



**City of Bellevue
Development Services Department
Land Use Staff Report**

Proposal Name: Lottinville Code Interpretation

Proposal Address: 9602 SE 7th Street

Proposal Description: The Applicant seeks a Code Interpretation of the City of Bellevue's Land Use Code regarding the applicability of the general definition of the term Façade for purposes of determining the maximum building height for any individual building façade under LUC 20.20.010 Footnote 45 for a new single-family home located in a Single-Family Land Use District.

File Number: 17-129929-DA

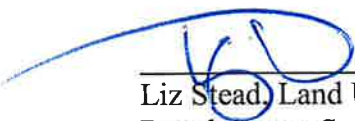
Applicant: Rane Lottinville

Decisions Included: Interpretation of the Land Use Code (LUC), Process II, Part 20.30K LUC

Legal Planner: Trisna Tanus

**State Environmental Policy Act
Threshold Determination:** EXEMPT

Director's Decision: Interpretation of the Land Use Code
Michael A. Brennan, Director
Development Services Department



Liz Stead, Land Use Director
Development Services Department

Application Date: November 28, 2017
Notice of Application Publication Date: December 28, 2017
Decision Publication Date: February 22, 2018
Project Appeal Deadline: March 8, 2018

For information on how to appeal a proposal, visit the Development Services Center at City Hall or call (425) 452-6800. Appeal of the Decision must be received in the City's Clerk's Office by 5 PM on the date noted for appeal of the decision.

**Interpretation of the Director
Bellevue File No. 17-129929-DA**

I. INTRODUCTION

The Applicant, Joseph Eiffert, on behalf of Rane Lottinville, the owner of the property located at 9602 SE 7th Street, Bellevue, Washington, King County Assessor's Parcel No. 5493110030 (the "Lottinville Property" or the "Property"), seeks an Interpretation of the Land Use Code (the "Interpretation") of the applicability of the general definition of the word *façade* for purposes of determining the maximum building height for any individual building façade under LUC 20.20.010 Footnote 45 for a new single-family home. The Applicant intends to build a new single-family home on the Lottinville Property, located in a single-family residential land use district. The Applicant seeks this Interpretation of the applicable land use code regulations under Part 20.30K LUC. The Director's Interpretation decision may be appealed as a Process II decision to the Hearing Examiner pursuant to Part 20.35 LUC.

Summary of the Interpretation Request: The Applicant seeks an interpretation of the applicability of the general definition of the word *façade* for purposes of LUC 20.20.010 Footnote 45. Land Use Code 20.20.010 Footnote 45 states that "the maximum height of any individual building façade is 40 feet measured from the existing grade at the building wall to the ridge of a pitched roof or top of a flat roof." The term *façade* is defined in the general definitions chapter, in LUC 20.50.020, as "the front or face of a building." The Applicant contends that the use of the word *façade* in LUC 20.20.010 Footnote 45 requires applying the term's general definition exclusively. In other words, the Applicant asserts that LUC 20.20.010 Footnote 45 provides that the maximum height of any individual building façade—"front or face of a building"—is 40 feet, and the footnote's specific provision that the measurement must be "from the existing grade at the building wall to the ridge of a pitched roof or top of a flat roof" is inapplicable.

Short Answer: The plain meaning of the code must be given effect as the expression of legislative intent.¹ Code provisions must also be read in their entirety and construed together, not piecemeal.² Land Use Code 20.20.010 Footnote 45 plainly provides that (1) "the maximum height of any individual façade is 40 feet," and (2) this height must be "measured from the existing grade at the building wall to the ridge of a pitched roof or top of a flat roof." Both parts to LUC 20.20.010 Footnote 45 must be given effect, in their entirety and together. Furthermore, a general statutory provision yields to a more specific statutory provision.³ The term *façade* is only generally defined in LUC 20.50.020 as "the front or face of a building," and is silent regarding method of measurement or relationship to building height for single-family homes. Thus, this general definition does not supersede the clearly stated and specific provision in LUC 20.20.010 Footnote 45 to measure the maximum height of any individual façade from the existing grade at the building wall to the highest point of the roof, pitched or flat.

¹ *State, Dept. of Ecology v. Campbell & Gwinn, L.L.C.*, 43 P.3d 4, 9, 146 Wn.2d 1, 9 (2002).

² *Id.*

³ *Western Plaza, LLC v. Tison*, 364 P.3d 76, 80, 184 Wn.2d 702, 712 (2015).

II. INTERPRETATION

A. BACKGROUND.

1. The City's General Zoning Authority.

The City derives its zoning authority from its police powers granted under the Washington State Constitution, Art. XI, Sec. 11. Zoning is the legislative division of a community into areas within which only certain designated uses of land or structures are permitted.⁴ In Bellevue, each property is classified into a land use district and is subject to applicable LUC requirements. LUC 20.10.050. For instance, the activities and structures allowed in each land use district are required to meet the development requirements contained in Chapter 20.20 LUC.

Chapter 20.20 LUC is organized into two sections—General Requirements and Word Index. The General Requirements sections, LUC 20.20.005 – .070 provide dimensional requirements for elements such as setbacks, yard area, lot area, units per acre, lot width, building height, and impervious area, and where appropriate, explain the methods for calculating these dimensions. The Word Index sections, LUC 20.20.120 – .900, contain additional provisions related to specific activities and structures.

2. The Lottinville Property and Proposed Project.

The Lottinville Property is in a single-family residential land use district, R-1.8, Southwest Bellevue subarea. The parcel comprises of a street-to-street lot—SE 7th Street (front) and 97th Place SE (back). The Property is sloped from the front to the back, with a relatively small area of steep slopes at the back of the property, adjacent to 97th Place SE. The Property is currently improved with a one-story, single-family home, built in 1985. The driveway and front entrance to the home are essentially level with SE 7th Street.

The Applicant intends to demolish the existing structure and build a new single-family residence in the same approximate location. The schematic plans submitted with the interpretation application show a three-story structure, with living spaces, front entry, and driveway level with SE 7th Street, a daylight basement below, and bedroom(s) above.

3. Ordinance No. 5896—Relevant Policies and Applicable Code Provisions.

For this Interpretation, the applicable provisions related to building height are found in LUC 20.20.010—Uses in land use districts dimensional requirements and Chapter 20.50—Definitions. These provisions were adopted in 2009 under Ordinance No. 5896 (Exhibit A). This Ordinance represented Phase II of the Neighborhood Livability Action Agenda. Where Phase I addressed relatively straightforward concerns about neighborhood redevelopment impacts, Phase II focused

⁴ McQuillin, Municipal Corporation, §25.07, 21 (3rd ed. 1983).

outreach and discussions on solutions to the remaining, more complex neighborhood concerns and issues related to size, scale, and character of new single-family dwellings.

The City considered and approved two policies in the adoption of Ordinance No. 5896 that are specifically related to this Interpretation. These policies were documented in the Planning Commission Transmittal to the City Council, recommending that the ordinance include the following Land Use Code amendments:

4. ***Modify maximum building height for new construction or remodels in single family residential neighborhoods.*** *Maximum height, measured from the average existing grade, would be 35 feet to the ridge of a pitched roof, or 30 feet to the top of a flat roof. Currently, the maximum building height for single family zoning districts is 30 feet measured from the average elevation of the existing grade around the building to the highest point of a flat roof, or to the midpoint between the eaves and ridge of a pitched roof.*
5. ***Establish 40 feet as the maximum height of any individual building façade for new construction or remodel in a single family residential neighborhood.*** *The façade height would be measured from the ground level to the ridge of the roof. There are no existing restrictions to the height of individual building facades.*

Planning Commission Transmittal to the City Council, July 13, 2009 (Exhibit B), p. 2, SS 3-8.

Consequently, Ordinance No. 5896 added Footnotes 43, 44, and 45⁵ to LUC Chart 20.20.010 and updated the definitions for the terms Building Height – Single Family Land Use Districts, Daylight Plane and Façade in Chapter 20.50 LUC. Refer to Exhibit C for a copy of these code sections.

The pertinent parts of LUC Chart 20.20.010, including the relevant footnotes,⁶ and Chapter 20.50 LUC are below.

⁵ Ordinance No. 5896 contained scrivener's errors in the numbering of the new footnotes—Footnotes 44 and 45 were incorrectly numbered as Footnotes 42, 43, and 44.

⁶ These footnotes are provided below for ease of reference as they are applicable to the maximum building height in this chart but are irrelevant to this Interpretation.

*(10) Except in transition areas, the allowable building height of any building located in PO, O, OLB, GC, NB, or CB Districts may be increased by 1 story, but not to exceed 15 feet, if basement parking for that building occupies a minimum of 75 percent of the building footprint.

*Not effective within the jurisdiction of the East Bellevue Community Council. The maximum building height in the LI Districts shall remain 30 feet.

*(19) Notwithstanding any other provision of this Code, except Part 20.25B LUC or LUC 20.20.900 through 20.20.910, as applicable, the allowable building height of an office building may be increased by 1 story, not to exceed 15 feet, if a minimum of 75 percent of the ground floor of the building is devoted to parking for that building.

*Effective only within East Bellevue Community Council jurisdiction.

STD LAND USE CODE REF	LAND USE CLASSIFICATION	Residential										
		R-1	R-1.8	R-2.5	R-3.5	R-4	R-5	R-7.5*	R-10	R-15	R-20	R-30
	DIMENSIONS	(43)	(43)	(43)	(43)	(43)	(43)	(43)				
	Maximum in Building Height (feet) (10) (19) (26) (45)	30/35 (44)	30/35 (44)	30/35 (44)	30/35 (44)	30/35 (44)	30/35 (44)	30/35 (44)	30	30	30 (5)	40

(44) Maximum building height for single-family uses in Single-Family Residential Land Use Districts is 30 feet measured from the average elevation of the existing grade around the building to the highest point of a flat roof, or 35 feet to the ridge of a pitched roof. Refer to LUC 20.50.012 for definition of “Building Height – Single-Family Uses in Single-Family Land Use Districts.”

(45) For new single-family residential homes and additions in Single-Family Land Use Districts, the maximum height of any individual building façade is 40 feet measured from the existing grade at the building wall to the ridge of a pitched roof or top of a flat roof. New single-family homes constructed as part of a subdivision pursuant to Part 20.45A LUC or planned unit development pursuant to Part 20.30D LUC are exempt from this requirement. LUC 20.20.010.

Building Height – Single-Family Uses in Single-Family Land Use Districts. The vertical distance measured from the average elevation of the existing grade around the building to the highest point of a flat roof, or to the ridge of a pitched roof, provided this measurement does not apply to chimneys, wireless communication facility antenna arrays, shortwave radio antennas, smoke and ventilation stacks, and flag poles. This definition applies only to single-family residential structures, and structures accessory thereto, located in a single-family land use district. For all other structures, regardless of land use district, see the definition of Building Height contained in this section. LUC 20.50.012.

(26) See LUC 20.20.125 for specific requirements applicable to detached accessory structures.

(43) Floor Area Ratio (FAR) Threshold. Development which exceeds a gross Floor Area Ratio (FAR) threshold of 0.5 shall comply with the following requirements:

- (a) Applicability. FAR threshold requirements are applicable to new single-family homes and additions to existing homes that result in a 20 percent or greater increase in gross square feet.
- (b) Maintain a minimum structure setback of 7.5 feet for each side yard; and incorporate either daylight plane standards or a second story stepback of not less than five feet on each side of the building facing a side yard property line.
- (c) Exemptions. New single-family homes constructed as part of a subdivision pursuant to Part 20.45A LUC or planned unit development pursuant to Part 20.30D LUC are not subject to FAR threshold requirements. The Director may modify the FAR threshold requirements on either side of the structure where it can be demonstrated that the adjacent structure has been constructed at an FAR that exceeds the 0.5 threshold and the adjacent structure is built to dimensions which exceed the requirements noted in subsection (b) of this note.

Daylight Plane. A daylight plane is a height limitation that, when combined with the maximum height limit, defines the building envelope. A daylight plane shall begin at a horizontal line at 10 feet directly above grade as measured at the side property line of each lot and shall slope inward at a 45-degree angle or less. LUC 20.50.016.

Façade. The front or face of a building. LUC 20.50.020.

4. The Applicant's Position.

The Applicant contends that the use of the word *façade* in LUC 20.20.010 Footnote 45, where the term *façade* is generally defined as “the front or face of a building,” requires this general definition to control the specific and substantive provisions in the footnote. The Applicant argues that if the intent of LUC 20.20.010 Footnote 45 is to limit the height of the entire building to 40 feet, the word *façade* would not have been used. Further, the Applicant asserts that the use of the words “any building façade” and “at the building wall” refutes measuring the maximum height to include the roof, pitched or flat. In other words, the Applicant’s position is that the footnote’s specific provision that the measurement must be “from the existing grade at the building wall to the ridge of a pitched roof or top of a flat roof” is inapplicable, and LUC 20.20.010 Footnote 45 should be read to provide the maximum height of any individual building façade—“front or face of a building”—as 40 feet.

B. ANALYSIS.

1. The Plain Meaning of LUC 20.20.010 Footnote 45.

The plain meaning of the code must be given effect as the expression of legislative intent.⁷ Land Use Code 20.20.010 Footnote 45 states, “the maximum height of any individual building façade is 40 feet measured from the existing grade at the building wall to the ridge of a pitched roof or top of a flat roof.” Under the plain meaning rule, LUC 20.20.010 Footnote 45 must be interpreted using the ordinary meaning of the language in the footnote, and as such, “the maximum height of any individual building façade is 40 feet measured from the existing grade at the building wall to the ridge of a pitched roof or top of a flat roof.”

A plain reading of LUC 20.20.010 Footnote 45 provides no indication that any of the terms in this footnote is a defined term or a term of art. None of the words in this footnote is capitalized or referenced to the general definition chapter of the LUC (Chapter 20.50 LUC), though several words, such as height, building, and grade, are defined in Chapter 20.50 LUC. The lack of capitalization or reference to the general definition chapter is in clear contrast to LUC 20.20.010 Footnote 44 (adopted at the same time under Ordinance No. 5896), where there is a reference to Chapter 20.50 LUC for a capitalized, defined term “Building Height – Single-Family Uses in Single-Family Land Use Districts.”

⁷ *State, Dept. of Ecology v. Campbell & Gwinn, L.L.C.*, 43 P.3d 4, 9, 146 Wn.2d 1, 9 (2002).

Additionally, there are two parts to this footnote: (1) “the maximum height of any individual building façade is 40 feet” and (2) the 40 feet maximum height must be “measured from the existing grade at the building wall to the ridge of a pitched roof or top of a flat roof.” LUC 20.20.010 Footnote 45. The two parts in LUC 20.20.010 Footnote 45 must be read in their entirety and construed together, not by piecemeal.⁸ The first term limits the maximum height of any individual building façade to 40 feet; and the second term provides how the 40 feet must be measured—from the existing grade to the ridge of a pitched roof or top of a flat roof. Thus, both parts of LUC 20.20.010 Footnote 45 must be given effect, in their entirety and together, which further supports the plain reading of this provision.

2. The Specific Language in LUC 20.20.010 Footnote 45 Controls.

Principles of statutory interpretations also corroborates the plain meaning of LUC 20.20.010 Footnote 45 explained above. A general statutory provision normally yields to a more specific statutory provision.⁹ “To resolve apparent conflicts between statutes, courts generally give preference to the more specific and more recently enacted statute.”¹⁰ This conflict resolution provision is also codified in the LUC, directing that “should a conflict occur between the provisions of this Code..., the most restrictive requirement shall be applied...” LUC 20.40.405.

Chapter 20.50 LUC is the general definitions section of the LUC. The term *façade* is generally defined in LUC 20.50.020 as “the front or face of a building.” This general definition is silent regarding method of measurement or relationship to building height for single-family homes. As such, this general definition must defer to the clearly stated and specific provisions in LUC 20.20.010 Footnote 45 to measure the maximum height of any individual façade from the existing grade at the building wall to the highest point of the roof, pitched or flat.

To the extent that there is a conflict between the general definition of the terms façade in LUC 20.50.020 and the provisions in LUC 20.20.010 Footnote 45, the more specific and restrictive requirements of LUC 20.20.010 Footnote 45 control, in accordance with statutory principles and LUC 20.40.405.

3. The Regulatory Context Supports the Plain Meaning of LUC 20.20.010 Footnote 45.

The plain meaning and effect of the specific language in LUC 20.20.010 Footnote 45 explained above are consistent with the context and purpose of the regulatory scheme adopted under Ordinance No. 5896, which was the culmination of Phase II of the Neighborhood Livability Action Agenda to address issues related to building bulk and scale. Ordinance No. 5896 added Footnotes 43, 44, and 45 to LUC Chart 20.20.010, and updated the definitions for the terms Building Height – Single Family Land Use Districts, Daylight Plane and Façade in Chapter 20.50 LUC.

⁸ *Id.*

⁹ *Western Plaza, LLC v. Tison*, 364 P.3d 76, 80, 184 Wn.2d 702, 712 (2015).

¹⁰ *Id.* (citing *Tunstall v. Bergeson*, 141 Wn.2d 201, 211, 5 P.3d 691 (2000)).

In fact, these other LUC amendments demonstrate the deliberate legislative intent for the 40-foot maximum façade height in LUC 20.20.010 Footnote 45 to be measured from the existing grade to the highest point of the roof. For instance, similar to LUC 20.20.010 Footnote 45, the companion footnote, LUC 20.20.010 Footnote 44, provides that the “maximum building height...is 30 feet measured from the average elevation of the existing grade around the building to the highest point of a flat roof, or 35 feet to the ridge of a pitched roof...” It is notable that the 30-feet and 35-feet overall building height limitations in this footnote includes the roof, flat or pitched. Additionally, the 30-feet and 35-feet overall building height limitations in LUC 20.20.010 Footnote 44 make mathematical sense with the 40-foot maximum height for any individual building façade limitation in LUC 20.20.010 Footnote 45, when for both footnotes, the measurements include the height of the roof.

Relatedly, the definition of Daylight Plane affirms the purpose of the regulations under Ordinance No. 5896 to address issues of building bulk and scale. Daylight Plane is a height limitation that is intended to accompany the maximum height limit, and together, defines the building envelope. LUC 20.50.016 A Daylight Plane begins at a horizontal line at 10 feet directly above grade as measured at the side property line of each lot and shall slope inward at a 45-degree angle or less. *Id.* Again, there is a clear mathematical sensibility to address bulk and scale of the entire building, working with measurements from grade to the highest point of the roof.

Lastly, it bears mentioning that the legislative history of Ordinance No. 5896 supports the conclusion that the 40-foot maximum façade height is measured from the existing grade to the top of the roof, pitched or flat. The legislative documents show the City’s consideration and approval that the 40-foot maximum height of any individual building façade for new construction or remodel in single-family residential neighborhoods “would be measured from the ground level to the ridge of the roof.” Exhibit B, p. 2, SS 3-8.

C. CONCLUSION.

Land Use Code 20.20.010 Footnote 45 plainly states, “the maximum height of any individual building façade is 40 feet” and the required measurement is to be taken “from the existing grade at the building wall to the ridge of a pitched roof or top of a flat roof.” Both parts to LUC 20.20.010 Footnote 45 must be given effect, in their entirety and together. Moreover, while the word *façade* is used in this footnote, the general definition of this term—“the front or face of a building”—in LUC 20.50.020 does not control or supersede the more specific and restrictive provisions in LUC 20.20.010 Footnote 45 as to the method and location for the required measurement. Thus, the general definition of the word *façade* is inapplicable for purposes of determining the maximum building height for any individual building façade under LUC 20.20.010 Footnote 45.

III. FACTORS FOR CONSIDERATION

In making an interpretation of the provisions of the LUC, the Director shall take the following factors into consideration. LUC 20.30K.140.

A. Applicable Provisions of the Land Use Code.

The applicable LUC provisions considered in this Interpretation include the following:

1. LUC 20.20.010 Uses in land use districts dimensional requirements
2. LUC 20.40.405 Conflict of provisions
3. LUC 20.50.012 Definition of Building Height – Single-Family Uses in Single-Family Land Use Districts
4. LUC 20.50.016 Definition of Daylight Plane
5. LUC 20.50.020 Definition of Façade

B. The Impact of the Interpretation on other Provisions of the Land Use Code.

This Interpretation does not impact other provisions of the LUC.

C. The Implications of the Interpretation for Development within the City as a whole.

This Interpretation is consistent with the intent and purpose of Ordinance No. 5896, which modified the LUC to address concerns related to size, scale, and character of new single-family dwellings. This Interpretation is also consistent with subsequent administration and enforcement of the amended LUC provisions pursuant to this ordinance to development within and throughout the City.

D. Applicable Provisions of the Comprehensive Plan and other Relevant Codes and Policies.

This Interpretation is consistent with the City's Comprehensive Plan Goals and Policies and relevant codes, specifically and including:

Land Use Element Goal: To develop and maintain a land use pattern that protects natural systems and retains trees and open space; maintains and strengthens the vitality, quality and character of Bellevue's neighborhoods; and focuses development activity in Downtown and other commercial and residential centers.

Land Use Element Policies:

LU-1. Promote a clear strategy for focusing the city's growth and development as follows:

...

2. Enhance the health and vitality of existing single family and multifamily residential neighborhoods.

LU-11. Maintain stability and improve the vitality of residential neighborhoods through adherence to, and enforcement of, the city's codes.

Neighborhood Element Goal: To maintain and enhance the high quality of life in Bellevue's distinctive neighborhoods.

Housing Goal: To maintain the vitality and stability of single family, multifamily and mixed use neighborhoods, and promote a variety of housing opportunities to meet the needs of all members of the community.

Housing Policy:

HO-3. Maintain the character of established single family neighborhoods, through adoption and enforcement of appropriate regulations.

Economic Development Element Policy:

ED-5. Develop and maintain regulations that allow for continued economic growth while respecting the environment and quality of life of city neighborhoods.

IV. EFFECT OF INTERPRETATION

Pursuant to LUC 20.30K.150, an Interpretation of any LUC provision issued under Chapter 20.30K LUC shall have the same effect as any provision of the Land Use Code. An interpretation of the LUC remains in effect until or if rescinded in writing by the Director. LUC 20.30K.155.

V. APPEAL

An Interpretation of the Land Use Code under Chapter 20.35.015 is a Process II administrative land use decision made by the Director. Pursuant to LUC 20.35.250, Process II decisions may be appealed to the Hearing Examiner by providing a written statement of appeal and the appeal notification form (including payment of any applicable appeal fee) to the City Clerk not later than 5:00 p.m. on the 14th day following the date of publication of the decision of the Director.

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 5896

AN ORDINANCE amending the Bellevue Land Use Code relating to Phase II of the Neighborhood Livability Action Agenda, specifically amending Land Use Code Sections, 20.20.010, 20.20.525.C, 20.20.900.D, 20.50.012 (B Definitions), 20.50.016 (D Definitions) and 20.50.020 (F Definitions) of the Bellevue Land Use Code; providing for severability and establishing an effective date.

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

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

WHEREAS, on December 3, 2007, the City Council adopted Ordinance No. 5791 implementing Phase 1 of the Neighborhood Livability Action Agenda; and

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

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

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

WHEREAS, the Planning Commission recommends that the City Council approve amendments proposed to the Land Use Code, now, therefore;

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

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

20.20.010 Uses in Land Use Districts Dimensional Requirements.

Chart 20.20.010 - Uses in Land Use Districts Dimensional Requirements.

STD LAND USE CODE REF	LAND USE CLASSIFICATION	Residential										
		R-1	R-1.8	R-2.5	R-3.5	R-4	R-5	R-7.5*	R-10	R-15	R-20	R-30
	DIMENSIONS	(42)	(42)	(42)	(42)	(42)	(42)	(42)				
	Minimum Setbacks of Structures (feet) Front Yard (18) (20) (38) (39)	35	30	20	20	20	20	20	20	20	20	20
	Rear Yard (11) (17) (18) (20) (38) (39)	25	25	25	25	20	20	20	25	25	25	25
	Side Yard (11) (17) (18) (20) (38) (39)	5	5	5	5	5	5	5	5	5	5	5(1)
	2 Side Yards (17) (18) (20) (38) (39)	20	15	15	15	15	15	10	15	15	15	15
	Minimum Lot Area Acres (A) or Thousands of Sq. Ft. (3) (39)	35	20	13.5	10	8.5	7.2	4.7	8.5	8.5	8.5(12)	8.5(12)
	Dwelling Units per Acre (15) (21) (22)	1	1.8	2.5	3.5	4	5	7.5	10	15	20	30
	Minimum Dimensions (feet) Width of Street Frontage	30	30	30	30	30	30	30	30	30	30	30
	Width Required in Lot (4)	100	90	80	70	65	60	50	70	70	70	70
	Depth Required in Lot (4)	150	80	80	80	80	80	80	80	80	80	80
	Maximum in Building Height (feet) (10) (19) (26)(44)	30/35 (43)	30/35 (43)	30/35 (43)	30/35 (43)	30/35 (43)	30/35 (43)	30/35 (43)	30 (43)	30 (43)	30 (5)	40
	Maximum Lot Coverage by Structures (percent) (13) (14) (16) (26) (27) (37) (39)	35	35	35	35	35	40	40	35	35	35	35
	Maximum Impervious Surface (percent) (35) (37) (39)	50 (36)	50 (36)	50 (36)	50 (36)	50 (36)	55 (36)	55 (36)	80	80	80	80
	Minimum Greenscape Percentage of Front Yard Setback (40)	50 (40)	50 (40)	50 (40)	50 (40)	50 (40)	50 (40)	50 (40)				

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

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

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

Note 43 – Maximum building height in single family residential land use districts is 30 feet measured from the average elevation of the existing grade around the building to the highest point of a flat roof, or 35 feet to the ridge of a pitched roof.

Note 44 – For new single family residential homes and additions in single family land use districts, the maximum height of any individual building façade is 40 feet measured from the existing grade at the building wall to the ridge of a pitched roof or top of a flat roof. New single family homes constructed as part of a Subdivision pursuant to Part 20.45A LUC or Planned Unit Development Part 20.30D LUC are exempt from this requirement.

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

20.20.525.C Mechanical equipment.

....

C. Implementation.

1. Mechanical equipment located at or below grade may be placed within a required rear or side setback area unless that setback is in a single family residential land use district, directly abuts a residential land use district, or that setback is within a critical area, critical area buffer, or critical area structure setback required by Part 20.25H LUC.
2. Mechanical equipment associated with new single family residential homes and homes adding more than 1,000 gross square feet in single family residential land use districts shall be located in the rear yard or, if placed in the side yard outside of the side structure setback, shall provide sound screening

to attenuate noise impacts. Mechanical equipment located in the rear yard shall not be placed less than 5 feet to any property line.

3. Mechanical equipment located at or below grade will not be included for purposes of calculating lot coverage.
4. Mechanical equipment shall be visually screened by a solid, nonreflective visual barrier that equals or exceeds the height of the mechanical equipment; provided, that the function of a large satellite dish antenna or an antenna array may not be compromised by the screening requirement. The barrier may be provided by any of the following:
 - a. Architectural features, such as parapets or mechanical penthouses;
 - b. Walls or solid fencing, of a height at least as high as the equipment it screens;
 - c. Vegetation and/or a combination of vegetation and view obscuring fencing, of a type and size which will provide a dense visual barrier at least as high as the equipment it screens within two years from the time of planting; or
 - d. The natural topography of the site or the adjoining property or right-of-way.
5. Where screening from above is required, mechanical equipment shall be screened by incorporating one of the following measures:
 - a. A solid nonreflective roof. The roof may incorporate nonreflective louvers, vents or similar penetrations to provide necessary ventilation or exhaust of the equipment being screened; or
 - b. Painting of the equipment to match or approximate the color of the background against which the equipment is viewed.
6. For development which requires approval of a discretionary land use permit, the City may modify the screening requirements of subsections C.4 and C.5 of this section subject to the criteria set forth in paragraph C.7 of this section.
7. The Director may approve alternative screening measures not meeting the specific requirements of subsection C.4 or C.5 of this section if the applicant demonstrates that:
 - a. The proposed alternative screening measures will achieve the design objectives of subsection B of this section and produce an equal or better result than the requirements of subsection C.4 or C.5 of this section; or
 - b. When screening of mechanical equipment on an existing roof is required:

- i. The existing roof structure cannot safely support the required screening, or
- ii. The integrity of the existing roof will be so compromised by the required screening as to adversely affect any existing warranty of the performance of the roof.

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

20.20.900.D Tree retention and replacement.

....

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

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

- vi. Significant trees in areas of steep slopes or adjacent to watercourses or wetlands.
- b. The Director may approve retention of trees which do not meet the definition of significant trees as a contribution toward the sum of the diameter inches required under subsection D.2.a of this section if a group of trees and its associated undergrowth can be preserved.
3. For Subdivisions, Short Subdivisions, and Planned Unit Developments, the applicant shall retain a minimum of 30 percent of the diameter inches of significant trees existing on the total site area of the development; provided, that alder and cottonwood trees' diameter inches shall be discounted by a factor of 0.5.
4. Exemption. The provisions of this subsection which require retention of significant trees are not applicable in any Downtown Land Use District.
5. The applicant shall utilize tree protection techniques approved by the Director during land alteration and construction in order to provide for the continual healthy life of retained significant trees.
6. Reduced Parking Bonus. If the proposed landscape plan incorporates the retention of significant trees above that required by this section, the Director may approve a reduction of up to 10 percent of the required number of parking spaces if adequate parking will remain on the subject property, and if land area for the required number of spaces remains available for future development on the subject property.

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Section 4. Section 20.50.012 B definitions of the Bellevue Land Use Code is hereby amended as follows:

20.50.012 B definitions.

Building Height – Single-Family Land Use Districts. The vertical distance measured from the average elevation of the existing grade around the building to the highest point of a flat roof, or to the ridge of a pitched roof, provided this measurement does not apply to chimneys, wireless communication facility antenna arrays, shortwave radio antennas, smoke and ventilation stacks, and flag poles.

Section 5. Section 20.50.016 D definitions of the Bellevue Land Use Code is hereby amended as follows:

20.50.016 D definitions.

Daylight Plane. A daylight plane is a height limitation that when combined with the maximum height limit, defines the building envelope. A daylight plane shall begin at a

horizontal line at 10 feet directly above grade as measured at the side property line of each lot and shall slope inward at a forty-five (45) degree angle or less.

Section 6. Section 20.50.020 F definitions of the Bellevue Land Use Code is hereby amended as follows:

20.50.020 F definitions.

Facade. The front or face of a building.

Section 7. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this ordinance.

Section 8. This ordinance shall take effect and be in force 5 days after passage and legal publication.

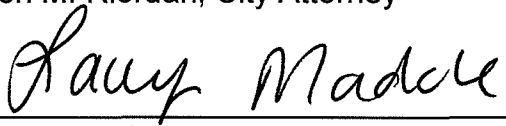
Passed by the City Council this 3rd day of August, 2009 and signed in authentication of its passage this 3rd day of August, 2009.

(SEAL)



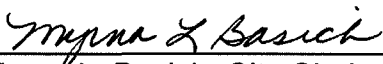
Grant S. Degginger, Mayor

Approved as to form:
Lori M. Riordan, City Attorney



Lacey Madche, Assistant City Attorney

Attest:



Myrna L. Basich, City Clerk

Published _____



ATTACHMENT 1

DATE: July 13, 2009
TO: Mayor Degginger and Members of the City Council
FROM: Chair Orrico and Members of the Planning Commission
SUBJECT: Neighborhood Livability Phase II - File No. 08-112681 AD

With this transmittal the Planning Commission recommends by a vote of 7 to 0 that the City Council:

- **APPROVE** the proposed Land Use Code Amendment related to Neighborhood Livability Phase II addressing tree retention for subdivisions, mechanical equipment impacts, protection of neighbor's privacy and access to sunlight, maximum building heights, and maximum heights for individual building facades.

The recommended Land Use Code Amendment in ordinance format is included in Attachment 1.A to this transmittal. This proposal satisfies the Decision Criteria for a Land Use Code Amendment (see Section E, Review Process and Application of Decision Criteria).

A. BACKGROUND

Planning Commission discussion of Neighborhood Character issues began in April 2007 and culminated in December 2007 with City Council adoption of Phase I regulatory solutions to address relatively straightforward concerns about neighborhood redevelopment impacts, including loss of trees and greenscape, loss of light and privacy, and impacts of construction-related activities (Ordinance No. 5791). The Council directed that a second phase of outreach and discussion focus on solutions to the remaining, more complex issues of building bulk and scale. The Commission re-engaged in the Neighborhood Character discussion in February 2008.

B. PROPOSALS

Based on considerable research and extensive public discussion, the Planning Commission recommends approval of the following code amendments to address issues relating to neighborhood character elements (otherwise implementing Phase II of the Neighborhood Livability Action Agenda). Specifically, the Planning Commission recommends the following Land Use Code amendments:

- 1. Increase tree retention for subdivisions.** Require 30 percent retention of significant trees in new subdivisions – an increase from the current 15 percent retention requirement.

2. **Reduce mechanical equipment impacts.** Require new single family homes and homes adding more than 1,000 square feet to locate HVAC in the back yard or, if HVAC units are located in the side yard, require sound screening and prohibit placement within the five-foot minimum side setback.
3. **Protect neighbors' privacy and access to sunlight by establishing special development standards for homes exceeding a size threshold.** Calculate gross Floor Area Ratio (FAR) for new single family homes in existing neighborhoods. For projects exceeding the FAR threshold of 0.5, establish the following additional requirements:
 - a. Establish minimum setbacks of 7.5 feet on both sides; AND,
 - b. Incorporate EITHER daylight plane standards (roof pitch of 45 degrees beginning 10 feet above grade), OR second story setbacks.
 - c. Apply the above rules to new single family homes in existing neighborhoods (teardowns and vacant lots), new short plats, and existing single family homes adding more than 20 percent of gross floor area. Provide exemption for single lots in new neighborhoods where the character of the neighborhoods is just being established.
 - d. Further exempt building projects that can demonstrate lack of impact on adjacent properties (due to the fact that neighboring properties are already built to dimensions which would exceed these standards).
4. **Modify maximum building height for new construction or remodels in single family residential neighborhoods.** Maximum height, measured from the average existing grade, would be 35 feet to the ridge of a pitched roof, or 30 feet to the top of a flat roof. Currently, the maximum building height for single family zoning districts is 30 feet measured from the average elevation of the existing grade around the building to the highest point of a flat roof, or to the mid point between the eaves and ridge of a pitched roof.
5. **Establish 40 feet as the maximum height of any individual building façade for new construction or remodel in single family residential neighborhoods.** The façade height would be measured from the ground level to the ridge of the roof. There are no existing restrictions to the height of individual building facades.

C. STATE ENVIRONMENTAL POLICY ACT

The Environmental Coordinator for the City of Bellevue has determined that this proposal will not result in any probable, significant, adverse environmental impacts. A final threshold determination of non-significance (DNS) was issued on April 23, 2009. The final DNS and Non-project Analysis is included in the project file available for inspection.

D. PUBLIC NOTICE, PARTICIPATION, COMMENT AND RESPONSE

At the direction of City Council, staff investigated residents' complaints about the perceived impacts of infill and redevelopment. In doing so, staff held focus group discussions, conducted interviews with developers, corresponded with planners from other jurisdictions, held an Open House, and asked stakeholders to discuss the changes in neighborhoods and impacts of development activity. Out of these discussions, themes quickly emerged – neighborhoods are changing, trees are disappearing, and construction is disruptive.

To obtain objective information regarding the perceived impacts of single family infill and redevelopment on neighborhood character, staff collected single family development data from multiple sources (e.g., Bellevue's permitting database, King County Assessor, development files, GIS aerial photos, site visits). Staff presented research findings, transcripts from focus group discussions and developer interviews, correspondence from interested parties, and comparative research from other cities to the City Council and the Planning Commission. In preparing code amendments, staff emphasized the need for flexibility and balance.

Flexibility – Proposed regulations are written in such a way to recognize special conditions and circumstances, and to allow exception or alternatives when necessary to accommodate the reasonable use of private property.

Balance – All proposed recommendations acknowledge the need to balance the legitimate interests of all stakeholders – respecting the rights of owners to utilize their property and addressing the needs of surrounding residents for relief from certain negative impacts of redevelopment.

This Land Use Code Amendment was introduced to the Planning Commission at a study session in February 2008 and Phase II recommendations were considered during three additional meetings – March 19, May 7, and May 27, 2008. The Commission's Phase II recommendations were presented at a July 14, 2008, City Council study session. At Council direction, the Planning Commission discussed and modified its Phase II recommendation during two additional meetings held on September 10 and 24, 2008. This recommendation was sent back to the Council for study session on December 1, 2008. Phase II recommendations were further discussed by the Planning Commission on March 25, 2009, and the Planning Commission gave staff direction to set a public hearing for May 13, 2009. Notice of the Public Hearing before the Planning Commission, staff recommendation, and SEPA determination (DNS) was published in the Weekly Permit Bulletin on April 23, 2009.

The public hearing was held on May 13, 2009. During the public hearing the Commission heard from many individuals. Several spoke in favor of view preservation and stronger enforcement of neighborhood covenants. While the Commission was not tasked to address view preservation or neighborhood covenants and therefore did not include these additional recommendations, a minority of the Commission (Robertson

and Hamlin) recommended that the Council add this to the Commission's upcoming work program for further study.

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

Based on review of all comments received, the Planning Commission believes this proposal provides a balanced approach to property rights, which recognizes the community benefits from land use regulations while respecting the rights of property owners by ensuring flexibility, thus reducing unreasonable intrusion into the use and development of property.

Pursuant to the requirements of the Growth Management Act, state agencies must be given an opportunity to review and comment on proposed amendments to the LUC. Copies of the draft ordinances were provided to the state agencies for review on March 30, 2009. The City received no comments relating to this proposal. Any comments received after release of this Transmittal will be included in the project file for the Council's consideration. A summary of letters and e-mail correspondence received from the public between Jan. 1, 2008, and May 20, 2009 on the topic of Neighborhood Livability Phase II is included in this transmittal as Attachment 1.B.

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

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

1. The amendment is in accord with the Comprehensive Plan.

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

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

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

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

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

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

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

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

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

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

2. The amendment bears a substantial relationship to the public health, safety or welfare.

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

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

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

F. RECOMMENDATION

The Planning Commission unanimously recommends that the City Council APPROVE the Neighborhood Livability Phase II LUCA as provided for in Attachment 1.A.

ATTACHMENTS

Attachment 1.A – Proposed Ordinance

Attachment 1.B – Summary of Community Input

ATTACHMENT 1.A

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. _____

AN ORDINANCE amending the Bellevue Land Use Code relating to Phase II of the Neighborhood Livability Action Agenda, specifically amending Land Use Code Sections, 20.20.010, 20.20.525.C, 20.20.900.D, 20.50.012 (B Definitions), 20.50.016 (D Definitions) and 20.50.020 (F Definitions) of the Bellevue Land Use Code; providing for severability and establishing an effective date.

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

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

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

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

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

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

WHEREAS, the Planning Commission recommends that the City Council approve amendments proposed to the Land Use Code, now, therefore;

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

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

20.20.010 Uses in Land Use Districts Dimensional Requirements.

Chart 20.20.010 - Uses in Land Use Districts Dimensional Requirements.

STD LAND USE CODE REF	LAND USE CLASSIFICATION	Residential										
		R-1	R-1.8	R-2.5	R-3.5	R-4	R-5	R-7.5*	R-10	R-15	R-20	R-30
	DIMENSIONS	(42)	(42)	(42)	(42)	(42)	(42)	(42)				
	Minimum Setbacks of Structures (feet) Front Yard (18) (20) (38) (39)	35	30	20	20	20	20	20	20	20	20	20
	Rear Yard (11) (17) (18) (20) (38) (39)	25	25	25	25	20	20	20	25	25	25	25
	Side Yard (11) (17) (18) (20) (38) (39)	5	5	5	5	5	5	5	5	5	5	5(1)
	2 Side Yards (17) (18) (20) (38) (39)	20	15	15	15	15	15	10	15	15	15	15
	Minimum Lot Area Acres (A) or Thousands of Sq. Ft. (3) (39)	35	20	13.5	10	8.5	7.2	4.7	8.5	8.5	8.5(12)	8.5(12)
	Dwelling Units per Acre (15) (21) (22)	1	1.8	2.5	3.5	4	5	7.5	10	15	20	30
	Minimum Dimensions (feet) Width of Street Frontage	30	30	30	30	30	30	30	30	30	30	30
	Width Required in Lot (4)	100	90	80	70	65	60	50	70	70	70	70
	Depth Required in Lot (4)	150	80	80	80	80	80	80	80	80	80	80
	Maximum in Building Height (feet) (10) (19) (26)(44)	30/35 (43)	30/35 (43)	30/35 (43)	30/35 (43)	30/35 (43)	30/35 (43)	30/35 (43)	30	30	30 (5)	40
	Maximum Lot Coverage by Structures (percent) (13) (14) (16) (26) (27) (37) (39)	35	35	35	35	35	40	40	35	35	35	35
	Maximum Impervious Surface (percent) (35) (37) (39)	50 (36)	50 (36)	50 (36)	50 (36)	50 (36)	55 (36)	55 (36)	80	80	80	80
	Minimum Greenscape	50	50	50	50	50	50	50				

	Percentage of Front Yard Setback (40)	(40)	(40)	(40)	(40)	(40)	(40)	(40)				
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Note 42 – Floor Area Ratio (FAR) Threshold: Development which exceeds a gross Floor Area Ratio (FAR) threshold of 0.5, shall comply with the following requirements:

- (a) Applicability: FAR threshold requirements are applicable to new single family homes and additions to existing homes that result in a 20 percent or greater increase in gross square feet.
- (b) Maintain a minimum structure setback of 7.5 feet for each side yard; AND, incorporate either daylight plane standards or a second story stepback of not less than 5 feet on each side of the building facing a side yard property line.
- (c) Exemptions: New single family homes constructed as part of a Subdivision pursuant to Part 20.45A LUC or Planned Unit Development Part 20.30D LUC are not subject to FAR threshold requirements. The Director may modify the FAR threshold requirements on either side of the structure where it can be demonstrated that the adjacent structure has been constructed at an FAR that exceeds the 0.5 threshold and the adjacent structure is built to dimensions which exceed the requirements noted in paragraph b above.

Note 43 – Maximum building height in single family residential land use districts is 30 feet measured from the average elevation of the existing grade around the building to the highest point of a flat roof, or 35 feet to the ridge of a pitched roof.

Note 44 – For new single family residential homes and additions in single family land use districts, the maximum height of any individual building façade is 40 feet measured from the existing grade at the building wall to the ridge of a pitched roof or top of a flat roof. New single family homes constructed as part of a Subdivision pursuant to Part 20.45A LUC or Planned Unit Development Part 20.30D LUC are exempt from this requirement.

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

20.20.525.C Mechanical equipment.

.....

C. Implementation.

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

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

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

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

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

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

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

1. Perimeter Landscaping Area. In the required perimeter landscaping area, as set forth in LUC 20.20.520.F.1, the applicant shall retain all significant trees which will not constitute a safety hazard. Area devoted to access and sight areas as defined in the Transportation Code (Chapter 14.06 BCC), and area to be cleared for required roads, utilities, sidewalks, trails, or storm drainage improvements is exempt from this requirement.
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 - a. In areas of the site other than the required perimeter landscaping area, the applicant must retain at least 15 percent of the diameter inches of the significant trees existing in this area; provided, that alder and cottonwood trees' diameter inches shall be discounted by a factor of 0.5. In applying the requirement for retention of significant trees, the Director shall consider the preservation of the following types of significant trees a priority:
 - i. Healthy significant trees over 60 feet in height;

- ii. Significant trees which form a continuous canopy;
 - iii. Significant trees which contribute to the character of the environment, and do not constitute a safety hazard;
 - iv. Significant trees which provide winter wind protection or summer shade;
 - v. Groups of significant trees which create a distinctive skyline feature; and
 - vi. Significant trees in areas of steep slopes or adjacent to watercourses or wetlands.
- b. The Director may approve retention of trees which do not meet the definition of significant trees as a contribution toward the sum of the diameter inches required under subsection D.2.a of this section if a group of trees and its associated undergrowth can be preserved.
3. For Subdivisions, Short Subdivisions, and Planned Unit Developments, the applicant shall retain a minimum of 30 percent of the diameter inches of significant trees existing on the total site area of the development; provided, that alder and cottonwood trees' diameter inches shall be discounted by a factor of 0.5.
4. Exemption. The provisions of this subsection which require retention of significant trees are not applicable in any Downtown Land Use District.
45. The applicant shall utilize tree protection techniques approved by the Director during land alteration and construction in order to provide for the continual healthy life of retained significant trees.
56. Reduced Parking Bonus. If the proposed landscape plan incorporates the retention of significant trees above that required by this section, the Director may approve a reduction of up to 10 percent of the required number of parking spaces if adequate parking will remain on the subject property, and if land area for the required number of spaces remains available for future development on the subject property.

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Section 4. Section 20.50.012 B definitions of the Bellevue Land Use Code is hereby amended as follows:

20.50.012 B definitions.

Building Height – Single-Family Land Use Districts. The vertical distance measured from the average elevation of the existing grade around the building to the highest point

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of a flat roof, or to the ~~mean height between the eaves and ridge~~ of a pitched roof, provided this measurement does not apply to chimneys, wireless communication facility antenna arrays, shortwave radio antennas, smoke and ventilation stacks, and flag poles.

Section 5. Section 20.50.016 D definitions of the Bellevue Land Use Code is hereby amended as follows:

20.50.016 D definitions.

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

Section 6. Section 20.50.020 F definitions of the Bellevue Land Use Code is hereby amended as follows:

20.50.020 F definitions.

Facade. The front or face of a building.

Section 7. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this ordinance.

Section 8. This ordinance shall take effect and be in force five (5) days after passage and legal publication.

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

(SEAL)

Grant S. Degginger, Mayor

Approved as to form:

-ORD
07/15/09

Lori M. Riordan, City Attorney

Lacey Madche, Assistant City Attorney

Attest:

Myrna L. Basich, City Clerk

Published _____

DRAFT

Exhibit C

20.20.010 Uses in land use districts dimensional requirements.**Chart 20.20.010**

Uses in land use districts Dimensional Requirements

STD LAND USE CODE REF	LAND USE CLASSIFICATION	Residential										
		R-1	R-1.8	R-2.5	R-3.5	R-4	R-5	R-7.5*	R-10	R-15	R-20	R-30
	DIMENSIONS	(43)	(43)	(43)	(43)	(43)	(43)	(43)				
	Minimum Setbacks of Structures (feet) Front Yard (18) (20) (38) (39)	35	30	20	20	20	20	20	20	20	20	20
	Rear Yard (11) (17) (18) (20) (38) (39)	25	25	25	25	20	20	20	25	25	25	25
	Side Yard (11) (17) (18) (20) (38) (39)	5	5	5	5	5	5	5	5	5	5	5(1)
	2 Side Yards (17) (18) (20) (38) (39)	20	15	15	15	15	15	10	15	15	15	15
	Minimum Lot Area Acres (A) or Thousands of Sq. Ft. (3) (39)	35	20	13.5	10	8.5	7.2	4.7	8.5	8.5	8.5 (12)	8.5 (12)
	Dwelling Units per Acre (15) (21) (22)	1	1.8	2.5	3.5	4	5	7.5	10	15	20	30
	Minimum Dimensions (feet) Width of Street Frontage	30	30	30	30	30	30	30	30	30	30	30
	Width Required in Lot (4)	100	90	80	70	65	60	50	70	70	70	70
	Depth Required in Lot (4)	150	80	80	80	80	80	80	80	80	80	80
	Maximum in Building Height (feet) (10) (19) (26) (45)	30/35 (44)	30/35 (44)	30/35 (44)	30/35 (44)	30/35 (44)	30/35 (44)	30/35 (44)	30	30	30 (5)	40
	Maximum Lot Coverage by Structures (percent) (13) (14) (16) (26) (27) (37) (39)	35	35	35	35	35	40	40	35	35	35	35
	Maximum Hard Surface Coverage (percent) (37) (39) (47)	75 (36)	75 (36)	75 (36)	75 (36)	75 (36)	80 (36)	80 (36)	90	90	90	90
	Maximum Impervious Surface (percent) (35) (37) (39)	45 (36)	45 (36)	45 (36)	45 (36)	45 (36)	55 (36)	55 (36)	65	65	65	65
	Alternative Maximum Impervious Surface (percent) (35) (37) (39) (48)	50 (36)	50 (36)	50 (36)	50 (36)	50 (36)	55 (36)	55 (36)	80	80	80	80
	Minimum Greenscape Percentage of Front Yard Setback (40)	50 (40)	50 (40)	50 (40)	50 (40)	50 (40)	50 (40)	50 (40)				

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

NOTE: Dimensional Requirements for Downtown are found in Part 20.25A LUC.

Dimensional Requirements for Evergreen Highlands Design District (EH-A, EH-B, EH-C, EH-D) are found in Part 20.25F LUC.

Dimensional Requirements for Office and Limited Business – Open Space (OLB-OS) are found in Part 20.25L LUC.

Dimensional Requirements for Medical Institution District (MI) are found in Part 20.25J LUC.

Dimensional Requirements for Bel-Red Land Use Districts are found in Part 20.25D LUC.

Uses in land use districts Dimensional Requirements

STD LAND USE CODE REF	LAND USE CLASSIFICATION	Professional Office	Office	Office/Limited Business	Office/Limited Business 2	Light Industry	General Commercial	Neighborhood Business	Neighborhood Mixed Use	Community Business	Factoria Land Use District 1	Factoria Land Use District 2	Factoria Land Use District 3
		PO	O	OLB	OLB 2	LI	GC	NB	NMU	CB	F1	F2	F3
	DIMENSIONS	(21)	(21)	(21)	(21)	(21)	(21)	(21)	(21)	(21)	(28)	(21, 31)	(21, 32)
	Minimum Setbacks of Structures (feet) Front Yard (18) (20)	30	30	50	0	15	15		0			50	20
	Rear Yard (17) (18) (20)	25	25	50	0	(2)	(2)	(2)	0	(2)		30	5
	Side Yard (17) (18) (20)	20	20	30	0	(2)	(2)	(2)	0	(2)		30	5
	2 Side Yards (17) (18) (20)	40	40	60	0	(2)	(2)	(2)		(2)		60	10
	Floor Area Ratio	(8)	(8, 50)	(8)	1	(8)	(8)	(8)	1 (49)	(8)		75	
	Minimum Lot Area Acres (A) or Thousands of Sq. Ft. (3)			2A								2A	2A
	Dwelling Units per Acre (15) (22)	10 (23)	20 (23)	30 (23)				15 (23)		30 (23)		30 (23)	30 (23)
	Minimum Dimensions (feet) Width of Street Frontage			200								200	200
	Width Required in Lot (4)			200								200	200
	Depth Required in Lot (4)												
	Maximum in Building Height (feet) (10) (19)	20	30	45 (6)	75	45 (9)	30	20 (25)	75	45 (46)		75	75/135 (33, 34)
	Maximum Lot Coverage by Structures (percent) (13) (14) (16)	35 (24)	35 (24)	35 (24)	35	50		35 (24)	35 (24)			35 (24)	40 (24)
	Maximum Hard Surface Coverage (percent) (37) (47)	85	85	85	85	90	85	80	85	85		85	85
	Maximum Impervious Surface (percent) (35) (37)	60	60	60	60	65	65	60	60	65		60	60

STD LAND USE CODE REF	LAND USE CLASSIFICATION	Professional Office	Office	Office/Limited Business	Office/Limited Business 2	Light Industry	General Commercial	Neighborhood Business	Neighborhood Mixed Use	Community Business	Factoria Land Use District 1	Factoria Land Use District 2	Factoria Land Use District 3
		PO	O	OLB	OLB 2	LI	GC	NB	NMU	CB	F1	F2	F3
	Alternative Maximum Impervious Surface (percent) (35) (37) (39) (48)	80	80	80	80	85	85	80	80	85		80	80

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

NOTE: Dimensional Requirements for Downtown are found in Part 20.25A LUC.

Dimensional Requirements for Evergreen Highlands Design District (EH-A, EH-B, EH-C, EH-D) are found in Part 20.25F LUC.

Dimensional Requirements for Office and Limited Business – Open Space (OLB-OS) are found in Part 20.25L LUC.

Dimensional Requirements for Medical Institution District (MI) are found in Part 20.25J LUC.

Dimensional Requirements for Bel-Red Land Use Districts are found in Part 20.25D LUC.

Dimensional Requirements for Eastgate Transit Oriented Development District are found in Part 20.25F LUC.

(Ord. 6366, 8-7-17, § 7; Ord. 6323, 11-21-16, §§ 1, 2; Ord. 6169, 7-14-14, § 2; Ord. 5896, 8-3-09, § 1; Ord. 5876, 5-18-09, § 6; Ord. 5791, 12-3-07, § 11; Ord. 5726, 3-19-07, § 2; Ord. 5683, 6-26-06, § 2; Ord. 5672, 5-15-06, § 1; Ord. 5571, 12-6-04, § 1; Ord. 5480, 10-20-03, § 4; Ord. 5475, 10-20-03, § 5; Ord. 5430, 1-21-03, § 3; Ord. 5385, 7-15-02, § 6; Ord. 5232, 7-17-00, § 2; Ord. 5089, 8-3-98, § 4; Ord. 4979, 3-17-97, § 3; Ord. 4977, 3-17-97, § 1; Ord. 4973, 3-3-97, § 303; Ord. 4816, 12-4-95, § 402; Ord. 4422, 9-28-92, § 2; Ord. 4270, 7-8-91, § 6; Ord. 4065, 10-23-89, § 3; Ord. 3780, 5-26-87, § 1; Ord. 3775, 5-26-87, § 6; Ord. 3747, 1-20-86, § 2; Ord. 3690, 8-4-86, § 2)

Notes: Uses in land use districts – Dimensional requirements

- (1) Side yard setback in R-30 Districts increases to 20 feet on any side yard where structure exceeds 30 feet above finished grade.
- (2) All rear and side yards shall contain landscaping as required by LUC 20.20.520.
- (3) See LUC 20.20.012.
- (4) See LUC 20.20.015.
- (5) Except in transition areas, the maximum allowable building height in R-20 Districts may be increased to 40 feet if ground floor or underground parking for that building is provided and occupies a minimum of 75 percent of the building footprint.
- (6) The maximum allowable building height is 75 feet on any property designated OLB which lies within 475 feet of the right-of-way of I-405, between I-90 and SR-520.
- (7) Intentionally deleted.
- (8) Any office building or any office portion of a building in the PO, O, OLB, LI, GC, NB, CB or F1 Districts shall comply with the following limitations on Floor Area Ratio:
 - (a) At 0.5 FAR, no office building or office portion of a building may exceed 50,000 square feet of gross floor area; and
 - (b) For any office building or office portion of a building greater than 50,000 square feet in gross floor area, the following sliding scale shall be observed as interpolated and extrapolated below:
 - (i) At 0.3 FAR, no office building or office portion of a building may exceed 100,000 square feet of gross floor area; and
 - (ii) At 0.1 FAR, no office building or office portion of a building may exceed 150,000 square feet of gross floor area.
 - (c) In an O District, north of Factoria Mall and directly adjacent to an F2 District, any office building or any office portion of a building may have a Floor Area Ratio greater than 0.50, not to exceed a Floor Area Ratio of 0.75 FAR. In this district, the sliding FAR scale does not apply.

This footnote 8 shall not apply to sites in the Critical Areas Overlay District. Density/intensity on sites in the Critical Areas Overlay District is calculated pursuant to LUC 20.25H.045.

*(9) The maximum building height may be exceeded upon approval of the Director of the Development Services Department. Requests for such approval shall be processed in accordance with the administrative conditional use procedure of Part 20.30E LUC. Before granting any such approval, the Director of the Development Services Department must find that:

- (a) The height increase is only to accommodate equipment, structures or buildings that contain special equipment primarily related to light manufacturing, wholesale, trade and distribution use, and is not for office or bulk retail use; and
- (b) There is functional need for a height increase; and
- (c) The overall site development will minimize adverse impacts caused by the height increase.

Notwithstanding the provisions of this note, no height increase is permitted within a transition area as defined in Part 20.25B LUC.

*Not effective within the jurisdiction of the East Bellevue Community Council. The maximum building height in LI Districts shall remain 30 feet.

*(10) Except in transition areas, the allowable building height of any building located in PO, O, OLB, GC, NB, or CB Districts may be increased by 1 story, but not to exceed 15 feet, if basement parking for that building occupies a minimum of 75 percent of the building footprint.

*Not effective within the jurisdiction of the East Bellevue Community Council. The maximum building height in the LI Districts shall remain 30 feet.

(11) The LUC contains enhanced setback requirements for churches, clubs, and institutions (refer to LUC 20.20.190) and schools (refer to LUC 20.20.740) located in residential land use districts.

(12) For each square foot of lot area devoted to open space in excess of 30 percent of the total lot area, 1 square foot is added to the lot area for the purpose of calculating density.

(13) Lot coverage is calculated after subtracting all critical areas and stream critical area buffers; provided, that coal mine hazards (LUC 20.25H.130) and habitat associated with species of local importance (LUC 20.25H.150) shall not be subtracted.

(14) Maximum lot coverage by structures is determined after public right-of-way and private roads are subtracted from the gross land area.

(15) Except for sites in the Critical Areas Overlay District, if there is a conflict between the minimum lot area and the permitted number of dwelling units per acre, the minimum lot area controls. Density/intensity on sites in the Critical Areas Overlay District is calculated pursuant to LUC 20.25H.045.

(16) Exceptions to Lot Coverage. Although not considered structures for purposes of calculating lot coverage, the following may be considered impervious surfaces subject to the impervious surface limits. See LUC 20.20.460 and 20.50.026.

- (a) Underground buildings as defined in LUC 20.50.050 are not structures for the purpose of calculating lot coverage.
- (b) Buildings constructed partially below grade and not higher than 30 inches above existing or finished grade, whichever is lower, are not structures for the purpose of calculating lot coverage subject to the following conditions:
 - (i) The 30-inch height limit must be met at all points along the building excluding those areas necessary to provide reasonable ingress and egress to the underground portions of the building; and
 - (ii) The rooftop of the building shall be screened from abutting properties with 10 feet of Type II landscaping as described in LUC 20.20.520.G.2 except that the required trees shall be a minimum of 10 feet in height at planting; or, if a use is proposed for the rooftop, the rooftop may be landscaped consistent with the planting requirements for the specific use that is proposed and for the land use district in which the use is located. All landscaping shall comply with standards set forth in LUC 20.20.520. The provisions of LUC 20.20.520.J (Alternative Landscaping Option) are applicable.

(17) If the setback abuts a street right-of-way, access easement or private road, the minimum dimension is 10 feet unless a greater dimension is specified.

(18) See LUC 20.20.030 for designation and measurement of setbacks.

*(19) Notwithstanding any other provision of this Code, except Part 20.25B LUC or LUC 20.20.900 through 20.20.910, as applicable, the allowable building height of an office building may be increased by 1 story, not to exceed 15 feet, if a minimum of 75 percent of the ground floor of the building is devoted to parking for that building.

*Effective only within East Bellevue Community Council jurisdiction.

(20) See LUC 20.25H.035 for additional critical area setbacks.

(21) See LUC 20.25H.045 for calculation of density/intensity on sites in the Critical Areas Overlay District.

(22) Density for senior citizen dwelling, congregate care senior housing, and assisted living is calculated as follows: Units less than 600 square feet count as 1/2 unit and units 600 square feet or greater count as 1 unit.

(23) This residential density may be in addition to FAR only for senior citizen dwellings, assisted living and congregate care senior housing.

(24) Lot coverage may be increased to 50 percent if congregate care senior housing, senior citizen dwellings, assisted living or nursing homes are constructed on site; provided, however, that coverage for the nonresidential portions of the development cannot exceed the maximum limits indicated. Lot coverage within NB and NMU Districts may be increased to 50 percent for mixed use development which includes residential uses comprising at least 1/2 the square footage of the building footprint. Underground parking in excess of 50 percent of the site area shall not be included in lot coverage calculations.

- (25) The maximum building height for structures is increased to 30 feet only if residential uses or administrative office uses are provided on the second floor, and provided the structure does not exceed 2 stories. For purposes of this note, a story is defined pursuant to the International Building Code, Section 202, as adopted and amended by the City of Bellevue.
- (26) See LUC 20.20.125 for specific requirements applicable to detached accessory structures.
- (27) Lot coverage for schools located in residential land use districts is limited to 35 percent of the site area (refer to LUC 20.20.740).
- (28) Dimensional requirements for the F1 Land Use District are listed in LUC 20.25F1.040.
- (29) (Repealed by Ord. 5726).
- (30) (Repealed by Ord. 5726).
- (31) Any office building or any office portion of a building in the F2 District may not exceed a Floor Area Ratio of 0.75 FAR.
- (32) The maximum FAR for the combined properties in the F3 Land Use District, regardless of use, shall be 1.26 FAR; provided, that individual parcels or portions of property lying within the F3 Land Use District may have FAR for those individual parcels or portions which exceed an FAR of 1.26; provided, that the FAR calculated for the entire aggregated property within the F3 Land Use District shall not exceed 1.26. The maximum FAR permitted herein is based on a maximum total development, including existing and new development of 950,000 square feet, calculated in the same manner as provided for in the calculation of FAR. In the event of an inconsistency between the FAR maximum of 1.26 and the maximum total development amount of 950,000 square feet, the latter shall control.
- (33) In no event shall building height exceed 324 feet above sea level, based on North American Vertical Datum, 1988 (NAVD – 88).
- (34) Maximum building height south of the F3 Land Use District Separation Line shall be 135 feet, with structural elements not intended for habitation above 135 feet, so long as structural elements do not exceed 275 feet above sea level based on NAVD – 88.
- (35) See LUC 20.20.460 for exceptions and performance standards relating to impervious surface.
- (36) Impervious surface limits for legally established nonconforming nonresidential uses and for new allowed nonresidential uses in these residential land use districts shall be 80 percent.
- (37) Maximum hard surface, maximum impervious surface and maximum lot coverage by structures are independent limitations on allowed development. All areas of lot coverage by structures are included in the calculation of total maximum impervious surface, unless such structures are exempted under LUC 20.20.460. All areas of impervious surface coverage shall be included in the calculation of total maximum hard surface.
- (38) Certain noncritical area setbacks on sites in the Critical Areas Overlay District may be modified pursuant to LUC 20.25H.040.
- (39) These dimensional standards may be modified through an approved conservation subdivision, LUC 20.45A.060, or conservation short subdivision, LUC 20.45B.055.
- (40) The greenscape requirements of this section shall be imposed any time a permit, approval, or review, including land alteration or land development for Single-Family Land Use Districts, is required by the Bellevue City Code or Land Use Code. Existing single-family front yard setbacks legally established on a site prior to January 1, 2008, which do not meet the minimum greenscape requirements set forth in Chart 20.20.010 shall not be considered nonconforming. The City shall not, however, approve proposals to decrease the greenscape percentage set forth in Chart 20.20.010 where a site already falls below the minimum greenscape requirements. Where an existing site falls below the minimum requirements set forth in Chart 20.20.010, the removal of greenscape shall not be approved unless an equal amount of existing impervious surface, pervious surface, or hardscape is removed, such that the net amount of greenscape is unchanged. The Director may modify the requirements of Chart 20.20.010 for nonconforming lots, corner lots, or lots with unique sizes and shapes. See LUC 20.50.022 for the definition of greenscape.
- (41) See LUC 20.20.900.F for significant tree retention requirements relating to Single-Family Districts excluding, however, the R-1 Land Use District in the Bridle Trails Subarea which is otherwise governed by LUC 20.20.900.E.
- (42) Dimensional requirements for the Bel-Red Land Use Districts are found at LUC 20.25D.080.
- (43) Floor Area Ratio (FAR) Threshold. Development which exceeds a gross Floor Area Ratio (FAR) threshold of 0.5 shall comply with the following requirements:
- (a) Applicability. FAR threshold requirements are applicable to new single-family homes and additions to existing homes that result in a 20 percent or greater increase in gross square feet.
- (b) Maintain a minimum structure setback of 7.5 feet for each side yard; and incorporate either daylight plane standards or a second story setback of not less than five feet on each side of the building facing a side yard property line.
- (c) Exemptions. New single-family homes constructed as part of a subdivision pursuant to Part 20.45A LUC or planned unit development pursuant to Part 20.30D LUC are not subject to FAR threshold requirements. The Director may modify the FAR threshold requirements on either side of the structure where it can be demonstrated that the adjacent structure has been constructed at an FAR that exceeds the 0.5 threshold and the adjacent structure is built to dimensions which exceed the requirements noted in subsection (b) of this note.

- (44) Maximum building height for single-family uses in Single-Family Residential Land Use Districts is 30 feet measured from the average elevation of the existing grade around the building to the highest point of a flat roof, or 35 feet to the ridge of a pitched roof. Refer to LUC 20.50.012 for definition of "Building Height – Single-Family Uses in Single-Family Land Use Districts."
- (45) For new single-family residential homes and additions in Single-Family Land Use Districts, the maximum height of any individual building façade is 40 feet measured from the existing grade at the building wall to the ridge of a pitched roof or top of a flat roof. New single-family homes constructed as part of a subdivision pursuant to Part 20.45A LUC or planned unit development pursuant to Part 20.30D LUC are exempt from this requirement.
- (46) Maximum building height in CB Districts of the Wilburton Subarea that are located between 116th Ave NE and the BNSF Corridor is 75 feet.
- (47) See LUC 20.20.425 for exceptions and performance standards related to hard surfaces.
- (48) Maximum impervious surface limit only for sites where the use of permeable surfacing techniques is determined to be infeasible according to the criteria in the 2014 Department of Ecology Stormwater Management Manual for Western Washington, now or as hereafter amended.
- (49) Up to one FAR of floor area dedicated to on-site affordable housing shall not be counted for the purposes of calculating the FAR of a project; provided, that:
- (a) The ratio of affordable housing is 2.5 market rate units to 1.0 affordable housing units at 80 percent AMI;
 - (b) The general development requirements contained in LUC 20.20.128 do not apply;
 - (c) 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; and
 - (d) An agreement in a form approved by the City will 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.

(50) Office-designated properties in the Eastgate Subarea annexed into the City with the Eastgate annexation (May 2012) shall not be considered nonconforming with respect to FAR if the development thereon was legally established prior to the date of annexation. (Ord. 6366, 8-7-17, § 7; Ord. 6323, 11-21-16, § 3; Ord. 6197, 11-17-14, § 6; Ord. 6169, 7-14-14, § 3; Ord. 5896, 8-3-09, § 1; Ord. 5876, 5-18-09, § 7; Ord. 5867, 4-6-09, §§ 1, 2; Ord. 5791, 12-3-07, § 12; Ord. 5726, 3-19-07, § 2; Ord. 5683, 6-26-06, § 2; Ord. 5672, 5-15-06, § 1; Ord. 5571, 12-6-04, § 1; Ord. 5480, 10-20-03, § 4; Ord. 5475, 10-20-03, § 5; Ord. 5430, 1-21-03, § 3; Ord. 5385, 7-15-02, § 6; Ord. 5232, 7-17-00, § 2; Ord. 5089, 8-3-98, § 4; Ord. 4979, 3-17-97, § 3; Ord. 4977, 3-17-97, § 1; Ord. 4973, 3-3-97, § 303; Ord. 4816, 12-4-95, § 403; Ord. 4654, 6-6-94, § 18; Ord. 4065, 10-23-89, § 3; Ord. 3936, 7-18-88, § 2; Ord. 3780, 5-26-87, § 1; Ord. 3775, 5-26-87, § 6; Ord. 3747, 1-20-87, § 2; Ord. 3690, 8-4-86, § 2; Ord. 3530, 8-12-85, § 11; Ord. 3498, 5-28-85, § 2)

20.50.012 B definitions.

Basement. That portion of a story partly or totally underground and having at least one-half of its height more than five feet below the adjoining finished grade. (Ord. 5989, 2-7-11, § 8)

Battery Charging Station. An electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meets or exceeds any standards, codes, and regulations set forth in Chapter 19.28 RCW and consistent with the rules adopted by the Building Code Council for electric vehicle infrastructure requirements. (Ord. 5989, 2-7-11, § 8)

Battery Exchange Station. A fully automated facility that will enable an electric vehicle with an interchangeable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth in Chapter 19.28 RCW and consistent with the rules adopted by the Building Code Council for electric vehicle infrastructure requirements. Operators of battery exchange stations must comply with federal and state law regulating the handling, storage, and disposal of batteries. (Ord. 5989, 2-7-11, § 8)

Bed and Breakfast. An owner-occupied dwelling which temporarily houses guests for profit. A bed and breakfast does not include a rooming house as defined in LUC 20.50.044. (Refer to LUC 20.20.140 for general development requirements applicable to bed and breakfast uses.) (Ord. 6223, 4-6-15, § 5; Ord. 4028, 7-17-89, § 10)

Bel-Red. The area of the city located generally from Interstate 405 to Bellevue's border with Redmond at 148th Ave NE (including a small triangle west of 156th Ave NE) and between State Route 520 and Bellevue-Redmond Road, which area is more specifically described in the Bel-Red legislative rezoning (Ordinance No. 5875). (Ord. 5876, 5-18-09, § 36)

Best Available Science (BAS). Current scientific information used in the process to designate, protect, or restore critical areas that is derived from a valid scientific process as defined by WAC 365-195-900 through 365-195-925, now or as hereafter amended. (Ord. 5683, 6-26-06, § 34)

Best Available Technology. The most effective method, technique or product available which is generally accepted in the field and which is demonstrated to be reliable and effective, which requires a low level of maintenance and which is responsive to the needs of the specific situation in which it is proposed to mitigate adverse impacts on the natural system. (Ord. 3775, 5-26-87, § 25)

Binding Site Plan. The division of land into lots or tracts classified for industrial or commercial use as provided by RCW 58.17.020 and 58.17.040. (Ord. 3848, 11-16-87, § 10)

Boarding. An animal service, which may include hobby kennel, kennel, veterinary, or pet day care uses. (Ord. 5876, 5-18-09, § 36)

Boarding House. An owner-occupied dwelling in which individuals unrelated to the owner are housed and/or fed for profit. This definition includes transient lodging as defined in LUC 20.50.048. (Refer to LUC 20.20.140 for general development requirements applicable to boarding house uses.) A boarding house does not include a rooming house as defined in LUC 20.50.044. (Ord. 6223, 4-6-15, § 6; Ord. 4654, 6-6-94, § 77; Ord. 4028, 7-17-89, § 11)

Boathouse. A covered moorage or overwater structure screened or enclosed by one or more sides exceeding 30 inches in height, except for vessels. (Ord. 4055, 3914, 9-25-89, § 20)

Boundary Line Adjustment. A division made for the purpose of alteration by adjusting boundary lines between platted or unplatted lots or both which does not create any additional lots, tracts, parcels, or building sites, nor create existing lots which are more nonconforming. (Ord. 5480, 10-20-03, § 33; Ord. 3937, 7-18-88, § 3)

Breakwater. Protective structure usually built offshore for the purpose of protecting the shoreline or harbor areas from wave action of water.

Bridge. A structure spanning and providing passage over a gap or barrier, such as a stream, river, floodplain, ravine or roadway. There are six basic modern bridge forms: the beam, the truss, the arch, the cantilever, the cable-stay, and the suspension. (Ord. 5683, 6-26-06, § 34)

Buildable Area. That area of a property remaining after area defined as a critical area and critical area buffer pursuant to Part 20.25H LUC has been subtracted from the gross land area. (Ord. 5683, 6-26-06, § 35; Ord. 5403, 8-5-02, § 13; Ord. 3775, 5-26-87, § 25)

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

Building Height. The vertical distance measured from the average elevation of the finished grade around the building or building segment to the highest point of a flat roof, or to the mean height between the tallest eave and tallest ridge of a pitched roof. Specifically excluded from this definition and from the regulation of maximum building height are structural elements not intended for habitation and not exceeding 15 feet above the maximum building height including penthouses for mechanical and elevator equipment, chimneys, wireless communication facility antenna arrays, smoke and ventilation stacks, flag poles, mechanical and elevator equipment, and parapet walls designed solely to screen mechanical and elevator equipment. This definition does not apply to projects located within a Transition Area Design District (refer to LUC 20.25B.040), the Shoreline Overlay District (refer to LUC 20.25E.017), Single-Family Land Use Districts (refer to the definition of Single-Family Uses in Single-Family Land Use Districts contained in this section; see also the F1 Land Use District (refer to LUC 20.25F1.040, Footnote (6))). (Ord. 6197, 11-17-14, § 35; Ord. 5791, 12-3-07, § 1; Ord. 5460, 8-4-03, § 9; Ord. 5232, 7-17-00, § 19; Ord. 5086, 8-3-98, § 9; Ord. 4352, 4-13-92, § 2; Ord. 2945, 2-2-81, § 18)

Building Height – Shoreline Overlay Districts. See Part 20.25E LUC – Shoreline Overlay District definitions. (Ord. 6197, 11-17-14, § 37)

Building Height – Single-Family Uses in Single-Family Land Use Districts. The vertical distance measured from the average elevation of the existing grade around the building to the highest point of a flat roof, or to the ridge of a pitched roof, provided this measurement does not apply to chimneys, wireless communication facility antenna arrays, shortwave radio antennas, smoke and ventilation stacks, and flag poles. This definition applies only to single-family residential structures, and structures accessory thereto, located in a single-family land use district. For all other structures, regardless of land use district, see the definition of Building Height contained in this section. (Ord. 6197, 11-17-14, § 36; Ord. 5896, 8-3-09, § 4; Ord. 5791, 12-3-07, § 2)

Building Height – Transition Area Design Districts. See LUC 20.25B.040.A.1 – Transition Area Design District Building Height definition. (Ord. 6197, 11-17-14, § 37)

Building Segment. That portion of a terraced building on a sloping site which has a separate roof line or finished floor elevation with a grade change of at least four feet. (Ord. 4352, 4-13-92, § 3)

Building Site. A legal lot or parcel. See Area, Site.

Bulkhead. A wall or embankment used for holding back earth.

20.50.016 D definitions.

Daylight Plane. A daylight plane is a height limitation that, when combined with the maximum height limit, defines the building envelope. A daylight plane shall begin at a horizontal line at 10 feet directly above grade as measured at the side property line of each lot and shall slope inward at a 45-degree angle or less. (Ord. 5896, 8-3-09, § 5)

Dead Storage. A storage area for items which are not currently intended for use. (Ord. 4654, 6-6-94, § 79)

Dedication. The deliberate appropriation of land by an owner for general or public uses, reserving no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted. The intention to dedicate shall be evidenced by the owner by the presentment for filing of a final plat showing the dedication thereon; and the acceptance by the public of any public dedications shall be evidenced by the administrative approval by the City of such plat for filing and the filing thereof. (Ord. 4654, 6-6-94, § 79; Ord. 3937, 7-18-88, § 4)

Department of Planning and Community Development. An administrative department of the City of Bellevue as described in Chapter 3.45 BCC. (Ord. 4654, 6-6-94, § 79)

Department of Transportation. An administrative department of the City of Bellevue as described in Chapter 3.39 BCC. (Ord. 4654, 6-6-94, § 79)

Development. All structures and other modifications of the natural landscape above and below ground or water, on a particular site. For the purposes of Part 20.25E LUC, regulation for the Shoreline Overlay District, a different definition is used. See LUC 20.25E.017.A. (Ord. 4654, 6-6-94, § 79; Ord. 4055, 3914, 9-25-89, § 22)

Development Area. That portion of a parcel designated as OLB-OS that is not reserved as open space as described in Part 20.25L LUC. (Ord. 5403, 8-5-02, § 14)

Development Services Department. The Development Services Department is an administrative department of the City as described in Chapter 3.44 BCC. (Ord. 5876, 5-18-09, § 38)

Director. The Director of the Development Services Department for the City of Bellevue, the Director's authorized representative, or any representative authorized by the City Manager, unless otherwise specified. (Ord. 5876, 5-18-09, § 38; Ord. 4973, 3-3-97, § 860; Ord. 4816, 12-4-95, § 960)

Director of Planning and Community Development. For the purposes of administering this Code, references to the Director of Planning and Community Development shall refer to the Director of the Development Services Department. (Ord. 5876, 5-18-09, § 38; Ord. 4654, 6-6-94, § 79)

District. A land use district. (Ord. 4654, 6-6-94, § 79)

Division of Land. The separation of any parcel of land into two or more parcels. (Ord. 4654, 6-6-94, § 79; Ord. 3937, 7-18-88, § 4)

Domestic Animals, Large. Generally grazing or foraging animals including horses, cattle, llama, sheep, goats, ponies and other animals of similar size and character. (Ord. 4654, 6-6-94, § 79; Ord. 3413, 9-24-84, § 4)

Domestic Animals, Small. Includes ducks, geese, swans, chickens, other fowl and animals of similar size and character, however, fewer than six fowl are treated as household pets. (Ord. 4654, 6-6-94, § 79; Ord. 3413, 9-24-84, § 4)

Downtown. The area of the City located generally from I-405 on the east to 100th Avenue NE on the west and from NE 12th Street on the north to approximately Main Street on the south, specifically within the boundaries described as follows:

Beginning at the Northwest corner of the Northwest quarter of Section 32, Township 25 North, Range 5 East, W.M., also being the centerline intersection of NE 8th Street and 100th Avenue NE; thence south along the west line of said Northwest quarter and along the centerline of 100th Avenue NE to the Northwest corner of the Southwest quarter of said Section 32 and the intersection of Main Street; thence south along the west line of said Southwest quarter and the centerline of 100th Avenue SE to a point being 200 feet south of, as measured at right angles to, the north line of said Southwest quarter of Section 32; thence easterly parallel with said north line 215 feet; thence southerly parallel with the west line of said Southwest quarter 90 feet to a point on the north line of Lot 82 of Bellevue Acre and Half Acre Tracts; thence easterly along the north line of Lot 82 to the centerline of Meydenbauer Way SE; thence southwesterly along the arc of the centerline of Meydenbauer Way SE and diverging southerly along the centerline of 101st Avenue SE to a point being the intersection of the centerline with the westerly projection of the south line of Lot 50 of Bellevue Acre and Half Acre Tracts as shown on that certain Condominium (THE FORUM) recorded under V.13, P.47-48 and Amended under V.18, P.8; thence easterly along the south line of Lot 50 to the centerline of 102nd Avenue SE; thence continuing easterly along the south lines of Lots 49 and 14 of Bellevue Acre and Half Acre Tracts to the centerline of 104th Avenue SE; thence northerly along said centerline to a point being the intersection of the centerline with the westerly projection of the south line of Lot 14 of Maxwellton Braes; thence easterly along the south line of Lot 14 to the Southeast corner thereof; thence northerly along the east line of Lot 14 to the Southwest corner of Lot 57 of Maxwellton Braes; thence easterly along the south line of Lot 57 to the centerline of 105th Avenue SE; thence continuing easterly along the south lines of Lots 58 and 101 of Maxwellton Braes to the centerline of 106th Avenue SE, and also being 15 feet westerly of the west line of Lot 2 of Trinwith Addition; thence continuing easterly along the prolongation of the south lines of Lots 58 and 101 of Maxwellton Braes to the centerline of 107th Avenue SE; thence northerly along said centerline to a point being the intersection of the centerline with the westerly projection of the south line of Lot 15 of Trinwith Addition; thence easterly along the south line of Lot 15 to the Southeast thereof; thence southerly to the south line of the North 227.07 feet of the Southwest quarter of said Section 32; thence easterly along said south line to the west line of the East 230 feet of said Southwest quarter; thence northerly along said west line to the south line of the North 176.42 feet of said Southwest quarter; thence easterly along said south line to the east line of the Southwest quarter of said Section 32 also being the centerline of 108th Avenue SE; thence northerly along said centerline to the intersection of 108th Avenue SE and Main Street; thence easterly along the centerline of Main Street to its intersection with the westerly right of way margin of SR 405 as shown on WSDOT Right of Way plan set titled SR 405 S.E. 30TH ST. VIC. TO N.E. 40TH ST. VIC., Sheets 17 through 24, approved and adopted February 11, 2005; thence northerly along said westerly margin to its intersection with the easterly right of way margin of 112th Avenue NE; thence northerly along said easterly right of way margin to its intersection with the westerly right of way margin of SR 405; thence northerly along said westerly margin to its intersection with the centerline intersection of NE 12th Street; thence westerly along the centerline of NE 12th Street to its projected intersection with the west line of the Southwest quarter of Section 29 Township 25 North, Range 5 East, W.M., also being the centerline intersection of 100th Avenue NE; thence south along the west line of said Southwest quarter and along the centerline of 100th Avenue NE to the Point of Beginning, and there ending, all in King County, Washington.



(Ord. 6277, 3-7-16, § 16; Ord. 4979, 3-17-97, § 20)

Dredging. Removal of earth from the bottom of a body of water usually for the purpose of deepening a navigational channel or obtaining bottom materials. (Ord. 4654, 6-6-94, § 79)

Duplex. See Dwelling, Duplex. (Ord. 4654, 6-6-94, § 79)

Dwelling, Duplex. A building containing two kitchens and designed to be occupied by two families living independently of each other, but not including single-family dwellings within an approved accessory dwelling unit. (Ord. 4654, 6-6-94, § 79)

Dwelling, Multifamily. A building designed to house two or more families living independently of each other. (Ord. 4654, 6-6-94, § 79)

Dwelling, Single-Family. A building containing but one kitchen, designed for and occupied exclusively by one family, except where a valid accessory dwelling unit registration has been approved. (Ord. 4654, 6-6-94, § 79)

Dwelling Unit. Houses, apartments, condominiums, groups of rooms, or single rooms, which are occupied, or vacant, but intended for occupancy, as separate living quarters. Specifically, there is a dwelling unit when the occupants live and eat separately from any other persons in the structure and there is either (1) direct access to the unit from the outside or through a common hall, or (2) complete kitchen facilities for the occupants' exclusive use. A single unit providing complete, independent living facilities for one or more persons including permanent provisions of living, sleeping, eating, cooking and sanitation. (Ord. 4654, 6-6-94, § 79)

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Facade. The front or face of a building. (Ord. 5896, 8-3-09, § 6)

Factoria Land Use District 1 (F1). The following described property shall be known as the F1 Land Use District:

That portion of Sections 9 and 16, Township 24 North, Range 5 East, W.M., in King County, Washington, described as follows:

Beginning at the intersection of the South line of said Section 9 and the LW-Line, as shown on the S.R. 405, Bagley Lane to Wilburton Right of Way Plans, sheet 3 of 7, dated March 31, 1959 and the S.R. 90, East Channel Bridge to Richards Road Right of Way Plans, sheet 5 of 20, dated August 17, 1965; thence Northerly along said LW-Line to the Northwesterly extension of the centerline of S.E. 38th Street; thence Southeasterly along said Northwesterly extension and centerline to the centerline of 128th Avenue S.E.; thence Southerly along the

centerline of 128th Avenue S.E. to the Easterly extension of the Northerly margin of S.E. 41st Street; thence Westerly along said Easterly extension, Northerly margin and the Westerly extension thereof to the Westerly margin of 124th Avenue S.E.; thence Northerly along said Westerly margin to the South line of said Section 9; thence Westerly along said South line to the Point of Beginning. (Ord. 5385, 7-15-02, § 10)

Factoria Land Use District 2 (F2). The following described property shall be known as the F2 Land Use District:

That portion of the Southeast quarter of Section 9, Township 24 North, Range 5 East, W.M., in King County, Washington, described as follows:

Commencing at the Northeast corner of the Northwest quarter of the Southwest quarter of the Southeast quarter of said Section 9; thence North 87°22'54" West along the North line thereof 82.21 feet; thence North 1°13'20" East 163.66 feet to the True Point of Beginning; thence South

1°13'20" West 163.66 feet; thence South 1°15'48" West to the centerline of S.E. 38th Street; thence Southeasterly along said centerline to the East line of the Northwest quarter of the Southwest quarter of the Southeast quarter of said Section 9; thence Northerly along said East line to the Southwest corner of Parcel E, King County Lot Line Adjustment No. 8810004; thence Easterly along the Southerly line thereof, the Southerly line of Parcel F of said lot line adjustment and the Easterly extension of said Southerly line to the centerline of 128th Avenue S.E.; thence Northerly along said centerline and Rel. Richards Road Line, as shown on the S.R. 90, East Channel Bridge to Richards Road Right of Way Plans, sheet 5 of 20, dated August 17, 1965 to the Southerly margin and prohibited access line of S.R. 90, as shown on said S.R. 90 Right of Way Plans; thence Westerly along said Southerly margin to a line which bears North 1°16'05" East from the True Point of Beginning; thence South 1°16'05" West along said line to the True Point of Beginning. (Ord. 5385, 7-15-02, § 10)

Factoria Land Use District 3 (F3). The following described property shall be known as the F3 Land Use District:

That portion of the Southeast quarter of Section 9, Township 24 North, Range 5 East, W.M., in King County, Washington, described as follows:

Beginning at the Southeast corner of Lot 2, King County Short Plat No. 278125 Revised, as filed under Recording No. 8112079004; thence Westerly along the Southerly line thereof to the East line of the West 222.00 feet of the Southeast quarter of the Southeast quarter of said Section 9; thence Southerly along said East line to the North line of the South 12.00 feet of the North half of the Southeast quarter of the Southeast quarter of said Section 9; thence Westerly along said North line to the centerline of 128th Avenue S.E.; thence Southerly along said centerline to the South line of the North half of the Southeast quarter of the Southeast quarter of said Section 9; thence Easterly along said South line to the Northwest corner of Parcel B, King County Lot Line Adjustment No. 1085098; thence Southerly along the Westerly line thereof and the Southerly extension of said Westerly line to the South line of the North half of the North half of the South half of the Southeast quarter of the Southeast quarter of said Section 9; thence Easterly along said South line to the Southeast corner of said Parcel B; thence Northerly along the Easterly line thereof to the South line of the North half of the Southeast quarter of the Southeast quarter of said Section 9; thence Westerly along said South line to the Southwest corner of Lot A, King County Lot line Adjustment No. 8903018; thence Northerly along the Westerly line thereof to the Northwest corner of said Lot A; thence Easterly along the Northerly line thereof to the East line of the Southeast quarter of said Section 9; thence Northerly along said East line to a line 30.00 feet Southerly of the LL-Line, as shown on the S.R. 90, Richards Road to Lake Sammamish Right of Way and Limited Access Plan, sheet 3 of 25, dated June 12, 1969 and the S.R. 90, East Channel Bridge to Richards Road Right of Way Plans, sheet 5 of 20, dated August 17, 1965 (Bellevue City Limits, established by City of Bellevue Ordinance No. 676); thence Westerly along said line to the Northerly extension of the Easterly line of Lot 2 of said King County Short Plat No. 278125 Revised; thence Southerly along said Northerly extension and the Easterly line thereof to the Point of Beginning. (Ord. 5385, 7-15-02, § 10)

F3 Land Use District Separation Line. A line, lying within the Southeast quarter of Section 9, Township 24 North, Range 5 East, W.M., in King County Washington, described as follows:

Beginning at the Southwest corner of Lot 4, King County Short Plat No. 487008, as filed under Recording No. 8809220297; thence Easterly along the South line thereof to the Northwest corner of Lot A, King County Lot Line Adjustment No. 8903018 and the Terminus. (Ord. 5385, 7-15-02, § 10)

Fair Market Value. The expected price at which the development can be sold to a willing buyer. For developments which involve nonstructural operations such as dredging, drilling, dumping, or filling, the fair market value is the expected cost of hiring a contractor to perform the operation or where no such value can be calculated, the total of labor, equipment use, transportation, and other costs incurred for the duration of the permitted project. (Ord. 4055, 3914, 9-25-89, § 23)

Family. Not more than four adult persons, unless all are related by blood, marriage, or legal adoption, living together as a single housekeeping unit. A group of related persons living in a household shall be considered a single housekeeping unit. Provided: a group of more than four unrelated adult persons living together in a dwelling unit may also be included within the definition of "family" if they demonstrate to the Director that they operate in a manner that is functionally equivalent to a family. Factors that shall be considered by the Director include whether the group of more than four unrelated persons:

- A. Shares the entire dwelling unit or acts as separate roomers;
- B. Includes minor, dependent children regularly residing in the household;
- C. Can produce proof of sharing expenses for food, rent, or ownership costs, utilities, and other household expenses;

- D. Shares common ownership of furniture and appliances among the members of the household;
- E. Constitutes a permanent living arrangement, and is not a framework for transient living;
- F. Maintains a stable composition that does not change from year to year or within the year;
- G. Is not a society, fraternity, sorority, lodge, organization or other group of students or other individuals where the common living arrangement or basis for the establishment of the housekeeping unit is temporary; or
- H. Can demonstrate any other factors reasonably related to whether or not the group of persons is the functional equivalent of a family.

The Director shall issue a written determination of whether a group of more than four unrelated adult persons are operating in a manner that is functionally equivalent to a family.

For purposes of this definition and notwithstanding any other provision of this Code, children with familial status within the meaning of Title 42 United States Code, Section 3602(k) and persons with handicaps within the meaning of Title 42 United States Code, Section 3602(h) will not be counted as unrelated persons. (Ord. 6223, 4-6-15, § 7; Ord. 5001, 7-7-97, § 4)

Family Child Care Home. A child care service use located in the family residence which provides regularly scheduled care for 12 or fewer children for periods of less than 24 hours. For the purposes of this definition, family residence means the dwelling unit occupied for living purposes by the child care provider which includes permanent provisions for living, sleeping, eating, cooking and sanitation. (Ord. 5089, 8-3-98, § 55)

Fast Food Restaurant. An establishment which offers quick food service which is accomplished through a limited menu of items already prepared and held for service, or prepared, fried, or griddled quickly, or heated in a device such as a microwave oven. Orders are not generally taken at the customer's table, and food is generally served in disposable wrappings or containers. There is only limited table service. (Ord. 2945, 2-2-81, § 20)

Fence. A barrier, including supporting posts, enclosing or separating a field, yard, or other real property. This definition includes solid and open fences. A fence may be constructed of wood, masonry or any other material. For the purposes of this Code, plant material is not considered a fence. (Ord. 3145, 9-27-82, § 76)

Fill. A solid material which increases ground surface elevation above or below the ordinary high water mark. (Ord. 4055, 3914, 9-25-89, § 23)

Filling. Placing soil, rock gravel, sand, peat or debris on top of the existing land surface. See Chapter 23.76 BCC. (Ord. 5232, 7-17-00, § 20)

Final Plat. The final drawing of the subdivision and any dedications prepared for filing for record with King County Department of Records and Elections and containing all elements and requirements set forth for final plats in Chapter 20.45A LUC and as required by state law. (Ord. 3937, 7-18-88, § 6)

Fish Habitat. Any habitat which is used by any fish at any life stage at any time of the year, including potential habitat likely to be used by fish which could be recovered by restoration or management. "Fish Habitat" includes off-channel habitat. (Ord. 5683, 6-26-06, § 38)

Floodplains. Low-lying lands adjacent to stream banks onto which excess water flows during periods of prolonged and intense precipitation. Floodplains are usually defined geographically on the basis of that area flooded by the most intense storm occurring during a certain period of years. Although floodwaters usually drain rapidly after precipitation has ceased, when floodwaters flow into wetland areas, they may be impounded for some time, due to the poor drainage characteristics of wetlands.

Floodway. "Floodway" means those portions of the area of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition. The floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.

Floor Area, Gross. The area included within the inside finished wall surface of the surrounding exterior walls of a building, excluding interior openings in floor plates (e.g., vent shafts, stair wells, and interior atriums), outdoor courts and exterior balconies. (Ord. 5050, 1-20-98, § 13; Ord. 2945, 2-2-81, § 20)

Floor Area Ratio (FAR). A measure of development intensity equal to the gross floor area, excluding parking and mechanical floors or areas, divided by net on-site land area (square feet). Net on-site land area includes the area of an easement but does not include public right-of-way except in the Downtown as provided for in LUC 20.25A.020.D. Refer to LUC 20.25H.045 for additional limitations on development intensity applicable to sites with critical areas or critical area buffers. This definition does not apply to single-family dwellings (refer to the definition of Floor Area Ratio (FAR) – Single-Family Dwelling contained in this section). (Ord. 6197, 11-17-14, § 38; Ord. 5683, 6-26-06, § 39; Ord. 5232, 7-17-00, § 21; Ord. 5050, 1-20-98, § 14; Ord. 4979, 3-17-97, § 21; Ord. 3766, 3-23-87, § 4)

Floor Area Ratio (FAR) – Single-Family Dwelling. A measure of development intensity equal to the gross floor area divided by net on-site land area (square feet). Included in the calculation of gross floor area is the floor area of the ground floor plus that of any additional stories of all buildings on the lot, including accessory structures. High-volume spaces – 18 feet or greater in height – are counted twice. Excluded in the calculation of gross floor area is the floor area or partially exposed lower levels that are less than five feet above finished grade, attic areas which are unfinished and nonhabitable, and carports, porches, and decks that are open on at least two sides. See also LUC 20.20.010, Note (43). (Ord. 6197, 11-17-14, § 39)

Fraternity, Sorority, or Student Cooperative. A building occupied by and maintained exclusively for students affiliated with an academic or professional college or university, or other recognized institution of higher learning.

Frontage, Lot or Street. See Lot, or Street, Frontage.

Functions and Values. Functions are the ecological things that critical areas do and can include biochemical, hydrological and food web and habitat processes at a variety of temporal and spatial scales. The economic or social roles provided by critical areas are also functions. Values are societal perceptions regarding the goods and services provided by critical areas. (Ord. 5683, 6-26-06, § 38)