



# Bellevue Planning Commission

**Wednesday, November 13, 2013**

6:30 to 10:30 p.m. ■ Bellevue College  
Library Media Center, Room D106  
3000 Landerholm Circle SE  
Bellevue, WA 98007

**Parking area 6 is closest.  
Directional signage will be posted.**

## Agenda

- |           |   |         |
|-----------|---|---------|
| 6:30 p.m. | <ol style="list-style-type: none"><li>1. <b>Call to Order</b><br/><i>Chair Tebelius</i></li><li>2. <b>Roll Call</b></li><li>3. <b>Speakers Event – Eastgate Corridor</b><br/><i>A panel of invited speakers will share their thoughts on the Eastgate corridor, including background and character of the area, the potential for the future, and how Eastgate fits into the city and the region. This presentation is intended to help provide context for upcoming work to implement the Eastgate/I-90 corridor study and as part of the update to the city's Comprehensive Plan.</i><br/><i>Ray White, Vice President Bellevue College</i><br/><i>Pat Callahan, CEO, Urban Renaissance Group</i><br/><i>Steve Fricke, Spiritwood Neighborhood Resident</i></li></ol> | Pg. 101 |
| 8:00 p.m. | <p style="text-align: center;"><b>* Break *</b></p>   |         |
| 8:10 p.m. | <ol style="list-style-type: none"><li>4. <b>Public Comment*</b><br/><i>Limited to 5 minutes per person or 3 minutes if a public hearing has been held on your topic</i></li><li>5. <b>Approval of Agenda</b></li><li>6. <b>Communications from City Council, Community Council, Boards and Commissions</b></li><li>7. <b>Committee Reports</b><br/><i>Commissioners Laing and Ferris – Downtown Livability</i></li><li>8. <b>Staff Reports</b><br/><i>Paul Inghram, Comprehensive Planning Manager</i></li><li>9. <b>Study Session</b></li></ol>  |         |
| 8:30 p.m. | <ol style="list-style-type: none"><li>A. Eastgate/I-90 Corridor Study Implementation<br/><i>Erika Conkling, PCD; Mike Bergstrom, DSD</i></li></ol>  | Pg. 3   |
| 9:00 p.m. | <ol style="list-style-type: none"><li>B. SMP Conformance Amendments<br/><i>Carol Helland and Mike Bergstrom, DSD</i></li></ol>  | Pg. 11  |
| 9:45 p.m. | <ol style="list-style-type: none"><li>C. Comprehensive Plan Update<br/><i>Paul Inghram, PCD</i></li></ol>   | Pg. 87  |

- 10:15 p.m. | 10. **Other Business**
11. **Public Comment\*** - *Limited to 3 minutes per person*
12. **Next Planning Commission Meeting**
- December 11 – Speakers Event – Greg Johnson, Wright Runstad Co.; Jon Talton, Seattle Times Economist
  - Shoreline Master Program Update conformance amendments, potential public hearing
  - Comprehensive Plan Update
- 10:30 p.m. | 13. **Adjourn**

*Agenda times are approximate*

### **Planning Commission members**

Diane Tebelius, Chair  
Aaron Laing, Vice Chair  
Hal Ferris  
John Carlson

Jay Hamlin  
Michelle Hilhorst  
Vacant

### **Staff contact:**

Paul Inghram 452-4070  
Michelle Luce 452-6931

*\* Unless there is a Public Hearing scheduled, "Public Comment" is the only opportunity for public participation.*

*Wheelchair accessible. American Sign Language (ASL) interpretation available upon request. Please call at least 48 hours in advance. Assistance for the hearing impaired: dial 711 (TR).*



DATE: November 6, 2013

TO: Chair Tebelius and Members of the Planning Commission

FROM: Erika Conkling, AICP, Senior Planner, *Planning and Community Development*,  
[econkling@bellevuewa.gov](mailto:econkling@bellevuewa.gov), 452-2898  
Michael Bergstrom, AICP, Senior Planner, *Development Services*,  
[mbergstrom@bellevuewa.gov](mailto:mbergstrom@bellevuewa.gov), 452-2970

SUBJECT: Planning Commission Study Session on the Eastgate/I-90 Corridor Study  
Implementation

Council accepted the vision and recommendations for the Eastgate/I-90 Land Use and Transportation Project in April 2012. On September 9, 2013 Council directed Planning Commission and staff to proceed with creating the necessary policy and code amendments to implement the plan. Tonight staff will review the vision for Eastgate with the Planning Commission and outline the necessary steps for implementation. No action by the Planning Commission is requested at this time.

## **LAND USE AND TRANSPORTATION VISION**

The final report for the Eastgate/I-90 Land Use and Transportation Project identified a plan intended to guide development in the corridor over the next 20 years. A map and visual summary of the plan is included as Attachment A.

Although Eastgate has been an important employment area in Bellevue, its auto-dependent environment is less attractive today than it was in the past. However, with a new vision that focuses on opportunities to integrate land use and transportation, Eastgate is expected to be a very attractive location for employment growth. Under the preferred alternative, Eastgate is expected to develop an additional 1.8 million square feet of office space, 100,000 square feet of retail space, 350,000 square feet of institutional space (mostly at Bellevue College), 300 hotel rooms, and 800 residential units. Not only will that accommodate some of Bellevue's expected new growth over the next 20 years, but development also provides an opportunity to implement other changes desired by the community, such as better linkages to parks and recreation and multi-modal transportation options.

Eastgate's vision anticipates more redevelopment, rather than new development on vacant parcels, simply because few vacant parcels exist within the study area. It concentrates most redevelopment in a transit-oriented core that integrates the Eastgate park-and-ride/transit center, properties extending east of the transit center, and Bellevue College. This core area would become a focal point and gateway for the Eastgate area, providing a vibrant mixed-use pedestrian-oriented hub that includes office, housing, college, and associated commercial services (e.g., coffee shops, book stores, convenience stores, restaurants, etc.).

Other land use concepts reflected in the plan include:

- Richards Valley retains its light industrial emphasis, while allowing or encouraging flex-tech or research and development uses. Stream and vegetation corridors are enhanced as redevelopment occurs.
- Opportunities for office development are created along Eastgate Way, on and around a vacant 14-acre site owned by King County (west of Sunset Corporate Campus).
- South of I-90, the north Factoria area builds on the existing retail and office center and adds the opportunity for residential uses.
- Opportunities for additional office development are created in a number of locations, including east of the T-Mobile complex to 156<sup>th</sup> Ave SE, east of Eastgate Plaza, and north of I-90 in the I-90 Office Park. In the Sunset Village area, office use is envisioned as a “back-up” scenario in the event that the existing auto dealerships vacate or reduce their physical footprints at some time in the future.
- Retail uses are protected or increased in several locations, not only where retail presently exists, but also through added flexibility to include support retail and services within office developments.
- Eastgate Plaza continues to serve the retail needs of both nearby office workers and adjacent neighborhoods. Neighborhood-supportive services would be encouraged here.
- Opportunities for redevelopment are encouraged and accommodated through increases to allowable building heights and floor area ratios (FAR), which vary by location.

The plan also includes some important transportation concepts that will be incorporated into the city’s transportation planning, including:

- Completing a two-mile “missing link” in the Mountains to Sound Greenway Trail, which is a non-motorized transportation and recreation facility extending from Central Washington to the Seattle waterfront.
- The city will continue to support WSDOT corridor improvements to the I-90 mainline between 150<sup>th</sup> Ave SE and Lakemont Boulevard, to help relieve peak-hour congestion on city arterials near freeway ramps.
- Existing and future intersection “chokepoints” have been identified and will be targeted to improve safety, reduce congestion, and provide community gateway and identity opportunities.
- A wider/covered pedestrian walkway across the 142<sup>nd</sup> Avenue Bridge will integrate designs of frontage roads along the I-90 corridor, improve transit operations, and provide connections to non-motorized paths, Bellevue College, and the transit-oriented core.
- Particularly in the eastern portion of the study area, pedestrian paths will be completed or improved to provide better access between retail/service uses and office nodes.
- Streetscapes will be improved to include boulevard treatments, interchange landscaping, and median plantings where possible, to improve the visual environment and overall character of the corridor.

## **IMPLEMENTATION**

Implementation of the Eastgate vision requires amendments to the Comprehensive Plan and the Land Use Code. Development in Eastgate will result in local changes and improvements, but as Ray White of Bellevue College and Pat Callahan of the Urban Renaissance Group will speak to earlier in the meeting, the corridor also figures prominently in Bellevue's future. Since Eastgate is part of the city's long range growth strategy, project related Comprehensive Plan amendments will be integrated into the 2014 Comprehensive Plan update process, anticipated to be completed mid-year. Eastgate Comprehensive Plan amendments will include updating the Richards Valley, Eastgate, and Factoria subarea plan policies to reflect the vision for the corridor. Land use recommendations will need to be translated into new land use designations and the Comprehensive Plan map updated as well.

Land Use Code amendments are expected to be developed in late 2014 or early 2015, following adoption of the Comprehensive Plan amendments. Code amendments will include zoning code amendments, rezones, design regulations, and developing an incentive system to ensure that new development potential will result in public benefits. In addition, there must be a review of the many concomitant zoning agreements currently in place that have created special development rules for specific parcels. When possible, zoning amendments should integrate the rules from the concomitant agreements into the new zoning.

## **NEXT STEPS**

In this study session the intent is to re-introduce the vision for the Eastgate area. Staff will develop policy amendments and present them for Planning Commission review at a series of study sessions in 2014.

## **ATTACHMENTS**

- A. Preferred Alternative Map
- B. Implementation Schedule



**Increase office presence in corridor**

- Change from light industrial to office
- Allow offices with ground floor service uses
- Provide visibility from I-90
- Enhance stream corridors and vegetated areas

**Maintain light industrial area**

- Mix flex-tech uses with existing light industrial uses
- Enhance stream corridors and vegetated areas

**Seek open space opportunities**

- Drainage pond presents opportunity for parklike setting

**Add park/viewpoint**

- Make use of views
- Aid hill climb
- Provide central meeting point

**Increase Bellevue College presence and connections with surrounding community**

- Allow institutional, retail, and residential
- 148th entrance could be anchored by institutional mixed use

**Protect existing retail and make use of freeway exposure**

- Allow office, retail, and service uses
- Protect existing retail
- Allow auto sales
- Office uses should include ground-floor retail, especially restaurants

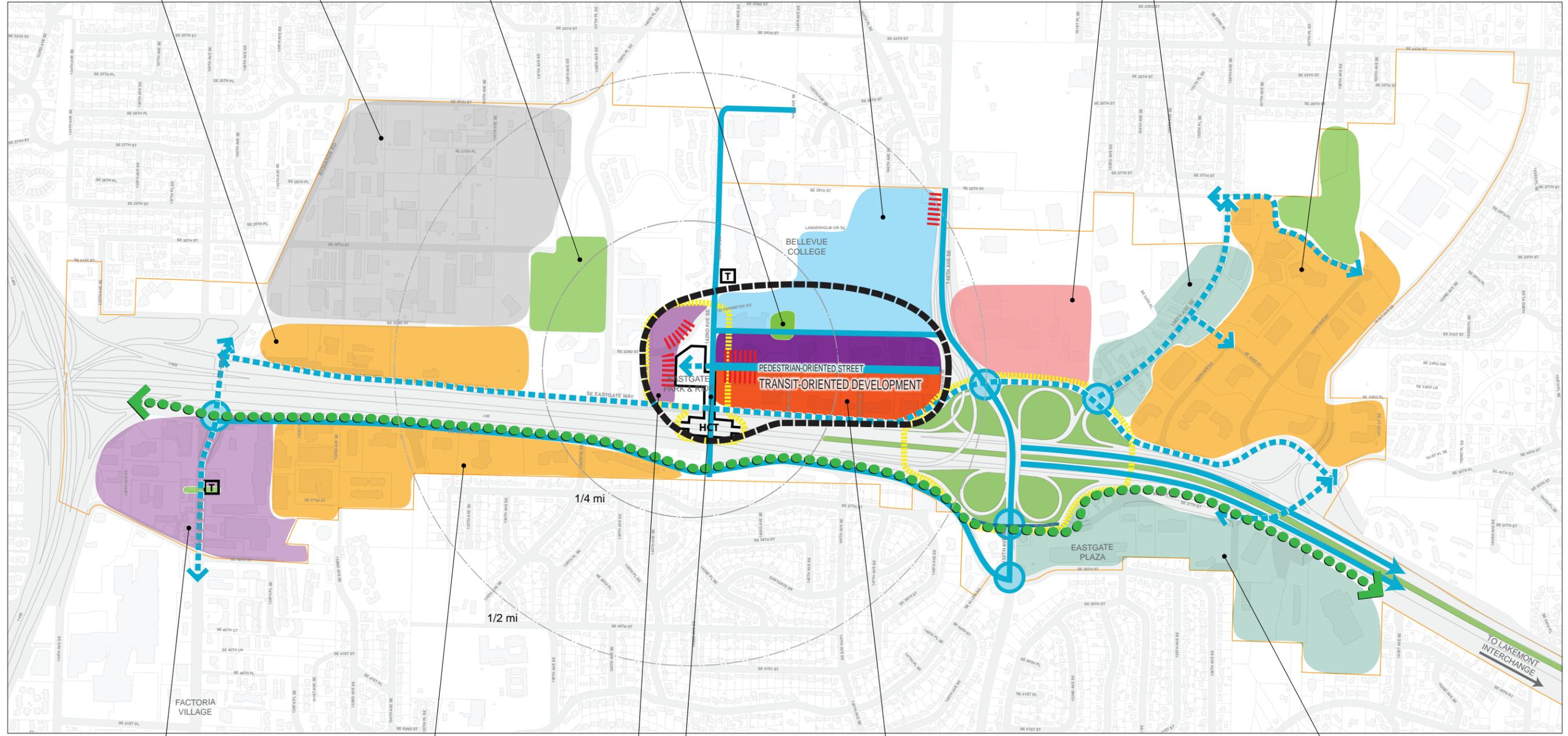
**Provide retail services for nearby offices and neighborhoods**

- Allow retail with upper floor residential or office
- Improve pedestrian connections to nearby office uses

**Provide higher quality office environment**

- Allow additional office development
- Allow retail and service uses on ground floor
- Ensure new development addresses Phantom Lake water quality/quantity concerns and other concerns of nearby neighborhoods

- Residential commercial 1
- Residential commercial 2
- Office mixed use
- Office
- Commercial residential
- Commercial
- Light industrial
- Institutional
- Park
- Retail frontage
- Mountains to Sound Greenway Trail
- Non-motorized improvement
- Multi-modal improvement
- Intersection improvement
- Potential future High Capacity Transit hub
- Transit hub
- Gateway
- Transit-oriented development



**Build on "Factoria Urban Village Concept"; utilize existing retail and transit**

- Allow retail, hotel, office, residential
- Emphasize transit focus with enhanced pedestrian environment along Factoria Blvd
- Include amenities with new development

**Support business and increase office presence**

- Allow increased office development
- Continue to allow auto sales
- Allow retail and service uses on ground floor
- Allow residential away from highway, in western portion
- Maintain office emphasis in eastern portion

**Activate and make use of transit center**

- Encourage multiple uses (office, retail, and residential)
- Emphasize transit focus with ground floor retail fronting Park & Ride

**Improve 142nd bridge**

- Improve bridge for pedestrians and current transit operations to/through Bellevue College
- Serve as gateway element

**Transit-oriented core of Eastgate; high-activity hub with connections to Bellevue College**

- Allow higher density to form Eastgate's central focal point
- Incorporate mixed uses (retail, residential, office, institutional) to create high activity hub
- Emphasize transit focus with enhanced pedestrian connectivity
- Provide terraced hill-side park for public gathering space
- Connect Bellevue College to southerly properties across steep slope
- Orient buildings to street grid
- Provide vertical access between 142nd bridge and ground level
- Encourage residential with ground floor retail on northern portion

**Serve surrounding neighborhoods**

- Emphasize neighborhood services (e.g., library, clinic, grocery)
- Allow retail, residential uses
- Allow office, hotel in east portion
- Limit building heights to be sensitive to single family neighborhood



# Eastgate Implementation Schedule

	Fall 2013	Winter 2014	Spring 2014	Summer 2014	Fall 2014	Winter 2015
Comprehensive Plan Amendments		[Solid blue bar]				
Land Use Code Amendments		[Dotted blue bar]		[Solid blue bar]		
SEPA Review	[Arrow]	[Solid blue bar]			[X]	[X]
Public Outreach	[Arrow]	[Solid blue bar]			[Star]	[Star]





# MEMORANDUM

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DATE: November 8, 2013

TO: Chair Tebelius and Members of the Planning Commission

FROM: Carol Helland, Land Use Director, 425-452-2724  
Mike Bergstrom, Principal Planner, 425-452-2970  
Shoreline Update Team  
*Development Services Department*

SUBJECT: Shoreline Master Program Conformance Amendments

## **INTRODUCTION**

On November 13, 2013 the Planning Commission will review a consolidated draft ordinance presenting Land Use Code conformance amendments to ensure that the Land Use Code will be internally consistent with the Planning Commission-recommended Shoreline Master Program (SMP). This follows two earlier study sessions held on October 9 (addressing several sections of the Land Use Code) and October 23 (specifically addressing Part 20.25H – Critical Areas Overlay) of the Land Use Code. The materials covered at the two October study sessions have since been combined into a single draft ordinance, and draft conformance amendments to Part 20.25M (Light Rail Overlay District) have been added (Attachment 1). Note that draft amendments discussed in this memo below under “Action Item Changes Recommended for Inclusion in Conformance Amendments” have not yet been folded into Attachment 1 pending Planning Commission feedback.

At your October 23 study session, WSSA submitted several requested changes to the Critical Areas Conformance Amendments (Attachment 2). Following that meeting, staff had the opportunity to review and evaluate those requests, as well as meet with WSSA representatives to discuss them. The WSSA requested changes, staff’s evaluation of them, and staff’s proposed response, are discussed below.

Following your November 13 study session, Planning Commission will be asked to direct staff to schedule a public hearing on the draft amendments as a necessary step toward recommending a Conformance Amendment Package to Council. The earliest available date for such hearing is December 11, 2013. That hearing would be preceded by a courtesy hearing with the East Bellevue Community Council, which could occur on December 3.

## **CONFORMANCE AMENDMENTS**

The purpose of conformance amendments is to ensure that the adoption of one piece of legislation (in this case the Planning Commission-recommended Part 20.25E LUC) does not create conflicts or inconsistencies with other existing legislation (in this case the rest of the Land Use Code). The existing code provisions are amended to bring them into conformance with the new legislation in order to allow that legislation to operate as intended. Conformance amendments are not meant to result in new policy direction, regulatory

changes that are not driven by the Commission-recommended SMP, or changes that necessitate revising the recommended SMP in order to achieve consistency.

Following the October 23 Planning Commission meeting, staff reviewed the requests submitted by WSSA for changes to the draft conformance amendments to Part 20.25H LUC (Critical Areas Overlay). Staff also met with WSSA representatives on November 4 to better understand what they were seeking to accomplish with each of the requested changes. In preparation for the November 4 meeting, WSSA representatives requested City staff to respond to 22 questions regarding application of the Critical Areas Overlay to properties in shoreline jurisdiction. For Planning Commission reference, Attachment 3 includes the material provided in response to the WSSA request for information. Staff recommends that some of the requested changes to the Critical Areas Overlay, or portions of them, be handled as conformance amendments, but that re-drafted language be used to ensure that WSSA objectives are met. Other requested changes, or parts of them, are not within the scope of a conformance amendment and raise substantive or procedural issues that are more appropriately discussed when broader public notification and participation can be provided, or as part of a broader update to the Critical Areas Overlay.

The full text of the changes requested by WSSA (termed “Action Items”) is contained in Attachment 2, which has been annotated (e.g., 1, 2, 3a, 3b, 3c, etc) to correspond with the staff comments and recommendations below. We have assembled the requested changes into two groups. The first group includes Action Items that can be recommended by staff for inclusion in the conformance amendment package if the language included in this memorandum is used to accomplish the desired change. The second group includes the requests that have been identified as beyond the scope of conformance amendments due to substantive or procedural implications. Rationale for recommending the change together with draft code language, and rationale for excluding the change as beyond the scope of conformance amendments, is provided below.

### **Action Item Changes Recommended for Inclusion in Conformance Amendments.**

2. Type S Waters: The intent of this Action Item is to specify what waters in Bellevue are defined as “Type S”.

Staff Recommendation: Staff prepared a slight revision to the wording suggested by WSSA, to clarify that the only currently known Type S waters are Lower Kelsey Creek and Mercer Slough, in case characteristics of streams change in the future to cause them to fall into the definition of “Type S” streams.

Staff Recommended Language:

#### **20.25H.075(B)(1). Designation of Streams.**

1. “Type S water” means all waters, ~~other than shoreline critical areas designated under LUC 20.25E.017,~~ within their bankfull width, as inventoried as “shoreslines of the state” under Chapter 90.58 RCW and the rules promulgated pursuant to Chapter 90.58 RCW including periodically inundated areas of their associated wetlands. As

of [insert effective date of ordinance], the only known Type S waters are Lower Kelsey Creek and Mercer Slough.

- 3.d. Flood Hazard Restriction on Homes, Docks, and Bulkheads (portion): The intent of this portion of Action Item #3 is to specifically allow moorage structures in areas of special flood hazard consistent with applicable performance criteria. Although staff recommends this be included in the Conformance Amendment Package, alternative draft language has been offered to achieve WSSA objectives consistent with the content and structure of the existing Critical Areas Overlay.

Staff Recommendation: Staff prepared an amendment to the LUC 20.25H.055.B Chart to allow moorage and dock in the floodplain pursuant to the applicable shoreline permitting process so long as applicable performance criteria are met.

Staff Recommended Language:

**20.25H.055(B) Table (of uses and development allowed within critical areas – performance standards)**

	Type of Critical Area				
	Streams	Wetlands	Shorelines	Geologic Hazard Areas <sup>7</sup>	Areas of Special Flood Hazard
Additional shoreline-specific uses or development			Part 20.25E		
<u>Moorage and docks associated with a residential use</u>					Part 20.25E.065 <sup>14</sup> <sub>15</sub>

14. Authorized only in areas of special flood hazard located within shoreline jurisdiction and when developed in the aquatic environment in accordance with LUC 20.25E.065.

15. In areas of special flood hazard located within shoreline jurisdiction performance standards required by this section will be applied through the applicable permit required by Part 20.25E LUC and do not required a Critical Areas Land Use Permit.

- 3.e. Flood Hazard Restriction on Homes, Docks, and Bulkheads (portion): The intent of this portion of Action Item #3 is to clarify that stabilization measures are allowed uses in areas of special flood hazard. Although staff recommends this be included in the Conformance Amendment Package, alternative draft language has been offered to achieve WSSA objectives consistent with the content and structure of the existing Critical Areas Overlay.

Staff Recommendation: Staff prepared an amendment to the LUC 20.25H.055.B Chart to clarify that stabilization measures are allowed in areas of special flood hazard if regulated pursuant to LUC 20.25E.080.F and will be processed pursuant to the

applicable shoreline permitting process so long as applicable performance criteria are met. Also, see response to Action Item #9 below.

Staff Recommended Language:

**20.25H.055(B) Table (of uses and development allowed within critical areas – performance standards)**

	Type of Critical Area				
	Streams	Wetlands	Shorelines	Geologic Hazard Areas <sup>7</sup>	Areas of Special Flood Hazard
Stabilization measures	20.25H.055.C.3.m 20.25H.080.A	20.25H.055.C.3.m 20.25H.100	<del>20.25E.080.B</del> <del>20.25E.080.E</del>	20.25H.055.C.3.m 20.25H.125	20.25H.055.C.3.m <sup>13,15</sup> 20.25H.180.C

13. Authorized in areas of special flood hazard located within shoreline jurisdiction and only when developed in accordance with LUC 20.25E.080.F.

15. In areas of special flood hazard located within shoreline jurisdiction performance standards required by this section will be applied through the applicable permit required by Part 20.25E LUC and do not required a Critical Areas Land Use Permit.

- 5.a. Performance Standards – Trails (portion): The intent of this portion of Action Item #5 is to clarify that the draft provision would only apply to new trails and not to trails and similar alterations to the land that occurred prior to August 1, 2006. Staff language recommended on October 23 applies only to “new” nonmotorized trails. Additional changes requested to clarify that the section does not apply to existing trails is not necessary, because that clarifying statement is currently contained in the Critical Areas Overlay at LUC 20.25H.180.

Staff Recommendation: Staff prepared an amendment to LUC 20.25H.055.C.3.f to expand application of performance criteria to new nonmotorized trails proposed for access to moorage permitted under LUC 20.25E. Staff recommends language previously provided to the Planning Commission on October 23, 2013, since that language specifically applies only to new nonmotorized trails.

Staff Recommended Language:

**20.25H.055.C.3.f**

- f. Private Nonmotorized Trails. New nonmotorized trails within the critical area or critical area buffer are limited to those accessing single-family residential moorage or serving nonresidential uses, multifamily residential uses and more than one single-family lot. Private nonmotorized trails shall comply with the performance standards for trails in subsection C.3.g of this section. Nothing in this section prohibits the creation of a soft surface nonmotorized trail in a critical area buffer on a single-family lot for use of the residents of that lot. Such trail shall not exceed four feet in width, and shall not involve the removal of any significant trees or bank-stabilizing roots. In

stream and wetland buffers, trails shall not be generally parallel to the stream or wetland edge closer than a distance of 25 feet. Any clearing of brush or vegetation shall be the minimum necessary, and shall be with hand tools only.

- 5.b. Performance Standards – Trails (portion): The intent of this portion of Action Item #5 is to allow access to residential moorage across a flood hazard critical area and to apply the standards of “no net loss”.

Staff Recommendation: Clarifying notes are recommended to the “New or expanded private nonmotorized trails” listing in the use table at LUC 20.25H.055.B.

Staff Recommended Language:

**20.25H.055(B) Table (of uses and development allowed within critical areas – performance standards)**

	Type of Critical Area				
	Streams	Wetlands	Shorelines	Geologic Hazard Areas <sup>7</sup>	Areas of Special Flood Hazard
New or expanded private nonmotorized trails	20.25H.055.C.2 20.25H.055.C.3.f 20.25H.080.A	20.25H.055.C.2 20.25H.055.C.3.f 20.25H.100	<del>20.25H.055.C.2</del> <del>20.25H.055.C.3.f</del> <del>20.25E.080.B</del> <del>20.25E.080.G</del>	20.25H.055.C.2 20.25H.055.C.3.f 20.25H.125	20.25H.055.C.2 15, 16 20.25H.055.C.3.f 20.25H.180.C

15. In areas of special flood hazard located within shoreline jurisdiction performance standards required by this section will be applied through the applicable permit required by Part 20.25E LUC and do not required a Critical Areas Land Use Permit.

16. Authorized only in areas of special flood hazard located within shoreline jurisdiction and when developed in accordance with LUC 20.25H.C.3.f.

6. Performance Standards – Existing Landscaping: The intent of this Action Item #6 is to clarify the types of landscape repair, reconstruction, and maintenance that can occur within a critical area or its buffer, and to address the use of fertilizers, insecticides, and pesticides.

Staff Recommendation: Clarify the use of fertilizers, insecticides, and pesticides is recommended to be undertaken in conformance with City of Bellevue Best Management Practices.

Staff Recommended Language:

**20.25H.055.3.h – Existing Landscape Maintenance**

- h. Existing Landscape Maintenance. Routine maintenance of existing legally established landscaping and landscape features developed prior to August 1, 2006, in the critical area or critical area buffer may be continued in accordance with this section. For purposes of this section, “routine maintenance” includes mowing,

pruning, weeding, planting annuals, perennials, fruits and vegetables, and other activities associated with maintaining a legally established ornamental or garden landscape and landscape features. Also, for purposes of this subsection, “landscape features” refers to fences, trellises, rockeries and retaining walls, pathways, arbors, patios, play areas and other similar improvements. To be considered routine maintenance, activities shall have been consistently carried out so that the ornamental species predominate over native or invasive species. Maintenance shall be performed with hand tools or light equipment only, and no significant trees may be removed, except in accordance with a Vegetation Management Plan under subsection C.3.i of this section. Use of fertilizers, insecticides, and pesticides is ~~prohibited~~ not recommended unless performed in accordance with the City of Bellevue’s “Environmental Best Management Practices” now or as hereafter amended.

9. Performance Standards – Stabilization Measures: The intent of this Action Item #9 is to clarify that the performance standards of LUC 20.25H.055.C.3.m do not apply to shoreline stabilization measures, which are regulated under LUC 20.25E.080. The standards of this section apply to stream and geologic hazards, not shorelines, and therefore an edit is not necessary. However, clarifying language can be added to assist in making this clear to the code user.

Staff Recommendation: Revise the introductory paragraph to 20.25H.055.C.3.m to clarify that stabilization measures regulated pursuant to LUC 20.25E.080.F are not regulated by the performance standards of Part 20.25H LUC (Critical Areas Overlay).

Staff Recommended Language:

**20.25H.055.C.3.m**

m. Stabilization Measures. ~~See LUC 20.25E.080.E for standards regulating shoreline stabilization measures.~~ Proposed stabilization measures within a critical area or critical area buffer to protect against streambank erosion or steep slopes or landslide hazards may be approved in accordance with this subsection. The performance standards of this part do not apply to shoreline stabilization measures in flood hazard critical areas when developed in accordance with LUC 20.25E.080.F.

10. Clarification (re: uses in habitat for species of local importance): The intent of this Action Item #10 is to clarify that habitat protection for species of local importance can be assured either through the performance standards of LUC 20.25H.160 or through compliance with the SMP, LUC 20.25E.

Staff Recommendation: Defer to Part 20.25E LUC for performance standards relating to protection of fish habitat.

Staff Recommended Language:

**20.25H.155 Uses in habitat for species of local importance.**

The uses allowed in the underlying land use district are allowed within habitat associated with species of local importance, so long as the development complies with the performance standards of LUC 20.25H.160; provided, that fish habitat protection is presumed through compliance with performance standards contained in Part 20.25E LUC. ~~The~~ This section does not allow modification of other critical areas or critical area buffers.

### **Changes that are beyond the scope of conformance amendments.**

The following requested changes go beyond the scope of conformance amendments as they raise substantive policy issues that should be discussed in a broader forum. Some of them also have permit process implications. Therefore, staff does not recommend proceeding with addressing these requested changes as part of the conformance amendment package, but does recommend that these issues be added to the code amendment docket for consideration as part of the Critical Areas Overlay update.

1. Clarification. This change would result in all critical area performance standards being addressed through the shoreline permit process. Many shoreline developments on residential property required nothing more than a Shoreline Exemption, which would leave a gap in Critical Areas Code application. In addition, any appeal would go to the Shoreline Hearings Board, which would otherwise not generally hear appeals of non-shoreline critical area issues. The purpose of maintaining a dual permit process (though the two permits are merged for review purposes) is to keep appeals of critical areas issue in the local venue, through the City's Hearing Examiner process. The change as proposed by WSSA is overly broad, is not necessitated by the Recommended SMP and is not a conformance amendment. Flood Hazard Critical Areas did present an opportunity for targeted process simplification which was recommended to allow moorage, shoreline stabilization and trails associated with moorage to be processed entirely under required Part 20.25E LUC permits with no separate Critical Areas Land Use Permit required. Refer to Action Items 3.d, 3.e and 5.b above.
- 3.a. Flood Hazard Restriction on Homes, Docks, and Bulkheads (portion). Same comment as item #1 above.
- 3.b. Flood Hazard Restriction on Homes, Docks, and Bulkheads (portion). This change would establish new policy by permitting new single-family primary structures to be located in all critical areas as an allowed use. Currently, only existing (not new) single-family primary structures can expand into a critical areas buffer. The change as proposed by WSSA is overly broad, and would be a significant policy change that should receive broader public outreach and participation. It is not necessitated by the Recommended SMP and is not a conformance amendment.
- 3.c. Flood Hazard Restriction on Homes, Docks, and Bulkheads (portion). In addition to the change referenced in 3.b above, the change at 3.c would change the process for development in special flood hazard critical areas by removing the requirement for applicants to obtain a reasonable use exception. This would be a significant policy change that should receive broader public outreach and participation. It is not

necessitated by the Recommended SMP and is not a conformance amendment. Flood Hazard Critical Areas did present an opportunity for targeted process simplification which was recommended to allow moorage, shoreline stabilization and trails associated with moorage to be processed entirely under required Part 20.25E LUC permits with no separate Critical Areas Land Use Permit required. Refer to Action Items 3.d, 3.e and 5.b above.

4. Performance Standards – General Reference. This change would establish a new standard of review for uses in critical areas/buffers/setbacks, and would conflict with the first part of C.3 which states that the more protective provisions (critical area versus shoreline) will apply. This would require “backwards” conformance amendments to the Planning Commission Recommended SMP which maintains the “more protective” approach, to resolve conflicts between the SMP and the Critical Areas Overlay. This change is not necessitated by the Recommended SMP and is not a conformance amendment.
7. Performance Standards – Vegetation Management. This change is unrelated to the Recommended SMP and is therefore not a conformance amendment. It is a change to general city-wide vegetation management provisions that apply to all critical areas and would be more appropriately evaluated as part of a broader discussion with more public participation.
8. Performance Standards – Single Family Homes. This change introduces several new concepts that suggest policy changes, and the issues it raises are similar to those addressed in item #3.a-c above. First, it would allow a wider range of development outright within all critical areas by allowing “new development” versus limiting allowed uses to “expansions of existing development” as required by the existing Critical Areas Overlay. Second, it would remove the Critical Areas Land Use Permit requirement for all critical areas when a shoreline permit is required, and would allow expansion of a structure into any area of legally established landscaping and landscape features developed prior to August 1, 2006. This change as proposed by WSSA is overly broad, is not necessitated by the Recommended SMP and is not a conformance amendment. These changes are more appropriately evaluated as part of a broader discussion with more public participation.
11. Secondary Flood Hazard Changes. Similar to concerns raised above, this change would establish new policy by excluding existing development from the Critical Areas Overlay regulations and by limiting the regulation to only residential development rather than all development. This change is not necessitated by the draft SMP and is not a conformance amendment. These changes are more appropriately evaluated as part of a broader discussion with more public participation.

Staff will be available on November 13 to review this item and respond to any questions you might have.

## **RECOMMENDATIONS**

1. Provide direction on whether and how to respond to the Action Items submitted by WSSA (Attachment 2) and evaluated in this memorandum.
2. Direct staff to schedule a public hearing on the conformance amendments for December 11, 2013.

## **NEXT STEPS**

- December 3, 2013 (tentative) – Courtesy hearing with the East Bellevue Community Council
- December 11, 2013 (tentative) – Public hearing with the Planning Commission
- January, 2014 (date TBD) – Transmittal of Planning Commission recommendation to Council

## **ATTACHMENTS**

1. Draft Land Use Code conformance amendments
2. WSSA Requested Changes to Critical Area Conformance Amendments, October 23, 2013 (annotated to correspond with Staff Recommendations in this memorandum)
3. November 4, 2013 Responses to WSSA Questions



CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE amending the Bellevue Land Use Code for consistency with the new Shoreline Master Program and Shoreline Overlay District (Part 20.25E LUC); amending Sections \_\_\_\_\_ (\_\_\_\_); .....; providing for severability; and establishing an effective date.

**Comment [CoB1]:** After all amendments are known, all affected sections and a brief descriptor will be listed here.

WHEREAS, the Bellevue City Council has by separate Ordinance created a new Part 20.25E in the Bellevue Land Use Code providing for the use and development of properties located within the Shoreline Overlay District; and

WHEREAS, amendments to other sections of the Land Use Code are necessary to provide appropriate cross-referencing and avoid conflicts; and

WHEREAS, the Planning Commission held (a) public hearing(s) on \_\_\_\_\_ (and \_\_\_\_\_) after providing the legally required notice, with regard to the Land Use Code amendment proposed herein; and

WHEREAS, the City Council finds that the proposed conformance and consistency amendments meet the decision criteria of LUC 20.30J.135 and are consistent with the Comprehensive Plan, enhance the public health, safety, and welfare, and are not contrary to the best interest of the citizens and property owners of the City of Bellevue, as more completely analyzed in the Staff Report for the amendment dated \_\_\_\_\_; and

WHEREAS, the City of Bellevue has complied with the State Environmental Policy Act (SEPA), Chapter 43.21C RCW, and the City's Environmental Procedures Code, BCC 22.02; now, therefore,

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

Section [ ]. Section 20.10.060 of the Bellevue Land Use Code is hereby amended by the addition of a note below each chart to read as follows:

**Comment [CoB2]:** Sections will be numbered once all amendments are included.

**20.10.060 Interpretation of map boundaries.**

When uncertainty exists as to the boundaries of any use district established on the City's land use map(s), the following rules of construction shall apply:

- A. Where district boundaries are indicated as approximately following the centerline of streets, alleys or highways, the actual centerline shall be construed to be the boundary.
- B. Where district boundaries are indicated as running approximately parallel to the centerline of a street, the boundary line shall be construed to be parallel to the centerline of the street.
- C. Where district boundaries are indicated as approximately following lot or tract lines, the actual lot or tract lines shall be construed to be the boundary lines of such use district.

D. Unmapped shorelands shall automatically be assigned an Urban Conservancy environment designation, considered to be within the same land use district as the adjacent upland as shown on the use district map(s).

**Comment [CoB3]:** Change reflects consistency with Ecology direction. It is not expected that Bellevue has or will have unmapped shorelands.

E. Where a public street or alley is officially vacated or abandoned, the regulations applicable to the abutting property to which the vacated portion shall revert, shall apply to such vacated or abandoned street or alley.

F. In case uncertainty exists which cannot be determined by application of the foregoing rules, the Planning Commission shall recommend, and the City Council shall determine, the location of such use district boundaries.

G. Shoreline Overlay (S-O) District boundaries are as described in LUC ~~20.25E.010~~ 20.25E.010.C.1, and, with the exception of paragraph D above, are not subject to these rules of construction.

**Comment [CoB4]:** Internal consistency.

**Comment [CoB5]:** Internal consistency.

Section \_\_\_\_\_. Section 20.10.400 of the Bellevue Land Use Code is hereby amended to read as follows:

#### **20.10.400 Use chart described – Interpretation**

(Note: LUC 20.10.400 is not applicable in the Shoreline Overlay District).

**Comment [CoB6]:** Consistency with 20.25E.010.C.1.c

In chart 20.10.440, land use classifications and standard Land Use Code reference numbers are listed on the vertical axis. City of Bellevue land use districts are shown on the horizontal axis.

....

Section \_\_\_\_\_. Section 20.10.420 of the Bellevue Land Use Code is hereby amended to read as follows:

#### **20.10.420 Interpretation of land use charts by Director.**

(Note: LUC 20.10.420 is not applicable in the Shoreline Overlay District).

**Comment [CoB7]:** Consistency with 20.25E.010.C.1.c

A. Director's Authority. In the case of a question as to the inclusion or exclusion of a particular proposed use in a particular use category, the Director shall have the authority to make the final determination. The Director shall make the determination according to the characteristics of the operation of the proposed use and based upon the Director's interpretation of the Standard Land Use Coding Manual, the Standard Industrial Classification Manual and the North American Industry Classification System.

....

Section \_\_\_\_\_. Section 20.10.440 (Land Use Charts) of the Bellevue Land Use Code is hereby amended by the addition of a note below each chart to read as follows:

Permitted uses in the Shoreline Overlay District are listed in LUC 20.25E.020.

**Comment [CoB8]:** Permitted uses in the SAO are now contained in 20.25E.

Section \_\_\_\_\_. Section 20.10.440 (Land Use Charts – Services) of the Bellevue Land Use Code is hereby amended to revise Note 14 to read as follows:

- (14) These uses are permitted only in Bellevue School District schools, whether under control of the School District or the City.
- (a) In the review of the proposed use or uses under the Administrative Conditional Use Permit application, Part 20.30E LUC, the following criteria shall be considered:
- (i) Consistency of the proposal with the goals and policies of the Comprehensive Plan.
  - (ii) Extent to which the physical environment will be modified by the proposal.
  - (iii) Ability to provide on-site parking facilities to accommodate intended uses under the proposal.
  - (iv) Extent of additional demand on public utilities and public services resulting from the proposal.
  - (v) Noise impacts of the proposal.
  - (vi) Traffic volumes and street classifications in the area of the proposal.
  - (vii) Compatibility of the proposal with surrounding land uses.
  - (viii) Impact of the proposal on the visual and aesthetic character of the neighborhood.

In addition, the proposed use or uses shall not be more intensive than if the school were being used as a school.

- (b) A master Conditional Use Permit listing a range of permissible uses from those permitted in the land use district as listed in LUC 20.10.440 can be obtained for the entire school by using the conditional use process, Part 20.30B or ~~Part 20.30C~~ LUC 20.25E.150 and .180. Uses listed in the permit shall be permitted outright and uses not listed but permitted as conditional uses shall obtain a Conditional Use Permit.

**Comment [CoB9]:** Shoreline CUPs are now addressed in 20.25E.150 and .180.

Section \_\_\_\_\_. Section 20.10.440 (Land Use Charts – Recreation) is hereby amended to revise the following use listing in all land use charts (Residential Districts, Nonresidential Districts, and Downtown Districts):

744 ~~Marinas~~, Yacht Clubs

**Comment [CoB10]:** Marinas will be regulated by 20.25E. Yacht clubs could be located either in shorelines or outside of them, so should remain as a use in the 20.10.440 use charts.

Section \_\_\_\_\_. Section 20.10.440 (Land Use Charts – Recreation) is hereby amended to revise Note 10 to read as follows:

- \*(10) City parks are generally permitted in all zones. However, the following types of uses or facilities in City parks in single-family or R-10 zones require conditional use approval: lighted sports and play fields, sports and play fields with amplified sound, and community recreation centers, motorized boat ramps, ~~and~~ beach parks, marinas, yacht clubs, and community clubs, on Lake Washington, Lake Sammamish, Phantom Lake and Larson Lake. Nonrecreation uses in City parks in all zones outside the Downtown require conditional use approval, except that the permit requirements for wireless communication facilities shall be as set forth in LUC 20.20.195. For purposes of this requirement, “nonrecreation use” means a commercial, social service or residential use located on park property but not functionally related to City park programs and activities.

**Comment [CoB11]:** Consistency with 20.25E.

\* Not effective within the jurisdiction of the East Bellevue Community Council.

Section \_\_\_\_\_. Section 20.10.440 (Land Use Charts – Resources) is hereby amended to delete the following use listing from all land use charts (Residential Districts, Nonresidential Districts, and Downtown Districts):

8421 Fish Hatcheries

Section \_\_\_\_\_. Section 20.20.010 (Residential Dimensional Requirements Chart) of the Bellevue Land Use Code is hereby amended by the addition of a Note (46), attached to the “Minimum Greenscape Percentage of Front Yard Setback” dimensional requirement in the Residential chart, to read as follows:

(46) Not applicable to properties located in Shoreline Overlay Districts and which have shoreline frontage. For Greenscape requirements applicable to such properties, see LUC 20.25E.065.F.

**Comment [CoB12]:** Greenscape requirements for certain shoreline properties are now contained in 20.25E.

Section \_\_\_\_\_. Section 20.20.010 (Dimensional Requirements Charts) of the Bellevue Land Use Code is hereby amended by the addition of a note below each chart to read as follows:

Additional Dimensional Requirements for Shoreline Overlay Districts are found in Part 20.25E LUC.

**Comment [CoB13]:** Some dimensional requirements are now contained in 20.25E.050.A and .065.C.

Section \_\_\_\_\_. Section 20.20.018 of the Bellevue Land Use Code is hereby amended to read as follows:

**20.20.018 Variation in minimum requirements – Area, width and depth.**

Except as set forth in LUC 20.20.017 above, in no case may the Director or any other hearing body vary the minimum requirements for minimum lot area, width of street frontage, width required in lot or depth required in lot, as stated in Chart 20.20.010, by more than 10 percent; except that this section shall not apply to planned unit developments, Part 20.30D LUC, conservation subdivisions, LUC 20.45A.060, or conservation short subdivisions, LUC 20.45B.055. See Part 20.30G LUC relating to variances from the Land Use Code and Part ~~20.30H~~ 20.25E LUC relating to variances from the Shoreline Master Program.

**Comment [CoB14]:** Shoreline variances are now addressed in 20.25E.

Section \_\_\_\_\_. Section 20.20.020 (Land Use Charts) of the Bellevue Land Use Code is hereby amended by the addition of a note below each chart to read as follows:

Additional Dimensional Requirements for the Shoreline Overlay District are found in Part 20.25E.

**Comment [CoB15]:** Some dimensional requirements are now contained in 20.25E.

Section \_\_\_\_\_. Section 20.20.025 of the Bellevue Land Use Code is hereby amended to read as follows:

**20.20.025 Intrusions into required setbacks**

(Note: LUC 20.20.025 is not applicable in the Shoreline Overlay District).

**Comment [CoB16]:** Consistency with 20.25E.010.C.1.c

**A. Signs, Marquees and Awnings.**

See Sign Code, Chapter 22B.10 BCC.

....

Section \_\_\_\_\_. Section 20.20.128.C.3 of the Bellevue Land Use Code is hereby amended to read as follows:

**20.20.128(C) Affordable housing.**

**C. Dimensional Standard Modification.**

The following requirements of the Land Use Code may be modified through the procedures outlined in paragraph D of this section, to the extent necessary to accommodate affordable housing units and bonus units on-site.

....

3. Building Height. Except in Transition Areas and the Shoreline Overlay District, the maximum building height in R-10, R-15, R-20 and R-30 Zoning Districts may be increased by up to six feet for those portions of the building(s) at least 20 feet from any property line.

**Comment [CoB17]:** 20.25E limits heights to 35'.

....

Section \_\_\_\_\_. Section 20.20.255.B of the Bellevue Land Use Code is hereby amended to read as follows:

**20.20.255(B) Electrical utility facilities.**

**B. Applicability.**

This section applies to all proposals for new or expanding electrical utility facilities as defined in LUC 20.50.018. Additional requirements applicable to Electrical utility facilities located within the Shoreline Overlay District are provided in Part 20.25E LUC.

**Comment [CoB18]:** Referral to 20.25E for additional regulations in the Shoreline Overlay.

Section \_\_\_\_\_. Section 20.20.560.E of the Bellevue Land Use Code is hereby amended to read as follows:

**20.20.560(E) Nonconforming structures, uses and sites.**

**E. Exceptions.**

1. Downtown. The provisions of this section shall not apply in the Downtown Special Overlay District, Part 20.25A LUC. Refer to LUC 20.25A.025 for the requirements for nonconforming uses, structures, and sites located within the Downtown Special Overlay District.
2. Critical Areas Overlay District. The provisions of this section do not apply to structures or sites nonconforming to the requirements of Part 20.25H LUC. Refer to LUC 20.25H.065 for the requirements for such nonconforming structures and sites.

3. Shoreline Overlay District. The provisions of this section do not apply to uses, structures or sites nonconforming to the requirements of Part 20.25E LUC. Refer to LUC ~~20.25E.055~~20.25E.040 and .065 for the requirements for such nonconforming uses, structures and sites.

**Comment [CoB19]:** 20.25E contains nonconforming provisions specific to shorelines.

4. Bel-Red (BR) Land Use Districts. The provisions of this section do not apply to uses, structures, or sites located in the Bel-Red Land Use Districts. For uses in the Bel-Red Land Use Districts established before May 26, 2009, refer to the existing conditions regulations in LUC 20.25D.060.

Section \_\_\_\_\_. Section 20.20.460.C of the Bellevue Land Use Code is hereby amended to read as follows:

#### **20.20.460 Impervious surface.**

##### **C. Modifications to Impervious Surface Limits.**

The impervious surface limits contained in LUC 20.20.010 and Chapter 20.25 LUC may be modified pursuant to a critical areas report, LUC 20.25H.230, so long as the critical areas report demonstrates that the effective impervious surface on the site does not exceed the limit established in LUC 20.20.010 and Chapter 20.25 LUC, provided, that impervious limits within the Shoreline Overlay District may be modified pursuant to a Shoreline Special Report or Shoreline Variance, as provided for by LUC 20.25E.050.C.2.

**Comment [CoB20]:** Consistency with 20.25E.050.C.2

1. ....

Section \_\_\_\_\_. Section 20.20.840 of the Bellevue Land Use Code is hereby amended to read as follows:

#### **20.20.840 Subordinate Uses.**

(Note: LUC 20.20.840 is not applicable in the Shoreline Overlay District).

**Comment [CoB21]:** Consistency with 20.25E.010.C.1.c

##### **A. Purpose.**

The purpose of this section is to provide performance standards for subordinate uses, as defined in LUC 20.50.046.

....

Section \_\_\_\_\_. Chapter 20.25 – Special and Overlay Districts, Table of Sections, Part 20.25E, is hereby amended to read as follows:

Part 20.25E Shoreline Overlay District

- 20.25E.010 General
- 20.25E.020 Shoreline Uses Described
- 20.25E.040 Nonconforming Shoreline Conditions
- 20.25E.050 Dimensional Requirements
- 20.25E.060 General Requirements Applicable to All Shoreline Development and Uses
- 20.25E.065 Residential Shoreline Regulations
- 20.25E.070 Specific Use Regulations
- 20.25E.080 Shoreline Modifications
- 20.25E.100 Review and Appeal Procedures
- 20.25E.110 Shoreline Process I – Quasi Judicial Decisions
- 20.25E.120 Shoreline Process II – Administrative Decisions
- 20.25E.130 Shoreline Process III – Ministerial Decisions
- 20.25E.140 Legislative Non-Project Actions
- 20.25E.150 Shoreline Project Permits
- 20.25E.160 Shoreline Substantial Permits
- 20.25E.170 Exemptions from Shoreline Substantial Development Permits – Letter of Exemption Required
- 20.25E.180 Shoreline Conditional Use Permits
- 20.25E.190 Variances to the Shoreline Master Program
- 20.25E.200 Amendments to the Text of the Shoreline Master Program
- 20.25E.250 Administration
- 20.25E.260 Enforcement
- 20.25E.270 Interpretation
- 20.25E.280 Definitions

**Comment [CoB22]:** Reflects structure of new 20.25E.

Section \_\_\_\_\_. Section 20.25H.025 of the Bellevue Land Use Code is hereby amended to read as follows:

**20.25H.025 Designation of critical areas.**

The following areas are hereby designated as critical areas. For additional information about identifying each critical area, see the specific sections noted.

Critical Area Category or Type	Additional Information Identifying Critical Area
<b>Streams</b>	
Type S water	LUC 20.25H.075
Type F water	LUC 20.25H.075
Type N water	LUC 20.25H.075
Type O water	LUC 20.25H.075
Closed segment, regardless of type; Kelsey Creek drainage basin	LUC 20.25H.075

Closed segment, regardless of type; all other drainage basins	LUC 20.25H.075
<b>Wetlands</b>	
Category I	LUC 20.25H.095
Category II	LUC 20.25H.095
Category III	LUC 20.25H.095
Category IV over 2,500 square feet	LUC 20.25H.095
<b>Shorelines</b>	
Shorelines	LUC 20.25E.017-D
<b>Geologic Hazard Areas</b>	
Landslide hazards	LUC 20.25H.120
Steep slopes	LUC 20.25H.120
Coal mine hazard areas	LUC 20.25H.120
<b>Habitat Associated with Species of Local Importance</b>	
Habitat associated with species of local importance	LUC 20.25H.150
<b>Areas of Special Flood Hazard</b>	
Areas of special flood hazard	LUC 20.25H.175

**Comment [CoB23]:** Shorelines are not regulated as critical areas.

Section \_\_\_\_\_. Section 20.25H.035.A of the Bellevue Land Use Code is hereby amended to read as follows:

**20.25H.035(A) Critical area buffers and structure setbacks.**

**A. Critical Area Buffer.**

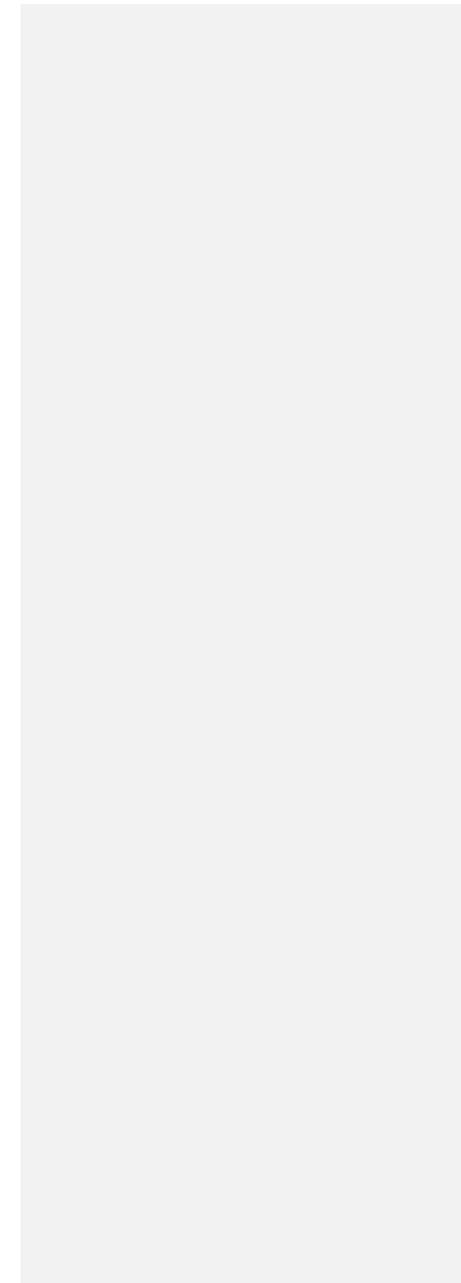
The following critical area buffers and structure setbacks are established for each critical area set forth below. For information about modifying required critical area buffers and structure setbacks, see the referenced sections noted in the table.

Critical Area Category or Type	Critical Area Buffer Width		Structure Setback		Modification of Buffer or Setback
<b>Streams</b>					
	<b>Undeveloped Site<sup>1</sup></b>	<b>Developed Site<sup>1</sup></b>	<b>Undeveloped Site<sup>1</sup></b>	<b>Developed Site<sup>1</sup></b>	
Type S water	100 ft	50 ft	20 ft	50 ft	LUC 20.25H.075 LUC 20.25H.230
Type F water	100 ft	50 ft	20 ft	50 ft	LUC 20.25H.075 LUC 20.25H.230
Type N water	50 ft	25 ft	15 ft	25 ft	LUC 20.25H.075 LUC 20.25H.230
Type O water	25 ft	25 ft	10 ft	None	LUC 20.25H.075 LUC 20.25H.230
Closed segment, regardless of type; Kelsey Creek drainage basin	None	None	50 ft or combined buffer and structure setback required for stream type, whichever is less	50 ft or combined buffer and structure setback required for stream type, whichever is less	LUC 20.25H.075 LUC 20.25H.230
Closed segment, regardless of type; all other drainage basins	None	None	10 ft	10 ft	LUC 20.25H.075 LUC 20.25H.230
<b>Wetlands</b>					
	<b>Undeveloped Site<sup>2</sup></b>	<b>Developed Site<sup>2</sup></b>	<b>Undeveloped Site<sup>2</sup></b>	<b>Developed Site<sup>2</sup></b>	
Category I		As established through previously approved and recorded NGPA or NGPE for wetland	20 ft	20 ft from edge of previously approved and recorded NGPA or NGPE	LUC 20.25H.095 LUC 20.25H.230
Natural heritage wetland	190 ft				
Bogs	190 ft				
Forested wetland	Based on score for habitat or water quality				
Habitat score of 29 to 36	225 ft				
Habitat score of 20 to 28	110 ft				
Water quality score of 24 to 32 and habitat	75 ft				

score of less than 20					
All others	75 ft				
Category II		As established through previously approved and recorded NGPA or NGPE for wetland	20 ft	20 ft from edge of previously approved and recorded NGPA or NGPE	LUC 20.25H.095 LUC 20.25H.230
Habitat score of 29 to 36	225 ft				
Habitat score of 20 to 28	110 ft				
Water quality score of 24 to 32 and habitat score of less than 20	75 ft				
All others	75 ft				
Category III		As established through previously approved and recorded NGPA or NGPE for wetland	15 ft	15 ft from edge of previously approved and recorded NGPA or NGPE	LUC 20.25H.095 LUC 20.25H.230
Habitat score of 20 to 28	110 ft				
All others	60 ft				
Category IV over 2,500 square feet		As established through previously approved and recorded NGPA or NGPE for wetland	None	None	LUC 20.25H.095 LUC 20.25H.230
All	40 ft				
<b>Shorelines</b>					
	<b>Undeveloped Site<sup>3</sup></b>	<b>Developed Site<sup>3</sup></b>	<b>Undeveloped Site<sup>3</sup></b>	<b>Developed Site<sup>3</sup></b>	
All shorelines	50-ft	25 ft	None	25 ft	LUC 20.25H.115 LUC 20.25H.230
<b>Geologic Hazard Areas</b>					
Landslide hazards	Toe-of-slope: None		Toe-of-slope: 75 ft		LUC 20.25H.120 LUC 20.25H.230
	Top-of-slope: 50 ft		Top-of-slope: None		
Steep slopes	Toe-of-slope: None		Toe-of-slope: 75 ft		LUC 20.25H.120 LUC 20.25H.230
	Top-of-slope: 50 ft		Top-of-slope: None		
Coal mine hazard areas	See LUC 20.25H.130		See LUC 20.25.130		LUC 20.25H.120 LUC 20.25H.230

**Comment [CoB24]:** Shorelines not regulated as critical area.

<b>Habitat Associated with Species of Local Importance</b>			
Habitat associated with species of local importance	Only if required for known species on site	None	N/A
Naturally occurring ponds with no other critical area designation	35 ft	None	LUC 20.25H.230
<b>Areas of Special Flood Hazard</b>			
Areas of special flood hazard	None	None	N/A



- 1 For a definition of “undeveloped site” and “developed site” for sites with streams, see LUC 20.25H.075.C.1.a.
- 2 For a definition of “undeveloped site” and “developed site” for sites with wetlands, see LUC 20.25H.095.C.1.a.
- 3 ~~For a definition of “undeveloped site” and “developed site” for sites with shorelines, see LUC 20.25H.115.B.1.a.~~

**Comment [CoB25]:** Footnote no longer needed.

Section \_\_\_\_\_. Section 20.25H.050 of the Bellevue Land Use Code is hereby amended to read as follows:

**20.25H.050 Uses and development in the Critical Areas Overlay District.**

**A. Uses.**

1. General. The uses established by LUC 20.10.440 for the applicable land use district may be undertaken in the Critical Areas Overlay District as allowed for in the underlying land use district. All development associated with the use shall comply with the provisions of this part.
2. Shorelines. Where the Critical Areas Overlay District and Shoreline Overlay District apply to the same site, the uses established by LUC 20.10.440 for the underlying land use district may be undertaken. Additional uses in the Shoreline Overlay District are set forth in LUC 20.25E.080.020 and .030. The applicable permitting process to establish the allowed uses within the Shoreline Overlay District is set forth in LUC 20.25E.070.100-190. All development associated with the use shall comply with the provisions of this part and Part 20.25E LUC.

**Comment [CoB26]:** Reference citation update.

**Comment [CoB27]:** Reference citation update.

**B. Development.**

1. Coal Mine Hazard Areas and Habitat Associated with Species of Local Importance. The coal mine hazard areas and habitat associated with species of local importance designated as critical areas by this part do not include absolute restrictions on development or activity. Instead, uses allowed under subsection A of this section may be undertaken in such critical areas, so long as the performance standards of LUC 20.25H.130 (coal mine hazard areas) or LUC 20.25H.160 (habitat associated with species of local importance) are satisfied.
2. Other Critical Areas. Except as set forth in subsection B.1 of this section, all development, use, land alteration or other activity within the Critical Areas Overlay District shall be located outside of the critical area and the critical area buffer, unless such use or development is allowed pursuant to the following:
  - a. Uses and development allowed within critical area or critical area buffer, see LUC 20.25H.055;
  - b. Critical area buffer modifications for the following critical areas:
    - i. Streams, see LUC 20.25H.075;
    - ii. Wetlands, see LUC 20.25H.095;
    - iii. ~~Shorelines, see LUC 20.25H.115;~~
    - iv. Geologic hazards, see LUC 20.25H.120.
  - c. Uses and development in the area of special flood hazard, see LUC 20.25H.180;

**Comment [CoB28]:** Shorelines not regulated as critical area.

- d. Modifications where allowed through a critical areas report, see LUC 20.25H.230;
- e. Reasonable use exceptions, see LUC 20.25H.190;
- f. Variances, see Part 20.30G and 20.30H LUC; or
- g. Shoreline-specific uses and development, where allowed within the ~~Shorelines Overlay District critical area or critical area buffer~~, see Part 20.25E LUC.

**Comment [CoB29]:** Shorelines not regulated as critical area.

**C. No Modification.**

The critical areas report may not be used to modify the uses allowed in the Critical Areas Overlay District as set forth in LUC 20.10.440 ~~or in the Shoreline Overlay District as set forth in Part 20.25E LUC~~; nor the provisions of this section.

**Comment [CoB30]:** Shorelines not regulated as critical area.

Section \_\_\_\_\_. Section 20.25H.055.B of the Bellevue Land Use Code is hereby amended to read as follows:

**20.25H.055(B) Uses and development allowed within critical areas – Performance standards.**

**B. Uses and Development Allowed within Critical Areas.**

The following chart lists uses and development that may be allowed in a critical area, critical area buffer, or critical area structure setback. The sections noted in the chart for each use or activity and critical area refer to the applicable performance standards that must be met.

		Type of Critical Area				
		Streams	Wetlands	Shorelines	Geologic Hazard Areas <sup>7</sup>	Areas of Special Flood Hazard
Allowed Use or Development	Repair and maintenance of parks and parks facilities, including trails <sup>1,2</sup>	20.25H.055.C.1 20.25H.080.A	20.25H.055.C.1 20.25H.100	<del>20.25H.055.C.4</del> <del>20.25E.080.B</del> <del>20.25E.080.P</del>	20.25H.055.C.1 20.25H.125	20.25H.055.C.1 20.25H.180.C 20.25H.180.D.2
	Repair and maintenance of utility facilities, utility systems, stormwater facilities and essential public facilities <sup>1,2</sup>	20.25H.055.C.1 20.25H.080.A	20.25H.055.C.1 20.25H.100	<del>20.25H.055.C.4</del> <del>20.25E.080.B</del> <del>20.25E.080.U</del>	20.25H.055.C.1 20.25H.125	20.25H.055.C.1 20.25H.180.C
	Repair and maintenance of public rights-of-way, private roads, access easements, surface parking areas, and driveways <sup>1,2</sup>	20.25H.055.C.1 20.25H.080.A	20.25H.055.C.1 20.25H.100	<del>20.25H.055.C.4</del> <del>20.25E.080.B</del> <del>20.25E.080.H</del> <del>20.25E.080.R</del>	20.25H.055.C.1 20.25H.125	20.25H.055.C.1 20.25H.180.C
	Repair and maintenance of bridges and culverts <sup>1,2</sup>	20.25H.055.C.1 20.25H.080.A	20.25H.055.C.1 20.25H.100	<del>20.25H.055.C.4</del> <del>20.25E.080.B</del> <del>20.25E.080.R</del>	20.25H.055.C.1 20.25H.125	20.25H.055.C.1 20.25H.180.C
	Construction staging <sup>1,2,11</sup>	20.25H.055.C.1 20.25H.080.A	20.25H.055.C.1 20.25H.100	<del>20.25H.055.C.4</del> <del>20.25E.080.B</del> <del>20.25E.080.H</del>	20.25H.055.C.1 20.25H.125	20.25H.055.C.1 20.25H.180.C
	Existing agricultural activities <sup>2</sup>	20.25H.055.C.1 20.25H.055.C.3.a 20.25H.080.A	20.25H.055.C.1 20.25H.055.C.3.a 20.25H.100	<del>20.25H.055.C.4</del> <del>20.25H.055.C.3.a</del> <del>20.25E.080.B</del>	20.25H.055.C.1 20.25H.055.C.3.a 20.25H.125	20.25H.055.C.1 20.25H.055.C.3.a 20.25H.180.C

**Comment [CoB31]:** Shorelines not regulated as critical area.

				20.25E.080.C		
	Emergency actions	20.25H.055.C.3.b	20.25H.055.C.3.b	<del>20.25H.055.C.3.b</del>	20.25H.055.C.3.b	20.25H.055.C.3.b
	New or expanded utility facilities, utility systems, stormwater facilities <sup>3</sup>	20.25H.055.C.2 20.25H.080.A 20.25H.080.B	20.25H.055.C.2 20.25H.100	<del>20.25H.055.C.2</del> <del>20.25E.080.B</del> <del>20.25E.080.U</del>	20.25H.055.C.2 20.25H.125	20.25H.055.C.2 20.25H.180.C
	New or expanded essential public facilities (12)	20.25H.055.C.2 20.25H.080.A 20.25H.080.B	20.25H.055.C.2 20.25H.100	<del>20.25H.055.C.2</del> <del>20.25E.080.B</del>	20.25H.055.C.2 20.25H.125	20.25H.055.C.2 20.25H.180.C 20.25H.180.D.3
<b>Allowed Use or Development</b>	Public flood protection measures <sup>4</sup>	20.25H.055.C.2 20.25H.055.C.3.c 20.25H.080.A 20.25H.080.B	20.25H.055.C.2 20.25H.055.C.3.c 20.25H.100	<del>20.25H.055.C.2</del> <del>20.25H.055.C.3.c</del> <del>20.25E.080.B</del>	20.25H.055.C.2 20.25H.055.C.3.c 20.25H.125	20.25H.055.C.2 20.25H.055.C.3.c 20.25H.180.C 20.25H.180.D.5
	Instream structures <sup>5</sup>	20.25H.055.C.2 20.25H.055.C.3.d 20.25H.080.A 20.25H.080.B	20.25H.055.C.2 20.25H.055.C.3.d 20.25H.100	<del>20.25H.055.C.2</del> <del>20.25H.055.C.3.d</del> <del>20.25E.080.B</del>	20.25H.055.C.2 20.25H.055.C.3.d	20.25H.055.C.2 20.25H.055.C.3.d 20.25H.180.C
	New or expanded public rights-of-way, private roads, access easements and driveways	20.25H.055.C.2 20.25H.080.A 20.25H.080.B	20.25H.055.C.2 20.25H.100	<del>20.25H.055.C.2</del> <del>20.25E.080.B</del> <del>20.25E.080.R</del>	20.25H.055.C.2 20.25H.125	20.25H.055.C.2 20.25H.180.C 20.25H.180.D.4
	New or expanded bridges and culverts	20.25H.055.C.2 20.25H.055.C.3.e 20.25H.080.A	20.25H.055.C.2 20.25H.055.C.3.e 20.25H.100	<del>20.25H.055.C.2</del> <del>20.25H.055.C.3.e</del> <del>20.25E.080.B</del> <del>20.25E.080.R</del>	20.25H.055.C.2 20.25H.055.C.3.e 20.25H.125	20.25H.055.C.2 20.25H.055.C.3.e 20.25H.180.C
	New or expanded private nonmotorized trails	20.25H.055.C.2 20.25H.055.C.3.f 20.25H.080.A	20.25H.055.C.2 20.25H.055.C.3.f 20.25H.100	<del>20.25H.055.C.2</del> <del>20.25H.055.C.3.f</del> <del>20.25E.080.B</del> <del>20.25E.080.G</del>	20.25H.055.C.2 20.25H.055.C.3.f 20.25H.125	20.25H.055.C.2 20.25H.055.C.3.f 20.25H.180.C

	New or expanded City and public parks	20.25H.055.C.3.g 20.25H.080.A	20.25H.055.C.3.g 20.25H.100	<del>20.25H.055.C.3.g</del> <del>20.25E.080.B</del> <del>20.25E.080.F</del>	20.25H.055.C.3.g 20.25H.125	20.25H.055.C.3.g 20.25H.180.C 20.25H.180.D.2
	Existing landscape maintenance <sup>2</sup>	20.25H.055.C.3.h 20.25H.080.A	20.25H.055.C.3.h 20.25H.100	<del>20.25H.055.C.3.h</del> <del>20.25E.080.B</del> <del>20.25E.080.G</del>	20.25H.055.C.3.h 20.25H.125	20.25H.055.C.3.h 20.25H.180.C
	Vegetation management <sup>6</sup>	20.25H.055.C.3.i 20.25H.080.A	20.25H.055.C.3.i 20.25H.100	<del>20.25H.055.C.3.i</del> <del>20.25E.080.B</del> <del>20.25E.080.G</del>	20.25H.055.C.3.i 20.25H.125	20.25H.055.C.3.i 20.25H.180.C
	Habitat improvement projects	20.25H.055.C.3.j 20.25H.080.A	20.25H.055.C.3.j 20.25H.100	<del>20.25H.055.C.3.j</del> <del>20.25E.080.B</del> <del>20.25E.080.G</del>	20.25H.055.C.3.j 20.25H.125	20.25H.055.C.3.j 20.25H.180.C
	Forest practices	20.25H.055.C.3.k 20.25H.080.A	20.25H.055.C.3.k 20.25H.100	<del>20.25H.055.C.3.k</del> <del>20.25E.080.B</del> <del>20.25E.080.G</del>	20.25H.055.C.3.k 20.25H.125	20.25H.055.C.3.k 20.25H.180.C
	Aquaculture	20.25H.055.C.3.l 20.25H.080.A	20.25H.055.C.3.l 20.25H.100	<del>20.25H.055.C.3.l</del> <del>20.25E.080.B</del> <del>20.25E.080.D</del>	20.25H.055.C.3.l	20.25H.055.C.3.l 20.25H.180.C
	Stabilization measures	20.25H.055.C.3.m 20.25H.080.A	20.25H.055.C.3.m 20.25H.100	<del>20.25E.080.B</del> <del>20.25E.080.E</del>	20.25H.055.C.3.m 20.25H.125	20.25H.055.C.3.m 20.25H.180.C
	Expansion of existing single-family primary structures	20.25H.055.C.3.n 20.25H.080.A	20.25H.055.C.3.n 20.25H.100	<del>20.25H.055.C.3.n</del> <del>20.25E.080.B</del> <del>20.25E.080.Q</del>	20.25H.055.C.3.n 20.25H.125	20.25H.055.C.3.n 20.25H.180.C <sup>9</sup> 20.25H.180.D.1 20.25H.180.D.7
	Reasonable use exception <sup>8</sup>	20.25H.080.A	20.25H.100	<del>20.25E.080.B</del>	20.25H.125	20.25H.180.C 20.25H.180.D.7
	Recreational vehicle storage <sup>10</sup>					20.25H.180.C 20.25H.180.D.6
	Additional shoreline-specific uses or development			Part 20.25E		

Notes:

1. For purposes of this section, repair and maintenance includes replacement of facilities and systems, or expansion so long as the area of permanent disturbance of the critical area or critical area buffer is not expanded. As applicable to public rights-of-way, private roads, access easements, parking areas and driveways, repair and maintenance also includes removing and replacing improvements within the area of permanent disturbance, and expansion of paved areas, so long as the area of permanent disturbance within the critical area or critical area buffer is not expanded.
2. These uses do not require a Critical Areas Land Use Permit. The requirements of this part shall be applied through the review process applicable to the underlying use or activity.
3. In the event of a conflict between this section and the utilities code, the utilities code shall prevail.
4. Examples of public flood protection measures include, but are not limited to: flood control projects, flood damage reduction facilities such as levees, revetments, and pumping stations, streambank stabilization structures and surface water conveyance facilities, bridge piers and abutments.
5. Examples of instream structures include, but are not limited to: sediment ponds, instream ponds, dams, and weirs.
6. Permit requirements may vary. See subsection C.3.i of this section.
7. For geologic hazards other than coal mine hazard areas. Uses and performance standards for coal mine hazard areas set forth in LUC 20.25H.050.
8. Development authorized pursuant to a reasonable use exception, LUC 20.25H.190, shall incorporate the required performance standards to the maximum extent feasible.
9. Authorized only pursuant to a reasonable use exception, LUC 20.25H.190.
10. Such storage is not allowed in critical areas or critical area buffers except within the area of special flood hazard in compliance with applicable performance standards.
11. Authorized only in areas of the critical area buffer within areas of existing permanent disturbance, including, for example: paved or gravel surface parking areas, access drives, and other similar disturbed areas.
12. Refer to Part 20.25M LUC, Light Rail Overlay District, for specific requirements applicable to EPF defined as a Regional Light Rail Transit Facility or Regional Light Rail Transit System pursuant to LUC 20.25M.020. A conditional use permit is not required when the City Council has approved a Regional Light Rail Transit Facility or Regional Light Rail Transit System by resolution or ordinance, or by a development agreement authorized by Chapter 36.70B RCW and consistent with LUC 20.25M.030.B.1.

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Section \_\_\_\_\_. Section 20.25H.055.C.3.f of the Bellevue Land Use Code is hereby amended to read as follows:

**20.25H.055(C)(3)(f)**

- f. Private Nonmotorized Trails. New nonmotorized trails within the critical area or critical area buffer are limited to those accessing single-family residential moorage or serving nonresidential uses, multifamily residential uses and more than one single-family lot. Private nonmotorized trails shall comply with the performance standards for trails in subsection C.3.g of this section. Nothing in this section prohibits the creation of a soft surface nonmotorized trail in a critical area buffer on a single-family lot for use of the residents of that lot. Such trail shall not exceed four feet in width, and shall not involve the removal of any significant trees or bank-stabilizing roots. In stream and wetland buffers, trails shall not be generally parallel to the stream or wetland edge closer than a distance of 25 feet. Any clearing of brush or vegetation shall be the minimum necessary, and shall be with hand tools only.

**Comment [CoB32]:** Addresses the "gap" in our regulations.

Section \_\_\_\_\_. Section 20.25H.055.C.3.m of the Bellevue Land Use Code is hereby amended to read as follows:

**20.25H.055(C)(3)(m)**

- m. Stabilization Measures. ~~See LUC 20.25E.080.E for standards regulating~~ Nothing in this section shall limit or preclude shoreline stabilization measures permitted pursuant to LUC 20.25E.080.F. Proposed stabilization measures within a critical area or critical area buffer to protect against streambank erosion or steep slopes or landslide hazards may be approved in accordance with this subsection.

**Comment [CoB33]:** Defers to 20.25E for shoreline stabilization measures.

Section \_\_\_\_\_. Section 20.25H.065 of the Bellevue Land Use Code is hereby amended to read as follows:

**20.25H.065 Uses and development within critical area buffer or critical area structure setback not allowed pursuant to LUC 20.25H.055.**

This section applies to uses and development legally established within the critical area or critical area buffer prior to August 1, 2006, and which is not included as an allowed use or development in LUC 20.25H.055. ~~LUC 20.25E.055 applies to uses and development within the shoreline critical area and shoreline critical area buffer.~~ See performance standards at LUC 20.25H.180 for provisions relating to the repair, remodeling, expansion or reconstruction of structures located in the area of special flood hazard. Any alterations to existing development allowed under this section shall also comply with provisions for the area of special flood hazard. In the event of conflict, the provisions that result in most protection for the critical area or critical area buffer shall govern.

**Comment [CoB34]:** Shorelines not regulated as critical area.

**A. Existing Primary Structures.**

.....

Section \_\_\_\_\_. Section 20.25H.075.B.1 of the Bellevue Land Use Code is hereby amended to read as follows:

## 20.25H.075(B)(1) Designation of critical area and buffers.

### B(1). Designation of Streams.

1. "Type S water" means all waters, ~~other than shoreline critical areas designated under LUC 20.25E.047,~~ within their bankfull width, as inventoried as "shorelines of the state" under Chapter 90.58 RCW and the rules promulgated pursuant to Chapter 90.58 RCW including periodically inundated areas of their associated wetlands.

**Comment [CoB35]:** Shorelines not regulated as critical area.

Section \_\_\_\_\_. Section 20.25H.115 of the Bellevue Land Use Code is hereby amended to read as follows:

## VI. SHORELINES (RESERVED)

**Comment [CoB36]:** Shorelines not regulated as critical area.

### 20.25H.115 Designation of critical area and buffers.

#### A. Designation of Shoreline Critical Areas.

~~See LUC 20.25E.047 for designated shoreline critical areas.~~

#### B. Designation of Shoreline Critical Area Buffers.

~~The following critical area buffers are established. The shoreline critical area buffer on Lake Sammamish shall be measured from elevation 31.8 NAVD 88. The shoreline critical area buffer on all other shoreline critical areas shall be measured from the ordinary high water mark.~~

##### 1. Shoreline Critical Area Buffers.

###### a. General — All Shoreline Critical Areas.

- i. ~~Undeveloped Sites. An undeveloped site is a site that contains no primary structure. All shoreline critical areas on undeveloped sites shall have a 50-foot critical area buffer.~~
- ii. ~~Developed Sites. A developed site is a site that contains a primary structure. Lots created through subdivision, short subdivision, or the Planned Unit Development process from a developed site shall be considered undeveloped and subject to the requirements of subsection B.1.a.i of this section, except that the lot containing the existing primary structure shall be considered developed. All shoreline critical areas on developed sites shall have a 25-foot critical area buffer.~~

- b. ~~Buffer and Setback on Sites with Existing Development. Where a primary structure legally established on a site prior to August 1, 2006, encroaches into the critical area buffer or structure setback established in this section, the critical area buffer and/or structure setback shall be modified to exclude the footprint of the existing primary structure. Expansion of any existing primary structure into the critical area buffer or critical area structure setback shall be allowed only pursuant to the provisions of LUC 20.25H.055 (single family primary structures) or LUC 20.25H.230 (all other primary structures).~~

2. ~~Buffer Modification. Modifications to the shoreline critical area buffer may be approved pursuant to this section as part of the permit or approval for the underlying proposal. Modifications to the shoreline critical area buffer that do not meet the criteria of this subsection may be considered through a critical areas report, LUC 20.25H.230:~~
  - a. ~~Adjustment Based on Surrounding Development. Where the shoreline critical area buffer on all developed properties immediately abutting the site is less than the buffer required in subsection B.1 of this section, the required buffer may be modified as set forth in this subsection. Such modification shall allow only a primary structure to encroach into the required buffer. The buffer adjustment shall be determined by connecting the portion of each adjacent primary structure that most encroaches into the required buffer. The line established represents the shoreline critical area buffer for the site; however, in no event may the adjusted shoreline critical area buffer be less than 25 feet.~~
  - b. ~~Transportation or Utility Infrastructure. Where a legally established right-of-way, railroad right-of-way or other similar infrastructure of a linear nature crosses a shoreline critical area buffer, the edge of the improved right-of-way shall be the extent of the buffer, if the part of the critical area buffer on the other side of the right-of-way provides insignificant biological or hydrological function in relation to the portion of the buffer adjacent to the shoreline.~~

### **G. Structure Setbacks.**

1. ~~General. The requirements of this section apply along with any other dimensional requirements of the Land Use Code (see LUC 20.20.040, 20.20.130, 20.20.190 and Parts 20.25A — 20.25G LUC). The most restrictive dimension controls. Structure setbacks are required in order to:~~
  - a. ~~Minimize long-term impacts of development adjacent to critical areas and critical area buffers; and~~
  - b. ~~Protect critical areas and critical area buffers from adverse impacts during construction.~~
2. ~~Minimum Setback of Structures.~~
  - a. ~~Undeveloped Site. An undeveloped site is a site that contains no primary structure. Undeveloped sites shall not require a shoreline critical area structure setback.~~
  - b. ~~Developed Site. A developed site is a site that contains a primary structure. Lots created through subdivision, short subdivision, or the Planned Unit Development process from a developed site shall be considered undeveloped and subject to the requirements of subsection C.2.a of this section, except that the lot containing the existing primary structure shall be considered developed. Developed sites shall require a 25-foot shoreline critical area structure setback, measured from the edge of the shoreline critical area buffer.~~
3. ~~Structure Setback Modification.~~
  - a. ~~Modification Based on Surrounding Development. Where the shoreline critical area structure setback on all developed properties immediately abutting the site is less~~

~~than the structure setback required in subsection C.2 of this section, the required structure setback may be modified as set forth in this subsection. Such modification shall allow only a primary structure to encroach into the required structure setback. The modification shall be determined by connecting the portion of each adjacent primary structure that most encroaches into the required structure setback. The line established represents the shoreline critical area structure setback for the site, however, in no event may this subsection modify the required critical area buffer.~~

- b. ~~Structure Setback Modification — Other (Developed Sites). Structure setbacks on developed sites not meeting the requirements of subsection C.3.a of this section may be modified only through an approved critical areas report. (Ord. 5680, 6-26-06, § 3)~~

Section \_\_\_\_\_. Section 20.25H.118 of the Bellevue Land Use Code is hereby deleted.

**~~20.25H.118 Mitigation and monitoring — Additional provisions.~~**

~~In addition to the provisions of LUC 20.25H.210, mitigation plans designed to mitigate impacts to shorelines and shoreline critical area buffers shall meet the requirements of this section.~~

**~~A. Mitigation Preference.~~**

~~Mitigation plans for shorelines and shoreline critical area buffers shall provide mitigation for impacts to critical area functions and values in the following order of preference:~~

- ~~1. On-site, through replacement of lost critical area buffer;~~
- ~~2. On-site, through enhancement of the functions and values of remaining critical area buffer;~~
- ~~3. Off-site, through replacement or enhancement, in the same sub-drainage basin;~~
- ~~4. Off-site, through replacement or enhancement, out of the sub-drainage basin but in the same drainage basin.~~

~~Mitigation off-site and out of the drainage basin shall be permitted only through a critical areas report.~~

**~~B. Buffer Mitigation Ratio.~~**

~~Shoreline critical area buffer disturbed or impacted under this part shall be replaced at a ratio of one-to-one.~~

Section \_\_\_\_\_. Section 20.25H.119 of the Bellevue Land Use Code is hereby deleted.

**~~20.25H.119 Critical areas report — Additional provisions.~~**

~~An applicant proposing a modification to the shoreline critical area buffer which would reduce the buffer to less than 25 feet shall establish by survey the site's ordinary high water mark, notwithstanding any other provision of this part or Part 20.25E LUC. (Ord. 5680, 6-26-06, § 3)~~

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Section \_\_\_\_\_. Section 20.25H.150.D of the Bellevue Land Use Code is hereby amended to read as follows:

**20.25H.150(D) Designation of critical area.**

D. Designation of Critical Area for Naturally Occurring Ponds. The following critical area buffer is hereby established for naturally occurring ponds that are not classified as a stream, shoreline, or wetland:

Naturally occurring ponds where no other critical area designation applies: 35 feet.

Section \_\_\_\_\_. Section 20.25H.210 of the Bellevue Land Use Code is hereby amended to read as follows:

**20.25H.210 Applicability.**

Where a mitigation or restoration plan is required under this part or Part 20.25E LUC, the plan shall be developed in accordance with the standards of LUC 20.25H.210 through 20.25H.225 inclusive. Any mitigation or restoration plan shall be approved as part of the permit or approval required for the underlying activity. Where a project requires a critical areas report and a mitigation or restoration plan, the mitigation or restoration plan may be included with the critical areas report.

Section \_\_\_\_\_. Section 20.20.220.A of the Bellevue Land Use Code is hereby amended to read as follows:

**20.25H.220(A) Mitigation and restoration plan requirements.**

**A. Plan Phases.**

Where an applicant is seeking modifications to this part or Part 20.25E LUC through a critical areas report pursuant to LUC 20.25H.230, the mitigation plan required for the proposal may be submitted in phases. A conceptual plan shall be submitted as part of the critical areas report and approved with the land use approval for the proposal. A detailed plan shall be approved prior to or with approval of the first permit or other approval required to perform work associated with the proposal.

Section \_\_\_\_\_. Section 20.25H.230 of the Bellevue Land Use Code is hereby amended to read as follows:

**20.25H.230 Critical areas report – Purpose.**

A critical areas report is a mechanism by which the requirements of this part, certain requirements of Part 20.25E LUC as set forth in that part, and the impervious surface standards set forth in LUC 20.20.010 may be modified for a specific proposal.

The critical areas report is intended to provide flexibility for sites where the expected critical area functions and values are not present due to degraded conditions or other unique site characteristics, or for proposals providing unique design or protection of critical area functions and values not anticipated by this part. The scope and complexity of information required in a critical areas report will vary, depending on the scope and complexity and magnitude of impact

**Comment [CoB37]:** Shorelines not regulated as critical area.

**Comment [CoB38]:** Shorelines not regulated as critical area.

**Comment [CoB39]:** Shorelines not regulated as critical area.

**Comment [CoB40]:** Shorelines not regulated as critical area. Special shoreline report process contained in the Planning Commission-recommended SMP at LUC 20.25E.160.E.

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on critical areas and critical area buffers associated with the proposed development. Generally, the critical areas report must demonstrate that the proposal with the requested modifications leads to equivalent or better protection of critical area functions and values than would result from the application of the standard requirements. Where the proposal involves restoration of degraded conditions in exchange for a reduction in regulated critical area buffer on a site, the critical areas report must demonstrate a net increase in certain critical area functions.

Section \_\_\_\_\_. Section 20.25H.240 of the Bellevue Land Use Code is hereby amended to read as follows:

**20.25H.240 Critical areas report – Limitation on modifications.**

The critical areas report may not be used to modify sections of the Land Use Code outside of this part and ~~Part 20.25E LUC~~, unless otherwise expressly permitted. The critical areas report may not be used to modify the definitions of critical areas or definitions of stream types or wetland categories, or any other provision of this part that expressly prohibits modification. The critical areas report may not be used to modify streams, or wetlands, or the shoreline below the ordinary high water mark, unless otherwise expressly permitted. Additional limitations on modifications for specific critical areas may be found in the sections of this part addressing that critical area.

**Comment [CoB41]:** Shorelines not regulated as critical area.

**Comment [CoB42]:** Shorelines not regulated as critical area.

Section \_\_\_\_\_. Section 20.25M.010.D.2 of the Bellevue Land Use Code is hereby amended to read as follows:

**20.25M.010(D) General**

D. Applicable Land Use Code Provisions.

2. Applicable Procedural and Administrative Sections Incorporated by Reference.

Predictability and certainty with respect to procedural Land Use Code requirements ensures effectiveness of permit review and that the level of public participation for individual RLRT Facility applications occurs consistently across all land use districts and overlay areas of the City. The following procedural and administrative sections of the Land Use Code are expressly incorporated into the provisions of this Chapter 20.25M and apply to an RLRT Facility:

- a. ~~Part 20.30H LUC – Variance to the Shoreline Master Program~~ LUC 20.25E.100 through 20.25E.200 – Shoreline Overlay District Procedures and Permits
- b. ~~Part 20.30R LUC – Shoreline Substantial Development Permit~~ LUC 20.25E.250 through 270 – Shoreline Overlay District Administration and Enforcement
- c. Chapter 20.35 LUC – Review and Procedures
- d. Chapter 20.40 LUC – Administration and Enforcement sections as follows:
  - i. LUC 20.40.010 through 20.40.080; and
  - ii. LUC 20.40.500 through 510.
- e. Chapter 20.50 LUC – Definitions.

**Comment [CoB43]:** Shoreline permit provisions are now located in 20.25E.

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Section \_\_\_\_\_. Section 20.25M.030.D of the Bellevue Land Use Code is hereby amended to read as follows:

**20.25M.030(D) Required Permits**

**D. Shoreline Substantial Development Permit and Variance**

1. Any RLRT Facility proposed or located in the Shoreline Overlay District (Part 20.25E LUC) shall comply with the Shoreline Substantial Development Permit (SSDP) requirements of LUC ~~20.25E.040~~20.25E.100 and .160. Application for a SSDP shall be processed independently of any application for Design and Mitigation approval under this chapter. Application for a SSDP shall be subject to the decision criteria of LUC ~~20.30R.155~~20.25E.150 and .160.
2. For properties lying within the Shoreline Overlay District, the City may approve a request to exceed the allowable height limit established by LUC ~~20.25E.080.B.5~~20.25E.050 through the Variance to the Shoreline Master Program process allowed pursuant to ~~Part 20.30H~~ LUC~~20.25E.100 and .120~~. Application for a shoreline variance shall be subject to the decision criteria of LUC ~~20.30H.155~~20.25E.150 and .190.

**Comment [CoB44]:** Citation corrections based on new 20.25E (applies to all changes in this Section).

Section \_\_\_\_\_. Chapter 20.30 – Table of Contents - of the Bellevue Land Use Code is hereby amended to read as follows:

**Chapter 20.30**

**PERMITS AND DECISIONS**

Sections:

Part 20.30A Rezone

- 20.30A.110 Scope
- 20.30A.115 Applicability
- 20.30A.120 Purpose
- 20.30A.140 Decision criteria
- 20.30A.145 Limitation on authority
- 20.30A.150 Map change
- 20.30A.155 Concomitant agreement

Part 20.30B Conditional Use Permit

- 20.30B.110 Scope
- 20.30B.115 Applicability
- 20.30B.120 Purpose
- 20.30B.140 Decision criteria
- 20.30B.160 Merger with Binding Site Plan
- 20.30B.165 Periodic review
- 20.30B.170 Modification/revocation
- 20.30B.175 Modification or addition to an approved project or decision

Part 20.30C ~~Shoreline Conditional Use Permit~~(Reserved)

**Comment [CoB45]:** Shoreline permits will no longer be in 20.30; instead they will be in 20.25E (Shoreline Overlay District) (affects 20.30C, 20.30H, and 20.30R).

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~~20.30C.110 — Scope~~  
~~20.30C.115 — Applicability~~  
~~20.30C.120 — Purpose~~  
~~20.30C.130 — Limitation on filing~~  
~~20.30C.145 — Limitation on City action~~  
~~20.30C.155 — Decision criteria~~  
~~20.30C.160 — Transmittal to Department of Ecology/Attorney General~~  
~~20.30C.165 — Effective date~~  
~~20.30C.170 — Time limitation~~  
~~20.30C.175 — Extension~~  
~~20.30C.185 — Amendment to an approved Shoreline Conditional Use Permit~~  
~~20.30C.190 — Merger with Binding Site Plan~~  
~~20.30C.195 — Periodic review~~  
~~20.30C.200 — Modification/revocation~~

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#### Part 20.30D Planned Unit Development

- 20.30D.110 Scope
- 20.30D.115 Applicability
- 20.30D.120 Purpose
- 20.30D.150 Planned Unit Development plan – Decision criteria
- 20.30D.160 Planned Unit Development plan – Conservation feature and recreation space requirement
- 20.30D.165 Planned Unit Development plan – Request for modification of zoning requirements
- 20.30D.167 Planned Unit Development – Additional bonus density for large-parcel projects
- 20.30D.170 Planned Unit Development plan – Limitation on authority to modify zoning
- 20.30D.175 Planned Unit Development plan – Authorized activity
- 20.30D.195 Planned Unit Development plan – Merger with subdivision
- 20.30D.200 Planned Unit Development plan – Effect of approval
- 20.30D.250 Planned Unit Development plan – Phased development
- 20.30D.255 Planned Unit Development plan – Map designation
- 20.30D.280 Merger with Binding Site Plan
- 20.30D.285 Amendment of an approved Planned Unit Development

#### Part 20.30E Administrative Conditional Use Permit

- 20.30E.110 Scope
- 20.30E.115 Applicability
- 20.30E.120 Purpose
- 20.30E.140 Decision criteria
- 20.30E.160 Merger with Binding Site Plan
- 20.30E.165 Periodic review
- 20.30E.170 Modification/revocation
- 20.30E.175 Modification or addition to an approved project or decision

#### Part 20.30F Design Review

- 20.30F.110 Scope
- 20.30F.115 Applicability
- 20.30F.116 City Council Design Review
- 20.30F.120 Purpose
- 20.30F.125 Who may apply
- 20.30F.145 Decision criteria
- 20.30F.165 Merger with Binding Site Plan
- 20.30F.170 Planning Commission Design Review
- 20.30F.175 Modification or addition to an approved Design Review project or decision
- 20.30F.180 Recording required

#### Part 20.30G Variance from the Land Use Code

- 20.30G.110 Scope
- 20.30G.115 Applicability
- 20.30G.120 Purpose
- 20.30G.140 Decision criteria
- 20.30G.150 Limitation on authority

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~~Part 20.30H Variance to the Shoreline Master Program(Reserved)~~

- ~~20.30H.110 Scope~~
- ~~20.30H.115 Applicability~~
- ~~20.30H.120 Purpose~~
- ~~20.30H.125 Who may apply~~
- ~~20.30H.130 Limitation on filing~~
- ~~20.30H.155 Decision criteria~~
- ~~20.30H.160 Transmittal to Department of Ecology/Attorney General~~
- ~~20.30H.165 Effective date~~

Part 20.30I Amendment and Review of the Comprehensive Plan

- 20.30I.110 Scope and background
- 20.30I.115 Applicable process
- 20.30I.120 Purpose
- 20.30I.130 Initiation of amendment proposals
- 20.30I.140 Threshold review decision criteria
- 20.30I.150 Final review decision criteria

Part 20.30J Amendments to the Text of the Land Use Code

- 20.30J.110 Scope
- 20.30J.115 Applicability
- 20.30J.120 Purpose
- 20.30J.125 Who may initiate
- 20.30J.130 Applicable procedure
- 20.30J.135 Decision criteria

Part 20.30K Interpretation of the Land Use Code

- 20.30K.110 Scope
- 20.30K.115 Applicability
- 20.30K.120 Purpose
- 20.30K.130 Applicable procedure
- 20.30K.135 Submittal requirements
- 20.30K.140 Factors for consideration
- 20.30K.150 Effect of interpretation
- 20.30K.155 Time limitation

Part 20.30M Temporary Use Permit

- 20.30M.110 Scope
- 20.30M.115 Applicability
- 20.30M.120 Purpose
- 20.30M.125 Applicable procedure
- 20.30M.130 Who may apply
- 20.30M.140 Decision criteria
- 20.30M.145 Time limitation
- 20.30M.150 Limitation on activity
- 20.30M.155 Removal of temporary use

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- 20.30M.160 Abatement of temporary use
- 20.30M.170 Screening of off-site construction parking areas

Part 20.30N Home Occupation Permit

- 20.30N.110 Scope
- 20.30N.115 Applicability
- 20.30N.120 Purpose
- 20.30N.125 Who may apply
- 20.30N.140 Decision criteria
- 20.30N.145 Conditions
- 20.30N.150 Time limitation
- 20.30N.155 Quarterly report
- 20.30N.160 Revocation of Home Occupation Permit
- 20.30N.165 Assurance device

Part 20.30P Critical Areas Land Use Permit

- 20.30P.110 Scope
- 20.30P.115 Applicability
- 20.30P.120 Purpose
- 20.30P.125 Who may apply
- 20.30P.130 Applicable procedure
- 20.30P.140 Decision criteria
- 20.30P.150 Time limitation
- 20.30P.155 Extension
- 20.30P.160 Assurance device
- 20.30P.170 Hold harmless
- 20.30P.180 Critical area report – Additional review procedures

Part 20.30R ~~Shoreline Substantial Development Permit~~ (Reserved)

- ~~20.30R.110 Scope~~
- ~~20.30R.115 Applicability~~
- ~~20.30R.120 Purpose~~
- ~~20.30R.155 Director's decision~~
- ~~20.30R.160 Transmittal to Department of Ecology/Attorney General~~
- ~~20.30R.170 Commencement of activity~~
- ~~20.30R.175 Time limitation~~
- ~~20.30R.180 Extension~~
- ~~20.30R.190 Revision of an approved Shoreline Substantial Development Permit~~

Part 20.30S Vendor Cart Permit

- 20.30S.110 Scope
- 20.30S.115 Applicability
- 20.30S.120 Purpose
- 20.30S.125 Applicable procedure
- 20.30S.130 Who may apply
- 20.30S.135 Submittal requirements
- 20.30S.140 Decision criteria

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Part 20.30T Reasonable Accommodation

20.30T Reasonable accommodation

Part 20.30U Temporary Encampment Permit

20.30U.110 Scope  
20.30U.115 Applicability  
20.30U.120 Who may apply  
20.30U.121 Submittal requirements  
20.30U.122 Applicable procedures  
20.30U.125 Use requirements  
20.30U.127 Hardship exception  
20.30U.130 Decision criteria  
20.30U.135 Revocation of Temporary Encampment Permit

Part 20.30V Master Development Plan

20.30V.110 Scope  
20.30V.115 Applicability  
20.30V.120 Purpose  
20.30V.130 Phasing plan  
20.30V.140 Binding Site Plan  
20.30V.150 Decision criteria  
20.30V.160 Modification or addition to an approved Master Development Plan  
20.30V.170 Land area computation  
20.30V.180 Recording required  
20.30V.190 Extended vesting period for Master Development Plans and associated Design Review approval

Section \_\_\_\_ Part 20.30C of the Bellevue Land Use Code is hereby amended to read as follows:

**Part 20.30C Shoreline Conditional Use Permit(Reserved)**

**Comment [CoB46]:** All shoreline permits moved to 20.25E (Shoreline Overlay District)

**20.30C.110 Scope.**

~~This Part 20.30C establishes the procedure and criteria that the City will use in making a decision upon an application for a Shoreline Conditional Use Permit.~~

**20.30C.115 Applicability.**

~~This part applies to each application for a Shoreline Conditional Use Permit.~~

**20.30C.120 Purpose.**

~~A Shoreline Conditional Use Permit is a mechanism by which the City may both provide more control and allow greater flexibility in administering the Shoreline Master Program in a manner consistent with the policies of the Shoreline Management Act. The City may permit certain uses to be established or may require special conditions on development or on the use of land in order to insure that designated uses or activities are compatible with other uses in the same land use district and in the vicinity of the subject property.~~

**20.30C.130 Limitation on filing.**

~~An application for a Shoreline Conditional Use Permit will not be accepted for filing unless accompanied by a complete application for a Substantial Development Permit (See LUC 20.25E.040).~~

**20.30C.145 Limitation on City action.**

~~The City may not take final action on an application for a Shoreline Conditional Use Permit for at least 30 days following the second publication required by LUC 20.30C.140.~~

**20.30C.155 Decision criteria.**

~~The City may approve or approve with modifications an application for a Shoreline Conditional Use Permit if:~~

- ~~A. The proposed use will be consistent with the policies of RCW 90.58.020 and the policies of the Bellevue Shoreline Master Program; and~~
- ~~B. The proposed use will not interfere with the normal public use of public shorelines; and~~
- ~~C. The proposed use of the site and design of the project will be compatible with other permitted uses within the area; and~~
- ~~D. The proposed use will cause no unreasonably adverse effects to the shoreline environment designation in which it is to be located; and~~
- ~~E. The public interest suffers no substantial detrimental effect; and~~
- ~~F. The proposed use complies with all requirements of WAC 173.14.140; and~~
- ~~G. The proposed use is harmonious and appropriate in design, character and appearance with the existing or intended character and quality of development in the immediate vicinity of the subject property and with the physical characteristics of the subject property; and~~
- ~~H. The proposed use will be served by adequate public facilities including streets, fire protection, water, stormwater control and sanitary sewer; and~~
- ~~I. The proposed use will not be materially detrimental to uses or property in the immediate vicinity of the subject property; and~~
- ~~J. The proposed use has merit and value for the community as a whole; and~~
- ~~K. The proposed use is in accord with the Comprehensive Plan; and~~

~~L. The proposed use complies with all other applicable criteria and standards of the Bellevue City Code.~~

**~~20.30C.160 Transmittal to Department of Ecology/Attorney General.~~**

~~Pursuant to WAC 173-14-090 and WAC 173-14-130, the Director of the Development Services Department shall send the following to the Department of Ecology and the Attorney General's Office within eight days of the City Council action on a Shoreline Conditional Use Permit:~~

- ~~A. The original application; and~~
- ~~B. An affidavit of public notice; and~~
- ~~C. A copy of the approved site plan; and~~
- ~~D. A vicinity map; and~~
- ~~E. A copy of the approved Shoreline Conditional Use and Substantial Development Permits; and~~
- ~~F. If applicable, the Council ordinance or resolution approving the application.~~

**~~20.30C.165 Effective date.~~**

~~Notwithstanding the provisions of LUC 20.35.100 et seq., a Shoreline Conditional Use Permit is not effective until it is approved by the Department of Ecology as required by WAC 173-14-130.~~

**~~20.30C.170 Time limitation.~~**

~~A. A Shoreline Conditional Use Permit automatically expires and is void if the applicant fails to file for a Building Permit or other necessary development permit and fails to make substantial progress towards completion of the project within two years of the effective date of the Shoreline Conditional Use Permit unless the applicant has received an extension for the Shoreline Conditional Use Permit pursuant to LUC 20.30C.175. "Substantial progress" includes the following, where applicable: the making of contracts; signing of notice to proceed; completion of grading and excavation; and the laying of major utilities; or if no construction is involved, commencement of the activity.~~

~~B. Permit authorization expires finally, despite substantial progress, five years after the effective date of the Shoreline Conditional Use Permit unless the applicant has received an extension pursuant to LUC 20.30C.175. (Ord. 4055, 3914, 9-25-89, § 15)~~

**~~20.30C.175 Extension.~~**

~~A. The Director of the Development Services Department may extend a Shoreline Conditional Use Permit, not to exceed one year, with prior notice to the Department of Ecology and those who requested copies of the City's decision, only if:~~

- ~~1. Unforeseen circumstances or conditions necessitate the extension of the permit; and~~
- ~~2. Termination of the permit would result in unreasonable hardship to the applicant, and the applicant is not responsible for the delay; and~~
- ~~3. An extension of the permit will not cause substantial detriment to existing uses in the immediate vicinity of the subject property.~~

~~B. The Director of the Development Services Department may grant no more than two extensions—one only of the two-year "substantial progress" deadline described in LUC 20.30C.170.A and one only of the five-year final deadline described in LUC 20.30C.170.B. (Ord. 4055, 3914, 9-25-89, § 16)~~

**~~20.30C.185 Amendment to an approved Shoreline Conditional Use Permit.~~**

- ~~A. General.~~

~~The provisions of this section are in addition to those procedures governing amendments to an approved project or decision found in LUC 20.30B.175.~~

~~B.—Additional Criteria for Administrative Amendment.~~

~~An amendment may be reviewed as an administrative amendment if it complies with the provisions of WAC 173-14-064.~~

~~C.—Transmittal to Department of Ecology/Attorney General.~~

~~The Director shall send a copy of the final City action on to the Department of Ecology and the Attorney General's Office in conformance with LUC 20.30C.160 and WAC 173-14-064. (Ord. 4973, 3-3-97, § 829; Ord. 4816, 12-4-95, § 929)~~

**20.30C.190 Merger with Binding Site Plan.**

~~A.—General.~~

~~The applicant may request that the site plan approved with the Shoreline Conditional Use Permit constitute a Binding Site Plan pursuant to Chapter 58.17 RCW.~~

~~B.—Survey and Recording Required.~~

~~If a site plan is approved as a Binding Site Plan, the applicant shall provide a recorded survey depicting all lot lines and shall record the approved site plan and survey with the King County Department of Records and Elections. No document shall be presented for recording without the signature of each owner of the subject property.~~

~~C.—Effect of Binding Site Plan.~~

~~Upon the approval and recording of a Binding Site Plan the applicant may develop the subject property in conformance with the approved and recorded Binding Site Plan and without regard to lot lines internal to the subject property. Any sale or lease of lots or parcels within the subject property shall be subject to the approved and recorded Binding Site Plan and the requirements of state law. (Ord. 3848, 11-16-87, § 2)~~

**20.30C.195 Periodic review.**

~~The City may impose periodic review requirements as a condition of permit approval. (Ord. 4066, 10-23-89, § 3)~~

**20.30C.200 Modification/revocation.**

~~A.—Modification.~~

~~The City may initiate a modification to an approved Shoreline Conditional Use Permit. A modification will be processed through Process I, LUC 20.35.100 et seq.; provided, that modification of a Shoreline Conditional Use Permit within the jurisdiction of a Community Council pursuant to RCW 35.14.040 shall require a Process III decision. Through the modification procedure, the Hearing Body may delete, modify or impose additional conditions upon finding that the use for which such approval was granted has been intensified, changed or modified by the property owner or by person(s) who control the property without approval so as to significantly impact surrounding land uses.~~

~~B.—Revocation.~~

~~The Hearing Body may revoke an approved permit through Process I, LUC 20.35.100 et seq.; provided, that revocation of a Conditional Use Permit within the jurisdiction of a Community Council pursuant to RCW 35.14.040 shall require a Process III decision. An approved permit may be revoked only upon a finding that:~~

- ~~1.—The use for which the approval was granted has been abandoned for a period of at least one year; or~~
- ~~2.—Approval of the permit was obtained by misrepresentation of material fact; or~~
- ~~3.—The permit is being exercised contrary to the terms of approval. (Ord. 4973, 3-3-97, § 830; Ord. 4816, 12-4-95, § 930; Ord. 4066, 10-23-89, § 4)~~

Section \_\_\_\_ Part 20.30H of the Bellevue Land Use Code is hereby amended to read as follows:

**Part 20.30H Variance to the Shoreline Master Program(Reserved)**

**20.30H.110 Scope.**

~~This Part 20.30H establishes the procedure and criteria that the City will use in making a decision upon an application for a variance to the provisions of the Shoreline Master Program.~~

**20.30H.115 Applicability.**

~~This part applies to each application for a variance to the provisions of the Shoreline Master Program.~~

**20.30H.120 Purpose.**

~~The purpose of a variance to the Shoreline Master Program is to grant relief to specific bulk, dimensional or performance standards set forth in the Master Program where there are extraordinary or unique circumstances relating to the property such that strict implementation of the Master Program would impose unnecessary hardships on the applicant or thwart the policies of the Shoreline Management Act.~~

**20.30H.125 Who may apply.**

~~The property owner may apply for a variance to the provisions of the Shoreline Master Program.~~

**20.30H.130 Limitation on filing.**

~~An application for a variance to the Shoreline Master Program will not be accepted for filing unless accompanied by a complete application for a Substantial Development Permit (see LUC 20.25E.040).~~

**20.30H.155 Decision criteria.**

~~The City may approve or approve with modifications an application for a variance to the Shoreline Master Program if:~~

- ~~A. Denial of the variance would result in thwarting the policy of RCW 90.58.020; and~~
- ~~B. The applicant has demonstrated extraordinary circumstances and the public interest will suffer no substantial detrimental effect; and~~
- ~~C. The strict application of the bulk, dimensional or performance standards of the Master Program preclude or significantly interfere with a reasonable permitted use of the property; and~~
- ~~D. The hardship described in subsection C of this section is specifically related to the property and is the result of unique conditions such as irregular lot shape or natural features and the application of the Master Program and not, for example, deed restrictions or the applicant's own actions; and~~
- ~~E. The design of the project will be compatible with other permitted activities in the area and will not cause adverse effects to adjacent properties or the shoreline environment designation; and~~
- ~~F. The variance authorized does not constitute a grant of special privilege not enjoyed by the other properties in the area and will be the minimum necessary to afford relief; and~~
- ~~G. If the development will be located either waterward of the ordinary high water mark or in a marsh, bog or swamp designated pursuant to Chapter 173-22 WAC:
  - ~~1. In place of subsection C of this section, the strict application of the bulk, dimensional or performance standards of the Master Program preclude a reasonable permitted use of the property, and~~~~

~~2.—The public rights of navigation and use of the shorelines will not be adversely affected by the granting of the variance.~~

**~~20.30H.160 Transmittal to Department of Ecology/Attorney General.~~**

~~Pursuant to WAC 173-14-090 and 173-14-130, the Director shall send the following to the Department of Ecology and the Attorney General's Office within eight days of the Director's action on a variance to the Shoreline Master Program:~~

- ~~A.—The original application; and~~
- ~~B.—An affidavit of public notice; and~~
- ~~C.—A copy of the approved site plan; and~~
- ~~D.—A vicinity map; and~~
- ~~E.—A copy of the approved variance to the Shoreline Master Program and Substantial Development Permits. (Ord. 4973, 3-3-97, § 806; Ord. 4816, 12-4-95, § 906)~~

**~~20.30H.165 Effective date.~~**

~~Notwithstanding the provisions of LUC 20.35.200 et seq., a variance to the Shoreline Master Program is not effective until it is approved by the Department of Ecology as required by WAC 173-14-130. (Ord. 4973, 3-3-97, § 807; Ord. 4816, 12-4-95, § 907)~~

Section \_\_\_\_\_. Part 20.30R of the Bellevue Land Use Code is hereby amended to read as follows:

**Part 20.30R Shoreline Substantial Development Permit(Reserved)**

**~~20.30R.110 Scope.~~**

~~This Part 20.30R establishes the procedure and criteria that the City will use in making a decision upon an application for a Shoreline Substantial Development Permit. (Ord. 4055, 3914, 9-25-89, § 19)~~

**~~20.30R.115 Applicability.~~**

~~This Part 20.30R applies to each application for a Shoreline Substantial Development Permit. (Ord. 4055, 3914, 9-25-89, § 19)~~

**~~20.30R.120 Purpose.~~**

~~A Shoreline Substantial Development Permit is the primary mechanism by which the City administers the Shoreline Master Program in a manner consistent with the policies of the Shoreline Management Act. (Ord. 4055, 3914, 9-25-89, § 19)~~

**~~20.30R.155 Director's decision.~~**

~~A.—General.~~

~~On or after the date specified in LUC 20.30R.140.B.1, and subject to all other restrictions on the time of decisionmaking, the Director of the Development Services Department shall either approve, approve with modifications or deny the application.~~

~~B.—Criteria.~~

~~The Director of the Development Services Department may approve or approve with modifications if:~~

~~1.—The applicant has carried the burden of proof and produced evidence sufficient to support the conclusion that the application merits approval or approval with modifications; and~~

~~2.—The applicant has demonstrated that the proposal complies with the applicable decision criteria of the Bellevue City Code; and~~

~~3.—The applicant has demonstrated that the proposal is consistent with the policies and procedures of the Shoreline Management Act and the provisions of Chapter 173-14 WAC and the Master Program.~~

~~In all other cases, the applicable Department Director shall deny the application.~~

~~C.—Limitation on Modification.~~

~~If the Director of the Development Services Department makes a modification which results in a proposal not reasonably foreseeable from the description of the proposal contained in the public notice provided pursuant to LUC 20.30R.140.A, the Director of the Development Services Department shall provide a new notice of an upcoming decision and obtain public comment prior to making a decision.~~

~~D.—Conditions.~~

~~The Director of the Development Services Department may include conditions as part of the approval or approval with modifications to ensure conformance with subsection B of this section.~~

~~E.—Written Decision of the Director.~~

~~1.—Content. The Director of the Development Services Department shall issue a written decision which contains the following:~~

~~a.—A statement indicating that the application is approved, approved with modifications or denied; and~~

~~b.—A statement of any conditions included as part of an approval or approval with modifications; and~~

~~c.—A statement of facts upon which the decision, including any conditions, was based and the conclusions derived from those facts.~~

~~2.—Distribution. The applicable Department Director shall mail the written decision of the Director, bearing the date it is mailed, to each person who participated in the decision as provided for in subsection B of this section.~~

~~F.—Effect of Decision.~~

~~Subject to LUC 20.30R.165, the decision of the Director of the Development Services Department on the application is the final decision of the City. (Ord. 4055, 3914, 9-25-89, § 19)~~

#### **20.30R.160 Transmittal to Department of Ecology/Attorney General.**

~~Pursuant to WAC 173-14-090, the Director of the Development Services Department shall file the following with the Department of Ecology and the Attorney General's Office within eight days of the Director's action on a Shoreline Substantial Development Permit:~~

~~A.—The original application; and~~

~~B.—An affidavit of public notice; and~~

~~C.—A copy of the approved site plan; and~~

~~D.—A vicinity map; and~~

~~E.—A copy of the approved Shoreline Substantial Development Permit; and~~

~~F.—A copy of the approved Shoreline Conditional Use Permit or Shoreline Variance, if applicable; and~~

~~G.—A copy of the environmental checklist and SEPA determination, if applicable; and~~

~~H.—The final action on the application. (Ord. 4055, 3914, 9-25-89, § 19)~~

#### **20.30R.170 Commencement of activity.**

~~Subject to LUC 20.30R.165, the applicant may commence activity or obtain other required approvals authorized by the approval or approval with modifications 30 calendar days following the date of the City's filing with the Department of Ecology. If the decision of the Director of the Development Services Department is appealed pursuant to LUC 20.30R.165, no activity may begin and no other City approvals may be granted until resolution of the appeal. (Ord. 4055, 3914, 9-25-89, § 19)~~

**20.30R.175 Time limitation.**

A. ~~A Shoreline Substantial Development Permit automatically expires and is void if the applicant fails to file for a Building Permit or other necessary development permit and fails to make substantial progress towards completion of the project within two years of the effective date of the Shoreline Substantial Development Permit unless the applicant has received an extension for the Shoreline Substantial Development Permit pursuant to LUC 20.30R.180. "Substantial progress" includes the following, where applicable: the making of contracts; signing of notice to proceed; completion of grading and excavation; and the laying of major utilities; or if no construction is involved, commencement of the activity.~~

B. ~~Permit authorization expires finally, despite substantial progress, five years after the effective date of the Shoreline Substantial Development Permit unless the applicant has received an extension pursuant to LUC 20.30R.180. (Ord. 4055, 3914, 9-25-89, § 19)~~

**20.30R.180 Extension.**

A. ~~The Director of the Development Services Department may extend a Shoreline Substantial Development Permit, not to exceed one year, with prior notice to the Department of Ecology and those who requested copies of the Director's decision only if:~~

1. ~~Unforeseen circumstances or conditions necessitate the extension of the permit; and~~

2. ~~Termination of the permit would result in unreasonable hardship to the applicant, and the applicant is not responsible for the delay; and~~

3. ~~An extension of the permit will not cause substantial detriment to existing uses in the immediate vicinity of the subject property.~~

B. ~~The Director of the Development Services Department may grant no more than two extensions—one only of the two-year "substantial progress" deadline described in LUC 20.30R.175.A and one only of the five-year final deadline described in LUC 20.30R.175.B. (Ord. 4055, 3914, 9-25-89, § 19)~~

**20.30R.190 Revision of an approved Shoreline Substantial Development Permit.**

A. ~~General.~~

~~Except as otherwise provided in subsection B of this section, a revision of a previously approved project or decision is treated as a new application for a Shoreline Substantial Development Permit.~~

B. ~~Minor Revisions.~~

1. ~~Authority. A revision may be reviewed as a Minor Revision if determined to be within the scope and intent of the original permit by meeting all of the following criteria:~~

a. ~~No additional over-water construction is involved except that pier, dock, or float construction may be increased by 500 square feet or 10 percent from the provisions of the original permit, whichever is less;~~

b. ~~Ground area coverage and height of each structure may be increased a maximum of 10 percent from the provisions of the original permit;~~

c. ~~Additional separate structures may not exceed a total of 250 square feet;~~

d. ~~The revised permit does not authorize development to exceed height, lot coverage, setback, or any other requirements of the applicable master program except as authorized under the original permit;~~

e. ~~Additional landscaping is consistent with conditions (if any) attached to the original permit and with the applicable master program;~~

f. ~~The use authorized pursuant to the original permit is not changed; and~~

g. ~~No substantial adverse environmental impact will be caused by the project revision.~~

If the sum of the revision and any previously approved revisions violate the provisions of this section, a new permit shall be required.

2. ~~Decision Criteria.~~ The Director of the Development Services Department may approve or approve with modifications a Minor Revision if:

a. ~~The applicant has carried the burden of proof and produced evidence sufficient to support the conclusion that the application merits approval or approval with modifications; and~~

b. ~~The applicant has demonstrated that the proposal complies with the applicable decision criteria of the Bellevue City Code.~~

In all other cases, the Director of the Development Services Department shall deny the application.

3. ~~Conditions.~~ The Director of the Development Services Department may include conditions as part of the proposed approval or approval with modifications to ensure conformance with paragraph B.2 of this section.

4. ~~Content.~~ The Director of the Development Services Department shall issue a written decision on the revision which contains the following:

a. ~~A statement indicating that the application is approved, approved with modifications or denied; and~~

b. ~~A statement of any conditions included as part of an approval or approval with modifications; and~~

c. ~~A statement of facts upon which the decision, including any conditions, was based and the conclusions derived from those facts.~~

5. ~~Transmittal to Department of Ecology/Attorney General.~~ The Director of the Development Services Department shall send within eight days a copy of the final City action on the revision on to the Department of Ecology and the Attorney General's Office in conformance with LUC 20.30R.160 and WAC 173-14-064.

6. ~~If the revision to the original permit involves a conditional use or variance which was conditioned by the Department of Ecology, the revision shall be submitted to the Department of Ecology for the department's approval, approval with conditions, or denial. The revision shall indicate that it is being submitted under the requirements of WAC 173-14-064(5). Persons having requested notice of the Director's decision shall be notified. The Department of Ecology shall transmit to the City its decision within 15 days of receipt of the Director's submittal.~~

7. ~~The revised permit is effective immediately upon the Director's decision or, when appropriate under paragraph B.6 of this section, upon the Department of Ecology's action.~~

8. ~~Appeals shall be in accordance with RCW 90.58.180 and shall be filed within 30 days from the date of receipt of the Director's decision by the Department of Ecology or, when appropriate under paragraph B.6 of this section, the date the Department of Ecology's final decision is transmitted to the City and the applicant. Appeals shall be based only upon contentions of noncompliance with the provisions of paragraph B.1 of this section. Construction undertaken pursuant to that portion of a revised permit not authorized under the original permit is at the applicant's own risk until the expiration of the appeals deadline. If an appeal is successful in proving that a revision is not in compliance with paragraph B.1 of this section, the decision shall have no bearing on the original permit. (Ord. 4055, 3914, 9-25-89, § 19)~~

Section \_\_\_\_\_. Section 20.35.015 of the Bellevue Land Use Code is hereby amended to read as follows:

#### **20.35.015 Framework for decisions.**

A. Land use decisions, other than decisions on applications for Shoreline Conditional Use Permits, Shoreline Substantial Development Permits, and Variances to the Shoreline Master

**Comment [CoB47]:** Shoreline permits, procedures, and decisions are now in 20.25E.

Program are classified into ~~four~~ five processes based on who makes the decision, the amount of discretion exercised by the decisionmaker, the level of impact associated with the decision, the amount and type of public input sought, and the type of appeal opportunity. Refer to LUC 20.25E.100-200 for procedures, permits, and decisions related to Shoreline Conditional Use Permits, Shoreline Substantial Development Permits, and Variances to the Shoreline Master Program.

B. Process I decisions are quasi-judicial decisions made by the Hearing Examiner on project applications. The following types of applications require a Process I decision:

1. Conditional Use Permits (CUPs) ~~and Shoreline Conditional Use Permits;~~
2. Preliminary Subdivision Approval (Plat); and
3. Planned Unit Development (PUD) Approval; provided, that applications for CUPs, ~~shoreline CUPs,~~ preliminary plats, and PUDs, within the jurisdiction of a Community Council pursuant to RCW 35.14.040, shall require a Process III decision.

**Comment [CoB48]:** Shoreline CUPs are now addressed in 20.25E.

C. Process II decisions are administrative land use decisions made by the Director. Threshold determinations under the State Environmental Policy Act (SEPA) made by the Environmental Coordinator and Sign Code variances are also Process II decisions. (See the Environmental Procedures Code, BCC 22.02.034, and Sign Code, BCC 22B.10.180.) The following types of applications require a Process II decision:

1. Administrative amendments;
2. Administrative Conditional Use;
3. Design Review;
4. Home Occupation Permit;
5. Interpretation of the Land Use Code;
6. Preliminary Short Plat;
7. ~~Shoreline Substantial Development Permit;~~
8. ~~Variance and Shoreline Variance;~~
9. Critical Area Land Use Permits;
10. Master Development Plans;
11. Design and Mitigation Permits required pursuant to the Light Rail Overlay Part 20.25M LUC; and
12. Review under State Environment Policy Act (SEPA) when not consolidated with another permit.

**Comment [CoB49]:** Shoreline permits are now addressed in 20.25E.

D. Process III decisions are quasi-judicial decisions made by the City Council. The following types of applications require a Process III decision:

1. Site-specific or project-specific rezone;
2. Conditional Use, ~~Shoreline Conditional Use~~, Preliminary Plat, and Planned Unit Development projects subject to the jurisdiction of a Community Council pursuant to RCW 35.14.040; and
3. A rezone of any property to the OLB-OS Land Use District designation.

**Comment [CoB50]:** Shoreline permits are now addressed in 20.25E.

E. (Process IV decisions – no change)

F. (Process V decisions – no change)

G. (Other types of land use applications and decisions made by the Director – no change)

**Comment [CoB51]:** Amendment is proposed to this paragraph G as part of the LUC cleanup ordinance; need to make sure both ords are consistent.

Section \_\_\_\_\_. Section 20.35.020 of the Bellevue Land Use Code is hereby amended to read as follows:

#### **20.35.020 Pre-application conferences.**

A pre-application conference is required prior to submitting an application for Conditional Use or ~~Shoreline Conditional Use~~ Permits, preliminary subdivision approval, planned unit developments, Master Development Plans, Design and Mitigation Permits required pursuant to the Light Rail Overlay Part 20.25M LUC, and Design Review projects, unless waived by the Director.

**Comment [CoB52]:** All shoreline permit requirements now in 20.25E.

Section \_\_\_\_\_. Section 20.35.070 of the Bellevue Land Use Code is hereby amended to read as follows:

#### **20.35.070 Appeal of City land use decisions to Superior Court.**

A. General. A final City decision on a land use permit application (Processes I through III and V), ~~except for shoreline permits~~, may be appealed to Superior Court by filing a land use petition meeting the requirements set forth in Chapter 36.70C RCW. The petition must be filed and served upon all necessary parties as set forth in state law and within the 21-day time period as set forth in RCW 36.70C.040. Notwithstanding the provisions of this paragraph, the time for filing an appeal of a final Process II land use action that has been merged with a Process I or III application will be tolled until the Process I or III decisions are final. Requirements for fully exhausting City administrative appeal opportunities, if any are available, must be fulfilled. ~~An appeal of a Shoreline Substantial Development Permit, a Shoreline Conditional Use Permit, or a shoreline variance shall be to the State Shoreline Hearings Board and shall be filed within 21 days as set forth in RCW 90.58.180.~~

**Comment [CoB53]:** Shoreline permit appeals are now addressed in 20.25E.

B. A final City action on a legislative nonproject land use proposal (Process IV) may be appealed by petition to the Growth Management Hearings Board as set forth in LUC 20.35.440.C and RCW 36.70A.290.

**Comment [CoB54]:** Shoreline permit appeals are now addressed in 20.25E.

Section \_\_\_\_\_. Section 20.35.150.D of the Bellevue Land Use Code is hereby amended to read as follows:

**20.35.150(D) Appeal of Hearing Examiner decision.**

**D. Effect of Decision.**

The decision of the City Council on the application is the final decision of the City and may be appealed to Superior Court as provided in LUC 20.35.070, ~~except that an appeal of a shoreline conditional use decision shall be filed with the State Shoreline Hearings Board as set forth in RCW 90.58.180.~~

**Comment [CoB55]:** Shoreline permit appeals now addressed in 20.25E.

Section \_\_\_\_\_. Section 20.35.200.C of the Bellevue Land Use Code is hereby amended to read as follows:

**20.35.200(C) 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.

**Comment [CoB56]:** Shoreline permit appeals are now addressed in 20.25E.

Section \_\_\_\_\_. Section 20.35.210, Table 20.35.210.A, of the Bellevue Land Use Code is hereby amended to read as follows:

**20.35.210 Notice of application.**

A. Notice of application for Process II land use decisions shall be provided within 14 days of issuance of a notice of completeness as follows:

**Table 20.35.210.A**

**Comment [CoB57]:** Amendment to this table is proposed under the LUC cleanup ordinance. Need to make sure both ords are consistent)

Application Type	Publish	Mail	Sign
Administrative Amendment	X	X	X
Administrative Conditional Use	X	X	X
Design Review	X	X	X
Home Occupation Permit	X	X	
Interpretation of Land Use Code	X		
Preliminary Short Plat	X	X	X
<del>Shoreline Substantial Development Permit</del>	<del>X</del>	<del>X</del>	

**Comment [CoB58]:** Shoreline permits are now addressed in 20.25E.

Variance, Shoreline Variance	X	X	
Critical Areas Land Use Permit	X	X	
SEPA Review (when not consolidated with another permit)	X		

Section \_\_\_\_\_. Section 20.35.250 of the Bellevue Land Use Code is hereby amended to read as follows:

**20.35.250 Appeal of Process II decisions.**

A. Process II decisions, except for ~~shoreline permits and~~ SEPA Threshold Determinations on Process IV actions, may be appealed as follows:

**Comment [CoB59]:** Appeals of shoreline permits are now addressed in 20.25E.

1. Who May Appeal. The project applicant or any person who submitted written comments prior to the date the decision was issued may appeal the decision.
2. Form of Appeal. A person appealing a Process II decision must file a written statement setting forth:
  - a. Facts demonstrating that the person is adversely affected by the decision;
  - b. A concise statement identifying each alleged error and the manner in which the decision fails to satisfy the applicable decision criteria;
  - c. The specific relief requested; and
  - d. Any other information reasonably necessary to make a decision on the appeal.

The written statement must be filed together with an appeal notification form available from the Office of the City Clerk. The appellant must pay such appeal fee, if any, as established by ordinance or resolution at the time the appeal is filed.

3. Time and Place to Appeal. The written statement of appeal, the appeal notification form, and the appeal fee, if any, must be received by the City Clerk no later than 5:00 p.m. on the 14th day following the date of publication of the decision of the Director; except that if the Director's decision is consolidated with a threshold Determination of Nonsignificance under the State Environmental Policy Act for which a comment period pursuant to WAC 197-11-340 must be provided, the appeal period for the consolidated decision shall be 21 days.

**~~B. Shoreline Permit Appeals.~~**

**Comment [CoB60]:** Shoreline permit appeals are now addressed in 20.25E.

~~An appeal of a Shoreline Substantial Development Permit or a shoreline variance shall be to the State Shoreline Hearings Board and shall be filed within 21 days as set forth in RCW 90.58.180.~~

**CB. SEPA Threshold Determinations on Process IV and Process V Actions.**

1. Process IV. An appeal of a SEPA threshold determination on a Process IV action shall be filed together with an appeal of the underlying Process IV action. The appeal shall be

by petition to the Growth Management Hearings Board and shall be filed within the 60-day time period set forth in RCW 36.70A.290.

2. Process V. An appeal of a SEPA threshold determination on a Process V action shall be filed together with an appeal of the underlying Process V action. The appeal shall be as set forth in LUC 20.35.070 and 20.35.540.

**DC. Notice of Appeal Hearing.**

If a Process II decision is appealed, a hearing before the City Hearing Examiner shall be set and notice of the hearing shall be mailed to the appellant, the applicant, and all parties of record by the applicable Department Director. Notice shall be mailed no less than 14 days prior to the appeal hearing; except that if the Process II decision has been consolidated with a recommendation on a Process I or Process III application, any appeal of the Process II decision shall be consolidated with the Process I or Process III public hearing. No separate notice of a Process II appeal need be provided if the public hearing has already been scheduled for the Process I or Process III component of an application.

**ED. Hearing Examiner Hearing.**

The Hearing Examiner shall conduct an open record hearing on a Process II appeal. The appellant, the applicant, and the City shall be designated parties to the appeal. Each party may participate in the appeal hearing by presenting testimony or calling witnesses to present testimony. Interested persons, groups, associations, or other entities who have not appealed may participate only if called by one of the parties to present information; provided, that the Examiner may allow nonparties to present relevant testimony if allowed under the Examiner's Rules of Procedure.

**FE. Hearing Examiner Decision on Appeal.**

Within 10 working days after the close of the record for the Process II appeal, the Hearing Examiner shall issue a decision to grant, grant with modifications, or deny the appeal. The Examiner may grant the appeal or grant the appeal with modification if:

1. The appellant has carried the burden of proof; and
2. The Examiner finds that the Process II decision is not supported by a preponderance of the evidence.

The Hearing Examiner shall accord substantial weight to the decision of the applicable Department Director and the Environmental Coordinator.

**GF. Appeal of Hearing Examiner Decision.**

A final decision by the Hearing Examiner on a Process II application may be appealed to Superior Court as set forth in LUC 20.35.070.

**HG. Time Period to Complete Appeal Process.**

In all cases except where the parties to an appeal have agreed to an extended time period, the administrative appeal process shall be completed within 90 days from the date the

original administrative appeal period closed. Administrative appeals shall be deemed complete on the date of issuance of the Hearing Examiner's decision on the appeal.

Section \_\_\_\_\_. Section 20.40.500.A.1 of the Bellevue Land Use Code is hereby amended to read as follows:

**20.40.500(A) Vesting and expiration of vested status of land use permits and approvals.**

**A. Vesting for Permits and Approvals.**

1. Permits and Approvals Other than Subdivisions and Short Subdivisions and Shoreline Permits. Applications for all land use permits and approvals except subdivisions and short subdivisions and shoreline permits (Shoreline Conditional Use, Shoreline Substantial Development Permit, and Variance to the Shoreline Master Program) shall be considered under the Land Use Code and other land use control ordinances in effect on the date that a fully complete Building Permit application, meeting the requirements of BCC 23.40.03223.05.090E and F, is filed. Vesting provisions for Shoreline Permits are provided in LUC 20.25E.250.C. If a complete Building Permit application is not filed, the land use permit or approval shall become vested to the provisions of the Land Use Code upon the date of the City's final decision on the land use permit or approval.

**Comment [CoB61]:** Amendments to this paragraph A.1 are proposed under the LUC cleanup ordinance. Need to make sure both ords are consistent)

**Comment [CoB62]:** Shoreline permit vesting is now addressed in 20.25E.

**Comment [CoB63]:** Shoreline permit vesting is now addressed in 20.25E.

Section \_\_\_\_\_. Section 20.40.500.B.1 of the Bellevue Land Use Code is hereby amended to read as follows:

**20.40.500(B) Vesting and expiration of vested status of land use permits and approvals.**

**B. Expiration of Vested Status of Land Use Permit or Approval.**

1. The vested status of a land use permit or approval shall expire as provided in subsection B.2 of this section; provided, that:
  - a. Variances shall run with the land in perpetuity if recorded with King County Department of Records and Elections within 60 days following the City's final action; and
  - b. Critical Areas Land Use Permits shall expire as set forth in LUC [20.30P.150](#); and
  - c. Lots in a subdivision or short subdivision shall be vested against changes in the Land Use Code, except for changes that address a serious threat to the public health or safety as found by the City Council when such change is adopted, for a period of five years following the date of recording of the final plat or final short plat; and
  - d. The time period established pursuant to subsection B.2 of this section shall not include the time during which an activity was not actively pursued due to the pendency of litigation which may materially affect rights of the applicant for the permit or approval related to that permit or approval.

e. Expiration of Shoreline Permits shall occur pursuant to LUC 20.25E.250.C.

**Comment [CoB64]:** Shoreline permit expiration is now addressed in 20.25E.

Section \_\_\_\_\_. Section 20.50.010 of the Bellevue Land Use Code is hereby amended to delete the definition of “Agricultural Lands, Prime”.

**Comment [CoB65]:** Defer to new definition of “Agricultural Land” in 20.25E. Note that there are no agricultural lands in the GMA meaning of the term within Bellevue’s urban growth boundary.

#### 20.50.010 A definitions.

**Agricultural Lands, Prime.** Soils for crop production with little or no limitations, or hazards, for crop production. This definition does not apply with the Shoreline Overlay District (refer to LUC 20.25E.280 – “Agricultural Land”).

Section \_\_\_\_\_. Section 20.50.012 of the Bellevue Land Use Code is hereby amended to delete the definition of “Boathouse”.

**Comment [CoB66]:** 20.25E contains definition of Boathouse. This use does not occur outside of the Shoreline Overlay District, so general definition in 20.50 is not needed.

Section \_\_\_\_\_. Section 20.50.012 of the Bellevue Land Use Code is hereby amended to revise the definition of “Building Height” 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~~20.25E.280 – “Height”), Single-Family Land Use Districts (refer to the definition of Building Height – Single-Family Land Use Districts contained in this section; see also LUC 20.10.440, Note (16)), and to the F1 Land Use District (refer to LUC 20.25F1.040, Footnote (6)).

**Comment [CoB67]:** Defer to new definition in 20.25E.

Section \_\_\_\_\_. Section 20.50.014 of the Bellevue Land Use Code is hereby amended to revise the definition of “Community Club” to read as follows:

#### 20.50.014 C definitions.

**Community Club.** A formally constituted nonprofit association or corporation made up of the residents of a given area. This definition does not apply with the Shoreline Overlay District (refer to LUC 20.25E.280 – “Community Club”).

**Comment [CoB68]:** Defer to new definition in 20.25E.

Section \_\_\_\_\_. Section 20.50.016 of the Bellevue Land Use Code is hereby amended to revise the definition of “Development” to read as follows:

#### 20.50.016 D definitions.

**Development.** All structures and other modifications of the natural landscape above and below ground or water, on a particular site. For the purposes of Part 20.25E LUC, regulation for the Shoreline Overlay District, a different definition is used. See LUC 20.25E.017.A.

**Comment [CoB69]:** LUC 20.25E.017.A will be an outdated citation under the new 20.25E. Intent is to revise the definition of “development” here in LUC 20.50.016 in a manner that incorporates shoreline development so that only one definition applies. Amendment is not yet drafted.

Section \_\_\_\_\_. Section 20.50.020 of the Bellevue Land Use Code is hereby amended to revise the definition of "Fair Market Value" to read as follows:

**20.50.020 F definitions.**

**Fair Market Value.** The expected price at which the development can be sold to a willing buyer. For developments which involve nonstructural operations such as dredging, drilling, dumping, or filling, the fair market value is the expected cost of hiring a contractor to perform the operation or where no such value can be calculated, the total of labor, equipment use, transportation, and other costs incurred for the duration of the permitted project. This definition does not apply with the Shoreline Overlay District (refer to LUC 20.25E.280 – "Fair Market Value").

**Comment [CoB70]:** Defer to new definition in 20.25E.

Section \_\_\_\_\_. Section 20.50.020 of the Bellevue Land Use Code is hereby amended to revise the definition of "Fill" to read as follows:

**20.50.020 F definitions.**

**Fill.** A solid material which increases ground surface elevation ~~above or below the ordinary high water mark.~~ This definition does not apply with the Shoreline Overlay District (refer to LUC 20.25E.280 – "Fill").

**Comment [CoB71]:** Defer to new definition in 20.25E.

Section \_\_\_\_\_. Section 20.50.040 of the Bellevue Land Use Code is hereby amended to delete the definition of "Ordinary High Water Mark".

**Comment [CoB72]:** 20.25E contains definition of OHWM. This term is not used outside of the Shoreline Overlay District, so general definition in 20.50 is not needed.

Section \_\_\_\_\_. Section 20.50.046 of the Bellevue Land Use Code is hereby amended to delete the definition of "Shoreland, Shoreline".

**Comment [CoB73]:** 20.25E contains definition of Shorelines. This term is not used outside of the Shoreline Overlay District, so general definition in 20.50 is not needed.

Section \_\_\_\_\_. Section 20.50.046 of the Bellevue Land Use Code is hereby amended to revise the definition of "Structure" to read as follows:

**20.50.046 S definitions.**

**Structure.** A combination of materials constructed and erected permanently on or under the ground or attached to something having a permanent location on or under the ground. Not included are residential fences, retaining walls less than 30 inches in height, rockeries less than 30 inches in height and similar improvements of a minor character. For the purposes of Part 20.25E LUC, regulations for the Shoreline Overlay District, a different definition applies. See ~~LUC 20.25E.017-C20.25E.280~~ LUC 20.25E.280 – "Structure".

**Comment [CoB74]:** Defer to new definition in 20.25E.

Section \_\_\_\_\_. 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 \_\_\_\_\_. This ordinance shall take effect and be in force **five/thirty (5/30)** days after legal publication.

PASSED by the City Council this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_, and signed in authentication of its passage this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_.

(SEAL)

\_\_\_\_\_  
Conrad Lee, Mayor

Approved as to form:

\_\_\_\_\_  
Lori M. Riordan, City Attorney

Attest:

\_\_\_\_\_  
Myrna L. Basich, City Clerk

Published \_\_\_\_\_

DRAFT

Washington  
Sensible  
Shorelines  
Association

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Shoreline Master Program

Requested Changes to Critical Area  
Conformance Amendments

Planning Commission Meeting  
October 23, 2013

## **ACTION ITEM 1: Clarification**

### **20.25H.015 Applicable procedure.**

The Critical Areas Overlay District consists of two parts: that part of a site that is not contained within a critical area, critical area buffer, or critical area structure setback, and that part of a site that is within a critical area, critical area buffer, or critical area structure setback.

A. If a proposal avoids all disturbance or modification of the critical area, critical area buffer, and critical area structure setback, the proposal is subject to the provisions of this part through the review process for the underlying permit or approval required for the development, and a decision on such application may be appealed according to the appeal process for the underlying permit or approval.

B. If a proposal involves disturbance to or modification of the critical area, critical area buffer, or critical area structure setback, then in addition to the review process for the underlying permit or approval required for the development, the proposal shall require a Critical Areas Land Use Permit, Part 20.30P LUC, except where otherwise indicated in this part and except where a shoreline permit is required by LUC 20.25E.

## **ACTION ITEM 2: Type S Waters**

### **20.25H.075 Designation of critical area and buffers.**

...  
B. Designation of Streams. The following streams are hereby designated as critical areas subject to the regulations of this part:

#### Staff Proposal

1. "Type S water" means all waters, ~~other than shoreline critical areas designated under LUC 20.25E.017,~~ within their bankfull width, as inventoried as "shorelines of the state" under Chapter 90.58 RCW and the rules promulgated pursuant to Chapter 90.58 RCW including periodically inundated areas of their associated wetlands.

#### WSSA Proposal

1. "Type S water" means streams with a mean annual water flow exceeding 20 cubic feet per second ~~all waters, other than shoreline critical areas designated under LUC 20.25E.017,~~ within their bankfull width, as inventoried as "shorelines of the state" under Chapter 90.58 RCW and the rules promulgated pursuant to Chapter 90.58 RCW including periodically inundated areas of their associated wetlands. This provision applies only to the Mercer Slough and Lower Kelsey Creek.

2

**ACTION ITEM 3: Fix Flood Hazard Restriction on Homes, Docks, and Bulkheads**

**20.25H.055 Uses and development allowed within critical areas – Performance standards.**

The uses and/or development described in subsection B of this section may be undertaken in a critical area or critical area buffer if all of the requirements of the referenced sections are met. A Critical Areas Land Use Permit shall be required unless a shoreline permit is required under LUC 20.25E. or otherwise noted.

3.a

	Type of Critical Area				
	Streams	Wetlands	Shorelines	Geologic Hazard Areas <sup>7</sup>	Areas of Special Flood Hazard

...					
Stabilization measures	20.25H.055.C.3.m 20.25H.080.A	20.25H.055.C.3.m 20.25H.100	20.25E.080.B 20.25E.080.E	20.25H.055.C.3.m 20.25H.125	20.25H.055.C.3.m 20.25H.180.C <sup>12</sup>
Expansion of existing single-family primary structures	20.25H.055.C.3.n 20.25H.080.A	20.25H.055.C.3.n 20.25H.100	<del>20.25H.055.C.3.n</del> 20.25E.080.B 20.25E.080.Q	20.25H.055.C.3.n 20.25H.125	20.25H.055.C.3.n 20.25H.180.C <sup>9</sup> 20.25H.180.D.1 20.25H.180.D.7

3.b

Notes:

1. For purposes of this section, repair and maintenance includes replacement of facilities and systems, or expansion so long as the area of permanent disturbance of the critical area or critical area buffer is not expanded. As applicable to public rights-of-way, private roads, access easements, parking areas and driveways, repair and maintenance also includes removing and replacing improvements within the area of permanent disturbance, and expansion of paved areas, so long as the area of permanent disturbance within the critical area or critical area buffer is not expanded.

9. ~~Authorized only pursuant to a reasonable use exception, LUC 20.25H.190 Moorage structures related to single family use are allowed in the area of special flood hazard where consistent with the requirements of the Shoreline Master Program, LUC 20.25E. These moorage structures are exempt from the requirements of this Part (LUC 20.25H).~~

3.d

12. Stabilization measures related to single family use are allowed in the area of special flood hazard where consistent with the requirements of the Shoreline Master Program, LUC 20.25E. These stabilization measures are exempt from the requirements of this Part (LUC 20.25H).

3.e

**ACTION ITEM 4: Performance Standards – General Reference**

**20.25H.055 Uses and development allowed within critical areas – Performance standards.**

...

**C. Performance Standards.**

The following performance standards apply as noted in the table in subsection B of this section. The critical areas report may not be used to modify the performance standards set forth in this subsection C:

...

3. Performance Standards for Specific Uses or Development. In the event of a conflict between the generally applicable performance standards and specific standards, those more protective of critical area functions and values shall prevail, except that in the Shoreline Master Program, LUC 20.25E, the exclusive standard shall be no net loss of shoreline ecological functions.

...

## **ACTION ITEM 5: Performance Standards -- Trails**

### **20.25H.055.3 Uses and development allowed within critical areas – Performance standards.**

#### Staff Proposal

f. Private Nonmotorized Trails. New nonmotorized trails within the critical area or critical area buffer are limited to those accessing single-family residential moorage or serving nonresidential uses, multifamily residential uses and more than one single-family lot. Private nonmotorized trails shall comply with the performance standards for trails in subsection C.3.g of this section. Nothing in this section prohibits the creation of a soft surface nonmotorized trail in a critical area buffer on a single-family lot for use of the residents of that lot. Such trail shall not exceed four feet in width, and shall not involve the removal of any significant trees or bank-stabilizing roots. In stream and wetland buffers, trails shall not be generally parallel to the stream or wetland edge closer than a distance of 25 feet. Any clearing of brush or vegetation shall be the minimum necessary, and shall be with hand tools only.

#### WSSA Proposal

f. Private Nonmotorized Trails. New nonmotorized trails within the critical area or critical area buffer are limited to those ~~accessing single-family residential moorage~~ or serving nonresidential uses, multifamily residential uses and more than one single-family lot. Private nonmotorized trails shall comply with the performance standards for trails in subsection C.3.g of this section. Nothing in this section prohibits the creation of a soft surface nonmotorized trail in a critical area buffer on a single-family lot for use of the residents of that lot. Such trail shall not exceed four feet in width, and shall not involve the removal of any significant trees or bank-stabilizing roots. In stream and wetland buffers, trails shall not be generally parallel to the stream or wetland edge closer than a distance of 25 feet. Any clearing of brush or vegetation shall be the minimum necessary, and shall be with hand tools only. This section regulates only new trails, and does not regulate use, access over, or modification of existing walkways, trails, lawns, landscaping, landscape features, other pedestrian paths, or other access to moorage developed prior to August 1, 2006. Nothing in this provision shall prohibit the development of a new trail or other safe access to moorage consistent with the Shoreline Master Program, LUC 20.25E, in a manner that assures no net loss of shoreline ecological functions.

5.a

5.b

## **ACTION ITEM 6: Performance Standards – Existing Landscaping**

### **20.25H.055.3 Uses and development allowed within critical areas – Performance standards.**

...

h. Existing Landscape Repair, Reconstruction, and Maintenance. Repair, reconstruction, and routine maintenance of existing legally established landscaping and landscape features developed prior to August 1, 2006, in the critical area or critical area buffer may be continued and modified in accordance with this section. For purposes of this section, “routine maintenance” includes mowing, pruning, weeding, planting annuals, perennials, fruits and vegetables, and other activities associated with maintaining a legally established ornamental or garden landscape and landscape features. Also, for purposes of this subsection, “landscape features” refers to fences, trellises, rockeries and retaining walls, pathways, arbors, patios, play areas and other similar improvements. Repair and reconstruction includes replacement of landscaping or landscape features with new landscaping or landscape features so long as the area of permanent disturbance of the critical area or critical area buffer is not expanded. This provision applies to the area of residential properties with preexisting landscaped or disturbed areas and does not apply to undisturbed natural areas of residential properties that are outside preexisting landscaped or disturbed areas. To be considered routine maintenance, activities shall have been consistently carried out so that the ornamental species predominate over native or invasive species. Maintenance shall be performed with hand tools or light equipment only, and no significant trees may be removed, except in accordance with a Vegetation Management Plan under subsection C.3.i of this section. Use of fertilizers, insecticides and pesticides is discouraged and to avoid such use homeowners are directed to prohibited unless performed in accordance with the City of Bellevue’s “Environmental Best Management Practices” now or as hereafter amended.

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**ACTION ITEM 7: Performance Standards – Vegetation Mgmt.**

**20.25H.055.3 Uses and development allowed within critical areas – Performance standards.**

...

i. Vegetation Management. Modification of vegetation in a critical area or critical area buffer that is not considered repair, reconstruction, or routine maintenance under subsection C.3.h of this section may be allowed if it meets the requirements of this section. . . .

...

ii. Hazard Trees. The removal of trees from the critical area or critical area buffer that are hazardous, posing a threat to public safety, or posing an imminent risk of damage to an existing structure, public or private road or sidewalk, or other permanent improvement, is allowed without requiring a Critical Areas Land Use Permit or a Vegetation Management Plan; provided, that:

(A) The applicant submits a report on a form provided by the Director from a certified arborist, registered landscape architect, or professional forester that documents the hazard and provides a replanting schedule for the replacement trees;

(B) Tree cutting shall be limited to pruning and crown thinning, unless otherwise justified by a qualified professional. Where pruning or crown thinning is not sufficient to address the hazard, trees should be converted to wildlife snags and completely removed only where no other option removes the identified hazard, except that trees may be removed from residential properties;

(C) All vegetation cut (tree stems, branches, etc.) shall be left within the critical area or buffer unless removal is warranted due to the potential for creating a fire hazard or for disease or pest transmittal to other healthy vegetation, except that such debris may be removed from developed residential areas;

(D) The landowner shall replace any trees that are removed pursuant to a restoration plan meeting the requirements of LUC 20.25H.210, except that on developed residential properties replanting shall be based solely on the replanting schedule required by (A) above;

...

7

## **ACTION ITEM 8: Performance Standards – Single Family Homes**

### **20.25H.055.3 Uses and development allowed within critical areas – Performance standards.**

n. Development Expansion of Existing Single-Family Primary Structures into Critical Area, Critical Area Buffer and Critical Area Structure Setback. Replacement (new development i.e. “teardown”) or reconstruction of existing single-family primary structures is allowed within the footprint of the existing single family primary structure and detached garage. Expansion beyond that footprint into the critical area buffer and critical area structure setback may be allowed, pursuant to a Critical Areas Land Use Permit (or Shoreline Permit if applicable), where expansion outside of the critical area buffer and critical area structure setback is not feasible and where the purpose of the expansion is to serve a function that is an essential component of a single-family residence. Expansion into the critical area is prohibited. Any expansion must comply with all other applicable requirements of the code, including LUC 20.20.010.

i. Where allowed, expansions into the critical area buffer and critical areas structure setback shall be limited as follows:

(A) The expansion shall be along the existing building line parallel to the edge of the critical area, unless such expansion is not feasible. Only when such expansion is not feasible may expansion encroach further into the critical area buffer and critical area structure setback.

(B) Expansions shall be the minimum necessary to achieve the intended functions of the expansion, but in no event may the footprint expansion within the critical area buffer and critical area structure setback exceed 500 square feet over the life of the structure. Expansions into stream critical area buffers allowed pursuant to the City’s previous critical areas regulations (prior LUC 20.25H.085.B) shall be included in determining the allowed lifetime expansion; and

(C) Areas of new permanent disturbance and all areas of temporary disturbance within the critical area buffer shall be mitigated and/or restored pursuant to a mitigation and restoration plan meeting the requirements of LUC 20.25H.210.

(D) These requirements need not be met where the area of the expansion is an area of existing legally established landscaping and landscape features developed prior to August 1, 2006.

ii. For purposes of this section, expansion outside of the critical area buffer and critical area structure setback shall be considered not feasible only when, considering the function to be served by the expansion and the existing structure’s layout and infrastructure (including plumbing, drainage and electrical systems):

(A) Expansion away from the critical area buffer and critical area structure setback within the buildable area of the site will not realize the intended functions of the expansion; and

(B) Expansion away from the critical area buffer and critical area structure setback, including into non-critical area setbacks modified pursuant to LUC 20.25H.040, will not realize the intended functions of the expansion; and

(C) Expansion upwards to the maximum building height of the underlying land use district, within the existing footprint, or together with expansions permitted under subsections C.3.n.ii.(A) and (B) of this section, will not realize the intended functions of the expansion.

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(D) These requirements need not be met where the area of the expansion is an area of existing legally established landscaping and landscape features developed prior to August 1, 2006.

iii. Expansion into the critical area is prohibited except when consistent with LUC 20.25H.145 (development in landslide hazard or steep slope areas), consistent with LUC 20.25H.180.C and .D.1 (development in floodplain areas) or allowed under LUC 20.25H.190-.205 (Reasonable Use Exception) or 20.25H.230-.270 (Critical Area Report).

**ACTION ITEM 9: Performance Standards – Stabilization Measures**

**20.25H.055.3 Uses and development allowed within critical areas – Performance standards.**

Staff Proposal

m. Stabilization Measures. ~~See LUC 20.25E.080.E for standards regulating~~ Nothing in this section shall limit or preclude shoreline stabilization measures permitted pursuant to LUC 20.25E.080.F. Proposed stabilization measures within a critical area or critical area buffer to protect against streambank erosion or steep slopes or landslide hazards may be approved in accordance with this subsection.

WSSA Proposal

m. Stabilization Measures. ~~See LUC 20.25E.080.E for standards regulating~~ Nothing in this section shall limit, or preclude, or apply to shoreline stabilization measures permitted regulated pursuant to LUC 20.25E.080.F. Proposed stabilization measures within a critical area or critical area buffer to protect against streambank erosion or steep slopes or landslide hazards may be approved in accordance with this subsection.

9

**ACTION ITEM 10: Clarification**

**20.25H.155 Uses in habitat for species of local importance.**

The uses allowed in the underlying land use district are allowed within habitat associated with species of local importance, so long as the development complies with the performance standards of LUC 20.25H.160 or complies with the Shoreline Master Program, LUC 20.25E. The section does not allow modification of other critical areas or critical area buffers. (Ord. 5680, 6-26-06, § 3)

## **ACTION ITEM 11: Secondary Flood Hazard Changes**

### **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 section and shall not result in a rise in the BFE. The requirements of this section may not be modified through a critical areas report.

...

#### **D. Specific Performance Standards.**

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

1. ~~Modification of Existing Development and Existing Nonconforming Residential Development. Lateral additions and substantial improvements to existing development and existing nonconforming residential development must meet the following requirements or must come into conformance by complying with subpart C above. development is allowed only through a reasonable use exception, LUC 20.25H.190.~~

a. **Substantial Improvements.** Substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot or more above the base flood elevation (BFE). Fully enclosed areas below the BFE that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

- i. A minimum of two openings having a total net area of not less than one square inch for every one square foot of enclosed area subject to flooding shall be provided.
- ii. The bottom of all openings shall be no higher than one foot above grade.
- iii. Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters.
- iv. Enclosed areas (including breakaway walls) below the BFE shall be no larger than 300 square feet.

b. **Lateral Additions.** Lateral additions to structures that qualify as a substantial improvement must meet the elevation standards of new construction. If the common wall between the lateral addition and the existing structure is demolished as part of the project, then the entire structure must meet the elevation standards of new construction. If only a doorway or similar opening is knocked through, only the addition has to meet the elevation standards.

c. **Pre-FIRM Buildings.** Pre-FIRM buildings that qualify as a substantial improvement (including lateral additions) must meet the elevation standards of new construction.

...





# MEMORANDUM

DATE: November 4, 2013

TO: Carol Helland, Land Use Director, Development Services Department

FROM: Shoreline Update Team

SUBJECT: Questions from WSSA Regarding Application of Critical Areas in the Shoreline

## Flood Hazard Area

1. **Under the current CAO, is the City regulating 25 feet from OHWM as shoreline critical area buffer?**

The shorelines of Lake Sammamish, Lake Washington, Lower Kelsey Creek, and Phantom Lake were designated as shoreline critical areas in 2006 because they contain fish and wildlife habitat. There is a 25-foot critical area buffer on developed properties; on undeveloped properties the critical area buffer is 50 feet (see LUC 20.25H.115 for details.) On Lake Sammamish, the shoreline critical area buffer is measured from 31.8 NAVD 88. On all other shoreline critical areas, the buffer is measured from the OHWM. Where a primary structure was legally established prior to August 1, 2006, the critical area buffer and structure setback is modified to exclude the footprint of the existing structure.

2. **If the shoreline critical area buffer is deleted as proposed, then will the City regulate the special flood hazard area as critical area?**

The area of special flood hazard is already regulated as a critical area (see LUC 20.25H.017) and no change to the flood hazard critical area requirements is proposed at this time.

3. **Is there a critical area buffer or structure setback related to the special flood hazard critical area?**

No; there is no buffer or setback from the area of special flood hazard.

4. **Will the special flood hazard area extend upon the shore in similar manner as the shoreline critical area on some properties on Lake Sammamish?**

There is significant overlap but the base flood elevation varies with topography and thus is not confined within the current shoreline critical area buffer in all cases.

5. **Has anyone at the City of reviewed the number of homes or parcels affected by the special flood hazard area on Lake Sammamish or Phantom Lake or the scope of the encroachment? What are those findings?**

We are in the process of finalizing that study but based on our initial review there are total 365

parcels along Lake Sammamish in Bellevue that intersect the floodplain and/or setback. Of these, there are 72 parcels where the floodplain completely exceeds the 25-foot setback, 161 parcels in which the 25-foot setback completely exceeds the floodplain, and 132 parcels in which both cases can occur; e.g. the setback exceeds the floodplain and the floodplain exceeds the setbacks on the same parcel.

**6. Redmond, Sammamish, and Issaquah codes were provided which appear to show that building in the floodplain is allowed with restrictions. What is the understanding as to why Bellevue is different?**

Bellevue’s existing floodplain regulations allow for development in the floodplain under certain conditions (see LUC 20.25H.175) and with the proviso that there is no increase in the flooding elevation for the 100-year flood. The “zero-rise” flooding elevation policy was established by Bellevue City Council when the city joined the National Flood Insurance Program (NFIP) in 1978 and is consistent with the City’s stated flood protection goals of causing no adverse effect to downstream or adjacent neighbors due to development. Bellevue’s existing floodplain and storm drainage regulations have proven successful at reducing flood risk in the City.

Bellevue, Redmond, Issaquah, and Sammamish all belong to the National Flood Insurance Program and thereby are obligated to adopt minimum NFIP standards for floodplain development regulations. In some jurisdictions, including Bellevue, additional floodplain regulations above the minimum NFIP standards are adopted and in return FEMA provides discounts to policy holders in those jurisdictions.

By way of comparison, staff have compiled the floodplain development regulations applied in neighboring jurisdictions. They are summarized in Table 1.

<b>Table 1. Summary of Floodplain Development Requirements.</b>				
<b>Community</b>	<b>Freeboard<sup>1</sup></b>	<b>Compensatory Storage<sup>2</sup></b>	<b>Zero-Rise Floodplain<sup>3</sup></b>	<b>Zero-Rise Floodway<sup>4</sup></b>
Bellevue	1 foot	Yes, only for exemptions for floodplain development	Yes	Yes
Issaquah	1 foot below finished floor & utilities	Yes, within 100-ft	Yes	Yes
Redmond	1 foot	Yes	Yes	Yes
Sammamish	1 foot	Yes	Not confirmed	Yes
King County	3 feet	Yes within the 10-, 50-, 100-year profiles	Yes	Yes

<sup>1</sup> A factor of safety usually expressed in feet above the 100-year flood elevation for purposes of floodplain management.

<sup>2</sup> New, excavated storage volume equivalent to any flood storage that is eliminated by filling or grading within the floodplain.

<sup>3</sup> Prohibition on an increase in the 100-year flood elevation within the 100-year floodplain.

<sup>4</sup> Prohibition on an increase in the 100-year flood elevation within the FEMA floodway.

## **Landslide Prone Areas and Steep Slopes.**

- 7. Are “areas of slopes of 15 percent or more with more than 10 feet of rise” and less than 40 percent slope automatically regulated as geologic hazard areas. If not, what is required to have an area declared not a geologic hazard area?**

No. To be considered geologic hazard areas, slopes must display any of the characteristics listed in LUC 20.25H.120A.1. Generally a site visit and exploration by a licensed geotechnical engineer that establishes these conditions do not exist on site is sufficient to dismiss the slope from this category. In some cases, discovery of indicators will trigger further, more detailed study. Generally speaking, regulation under this category is rare; since 2006 staff has made one determination of geologic hazard under based on these characteristics. In this case, surface seepage and groundwater was tied to slope instability.

- 8. Are steep slopes (slopes of 40 percent or more that a rise of at least 10 feet and exceed 1000 square feet in area) automatically regulated as geologic hazard areas? If so, is that true even if a geotechnical engineer confirms that there are no landslide hazards on the site.**

Yes, slopes of 40 percent or more that have a vertical rise of 10 feet or more and encompass more than 1000 square feet in areal extent are regulated as landslide hazard areas. However, the prescriptive regulation barring development may be modified upon submittal of a critical area report drafted by a licensed geotechnical engineer.

- 9. What are the critical area buffers and structure setback for a geologic hazard area (whether steep slope or other landslide area)?**

Steep slopes and landslide hazard area are protected by a 50-foot buffer at the top-of-slope and a 75-foot structure setback at the toe-of-slope.

- 10. Does the City have official maps indicating landslide hazard and steep slope geologic hazard areas? How do steep slope designations on NW Maps relate to any official information provided by the City?**

The City maintains a range of data layers covering steep slopes, wetlands, streams, floodplains, shorelines, soil types, geology, wildlife and many other topic areas. The steep slopes depicted in NW Maps are based on the City’s digital terrain model. However, accuracy varies and the City’s mapping for all critical areas is viewed as illustrative. Site specific verification is required as part of any proposal to develop property with critical areas on site.

- 11. Who authored the report entitled Bellevue Critical Areas Update Geologically Hazardous Areas Inventory (March 2003). Has the City done anything to go beyond the map assessment in that report to delineate landslide prone areas (Section 4.0, page 8) to collect landslide information in one location, or to use such information to refine the geologic hazard maps (Section 5.1, page 10)?**

The report was authored by Shannon and Wilson. <http://www.shannonwilson.com/>

The City has not done additional broad-based study believing questions specific to landslide hazard identification are best conducted by qualified professionals on a site-by-site basis at the time of development. As discussed in question #7, staff recall only a single site where geotechnical review revealed surface instability tied to ground water seepage on slopes.

GeoMapNW, a sponsored program of the University of Washington, under contract with the City of Bellevue, recently completed a subsurface database and a geologic map of the City of Bellevue. The subsurface database and the map were populated using information from geological and geotechnical investigations retrieved from the City's records, and from other available sources such as Washington State Department of Transportation, King County, and Washington State Department of Ecology.

**12. Does the existing landscape maintenance provision at 20.25H.055.C.3.h restricts changes to existing landscaping and landscape features located within the special flood hazard critical area? Within the geologic hazard critical area and critical area setback? Within the geologic hazard critical area structure setback?**

Provided the changes qualify as "routine maintenance" as defined at LUC 20.25H.055.3.h and any landscape structures were legally established, there is no restriction in any of the areas mentioned.

**13. What are examples of actions that comply or don't comply with the Existing Landscape Maintenance provision at 20.25H.055.C.3.h?**

Activities that comply: routine maintenance of existing legally established landscaping and landscape features developed prior to August 1, 2006, in the critical area or critical area buffer may be continued in accordance with this section. For purposes of this section, "routine maintenance" includes mowing, pruning, weeding, planting annuals, perennials, fruits and vegetables, and other activities associated with maintaining a legally established ornamental or garden landscape and landscape features. Also, for purposes of this subsection, "landscape features" refers to fences, trellises, rockeries and retaining walls, pathways, arbors, patios, play areas and other similar improvements. To be considered routine maintenance, activities shall have been consistently carried out so that the ornamental species predominate over native or invasive species. Maintenance shall be performed with hand tools or light equipment only, and no significant trees may be removed, except in accordance with a Vegetation Management Plan under subsection C.3.i of this section. Use of fertilizers, insecticides and pesticides is prohibited unless performed in accordance with the City of Bellevue's "Environmental Best Management Practices" now or as hereafter amended.

Activities that do not comply- Hazard tree removal, noxious species removal, significant tree removal, Vegetation Management (i.e. tree removal and other vegetation removal not within a maintained landscape).

**14. Are there examples of code enforcement for this violation? What occurred? How were the cases resolved?**

Yes. Among the most common is removal of significant trees or destruction of wildlife habitat on steep slope critical areas without the required permits. The cases are typically resolved

through the Voluntary Compliance process by having the applicant apply for the required critical areas land use permit and vegetation management plan commensurate with the impacts created by tree removal.

15. **For landscape or landscape feature changes in a special flood hazard critical area that do not comply with 20.25H.055.C.3.h, can those activities be permitted under the Code? What is the permit process?**

Such proposed changes may be considered through a CALUP with Critical Areas Report (CAR)

16. **For landscape or landscape feature changes in a geologic hazard critical area or critical area buffer that do not comply with 20.25H.055.C.3.h, can those activities be permitted under the Code? What is the permit process?**

Per 20.25H.055.C.3.i modification of vegetation in a critical area or critical area buffer that is not considered routine maintenance may be permitted. Such work may require a CALUP, SEPA and/or clearing and grading permit depending upon proposed scope of work.

17. **Does the expansion of existing single family primary structures provision at 20.25H.055.C.3.n restrict changes to existing single family homes located within the special flood hazard critical area? Within the geologic hazard critical area, critical area buffer, and critical area structure setback?**

Within the flood hazard critical area, expansion of an existing single-family structure is permitted only with reasonable use approval as outlined at LUC 20.25H.190 (see detailed explanation at question 21). However, development over the floodplain is not restricted so long as that development is cantilevered in such a way as to avoid actual construction in the flood plain. Within other critical area buffers and setbacks, expansion is limited to the circumstances outlined at LUC 20.25H.055.C.3.n. Expansion into the critical areas is prohibited under this provision. An applicant may expand into geologic hazard critical area and stream and wetland buffers and setbacks with a critical areas land use permit and critical areas report.

18. **Can a replacement project, i.e. a teardown, qualify under existing single family primary structures provision at 20.25H.055.C.3.n?**

No. The provision is for expansions to existing single family homes, not new homes.

19. **What facts distinguish new home construction in the teardown situation from a major remodel that deconstructs a large portion of the existing home?**

A new home is a complete rebuild. A major remodel retains elements from the existing home, such as the foundation, walls, and utilities.

20. **How has the City applied or defined “an essential component of a single-family residence in 20.25H.055.C.3.n?**

This has been applied to those functional areas—kitchen, bathroom, master bedroom—that depend extensively on internal infrastructure that is not easily moved to another location or where the cost of doing so would be disproportionate. For example, should you seek to expand

your kitchen and the kitchen already intrudes into the critical area buffer or setback, you would not be required to completely revamp the layout of your home to achieve a slightly enlarged kitchen. However, if the proposed expansion were for a media room, spare bedroom, library or extra garage bay, than the expansion away from the critical area buffer or setback would be the preferred option.

- 21. Does 20.25H.055.C.3.n prohibit an existing single-family home from expanding into the special flood hazard critical area 20.25H.055.C.3.n? Can the expansion be permitted under another provision of the code? What is the permit process?**

Unless eligible for a reasonable use exception (see LUC 20.25H.190 through LUC 20.25H.205), LUC 20.25H.055.C.3.n prohibits expansion into the area of special flood hazard under LUC 20.25H.055.B footnote 9. The only means to expand an existing single-family residence into the area of special flood hazard is through a reasonable use exception. Reasonable use exceptions are processed through a critical areas land use permit (LUC 20.30P) in accordance with the performance standards and supplemental criteria listed in LUC 20.25H.190 through LUC 20.25H.205.

- 22. Slopes are not like wetlands which are destroyed by fill when homes are built. Many homes in the Lake Sammamish and Lake Washington shoreline areas were constructed right on the slope and the slopes are still there. How does the City apply 20.25H.055.C.3.n and the prohibition on expansion into the critical area in a geologic hazard area where the existing house is located on what is now viewed as a geologic hazard slope?**

Functional impacts to protected slope areas associated with development are outlined in the City's 2006 CAO update BAS document. An expansion of existing homes into steep slope critical areas is not permitted through LUC 20.25H.055.C.3.n; such expansion is only permitted into critical area buffers and setbacks. Expansion of existing homes into protected slope areas is allowed, however, through the critical areas report process under LUC 20.25H.230 through LUC 20.25H.270 if applicable performance standards and approval criteria can be met.



# MEMORANDUM

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DATE: November 7, 2013

TO: Chair Tebelius and Members of the Planning Commission

FROM: Paul Inghram, AICP, Comprehensive Planning Manager  
*Planning and Community Development*  
[pingham@bellevuewa.gov](mailto:pingham@bellevuewa.gov), 425-452-4070

SUBJECT: 2014 Comprehensive Plan Update – Land Use Element Review; Subarea Boundaries

The November 13, 2013, study session will continue review of the Bellevue Comprehensive Plan as part of the city's major Comprehensive Plan update. Following a series of previous meetings regarding the update of the plan, this study session will seek to recognize information about the Eastgate corridor provided at the meeting and be an opportunity to discuss some of the potential updates to the Land Use Element. This meeting also provides the community with an opportunity to provide additional feedback regarding the proposed new neighborhood boundaries.

No formal action is requested at this study session. Feedback from the Commission is welcome at this study session. Recognizing the full agenda for the meeting, staff would appreciate any initial feedback the Commission is able to provide and will schedule additional study sessions to continue this review at upcoming Commission meetings.

Additionally, we would like to remind you that a joint boards and commissions forum is scheduled for November 19<sup>th</sup>, 7 to 9 PM at Bellevue City Hall in Conference Room 1E-108 regarding the topic of environmental stewardship for the Comprehensive Plan update.

## **BACKGROUND & ANALYSIS**

The Comprehensive Plan captures the community's vision for the future of Bellevue, sets policy that directs City actions and decisions, and guides capital investments. Bellevue is periodically required to update its Comprehensive Plan to ensure continued compliance with the state Growth Management Act and, just as important, to ensure it reflects the dynamic changes and trends that have and will continue to affect the growth of the community. The City's Comprehensive Plan last underwent a major review in 2004. Thus, with adoption scheduled for 2014 it will be a 10-year update of Bellevue's Comprehensive Plan.

The Planning Commission began the update of the Comprehensive Plan with a study session on the Community Vision on June 13, 2012. Following the City Council's formal initiation of the update in October 2012 the Planning Commission has held a number of meetings reviewing the current plan and beginning to look at issues in detail. Attachment 1 provides an updated list of section reviews that have occurred to date. On June 10, 2013, the City Council approved project

principles and a work program that provides direction on the issues and scope of the update. The City has also held various public engagement activities throughout 2013 including public meetings and the Bellevue’s Best Ideas on-line campaign, which was reviewed at the July 24 study session.

**Land Use Element**

The Land Use Element is one of the primary chapters of the Comprehensive Plan. As a mandatory element of the Comprehensive Plan under the state Growth Management Act (GMA), it addresses what type of development should occur and where. The Land Use Element identifies the city’s overall growth strategy and directs what type of uses and activities are appropriate. In doing so, it helps ensure that an appropriate mix of land uses are available to support the city’s economic goals, provide services to residents, and provide an array of choices for where to live. The Land Use Element helps protect sensitive uses and the character of established neighborhoods, while allowing the city to change and evolve over time to meet the needs of its citizens.

The Land Use Element sets expectations for future job and housing growth and it provides a framework for other parts of the plan. City plans for transportation, parks, utilities, and other services are then designed to be consistent with the growth identified in the Land Use Element. In addition to the role of framing the city’s overall strategy and creating connections with other parts of the plan, the current Land Use Element includes the following sections:

<b>LU Section</b>	<b>Description</b>
Growth Management Policies LU-2-6	This section provides policies that include housing and job growth targets, ensure that development is achieving anticipated densities, and ensure an adequate land supply for future development.
Land Use Compatibility Policies LU-7-11	These policies focus on compatibility between land use districts and on in-fill development.
Other Citywide Policies Policies LU-12-18	This section includes policies that address other land use issues, including supporting redevelopment, distribution of parks, preserving open space, access to child care, and land use patterns that promoting walking.
Residential/Neighborhood Areas Policies LU-19-27	Policies in this section seek to maintain and improve Bellevue’s residential neighborhoods, including protecting their character and enhancing services and connections, and support mixed use development where it is compatible in commercial districts.

Commercial and Mixed Use Areas Policies LU-28-37	This section provides direction for the city’s commercial areas. It recognizes Downtown as a designated Urban Center and as the primary local center for surrounding neighborhoods. The section also addresses other commercial areas and the desired direction for commercial, office and industrial lands.
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**Potential Land Use Updates**

Over the course of this year, the Commission has heard a number of staff presentations evaluating the current Comprehensive Plan, including an early review of the Land Use Element on February 13 and discussion of housing and job growth projections on September 28. Meanwhile, the city has worked to engage the community in the update process through a number of meetings, social media and other tools, and has collected feedback from the community throughout the process. Outreach activities will continue throughout the update. City staff has also evaluated the sections of the Comprehensive Plan to identify sections that are out of date, need to be updated to be consistent with state law or regional plans, and other opportunities for improvements. Based on the reviews and comments that have occurred to-date, the following are the types of updates to the Land Use Element that are currently anticipated. As the Commission continues to have discussions about the update of the plan, additional changes are likely to be identified.

**Growth Pattern and Strategy**

The Land Use Element is the place where the city can clearly explain its strategy for organizing future growth so as to be clear both how and where to support new development and whether and where existing areas should be protected. For many years Bellevue has maintained an approach that rather than allow growth to occur broadly across the city, new development would be focused into key commercial and mixed use centers, principally Downtown. Since the last major update, the city has completed planning studies for BelRed, Crossroads and Wilburton. In each case the city envisioned how growth, at varying degrees, would help transform and strengthen these centers. Meanwhile the city continues to work to preserve the character of established residential neighborhoods.

Staff Proposed Response

- Further clarify and support the land use pattern that focuses growth in Downtown and in growth centers.
- Update to reflect the Council’s adopted growth targets and be more consistent with the city’s most recent review of buildable lands.

**Downtown**

While Downtown is recognized as an Urban Center, it has taken on a large share of growth over the past decade, has increased its profile regionally, and is anticipated to accommodate about half of future growth in the city over the next twenty years. An ongoing planning process called Downtown Livability is primarily looking at how to update the city’s land use codes to continue to successfully implement the Subarea Plan for Downtown. While the focus is on the development regulations and design standards, some policy amendments may

result from that planning effort and be incorporated into the citywide update. The Downtown Livability project is about half way through; more should be known about whether it results in plan amendments in the early spring of 2014.

#### Staff Proposed Response

- Provide amendments that are consistent with Downtown Bellevue's current regional role.
- Incorporate recommendations from the Downtown Livability effort.

#### **Growth Centers**

In the past, the city saw these larger commercial areas as key to employment growth. Over the last decade, the role of these areas in employment remains important, while they are now also seen as places for a range of city growth, including residential opportunities, cultural offerings, and local services. The community has also expressed interest in seeing these areas develop distinct identities within the city.

*Eastgate* – Tonight's speaking event and the study session on the Eastgate/I-90 corridor plan will highlight the anticipated vision for the Eastgate area that recognizes its role as one of the city's major employment areas while also seeking to increase economic opportunities, support in-fill development, provide local services, and create some additional opportunity for residential development. While implementation of the vision for the Eastgate area will focus on a number of discrete policy changes to the Richards Valley, Eastgate and Factoria subarea plans, the Land Use Element may be updated to improve how it recognizes and supports the city's growth centers like Eastgate. More information about the Eastgate planning effort is provided in a separate memorandum.

*BelRed* – In 2009 the city completed a multi-year planning effort that re-envisioned BelRed as a place of new, urban neighborhoods centered on planned light rail stations. These neighborhoods will include a broad mix of uses, an array of housing choices, new jobs and restore ecological functions. With a focus on creating livable communities, BelRed will provide the city with a different economic niche from Downtown and an additional opportunity for people to live near major employers like Microsoft and Paccar.

*Wilburton* – The city completed a modest plan update in 2007 that addressed the Wilburton commercial area, but left some questions unanswered. It is anticipated that additional planning for the Wilburton commercial area will be necessary in the future.

#### Staff Proposed Response

- Update the Land Use Element to recognize the more recent planning for these centers and to provide appropriate direction for future planning efforts.

#### **Other Centers**

Comments during early public outreach emphasized a desire to support existing neighborhood centers and to provide opportunities for local community gathering. While the Commission will be asked to look at this issue in greater detail in January, these early public comments build on what the city has heard for years while working on plans for Crossroads,

Lake Hills and Newport Hills. The community puts a high degree of value on its local centers. People enjoy convenient access to restaurants and services. These local centers help define their neighborhoods and give people an option that doesn't require driving across town.

Traditionally, Bellevue carefully delineated land use designations so that individual uses would be located in individual districts. As more commercial centers become a mixture of uses, some of these policies may need updating to better address the need to maintain an area's character, while allowing for appropriate development flexibility to ensure the continued success of these centers.

Additionally, the city is at the beginning of a process of planning for neighborhoods around light rail stations. That effort will look at how neighborhoods access to stations can be enhanced and neighborhood character maintained. In the limited cases where land use changes are considered near new stations, those planning amendments would likely occur after the citywide wide update in 2014. However, early work of planning for these areas may identify the need for some initial land use amendments, especially regarding compatibility and protection of established areas.

#### Staff Proposed Response

- Increase support for local centers and new ways of providing local community gathering opportunities. Further discussion on this is planned for January 8, 2014.
- Update policies to better address the need to maintain a center's character, while allowing for appropriate development flexibility.
- Potential land use amendments based on the station area planning effort.

#### **Residential Areas**

Bellevue has traditionally sought to protect the character of its established residential areas. Little change may be needed to the existing Land Use policies that support this protection. As the update review occurs, we can look at whether modest changes are needed to support how neighborhoods see themselves evolving over the next two decades.

#### Staff Proposed Response

- Review policies for potential minor changes to ensure that they continue to support neighborhood character.
- Review related housing policies as part of the Housing Element review.

#### **Community Health**

Community health is a largely new policy area that was identified during the scoping process for the plan update. In recent years there has been increasing research about the role of land use, transportation and other elements of plans that contribute to public health. More information on this topic is planned to be presented to the Commission on March 12, 2014.

Staff would appreciate hearing whether the proposed responses above are on the right track. It is recognized that these issues are described at a high level and that additional review will be needed as the issues are further explored and policies are drafted.

Additional time will be scheduled for land use issues to continue this review. Several upcoming study sessions are anticipated that will look at some of these issues in greater detail, including:

- December 11 – Housing policies
- Jan 8 – Neighborhood centers and community gathering
- March 12 – Community health

### **Subarea Plan Updates**

With the establishment of the work program for the 2014 Comprehensive Plan update the City Council identified a need to define a process to update Bellevue's subarea plans and the subarea boundaries. Council also directed review of two specific subarea boundary requests. The Planning Commission had an initial discussion of the subarea plans and potential new boundaries at its meeting on October 23. This study session is an opportunity for the community to continue to review the proposed boundaries and provide any input they have about how their subarea plans are working.

Bellevue is composed of 14 distinctive subareas, each with its own character and development. The City Council acknowledged that developing a subarea update approach is an important consideration in the 2014 Comprehensive Plan update. The Council also affirmed that community engagement during the update will be a key opportunity to ask neighborhoods about their subarea plans and whether they feel changes are needed. Council noted that the actual work and community process to update the individual subarea plans would require additional time and resources that would stretch beyond the 2014 Comprehensive Plan work program. With this in mind, the City Council directed that subarea plans be updated starting in 2015, based on an initial screening and with extensive community input to determine the prioritization of those updates.

### **NEXT STEPS**

Review of the Comprehensive Plan update will continue at future study sessions. The objective is to work through issues and specific policy areas over the fall and winter so as to enable preparation of an updated draft in the spring of 2014.

The Planning Commission's meeting on December 11 is scheduled to include speakers – Jon Talton, the economist from the Seattle Times, and Greg Johnson, from the Wright Runstad Company – to talk about growth and development in Bellevue and regionally. That meeting is also scheduled to include additional review of policy areas.

## **ATTACHMENTS**

1. List of Element and Chapter Reviews
2. Draft Comprehensive Plan Update Schedule
3. Potential Neighborhood Areas Map

Copies of the current Comprehensive Plan were previously distributed to the Planning Commission. It is also available online: [http://www.ci.bellevue.wa.us/comprehensive\\_plan.htm](http://www.ci.bellevue.wa.us/comprehensive_plan.htm)

### Element and Chapter Reviews

Chapter or Element	Description	PC Review
Introduction	The first chapter the public sees. Historic context for the Comprehensive Plan and holds the future-oriented Vision 2025, establishing the vision for what the community wants to be like in the future.	6/13/12
Citizen Participation	Policy for how the public engages and influences city planning.	4/10/13
Land Use	General location and distribution of land uses within the city and provides the framework for other plan elements.	2/13/13 9/25/13
Housing	This element seeks to maintain the strength, vitality, and stability of single family and multifamily neighborhoods and promote a variety of housing opportunities to meet the needs of all members of the community.	3/13/13 7/10/13
Capital Facilities	Seeks to provide adequate public facilities and ensure that needed public facilities are available when the growth occurs.	6/26/13
Utilities	Seeks to ensure that Bellevue has utility capacity to adequately serve anticipated growth.	6/26/13 9/25/13
Transportation	Addresses mobility for residents and businesses through the creation and maintenance of a balanced transportation system.	6/12/13
Economic Development	Guides efforts to market the city, offer services to businesses, and guide decision making as they pertain to the success of businesses, employees, and related services.	6/26/13
Environmental	Seeks to maintain the natural environment and protect critical areas.	7/10/13
Human Services	Seeks to create a community in which all members have the ability to meet their basic physical, economic, and social needs, and the opportunity to enhance their quality of life.	3/13/13
Parks, Open Space and Recreation	Addresses acquiring, developing and maintaining the park system, open space and habitat, and providing community services.	6/12/13 7/24/13
Shoreline Management Program	Addresses use of lands at the shoreline. Previously reviewed as part of the SMP Update project.	N/A
Urban Design	Guides the design of public and private development.	6/12/13
Annexation	Manages the city's growth through annexation. Historically significant, now, with annexations nearly complete, it has less relevance.	4/10/13

**DRAFT**  
 Planning Commission Comprehensive Plan Update Schedule  
 November 7, 2013

*\* dates are likely to change; other agenda items are not shown at this time*

<u>Theme</u>	<u>Planning Commission or Joint Meeting</u>	<u>Other known items</u>
Eastgate	Nov 13 – <i>at Bellevue College</i> <ul style="list-style-type: none"> <li>• Eastgate speakers and plan</li> <li>• Land use policy review, part 1</li> </ul>	(ongoing CPU outreach activities)
Environment	<i>Nov 19 - Env Stewardship joint commissions meeting</i>	
Future Development	Dec 11 – <ul style="list-style-type: none"> <li>• Future development &amp; BelRed – Seattle Times economist; Wright Runstad</li> <li>• Potential topics include urban design, housing, and human services policy review</li> </ul>	
Community Gathering	Jan 8 – <i>at Crossroads CC</i> <ul style="list-style-type: none"> <li>• Speakers on neighborhood centers and community gathering</li> <li>• Potential topics include land use and house policy, subarea plan boundaries, and the Eastgate plan</li> </ul>	
Vision	Jan 22 <ul style="list-style-type: none"> <li>• Vision Update following a series of public engagements</li> <li>• Potential topics include subarea plan boundaries, environmental, and public participation policies</li> <li>• Comprehensive Plan update</li> </ul>	
Culture & Diversity	Feb 12 – <i>Joint Commissions Meeting</i> <ul style="list-style-type: none"> <li>• Speakers and workshop on culture and diversity</li> <li>• Culture and diversity policy review</li> </ul>	(ongoing outreach activities)
Economic Development	Feb 26 <ul style="list-style-type: none"> <li>• Council’s Economic Strategy presentation</li> <li>• Potential topics include economic development, education , transportation, and utilities policy review, and review the Eastgate plan</li> </ul>	

Community Health

Mar 12

- Speakers on community health
- Potential topics include health related policies and parks and recreation

Mar 26 – *at South Bellevue CC*

- Potential topics include review of the Eastgate plan, and partnerships & collaboration
- 

(ongoing outreach activities)

Joint CPU Review

*May 14 – Joint Commissions Meeting*

- Comprehensive Plan update - joint meeting with boards/commissions to review draft

CPU public hearing

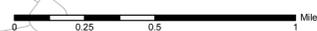
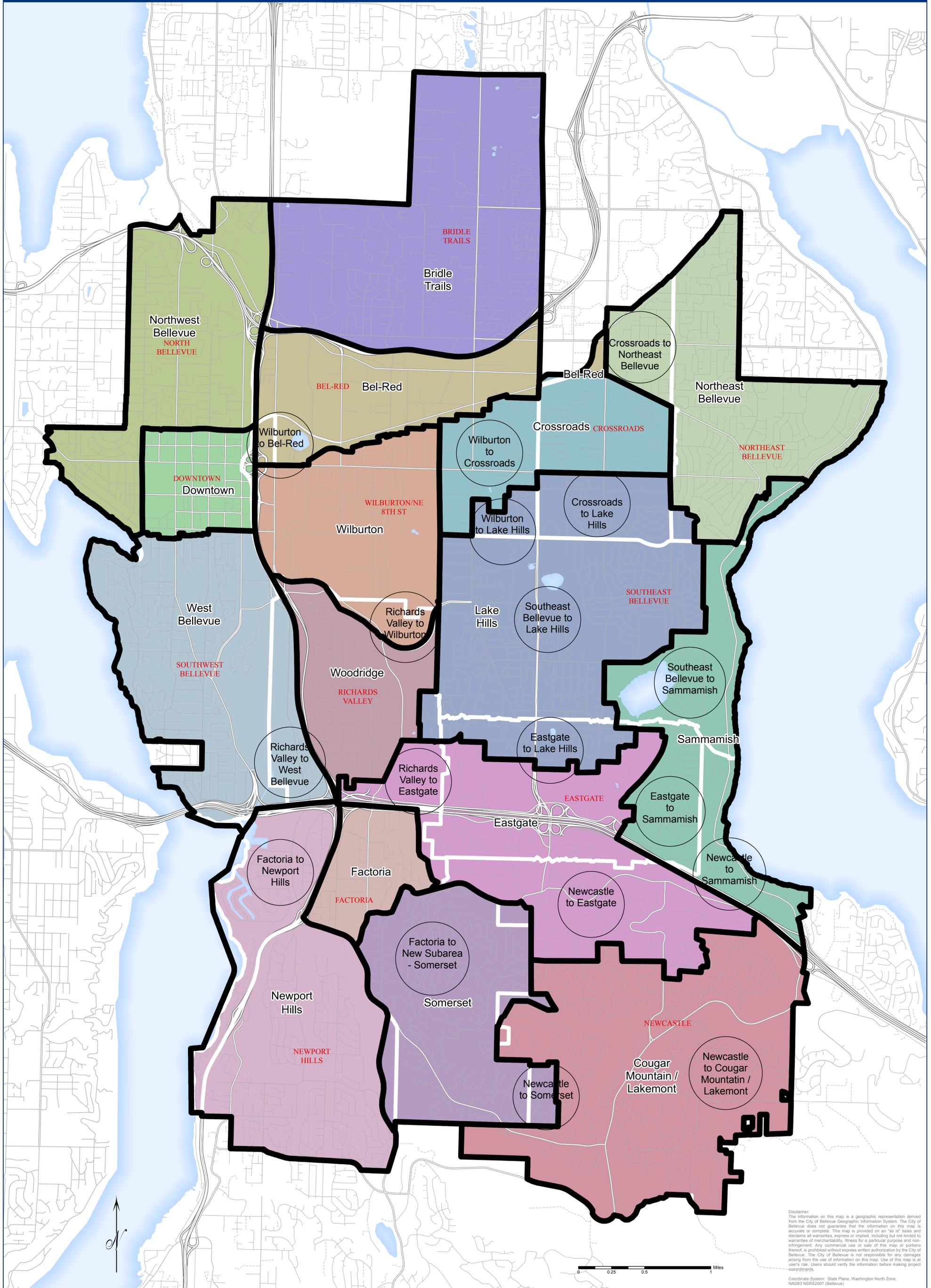
June 25

- Comprehensive Plan update public hearing

***DRAFT***

# Potential Neighborhood Areas

With Current Subarea Boundaries



Disclaimer:  
The information on this map is a geographic representation derived from the City of Bellevue Geographic Information System. The City of Bellevue does not guarantee that the information on this map is accurate or complete. This map is provided on an "as is" basis and disclaims all warranties, express or implied, including but not limited to warranties of merchantability, fitness for a particular purpose and non-infringement. Any commercial use or sale of this map or portions thereof, is prohibited without express written authorization by the City of Bellevue. The City of Bellevue is not responsible for any damages arising from the use of information on this map. Use of this map is at user's risk. Users should verify the information before making project commitments.

Coordinate System: State Plane, Washington North Zone, NAD83 NRSR2007 (Bellevue)





## Planning Commission Schedule

November 13, 2013

The Bellevue Planning Commission meets Wednesdays as needed, typically two or three times per month. Meetings begin at 6:30 p.m. and are held in the Council Conference Room (Room 1E-113) at City Hall, unless otherwise noted. Public comment is welcome at each meeting.

The schedule and meeting agendas are subject to change. Please confirm meeting agendas with city staff at 425-452-6868. Agenda and meeting materials are posted the Monday prior to the meeting date on the city's website at:

[http://www.bellevuewa.gov/planning\\_commission\\_agendas\\_2013.htm](http://www.bellevuewa.gov/planning_commission_agendas_2013.htm)

<b><u>Date</u></b>	<b><u>Tentative Agenda Topics</u></b>
<b>Nov 27</b>	No meeting
<b>Dec 11</b>	<i>Speaker session may have an early start time</i> Comprehensive Plan update speaker series – Seattle Times economist Jon Talton and Wright Runstad SMP conformance amendments, potential public hearing Comprehensive Plan update policy review – urban design and human services
<b>Dec 25</b>	No meeting
<b>Jan 8</b>	At Crossroads Comprehensive Plan Update - Neighborhood centers and community gathering
<b>Jan 22</b>	Comprehensive Plan Update – Community Vision
<b>Feb 12</b>	Comprehensive Plan Update – Culture and Diversity
<b>Feb 26</b>	Economic Development Strategy Comprehensive Plan Update 2014 Annual Comprehensive Plan Amendments





DATE: November 5, 2013

TO: Chair Tebelius and Members of the Planning Commission

FROM: Paul Inghram, AICP, Comprehensive Planning Manager  
*Planning and Community Development*  
[pinghram@bellevuewa.gov](mailto:pinghram@bellevuewa.gov), 425-452-4070

SUBJECT: Speakers Event – Eastgate Corridor

At the invitation of the Planning Commission, the following speakers will share their perspectives on the Eastgate corridor.

Ray White is Vice President of Administrative Services at Bellevue College. Bellevue College is the state's third largest institution of higher learning with more than 37,000 students. Mr. White oversees several functional areas of the college, including finance, the physical plant, public safety, capital projects, and auxiliary services (such as the bookstore, food service and the child care center). White comes to Bellevue College from Whatcom Community College in Bellingham, where he served for 11 years as Vice President for Administrative Services, and has 20 years of experience working in the state's community and technical college system. An accountant by trade, he began teaching business classes at North Seattle Community College in 1992; in 1999, he left his Seattle practice to become a full-time educator.

Pat Callahan is the CEO of Urban Renaissance Group (URG), which he founded in 2006. Urban Renaissance Group pursues real estate development and acquisition opportunities in Seattle, Portland, and Denver. Urban Renaissance Group has been recognized by NAIOP with multiple awards and by the Puget Sound Business Journal as one of the fastest growing private companies in the region (2012 and 2013). Prior to Urban Renaissance Group, Pat was Senior Regional Vice President at Equity Office Properties. EOP owned over five million square feet of office space in Bellevue from 2001 through 2007, and first invested in Bellevue in 1997.

URG represents Beacon Capital, which owns Lincoln Executive Center located on Eastgate Way west of 146th Place (adjacent to the Bank of America). Beacon also owns Sunset North and Eastgate Office Park. URG has contemplated expansion of Sunset North and the redevelopment of Lincoln Executive Center as the city has conducted the Eastgate/I-90 planning effort.

This panel of invited speakers will share their individual perspectives on the Eastgate corridor, including the background and character of the area, the potential for the future, and how Eastgate fits into the city and the region. Mr. White will be able to speak to the history and growth of

Bellevue College, the character of the student body, and how the college may continue to change. Mr. Callahan will be able to speak to the potential for redevelopment and the area's competitive strengths compared to the region.

If available, a neighborhood representative may join the panel to provide a perspective from the neighboring residential area.

This presentation is intended to help provide context for upcoming work to implement the Eastgate/I-90 corridor study and as part of the update to the city's Comprehensive Plan. A brief study session on the Eastgate/I-90 corridor is scheduled for later in the Planning Commission's meeting.

Following the presentations there will be time for questions and answers from the Commission and the audience. If a member of the audience has a question for the speakers, they will be asked to fill out a notecard and hand it to city staff.