



MEMORANDUM

DATE: December 7, 2010

TO: Chair Kasner, Members of the East Bellevue Community Council

FROM: Matthews Jackson, Neighborhood Development Planning Manager

SUBJECT: 10-124743 AD Nonconforming Lot Building Height LUCA

On December 7, 2010, the East Bellevue Community Council will consider the suggested Land Use Code (LUC) amendments related to nonconforming lot building height restrictions. The proposed ordinance is attached as Attachment A. A public hearing in front of the Planning Commission on this item was held on December 1, 2010, with City Council action likely in January. Any concerns expressed by the East Bellevue Community Council during the courtesy hearing will be provided to the Planning Commission prior to recommendation to the City Council.

Background

On July 19, 2010, the Director of the Development Services Department (DSD) initiated a code amendment work program for the balance of this year. The Land Use Code Amendment (LUCA) intended to provide additional building height flexibility on nonconforming lots was included on the work program list that was presented to the Planning Commission at its annual retreat. The objective of the LUCA is to allow for the reasonable development of nonconforming lots consistent with neighborhood character code amendments that were adopted last year and individual site conditions. Planning Commission discussion of nonconforming lot building height restrictions began during the study session held on October 13, 2010. The proposed LUCA received favorable comments and staff was directed to prepare a staff report and recommendation for a public hearing to be held on December 1, 2010.

Proposal

Based on considerable research and input provided by citizens who have been impacted by existing limitations on building height on nonconforming lots, Staff recommends approval of the following code amendment to address neighborhood character elements and development flexibility. Specifically, staff recommends the following code amendment:

Proposed amendment to the Land Use Code (Attachment A)

The existing code restricts building height on nonconforming lots per the following formula:

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:

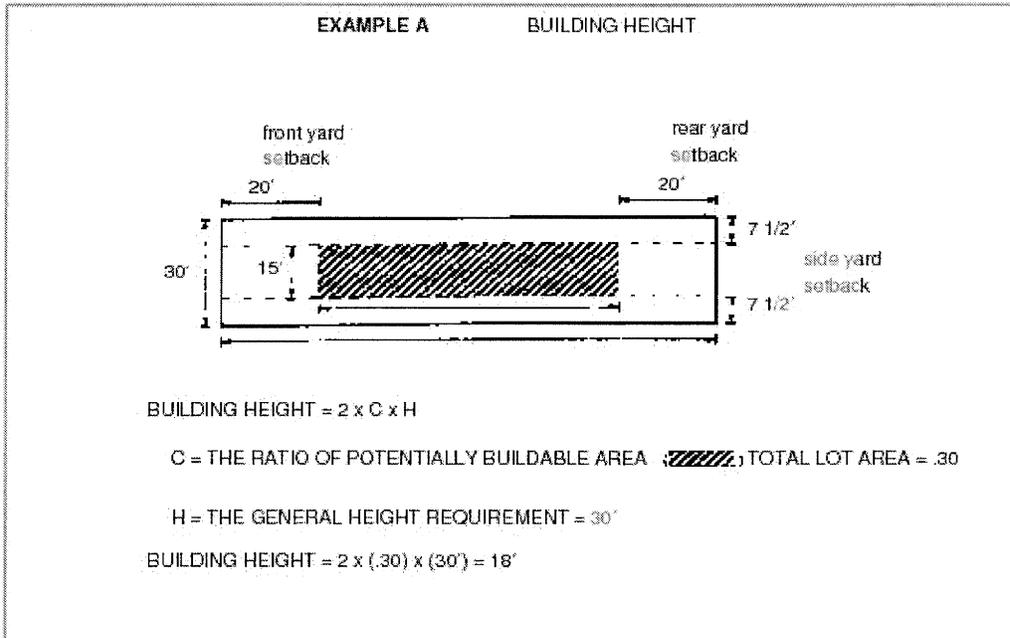
$$\text{Building Height} = 2 \times C \times H$$

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.



The proposed LUCA would modify the language of LUC 20.20.070.B so that the maximum building height that results from the formula in Example A above may be

modified through the Land Use Code Variance process (See Attachment A). The variance process would provide the mechanism to remove redevelopment barriers that exist within the current code and provide an opportunity to consider the unique circumstances of each proposal to weigh whether additional height can be granted in a manner that is consistent with surrounding neighborhood character. Many of the lots subject to this code provision would otherwise seek a variance for relief from other dimensional requirements due to special circumstances related to lot size, shape, and/or topography. As a result, the variance process allows for public notice and comment and information provided from the public would help shape the decision making process.

Conclusion

Following the courtesy hearing, the Planning Commission requests any feedback or comments you have on the proposed ordinance.

Please contact me if you have any questions prior to the December 7th meeting.

Attachments

- A. Proposed Ordinance

ATTACHMENT A

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. _____

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 ~~otherwise complying with the requirements of the Bellevue City Code~~ may be used for a building site if:

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

42. 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

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), 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:

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.

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.

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.

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:

-ORD
11/15/10

ATTACHMENT A

Myrna L. Basich, City Clerk

Published _____

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