

ORIGINAL

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 5682

AN ORDINANCE amending the Bellevue Land Use Code to adopt amendments to critical area requirements applicable to subdivisions and Planned Unit Developments; amending Sections 20.45A.030, 20.45A.130, 20.45B.020, 20.45B.130, 20.30D.120, 20.30D.150, 20.30D.160, 20.30D.165, 20.30D.170, 20.30D.200, 20.30D.250 of the Bellevue Land Use Code; creating new Sections 20.45A.060, 20.45A.055, and 20.30D.167 in the Bellevue Land Use Code; deleting Section 20.45A.280 and 20.45B.270; and establishing an effective date.

WHEREAS, the City of Bellevue is a designated urban growth area under the state's Growth Management Act (GMA); and

WHEREAS, as an urban growth area, the City of Bellevue plans for and accepts its portion of the forecasted growth and development expected in King County; and

WHEREAS, the state Growth Management Act (GMA) requires local jurisdictions to designate and protect critical areas; and

WHEREAS, GMA requires local jurisdictions to include the best available science (BAS) in developing policies and regulations to protect critical area functions and values, and to give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries; and

WHEREAS, the City of Bellevue has a long history of protecting environmentally sensitive critical areas, with its first protective regulations adopted in 1987; and

WHEREAS, the City of Bellevue has a long history of developing and protecting exceptional neighborhoods and commercial areas, which contribute to economic development and to citizens' quality of life; and

WHEREAS, the City of Bellevue initiated its Critical Areas Update process in order to review existing regulations and policies protecting critical areas in 2001; and

WHEREAS, following substantial work by the Critical Areas Citizens Advisory Committee and the Planning Commission, the City Council adopted updated critical areas policies into the Environmental Element of the Comprehensive Plan, in November, 2004; and

WHEREAS, the Comprehensive Plan policies directs a regulatory and non-regulatory approach to protecting critical area functions and values; and

WHEREAS, the City of Bellevue protects critical areas with a variety of non-regulatory measures, including acquisition of critical areas, rehabilitation projects, education programs, and best management practices in city operations and management of city property and rights of way; and

WHEREAS, the proposed amendments to the Land Use Code updating the City's critical areas regulations, together with other regulations, including the City's clearing and grading regulations and storm water regulations, and together with non-regulatory measures and incentives, provide protection of critical area functions and values; and

WHEREAS, the amendments to Part 20.45A, Part 20.45B and Part 20.30D of the Land Use Code are designed to ensure protection of critical area functions and values in the subdivision and Planned Unit Development processes; and

WHEREAS, the amendments to Part 20.45A, Part 20.45B, and Part 20.30D of the Land Use Code also significantly increase flexibility and incentives for property owners to provide enhanced protection of critical area functions and values and to accomplish desired development; and

WHEREAS, development of the proposed amendments included BAS, with BAS sources set forth completely in the Planning Commission Transmittal dated September 7, 2005, as updated in the City Council Agenda Memorandum dated June 26, 2006; and

WHEREAS, the City prepared a risk analysis of the proposed amendments, entitled "*City of Bellevue's Critical Areas Update – Risk Analysis of Regulatory, City Programs, and Best Available Science Alternatives for Improving Critical Area Protection*," dated June 16, 2005 and updated on May 9, 2006 which discloses any departure from best available science and the risks associated with such departures; and

WHEREAS, the Planning Commission held a public hearing on July 6, 2005 with regard to such proposed Land Use Code amendment; and

WHEREAS, the Planning Commission finds that the Land Use Code amendment satisfies the criteria of LUC 20.30J.135 and therefore recommends that the City Council approve such proposed amendment; and

WHEREAS, the City Council held a public hearing on May 15, 2006 with regard to the proposed Land Use Code amendments, as modified by the City Council; and

WHEREAS, the City Council concurs in the analysis of the Land Use Code amendment criteria as set forth in the Planning Commission Transmittal dated September 7, 2005 and finds that the Land Use Code amendment, as modified pursuant to Council direction satisfies the criteria of LUC 20.30J.135; and

WHEREAS, the City Council adopts the analysis and discussion of GMA and BAS obligations as set forth in the Planning Commission Transmittal dated September 7, 2005, as updated in the City Council Agenda Memorandum dated June 26, 2006; and

WHEREAS, the City of Bellevue has complied with the State Environmental Policy Act (SEPA), Chapter 43.21C RCW, and the City's Environmental Procedures Code, BCC 22.02 including preparation of the Draft Environmental Impact Statement dated June 15, 2005 and the Final Environmental Impact Statement dated May 9, 2006; now, therefore,

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

Section 1. Section 20.45A.030 of the Bellevue Land Use Code is hereby amended as follows:

20.45A.030 Purpose.

This chapter is adopted in furtherance of the Comprehensive Plan of the City. It is hereby declared that the regulations contained in this chapter are necessary for the protection and preservation of the public health, safety and general welfare in accordance with the standards established by the State of Washington, Chapter 58.17 RCW, and established by the City of Bellevue to prevent the overcrowding of land; to lessen congestion in the streets and highways; to promote effective use of land; to promote safe and convenient travel by the public on streets and highways; to provide for adequate light and air; to facilitate adequate provision for water, sewerage, storm water drainage, parks and recreation areas, sites for schools and school grounds and other public requirements; to provide for proper ingress and egress; to provide for the expeditious review and approval of proposed subdivisions which conform to zoning standards and local plans and policies; to adequately provide for the housing and commercial needs of the community; to protect critical areas and critical area buffers as designated in Part 20.25H; and to require uniform monumenting of land subdivisions and conveyance by accurate legal description.

Section 2. A new Section 20.45A.060 of the Bellevue Land Use Code is hereby created as follows:

20.45A.060 Special requirements for Plats with critical areas or critical area buffers.

A. Allowed density. Density shall be calculated pursuant to LUC 20.25H.045.

B. Conservation Subdivision.

1. When Required. Proposals for residential subdivision within the Critical Areas Overlay District shall be processed as a conservation subdivision pursuant to this section 20.45A.060.B in the following cases:
 - a. the amount of critical area and critical area buffer on the site totals at least 1 acre; or
 - b. the site abuts a known salmon-bearing stream; or
 - c. the critical area or critical area buffer on the site abuts a critical area or critical area buffer on another site, or a site owned or managed by the City or other public agency for open space or park uses.
2. Tract required. The property owner receiving approval of a residential subdivision pursuant to this section shall delineate the critical area and critical area buffer and set aside such areas in separate tracts, designated as Native Growth Protection Area(s) (NGPA) on the face of the final plat. The final plat shall contain the following restrictions for use, development and disturbance of such NGPA(s) in a format approved by the City Attorney:
 - a. An assurance that: the tract will be kept free from all development and disturbance except where allowed or required for habitat improvement projects, vegetation management, or new or expanded city parks pursuant to LUC 20.25H.070; and that native vegetation, existing topography, and other natural features will be preserved for the purpose of preventing harm to property and the

environment, including, but not limited to, controlling surface water runoff and erosion, maintaining slope stability, buffering and protecting plants and animal habitat;

- b. The right of the City of Bellevue to enter the property to investigate the condition of the NGPA;
 - c. The right of the City of Bellevue to enforce the terms of the NGPA; and
 - d. A management plan for the NGPA designating future management responsibility.
3. Dimensional standards modification. The dimensional standards set forth in 20.20.010 are modified as follows for sites processed through the conservation subdivision process. All other dimensional standards and requirements of 20.20.010 shall apply, including applicable footnotes:

Land Use District	R-1	R-1.8	R-2.5	R-3.5	R-4	R-5	R-7.5*	R-10 (3)	R-15 (3)	R-20 (3)	R-30 (3)
Minimum Setbacks of structures (feet)											
Front Yard (1) (2) (7)	25	20	10	10	10	10	10	10	10	10	10
Rear Yard (4) (7)	20	20	20	15	15	15	15	20	20	20	20
Side Yard (4) (7)	5	5	5	5	5	5	5	5	5	5	5
2 Side Yards (4) (7)	15	10	10	10	10	10	10	10	10	10	10
Minimum Lot Area Acres (A) or Sq. Ft.	22,750	13,000	8775	6500	5525	4680	3055	5525	5525	5525	5525
Maximum Lot Coverage by Structures (percent)	(5)	(5)	(5)	(5)	(5)	(5)	(5)	(5)	(5)	(5)	(5)
Impervious Surface	(6)	(6)	(6)	(6)	(6)	(6)	(6)	(6)	(6)	(6)	(6)

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

Notes:

- (1) Any garage or other structure shall be set back the minimum necessary to allow on-site parking on any driveway without blocking a sidewalk, for proposals without garages, there shall be sufficient area on the site to allow for required on-site parking without blocking a sidewalk.
- (2) Where the front yard setback is reduced below the minimum setback established in 20.20.010, all front yard setbacks along a public right of way shall be the same for each lot in the development, so that the minimum front yard setback is also the maximum front yard setback.
- (3) Where there is a conflict between this section B.3 and the requirements of the Transition Area Overlay District, the provisions of the Transition Area Overlay District shall prevail.

- (4) The required yard setback may not be reduced below the minimum required for the underlying land use district where the development abuts another subdivision or development with the same or lower density land use designation, where the majority of the lots in the abutting development meet or exceed the minimum dimensional requirements for its land use district.
- (5) Lot coverage. The maximum lot coverage for each lot is determined by multiplying the maximum lot coverage in the underlying land use district by the lot coverage factor. The lot coverage factor is:

lot coverage factor = $1 + ((\text{required minimum lot size} - \text{actual lot size}) / \text{required minimum lot size})$

The following example illustrates this calculation:

Underlying land use district, R-3.5

Maximum lot coverage for district is 0.35

Required minimum lot size is 10,000

Actual lot size in proposed conservation subdivision is 6800 square feet

Lot coverage factor = $1 + ((10,000 - 6800) / 10,000) = 1.32$

Allowed lot coverage = $0.35 \times 1.32 = 0.46$ (rounded to nearest hundredth)

- (6) Impervious surface. Impervious surface for the subdivision considered on the whole shall not exceed 50%, based on the total site size. The final plat shall designate the allowed impervious surface for each separate lot.
- (7) A required minimum setback may not be reduced below that required to maintain the minimum separation between structures required by the International Building Code, as adopted and amended by the City of Bellevue, considering the location of existing structures on abutting properties.

4. Site Design.

- a. Roads must be designed parallel to contours with consideration to maintaining consolidated areas of natural topography and vegetation. Access must be located in the least sensitive area feasible; and
- b. Change in grade, cleared area and volume of cut or fill on the site must be minimized; and
- c. Utilities and other facilities should be located to utilize common corridors wherever possible; and
- d. Each lot with slopes in excess of 25 percent shall demonstrate provision for feasible driveway access to a future residence not to exceed 15 percent or provide for meeting emergency access and fire protection by other means allowed by applicable codes, and shall demonstrate feasibility of construction of a residence on the lot through a design consistent with the standards of this Code. Shared driveway access and private roads should be utilized where significant reduction of grading can be accomplished compared to separate driveway access for each individual lot.

C. Conventional Subdivision. Proposals for residential subdivision not required to satisfy the provisions of subsection B above shall meet the following requirements.

1. Lot Location.

- a. Lots which contain critical area or critical area buffers must be configured in a manner which, to the maximum extent possible, will allow a structure to be built on the least sensitive portion of the site; and
 - b. Lots which contain critical area or critical area buffers must be configured in a manner which will allow a designated building pad to be located outside of any critical area or critical area buffer.
2. Site Design.
- a. Roads must be designed parallel to contours with consideration to maintaining consolidated areas of natural topography and vegetation. Access must be located in the least sensitive area feasible; and
 - b. Change in grade, cleared area and volume of cut or fill on the site must be minimized; and
 - c. Utilities and other facilities should be located to utilize common corridors wherever possible; and
 - d. Critical areas, critical area buffers, and retained significant trees shall be placed in Native Growth Protection Easements (NGPE) designated on the final plat document. The final plat shall contain the following restrictions for use, development and disturbance of the NGPE in a format approved by the City Attorney:
 - i. An assurance that: the NGPE will be kept free from all development and disturbance except where allowed or required for habitat improvement projects, vegetation management, and new or expanded city parks pursuant to LUC 20.25H.070; and that native vegetation, existing topography, and other natural features will be preserved for the purpose of preventing harm to property and the environment, including, but not limited to, controlling surface water runoff and erosion, maintaining slope stability, buffering and protecting plants and animal habitat;
 - ii. The right of the City of Bellevue to enter the property to investigate the condition of the NGPA or NGPE upon reasonable notice;
 - iii. The right of the City of Bellevue to enforce the terms of the NGPE; and
 - iv. A management plan for the NGPE designating future management responsibility.
 - e. NGPEs on individual lots within the plat shall be contiguous with NGPEs on other lots to the maximum extent feasible; and
 - f. Each lot with slopes in excess of 25 percent shall demonstrate provision for feasible driveway access to a future residence not to exceed 15 percent or provide for meeting emergency access and fire protection by other means allowed by applicable codes, and shall demonstrate feasibility of construction of a residence on the lot through a design consistent with the standards of this Code. Shared driveway access and private roads should be utilized where significant reduction of grading can be accomplished compared to separate driveway access for each individual lot.
- D. Additional requirements for Plats with areas of special flood hazard.

1. All lots created through subdivision shall have adequate building space outside the 100-year floodplain, the floodway, and the channel migration zone.
2. Subdivisions shall be designed to minimize or eliminate flood damage and impacts to floodplain functions and values. Public utilities and facilities that are installed as part of such subdivisions, such as sewer, gas, electrical, and water systems, shall be located and constructed to also minimize flood damage and impacts to floodplain functions and values. Subdivisions should be designed using natural features of the landscape and should not incorporate flood protection changes.
3. Subdivisions shall have adequate natural surface water drainage in accordance with locally adopted surface water management requirements to reduce exposure to flood hazards; and
4. Subdivisions shall show the 100-year floodplain, floodway, and channel migration zone on the preliminary and final plat and short plat maps and designate such areas as "no build," when applicable.
5. Where detailed base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain either fifty (50) lots or involve five (5) acres, regardless of the number of lots.

Section 3. Section 20.45A.130 of the Bellevue Land Use Code is hereby amended as follows:

20.45A.130 Preliminary plat – Decision criteria.

The City may approve or approve with modifications a preliminary plat if:

- A. The preliminary plat makes appropriate provisions for, but not limited to, the public health, safety and general welfare; for open spaces, drainage ways, streets, sidewalks, alleys, other public ways, water supplies, sanitary waste, parks, playgrounds, sites for schools and school grounds; and
- B. The public use and interest is served by the platting of the subdivision; and
- C. The preliminary plat appropriately considers the physical characteristics of the proposed subdivision site; and
- D. The proposal complies with all applicable provisions of the Land Use Code, BCC Title 20, the Utility Codes, BCC Title 24, the City of Bellevue Development Standards and Chapter 58.17 RCW; and
- E. The proposal is in accord with the Comprehensive Plan, BCC Title 21; and
- F. Each lot in the proposal can reasonably be developed in conformance with current Land Use Code requirements without requiring a variance, however, requests for modifications to the requirements of Part 20.25H, where allowed under the provisions of that Part, may be considered together with an application for preliminary plat so long as the resulting lots may each be developed without individually requiring a variance; and

- G. All necessary utilities, streets or access, drainage and improvements are planned to accommodate the potential use of the entire property.

Section 4. Section 20.45A.280 of the Bellevue Land Use Code is hereby deleted in its entirety.

Section 5. Section 20.45B.020 of the Bellevue Land Use Code is hereby amended as follows:

20.45B.020 Purpose.

Pursuant to RCW 58.17.060 it is the intent of this chapter to permit administrative processing and approval of a division of land into nine or fewer lots, tracts, parcels, or sites; to promote the public health, safety, and general welfare; to further the goals and objectives of the Comprehensive Plan; to facilitate adequate provisions for water, sewer, storm water drainage, ingress and egress, and public uses; to promote the coordinated development of vacant lands; to protect critical areas and critical area buffers as designated in Part 20.25H; and to require conveyance by accurate legal description.

Section 6. A new Section 20.45B.055 of the Bellevue Land Use Code is hereby created as follows:

20.45B.055 Special requirements for Short Plats with critical areas or critical area buffers.

A. Allowed density. Density shall be calculated pursuant to LUC 20.25H.045.

B. Conservation Short Subdivision.

1. When Required. Proposals for residential short subdivision within the Critical Areas Overlay District shall be processed as a conservation short subdivision pursuant to this section 20.45B.055.B in the following cases:
 - a. the amount of critical area and critical area buffer on the site totals at least 1 acre; or
 - b. the site abuts a known salmon-bearing stream; or
 - c. the critical area or critical area buffer on the site abuts a critical area or critical area buffer on another site, or a site owned or managed by the City or other public agency for open space or park uses.
2. Tract required. The property owner receiving approval of a residential short subdivision pursuant to this section shall delineate the critical area and critical area buffer and set aside such areas in separate tracts, designated as Native Growth Protection Area(s) (NGPA) on the face of the final short plat. The final short plat shall contain the following restrictions for use, development and disturbance of such NGPA(s) in a format approved by the City Attorney:
 - a. An assurance that: the tract will be kept free from all development and disturbance except where allowed or required for habitat improvement projects, vegetation management, or new or expanded city parks pursuant to LUC 20.25H.070; and that native vegetation, existing topography, and other natural features will be preserved for the purpose of preventing harm to property and the

environment, including, but not limited to, controlling surface water runoff and erosion, maintaining slope stability, buffering and protecting plants and animal habitat;

- b. The right of the City of Bellevue to enter the property to investigate the condition of the NGPA upon reasonable notice;
 - c. The right of the City of Bellevue to enforce the terms of the NGPA; and
 - d. A management plan for the NGPA designating future management responsibility.
3. Dimensional standards modification. The dimensional standards set forth in 20.20.010 are modified as follows for sites processed through the conservation short subdivision process. All other dimensional standards and requirements of 20.20.010 shall apply, including applicable footnotes:

Land Use District	R-1	R-1.8	R-2.5	R-3.5	R-4	R-5	R-7.5*	R-10 (3)	R-15 (3)	R-20 (3)	R-30 (3)
Minimum Setbacks of structures (feet)	25	20	10	10	10	10	10	10	10	10	10
Front Yard (1) (2) (7)											
Rear Yard (4) (7)	20	20	20	15	15	15	15	20	20	20	20
Side Yard (4) (7)	5	5	5	5	5	5	5	5	5	5	5
2 Side Yards (4) (7)	15	10	10	10	10	10	10	10	10	10	10
Minimum Lot Area Acres (A) or Sq. Ft.	22,750	13,000	8775	6500	5525	4680	3055	5525	5525	5525	5525
Maximum Lot Coverage by Structures (percent)	(5)	(5)	(5)	(5)	(5)	(5)	(5)	(5)	(5)	(5)	(5)
Impervious Surface	(6)	(6)	(6)	(6)	(6)	(6)	(6)	(6)	(6)	(6)	(6)

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

Notes:

- (1) Any garage or other structure shall be set back the minimum necessary to allow on-site parking on any driveway without blocking a sidewalk, for proposals without garages, there shall be sufficient area on the site to allow for required on-site parking without blocking a sidewalk.
- (2) Where the front yard setback is reduced below the minimum setback established in 20.20.010, all front yard setbacks along a public right of way shall be the same for each lot in the development, so that the minimum front yard setback is also the maximum front yard setback.
- (3) Where there is a conflict between this section B.3 and the requirements of the Transition Area Overlay District, the provisions of the Transition Area Overlay District shall prevail.

- (4) The required yard setback may not be reduced below the minimum required for the underlying land use district where the development abuts another subdivision or development with the same or lower density land use designation, where the majority of the lots in the abutting development meet or exceed the minimum dimensional requirements for the land use district.
- (5) Lot coverage. The maximum lot coverage for each lot is determined by multiplying the maximum lot coverage in the underlying land use district by the lot coverage factor. The lot coverage factor is:

lot coverage factor = $1 + ((\text{required minimum lot size} - \text{actual lot size}) / \text{required minimum lot size})$

The following example illustrates this calculation:

Underlying land use district, R-3.5
Maximum lot coverage for district is 0.35
Required minimum lot size is 10,000
Actual lot size in conservation short subdivision is 6800 square feet

Lot coverage factor = $1 + ((10,000 - 6800) / 10,000) = 1.32$
Allowed lot coverage = $0.35 \times 1.32 = 0.46$ (rounded to nearest hundredth)

- (6) Impervious surface. Impervious surface for the subdivision considered on the whole shall not exceed 50%, based on the total site size. The final short plat shall designate the allowed impervious surface for each separate lot.
- (7) A required minimum setback may not be reduced below that required to maintain the minimum separation between structures required by the International Building Code, as adopted and amended by the City of Bellevue, considering the location of existing structures on abutting properties.

4. Site Design.

- a. Roads must be designed parallel to contours with consideration to maintaining consolidated areas of natural topography and vegetation. Access must be located in the least sensitive area feasible; and
- b. Change in grade, cleared area and volume of cut or fill on the site must be minimized; and
- c. Utilities and other facilities should be located to utilize common corridors wherever possible; and
- d. Each lot with slopes in excess of 25 percent shall demonstrate provision for feasible driveway access to a future residence not to exceed 15 percent or provide for meeting emergency access and fire protection by other means allowed by applicable codes, and shall demonstrate feasibility of construction of a residence on the lot through a design consistent with the standards of this Code. Shared driveway access and private roads should be utilized where significant reduction of grading can be accomplished compared to separate driveway access for each individual lot.

C. Conventional Short Subdivision. Proposals for residential short subdivision not required to satisfy the provisions of subsection B above shall meet the following requirements.

1. Lot Location.

- a. Lots which contain critical area or critical area buffers must be configured in a manner which, to the maximum extent possible, will allow a structure to be built on the least sensitive portion of the site; and
- b. Lots which contain critical area or critical area buffers must be configured in a manner which will allow a designated building pad to be located outside of any critical area or critical area buffer.

2. Site Design.

- a. Roads must be designed parallel to contours with consideration to maintaining consolidated areas of natural topography and vegetation. Access must be located in the least sensitive area feasible; and
- b. Change in grade, cleared area and volume of cut or fill on the site must be minimized; and
- c. Utilities and other facilities should be located to utilize common corridors wherever possible; and
- d. Critical areas, critical area buffers, and retained significant trees shall be placed in Native Growth Protection Easements (NGPE) designated on the final short plat document. The final short plat shall contain the following restrictions for use, development and disturbance of the NGPE in a format approved by the City Attorney:
 - i. An assurance that: the NGPE will be kept free from all development and disturbance except where allowed or required for habitat improvement projects, vegetation management, and new or expanded city parks pursuant to LUC 20.25H.070; and that native vegetation, existing topography, and other natural features will be preserved for the purpose of preventing harm to property and the environment, including, but not limited to, controlling surface water runoff and erosion, maintaining slope stability, buffering and protecting plants and animal habitat;
 - ii. The right of the City of Bellevue to enter the property to investigate the condition of the NGPE upon reasonable notice;
 - iii. The right of the City of Bellevue to enforce the terms of the NGPE; and
 - iv. A management plan for the NGPE designating future management responsibility.
- e. NGPEs on individual lots within the short plat shall be contiguous with NGPEs on other lots to the maximum extent feasible; and
- f. Each lot with slopes in excess of 25 percent shall demonstrate provision for feasible driveway access to a future residence not to exceed 15 percent or provide for meeting emergency access and fire protection by other means allowed by applicable codes, and shall demonstrate feasibility of construction of a residence on the lot through a design consistent with the standards of this Code. Shared driveway access and private roads should be utilized where significant reduction of grading can be accomplished compared to separate driveway access for each individual lot.

D. Additional requirements for short plats with areas of special flood hazard.

1. All lots created through short subdivision shall have adequate building space outside the 100-year floodplain, the floodway, and the channel migration zone.
2. Short subdivisions shall be designed to minimize or eliminate flood damage and impacts to floodplain functions and values. Public utilities and facilities that are installed as part of such subdivisions, such as sewer, gas, electrical, and water systems, shall be located and constructed to also minimize flood damage and impacts to floodplain functions and values. Short subdivisions should be designed using natural features of the landscape and should not incorporate flood protection changes.
3. Short subdivisions shall have adequate natural surface water drainage in accordance with locally adopted surface water management requirements to reduce exposure to flood hazards; and
4. Short subdivisions shall show the 100-year floodplain, floodway, and channel migration zone on the preliminary and final plat and short plat maps and designate such areas as "no build," when applicable.
5. Where detailed base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for short subdivision proposals and other proposed developments that involve five (5) acres, regardless of the number of lots.

Section 7. Section 20.45B.130 of the Bellevue Land Use Code is hereby amended as follows:

20.45B.130 Preliminary short plat – Department Director’s decision.

A. Decision Criteria.

The Department Director may approve or approve with modifications if:

1. The preliminary short plat makes appropriate provisions for, but not limited to, the public health, safety and general welfare, for open spaces, drainage ways, streets, sidewalks, alleys, other public ways, water supplies, sanitary waste; and
2. The public interest is served by the short subdivision; and
3. The preliminary short plat appropriately considers the physical characteristics of the proposed short subdivision site; and
4. The proposal complies with all applicable provisions of the Land Use Code, BCC Title 20, the Utility Codes, BCC Title 24, and the City of Bellevue Development Standards; and
5. The proposal is in accord with the Comprehensive Plan, BCC Title 21; and
6. Each lot in the proposal can reasonably be developed in conformance with current Land Use Code requirements without requiring a variance, however, requests for modifications to the requirements of Part 20.25H, where allowed under the provisions of that Part, may be considered together with an application for

preliminary short plat so long as the resulting lots may each be developed without individually requiring a variance; and

7. All necessary utilities, streets or access, drainage and improvements are planned to accommodate the potential use of the entire property.

Section 8. Section 20.45B.270 of the Bellevue Land Use Code is hereby deleted in its entirety.

Section 9. Section 20.30D.120 of the Bellevue Land Use Code is hereby amended as follows:

20.30D.120 Purpose.

A Planned Unit Development is a mechanism by which the City may permit a variety in type, design, and arrangement of structures; and enable the coordination of project characteristics with features of a particular site in a manner consistent with the public health, safety and welfare. A Planned Unit Development allows for innovations and special features in site development, including the location of structures, conservation of natural land features, protection of critical areas and critical area buffers, the use of low impact development techniques, conservation of energy, and efficient utilization of open space.

Section 10. Section 20.30D.150 of the Bellevue Land Use Code is hereby amended as follows:

20.30D.150 Planned Unit Development plan – Decision criteria.

The City may approve or approve with modifications a Planned Unit Development plan if:

- A. The Planned Unit Development is consistent with the Comprehensive Plan; and
- B. The Planned Unit Development accomplishes, by the use of permitted flexibility and variation in design, a development that is better than that resulting from traditional development. Net benefit to the City may be demonstrated by one or more of the following:
 1. Placement, type or reduced bulk of structures, or
 2. Interconnected usable open space, or
 3. Recreation facilities, or
 4. Other public facilities, or
 5. Conservation of natural features, or
 6. Conservation of critical areas and critical area buffers beyond that required under Part 20.25H; or
 7. Aesthetic features and harmonious design, or
 8. Energy efficient site design or building features, or

9. Use of low impact development techniques; and
- C. The Planned Unit Development results in no greater burden on present and projected public utilities and services than would result from traditional development and the Planned Unit Development will be served by adequate public or private facilities including streets, fire protection, and utilities; and
- D. The perimeter of the Planned Unit Development is compatible with the existing land use or property that abuts or is directly across the street from the subject property. Compatibility includes but is not limited to size, scale, mass and architectural design of proposed structures; and
- E. Landscaping within and along the perimeter of the Planned Unit Development is superior to that required by this Code, LUC 20.20.520, and enhances the visual compatibility of the development with the surrounding neighborhood; and
- F. At least one major circulation point is functionally connected to a public right-of-way; and
- G. Open space, where provided to meet the requirements of 20.30D.160.A.1, within the Planned Unit Development is an integrated part of the project rather than an isolated element of the project; and
- H. The design is compatible with and responds to the existing or intended character, appearance, quality of development and physical characteristics of the subject property and immediate vicinity; and
- I. That part of a Planned Unit Development in a Transition Area meets the intent of the Transition Area requirements, Part 20.25B LUC, although the specific dimensional requirements of Part 20.25B may be modified through the Planned Unit Development process; and
- J. Roads and streets, whether public or private, within and contiguous to the site comply with Transportation Department guidelines for construction of streets; and
- K. Streets and sidewalks, existing and proposed, are suitable and adequate to carry anticipated traffic within the proposed project and in the vicinity of the proposed project; and
- L. Each phase of the proposed development, as it is planned to be completed, contains the required parking spaces, open space, recreation space, landscaping and utility area necessary for creating and sustaining a desirable and stable environment.

Section 11. Section 20.30D.160 of the Bellevue Land Use Code is hereby amended as follows:

20.30D.160 Planned Unit Development plan – Conservation feature and recreation space requirement.

A. General.

Within a Planned Unit Development including residential uses:

1. Through the Conservation Design Features included in subsection B below, the proposal must earn square footage credit totaling at least 40 percent of the gross land area, which includes any critical area or critical area buffer; and
2. At least 10 percent of the gross land area, which includes any critical area or critical area buffer, of the subject property must be retained or developed as common recreation space as defined by LUC 20.50.044; provided, however, that the requirement for recreation space may be waived if the total of critical area and critical area buffer equals at least 40 percent of the gross land area; and
3. Recreation space as required by paragraph A.2 of this section may be included within non-critical area Conservation Design Features required by paragraph A.1 of this section if:
 - a. The common recreation space does not interfere with the purposes and functions of the Conservation Design Feature; and
 - b. At least 20 percent of the gross land area is nonrecreation open space.

Provided, however, that recreation space may not occur in a critical area or a critical area buffer;

4. The area of the site devoted to pedestrian trails shall not be included in the required common recreation space unless public trails are specifically required by the City;
5. An outdoor children's play area meeting the requirements of LUC 20.20.540 may be included in the above described common recreation space requirement;
6. For mixed use projects, the required open and recreation space shall be designed to meet the needs of both the residential and commercial uses.

B. Conservation Design Features. To satisfy the requirements of Subsection A above, a proposal shall include any combination of the following factors. The total square footage credit required in Subsection A is calculated by multiplying the square footage actually dedicated to the conservation design feature by the conservation factor set forth below. Where noted, certain Conservation Design Features are not eligible to earn square footage credit unless the minimum size requirements are met. After the minimum size requirement is met, each square foot provided may be used to calculate the square footage credit earned by the feature.

Conservation Design Feature	Conservation Factor	Minimum Size of Retained Area before credit earned
Critical area or areas placed in a tract (connection between isolated critical areas credited as corridor below.)	1.0	
Preservation of Westside lowland conifer hardwood forest not already in critical area and/or preservation of recommended forest habitat to protect species of local importance	1.2	20,000 sq. ft.

Designated wildlife corridor, trail or other essential connection set aside in a tract	1.2	
Critical area buffer increased by 15 % or more and placed in tract	1.2	
Preservation of native soils and mature trees on required open space or combination of preservation with hydrologic enhancement (soil amendment and tree such that vegetative areas are connected to soil below)	1.1	10,000 sq. ft. canopy cover or amended and planted area
Site area set aside in separate tract to achieve bio-retention and runoff dispersion to natural areas or to soil layer below; e.g. community rain garden, downspout dispersion or similar LID techniques. Must serve more than one residence.	1.1	5,000 sq. ft. reserved for rain garden or dispersion
Landscaped or grass open space in separate tract for active or passive recreation but only partially connected to soil below	1.0	2,500 sq. ft. contiguous area
Paved but pervious open space; e.g. court yards and similar facilities	1.0	1500 sq. ft.
Impervious paved court yards and similar facilities that meet minimum definition of open space	1.0	2500 sq. ft.
Built Green certification for Green Communities	1.0	200 points earned under Built Green's "Site Design Criteria". For sites with critical areas, proposal must achieve all of the available points from the open space and habitat preservation sections as part of the total 200 points

C. Maintenance.

In appropriate circumstances the City may require a reasonable performance or maintenance assurance device in conformance with LUC 20.40.490 to assure the retention and continued maintenance of all open and recreation space or conservation design feature in conformance with the Land Use Code and the Planned Unit Development plan approval.

Section 12. Section 20.30D.165 of the Bellevue Land Use Code is hereby amended as follows:

20.30D.165 Planned Unit Development plan – Request for modification of zoning requirements.

The applicant may request a modification of the requirements and standards of the Land Use Code as follows:

A. Density.

1. General. The applicant may request a bonus in the number of dwelling units permitted by the underlying land use district (see LUC 20.20.010 or LUC 20.25H.045 for sites in the Critical Areas Overlay District).
2. Bonus Decision Criteria. The City may approve a bonus in the number of dwelling units allowed by no more than 10 percent over the base density for proposals complying with this subsection A.2. Base density shall be determined on sites with critical areas or critical area buffers pursuant to LUC 20.25H.045. Base density on all other sites shall be determined based on the gross land area of the property excluding either that area utilized for traffic circulation roads or 20 percent, whichever is less. The bonus allowed by this section may be approved only if:
 - a. The design of the development offsets the impact of the increase in density; and
 - b. The increase in density is compatible with existing uses in the immediate vicinity of the subject property.
3. Senior Citizen Dwelling. An additional 10 percent density bonus may be approved for senior citizen dwellings if the criteria in paragraph A.2 of this section are met and if the average dwelling unit size does not exceed 600 square feet.

B. Height.

The applicant may request a modification of height from that allowed by the land use district, provided topography and arrangement of structures does not unreasonably impair primary scenic views (e.g., mountains, lakes, unique skylines) of the surrounding area, as compared to lot-by-lot development. Proposals earning bonus density pursuant to 20.30D.165 or 20.30D.167 may only receive an increase in height if the requirements of 20.30D.165.A.2 are met, considering the impact of increased height.

C. Other.

The City may approve a modification of any provision of the Land Use Code, except as provided in LUC 20.30D.170, if the resulting site development complies with the criteria of this part.

Section 13. A new Section 20.30D.167 of the Bellevue Land Use Code is hereby added as follows:

20.30D.167 Planned Unit Development – Additional Bonus Density for Large-Parcel Projects.

- A. Purpose.** The city desires to offer incentives to property owners to develop multi-unit residential projects with site features and site designs that minimize impacts to critical area functions and values. Many of these techniques are new, and their effectiveness is uncertain. The City desires additional information about the impact of these design techniques and features, to determine the appropriate amount of density bonus and other incentives to offer for their use, and to determine what, if any, design features are required to offset the impact of the increased density. The projects allowed under this section are mechanisms to allow the city to gather such information prior to making additional density available to all projects.
- B. Eligible Sites.** Projects will only be authorized on sites of 5 acres or more.
- C. Applicable Procedure.** A project will be approved as part of the PUD approval for the underlying proposal.
- D. Additional Bonus.** The City may authorize additional bonus density, up to 30 percent of the base density, for proposals including additional Conservation Design Features above the amount required in Section 20.30D.160.A. Base density shall be determined on sites with critical areas or critical area buffers pursuant to LUC 20.25H.045. Base density on all other sites shall be determined based on the gross land area of the property excluding either that area utilized for traffic circulation roads or 20 percent, whichever is less. Bonus density shall be based on the square footage credit earned divided by the minimum lot size of the underlying land use district. Bonus density may be approved only if the proposal meets the criteria of 20.30D.165.A.2.a and A.2.b.

Section 14. Section 20.30D.170 of the Bellevue Land Use Code is hereby amended as follows:

20.30D.170 Planned Unit Development plan – Limitation on authority to modify zoning.

The following provisions of the Land Use Code may not be modified pursuant to LUC 20.30D.165:

- A. Any provision of this Part 20.30D, Planned Unit Development; or
- B. Any provision of LUC 20.10.440, Uses in Land Use Districts; or
- C. Any provision of Part 20.25E LUC, the Shoreline Overlay District, however, requests for modifications to the requirements of Part 20.25E, where allowed under the provisions of that Part, may be considered together with an application for a Planned Unit Development; or
- D. Any provision of the Land Use Code which specifically states that it is not subject to modification; or
- E. The procedural, enforcement and administrative provisions of the Land Use Code or any other applicable City Code; or
- F. Any provision of Part 20.25H LUC, the Critical Areas Overlay District, except as specifically provided for in that part, however, requests for modifications to the

requirements of Part 20.25H, where allowed under the provisions of that Part, may be considered together with an application for a Planned Unit Development.

Section 15. Section 20.30D.200 of the Bellevue Land Use Code is hereby amended as follows:

20.30D.200 Planned Unit Development plan – Effect of approval.

A. Recording Required. The approval of the Planned Unit Development plan constitutes the City's acceptance of the general project, including its density, intensity, arrangement and design. Upon final Planned Unit Development approval that is not merged with a subdivision, the Department of Planning and Community Development will forward an approved Planned Unit Development to the King County Department of Records and Elections for recording. No administrative approval of a Planned Unit Development is deemed final until the Planned Unit Development is recorded and proof of recording is received by the Department of Planning and Community Development. See Chapter 20.45 LUC for recording requirements of Planned Unit Developments merged with subdivisions.

B. Planned Unit Development in the Critical Area Overlay District. Where a Planned Unit Development within the critical area overlay district is not merged with a subdivision, the Planned Unit Development recorded under this section designated on the face of the final document an Native Growth Protection Easement(s) (NGPE). The NGPE(s) shall contain all critical areas, critical area buffers, and retained significant trees. The final Planned Unit Development shall contain the following restrictions for use, development and disturbance of the NGPE in a format approved by the City Attorney:

1. An assurance that: the NGPE will be kept free from all development and disturbance except where allowed or required for habitat improvement projects, vegetation management, and new or expanded city parks pursuant to LUC 20.25H.070; and that native vegetation, existing topography, and other natural features will be preserved for the purpose of preventing harm to property and the environment, including, but not limited to, controlling surface water runoff and erosion, maintaining slope stability, buffering and protecting plants and animal habitat;
2. The right of the City of Bellevue to enter the property to investigate the condition of the NGPE upon reasonable notice;
3. The right of the City of Bellevue to enforce the terms of the NGPE; and
4. A management plan for the NGPE designating future management responsibility.

Section 16. Section 20.30D.250 of the Bellevue Land Use Code is hereby amended as follows:

20.30D.250 Planned Unit Development plan – Phased development.


If developed in phases, each phase of an approved Planned Unit Development must contain the required number of parking spaces, the required open space, recreation space, landscaping, utility areas necessary to create a desirable and stable environment pending completion of the total Planned Unit Development as approved. Each phase must also

contain any of the approved conservation factor project design features necessary to support bonus density constructed in that phase.

Section 17. This ordinance shall take effect on August 1, 2006.

Passed by the City Council this 26th day of June, 2006 and signed in authentication of its passage this 26th day of June, 2006.


(SEAL)



Grant Degginger, Mayor

Approved as to form:

Lori M. Riordan, City Attorney



Mary Kate Berens, Assistant City Attorney
Deputy

Attest:



Myrna L. Basich, City Clerk

Published June 30, 2006