DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT
ENVIRONMENTAL COORDINATOR
11511 MAIN ST., P.O. BOX 90012
BELLEVUE, WA 98009-9012

DETERMINATION OF NON-SIGNIFICANCE

PROPONENT: City of Bellevue Department of Planning and Community Development

LOCATION OF PROPOSAL: The proposed Bellevue Land Use Code amendment applies City-wide.

DESCRIPTION OF PROPOSAL: The proposal is to amend the Bellevue Land Use Code and Bellevue City Code relating to Neighborhood Character, including amendment to the definition of building height for single family districts, prohibition of temporary shelters and storage facilities which are visible from public or private streets, greenscape requirements for single family districts, tree retention requirements for single family structures, land use notification requirements for single family development, and regulation of construction debris.

FILE NUMBER: 07-130300AD

The Environmental Coordinator of the City of Bellevue has determined that this proposal does not have a probable significant adverse impact upon the environment. An Environmental Impact Statement (EIS) is not required under RCW 43.21C.030(2)(C). This decision was made after the Bellevue Environmental Coordinator reviewed the completed environmental checklist and information filed with Land Use Division. This information is available to the public on request.

☒ This DNS is issued after using the optional DNS process in WAC 197-11-355. There is no further comment period on the DNS.

☐ This DNS is issued under WAC 197-11-340(2) and is subject to a 14-day comment period from the date below. Comments must be submitted by 5 p.m. on _____.

This DNS may be withdrawn at any time if the proposal is modified so that it is likely to have significant adverse environmental impacts; if there is significant new information indicating, or on, a proposals probable significant adverse environmental impacts (unless a non-exempt license has been issued if the proposal is a private project), or if the DNS was procured by misrepresentation or lack of material disclosure.

This DNS is only appealable as part of the City's action on the amendment to the Land Use Code. In order to comply with requirements of SEPA and the State of Washington Growth Management Act for coordination of hearings, any appeal of the SEPA threshold determination herein will be considered by the Growth Management Hearings Board along with an appeal of the City Council's action. *See* LUC 20.35.250C.

Carol V Helland — OCT 25, 2007

Environmental Coordinator — Date

OTHERS TO RECEIVE THIS DOCUMENT:
State Department of Fish and Wildlife
U.S. Army Corps of Engineers
Attorney General
King County
Muckleshoot Indian Tribe

City of Bellevue

MEMORANDUM

DATE: November 14, 2007

TO: Chair Robertson
Members of the Planning Commission

FROM: Lacey Madche, Legal Planner
Cheryl Kuhn, Neighborhood Outreach Manager
Stephanie Hewitt, Community Outreach Manager

SUBJECT: Staff Report - Phase I, Neighborhood Livability - File No. 07-130300AD

INTRODUCTION

This memorandum presents the report and recommendation of the Department of Planning and Community Development (PCD) on proposed Land Use Code (LUC) amendments and amendments to the Bellevue City Code (BCC) to implement Phase I of the Neighborhood Livability Action Agenda. A copy of the proposed ordinance is included with this memorandum as Attachment A.

Following the public hearing, scheduled for November 14, 2007, and consideration of public comment, staff recommends that the Planning Commission make a recommendation to the City Council regarding adoption of the proposed code amendments as included in Attachment A.

BACKGROUND

On September 25, 2006, the City Council initiated a strategy for addressing areas of concern identified by residents (otherwise referred to as approved the Neighborhood Livability Action Agenda). The two elements relevant to Phase I of the Neighborhood Livability Action Agenda include:

1. Property Maintenance or Neighborhood Fitness – This element responds to neighborhoods' concerns about poorly maintained property and the resulting impacts on livability and property values. This element, likewise, responds to the appearance of older neighborhoods recognized as having a disproportionate share of property maintenance issues; and

2. Neighborhood Character – This element addresses complaints about the impacts of infill and redevelopment practices that may compromise or threaten the character of existing single family neighborhoods.

In response to City Council direction at the July 16, 2007 and August 6, 2007 meetings, staff developed a preliminary schedule for considering code and policy changes to address certain negative impacts associated with neighborhood infill and redevelopment. Specifically, Council directed staff to continue working with the Planning Commission to develop code changes for

items identified by the Council as appropriate for early implementation (otherwise referred to as Phase I).

The remaining neighborhood character code amendments will be brought back to the Planning Commission in early 2008 for consideration and recommendation to the Council. The phased approach was discussed with the Planning Commission during a study session on September 12, 2007. Information provided at that time describes the full scope of the Neighborhood Livability Action Agenda and delineates which items will be addressed in Phase I (which is the topic of this staff report) and which items will be addressed in Phase II.

PROPOSAL

Based on considerable research and extensive public discussion, Staff recommendations approval of the following code amendments to address property maintenance and neighborhood character elements, which otherwise implement Phase I of the Neighborhood Livability Action Agenda. Specifically, staff recommends the following code amendments:

1. Address loss of trees and greenscape in Single Family Land Use Districts – require 30% tree retention during redevelopment and infill development, and require that front yard setbacks include at least 50% of greenscape. For the proposed tree retention code amendments, redevelopment and infill development applies to permits for new single family structures or for single family structures that are expanded greater than 20% over the existing single-family structure square footage.

2. Address concerns pertaining to size, scale, and character – amend definition of building height to required measurement from finished to existing grade (including requirements for placement of heating and air conditioning units), and prohibition relating to temporary storage shelters.

3. Address construction impacts – require construction debris removal from building sites and clean-up of abandoned building sites, require on-site signs to inform neighbors of construction codes and requirements, avenues for expressing concerns, and contact information.

STATE ENVIRONMENTAL POLICY ACT

The Environmental Coordinator for the City of Bellevue has determined that this proposal will not result in any probable, significant, adverse environmental impacts. A final threshold determination of non-significance (DNS) was issued on October 25, 2007. The final DNS and Non-project Analysis is attached to this memorandum as Attachment B.

PUBLIC NOTICE, PARTICIPATION, COMMENT AND RESPONSE

At the direction of City Council in September of 2006, staff investigated residents' complaints about the perceived impacts of infill and redevelopment. In doing so, staff held focus group discussions, conducted interviews with developers, corresponded with planners from other jurisdictions, held an Open House, and asked stakeholders to discuss the changes in neighborhoods and impacts of development activity. Out of these discussions, themes quickly emerged – neighborhoods are changing, trees are disappearing, and construction is disruptive.

To obtain objective information regarding the perceived impacts of single family infill and redevelopment on neighborhood character, staff collected single family development data from multiple sources (e.g., Bellevue's permitting database, King County Assessor, development files, GIS aerial photos, site visits). Staff presented research findings, transcripts from focus group discussions and developer interviews, correspondence from interested parties, and comparative research from other cities to the City Council and the Planning Commission. In preparing code amendments, staff emphasized the need for flexibility and balance.

> Flexibility – All proposed regulations are written in such a way to recognize special conditions and circumstances, and to accommodate the reasonable use of private property.

Balance – All proposed recommendations acknowledge the need to balance the legitimate interests of all stakeholders – respecting the rights of owners to utilize their property and addressing the needs of surrounding residents for relief from certain negative impacts of redevelopment.

The proposed code amendments were introduced at a study session with the Planning Commission on September 12, 2007. The proposed amendments to the LUC are within the jurisdiction of the East Bellevue Community Council and a courtesy hearing with the EBCC was held at their regular meeting on October 2, 2007. At the Courtesy Hearing the EBCC expressed concerns relating to the balance of local regulation with private property rights and specifically addressed issues relating to tree retention. Although not specifically contrary to staff's proposal, the EBCC addressed concerns of retaining trees that may be diseased or otherwise may cause reliability issues for electrical utility facilities.

On October 25, 2007, staff prepared and published notice of the Public Hearing before the Planning Commission, Staff Recommendation, and DNS. The Public Hearing is scheduled to be held on November 14, 2007.

Pursuant to the requirements of the Growth Management Act, state agencies must be given an opportunity to review and comment on proposed amendments to the LUC. Copies of the draft LUC amendment were provided to the state agencies for review on October 24, 2007. Any comments received after release of the staff report will be forwarded to the Planning Commission prior to the public hearing.

APPLICABLE DECISION CRITERIA –PART 20.30J LAND USE CODE

The Planning Commission may recommend and the City Council may approve or approve with modifications an amendment to the text of the Land Use Code ("LUC") if:

A. The amendment is in accord with the Comprehensive Plan.

The proposed amendments are intended to (1) ensure that single family and multifamily residential neighborhoods provide an attractive living environment and that housing is compatible in quality, design, and intensity within neighborhoods and with surrounding land uses, traffic patterns, public facilities, and environmentally sensitive features, and (2) ensure the vitality and health of single family and multifamily neighborhoods.

One of Bellevue's roles in promoting neighborhood quality is to facilitate healthy change in a neighborhood while protecting residents from new or remodeled housing that is out of character. In an established neighborhood, new infill housing shows positive energy and healthy reinvestment. However, if it is of a scale that overwhelms existing housing, it may be perceived as doing more harm than good. This is particularly true if the construction is accompanied by wholesale removal of existing trees and other vegetation. In that regard the following Comprehensive Plan policies further and are otherwise in accord with the intent of the proposed code amendments:

> POLICY HO-3. Refine Land Use Code standards to improve the compatibility of single family infill development with the neighborhood.
>
> POLICY HO-8. Protect residential areas from illegal land use activities through enforcement of city codes.
>
> HO-6: Anticipate the future maintenance and restoration needs of older neighborhoods through a periodic survey of housing conditions. Report results of such surveys to residents.
>
> POLICY HO-17. Encourage infill development on vacant or under-utilized sites that have adequate urban services and ensure that the infill is compatible with the surrounding neighborhoods.
>
> POLICY LU-15. Encourage dedication of open space and preservation and restoration of trees and vegetation to perpetuate Bellevue's park-like setting and enhance the city's natural environment.
>
> POLICY LU-9. Maintain compatible use and design with the surrounding built environment when considering new development or redevelopment within an already developed area.
>
> LU 21: Develop land use strategies to encourage the maintenance and updating of the city's older housing stock, so that neighborhoods are well-maintained and existing housing is preserved, updated, or modified to meet the evolving needs of residents.
>
> POLICY EN-17. Establish land use regulations that limit the amount of impervious surface area in new development and redevelopment city-wide.
>
> POLICY EN-44. Regulate land use and development to protect natural topographic, geologic, vegetational, and hydrological features.
>
> POLICY EN-49. Preserve existing vegetation or provide or enhance vegetation that is compatible with the natural character of Bellevue.
>
> POLICY EN-67. Preserve a proportion of the significant trees throughout the city in order to sustain fish and wildlife habitat.

POLICY EN-68. Encourage residents and professional landscaping firms to utilize native plants in residential and commercial landscapes.

POLICY ED-3. Develop and maintain regulations that allow for continued economic growth while respecting the environment and quality of life of city neighborhoods.

B. The amendment bears a substantial relationship to the public health, safety or welfare.

The City's development regulations, contained in the LUC, are designed to further public health, safety, and welfare, as identified by the City Council through its legislative process. The proposed amendments serve the public health, safety, and welfare by addressing loss of trees and greenscape in Single Family Land Use Districts, by addressing neighborhood concerns pertaining to size, scale, and character, by prohibiting temporary storage shelters which decrease neighborhood aesthetics, and by addressing construction impacts.

C. The amendment is not contrary to the best interest of the citizens and property owners of the City of Bellevue.

The public interest is generally identified in the Comprehensive Plan and the development regulations that implement it. As described above, the proposed amendments serve to enhance the LUC and further the Comprehensive Plan. The public interest is advanced through this proposal.

RECOMMENDATION

Staff requests the Planning Commission develop a recommendation to the City Council regarding adoption of proposed code amendments referenced herein (Attachment A) and transmit the ordinance on to the City Council for final approval.

ATTACHMENTS

Attachment A - Draft Ordinance
Attachment B – Determination of Non-significance

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. _____

AN ORDINANCE amending the Land Use Code and Bellevue City Code relating to Phase I of the Neighborhood Livability Agenda, specifically amending Land Use Code Sections 20.50.012, 20.10.440, 20.50.046, 20.30M.115, 20.20.760, 20.35.035; 20.20.010, 20.50.022, and 20.20.900, and Bellevue City Code Sections 9.10.010 and 9.10.030; providing for severability; and establishing an effective date.

WHEREAS, on September 25, 2006, the City Council initiated a strategy to address areas of concern identified by residents, which is otherwise referred to as the Neighborhood Livability Action Agenda.

WHEREAS, the two elements relevant to Phase I of the Neighborhood Livability Action Agenda include: (a) Property Maintenance or Neighborhood Fitness, which responds to neighborhoods' concerns about poorly maintained property and the resulting impacts on livability and property values and, likewise, responds to the appearance of older neighborhoods recognized as having a disproportionate share of property maintenance issues; and (b) Neighborhood Character, which addresses complaints about the impacts of infill and redevelopment practices that may compromise or threaten the character of existing single family neighborhoods; and

WHEREAS, in response to City Council direction at the July 16, 2007, and August 6, 2007, meetings, staff developed a preliminary schedule for considering code and policy changes to address certain negative impacts associated with neighborhood infill and redevelopment, which included a request of staff to continue working with the Planning Commission to develop code amendments for items identified by the City Council as appropriate for early implementation (otherwise referred to as Phase I); and

WHEREAS, the remaining Neighborhood Livability Action Agenda code amendments (otherwise referred to as Phase II) will be brought back to the Planning Commission in early 2008 for consideration and recommendation to the City Council; and

WHEREAS, the phased approach accommodates the need for early implementation of certain items as expressed by the City Council, while also taking into account the complexity of code writing and related research for the remaining Phase II items; and

WHEREAS, the City seeks to modify the Land Use Code and Bellevue City Code to implement Phase I of the Neighborhood Livability Action Agenda and otherwise address loss of trees and greenscape in Single Family Land Use Districts, address concerns pertaining to size, scale, and character, address construction impacts, and address use of temporary storage shelters and facilities which are visible from public and private streets; and

WHEREAS, the Environmental Coordinator for the City of Bellevue determined that this proposal will not result in any probable, significant, adverse environmental impacts and as such a final threshold determination of non-significance (DNS) was issued on October 23, 2007; and

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

WHEREAS, the Planning Commission **[recommends / does not recommend]** 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 20.50.012 of the Bellevue Land Use Code relating to the definition ofBuilding Height is hereby amended to read as follows:

20.50.012 B Definitions

Building Height. The vertical distance measured from the average elevation of the finished grade around the building or building segment to the highest point of a flat roof, or to the mean height between the eaves and ridge of a pitched roof. Specifically excluded from this definition and from the regulation of maximum building height are structural elements not intended for habitation and not exceeding 15 feet above the maximum building height including penthouses for mechanical and elevator equipment, chimneys, wireless communication facility antenna arrays, smoke and ventilation stacks, flag poles, mechanical and elevator equipment, and parapet walls designed solely to screen mechanical and elevator equipment. This definition does not apply to projects located within a Transition Area Design District (refer to LUC 20.25B.040), the Shoreline Overlay District (refer to LUC 20.25E.017), Single Family Land Use Districts (refer to the definition of building height for Single Family Land Use Districts contained in this section; see also LUC 20.10.440 - Note (16)), and to the FI Land Use District (refer to LUC 20.20.010 – Note 29).

Deleted: or

Section 2. Section 20.50.012 of the Bellevue Land Use Code is hereby amended to include a separate definition of Building Height for Single Family Land Use Districts:

20.50.012 B Definitions

Building Height – Single Family Land Use Districts. The vertical distance measured from the average elevation of the existing grade around the building to the highest point of a flat roof, or to the mean height between the eaves and ridge of a pitched roof, provided this measurement does not apply to flag poles and short wave radio antennas.

Section 3. Section 20.10.440 of the Bellevue Land Use Code is hereby amended to add Note 16 to the Residential Uses Land Use Chart which reads as follows:

20.10.440 Land Use Charts

Note (16). For Single Family Land Use Districts, Building Height is defined as the vertical distance measured from the existing grade around the building to the highest point of a flat roof, or to the mean height between the eaves and ridge of a pitched roof, provided this measurement does not apply to flag poles and short wave radio antennas.

Section 4. Section 20.50.046 of the Bellevue Land Use Code is hereby amended to include a new definition of Shelters and Storage Facilities – Temporary which reads as follows:

20.50.046 S Definitions.

Shelters and Storage Facilities - Temporary. An open-sided shelter that does not meet the definition of a structure and is not attached to a structure, which generally may be made of canvas and metal, including but not limited to portable carports. Refer to LUC 20.20.760. Section 5. Section 20.30M.115 of the Bellevue Land Use Code relating to Temporary Shelters and Storage Facilities is hereby amended to read as follows:

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20.30M.115 Applicability.

This part applies to each application for a Temporary Use Permit whether located on private property or on the public right-of-way; provided, that temporary use approval is not required for any use obtaining a permit pursuant to the City's Special Events Policy Permit process and may not be used to assemble, construct, or maintain a temporary shelter or storage facility as defined in LUC 20.50.046. For temporary use regulations relating to recreational vehicles, watercraft, and utility trailers, refer to LUC 20.20.720.

Section 6. A new Section 20.20.760 of the Bellevue Land Use Code is hereby adopted relating to Temporary Shelters and Storage Facilities to read as follows:

20.20.760 Shelters and Storage Facilities - Temporary.

A. Purpose. The purpose of this section is to prohibit use of temporary shelters or storage facilities in Single Family Land Use Districts, which are visible from the right-of-way or any public or private street.

B. General. Temporary shelters or storage facilities are not permitted in Single Family Land Use Districts if visible from the right-of-way or any public or private street.

Section 7. A new Section 20.35.035 of the Bellevue Land Use Code relating to Construction Notices is hereby adopted to read as follows:

20.35.035 Construction Notices.

The Director may require construction posting and neighborhood notification for any development on real property. Removal or failure to post a construction notice required

by the Director shall constitute a violation of this section and otherwise is enforceable under Chapter 1.18 BCC.

Section 8. Section 9.10.010 of the Bellevue City Code relating to the definition of "Nuisance" is hereby amended to read as follows:

9.10.010 Definitions.

The words and phrases used in this chapter, unless the context otherwise indicates, shall have the following meanings:

A. "Abate" means to repair, replace, remove, destroy or otherwise remedy a condition which constitutes violation of this chapter by such means and in such a manner and to such an extent as the applicable department director determines is necessary in the interest of the general health, safety and welfare of the community.

B. "Applicable department director" means the director of the department or any designated alternate who is empowered by the city manager or by ordinance to enforce a city ordinance or regulation.

C. "Building materials" means and includes lumber, plumbing materials, wallboard, sheet metal, plaster, brick, cement, asphalt, concrete block, roofing material, cans of paint and similar materials.

D. "Construction debris" means and includes any Building Material which is not properly screened or is otherwise offensive to a reasonable person prior to, during, or after construction related activities. For purposes of this Chapter, construction related activities include any development on real property as defined in LUC 20.50.016.

E. "Person" means any individual, firm, association, partnership, corporation or any other entity, public or private.

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F. "Premises" means any building, lot, parcel, real estate or land or portion of land whether improved or unimproved, including adjacent sidewalks and parking strips and any lake, river, stream, drainage way or wetland.

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Section 9. Section 9.10.030 of the Bellevue City Code relating to Types of Nuisances is hereby amended to read as follows:

9.10.030 Types of Nuisances.

Each of the following conditions, unless otherwise permitted by law, is declared to constitute a public nuisance, and whenever the applicable department director determines that any of these conditions exist upon any premises, the applicable department director may provide for the abatement thereof and monetary penalties may be assessed pursuant to Chapter 1.18 BCC, Civil Violations:

A. The existence of any trash, dirt, filth, the carcass of any animal, accumulation of yard trimmings or other matter which is offensive to a reasonable person, except for such yard debris that is properly contained for the purpose of composting; or

B. Erecting, maintaining, using, placing, depositing, leaving or permitting to be or remain in or upon any premises which may be viewed or smelled from without the premises, or in or upon any street, alley, sidewalk, park, parkway or other public or private place in the city, any one or more of the following disorderly, disturbing, unsanitary, fly-producing, rat-harboring, disease-causing places, conditions or things:

1. Any putrid, unhealthy or unwholesome bones, meat, hides, skins, the whole or any part of any dead animal, fish or fowl, or waste parts of fish, vegetable or animal matter in any quantity; but nothing herein shall prevent the temporary retention of waste in approved covered receptacles; or

2. Any privies, vaults, cesspools, sumps, pits or like places which are not securely protected from flies and rats, or which are malodorous; or

3. An accumulation of material including, but not limited to, bottles, cans, glass, plastic, ashes, scrap metal, wire, bric-a-brac, broken stone or cement, broken crockery, broken glass, broken plaster, litter, rags, empty barrels, boxes, crates, packing cases, mattresses, bedding, packing hay, straw or other packing material or building materials on any premises which is not properly stored or neatly piled or is offensive to a reasonable person or in which flies or rats may breed or multiply; or

4. An accumulation of any Construction Debris not properly screened or otherwise offensive to a reasonable person prior to, during, or after construction related activities as defined in LUC 20.50.016.

C. The existence of any fence or other structure on private property abutting or fronting upon any public street, sidewalk or place which is in a sagging, leaning, fallen, decayed or other dilapidated or unsafe condition; or

D. The existence of wrecked or disassembled trailers, house trailers, boats, tractors or other vehicle, appliance or machinery of any kind, or any major parts thereof; or

E. The existence on any premises of any abandoned or unused well, pit, shaft, cistern or storage tank without first demolishing or removing from the premises such storage tank, or securely closing and barring any entrance or trapdoor thereto or without filling any well, pit, shaft or cistern or capping the same with sufficient security to prevent access thereto; or

F. The existence in a place accessible to children of any attractive nuisance dangerous to children, including but not limited to any abandoned, broken or neglected equipment, machinery, refrigerator, freezer, or other large appliance; or

G. The presence of rodents on any premises causing a threat to the public health, as determined by the director of the Seattle-King County department of public health

pursuant to King County Board of Health Rules and Regulations No. 06-01 as adopted or hereafter amended.

Section 10. Section 20.20.010 of the Bellevue Land Use Code relating to greenscape requirements is hereby amended to read as follows and two new Notes relating to greenscape and tree retention are hereby adopted as follows:

20.20.010 Uses in Land Use Districts Dimensional Requirements.

Chart 20.20.010 - Uses in Land Use Districts Dimensional Requirements.

STD LAND USE CODE REF		Residential										
	LAND USE CLASSIFICATION	R-1	R-1.8	R-2.5	R-3.5	R-4	R-5	R-7.5*	R-10	R-15	R-20	R-30
	DIMENSIONS											
	Minimum Setbacks of Structures (feet) Front Yard (18) (20) (38) (39)	35	30	20	20	20	20	20	20	20	20	20
	Rear Yard (11) (17) (18) (20) (38) (39)	25	25	25	25	20	20	20	25	25	25	25
	Side Yard (11) (17) (18) (20) (38) (39)	5	5	5	5	5	5	5	5	5	5	5(1)
	2 Side Yards (17) (18) (20) (38) (39)	20	15	15	15	15	15	10	15	15	15	15
	Minimum Lot Area Acres (A) or Thousands of Sq. Ft. (3) (39)	35	20	13.5	10	8.5	7.2	4.7	8.5	8.5	8.5(12)	8.5(12)
	Dwelling Units per Acre (15) (21) (22)	1	1.8	2.5	3.5	4	5	7.5	10	15	20	30
	Minimum Dimensions (feet) Width of Street Frontage	30	30	30	30	30	30	30	30	30	30	30
	Width Required in Lot (4)	100	90	80	70	65	60	50	70	70	70	70
	Depth Required in Lot (4)	150	80	80	80	80	80	80	80	80	80	80
	Maximum in Building Height (feet) (10) (19) (26)	30	30	30	30	30	30	30	30	30	30 (5)	40
	Maximum Lot Coverage by Structures (percent) (13) (14) (16) (26) (27) (37) (39)	35	35	35	35	35	40	40	35	35	35	35
	Maximum Impervious Surface (percent) (35) (37) (39)	50 (36)	50 (36)	50 (36)	50 (36)	50 (36)	55 (36)	55 (36)	80	80	80	80
	Minimum Greenscape Percentage of Front Yard Setback (40)	50 (40)	50 (40)	50 (40)	50 (40)	50 (40)	50 (40)	50 (40)				

Section 11. Section 20.10.440 of the Bellevue Land Use Code is hereby amended to add Note 40 to the Residential Uses Land Use Chart which reads as follows:

Note 40 – The greenscape requirements of this section shall be imposed any time a permit, approval, or review including land alteration or land development for Single Family Land Use Districts is required by the Bellevue City Code or Land Use Code. Existing single family front yard setbacks legally established on a site prior to January 1, 2008, which do not meet the minimum greenscape requirements set forth in LUC 20.20.010 shall not be considered nonconforming. The City shall not, however, approve proposals to decrease the greenscape percentage set forth in LUC 20.20.010 where a site already falls below the minimum greenscape requirements. Where an existing site that falls below the minimum requirements set forth in LUC 20.20.010, the removal of greenscape shall not be approved unless an equal amount of existing impervious surface, pervious surface, or hardscape is removed, such that the net amount of greenscape is unchanged. The Director may modify the requirements of LUC 20.20.010 for nonconforming lots, or lots with unique size and shape. See LUC 20.50.022 for the definition of Greenscape.

Note 41 - See LUC 20.20.900(F) for significant tree retention requirements relating to single family districts excluding, however, the R-1 Land Use District in the Bridle Trails Subarea which is otherwise governed by LUC 20.20.900(E).

Section 12. A new definition of greenscape is hereby adopted to Section 20.50.022 of the Bellevue Land Use Code which reads as follows:

20.50.022 G- Definitions

Greenscape. All living plant, tree, hedge, and shrub material. Impervious and pervious surface and hardscape materials shall at no time be considered greenscape.

Section 13. Section 20.20.900 of the Bellevue Land Use Code relating to tree retention is hereby amended to read as follows:

20.20.900 Tree Retention.

A. Purpose.

Retention of significant trees as required by this section is necessary to maintain and protect property values, to enhance the visual appearance of the City, to preserve the natural wooded character of the Pacific Northwest, to promote utilization of natural systems, to reduce the impacts of development on the storm drainage system and water resources, and to provide a better transition between the various land uses permitted in the City.

B. Applicability.

The requirements of this section shall be imposed any time a permit, approval, or review including land alteration or land development including subdivisions, short subdivisions or planned unit developments, a change in lot coverage, or a change in the area devoted to parking and circulation is required by the Bellevue City Code or Land Use Code. Subsection F of this section shall apply to permits for new single family structures or for single family structures that are expanded greater than 20% over the existing single-family structure square footage. Subsection E of this section, likewise, applies to the removal of any significant trees in the R-1 land use district located in the Bridle Trails Subarea.

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C. Required Review.

The Department of Planning and Community Development shall review the proposed removal of significant trees with each application within the applicability of this section.

D. Retention of Significant Trees for Subdivisions, Short Subdivisions, Planned Unit Development, Change in Lot Coverage, or Change in the Area Devoted to Parking and Circulation, Excluding Areas located in the R-1 Land Use District in the Bridle Trails Subarea and For New or Expanding Single Family Structures1. Perimeter Landscaping Area. In the required perimeter landscaping area, as set forth in LUC 20.20.520.F.1, the applicant shall retain all significant trees which will not constitute a safety hazard. Area devoted to access and sight areas as defined in the Transportation Code (Chapter 14.06 BCC), and area to be cleared for required roads, utilities, sidewalks, trails, or storm drainage improvements is exempt from this requirement.

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2. Site Interior.

a. In areas of the site other than the required perimeter landscape area, the applicant must retain at least 15 percent of the diameter inches of the significant trees existing in this area; provided, that alder and cottonwood trees diameter inches shall be discounted by a factor of 0.5. In applying the requirement for retention of significant trees, the Director shall consider the preservation of the following types of significant trees a priority:

i. Healthy significant trees over 60 feet in height;

ii. Significant trees which form a continuous canopy;

iii. Significant trees which contribute to the character of the environment, and do not constitute a safety hazard;

iv. Significant trees which provide winter wind protection or summer shade;

v. Groups of significant trees which create a distinctive skyline feature; and

vi. Significant trees in areas of steep slopes or adjacent to watercourses or wetlands.

b. The Director may approve retention of trees which do not meet the definition of significant trees as a contribution toward the sum of the diameter inches required under subsection D.2.a of this section if a group of trees and its associated undergrowth can be preserved.

3. Exemption. The provisions of this subsection which require retention of significant trees are not applicable in any Downtown Land Use District.

4. The applicant shall utilize tree protection techniques approved by the Director during land alteration and construction in order to provide for the continual healthy life of retained significant trees.

5. Reduced Parking Bonus. If the proposed landscape plan incorporates the retention of significant trees above that required by this section, the Director may approve a reduction of up to 10 percent of the required number of parking spaces if adequate parking will remain on the subject property, and if land area for the required number of spaces remains available for future development on the subject property.

E. Retention of Significant Trees in the R-1 Land Use District in the Bridle Trails Subarea For any Type of Land Alteration or Development

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1. Permit Required. As required by BCC 23.76.025.A.7, a clearing and grading permit must be obtained from the City prior to the removal of any significant tree, from any lot in the R-1 land use district in the Bridle Trails subarea. The applicant may request a vegetation management plan to cover all proposed tree removal activities within a three-year period. In addition, for the removal of more than two significant trees within any three-year period, the requirements of subsections E.2 and E.3 below apply.

2. Perimeter Tree Retention Requirement. For all lots in the R-1 land use district in the Bridle Trails subarea, all significant trees which do not constitute a safety hazard within the first 20 feet adjacent to all property lines shall be retained. Area devoted to access and sight areas as defined in the Transportation Code (Chapter 14.06 BCC), and area to be cleared for required roads, utilities, sidewalks, trails, or storm drainage improvements is exempt from this requirement. In the event this requirement conflicts with minimum setback requirements for structures (LUC 20.20.010), the Alternative Tree Retention Option (subsection F of this section) may be used to allow development consistent with the setbacks established under LUC 20.20.010.

3. Site Interior Tree Retention Requirement.

a. In addition to the required perimeter tree retention area, at least 25 percent of the cumulative diameter inches of existing significant trees must be retained; provided, that alder and cottonwood trees diameter inches shall be discounted by a factor of 0.5.

b. The Director may approve retention of trees which do not meet the definition of significant trees as a contribution toward the sum of the diameter inches required under subsection E.3.a of this section if a group of trees and its associated undergrowth can be preserved.

4. Tree Replacement Requirement. On any lot with eight or less significant trees, a planting plan showing a one to one ratio of replacement trees is required. Trees must be a minimum of six feet in height at planting.

F. Retention of Significant Trees for New or Expanding Single Family Structures Excluding Single Family Structures Located in the R-1 Land Use District in the Bridle Trails Subarea.

1. Site Area. For new or expanding (applicable only to expansions exceeding 20 percent increase in square footage over the previously existing structure) single family structures, the applicant shall retain a minimum of 30 percent of the diameter inches of significant trees existing in the site area; provided that alder and cottonwood trees diameter inches shall be discounted by a factor of 0.5. In applying the requirement for retention of significant trees, the Director shall consider the preservation of the following types of significant trees a priority:

a. Healthy significant trees over 60 feet in height;

b. Significant trees which form a continuous canopy;

c. Significant trees which contribute to the character of the environment, and do not constitute a safety hazard;

d. Significant trees which provide winter wind protection or summer shade;

e. Groups of significant trees which create a distinctive skyline feature;

f. Significant trees in areas of steep slopes or adjacent to watercourses or wetlands; and

g. All significant trees which do not constitute a safety hazard within the first 20 feet adjacent to all property line, provided said trees do not conflict with areas devoted to access and sight areas as defined in the Transportation Code (Chapter 14.06 BCC), and areas to be cleared for required roads, utilities, sidewalks, trails, or storm drainage improvements are exempt from this requirement. In the event this requirement conflicts with minimum setback requirements for structures (LUC 20.20.010), the Alternative Tree Retention Option (subsection F of this section) may be used to allow development consistent with the setbacks established under LUC 20.20.010.

2. The Director may approve retention of trees which do not meet the definition of significant trees as a contribution toward the sum of the diameter inches required

under subsection 1 of this section if a group of trees and its associated undergrowth can be preserved.

3. The applicant shall utilize tree protection techniques approved by the Director during land alteration and construction in order to provide for the continual healthy life of retained significant trees.

G. Alternative Tree Retention Option.

Deleted: F

1. An applicant may request a modification of the tree retention requirements set forth in subsections D, E, and F of this section.

Deleted: and

2. The Director may administratively approve a modification of the perimeter or interior tree retention requirements if:

a. The modification is consistent with the stated purpose of this section; and

b. The modification proposal either:

i. Incorporates the retention of significant trees equal in equivalent diameter inches or incorporates the increased retention of significant trees and naturally occurring undergrowth, to what would otherwise be required, or

ii. Incorporates the retention of other natural vegetation in consolidated locations which promotes the natural vegetated character of the site and neighborhood including use as pasture land or for agricultural uses.

3. Where a modification proposal includes supplemental or replacement trees in lieu of retention, the applicant shall utilize plant materials which complement the natural character of the Pacific Northwest, and which are adaptable to the climatic, topographic, and hydrologic characteristics of the site.

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 M. Riordan, City Attorney

Mary Kate Berens, Deputy City Attorney

Attest:

Myrna L. Basich, City Clerk

Published _____