



MEMORANDUM

DATE: April 22, 2010

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

FROM: Catherine A. Drews, Legal Planner, Development Services Department

SUBJECT: FEMA Consistency—Land Use Code Amendments

On May 4, 2010, the East Bellevue Community Council will consider the suggested Land Use Code (LUC) amendments to harmonize the City's floodplain regulations with the Federal Emergency Management Agency's (FEMA) minimum requirements for floodplain management. The proposed ordinance is attached to this memorandum as Attachment A. A public hearing in front of the Planning Commission on this item is scheduled for May 26, 2010, with City Council action likely June 2010.

Background:

The City participates in FEMA's National Flood Insurance Program (NFIP). The program was created in 1968 to offer an alternative to disaster assistance for properties facing flood damage. The NFIP provides flood insurance to residents in participating communities, and in return, participating communities agree to regulate development in the floodplain consistent with criteria set forth in the NFIP. Consistency with the NFIP minimum criteria is required to participate in the program. Except as discussed below, the City's Areas of Special Flood Hazard provisions, Chapter 20.25H, Section IX, LUC, satisfies FEMA's requirement to regulate development in floodplains. The approximate location of floodplains within the EBCC jurisdiction is shown on Attachment B.

Staff requested the Washington State Department of Ecology, who administers the state floodplain management program, to review the City's floodplain provisions to confirm they satisfy the NFIP minimum criteria and the State Floodplain Management Standards, Chapter 86.16 RCW. Ecology's review identified minor inconsistencies that the City must correct to maintain its standing in the NFIP program. Ecology also found that the City's floodplain program in many instances significantly improved on FEMA's minimum standards. The proposal will harmonize the City's floodplain management regulations with FEMA requirements, which is required to participate in the National Flood Insurance Program.

Conclusion and Next Steps:

Following the courtesy hearing, the Planning Commission requests any feedback or comments you have on the proposed ordinance. A public hearing is scheduled before the Planning Commission on May 26, 2010. As currently scheduled, the City Council will hold a study session on June 14, 2010, and adoption anticipated on June 21, 2010.

If the City Council adopts the proposed ordinance, staff anticipates bringing the EBCC an approved ordinance in July for a final hearing.

Please contact me if you have any questions before the May 4, 2010 meeting.

Attachment A: Proposed Ordinance

Attachment B: Map: Approximate locations of floodplains in the EBCC Jurisdiction

Attachment A

Proposed Amendments to Floodplain Management LUC 20.25H Section IX Areas of Special Flood Hazard

IX. AREAS OF SPECIAL FLOOD HAZARD

20.25H.175 Designation of critical area.

A. Designation of Critical Area.

Areas of special flood hazard shall include:

1. Land Subject to One-Hundred-Year Flood. The land in the floodplain subject to the flood having a one percent chance or greater of being equaled or exceeded in any given year as determined by customary methods of statistical analysis defined in the Utility Code, Chapter 24.06 BCC. Also referred to as the 100-year flood.
2. Areas Identified on the Flood Insurance Rate Map(s). Those areas identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for Bellevue" dated ~~December 1978~~ April 19 2005, with an accompanying flood insurance map(s) and any revisions thereto. The Flood Insurance Study and accompanying map(s) are hereby adopted by reference, declared part of this part, and are available for public review at the City of Bellevue.

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20.25H.177 Definitions.

For purposes of the regulations for the area of special flood hazard, the following definitions apply:

"Base flood elevation (BFE)" means the flood having a one percent chance of being equaled or exceeded in any given year as determined by customary methods of statistical analysis defined in the Utility Code, Chapter 24.06 BCC. Also referred to as the 100-year flood.

"Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

"Development" means any man-made change to improved or unimproved real estate in the Regulatory Floodplain, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

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“Lowest floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking vehicles, building access or storage, in an area other than a basement area, is not considered a building’s lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this part found in LUC 20.25H.180.[D.1.a.](#)

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“Substantial improvement” includes the following: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the [replacement market](#) value of the structure either (1) before the improvement or repair is started, or (2) if the structure has been damaged, and is being restored, before the damage occurred. For the purpose of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or (2) any alteration of a structure listed on the National Register of Historic Places.

20.25H.180 Development in the area of special flood hazard.

No use, development or activity may occur in an area of special flood hazard except as specifically allowed by this part. All use, development or activity which is allowed is subject to the performance standards of this subsection and shall not result in a rise in the BFE. The requirements of this section may not be modified through a critical areas report.

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C. General Performance Standards.

Where use or development is allowed pursuant to LUC 20.25H.055, the following general performance standards apply.

1. Intrusion Over the Area of Special Flood Hazard Allowed. Any structure may intrude over the area of special flood hazard if:
 - a. The intrusion is located above existing grade, and does not alter the configuration of the area of special flood hazard; and

b. The intrusion is at an elevation and orientation which maintains the existing vegetation of the area of special flood hazard in a healthy condition. Solar access to vegetation must be maintained at least 50 percent of daylight hours during the normal growing season.

Development not meeting the requirements of this subsection C.1 may be allowed pursuant to LUC 20.25H.055 and only in accordance with the requirements set forth in the remainder of this section C.

2. Elevation Certificate Following Construction. Following construction of a structure within the area of special flood hazard, where the base flood elevation is provided, the applicant shall obtain an elevation certificate. The elevation certificate shall be completed by a surveyor ~~or engineer~~ licensed in the state of Washington and shall be submitted to City of Bellevue, Utilities Department. The Director of ~~Planning and Community Development~~ shall obtain and transmit to the Director of the Utilities Department the elevation in relation to City of Bellevue vertical datum (NAVD 88) of the lowest floor, including basement, and attendant utilities of a new or substantially improved structure permitted by this part.

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ATTACHMENT B

Approximate Floodplain Areas within EBCC Jurisdiction

April 22, 2010

