



MEMORANDUM

DATE: March 1, 2011

TO: East Bellevue Community Council

FROM: Matthews Jackson, Planning Manager, DSD, 425-452-2729
mjackson@bellevuewa.gov

SUBJECT: Nonconforming Lot Building Height - Land Use Code Amendment
(10-124743 AD)

On March 1, 2011, the East Bellevue Community Council (EBCC) will hold a public hearing on review of a Land Use Code Amendment related to maximum building heights on lots failing to meet 70% of the minimum lot size of the underlying land use district. A courtesy hearing regarding this amendment was held at the EBCC meeting on Tuesday, December 7, 2010.

The Bellevue City Council adopted Ordinance No. 5991 to amend the Land Use Code on February 7, 2011.

Introduction and Summary

The proposed amendment amends Land Use Code section 20.20.070.B so that the maximum building height restriction on lots that fail to meet 70% of the minimum lot size in the underlying land use district may be modified through the Land Use Code Variance process. The prior code included a strict prohibition on using the variance process to modify height restrictions even where existing neighborhood character may warrant it. This amendment is intended to bring this code provision into alignment with neighborhood character amendments approved in 2007 and 2009.

The Bellevue Planning Commission held its public hearing on this amendment on December 1, 2010. The Planning Commission's recommendation was forwarded to the Bellevue City Council on January 18, 2011.

The City Council adopting ordinance is included as Attachment A. Please contact me if you have any questions before the March 1st hearing.

Attachments

- A. Ordinance No. 5991

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 5991

AN ORDINANCE amending the Bellevue Land Use Code relating to nonconforming building height, specifically amending Land Use Code Section 20.20.070.B 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 nonconforming lots consistent with neighborhood character code amendments that were adopted in 2007 and 2009; 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 20.20.070 of the Bellevue Land Use Code is hereby amended as follows:

20.20.070 Lots nonconforming as to area, street frontage, width or depth – Status.

A. An individual nonconforming lot legally created pursuant to LUC 20.20.060 may be used for a building site if:

1. There are no restrictions on development imposed by prior permits or land use approvals; and
2. The lot does not lie within a Residential (R-1 – R-30) Land Use District; or
3. The lot lies within a Residential (R-1 – R-30) Land Use District; and
 - a. The area, width and depth of the lot each meet or exceed 70 percent of the minimum requirements for the Residential (R-1 – R-30) Land Use District in which it is located,

or

b. Although the area, width or depth of the lot, or a combination thereof, do not meet 70 percent of the minimum requirements of the Residential (R-1 – R-30) Land Use District in which it is located,

- i. The lot's area meets or exceeds 3,000 square feet; and
- ii. The lot's width meets or exceeds 30 feet; and
- iii. The lot's depth meets or exceeds 50 feet.

B. Development of an individual lot failing to meet 70 percent of the area, width or depth requirements of the land use district in which it is located is restricted to a maximum building height computed by the following formula (see Example A, below). The maximum building height resulting from the following formula may be modified up to the maximum height allowed in the underlying land use district through a variance pursuant to Part 20.30G LUC or Part 20.30H LUC:

$$\text{Building Height} = 2 \times C \times H$$

C = The ratio of potentially buildable area (lot area less the area of the lot's minimum setback requirements) to total lot area.

H = The general building height requirement otherwise applicable to the lot.

(Calculation of building height is in no way intended to suggest a waiver of lot coverage requirements imposed elsewhere in the Code. Similarly, calculations are based on basic Code requirements; any variances to setbacks of the property do not affect building height calculation.)

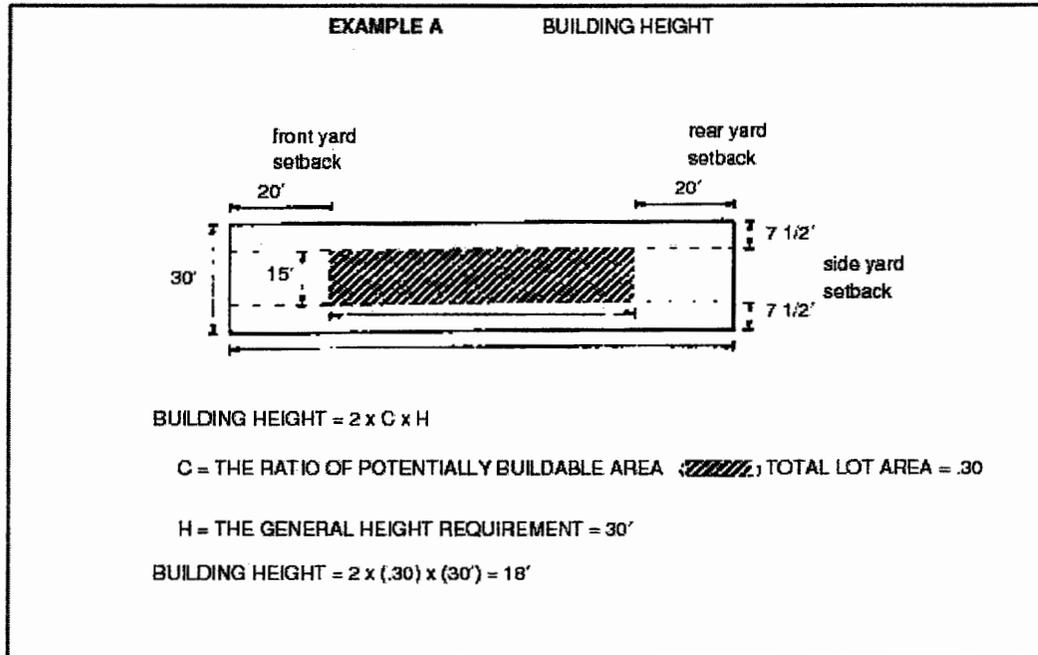
Provided, that in no event shall building height exceed the building height requirement otherwise applicable to the lot; and provided, that in no event shall a building height requirement be imposed less than 15 feet.

C. Notwithstanding subsection A of this section, a nonconforming lot in a Residential (R-1 – R-30) Land Use District failing to meet or exceed 70 percent of minimum area, width and depth requirements of the district in which it is located may not be used for a building site if at any time since the effective date of the ordinance which first established a minimum lot area, width, depth or street frontage requirement larger than the lot contains or annexation, whichever was later, has a person, partnership, corporation or marital community owning said lot simultaneously owned additional contiguous property. Such lots must be combined with additional contiguous property sufficient that the area, width and depth of the combined property each meets or exceeds 70 percent of the minimum requirements of the land use district in which the property is located. This subsection does not constitute a waiver of any of the requirements of boundary line adjustment procedure.

D. Any nonconforming lot used for a building site must meet the nonconforming provisions of LUC 20.20.560, the, building height requirements of B and the applicable dimensional requirements of LUC 20.20.010 for the district in which it is located, unless a

variance has been granted pursuant to Part 20.30G or 20.30H LUC or modification has been granted pursuant to LUC 20.25H.040.B.

E. This section is not applicable in the Bel-Red Land Use Districts. Refer to LUC 20.25D.060 for regulations relating to existing conditions.



Section 2. 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.

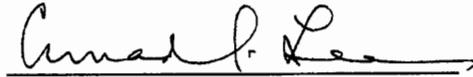
Section 3. This ordinance shall take effect and be in force five (5) days after passage and legal publication.

ORIGINAL

1207-ORD
02/02/11

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

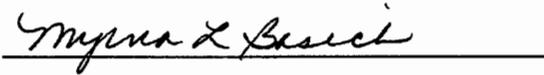
Approved as to form:

Lori M. Riordan, City Attorney



Lacey Madche, Assistant City Attorney

Attest:



Myrna L. Basich, City Clerk

Published February 10, 2011

East Bellevue Community Council
Summary Minutes of Regular Meeting

December 7, 2010
6:30 p.m.

Lake Hills Community Clubhouse
Bellevue, Washington

PRESENT: Chair Kasner, and Councilmembers Erwin, Gooding and Seal

ABSENT: Vice Chair Elwin excused.

STAFF: Matthews Jackson, Neighborhood Development Planning Manager
Sally Nichols, Associate Planner
Catherine Drews, Legal Planner

1. **CALL TO ORDER**

The meeting was called to order at 6:30 p.m. with Chair Kasner presiding.

2. **ROLL CALL**

The Clerk took the roll. All Councilmembers present with the exception of Vice Chair Elwin who had been excused for medical reasons.

3. **COMMUNICATIONS - WRITTEN AND ORAL**: None.

4. **APPROVAL OF AGENDA**

Chair Kasner requested the addition of the status of the Key Bank building on 148th Street to the agenda.

Councilmember Erwin moved approval of the agenda, with the addition of the Key Bank building status item under New Business. Councilmember Seal seconded the motion which carried by a vote of 4-0.

5. **COURTESY PUBLIC HEARINGS**:

- (a) Land Use Code Amendment to modify language so that the variance process may be used to modify the height restriction on lots failing to meet 70% of the minimum lot size of underlying land use district.

Chair Kasner opened the Courtesy Hearing, turning the floor over to Matt Jackson for the staff presentation.

Mr. Jackson provided the staff overview. This Land Use Code amendment is intended to provide additional building height flexibility on non-conforming lots. The objective is to allow

for the reasonable development of non-conforming lots consistent with neighborhood character code amendments adopted last year and individual site conditions.

Current development of an individual lot failing to meet 70% of the area, width, or depth requirements of the land use district in which it is located is restricted to a maximum building height based on two times the ratio of the potential buildable area, times the general building height of 30 feet, provided that the building height does not exceed the building height requirements otherwise applicable to the lot.

The proposed amendment would allow the maximum building height to be modified using the Land Use Code Variance process. This process would remove redevelopment barriers that exist within the current code and provide an opportunity to consider the unique circumstance of each proposal.

Based on considerable research and input provided by citizens who have been impacted by existing limitations in regard to building heights on non-conforming lots, staff recommends approval of the proposed ordinance to address neighborhood character elements and development flexibility through the use of the Variance process.

Mr. Jackson participated in Council discussions, providing examples of when the proposed provision could be used.

Mr. Capron noted that one of the example properties depicted was his home.

Mr. Jackson responded to Councilmember Erwin related to noticing requirements.

Mr. Seal stated that flexibility is good, and he noted his support.

Chair Kasner suggested that a direct mailing notice might be a good idea, given that a small number of properties within the East Bellevue Community Council area are affected.

Mr. Capron observed that noticing property owners of the potential adoption of the Land Use Code amendment is not critical, in his view, because the new regulation is less restrictive.

Chair Kasner asked if there was further public testimony and, hearing none, closed the courtesy public hearing. He thanked staff and participants.

(b) Conditional Use Application by Verizon Wireless to install 90' wood pole at 15555 SE 16th Street.

Chair Kasner opened the Courtesy Hearing, turning to Sally Nichols for the staff presentation.

Ms. Nichols stated that Verizon Wireless has applied for a Conditional Use Permit to install a new, 90-foot wood pole on the northwest corner of the existing PSE Phantom Lake Substation property. Because the proposed facility is an entirely new facility, a full Conditional Use



MEMORANDUM

DATE: 2/7/2011
TO: Mayor Davidson, Members of the Bellevue City Council
FROM: Carol Helland, Land Use Director; Matthews Jackson, Planning Manager, DSD
SUBJECT: Nonconforming Lot Building Height LUCA

A strike/draft version of proposed Ordinance No. 5991 has been included in your desk packet as the version provided at the January 18th study session included a section identified as new code in error. The strike/draft version in your desk packet is intended to provide further clarification.

ATTACHMENT A
CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. _____

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1. There are no restrictions on development imposed by prior permits or land use approvals; and

2. The lot does not lie within a Residential (R-1 – R-30) Land Use District; or

ATTACHMENT A

23. The lot lies within a Residential (R-1 – R-30) Land Use District; and

a. The area, width and depth of the lot each meet or exceed 70 percent of the minimum requirements for the Residential (R-1 – R-30) Land Use District in which it is located, or

b. Although the area, width or depth of the lot, or a combination thereof, do not meet 70 percent of the minimum requirements of the Residential (R-1 – R-30) Land Use District in which it is located,

i. The lot's area meets or exceeds 3,000 square feet; and

ii. The lot's width meets or exceeds 30 feet; and

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B. Development of an individual lot failing to meet 70 percent of the area, width or depth requirements of the land use district in which it is located is restricted to a maximum building height computed by the following formula (see Example A, below), and is not subject to variance: The maximum building height resulting from the following formula may be modified up to the maximum height allowed in the underlying land use district through a variance pursuant to Part 20.30G LUC or Part 20.30H LUC:

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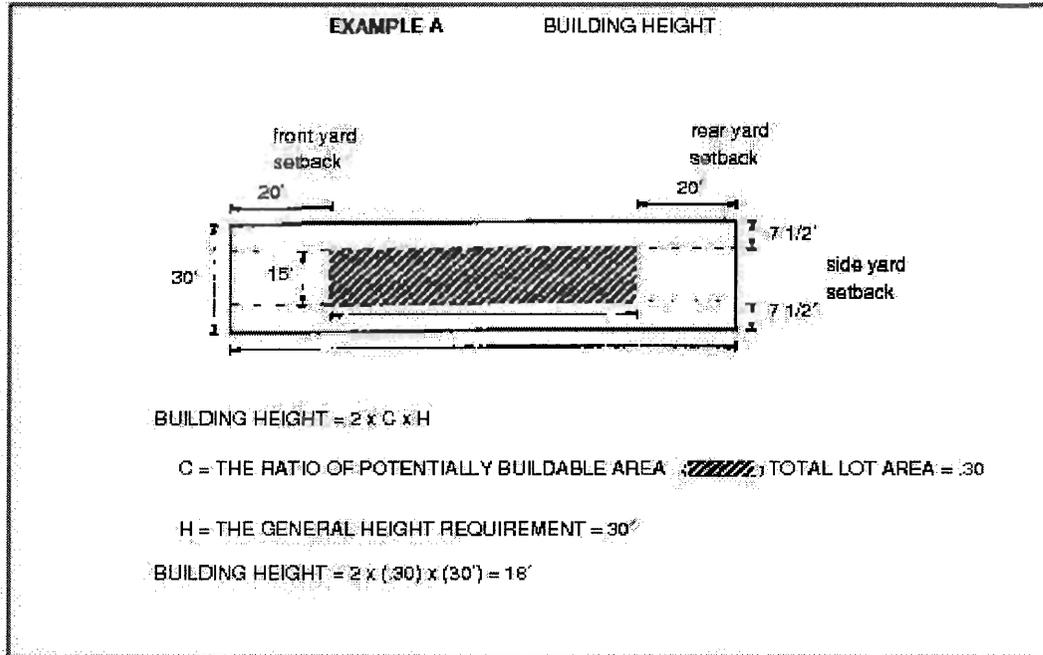
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ATTACHMENT A

D. Any nonconforming lot used for a building site must meet the nonconforming provisions of LUC 20.20.560, the building height requirements of B and the applicable dimensional requirements of LUC 20.20.010 all setback and lot coverage requirements of for the district in which it is located, unless a variance has been granted pursuant to Part 20.30G or 20.30H LUC or modification has been granted pursuant to LUC 20.25H.040.B.

E. This section is not applicable in the Bel-Red Land Use Districts. Refer to LUC 20.25D.060 for regulations relating to existing conditions.



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

-ORD

~~02/07/11 04/26/11~~

ATTACHMENT A

Passed by the City Council this _____ day of _____, 2010 and
signed in authentication of its passage this _____ day of _____, 2010.

(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 _____