

From: William Herman
To: [PlanningCommission](#)
Subject: Tonight's Planning Commission Vote on Downtown Land Use Update
Date: Wednesday, December 14, 2016 11:51:08 AM

Summary

- Limits should be limits – no loopholes
- Limits should be the agreed upon limits, not to include the blanket 15% last minute increase
- Don't vote on a package to improve livability without knowing if it improves livability

An 11th hour change raising height limits across the board has been inserted in the 103 page draft [Downtown Land Use Code Amendments](#). The language for the prior 11th hour change that allowed 15% additional height for mechanical screening and interesting roof form has been removed. The developers are simply being granted the extra 15% in height across the board. Language for even further 20 feet beyond this "Additional" height is being tacked on as well, so once again, limits are not really limits. Precedents for FAR and height limits have exceptions in this draft are established right out of the gate. Expect the exceptions to grow when the desired lift to the ambiguous amenity system doesn't pay for the city's unbridled wish list.

How did the 15% number ever have anything to do with reality. Who needs an additional 60 feet for mechanical equipment? Why do we want interesting roof forms on the smaller buildings? Iconic skylines are defined by the biggest buildings and the biggest buildings weren't being addressed.

The draft [Downtown Land Use Code Amendments](#) are part of a Livability Update, yet they are being voted on without an understanding of their impact on livability. Significant additional height and FAR will negatively impact congestion, safety and parking. A survey of 196 downtown residents conducted by Dr. Jordan Louviere, an expert in survey design and analysis showed that our top factors contributing to livability.

Factors Determining Livability	
Category	Weight
Walkability	0.187
Traffic	0.180
Parking	0.149
Amenities	0.133
Public Transit	0.128
Public Spaces	0.126
Design Outcomes	0.097

This package addresses design outcomes with a promise to address public spaces and amenities in the near future and address traffic and parking in the long run. How can we vote on a livability update that doesn't measure livability?

William Herman
10700 NE 4th St Unit 3616

From: Agreement Dynamics, Inc. <HQ@agreementdynamics.com>
Sent: Monday, December 12, 2016 4:28 PM
To: HQ@agreementdynamics.com
Subject: Happy Holidays from Agreement Dynamics

Follow Up Flag: Follow up
Flag Status: Flagged



Agreement Dynamics
206-297-7300
relationships, agreements, results

From: [Bedwell, Heidi](#)
To: [Ruth Marsh](#); [PlanningCommission](#)
Cc: [Council](#); [Matz, Nicholas](#)
Subject: RE: Milt Swanson't property should be turned into a park!!
Date: Monday, December 12, 2016 2:30:49 PM
Attachments: [Project Summary Park Pointe PUD 120916.pdf](#)

Ms. Marsh

Thank you again for providing input regarding proposed development near Coal Creek Park. City staff will be considering public comment as we review the proposal for compliance with city codes and standards. I wanted to also provide you with the information that staff provided to the city council regarding the subject application. A public meeting will be held this coming Wednesday at 7:00 here at City Hall for the public to learn more about the proposed development from the applicant. City staff will also be in attendance to answer questions about the permit process.

Heidi M. Bedwell
Environmental Planning Manager, Land Use Division
Development Services Department
425-452-4862
www.bellevuewa.gov

CitySeal_wording



From: Ruth Marsh [mailto:ruthmarsh@live.com]
Sent: Friday, December 09, 2016 12:37 PM
To: PlanningCommission <PlanningCommission@bellevuewa.gov>; Bedwell, Heidi <HBedwell@bellevuewa.gov>
Cc: Council <Council@bellevuewa.gov>; Matz, Nicholas <NMatz@bellevuewa.gov>
Subject: Milt Swanson't property should be turned into a park!!

Dear Ms. Bedwell,

I was surprised and **dismayed** to learn of the proposal for Park Pointe PUD (File Number: 16-143970-LK and 16-145946-LO) to build 41 homes on Milt Swanson's property at 7219 and 7331 Lakemont Blvd SE in Bellevue.

This property currently serves as a connection between Coal Creek Park and the Cougar Mountain Regional Wildland Park. With my family and friends, I frequently enjoy hiking up the Coal Creek trail and sometimes crossing over Lakemont Blvd. to the Cougar Mountain trail via Red Town Trailhead, enjoying the rural character of the Swanson property and the barn as we go. This property is not just a connection between two wonderful local parks. It is also a corridor for the movement of wildlife between these wildlife habitats.

That corridor would cease to function if roads and houses are built on this property. As we continue to

remove habitat, we see increasing numbers of wild animals forced into our neighborhoods, looking for food and territory. In terms of coyotes and big cats, this creates a public safety hazard. Recently, we have had reports on Nextdoor of pets being snatched and killed while on leash, not to mention pets killed while in their own back yard. Allowing another 41 homes to encroach into natural habitat will only increase these events as well as the likelihood of human attacks, something I am certain that the city would like to prevent.

Bellevue recently earned the top spot in a survey of cities with the highest quality of life: <http://www.businessinsider.com/us-cities...> While there is certainly pressure to find new places to build homes for all the people who want to live here, there are locations better suited to increased density that will not require the destruction of natural habitat. We need not lose the things that make Bellevue a special and desirable place to live; among them our greenbelts, trail systems and connection to regional parks are essential to that character. The Swanson property is one of those gems that should not be sacrificed; in addition to its wild habitat, it serves as a connection to the rural and cultural heritage of our region. The Swanson barn is the last barn standing on Cougar Mountain and there are very few left in Bellevue at all.

Our city is investing a lot of time and money in the areas near downtown to increase urban density and transit access. But while we are developing these areas of Bellevue, **it is important to preserve the natural parts of residential neighborhoods that allow us to connect with nature and preserve the little bit of wildlife habitat that we have left.**

Under the Comprehensive Plan, the **City of Bellevue should acquire this property to preserve its unique qualities and to retain the connection for a wildlife corridor.** There is also concern for the impact of construction and reduction of available land on salmon habitat in Coal Creek, something the CoB has recently spent much money to restore. If there is not a stop to this project and an acquisition by CoB, we must insist that **a full EIS be undertaken** to properly evaluate the impact this proposal would have on the parks, wildlife, and salmon. A "Determination of Non-Significance" is not an acceptable outcome for the residents of Bellevue. **This is not a project that should be approved.**

Sincerely,
Ruth Marsh



Date: December 9, 2016

To: Mayor Stokes and Members of the City Council

From: Carol Helland, Land Use Division Director
Development Services Department

Subject: Park Pointe PUD; 16-143970-LK and 16-145946-LO, Planned Unit Development
FOR YOUR INFORMATION ONLY - NO ACTION REQUIRED

Description of Proposal: The Development Services Department has received an application for a Planned Unit Development to construct 41 units on two existing residential lots. Zoning of the site is R-3.5 (a residential zoning district allowing 3.5 units per acre). The proposed 41 single-family homes will be sold as detached condominiums, meaning the proposal will not create separate lots for each individual unit. In order to achieve the proposed 41 units, the applicant is requesting approval of bonus density (entitled through the PUD process) which would allow a greater density than the base permitted for R-3.5 district.



The site contains critical areas including steep slopes, wetlands, streams, and coal mine hazards. The proposal includes a request to modify critical area buffers and this request is evaluated through a critical areas report. Reports have been prepared identifying the critical areas including a geotechnical report evaluating the coal mine hazards. Development is generally clustered in the area that is currently pasture. All existing structures are proposed for removal.

Proposal includes preserving 5.9 acres of the site in open space. The applicant has suggested it would be interested in donating the tract to the city. Staff from Development Services and Parks Department are discussing the proposal.

Location: The development site is located at 7219 and 7331 Lakemont Blvd SE.



Status of Review: The Planned Unit Development application was submitted on October 10, 2016, and the Critical Areas Land Use Permit was submitted on November 3, 2016. The project was noticed in the city's Weekly Permit Bulletin on December 1, 2016 and a public meeting is being held on Wednesday December 14th. The project is in the early stages of review and staff is preparing their first review comments for the applicant.

Process: Planned Unit Development, Critical Areas Land Use Permit and SEPA review. Staff decision on SEPA and Critical Areas Land Use Permit is appealable to a hearing examiner. Staff recommendation on the Planned Unit Development is presented to hearing examiner at public hearing. Hearing Examiner makes decision and the project is appealable to the City Council. This project would become a quasi-judicial decision of the City Council, and subject to the appearance of fairness doctrine, if the Hearing Examiner decision is appealed.

Community Concerns: Staff have received several comments from the public since the notice of application and project signs were posted on the site. The comments range in topic from concerns about wildlife and environmental impacts to traffic and several requests and concerns about the city acquiring the subject lots for use as park land. This project will undergo review under the State Environmental Policy Act (SEPA); however, since development of the property was contemplated and is governed by the terms of the Land Use Code, it is unlikely that an Environmental Impact Statement will be required.

Staff Contacts: Carol Helland, Land Use Division Director, 425-452-2724
Heidi M. Bedwell, Environmental Planning Manager, 425-452-4862

From: [Helland, Carol](#)
To: [Anne Morisseau](#); [Jeremy Barksdale](#); [John Carlson](#); [John deVadoss](#); [John deVadoss](#); [Laing, Aaron](#); [Laing, Aaron](#); [Michelle Hilhorst](#); [PlanningCommission](#); [Stephanie Walter](#)
Cc: [Cullen, Terry](#); [Stokes, John](#); [King, Emil A.](#); [Byers, Trish \(Patricia\)](#)
Subject: Supporting Information for Planning Commission review of Downtown Livability - FYI; PLEASE DO NOT REPLY TO ALL
Date: Friday, December 09, 2016 5:55:03 PM
Attachments: [Part 20.25A LUC Table of Contents.docx](#)
Importance: High

Good Afternoon Chair DeVadoss and Members of the Planning Commission –

You had a very rich conversation on Wednesday regarding how to approach your review of Downtown Livability Code Amendment package. In response to your discussion, and I am providing several documents to support your review of the code package that has been provided to you. The attached document provides an annotated Table of Contents for the Downtown Part that lists each code section, describes whether it was relocated from another section of the Downtown Overlay, or whether the section was fashioned after another part of the land use code to provide organizational consistency. I hope this helps focus your review on the parts that you have not seen previously or recently. You will also notice that there are several sections of the Table of Contents that have been shaded. These shaded sections are my initial attempt to identify areas of the Downtown Code that will not require page by page review, because they are procedural, were dealt with as part of the Early Wins, or were relocated from another section of the Downtown Overlay but not substantially amended.

I would propose that at the start of the next meeting (December 14) we discuss if I have captured the Planning Commission request for supporting information appropriately, and whether I have properly identified the sections that will not require in depth page by page review. Once we have reached consensus on this point, we can move forward in the order that the sections appear in the Table of Contents. I think this chronological approach will be useful, because the code is intended to flow in a logical manner that builds an appropriate regulatory framework for considering appropriate development on a site. Moving through the Downtown Overlay chronology will help build stakeholder understanding. You may be able to get all your questions answered on December 14 regarding the highlighted sections. If not, we will get as far as we can, and pick up where you left off after the New Year. With respect to the dimensional requirements and FAR amenity incentive sections, those are awaiting additional feedback from the ULI. We will review those sections last (after the ULI feedback is available).

In addition to the attached Table of Contents, I have provided links to two documents that might be of assistance during your review. The first link goes to the Planning Commission Packet that developed for the purpose of transmitting the CAC Recommendation from the Council to the Planning Commission. This packet provides useful information regarding the scope of Planning Commission review that was envisioned by the City Council. The second link goes to the Downtown Livability Website. This Downtown Livability website can be used as a helpful roadmap to the discussions that have been held with the Commission on this topic. If there is something that you want to track down to refresh your memory on a specific topic, you can use the website as a Table of Contents to your Planning Commission packets that dealt with the Downtown Livability topic.

Council Transmittal of CAC Recommendation to the Planning Commission:

[http://www.bellevuewa.gov/pdf/PlanningCommission/06-10-2015_Packet\(1\).pdf](http://www.bellevuewa.gov/pdf/PlanningCommission/06-10-2015_Packet(1).pdf)

Downtown Livability Website:

<http://www.bellevuewa.gov/downtown-livability.htm>

I hope this information is useful to you. Please let me know if I can be of additional assistance. Carol

Downtown Part 20.25A - Table of Contents

<p>20.25A.010 General</p> <ul style="list-style-type: none"> A. Applicability B. Organization 	<p>New Introductory section for ease of use. Organized like Light Rail Overlay Part 20.25M and BelRed Part 20.25D.</p>
<p>20.25A.020 Definitions</p> <ul style="list-style-type: none"> A. Definitions specific to Downtown B. General Definitions not applicable to DTN 	<p>New Definition section for ease of use. Organized like BelRed Part 20.25D.</p>
<p>20.25A.030 Review Required</p> <ul style="list-style-type: none"> A. Applicable Review B. Master Development Plan C. Design Review D. Departures E. Procedural Merger 	<p>New Process section for ease of use. Organized like BelRed Part 20.25D. Substantive language moved from Downtown LUC 20.25A.010 and expanded. Departures advance stakeholder requests for increased flexibility.</p>
<p>20.25A.040 Nonconforming uses, structures and sites</p> <ul style="list-style-type: none"> A. Nonconforming Uses B. Nonconforming Structures C. Nonconforming Sites 	<p>Moved from Downtown LUC 20.25A.025 and conformed to other sections of the draft code amendment for consistency.</p>
<p>20.25A.050 Downtown Land Use Charts</p> <ul style="list-style-type: none"> A. Permitted Uses B. Prohibited Uses C. Use Chart Described D. Use Charts 	<p>Moved from Downtown LUC 20.25A.015. Updated as part of Early Wins. Proposed code amendment adds a new Residential Use Note (2), and amends Transportation and Utilities Notes (1) and (5) to update citations.</p>
<p>20.25A.060 Dimensional Charts</p> <ul style="list-style-type: none"> A. Dimensional Charts in Dtn Districts B. Exceptions to Dimensional Requirements 	<p>Moved from Downtown LUC 20.25A.020.A.2 and amended in response to CAC and Planning Commission direction.</p>
<p>20.25A.070 FAR and Amenity Incentive System</p> <ul style="list-style-type: none"> A. General B. Required Review C. How to Calculate FAR D. Specific Requirements 	<p>Moved from Downtown LUC 20.25A.030 and amended in response to CAC and Planning Commission direction.</p>

<p>20.25A.080 Parking Standards</p> <ul style="list-style-type: none"> A. General B. Min/Max Parking Requirements by Use C. Shared Parking D. Off-Site Parking E. Commercial Use Parking F. Parking Area and Circulation G. Bicycle Parking H. Director’s Authority to Modify Parking 	<p>Moved from Downtown LUC 20.25A.050 and reorganized like BelRed 20.25D. Allows increased flexibility by providing process to modify required parking ratios.</p>
<p>20.25A.090 Street and Pedestrian Circulation Standards</p> <ul style="list-style-type: none"> A. Sidewalk Widths B. Planter Strips and Tree Pits 	<p>Moved from Downtown LUC 20.25A.060 and amended. Includes Early Wins.</p>
<ul style="list-style-type: none"> C. Downtown Core <ul style="list-style-type: none"> 1. Major Pedestrian Corridor 2. Major Public Open Spaces 3. Minor Publicly accessible Spaces 	<p>Moved from Downtown LUC 20.25A.090.E and citations updated. Will be updated following completion of Wilburton-Grand Connection Initiative Discussed with the Planning Commission on October 26, 2016.</p>
<p>20.25A.100 Downtown Pedestrian Bridges</p> <ul style="list-style-type: none"> A. Where Permitted B. Location and Design Plan C. Public Benefit Required D. Development Standards E. Public Access – Legal Agreement 	<p>Moved from Downtown LUC 20.25A.130 and amended to use the new Development Agreement Process.</p>
<p>20.25A.110 Landscape Development</p>	<p>Previously LUC 20.25A.040 Early Wins</p>
<ul style="list-style-type: none"> A. Street Trees and Landscaping 	<p>Moved from LUC 20.25A.060 Early Wins</p>
<ul style="list-style-type: none"> B. On-site Landscaping 	<p>Moved from LUC 20.25A.060</p>
<ul style="list-style-type: none"> C. Linear Buffer 	<p>Moved from LUC 20.25A.0090.D.4 and amended</p>
<p>20.25A.120 Green and Sustainability Factor</p> <ul style="list-style-type: none"> A. General B. Heritage Trees and Landmark Trees 	<p>New. Reviewed by the Planning Commission on October 26, 2016.</p>
<p>20.25A.130 Mechanical Equipment Screening and Location Standards</p>	<p>Moved from Downtown LUC 20.25A.045 Early Wins.</p>
<ul style="list-style-type: none"> A. Applicability 	
<ul style="list-style-type: none"> B. Location Requirements 	
<ul style="list-style-type: none"> C. Screening Requirements 	
<ul style="list-style-type: none"> D. Exhaust Control Standards 	
<ul style="list-style-type: none"> E. Modifications 	
<ul style="list-style-type: none"> F. Noise Requirements 	

Design Guidelines	Replaces Building Sidewalk Design Guidelines.
20.25A.140 Downtown Design Guidelines Introduction	
20.25A.150 Context	
20.25A.160 Site Organization	
20.25A.170 Streetscape and Public Realm	
20.25A.180 Building Design (Base, Middle and Top)	

From: David Schwartz
To: [Bedwell, Heidi](#)
Cc: [Council](#); [PlanningCommission](#)
Subject: Proposed Land Use for Milt Swanson's property / Park Pointe PUD
Date: Friday, December 09, 2016 4:49:25 PM

Ms. Bedwell,

I have become aware of the proposed development of the subject property. I won't re-iterate the points made in the various other resident emails that I'm know have been sent to you regarding this matter. I only want to add my voice to those that have pointed out that this is a misguided use of this property fraught with risk and simply a poor choice by the City of Bellevue for the many reasons others have stated.

As a long-time resident and taxpayer, I expect and indeed demand that a proper EIS be executed with regard to this project.

Sincerely,

David R. Schwartz, Ph.D.
13805 SE 58th Place
Bellevue, WA 98001

From: Ruth Marsh
To: [PlanningCommission](#); [Bedwell, Heidi](#)
Cc: [Council](#); [Matz, Nicholas](#)
Subject: Milt Swanson's property should be turned into a park!!
Date: Friday, December 09, 2016 12:37:11 PM

Dear Ms. Bedwell,

I was surprised and **dismayed** to learn of the proposal for Park Pointe PUD (File Number: 16-143970-LK and 16-145946-LO) to build 41 homes on Milt Swanson's property at 7219 and 7331 Lakemont Blvd SE in Bellevue.

This property currently serves as a connection between Coal Creek Park and the Cougar Mountain Regional Wildland Park. With my family and friends, I frequently enjoy hiking up the Coal Creek trail and sometimes crossing over Lakemont Blvd. to the Cougar Mountain trail via Red Town Trailhead, enjoying the rural character of the Swanson property and the barn as we go. This property is not just a connection between two wonderful local parks. It is also a corridor for the movement of wildlife between these wildlife habitats.

That corridor would cease to function if roads and houses are built on this property. As we continue to remove habitat, we see increasing numbers of wild animals forced into our neighborhoods, looking for food and territory. In terms of coyotes and big cats, this creates a public safety hazard. Recently, we have had reports on Nextdoor of pets being snatched and killed while on leash, not to mention pets killed while in their own back yard. Allowing another 41 homes to encroach into natural habitat will only increase these events as well as the likelihood of human attacks, something I am certain that the city would like to prevent.

Bellevue recently earned the top spot in a survey of cities with the highest quality of life: <http://www.businessinsider.com/us-cities...> While there is certainly pressure to find new places to build homes for all the people who want to live here, there are locations better suited to increased density that will not require the destruction of natural habitat. We need not lose the things that make Bellevue a special and desirable place to live; among them our greenbelts, trail systems and connection to regional parks are essential to that character. The Swanson property is one of those gems that should not be sacrificed; in addition to its wild habitat, it serves as a connection to the rural and cultural heritage of our region. The Swanson barn is the last barn standing on Cougar Mountain and there are very few left in Bellevue at all.

Our city is investing a lot of time and money in the areas near downtown to increase urban density and transit access. But while we are developing these areas of Bellevue, **it is important to preserve the natural parts of residential neighborhoods that allow us to connect with nature and preserve the little bit of wildlife habitat that we have left.**

Under the Comprehensive Plan, the **City of Bellevue should acquire this property to preserve its unique qualities and to retain the connection for a wildlife corridor.** There is also concern for the impact of construction and reduction of available land on salmon habitat in Coal Creek, something the CoB has recently spent much money to restore. If there is not a stop to this project and an acquisition by CoB, we must insist that **a full EIS be undertaken** to properly evaluate the impact this proposal would have on the parks, wildlife, and salmon. A "Determination of Non-Significance" is not an acceptable outcome for the residents of Bellevue. **This is not a project that should be approved.**

Sincerely,
Ruth Marsh

From: T Gabel
To: [PlanningCommission](#); [Matz, Nicholas](#); [Bedwell, Heidi](#)
Subject: land use concerns
Date: Thursday, December 08, 2016 10:59:16 PM

Planning & Community Development Department,

I am extremely concerned about the proposed development of 41 houses at:

Location: 7219 and 7331 Lakemont Blvd SE, Bellevue, WA

Given the fact that this area contains several environmentally sensitive areas defined as, *steep slope critical areas, wetlands and streams. Coal Creek (Type F stream) borders the southwest portion of the site and there are 3 tributary (Type N) streams on site. There are 2 Category IV and 1 Category III wetland..*

This development will add another new development in the South Bellevue, Newcastle area that will drastically impact the quality of life for residents in this area. The City of Newcastle seems to be set on developing every piece of land within the city limits. I hope that the City of Bellevue, *my city*, is able to see the long range negative impact that over-development will have on our community and leave this land undeveloped.

Please continue to focus on quality of life and leave some wilderness for future generations. Once this land is developed, we can never get that habitat back.

Thank you,

Theresa Meyer-Gabel

From: Christine Zomorodian
To: [Bedwell, Heidi](#)
Cc: [Council](#); [Matz, Nicholas](#); [PlanningCommission](#)
Subject: Proposed development at Coal Creek near Cougar Mountain Regional Wildland Park
Date: Thursday, December 08, 2016 8:45:25 PM

Dear Ms. Bedwell,

I was surprised and dismayed to learn of the proposal for Park Pointe PUD (File Number: 16-143970-LK and 16-145946-LO) to build 41 homes on Milt Swanson's property at 7219 and 7331 Lakemont Blvd SE in Bellevue.

This property currently serves as a connection between Coal Creek Park and the Cougar Mountain Regional Wildland Park. With my family and friends, I frequently enjoy hiking up the Coal Creek trail and sometimes crossing over Lakemont Blvd. to the Cougar Mountain trail via Red Town Trailhead, enjoying the rural character of the Swanson property and the barn as we go. This property is not just a connection between two wonderful local parks. It is also a corridor for the movement of wildlife between these wildlife habitats.

That corridor would cease to function if roads and houses are built on this property. As we continue to remove habitat, we see increasing numbers of wild animals forced into our neighborhoods, looking for food and territory. In terms of coyotes and big cats, this creates a public safety hazard. Recently, we have had reports on Nextdoor of pets being snatched and killed while on leash, not to mention pets killed while in their own back yard. Allowing another 41 homes to encroach into natural habitat will only increase these events as well as the likelihood of human attacks, something I am certain that the city would like to prevent.

Bellevue recently earned the top spot in a survey of cities with the highest quality of life: <http://www.businessinsider.com/us-cities>. While there is certainly pressure to find new places to build homes for all the people who want to live here, there are locations better suited to increased density that will not require the destruction of natural habitat. We need not lose the things that make Bellevue a special and desirable place to live; among them our greenbelts, trail systems and connection to regional parks are essential to that character. The Swanson property is one of those gems that should not be sacrificed; in addition to its wild habitat, it serves as a connection to the rural and cultural heritage of our region. The Swanson barn is the last barn standing on Cougar Mountain and there are very few left in Bellevue at all.

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and preserve the little bit of wildlife habitat that we have left.

Under the Comprehensive Plan, the City of Bellevue should have acquired this property to preserve its unique qualities and to retain the connection for a wildlife corridor. There is also concern for the impact of construction and reduction of available land on salmon habitat in Coal Creek, something the CoB has recently spent much money to restore. If there is not a stop to this project and an acquisition by CoB, we must insist that a full EIS be undertaken to properly evaluate the impact this proposal would have on the parks, wildlife, and salmon. A "Determination of Non-Significance" is not an acceptable outcome for the residents of Bellevue. This is not a project that should be approved.

Sincerely,

Christine Zomorodian
5816 142nd Place SE
Bellevue, WA 98006

From: Jack McCullough
To: [Cullen, Terry](#); [King, Emil A.](#); [Helland, Carol](#)
Subject: Letter to PC
Date: Wednesday, December 14, 2016 11:00:57 AM
Attachments: [Letter to PC re Fortress Proposal 12-14-16.pdf](#)

Here is a letter to the PC I was planning to hand out tonight. It's just a clarification of the record in response to the question that came up last week. I've also attached an updated version of our suggested Code language.

John C. McCullough

Attorney at Law

McCullough Hill Leary, PS

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McCULLOUGH HILL LEARY, PS

December 12, 2016

VIA HAND DELIVERY

John deVadoss
Chair, Bellevue Planning Commission
450 110th Avenue NE
Bellevue, Washington 98009

Re: Downtown Livability

Dear Chair deVadoss:

We are writing on behalf of Andy Lakha and Fortress Development regarding The Elan, the proposed project at the northwest corner of the intersection of NE 8th Street and Bellevue Way in Downtown Bellevue (the "Project").

Throughout 2016, we have appeared numerous times before the Planning Commission during its review of the Downtown Livability proposal, underscoring the unique nature of the opportunity at his proposed development site. In response, the Planning Commission on July 27, 2016 directed City staff to prepare a proposal for a Development Agreement process that could provide an avenue to greater height, open space and design quality in the Project.

At the December 7, 2016 meeting of the Planning Commission, a question arose regarding the direction of the Commission to City staff regarding the Project. We wanted to take the opportunity to clarify the record.

On July 27, 2016, Andy Lakha and I appeared before the Commission to make a presentation regarding the Project. Since the Commission had been reluctant to recommend approval of an outright permitted height of 300 feet on the Project site, we suggested instead that the Commission consider a Development Agreement proposal instead. Under this proposal, the Project proponent could apply for a special legislative approval of a specific Project plan, one that included structures at 300 feet of height, as well as numerous design and public use and accessibility elements to support the goals of the Downtown Livability proposal. If the City Council were ultimately satisfied with the benefits of the proposal, the additional height could be approved.

At the end of my testimony, you asked me to clarify our request. The minutes of the meeting (at page 16) properly capture my testimony:

. . . the ask does not involve changing the rules, rather to incorporate a process that says if certain criteria are met, the Council can have the opportunity to increase on the site to 300 feet. The increased height would not be automatic and the case would have to be made.

Toward the end of the Commission meeting, the Commissioners reviewed this issue and gave direction to City staff. Commissioner Morisseau indicated that the City should be open to the development agreement concept. The minutes (at page 21) go on:

Chair Hillhorst agreed but cautioned that continuing exploration of the McAusland, Bindon and MD Investments and Fortress Development sites, the property owners to the north may also come seeking similar considerations, and the result may be an inadvertent moving of the line. Mr. King said the public comment has been clear about the special relationship the Bellevue Way and NE 8th Street intersection has with the rest of the downtown. There may be some logic to considering the development agreement approach but limiting it to the area bounded by NE 8th Street, Bellevue Way, 10th Avenue NE and NE 9th Street.

Commissioner deVadoss suggested that the development agreement principle should be considered for other hot spots in the downtown.

Mr. King agreed to explore the concept further.

We have reviewed the audio tape of the meeting and it is consistent with the minutes.

Thus it is clear from the record at the July 27, 2016 meeting that the Commission directed City staff to explore the development agreement concept proposed for the Project. The Commission understood that the development agreement process does not guarantee approval of additional height, but creates a process by which such a result might be possible, if the applicable criteria can be met. As we have noted to the Commission, the additional height proposed for the Project supports a host of public benefits:

- Increased tower separation
- Larger areas for public space at the street level
- Enhanced pedestrian amenities
- Mid-block connections both north/south and east/west
- Iconic tower design in this key downtown location

As we have noted to the Commission, these critical public benefits – ones which are intended to exceed Code requirements – are not feasible without the additional height. And the very substantial geographic separation of this site from the neighborhoods to the west and north make this a location uniquely qualified for consideration. The development agreement concept does not guarantee that the Project would be approved; but it does ensure that there will be a process in which these important public benefits can be considered by the City.

In further support of this concept, we are attaching proposed Code language and review criteria which would apply to this Development Agreement proposal.

We appreciate the Commission's diligent work on the Downtown Livability package and we look forward to continued progress in this process.

Sincerely,

A handwritten signature in blue ink, appearing to read "John C. McCullough", with a long horizontal flourish extending to the right.

John C. McCullough

20.25A.030 Review Required (NEW)

D. Departures

2. Legislative Departures. There are unlimited opportunities for creativity and innovation in the design of Downtown projects that advance the vision and policy goals articulated in the Comprehensive Plan. The accommodation of iconic opportunities can be constrained by code Land Use Code provisions that were drafted to foster development of a livable Downtown while ensuring timely, predictable and consistent administration of regulations that are drafted to be applicable to a widely variable range of projects. The purpose of this subsection is to provide a legislative departure process to modify provisions of the Land Use Code, and to approve final construction design for privately developed spaces that function as part of the public realm.

a. Applicability. The City Council may, through a Development Agreement processed in accordance with Part 20.30L LUC:

i. Modify the following provisions of the Land Use Code:

(1) Uses prohibited under the terms of LUC 20.25A.040 and LUC 20.258A.050 when necessary to facilitate the adaptive reuse of a building that was in existence on [INSERT DATE of ordinance adoption]; and

(2) Amenities specifically identified for participation in the FAR Amenity Incentive System (LUC 20.25A.070) may be expanded to include a new Flexible Amenity subject to the terms of LUC 20.25A.070.D.18; ~~and~~.

(3) Height, up to a maximum height of 300 feet, for properties within a project limit of not less than two acres in total area located in the MU District in the superblock west of Bellevue Way NE, north of NE 8th Street, east of 102nd Avenue NE and south of NE 10th Street, provided that no more than 49 percent of the property within the project limit may be located in Subdistrict B under LUC 20.25A.090.

APPROVAL CRITERIA FOR PART 20.30L LUC:

[Development Agreement criteria]

Suggested criteria:

- The project exceeds the development standards for the zones in which it is located
- The project provides exceptional public areas and pedestrian amenities
- The project exhibits an exceptional level of design, both at the pedestrian level and for the skyline
- If the project is located in more than one zone, the development agreement may be used to modify development standards to achieve a unified and integrated overall project design

From: Carl Vander Hoek
To: [King, Emil A.](#); [Cullen, Terry](#)
Subject: Draft Land Use Code Review Comments and Questions - Vander Hoek
Date: Wednesday, December 14, 2016 10:25:44 AM
Attachments: [Draft Land Use Code Review 1 - Vander Hoek.docx](#)

Emil and Terry,

Can the below email regarding the Draft Land Use Code be included in tonights Planning Commission packet? Can it also be included in the online version of the packet? I look forward to getting a response from staff on my comments/questions. Thanks.

| **Carl Vander Hoek** | Property Manager |
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From: Carl Vander Hoek
Date: Tuesday, December 13, 2016 at 10:30 PM
To: Emil King, Terry Cullen, Patrick Bannon, Carol Helland, Brad Miyake, John Stokes
Cc: Matt Jack, Warren Koons, Brian Brand, Jim Hill, "alex.smith@kayesmith.com", Brittany Barker, Stu Vander Hoek, Monica Wallace, John Su, Linda Abe, Doug Pernerl, John deVadoss, Aaron Laing, Malia Radford, Tom Gilchrist, Gregory Johnson, David Doud, "downtownlivability@bellevuewa.gov", Susan Stead, Irene Plenefisch, Rich Wagner, Tom Frye
Subject: Draft Land Use Code Review Comments and Questions - Vander Hoek

All,

I have decided to share my preliminary review of the first 37 pages of the Draft LUC for the Downtown Livability Update. These notes and comments are from my perspective and not meant to represent any group. I wanted to send this to as many as possible to prompt a deeper look at the draft by all and begin to facilitate open discussion of the various considerations. Please feel free to forward to those who I do not have contact info for. I will have additional review of the rest of the draft later but this is a place to start. I have attached a word document of my comments and questions to make for easier review.

If you have any questions and feedback or would like to meet with me to review I would be more than happy to accommodate.

Thanks for all your continued hard work on this important update. I look forward to seeing many of you at Planning Commission on Wednesday at 6:30.

Carl Vander Hoek

General Comments/Questions:

1. Please provide a Redline Version - To make review easier. It does not need to include moved items just additions and subtractions. In Word there is a way to track changes with out showing things that were moved or formatting. Only insertions and deletions.
2. When is it expected that TBD's will be filled in?
3. When is expected that graphics referenced in the draft will be inserted?
4. Is the CAC reviewing and commenting on draft? If not why not?
5. What architects have reviewed the draft LUC and provided feedback?
6. Why did pgs 1-5 need to be expanded to define specific areas.
7. Is it possible to provide links to land use code number references in draft document?
8. Did the city address the concern of permitted use when developed vs. permitted use when occupied regarding parking requirements changing between those time frames? le; Carmines, Park 88, Peony The Meyden, Cantinetta & Gilberts The Mckee, etc.
9. Is the 1500 sf credit being proposed to be implemented throughout DT?
10. 1500 SF Credit still refers to current vs existing buildings. Can't this be cleaned up?
11. Will PC Review Basic FAR, Amenities & Affordable Housing? Will they prior to Public Hearing? Will they prior to council review?
12. Will ULI Review Berk Analysis & Draft LUC text w/ TBD's for FAR filled in.
13. I have seen it mentioned that the TAG for Affordable housing is doing economic feasibility analysis to determine what proposed changes to the land use code regarding affordable housing will cost development. Is that work being conducted taking in to account the changes proposed in Livability LUC changes? Is BERK working with this group and vis versa? It seems that two independent economic analysis are being conducted (One by BERK for Livability and one for the TAG).

Draft LUC Specific Questions/Comments:

1. Pg. 4 OB Purpose Description -
 - a. Why does it say preserve the "character of Old Bellevue"? What does that mean? Who defined it?
 - b. What is the "scale and of intensity of Old Bellevue"? Who determined it?
 - c. Who determined that the social and historic qualities are to be preserved? What are social qualities? How can they be preserved? What are historic qualities and how can they be preserved? Does "qualities" mean buildings?
2. Definitions: Active Uses:
 - a. Define Public Realm
 - b. Give examples of what does qualify as active uses? The examples given are only things that are not active uses.
3. Why is the city allow a parking study to be provided to depart from current min's and max's? This was not the CAC direction. Parking studies can be manipulated to derive a certain outcome. Developers will likely attempt to provide less than more parking. See #8 above
4. 20.25A.030 A (pg. 7) MDP - All Development or only multi/phased development. What is added cost to project?

5. 20.25A.030 D, 2, a, i,1 "prohibited use necessary for adaptive reuse" Why? Provide examples. What date is to be added to this section? Pg. 11
6. 20.35A.030 D, 2 (pg. 11) What is the public notice process for projects seeking Legislative Departures. How will the public find out that City Council is reviewing a specific departure request so they can comment to council?
7. 20.25A.040 B, 5 (pg.13) Why did non-conforming structures destroyed by fire change from 75% or less of its replacement value to 100%. What examples prompted this change. This was not a CAC direction.
8. Chart 20.25A.050.D (Services -Downtown Districts) (pg. 19) in DT-OB Column:
 - a. Professional Services Other: Can examples be provided of what this category covers? Why limit these to P if under 2,000 sf in OB?
 - b. Govt. Services and Limited Govt Services and Special Schools have footnote # 5 (on pg. 20) which does not apply to DT-OB but rather in DT-R district.
9. Chart 20.25A.050.D (Wholesale and Retail - Downtown Districts) (pg. 25) Foot note # 2. "No on-site outdoor display or inventory storage. Loading and unloading shall not be permitted in the right-of-way." This is currently being done every day.
 - a. Why does foot note 2 only apply in DT-OB?
 - b. Why does foot note 2 only applies to Apparel and Accessories (Retail), Furniture, Home Furnishing (Retail) and Misc. Retail Trade.
 - c. If it should even apply in DT-OB for these uses, then why not also apply to Eating and Drinking Establishments, Adult Retail, and Marijuana Retail?
 - d. The two sentences in this foot note aim to accomplish two different outcomes. I don't recall either of these coming from CAC direction. Can the two points be broken into 2 different footnotes. How will they both be enforced by the land use code when they pertain to ongoing use not permitted development.
 - e. Would this prevent the Sidewalk Sale on Main Street that merchants like to have every year?
 - f. Is footnote 2 intended to apply to public right-of-way or on private property regarding outdoor display/inventory storage?
10. Chart 20.25A.050.D (Wholesale and Retail - Downtown Districts) (pg. 25)
 - a. Why are Adult Retail and Marijuana Retail allowed in DT-OB if the goal is to preserve Old Bellevue's "character"? Why are they permitted if other regulations prevent them from being located within a certain distance of public parks? With Downtown Park and Wildwood Park this prohibited radius extends to cover the majority of Old Bellevue so why say they are permitted on this chart?
11. Chart 20.25A.050.D (Resources - Downtown Districts) (pg. 27)
 - a. Why are "Pets and Related Services" not permitted outright in all DT districts?
 - b. Does this prevent pet stores, pet care and grooming services? I do not think that is a direction supported by the CAC.
12. 20.25A.060 Dimensional Charts (pg. 30)
 - a. Consider moving DT-OB off of dimensional chart on pg. 30 since all of DT-OB is governed by Perimeter Overlay Districts on pg. 31. The majority of

columns on pg. 31 for DT-OB are N/A due to Overlay chart. This would mean that columns would need to be added to the Perimeter Overlay District Charts on pg. 31 for:

- i. Max Floor Plate above 40'
 - ii. Max Floor Plate above 80'
 - iii. Minimum Upper Level StepBack above 40' where building height exceeds 75'
 - iv. Tower separation above 45'
- b. What is value of lost developable SF for 20' stepback in new column "Minimum Upper Level Stepback above 45' Where building height exceeds 75"? This should be examined for economic feasibility by BERK.
- i. In DT-OB the 20' stepback above 45 ft should not apply since buildings can only be built to 70' or 90' (not including mechanical 15').
 - ii. Why should the current code in DT-OB change along Main St. Currently 15' stepback above 40'? Where did 20' above 45' come from? Is there a need?
 - iii. Does the step back of 20' apply to all sides of a building?
- c. Footnote 5 to dimensional charts (pg. 32)
- i. This discourages Hotels in DT-OB since in all other districts non-residential max floor plates are about 2,000 sf larger than residential. Consider increasing DT-OB non-residential max floor plates to 22,000 above 40' and to 20,000 above 80' to accommodate hotels in DT-OB in a better way (similar to other districts.)
- d. Dimensional Requirements - Perimeter Overlay Districts (pg. 31)
- i. Remove footnote 5 for header of first column "Building Type" to not discourage Hotels in DT-OB.
 - ii. Max Building Height (with 15% or 15') column in the Perimeter Overlay Chart does not include 15% or 15' added to the heights. For example Perimeter A-2 Residential reads 70' (with 15% or 15') however CAC and staff recommendations were to increase the current height of 55' to 70' (with out mech equip.) If we add 15' for mechanical equip. the height 55+15+15 should be 85'. Non-residential A-2 max height should read 55'.
 - iii. It seems that the column header for Max Building Height (with 15% or 15ft.) should have a footnote added describing what the 15% or 15' is for.
 - iv. Why are non-residential building heights not being increased in all Perimeter Overlays? This seems to favor residential buildings. There is no direction from neighborhood, CAC or staff to discourage non-residential in DT-OB as long as there is retail on the ground floor so why is the height not the same for both residential and non-residential like it is in Perimeter A-3?
 - v. Perimeter Overlay A-2 Residential - Triggers for Additional

Height Column says 55' (Footnote 9)

1. footnote #9 applies to above grade parking not the residential column. Is this a mistake?
 - vi. B-1 Residential Max Building Height should read 105' not 99'. Current height is 90' with greater of 15% or 15' added this should be 105'. B-2 Nonresidential Max height should read 80' (with 15' added to 65').
 - vii. Overlay B-1 Residential Trigger for Additional Height reads 99'. It should read N/A since no additional height is proposed in this area. (pg. 32)
- e. Additional Height Trigger - 20.25A.060 footnote # 7 (pg. 32)
- a. Why is open space the only amenity being traded for height? Why not select from a menu and promote diversity to cater to needs of a specific neighborhood or market.
 - b. What economic analysis has been done to examine if 10% floor area reduction and 10 % open space that proves that the give/take is equitable (Equanimeous)
 - c. If it doesn't prove economically feasible to do this then no open space will be provided. If it is too feasible then we will have too much open space and not a lot else. (i.e. too many point for Residential and Underground garage gets majority of points today.
 - d. If only 15 extra feet of height are to be gained on DT-OB A-2 and 200' height are to be gained in DT-01 than creating open space is more likely to occur in 0-1 than DT-OB. This does not seem like a balanced way to spread open space amenity through out downtown.
 - e. In DT-OB Overlay A-2 It seems that footnote 12 and footnote 7 contradict? If additional height is triggered in A-2 is 5% of the project area to be provided for open space (Note 12) or is it 10% for open space (note 7).
 - a. Footnote 12 mentions upper level stepback above 40 ft? What is the stepback dimension? 20'. This does not seem fair compared to other districts since A-2 can only go to 70'
 - f. In Perimeter A properties that surround the downtown boundary 20' of open space is provided as a buffer to downtown. Why is the additional height trigger open space requirement apply to properties that are on the boundary who already provide a 20' buffer from the boundary?
 - g. Can the open space provided be built over above a certain height? Like a cantilevered building form? For

the purposes of code is it considered a setback?

f. Dimensional Charts Footnote 11 (pg. 33)

- i. Does this tower spacing note apply to towers within one project limit or also to towers of another adjacent property as well? If it applies to spacing for adjacent properties towers than this is not very feasible.
- ii. How will staff determine that a buildings façade will not affect light, air, and privacy of buildings users?
- iii. I do not think that the intention was to protect light, air and privacy within 1 project sites towers.
- iv. If a project wants to build 2 towers close together with spacing provided per fire code then why should privacy be factored? And how? This seems like it should be determined by the market/developer on how private they should be. If there is no privacy they are only effecting the rentability of their own units?

g. 20.25A.060

- i. B, 2, c Intrusions in to Stepbacks (pg. 34)
 - a. External decks and balcony exceptions seemed to have been missed in this section. Can that be added to allow for decks to intrude into (above) stepbacks.
 - b. B, 2, c, i, 2 Has an architect reviewed this? It does not appear to be flexible enough.
 - a. 25% of the required depth of the stepback (20') = 5 ft. How was this determined to be the right number?
 - b. How was 20% of length of the whole façade determined to be the correct amount?
 - c. Maximum of 10 ft in length per intrusion. Why is this number static and not flexible depending on façade length? How does this width correspond to typical unit widths in the market.
 - d. Example: If there is a 300' façade then 20% (60 ft) can intrude, 5 ft (25% X 20 ft Stepback), only 10 ft per intrusion. This would mean that only 6, 10 ft intrusions within a 300 foot façade can be made. Is that determined to be adequate modulation that the city wants to see? I am under the impression that

modulation was to be encouraged and this seems to significantly limit that.

c. B, 2, c, ii Stepbacks may be modified or eliminated except when adjacent to a roadway greater than 70 ft. (pg. 34)

- a. Where does this stipulation come from? What is the intent? Where does it apply?
- b. One of the only places this applies is in DT-OB where roadways are narrower. Why is DT-OB being singled out for application of this requirement?
- c. Define "Roadway" does it include on street parking (curb to curb)? How are bulbouts treated in defining roadway widths?
- d. If the intent is to protect light & air should it be measured from face of building to face of building to include the entire ROW?
- e. Where does "max modification of 60% of the depth of the required stepback come from?
 - i. $60\% \times 20' \text{ stepback} = 12 \text{ ft}$ meaning that is the max modification to the stepback so, $20\text{ft} - 12\text{ft} = 8 \text{ ft}$ is the min. required stepback if modified.

d. B, 2, c, iii Modified stepback for Performing Arts Centers (pg. 34)

- a. Why does this only apply to Performing Arts Centers? Shouldn't it apply to any building to promote interesting roof forms, significant floor plate modulation, significant façade modulation and unique architectural features? This would help promote CAC direction to provide an interesting skyline to all structures not just Performing Arts Centers
- b. Why wouldn't the departure process

- apply for this type of modification?
 - c. Isn't Tateuchi already permitted? If so, what other Performing Arts Centers is this anticipated to apply to?
 - e. B, 3, a What is difference between this max of 20 ft. for mechanical equipment and the one in the following section (b) that accommodates 15% of 15 ft for mechanical equipment? Why are there two similar requirements? How would one determine which one to apply?
 - f. B, 3, a, iii "All mechanical equipment must be clustered at the center of the roof" (pg. 35)
 - a. How is this to be applied where elevators are in different locations throughout a building?
 - b. How is this to be applied to buildings that have a non-central form? i.e. courtyard in the middle or no identifiable middle?
 - g. B, 3, b "The exception below has been embedded in the dimension chart for transparency purposes." (pg. 35)
 - a. I do not see this exception for the 15% of 15 ft rule included in the dimension chart. Can a footnote be added to describe the details redlined here.
 - b. B, 3, b, i Why does the 15% of 15ft rule not apply to O-1 or Perimeter Overlays A-1, A-2, and A-3?
 - c. Why is it limited to a max. of 10% in Overlay B-2?
 - d. Do these areas not deserve the same interesting Mechanical equipment architectural form that other districts are required to have? This seems counterintuitive to not promote this in Overlay districts given that the perimeter overlay is where the lowest building heights are on the wedding cake and thus roof lines are most viewable from the ground and from surrounding taller buildings.
 - e. B, 3, b, ii Max building height can be

exceeded if ROW is dedicated

- i. Where does this apply?
Why does the city want ROW dedicated?
- ii. Where is the subsection B. 5 that is referenced here?
- iii. Why 10% and not 15% increase in this section?
- iv. Why is this not applicable in Perimeter Overlay Districts? What is the intent and does it not apply in this area?

h. C, 1 Exemptions from Max FAR (pg. 36)

- a. a & b The definition of "Active uses" needs to be refined and better detailed (see note 2 above). "Retail Uses" used to be used in the old code. What is the difference and what is the intent of the change to "Active Uses"?
- b. C, 1, b Why are upper level floor areas that are "Active Uses" only gaining 0.5 FAR when ground floor get 1.0 FAR? Upper Level Retail in Old code was given 1.0 FAR why was it determined that this should change? What is the economic impact of this change?
- c. C, 1, c Affordable Housing "Deferred pending the conclusion of the Affordable Housing Technical Advisory Group work"
 - i. Why is this important part being deferred? It should not. The TAG can't make informed conclusions on Affordable Housing recommended changes to the LUC without knowing the proposed LUC changes in Livability process. The TAG should

coordinate the economic feasibility analysis they are undertaking currently with that being conducted by BERK for Livability. This seems like a chicken and the egg type of problem. Which should happen first? The two groups should not operate in a vacuum.

- i. C, 2 Floor Area Earned from Special Dedications
 - a. Can RLRT be fully spelled out and not abbreviated to avoid confusion over time.
 - b. Change abbreviated reference to RLRT to Regional Light Rail Transit.

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