



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

### DETERMINATION OF NON-SIGNIFICANCE

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**PROPONENT:** City of Bellevue, Development Services Department

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**LOCATION OF PROPOSAL:** Wilburton Subarea

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**DESCRIPTION OF PROPOSAL:** Land Use Code Amendment to allow retail uses in the CB District in the Wilburton Subarea to exceed 100,000 gross square feet and to increase the height limit from 45 to 75 feet in the CB District in the Wilburton Subarea. A development agreement, authorized under state law RCW chapter 36.70B, establishing design guidelines for a proposed Target store in the Wilburton area is also included.

**File Number:** 14-130983 AD

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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 the Land Use Division of the Development Services Department. This information is available to the public on request.

- This DNS is issued after using the optional DNS process in WAC 197-11-355. The public and agency comment period was provided with the notice of application.
- 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 May 29, 2014.

Any appeal of the 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 with the 60-day time period set forth in RCW 36.70A.290. This DNS may be withdrawn at any time if the proposal is modified so that it is likely to have significant adverse environmental impacts; if there is significant new information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.

*Christa Heller*  
Environmental Coordinator

June 19, 2014  
Date

**OTHERS TO RECEIVE THIS DOCUMENT:**

Christa Heller, WDFW 1775 12th Ave. NW Suite 201 Issaquah, WA 98027  
Joe Burcar, Dept. of Ecology, 3190 160th Avenue SE, Bellevue, WA 98008-5452  
USACE  
Muckleshoot Indian Tribe

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(Integrated SEPA/GMA Process)**

**BACKGROUND INFORMATION**

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**PROPOSAL TITLE:** Land Use Code Amendment to allow retail uses in the CB District in the Wilburton Subarea to exceed 100,000 gross square feet and to increase the height limit from 45 to 75 feet in the CB District in the Wilburton Subarea. A development agreement, authorized under state law RCW chapter 36.70B, establishing design guidelines for a proposed Target store in the Wilburton area is also included.

**PROPERTY OWNERS' NAME:** N/A; applies throughout the Wilburton Subarea

**PROPOSAL LOCATION:** Wilburton Subarea

**PROPONENT'S NAME:** City of Bellevue, Development Services Department

**CONTACT PERSON'S NAME:** Sally Nichols, Senior Planner

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

**CONTACT PERSON'S PHONE:** 425-452-2727

**BRIEF DESCRIPTION OF THE PROPOSAL'S SCOPE AND NATURE:**

1. **General description:** Land Use Code Amendment (LUCA) relating to retail uses and dimensional requirements in the in the Community Business (CB) land use district in the Wilburton Subarea amending Section 20.10.330 (wholesale and retail use chart, note (36) and Section 20.20.010 (maximum building height), and adding a new note (46) to Section 20.20.010; providing for severability; and establishing an effective date. A development agreement, authorized under state law RCW chapter 36.70B, is also included establishing design guidelines for a proposed Target store in the Wilburton area is also included. (See Attachment B)
2. **Site acreage:** Applies Wilburton Subdistrict-wide
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

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7. **Quantity of earth movement (in cubic yards):** N/A
8. **Proposed land use:** Pertains only to CB Land Use District within the Wilburton Subarea
9. **Design features, including building height, number of stories and proposed exterior materials:**  
The proposal will not change any other Land Use Code requirements pertaining to height, design, appearance, location on property, or other regulation affecting observable physical attributes of existing or proposed structures other than those referenced in the general description having to do with allowable gross square footage, maximum height, and design standards.
10. **Other:** N/A

**Proposed timing or schedule (including phasing, if applicable):** Final action on the LUCA by the City Council is expected to occur on *July 7, 2014*.

**Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.** The approval of this Land Use Code Amendment will allow the construction of a proposed Target store at 126 116<sup>th</sup> Avenue NE, with completion anticipated in fall of 2015.

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

**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.**

13-130500-LQ: Rezone of property at 126 116<sup>th</sup> Avenue NE from GC to CB. Recommendation by DSD Director has been noticed and Public Hearing is scheduled for June 5, 2014.

13-131453-LD: Design Review for proposed Target retail store at 126 116<sup>th</sup> Avenue NE – currently in review.

Associated construction permits for the Target store have been submitted, but cannot be issued before Rezone, LUCA and Design Review are all approved.

**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.** 14-130983-AD\_\_ *City of Bellevue Land Use Code Amendment*

**A. ENVIRONMENTAL ELEMENTS**

No discussion of the individual Environmental Elements is required for GMA actions per WAC 197-11-235.3.b.

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

**SUMMARY**

**CITY OF BELLEVUE  
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Project Summary: Land Use Code Amendment to 1) amend Footnote (36) in LUC 20.10.440 – Wholesale and Retail Uses – to allow retail uses to exceed 100,000 gross square feet, and 2) allow a 75-foot height limit in the CB District within the Wilburton subarea.

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

State the proposal's objectives: The objective of the proposal is to allow retail uses in the CB District within the Wilburton subarea to exceed 100,000 gross square feet *and to increase height from 45 feet to 75 feet. Design guidelines, authorized under a development agreement, are also included to mediate impacts associated with increased bulk and scale.*

Specify the purpose and need to which the proposal is responding:

*Retail Size Limit Exceeding 100,000 gross square feet:*

Wilburton Subarea Policy S-WI-3 allows for the rezone of properties “on the east side of 116<sup>th</sup> Avenue from about NE 4<sup>th</sup> to SE 1<sup>st</sup> Streets” to be rezoned to CB once NE 4<sup>th</sup> Street is extended from 116<sup>th</sup> Avenue NE to 120<sup>th</sup> Avenue NE in order to support the vision of a “retail village”. Phase 1 of this NE 4<sup>th</sup> Street extension is under construction and the City has secured the development rights for Phase 2.

Target would like to build a new 3-story retail store that would support the “retail village” vision. The proposal includes a Target retail store on the top floor, parking on the 2<sup>nd</sup> floor, and a separate retail space and additional parking on the ground floor. However, the following two actions need to take place in order for the proposal to move forward:

1. The property must be rezoned from the current GC to CB to allow Target’s “general merchandise” use. This rezone is currently under review (13-130500-LQ) and a Public Hearing is scheduled for June 5, 2014. The rezone is supported by Comprehensive Plan Policy S-WI-3.
2. Target requires a store that exceeds 100,000 gross square feet, the maximum allowable in the zone. Currently their proposal is for approximately 135,000 gross square feet. This Land Use Code Amendment would address that need and would apply to the entire CB District within the Wilburton Subarea. The need for the Rezone and Land Use Code Amendment to allow retail uses to exceed 100,000 gross square feet has been vetted and may move forward as part of the Development Agreement associated with the agreement between the City and the property owner securing development rights for Phase 2 of the NE 4<sup>th</sup> Street Extension.

*75-foot Height Increase:*

The proposed code amendment also creates a new height limit of 75 feet (an increase of 30 feet) in the CB district of Wilburton Subarea. Comprehensive Plan Policy S-WI-4 recognized that if Policy S-WI-3 was exercised, increased heights beyond the current 45-foot maximum would be appropriate in the areas rezoned to CB in the Wilburton Subarea in order to achieve the “retail village” vision.

State the major conclusions, significant areas of controversy and uncertainty: The two major areas of concern are the increased demand on public utilities (sewer) and the increase in traffic generated by large retail developments.

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State the issues to be resolved, including the environmental choices to be made among alternative courses of action: No major issues to be resolved. The alternative course of action would be to not adopt the proposed LUCA. In terms of environmental impacts, the two 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 to allow retail uses that are larger than 100,00 gross square feet as currently regulated in the Land Use Code. No significant adverse environmental impacts have been identified or are expected to result.

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.

- 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?** Adoption of the proposed code amendment will not increase the potential impacts to water, air and earth resources or noise production. These impacts will also be evaluated on a project-specific basis as development occurs in the CB District in the Wilburton Subarea.

**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?** Adoption of the proposed code amendment will not increase the potential impacts to plants and animals.

**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 by the adoption of the proposed code amendment.

**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?** Adoption of the proposed code amendment will not affect environmentally sensitive areas or areas designated or eligible 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?** Adoption of the proposed amendment will not affect any shoreline areas. The affected existing and/or proposed CB Districts within the Wilburton Subarea do not contain any shorelines.

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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 proposed Land Use Code Amendment is not likely to increase demands on these services and utilities. Specific development projects within the CB District in the Wilburton subarea are required to undergo Design Review and SEPA review. The impacts of each specific project will be evaluated under these reviews.

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

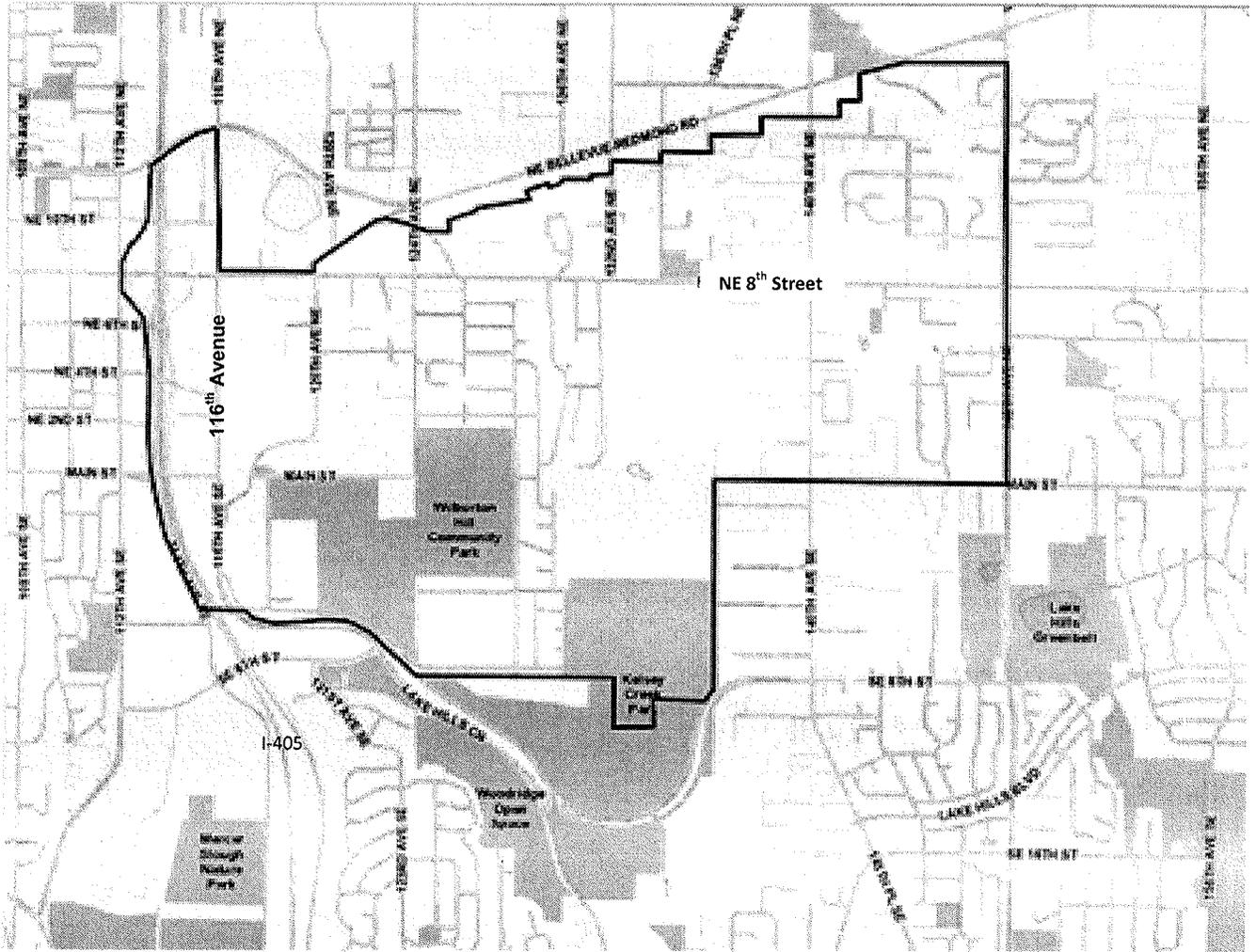


Sally Nichols

Date Submitted:

May 16, 2014

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



Wilburton Subarea

CITY OF BELLEVUE

ORDINANCE No. \_\_\_\_\_

AN ORDINANCE amending the City of Bellevue Land Use Code relating to retail uses and dimensional requirements in the Community Business (CB) land use district in the Wilburton Subarea, amending Section 20.10.440 (wholesale and retail use chart, note (36)) and Section 20.20.010 (maximum building height), and adding a new note (46) to Section 20.20.010; providing for severability; and establishing an effective date.

WHEREAS, the City of Bellevue Comprehensive Plan, Policy S-WI-3, anticipates that portions of the Wilburton Subarea will be rezoned to Community Business when NE 4<sup>th</sup> Street is extended; and

WHEREAS, the City's extension of NE 4<sup>th</sup> Street is underway; and

WHEREAS, the City of Bellevue Comprehensive Plan, Policy S-WI-2, indicates that large retail uses are generally appropriate west of the former BNSF rail corridor; and

WHEREAS, the City of Bellevue Comprehensive Plan, Policy S-WI-4, indicates that heights of up to 75 feet are appropriate for development generally between I-405 and the BNSF corridor, and along 116<sup>th</sup> Avenue NE in those areas zoned Community Business; and

WHEREAS, Target Corporation is pursuing development of a retail store at the southeast corner of 116<sup>th</sup> Avenue NE and NE 4<sup>th</sup> Street, which requires Community Business zoning as well as code amendments implementing the Comprehensive Plan policies described above; and

WHEREAS, the City Council finds that a Land Use Code Amendment is necessary and appropriate to implement the policies of the Comprehensive Plan cited above; and

WHEREAS, on May 19, 2014 the City Council initiated a Land Use Code Amendment to allow retail uses exceeding 100,000 square feet in size in the Wilburton subarea for properties designated CB through a development agreement with design guidelines appropriate to the scale of use, and allowing for heights of up to 75 feet on properties designated CB in the Wilburton subarea between I-405 and the BNSF corridor; and

WHEREAS, on May 19, 2014 the City Council determined that, to allow for efficient processing of such amendment and anticipated development agreement, it is necessary for the City Council to hold the required public hearing on the LUCA as provided for in LUC Section 20.35.410.A; and

WHEREAS, the City Council held a public hearing on June 23, 2014 to consider the proposed Land Use Code amendment; and

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

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

Section 1. Section 20.10.440 – Wholesale and Retail Use Chart, note 36 - of the Bellevue Land Use Code is hereby amended to read:

\*(36) Retail uses in CB Districts in the following subareas, as designated in the Comprehensive Plan, are limited in size to 100,000 gross square feet or less: Bridle Trails, Evergreen Highlands, Newcastle, North Bellevue, Northeast Bellevue, Richards Valley, South Bellevue, Southeast Bellevue, and Wilburton; provided, that in CB Districts in the Wilburton Subarea, retail uses may be allowed to exceed 100,000 gross square feet through a Council-approved development agreement that is consistent with Chapter 36.70B RCW and includes design guidelines that (a) address the potential impacts of that scale of retail use, and (b) are consistent with the vision of Comprehensive Plan Policy S-WI-3 regarding the creation of a "retail village" on the commercial area west of 120<sup>th</sup> Avenue NE.

Section 2. Section 20.20.010 – Uses in land use districts dimensional requirements – is hereby amended to revise the Community Business column in the Maximum Building Height row to read:

45 (46)

Section 3. Section 20.20.010 – Uses in land use districts dimensional requirements – is hereby amended to add a new note 46 to read:

(46) Maximum building height in CB districts in the Wilburton Subarea is 75 feet.

Section 4. Severability. Should any provision of this ordinance or its application to any person or circumstance be held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances shall not be affected.

Section 5. Effective Date. This ordinance shall take effect and be in force five (5) days after adoption and legal publication.

Passed by the City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2014 and signed in authentication of its passage this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

(SEAL)

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Claudia Balducci, Mayor

Approved as to form:

Lori M. Riordan, City Attorney

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Attest:

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Myrna L. Basich, City Clerk

Published 

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WHEN RECORDED RETURN TO:

City of Bellevue  
City Attorney's Office  
PO Box 90012  
Bellevue, WA 98009-9012  
Attn: Mary Kate Berens

**Document Title:** Development Agreement

**Grantor:** TARGET CORP., [confirm]

**Grantee:** City of Bellevue, a municipal corporation

**Legal Description:**

**Abbreviated Legal Description:** [insert]

**Full Legal Description:** See Exhibit A attached.

**Assessor's Tax Parcel Nos.:** Portion of 3325059012; 3325059042

**Reference Nos. of Documents Released or Assigned:** N/A

## DEVELOPMENT AGREEMENT

**THIS DEVELOPMENT AGREEMENT** (“Agreement” or “Development Agreement”) is entered into as of the effective date, by and between the **CITY OF BELLEVUE**, a Washington municipal corporation (“City”), Bellevue 116<sup>th</sup> Avenue, LLC, a Delaware limited liability company (“Owner”) and **TARGET CORPORATION**, a [INSERT ENTITY] (“Target”).

### R E C I T A L S

- A. Intent. This Development Agreement is for the purposes of setting forth the applicable development standards and other provisions related to the development described herein, and is adopted pursuant to the authority provided in RCW 36.70B.170 *et seq.*
- B. The City Council adopted Ordinance 5803, significantly updating the Wilburton/NE 8<sup>th</sup> Street Subarea Plan (the “Wilburton Plan”). The Wilburton Plan establishes a vision for growth and development, including expanding the areas appropriate for mixed commercial uses. Policies within the Wilburton Subarea include:
- Policy S-WI-2. Support the provision of commercial services in Wilburton that complement Downtown such as large retail and auto sales; mixed use opportunities; and services that provide convenient shopping for the adjacent neighborhoods. Implement this through zoning and development regulations.
- C. The Wilburton Plan encourages particular design considerations which should be implemented at the project permitting stage, including:
- Policy S-WI-51. Encourage buildings developed in the Auto Row area, bounded by I-405, NE 8<sup>th</sup> Street, 120<sup>th</sup> Avenue NE and SE 5<sup>th</sup> Street, to enhance the area’s urban design character and pedestrian environment. Buildings should be sited near the street front, with limited intervening surface parking, and include street oriented pedestrian entrances. Where buildings are visible from streets and pedestrian corridors, they should be designed with visual interest and landscaping.
- D. The City Council adopted Ordinance \_\_\_\_\_ implementing certain policies of the Wilburton Plan. In particular, Ordinance \_\_\_\_\_ allows for retail uses in excess of 100,000 square feet in size through a development agreement outlining applicable design guidelines intended to address the bulk and scale of a retail building of such size.
- E. The City has adopted and approved a project within its Capital Improvement Plan to extend NE 4<sup>th</sup> Street in the Wilburton/NE 8<sup>th</sup> Subarea. The capital project will extend NE 4<sup>th</sup> from its current terminus at 116<sup>th</sup> Ave NE across property owned by Owner and others to the existing 120<sup>th</sup> Avenue NE (the “NE 4<sup>th</sup> Extension”). The City has obtained all the property rights that it needs for the NE 4<sup>th</sup> Extension and is in the process of constructing or contracting for construction, all phases of the NE 4<sup>th</sup> Extension.

- F. Owner owns several parcels, including that portion of King County Parcel No. 3325059012 lying south of the City's NE 4<sup>th</sup> Extension, as well as King County Parcel No. 3325059042 (the "Property") located in the Wilburton/NE 8<sup>th</sup> Subarea. The Property is currently the subject of a separate application for a rezone from General Commercial (GC) to Commercial Business (CB). The Property is legally described on Exhibit A attached hereto and incorporated herein.
- G. Target is the intended purchaser of the Property, and plans to develop a retail store of approximately 108,000 square feet with underbuilding parking and retail spaces on the 116<sup>th</sup> Avenue NE frontage (the "Target Project"). Target has applied for a design review permit, Permit No. \_\_\_\_\_ for the Target Project.
- H. As allowed through Ordinance \_\_\_\_\_, Target intends to develop the Target Project to include a single retail use in excess of 100,000 square feet.
- I. The City and Target acknowledge the benefit of implementing the policies of the Wilburton Plan and intend this development agreement to comply with the requirements of Ordinance \_\_\_\_\_, the Wilburton Plan, and RCW 36.70B.170 *et. seq.*
- J. A Development Agreement can commit the City for the duration of the Development Agreement to vesting review procedures and standards for implementing decisions, phasing, mitigation measures, development conditions, permitted uses, residential and commercial intensities and "any other appropriate development requirement or procedure."

**NOW, THEREFORE**, in consideration of the mutual agreements contained herein, as well as other valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, the City, Owner, and Target hereby agree as follows:

**AGREEMENT**

- A. Target Project Design Guidelines.** As provided in Ordinance \_\_\_\_\_ Target agrees that the Target Project shall incorporate the design guidelines set forth in Attachment B attached hereto and incorporated herein by this reference (the "Design Guidelines"). To the extent that the Target Project is not consistent with the Design Guidelines, Target agrees to amend its permits to reflect the Design Guidelines.
- B. Retail Use Size.** Execution of this Development Agreement, together with compliance with the Design Guidelines, shall allow the Target Project to include a single retail use in excess of 100,000 square feet, as allowed by Ordinance \_\_\_\_\_.
- C. No Approval of Project-related Actions**

The execution of this Development Agreement does not, in and of itself, permit any specific development.

Nothing in this Agreement shall be interpreted to limit the exercise by City of its regulatory powers with respect to the Target Project or any other development proposal on the Property, or other regulatory matters in accordance with applicable law. Nor shall this Agreement be

interpreted as: a) a determination as to the consistency of the Target Project with applicable plans, codes and ordinances, b) an agreement or commitment to approve any or all development on the Property, nor c) any commitment whatsoever by City with respect to any future City discretionary decisions that may be required for development of the Property. A permit or approval issued by the City after the execution of this Development Agreement shall be consistent with this Development Agreement.

**D. Term, Amendment, and Termination**

This Development Agreement shall go into effect on the date it is executed by the parties ("Effective Date"). This Development Agreement shall be effective until two (2) years after the Effective Date; provided that the term shall automatically be extended for the effective life of any building permit approved consistent with this Agreement. Upon expiration of such period, as may be extended above, this Development Agreement shall automatically terminate.

No amendment to this Development Agreement shall be effective unless approved by both parties in writing.

**E. Binding Effect; Assignability.**

This Development Agreement shall bind and inure to the benefit of the Parties hereto and their respective successors, heirs, legatees, representatives, receivers, trustees, successors, transferees and assigns. Neither Owner nor Target may assign its interest or obligations under this Agreement without the City's prior written consent, which shall not be unreasonably withheld. Notwithstanding the foregoing, Target may assign its interest and obligations hereunder to an affiliate or related entity owned, controlled by or under common control with Target without necessity of City's consent but only following delivery of written notice of such assignment, together with such documents as are reasonably necessary to confirm the relationship between Target and such affiliated entity.

**F. Effect of Owner Approval.**

Owner's execution of this Agreement is limited to acknowledgement of the terms and consent to recording the Agreement as required under applicable local and state requirements. It is understood that this Agreement is applicable to the Target Project and does not inure to the benefit of any other development that may be proposed on the Property.

**G. Representations and Warranties.**

Each signatory to this Development Agreement represents and warrants that he or she has full power and authority to execute and deliver this Development Agreement on behalf of the Party for which he or she is signing, and that he or she will defend and hold harmless the other Parties and signatories from any claim that he or she was not fully authorized to execute this Development Agreement on behalf of the person or entity for whom he or she signed. Upon proper execution and delivery, this Development Agreement will have been duly entered into by the Parties, will constitute as against each Party a valid, legal and binding obligation that shall run with the land, and will be enforceable against each Party in accordance with the terms herein.

**H. Governing Law and Venue.**

This Development Agreement shall be governed by and construed in accordance with the laws of the State of Washington. Jurisdiction over and venue for any action arising out of or relating to this Development Agreement shall be exclusively in the state and federal courts of King County, Washington. In the event of any apparent conflicts between the provisions of the city code or ordinances and this Development Agreement, this Development Agreement shall prevail.

**I. Full Understanding.**

The Parties each acknowledge, represent and agree that they have read this Development Agreement; that they fully understand the terms thereof; that they have had the opportunity to be fully advised by their legal counsel and any other advisors with respect thereto; and that they are executing this Development Agreement after sufficient review and understanding of its contents.

**J. Counterparts; Facsimile Signatures.**

This Agreement may be executed in more than one counterpart, each of which shall be deemed an original, and all of which shall constitute one and the same instrument. Facsimile signatures on this Agreement shall constitute original signatures of the Parties.

**K. Attorneys' Fees.**

Should it be necessary for any Party to this Development Agreement to initiate legal proceedings to adjudicate any issues arising hereunder, the Party or Parties to such legal proceedings who substantially prevail shall be entitled to reimbursement of their attorneys' fees, costs, expenses, and disbursements (including the fees and expenses of expert and fact witnesses) reasonably incurred or made by the substantially prevailing Parties in preparing to participate in mediation or arbitration, to bring suit, during suit, on appeal, on petition for review, and in enforcing any judgment or award, from the other Party or Parties.

**L. Waiver.**

The waiver by a party of a breach of any provision of this Development Agreement by the other party shall not operate or be construed as a waiver of any subsequent breach by that party. No waiver shall be valid unless in writing and signed by the party against whom enforcement of the waiver is sought.

**M. Severability.**

This Development Agreement is expressly made and entered into under the authority of RCW 36.70B.170 *et seq.* This Development Agreement does not violate any federal or state statute, rule, regulation or common law known; but any provision which is found to be invalid or in violation of any statute, rule, regulation or common law shall be considered null and void, with the remaining provisions remaining in full force and effect.

**N. Equal Opportunity to Participate in Drafting.**

The Parties have participated and had an equal opportunity to participate in the drafting of this Development Agreement. No ambiguity shall be construed against any Party based upon a claim that the Party drafted the ambiguous language.

**O. Reservation of City Authority.**

As required by RCW 36.70B.170(4) and notwithstanding any other term of this Development Agreement, the City reserves the right to establish and impose new or different additional regulations to the extent required to address a serious threat to public health and safety.

**P. Notice.**

All correspondence and any notice required in this Development Agreement shall be delivered to the following parties:

**City of Bellevue**

Attention: Ms. Carol Helland  
Land Use Director  
450 110th Avenue NE  
PO Box 90012  
Bellevue, WA 98009  
Email: [chelland@bellevuewa.gov](mailto:chelland@bellevuewa.gov)

**with a copy to:**

Mary Kate Berens, Deputy City Attorney  
450 110th Avenue NE  
PO Box 90012  
Bellevue, WA 98009  
Email: [mkberens@bellevuewa.gov](mailto:mkberens@bellevuewa.gov)

**BELLEVUE 116<sup>TH</sup> AVENUE, LLC**

**TARGET CORPORATION**

**Q. Final and Complete Agreement.**

This Development Agreement constitutes the final and complete expression of the Parties on the development standards governing the Owner's development of the Property. This Development

Agreement may not be modified, interpreted, amended, waived or revoked orally, but only by a writing signed by all Parties. This Development Agreement supersedes and replaces all prior agreements, discussions and representations on all subjects discussed herein, without limitation. No Party is entering into this Development Agreement in reliance on any oral or written promises, inducements, representations, understandings, interpretations or agreements other than those contained in this Development Agreement.

**R. Recording Required.**

This Agreement shall be recorded with King County at Owner's expense.

**[INSERT SIGNATURE BLOCKS/NOTARIES]**

# EXHIBIT B

DESIGN GUIDELINES – NE 4<sup>TH</sup> STREET AND 116<sup>TH</sup> AVENUE NE  
CB LAND USE DISTRICT  
FR 408 – Proposed Settlement Exhibit

## GENERAL

Support the vision of Comprehensive Plan Policy S-WI-3 regarding the creation of a "retail village" on the commercial area west of 120th Avenue NE.

## STREETSCAPE

Streetscapes shall have a high orientation to pedestrians and bicyclists. This shall be achieved by emphasizing the relationship between the first levels of the structure and the horizontal space between the structure and curb line. This relationship should emphasize to the greatest extent possible, both the physical and visual access into and from the structure. In addition, amenities and special features shall be incorporated into the outside pedestrian space. In order to achieve the intended level of vitality, design diversity, and pedestrian activity, retailing or marketing activities shall be provided for in the design. Note: 116<sup>th</sup> Avenue is designated as a 'boulevard' in Figure UD.1 – Urban Design Elements/Comprehensive Plan.

### Guidelines

#### Streetscapes:

- Strong visual and physical pedestrian and bicycle connections shall be made to the BNSF corridor and bicycle parking shall be provided on site for use by future trail (corridor) users.
- The site development shall incorporate a special corner feature on each of the corners at the intersection of NE 4<sup>th</sup> Street and 116<sup>th</sup> Avenue NE.
- Bus shelters/transit waiting areas shall be incorporated into any streetscape design.
- 116<sup>th</sup> Avenue NE:
  - Street level edges of the entire street frontage on 116<sup>th</sup> Avenue NE shall incorporate retail activities. If a building is primarily residential, the residential entry may be on this frontage.
  - The following characteristics shall be incorporated into the design of the structure at the ground level:
    - Windows providing visual access
    - Street wall
    - Multiple entrances
    - Differentiation of ground level
    - Public entrances to the building
    - Continuous weather protection along the entire building frontage
  - The following characteristics should be incorporated into the design of the sidewalk on 116<sup>th</sup> Avenue:
    - Generous width of sidewalk, with a minimum of 10 feet
    - Planting strip along entire frontage, a minimum of 7 feet with street trees
    - Different types of seating, including benches, chairs, seat walls
    - Street furniture including bicycle racks
    - Special paving
    - Integrated public art installations
    - Pedestrian scaled lighting

**BUILDING DESIGN/SITE PLANNING:**

Any buildings along 116<sup>th</sup> Avenue NE will be viewed from above and from all sides. Therefore, it is important to provide building facades that are interesting and dynamic. Any urban village in this area will ultimately have a mix of commercial and residential uses and therefore the juxtaposition of any new building with surrounding residential – either existing or planned for the future – is important. In addition, any development on 116<sup>th</sup> Avenue NE will be viewed from above (properties and neighborhoods to the east and the Downtown to the west). Therefore, treatment of the roof will be an important element of the overall building design.

**Guidelines:**

**Building Design:**

- Individual buildings should incorporate similar design elements, such as surface materials, color, roof treatment, windows and doors, on all sides of the building to achieve a unity of design. (LUC 20.251.040.A)
- Buildings shall be urban in character and sited at the back of sidewalk.
- Building should be comprised of urban, highly durable and non-reflective materials
- Minimize blank walls on all facades. Any blank wall along street rights-of-way shall receive additional design treatment such as planted vertical trellises/green walls, additional plant material, and/or artwork.
- Walls not facing public streets shall include elements such as windows, doors, color, texture, landscaping, and/or wall treatment to provide visual interest from adjacent properties. (LUC 20.251.040.A)
- Minimize expanses of building exterior walls visible from the BNSF corridor through modulation/articulation, windows, unique wall treatments, public art installations, changes in color and materials, and/or design techniques such that the building appears to be multiple smaller buildings.
- Building exterior walls of large retail buildings visible from public or private streets shall have display windows, entry areas, and/or weather protections for no less than 60% of their horizontal length.
- Special attention should be paid to the rooftop. All mechanical equipment shall be screened in such a manner that the screening appears to be integral to the entire building design. (LUC 20.251.050)
- The rooftops of large retail buildings shall include significant vertical modulation of the roof line or parapet.
- Building facades should be divided into increments through the use of offsets, modulation, articulation, recesses, change in materials and color, and other architecture features which serve to break down the scale.
- Main entrances to large retail or building front facades should include pedestrian oriented spaces near the building entry, including covered areas, weather protection, seating, and landscaping.

**Site Design:**

- Surface parking shall either be underground, interior to the building with a buffer of building spaces between the parking and the sidewalk, or hidden behind the building and effectively screened with vegetation, berms, and/or walls.
- Minimize garage openings on public streets (PCD).
- Provide pedestrian and bicycle connections to the BNSF corridor.
- Provide trees and vertical landscaping to soften expanses of open parking decks.
- Provide landscaped buffers along internal property lines with tall trees to break up the mass of large retail buildings.
- Strongly consider low impact development (LID) techniques, including green roofs and rain gardens.
- Consider use of solar panels and design to be integral to the building design.
- All loading shall take place off city streets. Ideally provide for loading functions with the building. If not feasible, loading shall be placed behind the building and screened with walls, berms, and/or vegetation. (LUC)

**SIGNAGE**

In addition to compliance with the Bellevue Sign Code, address the following:

- Ensure that signage is an integral part of the overall architectural design.
- Encourage signage which is scaled to the pedestrian and enhances the pedestrian environment.
- Signage must comply with the applicable requirements of the Sign Code, BCC 22B.10.
- Incorporate wayfinding signage to highlight connections to the BNSF trail, transit, the Downtown, and adjacent neighborhoods.



DATE: June 23, 2014

TO: Mayor Balducci and Members of the City Council

FROM: Carol Helland, Land Use Division Director 452-2724  
Sally Nichols, Senior Planner 452-2727  
Development Services Department

SUBJECT: Land Use Code Amendment related to Retail Uses and Dimensional Requirements in the Community Business (CB) Land Use District of the Wilburton Subarea, File No. 14130983-AD

On May 19, 2014, Council initiated an amendment to the Bellevue Land Use Code (LUC) to allow retail uses exceeding 100,000 square feet in size in the Wilburton Subarea for properties designated CB when a Development Agreement is approved and includes design guidelines to address impacts associated with the scale of the use. The Land Use Code Amendment (LUCA) also modifies the dimensional charts to allow for heights of up to 75 feet on properties designated CB in the Wilburton Subarea between I-405 and the BNSF corridor. The Council directed that the required public hearing associated with the LUCA be held by the City Council. A development agreement was proposed for the Target property and any development agreement authorized by the terms of the LUCA, if approved, also requires a public hearing with the City Council under the terms of state statute.

The proposed LUCA modifies certain dimensional requirements for property zoned CB in the Wilburton subarea. The LUCA addresses two land use implementation issues raised by the Wilburton Subarea Plan Policies S-WI-2 (retail use size) and S-WI-4 (heights). Refer to Attachment 1 for the Staff Report analyzing the decision criteria in the Land Use Code that must be met to support adoption of the proposed LUCA. The following amendments are proposed:

- LUC 20.10.440 Wholesale/Retail Use Chart would be modified to allow a single retail use to exceed 100,000 square feet in the Wilburton CB land use district through a development agreement that includes design guidelines addressing the bulk and scale issues associated with that the larger. Refer to the Draft Development Agreement in Attachment 2 for an example.
- A new Note (46) would be added to the dimensional chart in LUC 20.20.010 to allow for a maximum height of 75 feet in areas of the Wilburton subarea zoned CB and located between I-405 and the BNSF corridor.

## **BACKGROUND**

In early 2008, the City completed updates to the Wilburton/NE 8<sup>th</sup> Subarea Plan, which established a vision for the corridor. A key component to unlocking the land use vision of a “retail village” as identified in the plan was the extension of NE 4<sup>th</sup> Street from 116<sup>th</sup> Avenue NE to 120<sup>th</sup> Avenue NE. Just last month the City reached a settlement with the impacted property owners to obtain all of the property necessary for the NE 4<sup>th</sup> extension.

Construction of NE 4<sup>th</sup> is currently underway, and adjacent property owners have identified new development projects that will implement some of the land uses identified as desirable for the area in the 2008 Subarea Plan update. One such project is proposed by Target for the southeast corner of 116<sup>th</sup> Avenue NE and the extension of NE 4<sup>th</sup>. See map at Attachment 3. This property is included within the area described by Wilburton Subarea Policy S-WI-3 as appropriate for Commercial Business (CB) zoning, and a separate action is under consideration by the Hearing Examiner to rezone that parcel.

If rezoned from General Commercial (GC) to CB, property within Wilburton would be subject to the city-wide design guidelines and land use regulations governing development within the CB land use district. Those regulations include the general Community Retail Design District requirements in LUC Part 20.25I. The Wilburton Comprehensive Plan policies, however, including policies S-WI-2, S-WI-4, and S-WI-51 support some modifications to those generally applicable CB regulations and design guidelines. The proposed LUCA would create the LUC authority to fully implement these policies for those areas of Wilburton that will be zoned CB as a result of the NE 4<sup>th</sup> extension.

When the City Council initiated the proposed LUCA at its Council meeting on May 19, the Council also indicated that the required public hearing associated with amendments be held by the City Council. The LUCA proposal was also an agenda item during the Council’s June 9 Study Session. The Public Hearing scheduled for June 23 will satisfy the requirements for adoption of the proposed LUCA by the City Council, which is scheduled for July 7. This Staff Report analyzes the decision criteria in the Land Use Code that must be met to support adoption of the proposed LUCA. A proposed development agreement was also discussed on June 9 to accommodate development of a Target store consistent with the flexibility to exceed the 100,000 sf retail use cap that will be available under the terms of the proposed LUCA. A separate public hearing on the requested development agreement will be held on June 23 pursuant to the requirements of state law.

## **REVIEW PROCESS**

A LUCA is reviewed through Process IV per LUC 20.35.400 - .450. This LUCA was presented to Council at a Study Session on June 9, 2014. Council is scheduled to hold a public hearing on June 23, 2014 and final action is scheduled to be taken by the Council on July 7, 2014, based on specific decision criteria set forth in the Code.

## DECISION CRITERIA

LUC 20.30J.135 establishes the decision criteria for an application to amend the text of the Land Use Code. Those criteria, and the relationship of the proposal to them, are discussed below:

A. The amendment is consistent with the Comprehensive Plan; and

The Comprehensive Plan General Elements as well as the Wilburton Subarea Plan contain policies applicable to this LUCA proposal. The most relevant policies are listed below:

**Land Use Element:**

**Policy LU-13:** *Reduce the regional consumption of undeveloped land by facilitating redevelopment of existing developed land when appropriate.*

**Policy LU-31:** *Encourage and foster economic development in areas designated for commercial uses.*

**Policy LU-32:** *Maintain commercial areas outside the Downtown which can provide additional business opportunities and serve other parts of the community.*

**Finding:** By amending the size and height dimensional requirements for uses within the CB land use district of the Wilburton Subarea, underutilized properties will be able to be developed with maximum design flexibility. The combination of the more intense uses allowed in the CB, the dimensional flexibility, and the requirement that this flexibility be tied to adherence with design guidelines in a development agreement will help to guide development that will realize the vision of a “retail village” in the Wilburton subarea.

**Wilburton Subarea:**

**Policy S-WI-2:** *Support the provision of commercial services in Wilburton that complement Downtown such as large retail and auto sales; mixed use opportunities, and services that provide convenient shopping for the adjacent neighborhoods. Implement this through zoning and development regulations.*

*Discussion: The Wilburton/NE 8<sup>th</sup> Street subarea includes a variety of commercial areas.*

*The eastern portion of the subarea includes small commercial sites that primarily serve the immediate neighborhood.*

*The western portion of the subarea includes more intense commercial areas between 116<sup>th</sup> and 120<sup>th</sup> Avenues and near Lake Bellevue that serve the broader community. Some of these areas may be ready for redevelopment into new commercial or mixed uses.*

*The area west of the BNSF corridor is appropriate for auto and motorcycle sales, large retail uses, office and hotel uses.*

*The vision for the area on the west side of 120<sup>th</sup> Avenue, between NE 8<sup>th</sup> Street and the existing Home Depot property is for the development of a “retail village” this is an inviting, attractive, and pedestrian friendly retail area comprised of a mixture of community-oriented and neighborhood-oriented retail and residential uses.*

***Policy S-WI-3:*** *Support the long term development of a “retail village” in the commercial area on the west side of 120<sup>th</sup> Avenue to provide a transition from more intense commercial areas to the west and the residential area to the east. Designate the area west of 120<sup>th</sup> Avenue NE between NE 8<sup>th</sup> and about NE 4<sup>th</sup> Streets General Commercial/Community Business (GC/CB). Without access improvements, the area remains appropriate for General Commercial uses. As NE 4<sup>th</sup> Street (East Bellevue Transportation Plan project #582) is extended to increase access to the area, Community Business uses are appropriate.*

*Discussion: The intent is to increase transportation capacity as redevelopment occurs. It is recognized that the complexity of construction and property ownership may require phasing of the street project. Phasing may be accepted through a development agreement that assures adequate right of way and timely completion of the entire connection.*

***Policy S-WI-4:*** *Recognize the area between I-405 and the BNSF corridor, and between NE 8<sup>th</sup> Street and SE 1<sup>st</sup> Street, as appropriate for a 75-foot height limit. Increased height limits for the portion of this area east of 116<sup>th</sup> Avenue should be limited to those areas rezoned for more intense uses consistent with Policy S-WI-3 or future subarea plan amendment.*

***Policy S-WI-51:*** *Encourage buildings developed in the Auto Row area, bounded by I-405, NE 8<sup>th</sup> St, 120<sup>th</sup> Avenue NE, and SE 5<sup>th</sup> Street, to enhance the area’s urban design character and pedestrian environment. Buildings should be sited near the street front, with limited intervening surface parking, and include street oriented pedestrian entrances. Where buildings are visible from street and pedestrian corridors they should be designed with visual interest and landscaping.*

**Finding:** As described in the Background section of this staff report, these policies identify the vision of a “retail village” in the Wilburton Subarea and ways to realize this vision by allowing more intense uses through a change of zoning to CB and supporting 75-foot height limits in the Wilburton CB land use district.

The design issues cited in Policy S-WI-51 support the use of a development agreement to allow development to take advantage of additional design flexibility when guidelines are adopted to mitigate the effects of additional bulk and scale.

B. The amendment enhances the public health, safety or welfare; and

**Finding:** The amendment will create additional economic opportunities in an area that has already been identified in the Comprehensive Plan as appropriate for more intense uses in order to realize the vision of a “retail village.” The sites along 116<sup>th</sup> Avenue NE are underutilized and will be enhanced with new development that will provide retail and service opportunities to the surrounding neighborhoods, including the Wilburton and Downtown communities. These developments, including the proposed Target store, may also function as catalysts for developers to upgrade other underutilized sites in the vicinity.

Through adherence to design guidelines for the Wilburton Subarea that will be required through a development agreement to take advantage of added bulk and scale, a development will incorporate features within their proposals that enhance the public health, safety and welfare – such as improved streetscapes and accessibility throughout this part of the Subarea.

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

**Finding:** The amendment is not contrary to the interests of citizens and property owners as it will provide additional retail and service opportunities in Bellevue that will contribute to the City’s economic health and will help to stimulate redevelopment of an underutilized part of the Wilburton Subarea.

## **STATE ENVIRONMENTAL POLICY ACT**

The application for SEPA review and an expected SEPA Determination of Nonsignificance was noticed on May 22, 2014. The minimum comment period ended June 5, and there were no comments up until the writing of this report. A final determination was issued and noticed on June 19, 2014. Following is a summary of the environmental review for this proposal:

B. Environmental Record

The environmental summary consists of analysis based on the following documents and studies in the environmental record or, if noted, incorporated by reference.

- Environmental Checklist, Supplemental Sheet for Nonproject Actions, prepared by Sally Nichols, Senior Planner, City of Bellevue Development Services Department, dated May 16, 2014.
- Draft Proposed Land Use Code Amendment; File No. 14-1130983-AD.
- Map showing affected parcels.
- Draft development agreement for Target store site, located at the corner of 116<sup>th</sup> Avenue NE and the extension of NE 4<sup>th</sup> Street.
- 2013-2024 Transportation Facilities Plan FEIS dated June 2013.

B. Proposed Timing and Phasing

The Council is scheduled to hold a public hearing on the amendment on June 23, 2014. The City Council is then scheduled to act on the amendments on July 7, 2014.

#### D. Environmental Summary

**Purpose and Need:** Wilburton Subarea Policy S-WI-3 allows for the rezone of properties “on the east side of 116th Avenue from about NE 4th to SE 1st Streets” to be rezoned to CB once NE 4th Street is extended from 116th Avenue NE to 120th Avenue NE in order to support the vision of a “retail village.” Phase 1 of this NE 4th Street extension is under construction and the City has secured the development rights for Phase Two.

Target would like to build a new 3-story retail store that would start to implement the “retail village” vision. The proposal includes a Target retail store on the top floor, parking on the 2nd floor, and a separate retail space and additional parking on the ground floor. However, the following two actions need to take place in order for the proposal to move forward:

1. The property must be rezoned from the current GC to CB to allow Target’s “general merchandise” use. This rezone is currently under review (13-130500-LQ) and a Public Hearing was held on for June 5, 2014. The rezone is supported by Comprehensive Plan Policy S-WI-3.
2. Target requires a store that exceeds 100,000 gross square feet, the maximum allowable in the zone. Currently their proposal is for approximately 135,000 gross square feet. This Land Use Code Amendment would address that need and would apply to the entire CB District within the Wilburton Subarea. Under the proposed LUCA, Target would be required to enter into a development agreement with the City to follow design guidelines necessary to address the bulk and scale impact anticipated to occur with a larger structure. Review under the State Environmental Policy Act was consolidated for both the LUCA and the Development Agreement under File No. 14130983-AD.

The proposed code amendment also creates a new height limit of 75 feet (an increase of 30 feet) in the CB district of Wilburton Subarea located between I-405 and the BNSF corridor. Comprehensive Plan Policy S-WI-4 recognized that if Policy S-WI-3 was exercised, increased heights beyond the current 45-foot maximum would be appropriate in the areas rezoned to CB in the Wilburton Subarea in order to achieve the “retail village” vision.

#### **Major Conclusions, Significant Areas of Controversy and Uncertainty:**

The two major areas of concern associated with the larger retail operations that this code amendment makes possible are: (1) the increased demand on public utilities (sewer); (2) the increase in traffic generated by retail developments of this scale; and (3) the visual impacts associated with buildings of this bulk and scale. The City has confirmed the availability of sanitary sewer capacity for the project on the north parcel as substantially described and depicted in the project description. Transportation impacts are discussed below. Aesthetic and visual impacts will be addressed by the required administrative design review.

### **Aesthetics/Visual Quality**

The impacts from any increase in size of a retail use will be thoroughly reviewed and analyzed during the Design Review process required for any specific development within any CB land use district in the City, including any future CB land use districts within the Wilburton Subarea. Design Guidelines found in LUC 20.25I – Community Retail Design District address how the building and site designs respond to conditions on the site as well as to the surrounding context. Design Review approval criteria in LUC 20.30F.145.D specifically addresses compatibility with the surrounding vicinity.

In addition, any modification of a retail building over 100,000 square feet would require additional review against design guidelines that will be adopted as part of the required development agreement. These guidelines will also address bulk, scale and contextual compatibility. Refer to the Draft Development Agreement in Attachment 2 for proposed guidelines drafted for the Target store.

Many of the properties located in the area that could potentially benefit from this LUCA are also located on 116<sup>th</sup> Avenue at an elevation well below the residential neighborhoods to the east and the existing BNSF corridor in the Wilburton Subarea. There will be adequate methods via landscaping and architectural detailing and siting development into the existing topography to reduce the apparent visual impacts.

### **Air Quality**

Air quality is generally assessed in terms of whether concentrations of air pollutants are higher or lower than ambient air quality standards set to protect human health and welfare. Pollutants typically generated by traffic include carbon monoxide (CO), ozone precursors, hydrocarbons, and nitrogen oxides. Fine particulate matter (PM10) is also emitted in vehicle exhaust and generated by tire action on pavement, but the amount is small when compared with other sources. Sulfur oxides and nitrogen dioxide are also emitted by motor vehicles, but concentrations of these pollutants are generally not high except near large industrial facilities.

Because of the many variables involved, the impact of the proposed action on air quality is best determined at the project stage where a microscale air quality impact analysis can be performed at intersections where project traffic could reasonably be expected to adversely affect operational level of service. However, development under the proposed land use code amendment is not expected to generate more peak hour trips or percent more trips in the P.M. peak hour than equivalent square footage under the proposed CB zoning designation absent the code change, although larger buildings may concentrate impacts at particular driveways or intersections where smaller building size may distribute impacts more evenly around a site.

While the overall impact to air quality from development under the code amendment is not expected to increase significantly above that expected under the proposed CB designation, it is reasonable to assume that, some localized

increase in traffic generated pollutants may be associated with future development. Whether this will translate to measurable air quality impacts depends on whether this increase in trips translates into significant decreases in capacity or longer travel times on local streets near the site. However, since review of the traffic impacts of the proposal does not reveal any decrease in level of service (LOS) at local intersections, none of these impacts are expected to be significant.

### **Transportation**

The long-term impacts of development projected to occur in the City by 2024 have been addressed in the City's 2013-2024 Transportation Facilities Plan FEIS. The impacts of growth that are projected to occur within the City by 2024 are evaluated on the roadway network assuming that all the transportation improvement projects proposed in the City's current Transportation Facilities Plan are in place. The Transportation Facilities Plan (TFP) EIS divides the City into several Mobility Management Areas (MMAs) for analysis purposes. This code amendment affects the area within MMA #4 that will be designated CB under a future rezone. MMA #4 (Wilburton Area) has a 2024 total growth projection of 186,916 square feet of new retail space (as well as 428,342 square feet of new office space). Of this total, 158,848 square feet of retail is projected for that area of MMA #4 that will be rezoned from GC to CB. The proposed Target retail store will result in 132,774 square feet of new retail space in TAZ 222 leaving an additional 26,074 square feet of anticipated capacity TAZ 221, 222, and 223 affected by the code amendment. Therefore, the amount of proposed development is within the assumptions of the Transportation Facilities Plan FEIS. However, future retail development may not be covered and will require additional review under SEPA at the time of application. Since the TFP is updated every two years, land use projections can be updated to meet current growth trends. With this consideration in mind, the long-term transportation impacts are fully disclosed and mitigated.

Development of a Target store of 132,774 square feet is expected to generate an additional 539 peak hour trips and will increase pm peak hour trips for Transportation Analysis Zone 222 (the Target site and nearby vicinity) by 393 new pm peak hour trips. These figures equate to approximately three times the number of p.m. peak hour trips from Transportation Analysis Zone 222 than previously generated from the uses in the vicinity. Despite this increase, no decrease in level of service is forecast for development proposed under the overlay; average intersection delays increased only slightly.

The Transportation Department reviewed this proposed Land Use Action with regard to potential traffic impacts to the City's transportation system and supports the decision to approve the LUCA referenced herein as File No. 14130983-AD. The support for approval is based on the Transportation Department's NE 4th Street extension project (CIP PWR-160), the settlement agreement associated with CIP PWR-160 and the completed concurrency analysis for the proposed Target development.

City project CIP PWR-160 will extend NE 4th Street from 116th Avenue NE to 120th Avenue NE providing a vital transportation link (both vehicular and pedestrian) within the Wilburton neighborhood and from/to the downtown Bellevue. The alignment of NE 4th Street was designed to lessen, as much as possible, impacts to nearby existing retail stores (Home Depot and Best Buy) while at the same time maximizing safety and comfort of public access to all new businesses proposed along the new extension. In addition, the alignment of the NE 4th Street extension can accommodate the proposed increases to height and square footage limits as mentioned above without risk to public safety or adverse impacts to the city's transportation system.

Access locations and driveway restrictions (per the settlement agreement aka City of Bellevue v. Bellevue Avenue LLC, King County Cause No. 12-2-19166-2 SEA) for the parcels adjacent to the NE 4th Street extension west of the BNSF railroad right of way were negotiated to provide safe public access as well as to maintain the intended increase to the capacity of the street system within and in the vicinity of the Wilburton Area (via city project CIP PWR-160).

#### **Issues to be Resolved, Including Environmental Choices to Made Between Alternatives Courses of Action**

No issues to be resolved. The alternative course of action would be to not adopt the proposed LUCA. In terms of environmental impacts, the two alternatives are not significantly different because the proposed code amendment permits building retail uses that exceed the 100,000 square-foot limitation required by the proposed CB zoning designation. Thus while building size, bulk, and scale is affected by the amendment, total development intensity is the same in both instances. Larger buildings simply allow more efficient use of an individual site, and the requirements to adhere design guidelines adopted through a development agreement will address the resultant bulk and scale issues.

#### **E. Conclusion and Determination**

For the proposed LUCA and Draft Development Agreement, environmental review indicates no probability of significant adverse environmental impacts. Therefore, issuance of a **Determination of Non-Significance** pursuant to WAC 197-11-340 and Bellevue City code 22.02.034 is appropriate.

Other adverse impacts that are less than significant may be mitigated pursuant to Bellevue City Code 22.02.140, RCW 43.21C.060, and WAC 197-11- 660.

#### **F. Mitigation Measures**

There are no recommended SEPA-based mitigating measures for this proposal. The lead agency has determined that the requirements for environmental mitigation have been adequately addressed in the development regulations and comprehensive plans adopted under Chapter 36.70A RCW and in other applicable local, state or federal laws or rules, as provided by RCW 42.21C.240 and WAC 197-11-158. Our agency will not require any additional mitigation measures under SEPA.

## **RECOMMENDATION**

Move to direct staff to prepare a final ordinance to approve the proposed Land Use Code Amendment regarding retail uses and dimensional requirements in the Community Business (CB) Land Use District in the Wilburton Subarea, File No. 14130983-AD on July 7, 2014.

## **NEXT STEPS**

June 9, 2014: City Council Study Session (completed)

June 23, 2014: Public Hearing

July 7, 2014: Council Final Action

## **ATTACHMENTS**

1. Proposed Land Use Code Amendment
2. Draft Design Guidelines for the Target Development Agreement
3. Vicinity Map and Proposed Target Development Location

CITY OF BELLEVUE

ORDINANCE No. \_\_\_\_\_

AN ORDINANCE amending the City of Bellevue Land Use Code relating to retail uses and dimensional requirements in the Community Business (CB) land use district in the Wilburton Subarea, amending Section 20.10.440 (wholesale and retail use chart, note (36)) and Section 20.20.010 (maximum building height), and adding a new note (46) to Section 20.20.010; providing for severability; and establishing an effective date.

WHEREAS, the City of Bellevue Comprehensive Plan, Policy S-WI-3, anticipates that portions of the Wilburton Subarea will be rezoned to Community Business when NE 4<sup>th</sup> Street is extended; and

WHEREAS, the City's extension of NE 4<sup>th</sup> Street is underway; and

WHEREAS, the City of Bellevue Comprehensive Plan, Policy S-WI-2, indicates that large retail uses are generally appropriate west of the former BNSF rail corridor; and

WHEREAS, the City of Bellevue Comprehensive Plan, Policy S-WI-4, indicates that heights of up to 75 feet are appropriate for development generally between I-405 and the BNSF corridor, and along 116<sup>th</sup> Avenue NE in those areas zoned Community Business; and

WHEREAS, Target Corporation is pursuing development of a retail store at the southeast corner of 116<sup>th</sup> Avenue NE and NE 4<sup>th</sup> Street, which requires Community Business zoning as well as code amendments implementing the Comprehensive Plan policies described above; and

WHEREAS, the City Council finds that a Land Use Code Amendment is necessary and appropriate to implement the policies of the Comprehensive Plan cited above; and

WHEREAS, on May 19, 2014 the City Council initiated a Land Use Code Amendment to allow retail uses exceeding 100,000 square feet in size in the Wilburton subarea for properties designated CB through a development agreement with design guidelines appropriate to the scale of the use, and allowing for heights of up to 75 feet on properties designated CB in the Wilburton subarea between I-405 and the BNSF corridor; and

WHEREAS, on May 19, 2014 the City Council determined that, to allow for efficient processing of such amendment and anticipated development agreement, it is necessary for the City Council to hold the required public hearing on the LUCA as provided for in LUC Section 20.35.410.A; and

WHEREAS, the City Council held a public hearing on June 23, 2014 to consider the proposed Land Use Code amendment; and

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

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

Section 1. Section 20.10.440 – Wholesale and Retail Use Chart, note 36 - of the Bellevue Land Use Code is hereby amended to read:

\*(36) Retail uses in CB Districts in the following subareas, as designated in the Comprehensive Plan, are limited in size to 100,000 gross square feet or less: Bridle Trails, Evergreen Highlands, Newcastle, North Bellevue, Northeast Bellevue, Richards Valley, South Bellevue, Southeast Bellevue, and Wilburton; provided, that in CB Districts in the Wilburton Subarea, retail uses may be allowed to exceed 100,000 gross square feet through a Council-approved development agreement that is consistent with Chapter 36.70B RCW and includes design guidelines that (a) address the potential impacts of that scale of retail use, and (b) are consistent with the vision of Comprehensive Plan Policy S-WI-3 regarding the creation of a “retail village” on the commercial area west of 120<sup>th</sup> Avenue NE.

Section 2. Section 20.20.010 – Uses in land use districts dimensional requirements – is hereby amended to revise the Community Business column in the Maximum Building Height row to read:

45 (46)

Section 3. Section 20.20.010 – Uses in land use districts dimensional requirements – is hereby amended to add a new note 46 to read:

(46) Maximum building height in CB districts in the Wilburton Subarea is 75 feet.

Section 4. Severability. Should any provision of this ordinance or its application to any person or circumstance be held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances shall not be affected.

Section 5. Effective Date. This ordinance shall take effect and be in force five (5) days after adoption and legal publication.

Passed by the City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2014 and signed in authentication of its passage this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

(SEAL)

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Claudia Balducci, Mayor

Approved as to form:

Lori M. Riordan, City Attorney

## Draft Design Guidelines for the Target Development Agreement

### DESIGN GUIDELINES – NE 4<sup>TH</sup> STREET AND 116<sup>TH</sup> AVENUE NE

#### CB LAND USE DISTRICT

#### FR 408 – Proposed Settlement Exhibit

#### GENERAL

Support the vision of Comprehensive Plan Policy S-WI-3 regarding the creation of a “retail village” on the commercial area west of 120th Avenue NE.

#### STREETSCAPE

Streetscapes shall have a high orientation to pedestrians and bicyclists. This shall be achieved by emphasizing the relationship between the first levels of the structure and the horizontal space between the structure and curb line. This relationship should emphasize to the greatest extent possible, both the physical and visual access into and from the structure. In addition, amenities and special features shall be incorporated into the outside pedestrian space. In order to achieve the intended level of vitality, design diversity, and pedestrian activity, retailing or marketing activities shall be provided for in the design. Note: 116<sup>th</sup> Avenue is designated as a ‘boulevard’ in Figure UD.1 – Urban Design Elements/Comprehensive Plan.

#### Guidelines

##### Streetscapes:

- Strong visual and physical pedestrian and bicycle connections shall be made to the BNSF corridor and bicycle parking shall be provided on site for use by future trail (corridor) users.
- The site development shall incorporate a special corner feature on each of the corners at the intersection of NE 4<sup>th</sup> Street and 116<sup>th</sup> Avenue NE.
- Bus shelters/transit waiting areas shall be incorporated into any streetscape design.
- 116<sup>th</sup> Avenue NE:
  - Street level edges of the entire street frontage on 116<sup>th</sup> Avenue NE shall incorporate retail activities. If a building is primarily residential, the residential entry may be on this frontage.
  - The following characteristics shall be incorporated into the design of the structure at the ground level:
    - Windows providing visual access
    - Street wall
    - Multiple entrances
    - Differentiation of ground level
    - Public entrances to the building
    - Continuous weather protection along the entire building frontage
  - The following characteristics should be incorporated into the design of the sidewalk on 116<sup>th</sup> Avenue:
    - Generous width of sidewalk, with a minimum of 10 feet
    - Planting strip along entire frontage, a minimum of 7 feet with street trees
    - Different types of seating, including benches, chairs, seat walls
    - Street furniture including bicycle racks
    - Special paving
    - Integrated public art installations
    - Pedestrian-scaled lighting

## **BUILDING DESIGN/SITE PLANNING:**

Any buildings along 116<sup>th</sup> Avenue NE will be viewed from above and from all sides. Therefore, it is important to provide building facades that are interesting and dynamic. Any urban village in this area will ultimately have a mix of commercial and residential uses and therefore the juxtaposition of any new building with surrounding residential – either existing or planned for the future – is important. In addition, any development on 116<sup>th</sup> Avenue NE will be viewed from above (properties and neighborhoods to the east and the Downtown to the west). Therefore, treatment of the roof will be an important element of the overall building design.

### **Guidelines:**

#### **Building Design:**

- Individual buildings should incorporate similar design elements, such as surface materials, color, roof treatment, windows and doors, on all sides of the building to achieve a unity of design. (LUC 20.251.040.A)
- Buildings shall be urban in character and sited at the back of sidewalk.
- Building should be comprised of urban, highly durable and non-reflective materials
- Minimize blank walls on all facades. Any blank wall along street rights-of-way shall receive additional design treatment such as planted vertical trellises/green walls, additional plant material, and/or artwork.
- Walls not facing public streets shall include elements such as windows, doors, color, texture, landscaping, and/or wall treatment to provide visual interest from adjacent properties. (LUC 20.251.040.A)
- Minimize expanses of building exterior walls visible from the BNSF corridor through modulation/articulation, windows, unique wall treatments, public art installations, changes in color and materials, and/or design techniques such that the building appears to be multiple smaller buildings.
- Building exterior walls of large retail buildings visible from public or private streets shall have display windows, entry areas, and/or weather protections for no less than 60% of their horizontal length.
- Special attention should be paid to the rooftop. All mechanical equipment shall be screened in such a manner that the screening appears to be integral to the entire building design. (LUC 20.251.050)
- The rooftops of large retail buildings shall include significant vertical modulation of the roof line or parapet.
- Building facades should be divided into increments through the use of offsets, modulation, articulation, recesses, change in materials and color, and other architecture features which serve to break down the scale.
- Main entrances to large retail or building front facades should include pedestrian oriented spaces near the building entry, including covered areas, weather protection, seating, and landscaping.

#### **Site Design:**

- Surface parking shall either be underground, interior to the building with a buffer of building spaces between the parking and the sidewalk, or hidden behind the building and effectively screened with vegetation, berms, and/or walls.
- Minimize garage openings on public streets (PCD).
- Provide pedestrian and bicycle connections to the BNSF corridor.
- Provide trees and vertical landscaping to soften expanses of open parking decks.
- Provide landscaped buffers along internal property lines with tall trees to break up the mass of large retail buildings.
- Strongly consider low impact development (LID) techniques, including green roofs and rain gardens.
- Consider use of solar panels and design to be integral to the building design.

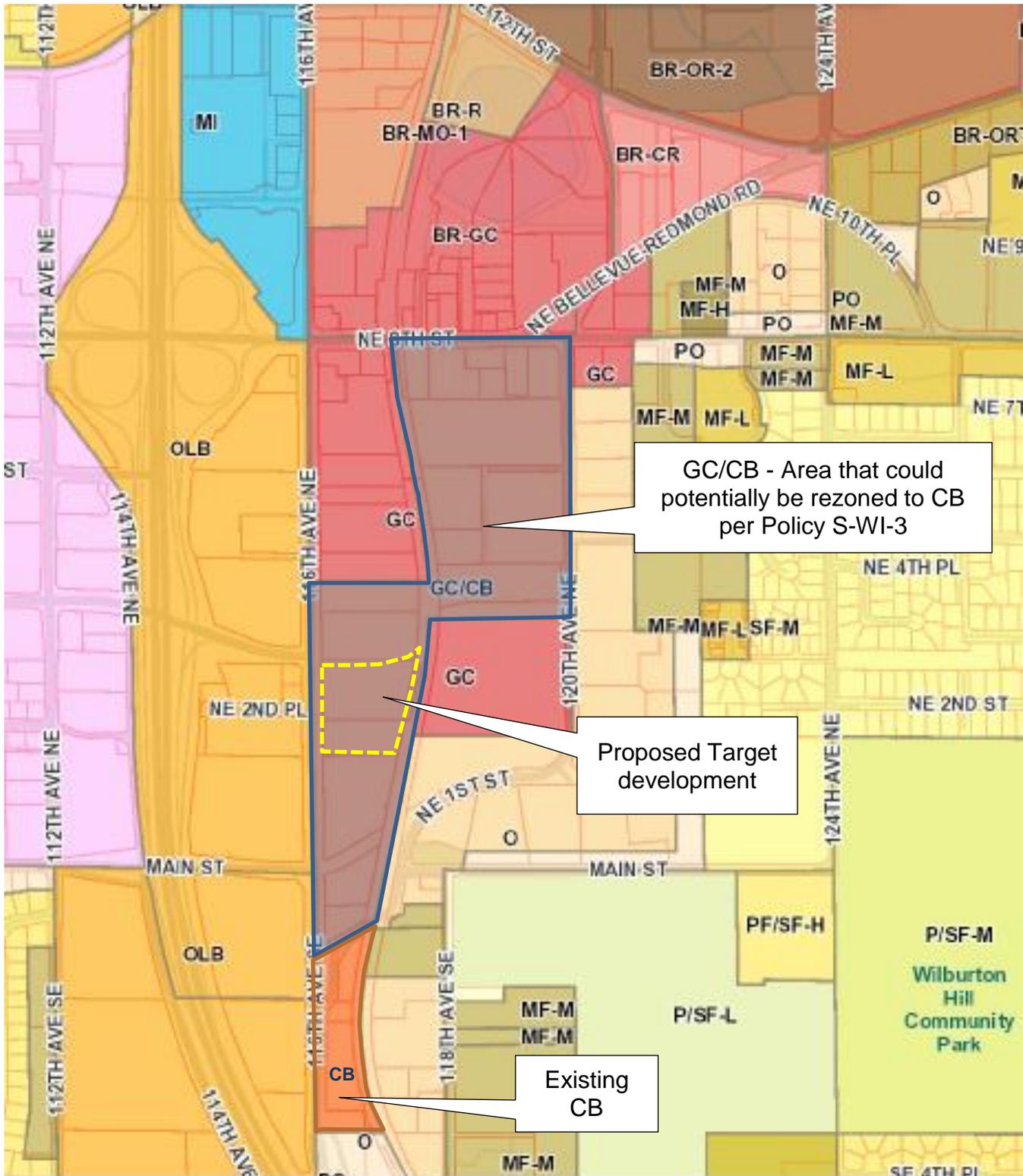
- All loading shall take place off city streets. Ideally provide for loading functions with the building. If not feasible, loading shall be placed behind the building and screened with walls, berms, and/or vegetation. (LUC)

### **SIGNAGE**

In addition to compliance with the Bellevue Sign Code, address the following:

- Ensure that signage is an integral part of the overall architectural design.
- Encourage signage which is scaled to the pedestrian and enhances the pedestrian environment.
- Signage must comply with the applicable requirements of the Sign Code, BCC 22B.10.
- Incorporate wayfinding signage to highlight connections to the BNSF trail, transit, the Downtown, and adjacent neighborhoods.

Vicinity Map and Proposed Target Development Location





Proposed  
Target Store  
Site



North