



DATE: April 7, 2016

TO: Chair Hilhorst and Members of the Planning Commission

FROM: Carol Helland, Land Use Division Director 452-2724
Development Services Department

SUBJECT: Floor Area Increase for Assisted Living Uses through Provision of
Affordable Housing - File No. 16-126684-AD

INTRODUCTION

On December 14, 2015, representatives of Aegis Living came before the Council in Oral Communications with a request to initiate and expedite a Land Use Code Amendment (LUCA) that would affect their property in the BR-MO District. They presented specific LUCA language that would allow the maximum floor area dedicated to “assisted living” use in the Bel Red Medical Office District (BR-MO) to exceed the base FAR of 1.0 up to a maximum FAR of 2.0, subject to provision of a fee-in-lieu affordable housing incentive.

The City Council discussed the merits of undertaking a code amendment to achieve the objectives of the Aegis Living proposal on February 1 and February 22, 2016. On February 22, the Council initiated a LUCA to enable increased density in multifamily districts city-wide for assisted living where combined with on-site or fee-in-lieu provision of affordable housing, and forwarded the LUCA to the Planning Commission for a public hearing and recommendation.

PROPOSAL SUMMARY

The LUCA prepared for Planning Commission consideration would enable a density increase in the BelRed and Downtown subareas where:

1. Residential density is governed by FAR,
2. The FAR Amenity System currently does not apply or provide for an affordable housing incentive, and
3. Assisted living, congregate care and nursing home uses are permitted.

The resulting amendment would expand the excepted FAR for affordable housing uses to the BelRed-Medical Office (BR-MO) and BelRed-Office Residential (BR-OR) land use districts. The balance of the BelRed districts either except affordable housing as an existing amenity, or do not permit assisted living, congregate care and nursing home uses. Therefore, amendments to the code outside these two land use districts are not necessary to achieve the Council direction. In Downtown, excepted FAR for affordable housing uses would be permitted in any land use district where assisted living, congregate care or nursing home uses are allowed.

Where the amendment is applicable, the new language would except up to 1 FAR of affordable housing from the calculation of FAR for a residential project if certain criteria are met. If the affordable housing is provided on-site, the amount of excepted FAR would be negotiated through a development agreement and the affordable housing would be required to meet applicable design criteria, a public benefit must be shown to be derived from development of affordable housing at the proposed location, and an agreement must be executed with the City to ensure that the affordable housing remains on the site for the life of the project.

If the affordable housing is not provided on-site, the applicant is required to pay a fee-in-lieu, and must execute an agreement with the City to ensure that the use remains dedicated to assisted living, congregate care or nursing home for the life of the project. In BelRed, calculation of the in-lieu-fee would be based on the affordable housing amenity rates adopted into the BelRed code. Affordable housing is not currently an amenity offered in the Downtown code. As a result, payment of the in-lieu-fee in Downtown would be negotiated through a Council-approved development agreement.

A draft LUCA was introduced to the Planning Commission on March 23, 2016. A copy of the draft LUCA is included in Attachment 1 to this staff report.

REVIEW PROCESS

A LUCA is reviewed through Process IV per LUC 20.35.400 - .450. Following review of the draft LUCA, the Planning Commission directed staff to schedule a public hearing for April 27, 2016. A recommendation on the LUCA will be developed by the Planning Commission following the public hearing, either on the same night or during a future meeting, based on specific decision criteria set forth in Land Use Code section 20.30J.135.

NEXT STEPS

April 21, 2016:	Issuance of the SEPA Threshold Determination
April 27, 2016:	Public Hearing
Following the Public Hearing:	Planning Commission develops a Recommendation PC Recommendation transmitted to City Council City Council takes final action

ATTACHMENTS

1. Draft Land Use Code Amendment
2. SEPA Checklist

FAR Increase for Assisted Living Uses though Provision of Affordable Housing

File No. 16-126684 AD

Section 1. Land Use Code Section 20.25A.020.B.3 is hereby amended as follows:

B. Exceptions to Dimensional Requirements.

. . . .

3. Floor Area Ratio Exceptions.

a. Up to a maximum of 1.0 FAR of the floor area in a project limit that is devoted to retail activities will not be counted for the purpose of calculating FAR in the proportions set forth in LUC 20.25A.115, so long as the retail activities are designed and located in compliance with:

i. LUC 20.25A.115;

ii. Guidelines 2 and 3 for "A" Rights-of-Way in Section IV.F of the Design Guidelines –Building/Sidewalk Relationships; and

iii. If applicable, Guidelines and Standards for Upper Level Retail in Section IV.F of the Design Guidelines – Building/Sidewalk Relationships.

b. In the area of the Downtown bounded on the west by Bellevue Way, on the east by 112th Avenue NE, on the south by NE 4th Street and on the north by NE 8th Street, the maximum Floor Area Ratio may be exceeded if the major pedestrian corridor is constructed as required by LUC 20.25A.100.E.1, or the major public open space is constructed as required by LUC 20.25A.100.E.4. The maximum Floor Area Ratio may only be exceeded by the amount provided for under the major pedestrian corridor amenity bonus, LUC 20.25A.030.C.16 or by the amount provided for under the major public open space amenity bonus, LUC 20.25A.100.E.4.d.vi, or by a combination thereof.

c. Up to 1 FAR of floor area dedicated to on-site affordable housing in a congregate care senior housing, nursing home or assisted living project shall not be counted for the purposes of calculating the FAR, provided that:

i. The square footage of excepted floor area shall be negotiated through a Council-approved development agreement that is consistent with Chapter 36.70B RCW;

ii. The bedroom mix and exterior finishes shall be comparable to the market rate units, but interior design, unit size, amenities and interior finishes may vary;

iii. A public benefit shall be derived from the development of affordable housing in the proposed location; and

iv. An agreement in a form approved by the City shall be executed by the applicant and recorded with the King County Record's Office, or its successor organization, requiring the affordable housing to remain for the life of the project. This agreement shall be a covenant running with the land, binding on assigns, heirs, and successors of the applicant.

d. Up to 1 FAR of floor area dedicated to Congregate Care Senior Housing, Nursing Home, or Assisted Living uses shall not be counted for the purposes of calculating the FAR, provided that the applicant:

i. Pays a fee-in-lieu of providing on-site affordable housing, negotiated through a Council-approved development agreement that is consistent with Chapter 36.70B RCW, for each square foot of excepted floor area; and

ii. Executes and records with the King County Record's Office, or its successor organization, an agreement in a form approved by the City dedicating the excepted floor area to Congregate Care Senior Housing, Nursing Home, or Assisted Living uses for the life of the project. This agreement shall be a covenant running with the land, binding on assigns, heirs, and successors of the applicant.

Section 2. Land Use Code Section 20.25D.080.B.3 is hereby amended as follows:

B. Exceptions to Dimensional Requirements.

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3. Floor Area Ratio Exceptions.

a. Per the FAR Amenity Incentive System, LUC 20.25D.090, floor areas dedicated to affordable housing, public restrooms, and child care/nonprofit uses shall not be counted for the purpose of calculating FAR.

b. Each square foot of ground floor retail and enclosed plaza meeting the criteria set forth below shall not be counted for the purpose of calculating FAR:

i. Ground Floor Retail Uses: Ground floor retail uses as defined in LUC 20.25D.130.A shall not be counted provided the following limitations are met:

(1) The ground floor retail shall only be eligible for exception if located within a multi-story, multi-use building;

(2) The ground floor retail shall meet the requirements set forth in LUC 20.25D.130.A, Bel-Red Subarea Development Standards, applicable to retail uses;

(3) Outside the nodes the maximum depth of tenant space eligible for exception is 60 feet; and

(4) Inside the nodes ground floor retail shall not be counted.

ii. Enclosed Plazas shall not be counted provided the following limitations are met:

(1) The enclosed plaza shall be clearly visible and accessible from the public right-of-way;

(2) The enclosed plaza shall coordinate with and complement ground floor retail uses to the maximum extent feasible;

- (3) At least 10 percent of the surface area of the enclosed plaza shall be landscaped;
- (4) The enclosed plaza shall contain at least one sitting space for each 100 square feet of plaza;
- (5) The enclosed plaza shall be a minimum size of 1,000 square feet;
- (6) Only 4,000 square feet of the enclosed plaza shall be excepted for the purpose of calculating FAR;
- (7) The enclosed plaza shall have a minimum horizontal dimension (width and depth) of no less than 20 feet;
- (8) The enclosed plaza shall be signed as "Public Access" and open to the public from 7:00 a.m. to 9:00 p.m. daily or during business hours, whichever is longer. The sign for the enclosed plaza shall be visible from the public right-of-way; and
- (9) Any use or feature for the exclusive use of the building users or tenants shall be counted for the purpose of calculating FAR.

c. In the BR-MO and BR-OR land use districts, up to 1 FAR of floor area dedicated to on-site affordable housing in a congregate care senior housing, nursing home or assisted living project shall not be counted for the purposes of calculating the FAR, provided that:

i. The square footage of excepted floor area shall be negotiated through a Council-approved development agreement that is consistent with Chapter 36.70B RCW;

ii. The bedroom mix and exterior finishes shall be comparable to the market rate units, but interior design, unit size, amenities and interior finishes may vary;

iii. A public benefit shall be derived from the development of affordable housing in the proposed location; and

iv. An agreement in a form approved by the City shall be executed by the applicant and recorded with the King County Record's Office, or its successor organization, requiring the affordable housing to remain for the life of the project. This agreement shall be a covenant running with the land, binding on assigns, heirs, and successors of the applicant.

d. In the BR-MO and BR-OR land use districts, up to 1 FAR of floor area dedicated to Congregate Care Senior Housing, Nursing Home, or Assisted Living uses shall not be counted for the purposes of calculating the FAR, provided that the applicant:

i. Pays the residential fee-in-lieu of providing on-site affordable housing, pursuant to LUC Chart 20.25D.080.B.3.c, in the fee amount required by LUC Chart 20.25D.090.C for each square foot of excepted floor area; and

ii. Executes and records with the King County Record's Office, or its successor organization, an agreement in a form approved by the City dedicating the excepted floor area to Congregate Care Senior Housing, Nursing Home, or Assisted Living uses for the life of the project. This agreement shall be a covenant running with the land, binding on assigns, heirs, and successors of the applicant.

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

BACKGROUND INFORMATION

PROPOSAL TITLE: FAR Increase for Assisted Living through Provision of Affordable Housing – File No. 16-126684

PROPERTY OWNERS' NAME: No specific property owner identified

PROPOSAL LOCATION: Bel-Red and Downtown Subareas

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

CONTACT PERSON'S NAME: Carol Helland, Land Use Director

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

CONTACT PERSON'S PHONE: 425-452-2724

BRIEF DESCRIPTION OF THE PROPOSAL'S SCOPE AND NATURE:

1. General description:

The Land Use Code Amendment (LUCA) prepared for Planning Commission consideration would enable a density increase in the BelRed and Downtown subareas where:

1. Residential density is governed by FAR,
2. The FAR Amenity System currently does not apply or provide for an affordable housing incentive, and
3. Assisted living, congregate care and nursing home uses are permitted.

The resulting amendment would expand the excepted FAR for affordable housing uses to the BelRed-Medical Office (BR-MO) and BelRed-Office Residential (BR-OR) land use districts. The balance of the BelRed districts either except affordable housing as an existing amenity, or do not permit assisted living, congregate care and nursing home uses. Therefore, amendments to the code outside these two land use districts are not necessary to achieve the Council direction. In Downtown, excepted FAR for affordable housing uses would be permitted in any land use district where assisted living, congregate care or nursing home uses are allowed.

Where the amendment is applicable, the new language would except up to 1 FAR of affordable housing from the calculation of FAR for a residential project if certain criteria are met. If the affordable housing is provided on-site, the amount of excepted FAR would be negotiated through a development agreement and the affordable housing would be required to meet applicable design criteria, a public benefit must be shown to be derived from development of affordable housing at the proposed location,

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and an agreement must be executed with the City to ensure that the affordable housing remains on the site for the life of the project.

If the affordable housing is not provided on-site, the applicant is required to pay a fee-in-lieu, and must execute an agreement with the City to ensure that the use remains dedicated to assisted living, congregate care or nursing home for the life of the project. In BelRed, calculation of the in-lieu-fee would be based on the affordable housing amenity rates adopted into the BelRed code. Affordable housing is not currently an amenity offered in the Downtown code. As a result, payment of the in-lieu-fee in Downtown would be negotiated through a Council-approved development agreement.

2. **Site acreage:** Applies in the Bel-Red and Downtown Subareas
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:** The LUCA would enable increased density in multifamily districts city-wide for assisted living where combined with on-site or fee-in-lieu provision of affordable housing.
9. **Design features, including building height, number of stories and proposed exterior materials:** If adopted, the Land Use Code Amendment will not change any other design guidelines or standards beyond the up to 1 FAR intensity increase.
10. **Other:**

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

April 21, 2016:	Issuance of the SEPA Threshold Determination
April 27, 2016:	Public Hearing
Following the Public Hearing:	Planning Commission develops a Recommendation PC Recommendation transmitted to City Council City Council takes final action

Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain. Adoption of the proposed Land Use Code Amendment will permit assisted living developers to except up to 1 FAR from the calculation of floor area, subject to provisions of a fee-in-lieu for affordable housing. Any assisted living development project that proposes to use the FAR exception will continue to be subject to Design Review pursuant to the City of Bellevue's Process II permit review procedure, and will require conformance with all applicable design guidelines and development standards. If the

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LUCA is adopted, Aegis Living has declared its intent to redesign and to revise its BelRed project permit to add floor area. If the standard BelRed residential fee-in-lieu rate of \$18/sf were applied to exempt 1.0 FAR on the 35,000 square foot Aegis Living property, this would generate about \$0.6M in fees that would be dedicated to affordable housing.

List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal. None, other than this SEPA checklist.

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.

None at this time.

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. Ordinance adoption by the City Council.

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

Project Summary: The draft LUCA would expand the excepted FAR for affordable housing uses to the BelRed-Medical Office (BR-MO) and BelRed-Office Residential (BR-OR) land use districts. The balance of the BelRed districts either except affordable housing as an existing amenity, or do not permit assisted living, congregate care and nursing home uses. Therefore, amendments to the code outside these two land use districts are not necessary to achieve the Council direction. In Downtown, excepted FAR for affordable housing uses would be permitted in any land use district where assisted living, congregate care or nursing home uses are allowed.

Where the amendment is applicable, the new language would except up to 1 FAR of affordable housing from the calculation of FAR for a residential project if certain criteria are met. If the affordable housing is provided on-site, the amount of excepted FAR would be negotiated through a development agreement and the affordable housing would be required to meet applicable design criteria, a public benefit must be shown to be derived from development of affordable housing at the proposed location, and an agreement must be executed with the City to ensure that the affordable housing remains on the site for the life of the project.

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

State the proposal's objectives: Allow an increase of FAR for assisted living uses through the provisions of affordable housing.

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

Aegis Living has requested an increase in density in the BR-MO District for assisted living that also contributes to affordable housing. The rationale for the amendment was to facilitate assisted living to meet the needs of a growing older population, as well as the public benefit in promoting affordable housing. With a growing older population, Bellevue will face an increasing need for assisted living housing. The Council has already recognized the need for more affordable housing opportunities, and initiated work on an Affordable Housing Action Plan.

The Aegis proposal represents an opportunity for an "early win" in advancing the affordable housing strategy. However, the opportunity is bigger than the BR-MO District where the request was targeted. As a result, the Aegis concept of promoting a density bonus for assisted living, combined with on-site or fee-in-lieu affordable housing, would be enabled by the LUCA in districts city-wide that set density by FAR (currently Downtown and BelRed).

State the major conclusions, significant areas of controversy and uncertainty: The major conclusions are that the proposal will likely result in the generation of fees to support the off-site construction of affordable housing when developers seek to increase floor area available for their proposed assisted living, congregate care and nursing home uses. Uncertainty exists as to whether the LUCA will support the creation of on-site assisted living, congregate care and nursing home uses that are affordable to households with an income of less than 80% of the median annual income for King County. There are no known significant areas of controversy..

State the issues to be resolved, including the environmental choices to be made among alternative courses of action: Adoption of the proposed Land Use Code Amendment will permit assisted living developers to exceed the applicable base FAR by up to 1.0 additional FAR, subject to provisions of a fee-in-lieu for affordable housing. Any proposed assisted living development project that proposes to use the FAR exception will continue to be subject to Design Review pursuant to the City of Bellevue's Process II permit review procedure, and will require conformance with all applicable design guidelines and development standards.

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The alternative course of action would be to not adopt the proposed Land Use Code Amendment. If the Land Use Code Amendment is not adopted, the contemplated fee-in-lieu would not be created. Known in-lieu-fee contributions proposed to be generated by the Aegis Living proposal would be lost, and future fees would be foregone. At the standard BelRed residential rate of \$18/sf were applied to exempt 1.0 FAR on the 35,000 square foot Aegis Living property, this would generate about \$0.6M.

State the impacts of the proposal, including any significant adverse impacts that cannot be mitigated:

The proposal is a non-project action which would allow an increase of FAR for assisted living uses through the provisions of affordable housing. No significant adverse environmental impacts associated with the Land Use Code Amendment have been identified. Project specific impacts associated with construction and operation of the assisted living, congregate care and nursing home use will be analyzed in a separate environmental document as development applications are received.

Describe any proposed mitigation measures and their effectiveness:

No significant environmental impacts associated with the Land Use Code Amendment 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?** No increase in discharge to water or air is anticipated.

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?** No impact to plants and animals is anticipated.

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 protect 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 modify requirements of the Critical Areas Overlay, and no adverse impacts to energy or natural resources are anticipated by the adoption of the proposed code amendment.

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

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proposed code amendment will not affect any shoreline areas. The Bel-Red and Downtown Subareas do not contain any shorelines.

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?** Adoption of the proposed amendment 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: March 31, 2016
Trish Byers