

July 6, 2015

CITY COUNCIL AGENDA MEMORANDUM

SUBJECT

Public Hearing on the 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.

FISCAL IMPACT

There is no direct fiscal impact from this Land Use Code Amendment. The requested amendment would clarify applicability of existing provisions contained in the Land Use Code and describe how the parking footnote is administered.

STAFF CONTACT

Carol Helland, Land Use Director 452-2724
Liz Stead, Urban Design Planning Manager 452-2727
Development Services Department

POLICY CONSIDERATION

Should the City Council adopt a 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?

Applicable Downtown Subarea and General Comprehensive Plan Policies are set forth in Attachment A, Section IV.A. The requested Land Use Code Amendment is set forth in Attachment A-1.

DIRECTION NEEDED FROM COUNCIL

☒ Action
☒ Discussion
☐ Information

On July 6, the City Council is scheduled to hold a Public Hearing on the requested Land Use Code Amendment (LUCA). After deliberation and consideration of public comment received at the July 6 Public Hearing, the City Council is being asked to discuss the requested Old Bellevue Parking amendment and provide direction to staff on finalizing the amendment for final Council action. **Final action on the requested LUCA is scheduled for August 3, 2015.**

BACKGROUND

Representatives of the Vander Hoek Corporation (VHC) approached the City in fall 2014 to request a solution to the limited parking available to serve existing uses located in Old Bellevue. One request was for the City to process a code amendment. On May 26, 2015, the Council initiated a Land Use Code Amendment (LUCA) 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.

Specific language was proposed by the VHC to accomplish the code amendment requested. The VHC requested code amendment language is included in Attachment A-1, and the code amendment language has been analyzed for consistency with LUCA decision criteria in the staff report included with this memorandum as Attachment A.

Summary of the Requested Code Amendment – LUC 20.25A.050.B Note (4):

The Code Amendment currently before Council would clarify applicability and intent of the parking exemption for restaurant and retail uses located in Old Bellevue by:

1. Defining “existing building” for purposes of applying the parking exemption to restaurant and retail tenants located in buildings in existence as of 1998;
2. Describing that the first 1,500 net square feet (nsf) of restaurant and retail uses in existing buildings is exempt from the requirement to provide parking; and,
3. Describing how tenant spaces larger than 1,500 nsf get the benefit of the exemption, but must provide parking for square footage in excess of 1,500 nsf.

Potential effects of the requested amendment:

1. Existing restaurant and retail uses in buildings constructed after 1998 would not be allowed to re-tenant with new restaurant or retail spaces unless parking was provided without reliance on the 1,500 nsf exception.
2. Existing restaurant and retail uses in buildings constructed after 1998 would not be allowed to expand their restaurant or retail spaces unless parking was provided for the entire space without reliance on the 1,500 nsf exception.
3. Tenant spaces could remain vacant if additional off-site parking cannot be secured, or parking garage modifications cannot be made to accommodate additional required retail or restaurant parking on-site.
4. Although the Downtown nonconforming provisions of the LUC are not applicable to uses governed pursuant to Note (4), the code clarification will require uses not legally established under the terms of the LUC to discontinue operations if tenants change or modifications are made to the tenant space and required parking is not provided. A matrix illustrating the buildings constructed since 1998, and the accessory parking available for current restaurant and retail tenant space, is provided in Attachment B to this memorandum.

Alternative Code Language Requested by Council on June 22

On June 22, Councilmember concerns were voiced about the effect that the clarification would have on businesses identified in the matrix included in Attachment B. Specifically, the tenants identified in Attachment B 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 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. The uses identified in Attachment B 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.

ALTERNATIVES

1. Hold the Public Hearing on the requested LUCA, accept public comment, and provide direction to staff to prepare the final Ordinance for Council consideration of the LUCA clarifying the definition of “existing building” for the purpose of administering the parking requirements applicable to restaurant and retail uses in Downtown – Old Bellevue **consistent with the language contained in Attachment A-1.**
2. Hold the Public Hearing on the requested LUCA, accept public comment, and provide direction to staff to prepare the final Ordinance for Council consideration of the LUCA clarifying the definition of “existing building” for the purpose of administering the parking requirements applicable to restaurant and retail uses in Downtown – Old Bellevue **consistent with the language contained in Attachment A-2.**
3. Hold the public hearing, accept public comment, reject the Ordinance language contained in Attachment A-1 and A-2, and provide alternative direction to staff.

MOTION

1. Move to open the Public Hearing
2. Move to close the Public Hearing
3. Move to direct staff to proceed consistent with one of the alternatives provided above.

ATTACHMENTS

Attachment A: Staff Report for the Old Bellevue Parking Land Use Code Amendment
Attachment A-1: VHC Requested Code Amendment – Draft Ordinance
Attachment A-2: Council Requested Code Alternative – Draft Ordinance
Attachment B. Matrix of Accessory Parking Provided for Buildings Constructed after 1998

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N/A