

CITY OF BELLEVUE  
BELLEVUE PLANNING COMMISSION  
STUDY SESSION MINUTES

October 12, 2016  
6:30 p.m.

Bellevue City Hall  
City Council Conference Room 1E-113

COMMISSIONERS PRESENT: Chair deVadoss, Commissioners Carlson, Barksdale, Hilhorst, Morisseau, Walter

COMMISSIONERS ABSENT: Commissioner Laing

STAFF PRESENT: Terry Cullen, Emil King, Scott MacDonald, Department of Planning and Community Development; Patricia Byers, Liz Stead, Department of Development Services

COUNCIL LIAISON: Mayor Stokes

GUEST SPEAKERS: None

RECORDING SECRETARY: Gerry Lindsay

CALL TO ORDER  
(6:36 p.m.)

The meeting was called to order at 6:36 p.m. by Chair deVadoss who presided.

ROLL CALL  
(6:36 p.m.)

Upon the call of the roll, all Commissioners were present with the exception of Commissioner Laing who was excused.

APPROVAL OF AGENDA  
(6:36 p.m.)

A motion to approve the agenda was made by Commissioner Carlson. The motion was seconded by Commissioner Barksdale and the motion carried unanimously.

COMMUNICATIONS FROM CITY COUNCIL, COMMUNITY COUNCILS, BOARDS AND COMMISSIONS  
(6:37 p.m.)

Commissioner Barksdale reported that the community meeting enjoyed a very good turnout from the neighborhood leadership meeting held October 4<sup>th</sup>. The input received was excellent and will aid the work of the Commission.

STAFF REPORTS  
(6:38 p.m.)

Comprehensive Planning Manager Terry Cullen reported that the concerns voiced by the Commission regarding the neighborhood planning issue were shared with Mayor Stokes who

echoed the concerns. Mayor Stokes stressed that neighborhood planning is a high priority for the City Council, but the Council is currently focused on getting through other priorities. Mayor Stokes agreed that the Commission could suggest an order for which neighborhoods should be addressed first.

Commissioner Carlson asked for a status update regarding the proposed homeless shelter in Eastgate. Mr. Cullen said he did not have the latest information but would seek it out.

With regard to the Commission's annual retreat, Mr. Cullen said Mayor Stokes has asked that it be scheduled as soon as possible. Accordingly, November 16 has been chosen with a start time of 5:00 p.m. The meeting will be facilitated by a neutral party, the logistics of which are still being worked out.

#### PUBLIC COMMENT (6:44 p.m.)

Mr. Andrew Miller spoke representing the property at 11100 Main Street known as the BDR building. He said the work of the Commission relative to the downtown rezone work has been appreciated. Things are on the right track but there are still issues to be worked out, including stepback depth on shorter buildings and stepback height generally. The goal is to get as many floors as possible under the lid before the stepback transition occurs, and sometimes it is not done gracefully, with a stepback that is either too short or too deep. Ideally there should be a range offered to allow for flexibility. Currently, the property lines go to the curb, but in the future there will be a planter strip, then a sidewalk, and then a landscape buffer between the street and the buildings; adding that all up will account for 12 percent of the BDR site and 14 percent of the John L Scott site. The concept is good, but the sizes are questionable and evoke what could be termed a suburban solution. The Masons building in Old Bellevue has the building meeting the sidewalk edge with not stepback at all, which is a very urban approach. If a large percentage of the two sites are to be given away for sidewalks and landscaping, there should be some level of compensation provided. He reiterated his belief that things are moving in the right direction and that the result will be something everyone can be proud of.

Mr. Phil McBride spoke representing John L Scott and the property at 11040 Main Street. He said the owners of the BDR and John L Scott properties have been working together on a shared vision for the two properties, which are situated at a very important corner. The Commission and staff have been very open and receptive to input throughout the process. He concurred with the comments made by Mr. Miller.

Mr. Cal McAusland, 10210 NE 8th Street, agreed with the previous speakers. He noted that he along with the Commission had sat through a number of presentations by the Fortress Group relative to their project on NE 8th Street. There were some hot buttons for the CAC, specifically staying with the recommended heights, not messing with parking and traffic, not increasing the FAR, and not moving any zoning lines. Fortress Group has asked that the zoning line be moved, to reduce their parking count, to increase their FAR, and to increase their height without regard to the work of the CAC. Their property has two different zonings, DT-MU and DT-MU-B. In the B district, the current height for residential is 90 feet. The proposal is to increase height in that zone to 160 feet, but Fortress Group has asked for 300 feet in a part of the downtown that should not have two towering buildings at that height. He objected to any process that would allow Fortress Group to gain a special zoning for their property, even through the use of a development agreement.

Mr. Rod Bindon, owner of the Burton Building at 810 102nd Avenue NE adjacent to Mr. McAusland's building, said he agreed with the comments made about Fortress Group not receiving special treatment for their site. He agreed that building heights as proposed should not be allowed to increase. Building height as requested by Fortress Group is unwarranted for the area and would create more traffic and other issues that will adversely affect the area.

Mr. Lance Ramsay, a resident of Bellevue Towers at 500 106th Avenue NE, reinforced the comments of the previous two speakers. He said Bellevue Towers residents have been following the process for a little over three years. Traffic and congestion have increased for various reasons and if the zoning is changed to allow for more tall buildings, the increased density will only make things worse. The increase in both vehicle and pedestrian traffic is creating a dangerous situation. The issue is related to quality of life rather than to views.

Ms. Betsi Hummer spoke representing the East Bellevue Community Council regarding the Larson Lake restrooms. She said the East Bellevue Community Council has jurisdiction over certain land use permits in the Lake Hills area. During the last winter several constituents came before the East Bellevue Community Council, the Parks and Community Services Board and the City Council asking that the restrooms at Larson Lake remain open during the winter. Larson Lake's soft trails are easily accessible from a variety of points and are used year round. Those asking for the restrooms to remain open during the winter were told the closure was due to a budget cut during the recession and that nothing could be done until a new budget was approved. The Council and anyone else with any input is being asked to include in the next budget a provision to keep the restrooms at the popular year-round park open. Larson Lake was one of the first land use decisions made by the East Bellevue Community Council. Larson Lake is the headwater for the Kelsey Creek drainage system that threads throughout the city. Originally slated by the county for high-density housing, the East Bellevue Community Council helped direct parks to purchase the Kelley family blueberry farm for use as the Lake Hills Greenbelt connecting Larson Lake to Phantom Lake. The iconic greenbelt, combined with the 148th Avenue SE urban boulevard, has established Bellevue nationally as a city in a park that welcomes the world. Providing basic amenities for the year-round visitors makes the park more welcoming and safer. All elected and appointed public servants owe residents more than a pat "it's not in the budget" answer.

Commissioner Hilhorst asked if the Commission has the authority to make a recommendation to the Council to consider including funding in the budget to keep the Larson Lake restrooms open year-round. Mr. Cullen said he would have to check with the City Attorney's office. He allowed that the Commission is free to make suggestions and pass things along to the Council at any time, but making specific budget recommendations may not be part of the Commission's charge. Commissioner Hilhorst said if possible, the Commission should recommend to the Council that more of the city's parks remain open later in the season. Many parks facilities close after October 1 even though use of the parks does not stop after that date.

Ms. Hummer pointed out that Larson Lake is divided into about five parcels, all of which are zoned R-1. It is very concerning that a house per acre could be built there, and that the greenbelt could inadvertently be turned into a parking lot, a train station, a staging area or some other non-park use. In the years before all the wetlands regulations came into play, a stream committee in Bellevue recognized the importance of Kelsey Creek.

Commissioner Barksdale suggested the issue should be raised before the Parks and Community Services Board as well. Ms. Hummer said she has addressed members of that board informally and said she intends to address them and the Council formally.

Speaking as a citizen and not on behalf of the East Bellevue Community Council, Ms. Hummer provided the Commissioners with copies of a letter by Dexter Johnson sent to residents regarding the dorms at Bellevue College. She said a meeting is slated for October 22 at 5:00 p.m. at Bellevue College and she invited the Commissioners to attend. Ground has been broken for the project and a number of trees have been removed. The college is zoned R-5, which does not match the project. Zoning should match the purpose. She said she attended the homeless shelter meeting on September 29. She said her biggest concern was that during the Eastgate/I-90 CAC process, the public health center site in Eastgate was tossed off to the side. All the nice amenities were touted. For the presentation about the homeless shelter to be held only five days after the Commission passed the Land Use Code amendment for Eastgate does not seem right. The homeless shelter was not in any of the discussions. There is no need for citizen involvement if the city is simply going to do what it wants to do anyway. The lack of transparency is troubling. There are already shelters in Bellevue that are providing help to those who need it so it cannot be said that nothing is being done about homelessness in Bellevue.

Ms. Renay Bennett, 826 108th Avenue SE, thanked the Commissioners for its discussion and vote to support the citizen-initiated Comprehensive Plan amendments that would have dealt with some of the issues raised by Ms. Hummer about protecting park lands. One of the suggested amendments was to hold a public hearing whenever the Council decides there is a need to sell park lands for uses other than a park. Another was to actually zone parks as parks to have the use match the zoning. The Commission agreed with that, but the Council did not. The issue came about because the Council behind closed doors chose to sell Mercer Slough Nature Park land. The lands were purchased with taxpayer bonds in 1988 and they were sold out from under the public without any knowledge or input. A couple of weeks ago a notice was posted to NextDoor talking about a meeting hosted by the city and Sound Transit regarding a 20- to 30-month partial closure of the Enatai beach park to allow the site to be used for staging while the work of developing the columns that support I-90 is undertaken. That approach was not part of the Final Environmental Impact Statement (FEIS). On the second page of chapter 4 of the FEIS under parks impacts, it is specifically stated that Enatai Beach Park will not be impacted by the project. It is not right and may not even be legal that the park will in fact be impacted. Once again park lands are being sold without any public knowledge, and this time without even a proper public process. The information was presented to the Parks and Community Services Board on October 11 and they were unaware of the action.

Commissioner Walter asked Ms. Bennett if she were asking the clock to be turned back on ST-1 and ST-2, or if different mitigating circumstances were being sought relative to where the traffic is going to go; she noted that at the Council meeting some of the Councilmembers appeared to conclude that the latter was the case. Ms. Bennett said there were Comprehensive Plan amendments in place that would prevent the kind of proposed action from happening ever again, and some members of the Council decided that was not what it was about, which is unfortunate because it is not true. She said she could not help their misinterpretations. The Commissioners were asked to recommend to the Council that an addendum to the FEIS be made since use of the Enatai Beach Park was never disclosed and never discussed.

Mr. Patrick Bannon, 400 108th Avenue NE, Suite 110, spoke representing the Bellevue Downtown Association. He noted that several stakeholders of the BDA will continue to review the Land Use Code changes as they are expressed. There are a few topics that have come up to date that are in need of further clarification. With regard to the review process, there is a proposed change outlined in Attachment A. He said some clarification is needed as to the origin of, the rationale for and the potential effect of the change. There is also a proposed change to the

floorplate size above the existing height and as the recommended, and as the initial recommendations of additional height in certain areas are contemplated, the recommendation for a floorplate reduction needs to be very clearly understood with regard to intent and consequences. With regard to the green factor, there is a score card that is some two pages long that involves a desired outcome of .3; that issue needs to be thoroughly explained with regard to where it came from and why it is believed it will make a difference.

Commissioner Carlson asked if the BDA had any comment relative to the proposal to allow 300-foot towers as part of the Fortress Group development. Mr. Bannon said the BDA has lined up strongly in support of the recommendations of the CAC. An exploration of both height and FAR opportunities in the downtown was made and the BDA concluded that the OLB is ripe for potential changes and that there should be added flexibility and allowances for height so long as there are mitigating factors that address the resulting impacts in other zones. The BDA has not, however, recommended any specific height change limits.

Mr. Cullen reflected for the record that email correspondence had been received from Bill Herman, Murat Divringi, Barbara Taylor and Michele Herman, all in regard to downtown livability.

## STUDY SESSION (7:21 p.m.)

### *Downtown Livability – Part 1 of the Land Use Code Amendment Package*

Strategic Planning Manager Emil King informed the Commissioners that the downtown livability topic would be on the Commission's agenda for every study session for the remainder of the year. He said staff are working diligently to serve out installments of the Land Use Code in a timely manner, leading to the scheduling of a public hearing at which the public and stakeholders will comment on the consolidated code. It is looking like it will not be possible to fully complete all of the work by the end of the calendar year and having it transmitted to the Council; the work will probably not be completed until the early part of 2017. The Council has expressed an interest in having an Urban Land Institute technical assistance panel help with the issue of incentive zoning, and if all goes well that will be slated for a date in December.

Code Development Manager Trish Byers said one member of the staff team focused on downtown livability is Liz Stead. She said Ms. Stead has been the Urban Design Manager for the city for the last eight years. Ms. Stead has a master's degree in architecture and is working toward a master's degree in public administration.

Mr. Byers explained that Installment 1 was originally supposed to be the general provisions, the land use chart, the dimensional requirements, the parking standards, the street and pedestrian standards, landscape development, and mechanical screening. To that the review process has been added. Installment 2a includes the definitions, additional requirements for height triggers, the green and sustainability factors, and a few other technical issues, including exceptions. Installment 2b involves the actual amenities suggested for the amenity incentive system and some of the required conditions, and the design guidelines. Currently the design guidelines are not in the code, but the process will include codifying them. Installment 3 includes the amenity incentive system.

Mr. King explained that BERK Consulting, a local economic consulting firm, has been the consultant for the project to date and will continue to be through the end of the project. The

Urban Land Institute (ULI) is a national organization that has a Seattle office. The ULI operates a local technical assistance panel program in which they convene third-party experts to provide feedback. The ULI technical assistance panel will provide specific feedback on the work done by BERK Consulting and the city. The same mechanism was used in forming the Bel-Red incentive zoning system, and other jurisdictions use ULI in reviewing various planning efforts. The Council has directed incorporating the tried and true process, which is open to the public in the form of a presentation.

Ms. Byers called attention to section 20.25A.030.A, applicable review and pointed out that subsequent to the September 14 meeting the language was reworked to be the same as what is currently required. That was not clear in the previous discussion. The new language should solve the problem about the master development plan only being required when there is more than one building or a phased project, and clarify that for every project in the downtown a design review is required.

With regard to the definitions, Ms. Byers pointed out that the dimensions help to define the box in which development can occur, but the dimensions cannot be understood unless the definitions are clear. She explained that most buildings are constructed up to the Build-To line, which is usually the property line or the back of the required sidewalk. The setback is an area that is unoccupied and is measured from the back of the sidewalk to the face of the building; in the downtown there is often no setback required and buildings are constructed to the back of the sidewalk. Certain intrusions are allowed into the setback and the stepback areas. The stepback is space unoccupied by the structure that is stepped back from the face of the building. The public right-of-way is the area dedicated to public use for streets and public utilities. Many of the streetscape features are allowed to be located in the public right-of-way but they are still regulated; they include street furniture, street trees and the like.

Buildings that are taller than 75 feet must step back 20 feet as measured from the back of the sidewalk; the stepback occurs at 45 feet. Stepbacks provide light and air for pedestrians and avoid the canyon effect at the sidewalk level.

Commissioner Hilhorst asked if the stepback depths and heights will be explored with regard to providing a range rather than hard and fast numbers. Mr. King said staff have not recently heard any specific numbers that vary from what has been proposed. The question is whether the numbers should be changed up front or if it would be better to wait for the public hearing to allow people to weigh in in a more detailed way. He said numbers as low as 15 feet might be suggested for the depths of the stepback. Historically the upper level stepback has occurred at the first floor above 40 feet; while that could be at 41 feet, in some cases it could be as high as 60 feet. Establishing certainty at 45 feet is a new approach.

Ms. Byers reminded the Commissioners that there are exceptions allowed in most cases. For the stepback, intrusions of up to 60 percent are allowed to accommodate such things as louvers over windows. Ms. Stead said an exception is also included which allows for eliminating the stepback altogether for buildings adjacent to streets that are over 70 feet and width, provided building modulation is incorporated.

<sup>1</sup>Commissioner Barksdale said we are talking about numbers and asked what the significance is on both sides of the coin, and maybe there are more than two sides. There is the developer side

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<sup>1</sup> On November 9, 2016 Commissioner Barksdale asked that staff listen to the audio of this paragraph to clarify the exchange. The changes reflect the exchange with some additional detail.

and the pedestrian side. Commissioner Barksdale asked for some analysis that leads to these stepbacks. Ms. Stead said stepbacks are primarily intended to improve the pedestrian experience by increasing light and air and avoiding the canyon effect at the sidewalk level. In some areas of the downtown where the streets are very wide, the stepback is not as important in fulfilling that role. Stepbacks, however, add to the elegance of buildings, and they help to create a base at the street level to which pedestrians can relate. Commissioner Barksdale asked more specifically that developers are asking for changes in stepbacks and he wanted to know what is the significance or impact of that change. Ms Stead said if you went to a lesser stepback there would be less light and air at the street. In terms of height, there is not a significant difference between requiring the stepback to occur at 40 feet or 45 feet. The appropriate place to begin the stepback is above the second level adjacent to pedestrians.

Commissioner Walter suggested that if every building were to be stepped back at 45 feet the overall effect could be somewhat monotonous. She asked if there are cities that require stepbacks at 45 feet where monotony is avoided for one reason or another, such as the topography of the land, the use of visually interesting elements, or requiring the stepback to be proportional to the height of the building. Ms. Stead said topography certainly plays a strong role. Additionally, because of the way buildings are designed relative to their floor-to-floor heights, the stepbacks do not all occur at exactly the same height. The proposed approach differs only by five feet from what is currently required but allows for greater flexibility.

With regard to how the zoning and design guidelines work, Ms. Byers explained that one starts with the zoning districts then moves on to the perimeter overlay districts, the neighborhood design districts, the right-of-way designations, and the pedestrian corridor. She said the intent is to describe the layering in the code to make it easier for people to understand. The DT-O2 district is divided three ways, north, east and south. The DT-MU is divided into the DT-MU and the DT-MU/Civic Center. The neighborhood design districts have guidelines specific to specific downtown neighborhoods. There are specific requirements based on the right-of-way designations that vary by street type. The location of a property within the downtown determines which layers apply. Each layer involves specific requirements, but beyond that, there are notes and exceptions that also apply.

The dimensional chart outlines the box in which development can occur. The perimeter overlay districts ring the outside the downtown boundary and serve the purpose of creating an elegant transition to the surrounding residential areas. For the most part, they have lower FARs and lower building heights.

Commissioner Morisseau asked what the recommendation was for building height for the DT-MU and Mr. King said the proposal is to allow residential building height up to 250 feet.

With regard to dimensions and tower separation, Ms. Byers said as proposed there would be 80 feet between towers above 45 feet. Currently no separation is required. The intent is to provide sunlight and sky views, as well as privacy for neighboring residential buildings. The design guidelines will outline a tripartite of base, middle and top.

Ms. Byers drew the attention of the Commissioners to building height considerations. She noted that as proposed, the height limit in the perimeter overlay B-2 would be 160 feet for a single tower and between 160 and 240 feet for multiple towers, provided the average does not exceed 200 feet. Additionally, a master development plan is proposed to be required. The B-2 district was previously referred to as Deep B.

Mr. King reminded the Commissioners that they had previously expressed a desire to revisit the 160-foot limit for single towers in the B-2 district. He allowed that the issue could simply be acknowledged as an outstanding item that will likely be addressed by affected property owners as the upcoming meeting. Staff focused on the area to the north of NE 8th Street and east of 102nd Avenue NE and concluded that the likely number of single tower projects that could occur there would be no more than four. If the decision is made not to go with the multiple tower approach that averages building height, single tower projects would come in at the currently recommended limit of 160 feet. Staff believe there are three logical options: stay with the 160-foot height limit; set the limit at 200 feet; or allow buildings up to 240 feet.

With regard to the issue of public benefit versus additional building height, Ms. Byers noted that the Commission had previously discussed imposing additional requirements in exchange for additional height. The discussion included setting the trigger point at the current maximum height limit, which is 450 feet. Beyond that point the extra requirements would kick in, including extra open space, a smaller floor plate size and increased tower spacing. The special open space requirement would be for an at-grade area that is publicly accessible. Developers would need to participate in the amenity system with respect to the open space requirement to ensure the space is of adequate size and publicly accessible, and to assure that other amenities are provided. The open space would be determined as a percentage of the project limits. The proposal for the smaller floor plate size is for a ten percent reduction to address building elegance as well as the issues of light and air. There is currently no requirement relative to tower spacing, but 80 feet is already proposed in the dimensional chart. Staff believes that no additional tower spacing is needed where buildings exceed the current height limit of 450 feet.

Mr. King said the three extra requirements were common threads of the CAC and Commission discussions regarding additional building height.

Commissioner Hilhorst noted that during public comments a question was raised with regard to the why behind restricting floor plate sizes. Mr. King said staff intends to delve more deeply into the specific issues that were raised.

Commissioner Morisseau called attention to page 30 of Attachment A and noted that the maximum building height in the DT-R district is 65 feet for nonresidential and asked if development can actually go higher under the 15 feet/15 percent approach. Mr. King suggested that an N/A is needed in that box and in any box where there is no opportunity to go above the current maximum height. The philosophy behind allowing additional building height in the downtown is to see a few new things happen, and clearly where building height will not be increased, there should be no requirement for a special open space.

Ms. Byers explained that the height increase for the public benefit is different from the 15 feet/15 percent approach. Currently, some districts allow development to exceed the maximum building height by either 15 feet or 15 percent, whichever is higher. It is handled as an exception. She asked the Commissioners if they would prefer to see the approach included as an exception, or if the 15 percent/15 foot increase should be included in the maximum building height in the dimensional requirements. That would mean that where the maximum building height is currently 250 feet, the maximum would be ramped up to 288 feet.

Commissioner Hilhorst argued in favor of having a single maximum height number. She said it is too confusing to say the maximum height is 250 and then to allow 15 percent or 15 feet more through an exception. The maximum height limit should be the maximum height limit.



Commissioner Morisseau asked why the exceptions are allowed to begin with. Ms. Stead said the exception is housed in the existing code. There are criteria that must be met in order to gain the exception, including interesting roof form, including mechanical equipment in the building design, and building modulation. Almost every building in the downtown has taken advantage of the 15 percent/15 feet exception. The exception does not, however, apply in the DT-O1 and Perimeter A districts; in the Perimeter B district the exception is lowered down to 10 percent or nine feet. Commissioner Morisseau recommended for the sake of consistency and clarification having a single maximum height number.

Commissioner Carlson agreed it would be better to have a single standard everywhere so that the public will have a clear idea of what the maximums are.

Commissioner Walter said she would argue against adding the 15 percent/15 foot increase to the current maximum height. A zone with a maximum building height of 250 feet should not allow buildings that are 288 feet high. Ms. Stead pointed out that if the exception is taken away in favor of the maximum height being the maximum height, there would be the unintended consequence of a reduction in height for those districts for which there is no recommendation to increase height, because currently they are eligible for the additional 15 percent/15 feet. Commissioner Walter said she could support increasing the height in those specific districts in line with the 15 percent/15 feet exception and labeling the new height as the maximum.

Mr. King noted that during the CAC process every step was taken to be clear every time height was talked about; the 15 percent/15 feet exception was clearly spelled out in the written materials and was made clear in the presentations made. Staff also tried to be clear in the earlier Planning Commission materials and discussions. The building height exception has been on the books for 35 years. He concurred with Ms. Stead about the unintended consequence about doing away with the exception in those areas for which additional height has not been proposed.

Commissioner Carlson suggested the policy should continue to exist, but where maximum height is listed, the 15 percent/15 feet additional height should also be listed.

Chair deVadoss commented that in the context that the de facto maximum height is based on the exception, it would be better to simplify the code by not having the exception. Commissioner Walter suggested the same argument would be made by residents of places like Northtowne and other perimeter areas. Mr. King pointed out that in the zones visible from Northtowne where buildings are allowed to be up to 200 feet tall, the buildings are actually 230 feet tall because they have taken advantage of the 15 percent/15 foot exception. Chair deVadoss said he saw among the Commissioners agreement about not wanting the complexity of the exceptions. He asked staff to come back with an approach that would be simpler for all involved.

Ms. Byers noted that there is an exception in place for mechanical equipment as well, such as elevator overruns. Mechanical equipment can intrude 20 feet, or the minimum necessary, to accommodate elevator overruns. The proposed language includes allowance for new technology as it becomes available to allow it the minimum necessary to accommodate it. Additionally, mechanical equipment must be integrated into the design of the rooftop and clustered in the center in order to screen it from anyone in a taller building looking down on it.

There are also exceptions in place that allow intrusions into the rights-of-way or setbacks. The allowed intrusions into the rights-of-way are for marquees, awnings, external decks and balconies. The allowed intrusions into the setbacks are for building modulation and weather protection, and they can be up to 60 percent of the depth of the setback.