



DATE: April 23, 2009

TO: Chair Orrico, Members of the Planning Commission

FROM: Catherine Drews, Legal Planner
Cheryl Kuhn, Neighborhood Outreach Manager
Matthews Jackson, Neighborhood Development Planning Manager

SUBJECT: Staff Report - Neighborhood Livability Phase II LUCA; File No. 08-112681 AD

This memorandum presents the report and recommendation of the Department of Planning and Community Development (PCD) on proposed Land Use Code (LUC) amendments and amendments to the Bellevue City Code (BCC) to implement Phase II of the Neighborhood Livability Action Agenda. Copies of the proposed ordinances are included with this memorandum as Attachments A and B.

Following the public hearing scheduled for May 13, 2009, and consideration of public comment, staff recommends that the Planning Commission make a recommendation to the City Council regarding adoption of the proposed code amendments as included in Attachment B.

I. BACKGROUND

Planning Commission discussion of Neighborhood Character issues began in April 2007 and culminated in December 2007 with City Council adoption of Phase I regulatory solutions to address relatively straightforward concerns about neighborhood redevelopment impacts, including loss of trees and greenscape, loss of light and privacy, and impacts of construction-related activities (Ordinance No. 5791). The Council directed that a second phase of outreach and discussion focus on solutions to the remaining, more complex issues of building bulk and scale.

The Commission re-engaged in the Neighborhood Character discussion in February 2008 and worked on Phase II recommendations over the course of three meetings – March 19, May 7, and May 27, 2008. The Commission's Phase II recommendations received generally favorable comments when presented at a July 14, 2008, City Council study session. At the same time, Council members asked for exploration of additional options and more information on the impacts of certain proposals. In two meetings, September 10 and 24, 2008, the Planning Commission modified its Phase II recommendations for re-submission to Council on December 1, 2008.

After the December 1, 2008, study session, City Council members directed that height limitations be explored as a potential solution to community concerns about the size and scale of large new homes in existing neighborhoods. The Council agreed that code language addressing

single family building height should be presented as an alternative for public comment, in addition to the combination of setbacks and daylight plane standards proposed by the Planning Commission for homes exceeding a certain size (0.5 gross floor area ratio). These additional discussion items were presented to the Planning Commission during the March 25, 2009, study session.

II. PROPOSAL

Based on considerable research and extensive public discussions, Staff recommends approval of the following code amendments to address neighborhood character elements to implement Phase II of the Neighborhood Livability Action Agenda. Specifically, staff recommends the following code amendments:

Proposed amendments to the Bellevue City Code (Attachment A) – These proposed amendments to the Bellevue City Code emerged from previous Planning Commission and City Council discussions, and are now presented for the Planning Commission’s information and comment. The Planning Commission is not the hearing body for these amendments, which will be considered for Council adoption separately from the Land Use Code amendments, however, they are included for your reference.

- 1. Reduce evening construction hours for remodels.** Establish construction noise hours for remodels and additions as 7 a.m. to 8 p.m. on weekdays, and 9 a.m. to 8 p.m. on Saturdays and Sundays (previously 7 a.m.-10 p.m. and 9 a.m.- 10 p.m.)
- 2. Limit impacts of vacant or abandoned homes and construction sites.** Establish property maintenance standards specifically applicable to abandoned building sites and vacated houses; enforce on a complaint basis.
- 3. Reduce building permit lifespan from three years to two years for single-family residential construction.**

Proposed amendments to the Land Use Code (Attachment B)

- 1. Increase tree retention for subdivisions.** Require 30 percent retention of significant trees in new subdivisions – an increase from the current 15 percent retention requirement.
- 2. Reduce mechanical equipment impacts.** Require new single family homes and homes adding more than 1,000 square feet to locate HVAC in the back yard or, if HVAC units are located in the side yard, require sound screening and prohibit placement within the five-foot minimum side setback.
- 3. Protect neighbors’ privacy and access to sunlight by establishing special development standards for homes exceeding a size threshold.** Calculate gross Floor Area Ratio (FAR) for new single family homes in existing neighborhoods. For projects exceeding the FAR threshold of 0.5, establish the following additional requirements:

- a. Establish minimum setbacks of 7.5 feet on both sides; AND,
- b. Incorporate EITHER daylight plane standards (roof pitch of 45 degrees beginning 10 feet above grade),) OR second story setbacks.
- c. Apply the above rules to new single family homes in existing neighborhoods (teardowns and vacant lots), new short plats, and existing single family homes adding more than 20 percent of gross floor area. Provide exemption for single lots in new neighborhoods where the character of the neighborhoods is just being established.
- d. Further exempt building projects that can demonstrate lack of impact on adjacent properties (due to the fact that neighboring properties are already built to dimensions which would exceed these standards).

In addition to the above proposals, the Planning Commission is asked to invite public comment on two alternatives pertaining to the height of buildings in existing single family neighborhoods. These proposals could be adopted singly or together, separately or in concert with the Commission's threshold development standards proposal:

- 1. Establish maximum building heights** for new construction or remodels in existing single family neighborhoods. Maximum heights, measured from the average existing grade, would be 35 feet to the ridge of a pitched roof, or 30 feet to the top of a flat roof.
- 2. Establish 40 feet as the maximum height of any individual building façade** of any new construction or remodel in an existing single family neighborhood. The façade height would be measured from the ground level to the ridge of the roof.

III. STATE ENVIRONMENTAL POLICY ACT

The Environmental Coordinator for the City of Bellevue has determined that the substantive changes included in this proposal will not result in any probable, significant, adverse environmental impacts. A final threshold determination of non-significance (DNS) was issued on April 23, 2009. The final DNS is attached to this memorandum as Attachment C.

IV. PUBLIC NOTICE, PARTICIPATION, COMMENT AND RESPONSE

This Land Use Code Amendment was introduced to the Planning Commission at a study session in February 2008 and Phase II recommendations were considered during three additional meetings – March 19, May 7, and May 27, 2008. The Commission's Phase II recommendations were presented at a July 14, 2008, City Council study session. At Council direction, the Planning Commission discussed and modified its Phase II recommendation during two additional meetings held on September 10 and 24, 2008. This recommendation was sent back to the Council for study session on December 1, 2008. Phase II recommendations were further discussed by the Planning Commission on March 25, 2009, and the Planning Commission gave

staff direction to set a public hearing for May 13, 2009. Notice of the Public Hearing before the Planning Commission, staff recommendation, and SEPA determination (DNS) was published in the Weekly Permit Bulletin on April 23, 2009. The public hearing is scheduled to be held on May 13, 2009.

A courtesy public hearing on the proposal was held with the East Bellevue Community Council (EBCC) on April 7, 2009. The EBCC had several questions regarding components of the proposed amendments and provided favorable feedback.

Pursuant to the requirements of the Growth Management Act, state agencies must be given an opportunity to review and comment on proposed amendments to the LUC. Copies of the draft ordinances were provided to the state agencies for review on March 30, 2009.

V. APPLICABLE DECISION CRITERIA – LAND USE CODE PART 20.30J

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

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

The proposed amendments are consistent with the Comprehensive Plan. The proposed amendments are intended to promote a graceful transition within neighborhoods that are experiencing redevelopment. Several Comprehensive Plan policies support infill development that is compatible and complimentary to existing neighborhoods.

Policy HO-3. Refine Land Use Code standards to improve the compatibility of single family infill development with the neighborhood.

Policy HO-17. Encourage infill development on vacant or under-utilized sites that have adequate urban services and ensure that the infill is compatible with the surrounding neighborhoods.

Policy LU-9. Maintain compatible use and design with the surrounding built environment when considering new development or redevelopment within an already developed area.

Policy LU-21. Develop land use strategies to encourage the maintenance and updating of the city's older housing stock, so that neighborhoods are well maintained and existing housing is preserved, updated, or modified to meet the evolving needs of residents.

Additional policies within the Comprehensive Plan support the retention of significant vegetation as well as the use of native species as a reflection of the natural character of Bellevue.

Policy EN-44. Regulate land use and development to protect natural topographic, geologic, vegetational, and hydrological features.

Policy EN-49. Preserve existing vegetation or provide or enhance vegetation that is compatible with the natural character of Bellevue.

Policy EN-67. Preserve a proportion of the significant trees throughout the city in order to sustain fish and wildlife habitat.

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

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

Implementation of the Comprehensive Plan through the City's development regulations is an appropriate use of City authority, and fulfills the GMA mandate for consistency between the City's Comprehensive Plan and Land Use Code. The proposed amendments serve the public health, safety, and welfare by addressing issues of neighborhood character associated with new development and redevelopment by mitigating impacts to privacy, access to light, and the preservation of significant trees.

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

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

VI. RECOMMENDATION

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

ATTACHMENTS

- A. Reference Draft Bellevue City Code Amendments
- B. Draft Ordinance for Land Use Code Amendments
- C. Determination of Non-significance

ATTACHMENT A

PROPOSED AMENDMENTS TO BELLEVUE CITY CODE NEIGHBORHOOD LIVEABILITY PHASE II Last Revised: March 19, 2009

1. Proposed amendment to modify construction noise hours for single family repairs, additions, remodels, and maintenance.

Section 9.18.020 Exemptions.

B. The following sounds are exempt from the provisions of this chapter at all times if the receiving property is in Class B and Class C EDNAs, and between the hours of 7:00 a.m. and 10:00 p.m. on weekdays and 9:00 a.m. and 10:00 p.m. on weekends if the receiving property is located in a Class A EDNA (except as noted below):

1. Sounds created by bells, chimes and carillons not operating continuously for more than five minutes in any one hour; and
2. Sounds created by the repair or installation of essential utility services and streets; and
3. Construction sounds relating to temporary repairs, additions, remodels, or maintenance projects on existing single-family homes, grounds and appurtenances. Construction sounds related to the above activities must cease by 8:00 p.m. -(except that sounds created by heavy equipment will be regulated pursuant to the construction noise exemption contained in subsection C of this section); and
4. Sounds emanating from discharge of firearms on legally established shooting ranges; and
5. Sounds created by repairing, rebuilding, modifying, operating or testing any motor vehicle or internal combustion engine (except for portable and stationary generators located in a Class A EDNA which are exempt only during the hours of 9:00 a.m. to 6:00 p.m. daily when electrical service is available from the primary supplier and except for heavy equipment, which will be regulated pursuant to the construction noise exemption contained in subsection C of this section); and
6. Sounds created by commercial business activity including, but not limited to: handling containers and materials; or sweeping parking lots and streets (except sweeping parking lots of businesses engaged in retail trade as defined in the Standard Industrial Classification Manual is exempt until 12:00 midnight); or boarding domestic animals (except expanded hours of operation may be authorized by the applicable department director).

2. Proposed new chapter 9.13 BCC to address minimum maintenance standards for vacant residences and abandoned construction sites.

Section 2. There is hereby adopted a new Chapter 9.13 to Title 9 of the Bellevue City Code to read:

Chapter 9.13 Minimum Maintenance Standards for Vacant Residences and Abandoned Construction Sites

9.13.010 General.

A. Purpose and Intent.

It is the purpose and intent of this chapter to protect the public health, safety, and welfare by establishing minimum maintenance standards for vacant residences and abandoned single-family construction sites to prevent deterioration, public nuisances, health and safety hazards, and other harmful effects associated with vacant residences and abandoned construction sites in single-family neighborhoods.

B. Applicability

The provisions of this chapter shall apply to all Single Family Residential Land Use Districts (R-1 – R-7.5). If there is conflict between this chapter and Title 23, Construction Codes, the more stringent provisions shall apply.

C. Fire Inspections.

The City may periodically inspect vacant residences and abandoned construction sites to determine compliance with applicable fire codes and other requirements.

9.13.020 Definitions.

The following definitions are specific to this chapter and shall have the following meaning:

Abandoned Construction Site. A lot or group of lots, including subdivisions, building or buildings or other development where construction has occurred, but the property owner has ceased work for any reason for a period of 90 days. A valid building permit or other permit or approval issued by the City does not alter the status of a construction site deemed abandoned.

Building. Any structure used or intended for supporting or sheltering any use or occupancy.

Erosion means the wearing away of the land surface by running water, wind, ice, or other geological agents, including such processes as gravitational creep.

Erosion and Sediment Control BMPs means BMPs that are intended to prevent erosion and sedimentation, such as preserving natural vegetation, seeding,

mulching and matting, plastic covering, filter fences, sediment traps, and ponds. Erosion and sediment control BMPs are synonymous with stabilization and structural BMPs.

Owner. "Owner" means any person, agent, firm, or corporation having a legal or equitable interest in the property.

Premises. The land and the buildings or residences upon it.

Site Stabilization. Site stabilization means establishing a permanent vegetative cover, or equivalent permanent stabilization measures (such as riprap, gabions or geotextiles) which prevents erosion.

Vacant Residence. "Vacant residence" shall mean any dwelling unit as defined in the City of Bellevue Land Use Code, section 20.50.016, now or as hereafter amended, or other structure that is or remains unoccupied or unused for 90 or more consecutive days.

Vegetation. Vegetation means any organism of the vegetable kingdom, including grasses, herbs, shrubs, and trees. For the purposes of this chapter, weeds are excluded from the definition of plants.

Weed. Plants considered unwanted, undesirable, or troublesome.

9.13.030 Vacant Residence or Abandoned Construction Sites Owner Responsibilities

All vacant residences and abandoned construction sites shall be maintained in a clean, safe, and sanitary condition. Any violations of this title shall constitute a public nuisance.

9.13.040 Minimum Maintenance Standards for Vacant Residences and Abandoned Construction Sites

The provisions of this chapter shall govern the minimum maintenance standards and the responsibilities of owners for vacant residences, premises, and abandoned construction sites. Premises shall be free from safety, health, and fire hazards and shall comply with these maintenance standards.

A. Premises. The premises shall be clean, safe, and sanitary, free from waste, garbage, excessive vegetation, and shall not pose a threat to the public health, welfare, or safety. Effective measures shall be taken to protect against the breeding or presence on the premises of vermin. The premises or yard shall be maintained free from turf grasses in excess of 12 inches and weeds. Owners shall also comply with the provisions of chapter 14.06 BCC.

B. Erosion Control. Construction sites shall be stabilized to prevent erosion using appropriate erosion and sediment control BMPs. Owners shall inspect, maintain,

and repair all erosion and sediment control BMPs as needed to assure continued performance of their intended function in accordance with BMP specifications.

C. Building or Structure. Building or structures shall be maintained in good repair and be structurally sound. Structural members shall be free of deterioration and capable of safely bearing imposed dead and live loads. Buildings or structures shall be free from safety, health, and fire hazards.

D. Exterior Surfaces. All exterior surfaces, such as walkways, driveways, parking spaces, and similar areas shall be kept in a proper state of repair and maintained to allow safe passage and use.

E. Building Openings. All doors, windows, and other openings shall be weather-tight and secured against entry by birds, vermin, and trespassers. Missing or broken doors, windows, and other openings shall be covered by glass, plywood, or other weather-resistant materials and tightly-fitted and secured to the opening.

F. Foundation Walls. Foundation walls shall be maintained structurally sound and in a sanitary condition so as not to pose a threat to the public health and safety, and shall be free from open cracks, breaks, and leaks, and be animal and vermin proof.

G. Exterior Walls. Exterior walls shall be free of holes, breaks, and loose or rotting materials. Exposed metal, wood, or other surfaces shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

H. Exterior Features. All chimneys, decks, balconies, canopies, awnings, exhaust ducts, cornices, corbels, trim, wall facings, and similar features shall be safe, anchored, and in good repair. Exposed metal, wood, or other surfaces shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

I. Roofs. The roof and flashings shall be sound and tight, not let in moisture, or have defects that might admit moisture, rain, or roof drainage, and allow for drainage to prevent dampness or deterioration in the interior walls or interior of the building. Drains, gutters, and down spouts shall be maintained and properly secured.

J. Automobiles and Litter. Owners shall comply with chapters 9.09 (Abatement of Junk Vehicles) and 9.11 (Anti-litter). Parking or storage of recreational vehicles, watercraft (whether mounted on trailers or unmounted), or utility trailers, is prohibited within a Residential Land Use District (R-1 – R-7.5); except in compliance with the Bellevue Land Use Code, sections 20.20.720 and 20.20.890.

9.13.050 Violations

A. The violation of or failure to comply with any provision of this chapter is declared to be unlawful.

B. Any violation of any provision of this chapter is a civil violation as provided for in Chapter 1.18 BCC, for which a monetary penalty may be assessed and abatement may be required as provided therein.

C. In addition to or as an alternative to any other penalty provided by this chapter or by law, any person who violates any provision of this chapter shall be guilty of a misdemeanor.

3. Proposed amendment to modify the length of residential building permits.

Section 3. Section 23.05.100.E of the Bellevue City Code is hereby amended as follows:

E. Expiration of Permits and Single-Family Residential Permits.

1. Every permit issued by the building official under the provisions of this chapter shall expire by limitation and become null and void if the building or work authorized by such permit is not commenced within one year from the date of such permit, or if work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days, ~~except that the building official may extend single-family permits for an additional period of up to 180 days at his sole discretion.~~

2. ~~Except as provided in subsection 3 below, P~~permits issued under which work is continuously performed and the necessary periodic inspections are made shall be extended beyond the one-year period by the building official for a period of no more than one year. No more than two one-year extensions shall be granted, ~~except that the building official may extend single-family permits for an additional period of up to 90 days at his sole discretion.~~

3. Single-Family Residential Permits. Building permits issued for single-family residential projects located in Residential Land Use Districts (R-1 – R-7.5), under which work is continuously performed and the necessary periodic inspections are made shall be extended beyond the one-year period by the building official for a period of no more than one year. For single-family residential projects, no more than one one-year extension shall be granted.

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CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. _____

AN ORDINANCE amending the Bellevue Land Use Code relating to Phase II of the Neighborhood Livability Agenda, specifically amending Land Use Code Sections, 20.20.010, 20.20.525, 20.20.900, and 20.50.016 of the Bellevue Land Use Code; providing for severability and establishing an effective date.

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

WHEREAS, the City adopted a phased approach to address areas of neighborhood concern; and

WHEREAS, on December 3, 2007, the City Council adopted ordinances 5791 and implementing Phase 1 of the Neighborhood Livability Action Agenda; and

WHEREAS, the City seeks to implement Phase II of the Neighborhood Livability Action by modifying the Land Use Code to address concerns related to size, scale, and character of new single-family dwellings; and

WHEREAS, the Environmental Coordinator for the City of Bellevue determined that this proposal will not result in any probable, significant, adverse impacts and as such a final threshold determination of non-significance (DNS) was issued on April 23, 2009; and

WHEREAS, the Planning Commission held a public hearing on May 13, 2009 with regard to proposed Land Use Code and Bellevue City Code amendments contained herein; and

WHEREAS, the Planning Commission recommends that the City Council approve such proposed amendments, now, therefore;

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

Section 1. Section 20.20.010 of the Bellevue Land Use Code is hereby amended as follows:

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20.20.010 Uses in Land Use Districts Dimensional Requirements.

Chart 20.20.010 - Uses in Land Use Districts Dimensional Requirements.

STD LAND USE CODE REF	LAND USE CLASSIFICATION	Residential										
		R-1	R-1.8	R-2.5	R-3.5	R-4	R-5	R-7.5*	R-10	R-15	R-20	R-30
	DIMENSIONS	(42)	(42)	(42)	(42)	(42)	(42)	(42)				
	Minimum Setbacks of Structures (feet) Front Yard (18) (20) (38) (39)	35	30	20	20	20	20	20	20	20	20	20
	Rear Yard (11) (17) (18) (20) (38) (39)	25	25	25	25	20	20	20	25	25	25	25
	Side Yard (11) (17) (18) (20) (38) (39)	5	5	5	5	5	5	5	5	5	5	5(1)
	2 Side Yards (17) (18) (20) (38) (39)	20	15	15	15	15	15	10	15	15	15	15
	Minimum Lot Area Acres (A) or Thousands of Sq. Ft. (3) (39)	35	20	13.5	10	8.5	7.2	4.7	8.5	8.5	8.5(12)	8.5(12)
	Dwelling Units per Acre (15) (21) (22)	1	1.8	2.5	3.5	4	5	7.5	10	15	20	30
	Minimum Dimensions (feet) Width of Street Frontage	30	30	30	30	30	30	30	30	30	30	30
	Width Required in Lot (4)	100	90	80	70	65	60	50	70	70	70	70
	Depth Required in Lot (4)	150	80	80	80	80	80	80	80	80	80	80
	Maximum in Building Height (feet) (10) (19) (26)	30	30	30	30	30	30	30	30	30	30 (5)	40
	Maximum Lot Coverage by Structures (percent) (13) (14) (16) (26) (27) (37) (39)	35	35	35	35	35	40	40	35	35	35	35
	Maximum Impervious Surface (percent) (35) (37) (39)	50 (36)	50 (36)	50 (36)	50 (36)	50 (36)	55 (36)	55 (36)	80	80	80	80
	Minimum Greenscape Percentage of Front Yard Setback (40)	50 (40)	50 (40)	50 (40)	50 (40)	50 (40)	50 (40)	50 (40)				

Note 42 – Floor Area Ratio (FAR) Threshold: Development which exceeds a gross Floor Area Ratio (FAR) threshold of 0.5, shall comply with the following requirements:

- (a) **Applicability:** FAR threshold requirements are applicable to new single family homes and additions to existing homes that result in a 20 percent or greater increase in gross square feet.

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- (b) Maintain a minimum structure setback of 7.5 feet for each side yard; AND, incorporate either daylight plane standards or a second story stepback of not less than 5 feet on each side of the building facing a side yard property line.
- (c) Exemptions: New single family homes constructed as part of a Subdivision pursuant to Part 20.45A LUC or Planned Unit Development Part 20.30D LUC are not subject to FAR threshold requirements. The Director may modify the FAR threshold requirements on either side of the structure where it can be demonstrated that the adjacent structure has been constructed at an FAR that exceeds the 0.5 threshold and the adjacent structure is built to dimensions which exceed the requirements noted in paragraph b above.

Section 2. Section 20.20.525 of the Bellevue Land Use Code is hereby amended as follows:

20.20.525 Mechanical equipment.

A. Applicability.

The requirements of this section shall be imposed for all new development, and construction or placement of new mechanical equipment on existing buildings, and each time a project requires a discretionary land use permit approval. Mechanical equipment should be installed so as not to detract from the appearance of the building or development.

B. Design Objectives.

The following objectives apply to the type and placement of mechanical equipment proposed:

1. To the maximum extent reasonable and consistent with site design objectives, mechanical equipment should be located at or below grade rather than mounted on the roof of a structure.
2. Where the equipment must be located on the roof, it should be consolidated to the maximum extent reasonable rather than scattered.
3. Exposed mechanical equipment should be visually screened by a solid, nonreflective visual barrier that equals or exceeds the height of the mechanical equipment.

C. Implementation.

1. Mechanical equipment located at or below grade may be placed within a required rear or side setback area unless that setback is in a single family

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residential land use district, directly abuts a residential land use district, or ~~unless~~ that setback is within a critical area, critical area buffer, or critical area structure setback required by Part 20.25H LUC.

2. Mechanical equipment associated with new single family residential homes and homes adding more than 1,000 gross square feet in single family residential land use districts shall be located in the rear yard or, if placed in the side yard outside of the side structure setback, shall provide sound screening to attenuate noise impacts. Mechanical equipment located in the rear yard shall not be placed less than 5 feet to any property line.
23. Mechanical equipment located at or below grade will not be included for purposes of calculating lot coverage.
34. Mechanical equipment shall be visually screened by a solid, nonreflective visual barrier that equals or exceeds the height of the mechanical equipment; provided, that the function of a large satellite dish antenna or an antenna array may not be compromised by the screening requirement. The barrier may be provided by any of the following:
 - a. Architectural features, such as parapets or mechanical penthouses;
 - b. Walls or solid fencing, of a height at least as high as the equipment it screens;
 - c. Vegetation and/or a combination of vegetation and view obscuring fencing, of a type and size which will provide a dense visual barrier at least as high as the equipment it screens within two years from the time of planting; or
 - d. The natural topography of the site or the adjoining property or right-of-way.
45. Where screening from above is required, mechanical equipment shall be screened by incorporating one of the following measures:
 - a. A solid nonreflective roof. The roof may incorporate nonreflective louvers, vents or similar penetrations to provide necessary ventilation or exhaust of the equipment being screened; or
 - b. Painting of the equipment to match or approximate the color of the background against which the equipment is viewed.
56. For development which requires approval of a discretionary land use permit, the City may modify the screening requirements of subsections C.3-4 and C.4-5 of this section subject to the criteria set forth in paragraph C.67- of this section.

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67. The Director may approve alternative screening measures not meeting the specific requirements of subsection C.3-4 or C.4-5 of this section if the applicant demonstrates that:

- a. The proposed alternative screening measures will achieve the design objectives of subsection B of this section and produce an equal or better result than the requirements of subsection C.3-4 or C.4-5 of this section; or
- b. When screening of mechanical equipment on an existing roof is required:
 - i. The existing roof structure cannot safely support the required screening, or
 - ii. The integrity of the existing roof will be so compromised by the required screening as to adversely affect any existing warranty of the performance of the roof.

Section 3. Section 20.20.900 of the Bellevue Land Use Code is hereby amended as follows:

20.20.900 Tree retention and replacement.

A. Purpose.

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

B. Applicability.

The requirements of this section shall be imposed any time a permit, approval, or review including land alteration or land development including subdivisions, short subdivisions or planned unit developments, a change in lot coverage, or a change in the area devoted to parking and circulation is required by the Bellevue City Code or Land Use Code. Subsection F of this section shall apply to permits for new single-family structures and for additions to impervious surface areas that exceed 20 percent when located on a single-family lot developed with a residential use. Subsection E of this section applies to the removal of any significant trees in the R-1 Land Use District located in the Bridle Trails Subarea.

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C. Required Review.

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

D. Retention of Significant Trees for Subdivisions, Short Subdivisions, Planned Unit Development, Change in Lot Coverage, or Change in the Area Devoted to Parking and Circulation, Excluding Areas Located in the R-1 Land Use District in the Bridle Trails Subarea and for New or Expanding Single-Family Structures.

1. Perimeter Landscaping Area. In the required perimeter landscaping area, as set forth in LUC [20.20.520.F.1](#), the applicant shall retain all significant trees which will not constitute a safety hazard. Area devoted to access and sight areas as defined in the Transportation Code (Chapter 14.06 BCC), and area to be cleared for required roads, utilities, sidewalks, trails, or storm drainage improvements is exempt from this requirement.
2. Site Interior.
 - a. In areas of the site other than the required perimeter landscaping area, the applicant must retain at least 15 percent of the diameter inches of the significant trees existing in this area; provided, that alder and cottonwood trees' diameter inches shall be discounted by a factor of 0.5. In applying the requirement for retention of significant trees, the Director shall consider the preservation of the following types of significant trees a priority:
 - i. Healthy significant trees over 60 feet in height;
 - ii. Significant trees which form a continuous canopy;
 - iii. Significant trees which contribute to the character of the environment, and do not constitute a safety hazard;
 - iv. Significant trees which provide winter wind protection or summer shade;
 - v. Groups of significant trees which create a distinctive skyline feature; and
 - vi. Significant trees in areas of steep slopes or adjacent to watercourses or wetlands.
 - b. The Director may approve retention of trees which do not meet the definition of significant trees as a contribution toward the sum of the

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diameter inches required under subsection D.2.a of this section if a group of trees and its associated undergrowth can be preserved.

3. For Subdivisions, Short Subdivisions, and Planned Unit Developments, the applicant shall retain a minimum of 30 percent of the diameter inches of significant trees existing on the total site area of the development; provided, that alder and cottonwood trees' diameter inches shall be discounted by a factor of 0.5.
4. Exemption. The provisions of this subsection which require retention of significant trees are not applicable in any Downtown Land Use District.
45. The applicant shall utilize tree protection techniques approved by the Director during land alteration and construction in order to provide for the continual healthy life of retained significant trees.
56. Reduced Parking Bonus. If the proposed landscape plan incorporates the retention of significant trees above that required by this section, the Director may approve a reduction of up to 10 percent of the required number of parking spaces if adequate parking will remain on the subject property, and if land area for the required number of spaces remains available for future development on the subject property.

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

1. Permit Required. As required by BCC 23.76.025.A.7, a clearing and grading permit must be obtained from the City prior to the removal of any significant tree from any lot in the R-1 Land Use District in the Bridle Trails Subarea. The applicant may request a vegetation management plan to cover all proposed tree removal activities within a three-year period. In addition, for the removal of more than two significant trees within any three-year period, the requirements of subsections E.2 and E.3 below apply.
2. Perimeter Tree Retention Requirement. For all lots in the R-1 Land Use District in the Bridle Trails Subarea, all significant trees which do not constitute a safety hazard within the first 20 feet adjacent to all property lines shall be retained. Area devoted to access and sight areas as defined in the Transportation Code (Chapter 14.06 BCC), and area to be cleared for required roads, utilities, sidewalks, trails, or storm drainage improvements is exempt from this requirement. In the event this requirement conflicts with minimum setback requirements for structures (LUC [20.20.010](#)), the Alternative Tree Retention Option (subsection G of this section) may be used to allow development consistent with the setbacks established under LUC [20.20.010](#).

ATTACHMENT B

3. Site Interior Tree Retention Requirement.
 - a. In addition to the required perimeter tree retention area, at least 25 percent of the cumulative diameter inches of existing significant trees must be retained; provided, that alder and cottonwood trees' diameter inches shall be discounted by a factor of 0.5.
 - b. The Director may approve retention of trees which do not meet the definition of significant trees as a contribution toward the sum of the diameter inches required under subsection E.3.a of this section if a group of trees and its associated undergrowth can be preserved.
4. Tree Replacement Requirement. On any lot with eight or less significant trees, a planting plan showing a one-to-one ratio of replacement trees is required. Trees must be a minimum of six feet in height at planting.

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

1. Site Area. For new single-family structures or additions to impervious surface areas that exceed 20 percent when located on a single-family lot developed with a residential use, the applicant shall retain a minimum of 30 percent of the diameter inches of significant trees existing in the site area; provided, that alder and cottonwood trees' diameter inches shall be discounted by a factor of 0.5. In applying the requirement for retention of significant trees, the Director shall consider the preservation of the following types of significant trees a priority:
 - a. Healthy significant trees over 60 feet in height;
 - b. Significant trees which form a continuous canopy;
 - c. Significant trees which contribute to the character of the environment, and do not constitute a safety hazard;
 - d. Significant trees which provide winter wind protection or summer shade;
 - e. Groups of significant trees which create a distinctive skyline feature;
 - f. Significant trees in areas of steep slopes or adjacent to watercourses or wetlands; and
 - g. Significant trees located within the first 20 feet adjacent to a property line.
2. The Director may approve retention of trees which do not meet the definition of significant trees as a contribution toward the sum of the diameter inches

ATTACHMENT B

required under LUC [20.20.900](#).F.1 if a group of trees and its associated undergrowth can be preserved.

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

G. Alternative Tree Retention or Replacement Option.

1. An applicant may request a modification of the tree retention requirements set forth in subsections D, E, and F of this section.
2. The Director may administratively approve a modification of the perimeter or interior tree retention requirements if:
 - a. The modification is consistent with the stated purpose of this section; and
 - b. The modification proposal either:
 - i. Incorporates the retention or replacement of significant trees equal in equivalent diameter inches or incorporates the increased retention or replacement of significant trees and naturally occurring undergrowth to what would otherwise be required; or
 - ii. Incorporates the retention or replacement of other natural vegetation in consolidated locations which promotes the natural vegetated character of the site and neighborhood including use as pasture land or for agricultural uses.
 - iii. Where a modification proposal includes supplemental or replacement trees in lieu of retention, the applicant shall utilize plant materials which complement the natural character of the Pacific Northwest, and which are adaptable to the climatic, topographic, and hydrologic characteristics of the site.

Section 4. Section 20.50.016 D of the Bellevue Land Use Code is hereby amended as follows:

20.50.016 D definitions.

Daylight Plane. A daylight plane is a height limitation that when combined with the maximum height limit, defines the building envelope. A daylight plane shall begin at a horizontal line at 10 feet directly above grade as measured at the side property line of each lot and shall slope inward at a forty-five (45) degree angle or less.

ATTACHMENT B

Section 5. 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 6. This ordinance shall take effect and be in force five (5) days after passage and legal publication.

Passed by the City Council this _____ day of _____, 2009 and signed in authentication of its passage this _____ day of _____, 2009.

(SEAL)

Grant S. Degginger, Mayor

Approved as to form:

Lori M. Riordan, City Attorney

Lacey Madche, Assistant City Attorney

Attest:

Myrna L. Basich, City Clerk

Published _____

ATTACHMENT C



DEVELOPMENT SERVICES DEPARTMENT
ENVIRONMENTAL COORDINATOR
450 110th Ave NE., P.O. BOX 90012
BELLEVUE, WA 98009-9012

DETERMINATION OF NON-SIGNIFICANCE

PROPONENT: City of Bellevue Planning and Community Development Department

LOCATION OF PROPOSAL: Citywide

DESCRIPTION OF PROPOSAL: Phase II amendments to the Land Use Code relating to neighborhood character, specifically including amendments to the siting requirements for mechanical equipment in single family residential land use districts, establishment of special development standards for homes exceeding a size threshold to mitigate impacts to privacy and access to light, and increasing the minimum tree retention requirements for short plats and subdivisions from 15% to 30%.

FILE NUMBER: 08-112681 AD, Neighborhood Livability Phase II Land Use Code Amendment

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

- This DNS is issued after using the optional DNS process in WAC 197-11-355. There is no further comment period on the DNS.
- This DNS is issued under WAC 197-11-340(2) and is subject to a 14-day comment period from the date below. Comments must be submitted by 5 p.m. on _____.

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

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

Carole V. Holland
Environmental Coordinator

April 23, 2009
Date

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

**CITY OF BELLEVUE
ENVIRONMENTAL CHECKLIST
(Integrated SEPA/GMA Process)**

A. BACKGROUND INFORMATION

PROPOSAL TITLE: Phase II – Neighborhood Livability Land Use Code Amendment (LUCA) and Bellevue City Code Amendment

PROPERTY OWNERS' NAME: City-wide

PROPOSAL LOCATION Applies to residential land use districts within the City of Bellevue.

PROPONENT'S NAME: City of Bellevue, Department of Planning and Community Development

CONTACT PERSON'S NAME: Catherine Drews, Legal Planner

CONTACT PERSON'S ADDRESS: Development Services Department
City of Bellevue
P.O. Box 90012
Bellevue, WA 98009-9012

CONTACT PERSON'S PHONE: 425-452-6134

BRIEF DESCRIPTION OF THE PROPOSAL'S SCOPE AND NATURE:

1. **General description:** Phase II amendments to the Land Use Code relating to neighborhood character, specifically including amendments to the siting requirements for mechanical equipment in residential land use districts; establishment of special development standards for homes exceeding a size threshold to mitigate impacts to privacy and access to light; and increase of minimum tree retention requirements for short plats and subdivisions from 15% to 30%.

Phase II amendments to the Bellevue City Code relating to neighborhood character, specifically including amendments to allowed construction noise hours for new single-family development and remodels; adding a new chapter to Title 9 of the Bellevue City Code establishing maintenance standards for vacant residences and abandoned construction sites in single-family residential districts; and reducing the duration of single-family residential building permits from three to two years.
2. **Site acreage:** Applies to property located in residential land use districts within the City of Bellevue.
3. **Number of dwelling units/buildings to be demolished:** N/A

4. Number of dwelling units/buildings to be constructed: N/A
5. Square footage of buildings to be demolished: N/A
6. Square footage of buildings to be constructed: N/A
7. Quantity of earth movement (in cubic yards): N/A
8. Proposed land use: Future land use within single family residential land use districts will not be modified by this proposal.
9. Design features, including building height, number of stories and proposed exterior materials: N/A
10. Other: N/A

Proposed timing or schedule (including phasing, if applicable):

Final action on the proposal by the City Council is anticipated in June 2009.

Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.

This is the second and final phase of the Neighborhood Livability Land Use Code and Bellevue City Code Amendments.

List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.

N/A

Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain. List dates applied for and file numbers, if known.

It is unlikely that any pending governmental approvals located in single family districts may be affected by the proposed regulations. If any proposals are affected, the extent is depended on vested dates and applicability of the proposed regulations.

List any government approvals or permits that will be needed for your proposal, if known. If permits have been applied for, list application date and file numbers, if known.

Phase II Neighborhood Livability LUCA (08-112681 AD)

Phase II Neighborhood Livability Bellevue City Code Amendment (09-107262 AB)

Adoption of ordinance relating to proposed regulations by the Bellevue City Council.

B. Environmental Elements

No discussion of the individual Environmental Elements is required for GMA actions per WAC 197-11-235.(3).(b).

C. SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS (do not use this sheet for project actions)

SUMMARY

Project Summary: Phase II amendments to the Land Use Code relating to neighborhood character, specifically including amendments to the siting requirements for mechanical equipment in residential land use districts, establishment of special development standards for homes exceeding a size threshold to mitigate impacts to privacy and access to light, and increase of minimum tree retention requirements for short plats and subdivisions from 15% to 30%.

Phase II amendments to the Bellevue City Code relating to neighborhood character, specifically including amendments to allowed construction noise hours for new single-family development and remodels; adding a new chapter to Title 9 of the Bellevue City Code establishing maintenance standards for vacant residences and abandoned construction sites in single-family residential districts; and reducing the duration of single-family residential building permits from three to two years.

Environmental Summary per WAC 197-11-235(3)(b):

State the proposal's objectives: The proposal relates to elements of neighborhood character, which includes focus on measures to address size, scale, noise, and privacy issues, as well as measures to address the loss of significant trees with short plats and subdivisions.

Specify the purpose and need to which the proposal is responding: The proposal's purpose is to address areas of neighborhood concerns as expressed to the City during outreach efforts as a part of the Neighborhood Livability Action Agenda.

State the major conclusions, significant areas of controversy and uncertainty: The proposal includes three primary amendments to the land use as follows:

- 1. Increase tree retention for short plats and subdivisions.** Require 30 percent retention of diameter inches of significant trees in new short plats and subdivisions – an increase from the current 15 percent retention requirement.
- 2. Reduce mechanical equipment impacts.** Require new single family homes and homes adding more than 1,000 square feet to locate HVAC in the back yard or, if HVAC units are located in the side yard, require sound screening and prohibit placement within the minimum side setback.

3. **Protect neighbors' privacy and access to sunlight by establishing special development standards for homes exceeding a size threshold.** Calculate gross Floor Area Ratio (FAR) for new single family homes in existing neighborhoods. For projects exceeding the FAR threshold of 0.5, establish the following additional requirements:
 - a. Establish minimum setbacks of 7.5 feet on both sides; AND,
 - b. Incorporate EITHER daylight plane standards OR second story setbacks.
 - c. Apply the above rules to new single family homes in existing neighborhoods and existing single family homes adding more than 20 percent of gross floor area. Provide exemption for single lots in new subdivisions where the character of the neighborhood is just being established.

Further exempt building projects that can demonstrate lack of impact on adjacent properties (due to the fact that neighboring properties are already built to dimensions which would exceed these standards).

The proposal also includes three primary amendments to the Bellevue City Code as follows:

1. **Reduce evening construction hours for remodels.** Establish construction noise hours for remodels and additions as 7 a.m. to 8 p.m. on weekdays, and 9 a.m. to 8 p.m. on Saturdays and Sundays (previously 7 a.m.-10 p.m. and 9 a.m.- 10 p.m.)
2. **Limit impacts of vacant or abandoned homes and construction sites.** Establish property maintenance standards specifically applicable to abandoned building sites and vacated houses; enforce on a complaint basis.
3. **Reduce building permit lifespan from three years to two years for single-family residential construction.**

This proposal may prove to be controversial to those property owners or developers that do not favor new development regulations or increased tree retention with short plats and subdivisions. The Planning Commission may consider additional restrictions on single family dwelling unit maximum building height and/or maximum building facade height.

State the issues to be resolved, including the environmental choices to be made among alternative courses of action: Alternative courses of action include: amend the LUC to further restrict maximum building height and building facade which may have unintended impacts on architectural character; amend the LUC to restrict the placement of any mechanical equipment in the side yard in any single family land use district which may be a financial burden to those not undertaking new construction or substantial improvements; amend the LUC to establish a maximum FAR for all single family residential land use districts which would regulate all new development which is inconsistent with stated goal of a targeted approach to regulate only those structures that create impacts on neighboring properties; a final no action alternative, which would result in no amendments to the LUC.

Alternative course of action for the Bellevue City Code amendments include a no action alternative which would result in no amendments to the City Code. In terms of environmental impacts, the five alternatives are not significantly different.

State the impacts of the proposal, including any significant adverse impacts that cannot be mitigated: The proposal is a nonproject action. Accordingly, there are no significant adverse impacts resulting from this proposal.

Describe any proposed mitigation measures and their effectiveness: No specific development is being approved with this proposal. No significant environmental impacts have been identified, therefore no mitigation measures are proposed. Future development shall be subject to the City's development regulations, which will ensure that potential impacts allowed under the proposal, if any, are not significant.

1. **How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?**

The proposed code amendments will not increase the potential impacts to water, air and earth resources or noise production.

Proposed measures to avoid or reduce such increases are: N/A

2. **How would the proposal be likely to affect plants, animals, fish or marine life?**

The proposal will not increase the potential impacts to plants and animals. With specific regard to plants, the proposed amendment to require retention of 30% of the diameter inches of significant trees in short plats and subdivisions will enhance the city's ability to retain trees and potential wildlife habitat.

Proposed measures to protect or conserve plants, animals, fish or marine life are: N/A

3. **How would the proposal be likely to deplete energy or natural resources?**

No adverse impacts to energy or natural resources are anticipated.

Proposed measures to project or conserve energy and natural resources are: N/A

4. **How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?**

The proposal will not affect any environmentally sensitive areas or areas designated for governmental protection.

Proposed measures to protect such resources or to avoid or reduce impacts are: N/A

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

The proposal will not affect any shoreline areas. The same shoreline overlay regulations will continue to apply to development and redevelopment in single family residential land use districts.

Proposed measures to avoid or reduce shoreline and land use impacts are: N/A

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

The proposal will not increase demands on transportation or public services and utilities.

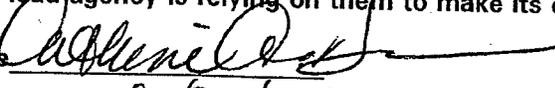
Proposed measures to reduce or respond to such demand(s) are: N/A

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.

No conflicts are known or anticipated.

- D. The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature



Date Submitted

03/23/09