

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 5307

AN ORDINANCE approving the rezone application of COSMOS DEVELOPMENT AND ADMINISTRATION CORP. to amend the 1989 Concomitant Agreement adopted by Ordinance No. 3755 to allow for redevelopment of the Lake Hills Shopping Center to a Mixed Use Neighborhood Retail Center.

WHEREAS, as a result of City-wide neighborhood concerns, regarding the continued viability of neighborhood shopping centers, the Planning & Community Development Department studied a number of such centers, including the Lake Hills Shopping Center. In the year 2000 the City took a proactive approach toward neighborhood shopping centers in general and offered to partner with shopping centers owners on the redesign of older centers; and

WHEREAS, in June 2000, the City entered into a partnership with the applicant to produce an Urban Design Study for the Lake Hills Shopping Center which is located within the boundaries of the East Bellevue Community Council and is therefore subject to the approval/disapproval jurisdiction of the East Bellevue Community Council; and

WHEREAS, after public input, a preferred alternative design was prepared and presented to the City Council on March 31, 2001 and the City Council voted unanimously to support the direction indicated by the preferred alternative. The Urban Design Study partnership was then terminated; and

WHEREAS, in April 2001, applicant submitted an application for rezone to amend the 1989 Concomitant Agreement to allow for development of a Mixed Use Neighborhood Retail Center; and

WHEREAS, public notice of the request was published, and the request was considered at public meetings held before the East Bellevue Community Council on May 1 and June 5, 2001; and

WHEREAS, the Staff Report including a Threshold Determination of Non-Significance and recommending approval of a rezone with conditions was issued on May 17, 2001; and

WHEREAS, a timely appeal was filed of the Determination of Non-Significance (a Process II appeal) and such appeal was consolidated with the Hearing Examiner hearing on the recommendation of approval of the rezone (a Process III hearing); and

WHEREAS, a public hearing was held before the Hearing Examiner for the City of Bellevue on June 6, 2001 pursuant to notice required by law; and

WHEREAS, on June 26, 2001, the Hearing Examiner denied the appeal of the Determination of Non-Significance and recommended approval of the rezone application with conditions, and made and entered findings of fact and conclusions thereon in support of that recommendation; and

WHEREAS, the City Council concurs in the findings of fact and conclusions of the Hearing Examiner and has determined that the public use and interest will be served by approving the rezone application to allow for redevelopment of the Lake Hills Shopping Center to a Mixed Use Neighborhood Retail Center; and

WHEREAS, the City has complied with the requirements of the State Environmental Policy Act and the City Environmental Procedures Code now therefore,

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

Section 1. The City Council adopts the findings of fact and conclusions based thereon, made and entered by the Hearing Examiner in support of his recommendation to the City Council to approve the rezone application to amend the 1989 Concomitant Agreement adopted by Ordinance No 3755 to allow for redevelopment of the Lake Hills Shopping Center to a Mixed Use Neighborhood Retail Center, which property is legally described as follows:

Parcel A:

Tracts B and C of Lake Hills No. 4, as per plat Recorded in Volume 59 of Plats, Pages 33 through 35, Records of King County;

Together with the Easterly 30 feet of vacated 155th Avenue S.E. as dedicated in said Plat of Lake Hills No. 4 and adjoining said Tracts B and C;

Situate in the City of Bellevue, County of King, State of Washington.

Parcel B:

Tract A of Lake Hills No. 6, as per plat Recorded In Volume 60 of Plats, Page 38, Records of King County;

Together with the Easterly 30 feet of vacated 155th Avenue S.E. as dedicated in said Plat of Lake Hills No. 6 and adjoining said Tract A;

And that portion of the Southeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 35, Township 25 North, Range 5 East W.M., lying Northerly of said Tract A and vacated 155th Avenue S.E. and lying southerly of Lots 10 through 12 in Block 4 of Lake Hills No. 23, as per plat recorded in Volume 64 of Plats, Pages 88 and 89, Records of King County;

Situate in the City of Bellevue, County of King, State of Washington.

Section 2. This rezone shall be subject to the following conditions:

A. Section 1.A(3) of the Concomitant Agreement adopted by Ordinance No. 3755 and given Clerk's Receiving No. 12052 shall be revised to read as follows:

(3) No Transportation and utilities uses (Land Use Code Section 20.10.440, Standard Land Use Code Reference 4) shall be permitted, except:

- Accessory parking
- Telecommunication Facilities, pursuant to the definition of building height, which would allow wireless communication arrays to extend 15 feet above the maximum building height limit imposed by the terms of the concomitant;

B. Section 1.A(4) shall be revised to read as follows:

(4) No wholesale and retail uses (Land Use Code Section 20.1-.440, Standard Land Use Code Reference 5) shall be permitted, except:

- 552 Heating and plumbing equipment – retail
- 523 Paint, glass and wallpaper – retail
- 524 Electrical supplies – retail
- 5251 Hardware – retail
- 53 General Merchandise – retail trade
- 54 Food – retail trade (Subject to additional conditions in Section 2 of this Agreement)
- 56 Apparel and accessories – retail
- 57 Furniture and home furnishings – retail
- 58 Eating and Drinking Establishments (subject to additional conditions in Section 2 of this Agreement)
- 59 Other retail trades
- 5998 Garden Supplies
- 5999 Pet Shop – retail and grooming (Subject to additional conditions in Section 2 of this Agreement)
Computers and Electronics (retail) limited to a maximum of 5,000 square feet

C. Section 1.A(6) shall be revised to read as follows:

(6) No recreation uses (Land Use Code Section 20.10.440, Standard Land Use Code Reference 7) shall be permitted, except:

- 711 Library museum
- 7113 Art gallery
Public Assembly (Indoor) provided maximum square footage not to exceed 3,000 square feet

D. Section 1.B. shall be revised to read as follows:

B. Conditional Uses:

In addition to those uses listed in Land Use Code 20.10.440 as Conditional Uses in CB zones the following uses shall only be permitted as Conditional Uses:

- 521 Lumber and other building materials - bulk retail
- 672,673 Government Services: Protective Functions and related activities, excluding maintenance shops
- 683 Special schools - vocational, trade, business, art, music, dance, driving, barber and beauty
- 691 Religious activities
- 7425 Gymnasiums and athletic clubs

7413 Tennis Courts
76 Parks, public and private leisure and open space areas

E. Section 2.A shall be revised to read as follows:

2.A. Limits on Operation of Sweeper and Truck Deliveries: The Center will limit sweeper and other Center cleaning activities and truck deliveries to any tenant or user of the premises so that they occur only between the hours of 6:00 a.m. and midnight. Parking of refrigerator trucks or trailer units is not permitted between buildings and residential units. The owner will include the limits on hours and restrictions in all tenant leases, and shall enforce said provisions.

F. Section 2.B. shall be revised to read as follows:

B. Applicability of Future City Regulations on Hours of Operation:

With the exception of grocery store operation (which can be a 24-hour operation), this site will be governed by NB regulations on hours of operation, which currently require that wholesale and retail uses intending to operate between the hours of 12:00 midnight and 6:00 a.m. must obtain administrative conditional use approval. In the event the City of Bellevue should at some future time enact more restrictive regulations with regard to the hours of operation of shopping centers designated CB or NB, or such regulations would otherwise affect the hours of operation of businesses located within the center, the center will abide by those restrictions.

G. Section 2.G. shall be revised to read as follows:

G. Use Size Restrictions – Minimum Number of Uses Required:

The following restrictions shall apply as to maximum tenant sizes and minimum number of tenants to help assure that a variety of uses will be maintained within the Center. The Center may have one grocery store tenant not exceeding 45,000 square feet; one tenant not exceeding 20,000 square feet in area, two tenants not exceeding 15,000 square feet in area; the bank building may be occupied by a single tenant; other tenants shall be limited to a size not to exceed 10,000 square feet per tenant, subject to the provision that the Center shall maintain a minimum of an additional nine tenants for a minimum of not fewer than twelve tenants.

H. Section 2.K is revised to read as follows:

K. Parking Area Improvements:

The applicant shall submit an application to the Planning and Community Development Department within thirty (30) days of the effective date of the ordinance accepting this Concomitant Agreement, for approval of parking area improvements, including landscaping, to comply with Land Use Code Sections 20.20.590 and 20.20.520.F.3 or Section 20.20.520.J, and shall provide a Performance Assurance Device per Section 20.20.520.L. Installation of parking area landscaping shall be completed by the applicant and verified by the Planning and Community Development Department within

one year of the effective date of the ordinance approving and accepting this Concomitant Agreement.

I. Section 3 is amended to read as follows:

3. CONTINUED APPLICATION OF NEIGHBORHOOD BUSINESS PERFORMANCE STANDARDS:

The current NB (Neighborhood Business) performance standards, as the same now exist or may hereafter be amended, for landscaping, screening and other site development standards shall be the standards of this district.

This site will be limited to 157,000 square feet of commercial development. Site coverage will be limited to 40%. Maximum building Height is limited to 40 feet as measured from average existing grade, and then only to the extent needed to accommodate a structure with underground parking, two stories of retail and a pitched roof form. This 40 foot height limit shall only apply to Building A, as indicated on the Master Plan. The height limit for all other structures on the site shall be 35 feet.

J. A new Section 4 shall be added to read as follows:

4. APPLICATION OF MASTER SITE PLAN

A master site plan (Exhibit 1), which sets forth the configuration of the development potential of the site, is adopted as a part of this concomitant agreement.

K. A new Section 5 shall be added to read as follows:

5. DESIGN GUIDELINES

The purpose of the Design Guidelines is to ensure that development within the Lake Hills Shopping Center exhibits a high quality of design in support of its role as the retail/service center of the surrounding residential area. Development in the Lake Hills Shopping Center should incorporate architectural, landscape and pedestrian gathering and other features, which are compatible with and provide identification for the surrounding area. These Design Guidelines supercede and supplant the provisions of the Community Retail Design District, Part 20.25I LUC.

A. All development activity within the Shopping Center must be reviewed by the Director of Planning and Community Development Department using the Design Review Process, Part 20.30F LUC.

(1) Building Design Guidelines.

(a) All buildings within a multi-building complex should achieve a unity of design through the use of similar architectural elements, such as roof form, exterior building materials, colors, and window pattern.

(b) Individual buildings should incorporate similar design elements, such as surface materials, color, roof treatment, windows and doors, to achieve a unity of design.

(2) Site Design Guidelines.

(a) Where a perimeter landscape area required under LUC 20.20.520.F may be relocated under Note (1) of that section, some or all of the relocated area should be used to provide a landscaped courtyard at a corner entrance. Any relocated landscape area should be visible from the public street. Seating shall be provided.

(b) Pedestrian gathering space shall be provided at the major entrance to the new structure to provide for open pedestrian use. Design features of the gathering space should include movable furnishings, maximizing sunny exposure in at least part of the space, and the ability to configure the space in different ways for public use. Additional public space shall be provided on the south side of the existing buildings located on the north side of the site.

(c) Parking areas should be designed to minimize conflicts between pedestrian and vehicular movements. Structured parking shall be below grade along the 156th Avenue frontage. Parking area landscaping should be used to define and separate parking, access, and pedestrian areas within parking lots.

(d) The landscape design for the site should include:

- i) Plantings which emphasize the major points of pedestrian and vehicular access to the site.
- ii) Buffers along the west property line no less than twenty feet in width and Type I plantings and a solid fence
- (iii) Hanging planters, potted plants and small trees on the upper parking surface of the structured parking lot.

(e) Site features such as fences, walls, refuse and recycle enclosures, and light fixtures should be designed to be consistent with the scale and architectural design of the primary structure(s). Such site features should be designed and located to contribute to the pedestrian environment of the site development.

(f) Loading areas should not be located between the building and the street unless there is no alternative location possible. Loading areas, if located between the building and the street, should be oriented away from the street and screened to minimize views of the loading area from the street and sidewalk. Loading areas should not be located on the side of a building which faces toward a residential use unless there is no alternative location possible.

Loading areas, if located facing a residential use should be enclosed and shielded for noise attenuation.

(g) Buildings should be located to facilitate safe and comfortable pedestrian movement between buildings.

(h) Consideration should be given to locating buildings closer to the public street with entrances to the buildings from the public sidewalk, with no intervening parking or driving area.

(i) Opportunities should be found for safe, convenient, and pleasant pedestrian connections to existing transit facilities. Where needed, shelters and lay-bys for transit vehicles should be incorporated into the site frontage development.

(3) Design standards

(a) Special Corner Feature.

The site development shall incorporate a special corner feature at the corner of Lake Hills Boulevard and 156th Avenue SE. A special corner feature can be a landscape feature, seasonal color planting area, sculpture or water feature. The feature should provide a visual landmark and some amount of seating area.

(b) Building Design Standards.

(i) The design of buildings shall incorporate elements such as special architectural details, roof forms, distinctive color schemes, special art and other features, which are sensitive to and enhance the surrounding area and serve to distinguish the complex from other retail complexes in the City.

(ii) The sides of a building which face toward a public street shall include public entrances to the building and windows to provide visual access to the activity within the building, provided a corner access can also satisfy this requirement. A building facade on a sloping public street where pedestrian access directly to the sidewalk is not practical must provide architectural detailing, façade articulation, and landscape detailing to avoid a single blank wall. Some glazing for window openings are required.

(iii) The sides of a building which face toward an adjoining property, but not

toward a public street, shall include elements such as windows, doors, color, texture, landscaping or wall treatment to provide visual interest and prevent the development of a long continuous blank wall.

(iv) Building design shall provide for architecturally integrated signage. Signs shall be in proportion to the development and oriented to the main direction access and to pedestrian movement. Signs shall meet the requirements of Chapter 22B.10 BCC, Bellevue Sign Code.

(c) Internal Walkways.

(i) Walkways, of six feet in width minimum, shall be provided from the public sidewalk or right-of-way to the building. At a minimum, walkways shall be located to connect focus points of pedestrian activity such as transit stops and street crossings to the major building entry points and pedestrian gathering locations.

(ii) Walkways shall be provided to connect with walkways or potential walkway locations on adjoining properties in the district to create an integrated internal walkway system along the desired lines of pedestrian travel. The width of the walkway should be commensurate with the anticipated level of pedestrian activity along the connecting walkway.

(iii) On the sides of the building which provide public access into the building, the walkway should be wide enough to allow for sidewalk seating area or window gazing as well as pedestrian travel. Weather protection of the building walkway should be provided at a minimum at the entrance area and, if appropriate, along the entire building walkway of any new building.

(iv) Internal walkway surfaces shall be designed to be visually attractive and distinguishable from driving surfaces through the use of durable, low maintenance surface materials such as pavers, bricks, or scored concrete to enhance pedestrian safety and comfort. Pedestrian gathering areas shall be

delineated through the use of pavement design details.

(v) Walkways should be adjacent to structures wherever possible. In no case should the walkways be placed in required perimeter landscape areas or buffers.

(d) Other Development Standards.

(i) Rooftop equipment shall be visually screened pursuant to LUC 20.20.525. The design and color of rooftop mechanical equipment should be integrated with the building architectural style. All mechanical equipment, whether rooftop or ground mounted shall be selected and documented for compliance with BCC 9.18 is noise limits of 47 dBA during the hours of 10 p.m. to 7 a.m. measured at the receiving property line. Documentation shall be submitted prior to mechanical permit issuance for equipment noise levels generated and attenuation of screening design.

(ii) The outdoor display of building materials and similar bulky products shall be screened from views from the public street, sidewalk, and properties outside the district with a durable, solid wall or fence, or an evergreen hedge or a combination of the above. The screening requirement does not apply to the display of seasonal products of a decorative nature such as bedding plants, fall pumpkins and squash, and holiday greens.

(iii) Bicycle racks shall be provided on-site. Facilities for a minimum of 10 bicycles shall be provided for developments having 100 or fewer parking stalls. For each 100 additional stalls, facilities for five additional bicycles shall be provided.

L. Section 4 shall be renumbered to Section 6.

M. Section 5 shall be renumbered to Section 7 and shall be amended to read as follows:

7. Any amendment or modification of this agreement shall be valid only if mutually agreed upon by the City of Bellevue and the Owners (including heirs, assignees, and successors to the Owners) in writing through the rezoning process, and recorded with the King County Department of Records and Elections, provided the Director may require or approve modifications of

the Master Plan that are exempt from the rezone process if the following criteria are met:

- A. The proposal does not result in any significant adverse impact beyond the site; and
- B. The proposal is within the general scope of the purpose and intent of the original master plan; and
- C. The proposal complies with all applicable Land Use Code requirements; and
- D. The proposal complies with all requirements of this concomitant agreement.

Nothing contained in this Agreement shall be construed as in any way limiting the ability of the City, with or without the mutual agreement of the Owners, from exercising its police powers, including but not limited to rezoning or reclassifying the property at some future time.

N. Section 6 shall be renumbered to Section 8.

O. Section 7 shall be renumbered to Section 9.

P. Section 8 shall be renumbered to Section 10 and shall be amended to read as follows:

10. The Owners agree to indemnify and save harmless the City of Bellevue and the East Bellevue Community Council from and against all claims, suits, damages, costs, losses, and expenses in any manner resulting from, arising out of, or connected with the Owners' negligent performance of or failure to perform fully any term or condition of this agreement.

Q. Section 9 shall be renumbered to Section 11.

Section 3. The City Manager or his designee is hereby authorized to execute that certain Concomitant Agreement with Cosmos Development and Administration Group that incorporates these additional conditions, a copy of which Concomitant Agreement has been given Clerk's Receiving No. **30664**.

Section 4. This Ordinance shall take force and be in effect five days after its passage and legal publication.

PASSED by the City Council this 30th day of July, 2001, and signed in authentication of its passage this 30th day of July, 2001.

(SEAL)

Chuck Mosher, Mayor

Approved as to form:
Richard L. Andrews, City Attorney
Lori M. Riordan, Assistant City Attorney

Attest:
Myrna L. Basich, City Clerk

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