



STAFF REPORT

DATE: July 6, 2015

TO: Mayor Balducci and Members of the City Council

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Development Services Department

SUBJECT: Public Hearing on Land Use Code Amendment to clarify the definition of “existing building” for the purpose of administering the parking requirements applicable to restaurant and retail uses in Downtown – Old Bellevue. File No. 15-115607-AD

On May 26, 2015, the Council initiated a Land Use Code Amendment that would clarify the definition of “existing building” for the purpose of administering the parking requirements applicable to restaurant and retail uses in Downtown – Old Bellevue. Such an amendment requires review in accordance with Process IV of the Land Use Code, which requires public notice of the amendment, analysis for consistency of the proposal against decision criteria (including consistency with the Comprehensive Plan), and a public hearing prior to any final action by the Council.

The Land Use Code Amendment (LUCA) for Old Bellevue parking was requested by representatives of the Vander Hoek Corporation (VHC). Specific code amendment language was proposed by the VHC to clarify the definition of “existing building” for the purposes of staff administration of the parking requirements applicable to restaurant and retail uses in Old Bellevue, and to place Old Bellevue property owners on notice regarding the applicability and intent of the parking exemption. The VHC requested code language is included in Attachment A-1 to this staff report, and that code language has been analyzed for consistency with LUCA decision criteria for Council review during the study session scheduled on June 22, 2015.

On June 22, there was Councilmember concern voiced about the effect that the clarification would have on businesses that received City approval to locate and invest in tenant improvements, but lacked the parking necessary to support their retail or restaurant use. While tenants do not have a legal right to continue a use that does not meet the terms of the City code, these tenants did receive a City approval to establish. Alternative LUCA language was requested to allow these uses to continue to operate, remodel and upgrade without having to provide more parking than was approved under their original tenant improvement permit. The alternative code language requested by Council on June 22 is provided in Attachment A-2. The effect of this language would be to legitimize the uses that were mistakenly allowed to establish after Note (4) was amended in 1998. Pursuant to the code language provided in Attachment A-2, these uses would be allowed to continue with their current parking supplies, but they would

not be able to add tenants that would increase the parking deficit or to make improvements that would increase the amount of square footage of their existing under-parked use. Based on staff review of permit files, this alternative would legalize a parking deficit of approximately 24 stalls in Old Bellevue.

A Public Hearing on the VHC requested amendment (Attachment A-1) and the Council requested alternative amendment (Attachment A-2) is scheduled during the City Council regular session on July 6, 2015. After deliberation and consideration of public comment received at the July 6 Public Hearing, final action on the requested LUCA is scheduled for August 3, 2015.

I. BACKGROUND

Parking in Old Bellevue has historically been challenging with a multitude of small tenant spaces within a narrow geographic area. Until 1987 all building owners in Old Bellevue were required to provide parking for every net leasable square foot of space in their building. This was problematic for some of the smaller tenant spaces as they were often unable to secure sufficient parking on or off site to accommodate retail and restaurant uses and were unable to re-tenant buildings.

In response to a 1986 Old Bellevue Parking Study that recommended the city establish reduced parking requirements for retail uses, the City Council enacted new regulations for parking in the Old Bellevue zoning district. Ordinance No. 3813 was enacted in 1987, amending the Land Use Code to provide some relief to these small building owners in the form of a revision to the parking requirements, specifically in Old Bellevue.

Ordinance No. 3813 permitted restaurant and retail uses at or below 1,500 gross square feet to have a minimum parking ratio of zero stalls. Development continued during the next decade with the 1986 code provision being appropriately applied to all tenant spaces under that threshold. The ordinance did not address the applicability of the parking exemption to the age of the building that was being tenanted. As a result new construction was built according to code with tenant spaces built at 1,500 gross square feet able to take advantage of the zero parking requirement for small retail and restaurant uses. This was contrary to the original intention of the footnote which was to allow the reuse of existing structures to accommodate restaurant and retail tenants.

As a result of the broad language of the 1986 parking exemption footnote, Ordinance No. 5809 was adopted in 1998 to limit application of the original footnote to “existing” buildings. The intention of the Planning Commission in 1998 was to clarify that this footnote could be used for tenant spaces in buildings that were in existence when the ordinance was passed. Through the addition of the words “existing building” it was clarified that all new construction would be required to provide parking commensurate with the Land Use Code requirements for all of the uses within their structures on site.

All tenant spaces that were vested and constructed after the enactment of Ordinance No. 5809 should have provided parking using the standard ratios required by the Land Use Code at the time of construction for all square footage constructed.

However, due to a lack of clarity around the definition of “existing building” since Ordinance No. 5809 was enacted in 1998, this footnote has been inconsistently applied by the development services staff when restaurant and retail spaces were proposed for tenancing. While the 1998 code amendment specified “existing building” it did not a date upon which a building needed to be in existence to take advantage of the parking exemption. After having reviewed the accompanying materials from the original adoption of the words “existing building” it is evident that the intention of the Planning Commission was to only apply this 1,500 nsf exemption to buildings that were in existence at the time of the code amendment in 1998.

The LUCA currently before Council as drafted in Attachment A-1 would add clarity to the definition of “existing building” for the public, and will provide consistency between the Planning Commission’s original intentions and the application of the parking exemption to tenant spaces in Old Bellevue. The code amendment will ensure that the “existing building” provision is clearly articulated and will be applied as originally intended by the Planning Commission in 1998.

The LUCA currently before Council as drafted in Attachment A-2 would including the clarifications of Attachment A-1, and would legitimize the uses that were mistakenly allowed to establish after Note (4) was amended in 1998. These uses would be allowed to continue with their current parking supplies, but they would not be able to add tenants that would increase the parking deficit or to make improvements that would increase the amount of square footage of their existing under-parked use. Based on staff review of permit files, this alternative would legalize a parking deficit of approximately 24 stalls in Old Bellevue.

Both amendments proposed for adoption to clarify the applicability of Note (4) of the parking requirements applicable to Old Bellevue would be consistent with the requirements of the LUC applicable to code amendments.

II. REVIEW PROCESS

When the City Council initiated this LUCA at its Council meeting on May 26, the Council also indicated that the required public hearing associated with amendments be held by the City Council in lieu of forwarding to the Planning Commission in order to expedite the amendment process. The LUCA was considered by the Council during the Council’s June 22 Study Session, and the Public Hearing before the City Council is scheduled for July 6. These steps satisfy the requirements for adoption of the proposed LUCA by the City Council, and final action can be taken at the August 3 Regular Session.

III. PUBLIC NOTICE

Notice of the LUCA application was published in the Weekly Permit Bulletin on June 11, 2015. Notice of the Public Hearing was also published on June 11, 2015.

The East Bellevue Community Council (EBCC) did not hold a courtesy hearing on the proposed ordinance, because the recommended code amendment is applicable only to areas of the Downtown Subarea that are outside the jurisdiction of the EBCC.

Pursuant to the Washington State Growth Management Act, state agencies must be given 60 days to review and comment on proposed amendments to the Land Use Code. A copy of the proposed amendment was provided to state agencies on June 1, 2015. City Council final action can be taken anytime on or after August 3, 2015.

The balance of this Staff Report analyzes the decision criteria in the Land Use Code that must be met to support adoption of a Land Use Code Amendment.

IV. DECISION CRITERIA

LUC 20.30J.135 establishes the decision criteria for an application to amend the text of the Land Use Code. Those criteria, and the relationship of the proposal to them, are discussed below:

A. The amendment is consistent with the Comprehensive Plan; and

The Comprehensive Plan General Elements as well as the Downtown Subarea Plan contain policies applicable to this LUCA request. The most relevant policies are listed below. The code amendment is consistent the policies of the 2007 Comprehensive Plan, including Policy CP-5, adding clarity to the standards of the Land Use Code. The clarification to the Land Use Code provided by this amendment is consistent with the intention of Policy S-DT-149 to establish parking requirements specific to the range of uses in the Downtown Subarea.

Citizen Participation Element:

Policy CP-5. Develop and maintain Land Use Code provisions that define the process and standards relevant to each stage of land use decision making, and educate the public about these processes and standards to promote meaningful citizen participation.

Finding: Further clarity will be added to the text of the Land Use Code, which will serve to inform and educate the public about the intent of the Planning Commission and Council as related to parking in Downtown Old Bellevue. Whereas provisions have been added to the ordinances to document the legislative actions taken to address parking issues in Old Bellevue.

Downtown Subarea:

Policy S-DR-149: *Establish parking requirements specific to the range of uses intended for the Downtown Subarea.*

Finding: This code amendment will provide greater clarity around the requirements for parking associated with restaurant and retail uses in Downtown Old Bellevue.

B. The amendment enhances the public health, safety or welfare; and

Finding: The amendment language provided in Attachment A-1 will create additional certainty for business owners as it relates to parking requirements for new commercial tenants, and will protect the public interest in providing parking to enhance the ease of visiting the Downtown Old Bellevue neighborhood. The amendment language provided in Attachment A-2 will create additional certainty for business owners as it relates to parking requirements for new commercial tenants, and will legitimize the uses that were mistakenly allowed to establish after Note (4) was amended in 1998. These uses would be allowed to continue with their current parking supplies, but they would not be able to add tenants that would increase the parking deficit or to make improvements that would increase the amount of square footage of their existing under-parked use. Based on staff review of permit files, this alternative would legalize a parking deficit of approximately 24 stalls in Old Bellevue. The public interest will be protected by either code amendment before Council for consideration, because the status quo will be preserved, but parking deficits will not be allowed to degrade any further. Over time as tenant spaces turn over, the parking supply will be aligned more closely with the range of uses located in Old Bellevue and will enhance the ease of visiting the Downtown Old Bellevue neighborhood.

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

Finding: The amendment is not contrary to the interests of citizens and property owners as it will provide additional clarity to the intended purpose of an existing Land Use Code provision.

V. STATE ENVIRONMENTAL POLICY ACT

Per Revised Code of Washington section 43.21C.450, this LUCA is exempt from State Environmental Policy Act (SEPA) threshold determination.

VI. RECOMMENDATION

The requested Land Use Code Amendments (included as Attachment A-1 and A-2) are consistent with the decision criteria required for adoption of a Land Use Code Amendment, and will clarify the definition of “existing building” for the purpose of administering the parking exemption applicable to restaurant and retail uses in

Downtown – Old Bellevue. Staff recommends that the Council take action to clarify that existing buildings refers to spaces in existence as of 1998 to ensure that the code is applied in a manner consistent with the 1998 Planning Commission and City Council intent for the parking exemption.

ATTACHMENTS

- A-1. VHC Requested Land Use Code Amendment – Draft Ordinance
- A-2. Council Requested Code Alternative – Draft Ordinance