessments shall be equitably divided and levied against the remaining lots, parcels, or tracts, or be levied equitably on the lots resulting from the alteration.

2. If any land within the proposed modification contains a dedication to the general use of persons residing within the subdivision, such land may be altered and divided equitably between the adjacent properties.

3. This section shall not be construed as applying to the modification or replatting of any plat of state-granted shorelands.

F. Recording Required. After approval of the amendment, the applicant shall produce a revised drawing of the approved modification to the final plat, which after signature by the City, shall be filed with the County Auditor to become the lawful plat of the property.

20.45A.280 Final Plat – Vacation.

Any person or entity seeking to vacate a final plat shall follow the procedures set forth in RCW 58.17.212.

Section 6. Section 20.35.030(D) of the Bellevue Land Use Code is hereby amended to read as follows:

20.35.030(D) Applications.

D. Project Timelines.

Subject to Chapter 36.70B RCW, the Director shall establish reasonable and predictable timelines for review of land use applications and shall provide target dates for decisions on such applications. All land use decisions on applications filed on or after April 1, 1996, shall be made within the time period specified under RCW 36.70B.090. For purposes of calculating timelines and counting days of permit processing, the applicable time period shall begin on the first working day following the date the application is determined to be complete and shall only include the time during which the City can proceed with review of the application as specified in RCW 36.70B.090. The project timelines established by the Director's section may be modified for a proposal including a critical areas report as set forth in LUC 20.25H.270.

Section 7. Section 3.64.160 of the Bellevue City Code is hereby amended to read as follows:

3.64.160 Duties and responsibilities.

A. ~~The planning commission shall review the comprehensive plan of the city and other planning documents to determine if the city's plans, goals, policies, land use ordinances and regulations are promoting orderly and coordinated development within the city. The commission shall make recommendations concerning this to the city council.~~

B. The planning commission shall review land use ordinances and regulations of the city and make recommendations regarding them such to the city council. The City Council may take action on land use amendments without prior review or recommendation by the planning commission pursuant to the provisions set forth in LUC 20.35.400 through 20.35.450, provided a public hearing is held by the City Council and a finding of necessity is made.

C. The planning commission shall recommend, establish priorities for, and review studies of geographic sub-areas in the city.

D. The planning commission shall be encouraged to maintain liaison with the planning agencies of other Eastside municipalities and regional planning agencies.

E. All other city boards, committees, and commissions shall coordinate their planning activities, as they relate to land use or the city comprehensive plan, with the planning commission.

F. The planning commission may hold public hearings in the exercise of its duties and responsibilities as it deems necessary.

G. The planning commission shall have such other duties and powers as heretofore have been or hereafter may be conferred upon the commission by city ordinances or as directed by council resolution, the performance of such duties and exercise of such authority to be subject to the limitations expressed in such enactments.

H. The planning commission should provide at least monthly communications to the city council highlighting major activities, future work plans, any changes in work plans and any policy direction requested.

Section 8. Section 20.30J.125 of the Bellevue Land Use Code is hereby amended to read as follows:

20.30J.125 Who may initiate.

A. The City Council, the Planning Commission or the Director of Planning and Community Development, with the concurrence of either body, may initiate an amendment to the text of the Land Use Code.

B. Although the Planning Commission is generally the Advisory Body for land use amendments as set forth in LUC 20.30J.130, the City Council may amend the text of the land use code without prior review or recommendation from the Planning Commission, provided a public hearing is held by the City Council and a finding of necessity is made.

Section 9. Section 20.30J.130 of the Bellevue Land Use Code is hereby amended to read as follows:

20.30J.130 Applicable procedure.

The City will process an amendment to the text of the Land Use Code using Process IV, LUC 20.35.400 et seq. The Planning Commission is generally the Advisory Body and the Director of Planning and Community Development is the applicable Department Director.

Section 10. Section 20.35.400 of the Bellevue Land Use Code is hereby amended to read as follows:

20.35.400 Process IV: City Council legislative actions.

LUC 20.35.400 through 20.35.450 contain the procedures the City ~~shall~~ use to make legislative land use decisions (Process IV actions). The process ~~shall usually~~ include a public hearing, held by either the Planning Commission or City Council, and

~~recommendation by the Planning Commission and an action by the City Council. Alternatively, the City Council may hold its own hearing regarding proposals to change the text of the Land Use Code. Review under the State Environmental Policy Act (SEPA) and the Bellevue Environmental Procedures Code may be required. An action by a Community Council may also be required, in which case, the Community Council may hold a courtesy public hearing at any time prior to the City Council action.~~

Section 11. Section 20.35.410(A) of the Bellevue Land Use Code is hereby amended to read as follows:

20.35.410 Planning Commission procedure.

A. General.

~~Process IV proposals will usually~~may be introduced to the Planning Commission, which may schedule study sessions as needed to consider the proposal. Prior to making a recommendation, the Planning Commission shall schedule a public hearing. After the public hearing, and after any further study sessions as may be needed, the Planning Commission shall transmit its recommendation to the City Council through the applicable Department Director and the City Clerk. Alternatively, the City Council may conduct its own process and hold its own public hearing when the proposal is for a change to the text of the Land Use Code, provided a finding of necessity is made.

Section 12. Section 20.35.200(C) of the Bellevue Land Use Code is hereby amended and a new subsection (D) adopted as follows:

20.35.200(C) and (D) Process II: Administrative decisions.

C. Process II decisions of the Director and SEPA threshold determinations are final decisions, effective on the day following the expiration of any associated administrative appeal period, except that for projects where no person or entity submitted comments prior to the date the final decision was issued pursuant to LUC 20.35.250(A)(1), the process II decision is a final decision effective on the date of issuance. If an administrative appeal is filed by a person or entity that submitted comments prior to the date the final decision was issued as set forth in LUC 20.35.250(A)(1), the decision is not final until the appeal is heard and decided by the City Hearing Examiner, the Shoreline Hearings Board pursuant to LUC 20.35.250.B and RCW 90.58.180, or the Growth Management Hearings Board pursuant to LUC 20.35.250.C and RCW 36.70A.290.

D. Where no person or entity has submitted comments prior to the date the final decision was issued, as set forth in LUC 20.35.250(A)(1), the City may issue project permits during the appeal period, provided the applicant submits a waiver of appeal statement to the City. Nothing in this provision shall require the City, however, to issue project permits prior to the expiration of the appeal period.

Section 13. Section 20.35.035 of the Bellevue Land Use Code is hereby adopted to read as follows:

20.35.035 Method of Mailing, Publication, and Postcard Notification.

A. Mailing. For purposes of this Chapter, reference to "mailing" shall include either US postal mail or electronic mail. The City shall, however, provide notification by electronic mail only when requested by the recipient, provided nothing in this subsection negates the City's responsibility to provide notice by U.S. postal mail where state or local law requires that form of notification.

B. Publication. For purposes of this Chapter, reference to "publication" shall include either publication in the City's official newspaper of record, electronic notification through use of the City's official website, or by inclusion in the City's weekly permit bulletin, provided nothing in this subsection negates the City's responsibility to provide notice by publication in its official newspaper of record where state or local law requires that form of publication.

Section 14. 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 15. This ordinance shall take effect and be in force five (5) days after legal publication.

PASSED by the City Council this _____ day of _____, 2007, and signed in authentication of its passage this _____ day of _____, 2007.

(SEAL)

Grant S. Degginger, Mayor

Approved as to form:

Lori R. Riordan, City Attorney

Attest:

Myrna L. Basich, City Clerk

Published _____

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East Bellevue Community Council
Summary Minutes October 2, 2007

Councilmember Kasner moved to approve the agenda, as amended. Mr. Seal seconded the motion, which carried by a vote of 5-0.

5. **PUBLIC HEARING**

(a) Process-based Land Use Code Amendments

Lacey Madche, Legal Planner, referred the Council to the meeting packet for materials regarding Land Use Code Amendments (LUCAs) that are not substantive in nature but rather proposed by staff based on one of the following three criteria: 1) Unnecessary language, 2) Inconsistencies with state law, and 3) Efficiency improvements.

Chair Bell opened the public hearing. No one came forward to comment.

Councilmember Kasner moved to close the public hearing. Councilmember Elwin seconded the motion, which carried by a vote of 5-0.

Ms. Madche reviewed revisions deleting language related to administrative amendments for conditional use permits, planned unit developments, and the subdivision of land. The second modification amends the Land Use Code to treat hotel, motel and religious institutional uses as unspecified uses for purposes of determining required parking under LUC 20.20.590. This change is consistent with the policy that these uses are not subject to a maximum parking requirement.

Ms. Madche reviewed revisions providing consistency with state law, which address the amendment and revocation of final plats, matching project timelines with the state Growth Management Act requirements, and authorizing the City Council to take action on land use amendments without review or recommendation by the Planning Commission if and when necessary. LUCAs related to efficiency improvements apply to Home Occupation uses, Process II land use approvals, and using email notifications and providing electronic versions of documents to citizens.

Responding to Chair Bell, Mr. Jackson explained that parking requirements are based on net square footage (nsf) of a use/structure.

In further response to Mr. Bell, Ms. Helland noted provisions regarding the processing of permit applications. She said Bellevue's practice is to negotiate a timeline with the applicant.

Councilmember Kasner expressed concern about the amendment allowing the City Council to take action on land use amendments without review or recommendation by the Planning Commission if and when necessary. Ms. Helland explained that it is inherent within the City Council's authority to be able to take Land Use Code actions without Planning Commission review, although this has never been specifically articulated in the Code.

Staff responded to additional questions of clarification. Ms. Madche explained that staff recommends eliminating the requirement for Home Occupation permits because nothing is gained by requiring the permits. Applications typically meet the requirements for approval, and the permit does not affect enforcement. The City's business license office will have a record of home-based businesses, and enforcement will continue to be handled on a complaint basis.

(b) Neighborhood Livability Action Agenda

Chair Bell opened the public hearing. No one came forward to comment.

Councilmember Kasner moved to close the public hearing. Councilmember Elwin seconded the motion, which carried by a vote of 5-0.

Ms. Hewitt provided a presentation on the City's Neighborhood Livability Action Agenda addressing property maintenance, neighborhood investment, and neighborhood character. She described the City's drive-by survey of all homes in Bellevue built before 1970. As a result, four areas were identified for involvement in an emphasis on neighborhood cleanup and maintenance activities.

In terms of neighborhood investment, Ms. Hewitt described an effort underway to compile a list of all neighborhood sidewalk requests, to be forwarded to the Transportation Commission and staff for review. The Commission will ultimately make recommendations to the City Council, and staff will continue to research innovative funding mechanisms.

The neighborhood character action agenda addresses concerns related to redevelopment and infill in existing neighborhoods including construction impacts; incompatible scale and architecture; the loss of privacy, sunlight and territorial views; walls and fences creating barriers between neighbors; and the loss of vegetation.

Ms. Madche explained that the Planning Commission's preliminary recommendations are to address: 1) the loss of trees and greenscape, 2) concerns related to size, scale and character of new homes, and 3) concerns regarding construction impacts and neighborhood access to information. Staff and the Planning Commission will work to develop the code and policy details based on the general framework. A public hearing is anticipated in November. Final recommendations will be presented to the City Council and Community Council early next year.

Staff responded to questions of clarification regarding the preservation of trees.

Chair Bell and Councilmember Seal expressed concern about tree-related damage during windstorms, and cautioned against an over-emphasis on retaining trees.

Mr. Jackson commented that there is a strong sentiment in the community to retain trees. Similarly, residents want trees to be well maintained in order to feel safe and to minimize accidents involving trees.