

CITY COUNCIL AGENDA TOPIC

Public Hearing on proposed amendments to the Land Use Code to allow a longer Design Review approval period and the opportunity for extensions to Design Review approvals.

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EXECUTIVE SUMMARY

DIRECTION

Staff introduced the proposed Land Use Code Amendment (LUCA) to allow extensions for Design Review approvals at the November 6, 2023, study session, following which Council directed staff to schedule a public hearing. Following tonight's public hearing, Council may adopt the proposed LUCA.

RECOMMENDATION

Hold the public hearing on the proposed Design Review approval extension LUCA. Following the hearing, Council may select which LUCA option to adopt.

BACKGROUND/ANALYSIS

On March 13, 2023, staff presented an ordinance to extend the life of certain complete building permit applications, complete clearing and grading applications, issued building permits, and issued clearing and grading permits. At the same time, Council initiated and retained processing of a LUCA to allow extensions of Design Review approvals.

The LUCA was first introduced to the City Council at the November 6, 2023, study session. During the meeting, Council heard oral comments from stakeholders in support of extending the Design Review approval period, noting the importance of consistency and predictability for projects seeking an extension. Council also noted in their discussion the importance of getting feedback from stakeholders in the development community and staff committed to sharing the proposal with the Bellevue Development Committee (BDC) for feedback. Following deliberation, Council directed staff to bring the LUCA back for a public hearing.

Response to Questions and Suggestions from the November 6, 2023 Study Session

During discussion at the November 6, 2023 study session, Council requested additional information and changes relating to the initial approval period, extension time period, and extension approval criteria. Additionally, Council wanted to hear feedback from the BDC to understand the development community perspective and priorities. As a result of further outreach and analysis, staff has made changes to the design review approval period, extension time period, and extension criteria. A summary of these topics, changes, and corresponding responses is provided as follows.

1. Comparison to Other Jurisdictions

Councilmembers expressed interest in understanding what neighboring jurisdictions provide for Design Review approvals. An overview of the three jurisdictions and how they compare to current Bellevue requirements is provided in Table 1 below.

Kirkland does not provide extensions to equivalent permits, but instead allows for a five-year approval period, with seven years allowed to complete work. Redmond allows for an initial two-year approval and the approval may be extended on a yearly basis if the developer demonstrates a hardship. Seattle allows for an initial three-year permit approval, with a potential two-year extension if the project is in conformance with applicable regulations in effect at the time an extension is requested.

Table 1. Comparison to Other Jurisdictions

Jurisdiction	Expiration	Total Period
Bellevue	2 years, no extension	2 years total
Kirkland	5 years, no extension	5 years total
Redmond	2 years, may be extended on yearly basis	Unlimited
Seattle	3 years, may be extended for two years	5 years total

2. Extension Approval Criteria

At the study session, Council reviewed proposed criteria that would be used to grant extensions for Design Review approvals. The initial proposal allowed for extensions when unforeseen circumstances or conditions necessitate the extensions, and the expiration of the Design Review approval would result in unreasonable hardship. Council expressed concerns over subjectivity in the proposed criteria, emphasizing the need for consistency and predictability for project applicants. Upon further review, outreach with stakeholders, and a comparison with other jurisdictions, staff propose to remove the extension criteria and instead allow for an extension when a project conforms with all applicable regulations at the time an extension is sought. This approach ensures predictability in the development timeline and offers flexibility for projects as the economic environment changes. The BDC also expressed support for the proposed extension approval approach in Attachment B.

3. Feedback from the Bellevue Development Committee

The BDC provided feedback on the proposed LUCA at its November 15, 2023, meeting. The BDC reinforced the need for design review approval extensions and clarity and predictability around extension requests. To that end, the BDC was in support of allowing a longer initial design review approval period and allowing extensions without criteria if the project meets all applicable regulations in place at the time an extension is sought. This approach is comparable to how the City of Seattle allows extensions for similar approvals.

At the January 10 BDC meeting, staff shared a proposal to allow an initial three-year approval period with an option to extend a design review approval for a maximum of two years when a project conforms to all applicable regulations. The BDC expressed general support for this approach.

Additional stakeholder requests

An additional stakeholder request was received asking for the potential for multiple two-year extensions to the design review approval without limit as long as a project continues to conform to all applicable regulations at the time an extension is sought.

A request was also made for the City to consider an interim ordinance allowing an automatic six-year vesting and approval period. Seattle recently adopted a similar ordinance, providing automatic project vesting for certain land use entitlements for six years. The stated goal for Seattle's recent action is to address near-term economic conditions and promoting post-pandemic economic recovery. The action affects projects issued after March 2020 until December 2026. Should this suggested interim ordinance be included in 2024-2025, trade-offs with items in the joint CD-DSD 2024-2025 workplan or additional resources would be needed.

Design Review Approval Extensions Options

Tonight's public hearing focuses on the topic of Design Review Approval extensions. To assist in Council's exploration of this topic, below are information and analysis for the existing zoning, initial proposal from the November 6, 2023 study session, and available options: (A) current draft LUCA based on Council feedback for regional competitiveness and stakeholder input; and (B) stakeholder request for multiple two-year extensions, provided separate from and after the November 15, 2023 and January 10 BDC meetings.

Existing Zoning

The current LUC provides the following for Design Review approvals:

- Two-year approval period
- No extensions.
- **Time available: Two years total**

Initial Proposal from November 6, 2023

The following proposal was introduced to Council at the first study session on November 6, 2023:

- Two-year approval period
- Request must be submitted before expiration, no earlier than 45 days before expiration
- Up to two-year extension allowed when the following criteria are met:
 - Unforeseen circumstances warrant extension; and
 - Expiration would result in unreasonable hardship
- **Time available: Four years total**

Option A: Current draft LUCA based on Council feedback for regional competitiveness and stakeholder input (Recommended)

The following option incorporates Council feedback for regional competitiveness, concerns over projects vesting for long periods without having to conform with updated codes, ensuring flexibility for development projects, the need for objective extension criteria, the BDC's feedback regarding the need for clarity and predictability for extension requests and mitigates the concerns around a limitless number of extensions provided in Option B below:

- Three-year approval period
- Request must be submitted before expiration, no earlier than 45 days before expiration
- Up to two two-year extensions allowed when project conforms to all applicable regulations in place at the time the extension is sought
- **Time available: Seven years total**

Option B: Stakeholder request for multiple two-year extensions

The following option incorporates a request from stakeholders offered separately from the two BDC meetings on this topic. This request is for multiple two-year extensions to a Design Review approval, which would allow a design review approval to remain "alive" for an unlimited period when the project conforms to all applicable regulations:

- Three-year approval period
- Request must be submitted before expiration, no earlier than 45 days before expiration
- Unlimited number of two-year extensions allowed when project conforms to all applicable regulations in place at the time the extension is sought
- **Time available: Unlimited**

Staff supports expanding the approval period and offering multiple two-year extensions with a maximum of two two-year extensions, as reflected in Option A. Staff does not support the request for unlimited extensions for two reasons: lack of transparency regarding project approval and administrative difficulties in tracking multiple extensions.

Design Review approvals require a pre-application conference, public notice of the application, public meeting, and a public notice of the project decision. Projects can modify their Design Review approval through a Land Use Exemption process when the modification does not add more than 20 percent to the square footage of the project, does not result in significant impacts beyond the site, and is within the general scope of the original approval. Unlike the original Design Review approval, modifications through the Land Use Exemption process do not require public notice. This could lead to a lack of transparency as projects could change significantly over time if multiple modifications are approved without requiring the project to undergo the full Design Review process, which would otherwise require notice. By limiting the approval period for Design Review approvals, the number of modifications is limited, and after the approval period expires any reapplication will be required to go through the public notice process.

Multiple extension may also create administrative difficulties as each extension will be vested to the LUC at the date of approval or any subsequent extension approval. As multiple extensions occur staff

will have to ensure that the version of the code the approval is granted under is tracked.

Staff do not recommend allowing for unlimited extensions to the initial three-year approval period. Based on internal discussions, there are concerns about the administrative difficulty of tracking multiple extensions over long periods of time as the code changes. Concerns were also raised relating to the potential for projects to change substantially over time without public notice through the City’s modification or addition to an approved Design Review project or decision process (LUC 20.30F.175). This process sets thresholds for modifying or expanding a design review approval without restarting the design review process and, over time, could lead to a project that is greatly modified from the publicly noticed approval. Finally, one of the intents of the LUCA is to encourage development so as to not have lots remaining vacant for long periods of time. If unlimited extensions are allowed the impetus to develop the property due to time constraints existing in the code are minimized, potentially increasing the time lots are vacant in the City.

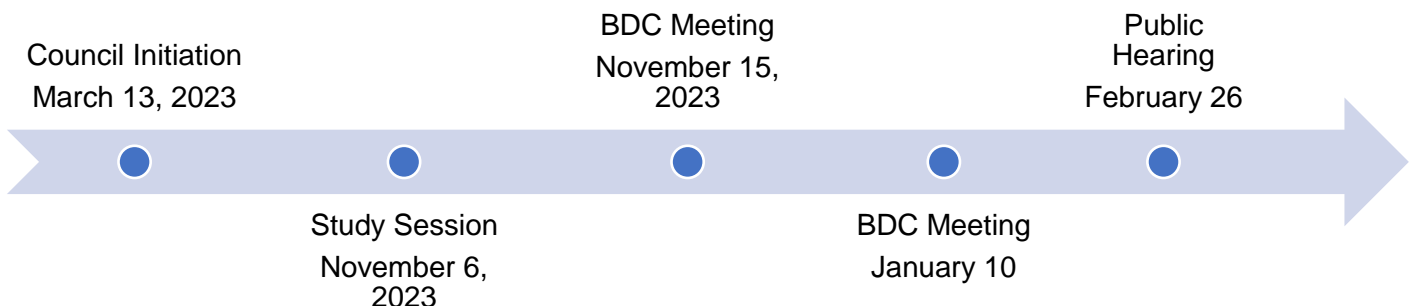
Public Engagement

Staff executed a public engagement plan with two modes of outreach to ensure that community members, stakeholders, and interested parties have the opportunity to stay informed and to provide comments.

1. Process IV Requirements. The LUCA process is following the Chapter 20.35 LUC procedural requirements for Process IV actions to provide opportunities for public comment.
 - Notice of Application was published in the Weekly Permit Bulletin January 18.
 - Notice of Public Hearing was published in the Weekly Permit Bulletin February 1 and in the Seattle Times February 5.
2. Direct Engagement and Feedback. Dialogue with stakeholders has been ongoing. Stakeholder input, including input from the BDC, has informed the draft LUCA Option A, included as Attachment B. Staff met with the BDC on November 15, 2023 and January 10 to vet Option A.

Review Process

The timeline below details the review process for this LUCA:



POLICY & FISCAL IMPACTS

Policy Impact

The LUCA is consistent with the following Comprehensive Plan policies:

1. ED-05: Develop and maintain regulations that allow for continued economic growth while respecting the environment and quality of life of city neighborhoods.

Fiscal Impact

While the consequences of expiring land use permits would be financially impactful to property owners, developers, and builders, the City may also bear the burden in the form of decreased tax revenues, underutilized and vacant land, and the long-term impacts associated with abandoned sites.

OPTIONS

1. Hold the public hearing on the proposed Design Review approval extension LUCA. Following the hearing, Council may select which LUCA option to adopt.
2. Provide alternative direction to staff.

ATTACHMENTS

- A. LUCA Staff Report
 - B. LUCA Strike-Draft (Option A)
 - C. LUCA Strike-Draft (Option B)
- Proposed Ordinance No. _____ (Option A)
Proposed Ordinance No. _____ (Option B)

AVAILABLE IN COUNCIL LIBRARY

N/A