

CITY COUNCIL AGENDA TOPIC

Public Hearing and action to adopt an ordinance relating to public-private partnership development agreements; amending the Land Use Code (LUC) to establish requirements and standards for public-private partnership development agreements; amending Chapters 20.10, 20.20, 20.35, 20.50 of the Land Use Code; amending Parts 20.25A, 20.25M, 20.25Q, 20.25R, and 20.30F of the Land Use Code; Creating a new Part 20.30C of the Land Use Code; providing for severability; and establishing an effective date.

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EXECUTIVE SUMMARY**ACTION**

This Ordinance is a Land Use Code Amendment (LUCA) that establishes a public-private partnership (P3) development agreement (DA) pathway to allow greater development flexibility when the city has ownership or control of property or is a major funder of a project, in order to advance city policy priorities such as affordable housing, environmental stewardship, and economic development.

On March 17, after discussion in Study Session about the proposed P3 DA LUCA, Council directed staff to bring back this ordinance for a public hearing and final adoption.

RECOMMENDATION

Hold the public hearing and, following the public hearing, consider adopting Ordinance No. 6911

BACKGROUND/ANALYSIS**Background**

State law expressly authorizes development agreements through the Local Project Review Act, Chapter 36.70B RCW. Development agreements provide certainty and flexibility to developers by identifying, or modifying, development regulations applicable to a project for the agreed term. In exchange, a city may negotiate project specific commitments, including mitigation of project impacts, clarification of phasing and timing, and provision of public improvements or amenities. Development agreements are approved by ordinance through a City Council process.

Existing Development Agreement Pathways in Bellevue

The Land Use Code (LUC) currently authorizes development agreements in specific contexts and geographic areas to advance defined policy objectives. Several examples of existing DA pathways are

included below:

- **BelRed.** One of the most prominent DA examples in the city is the BelRed Spring District Catalyst Project. In 2009, the City executed a DA with a developer for the Spring District, providing long term regulatory certainty and reduced incentive fee in lieu rates over a 15-year vesting period. In exchange, the developer committed to delivering developer funded infrastructure along with housing and office to spur development in the area.
- **Downtown.** DAs may be used for the siting of pedestrian bridges and for the council review of the “Flexible Amenity” option within the amenity incentive program.
- **East Main.** DAs are authorized for transit-oriented redevelopment projects that provide higher levels of affordable housing or propose a “Flexible Amenity”.
- **Wilburton.** DAs are authorized for sites abutting the Grand Connection to provide substantial development flexibility in exchange for delivery of that major public connection.
- **Citywide.** DAs may also be used throughout the city to site homeless services uses.

The proposed P3 DA LUCA will establish an additional development agreement pathway specifically for projects involving public-private partnerships. This pathway will allow greater development flexibility when the city has ownership or control of property or is a major funder of a project, in order to advance city policy priorities with the provided public benefits. The LUCA will also consolidate existing DA provisions, define when a P3 DA is authorized, establish submittal requirements, clarify the review and approval process, outline the framework for city evaluation of proposed DAs, and provide procedures for modification of an approved agreement.

The staff report describing the background, process, LUCA components, and analysis of the proposed amendment and their relationship to the LUCA decision criteria in LUC 20.30J.135 is provided as Attachment A. A final strike-draft showing the proposed amendments is provided as attachment B.

Review Process

Because the LUCA establishes an internal policy tool that can be used for city-owned or city-funded sites, staff recommended that the council enter a finding of necessity to review the LUCA and hold the required public hearing. This action will enable the city to process the LUCA in a timely manner that will ensure the tool is available as soon as possible. Following discussion on March 17, the council entered the finding and directed staff to schedule the public hearing for April 14.

March 17 Study Session

Responses to the questions asked during the March 17 study session are included below:

1. Is there a framework that can be used to evaluate the proposed public benefit and ensure it's proportional to the development standard flexibility that is being granted?

In preparation for bringing this proposed LUCA to Council, staff considered the public benefits that could be realized through these projects which would be reflective of the policy areas that Council is looking to advance such as economic development, affordable housing, and sustainability. As part of the application process, the applicant will need to show the areas proposed to deviate from the code. For example, if a developer is looking for an extra 100 feet in building height, that is valuable and it's where Council can begin to assess what might be appropriate to ask for in exchange for that extra height being afforded to the developer. A strict

framework that provides ratios such as a number for how much building height can be awarded per each affordable unit provided would restrict a process that is intended to be flexible and allow for creative ideas and opportunities.

Instead, the magnitude and prioritization of public benefits will depend on Council's policy priority for the area and site-specific conditions. For example, the priority that was identified by Council during the code development process for the DA path in East Main was wanting more affordable housing that the baseline code would authorize, and in exchange the path provides an opportunity for additional FAR and height bonuses. Like affordable housing in East Main, Council would have the authority to target and prioritize other items in different scenarios as necessary.

2. What are some of the short-term and long-term benefits of having this agreement in place, and are there any potential downsides?

In the short-term, this tool will provide advancement in the development of city-owned sites that are located near transit. In the long term, this proposal creates a tool that allows the city to be more creative in implementing its policies and plans. The tool will also allow for the city to do mixed-use development that includes city services, or provide roadways, or provide public open spaces where we are not able to acquire the land directly but could provide funding towards a larger development. The only potential downside is ensuring that the public benefit provided matches what the developer is gaining from the agreement.

3. What impact could entering into a development agreement have on the overall cost of a project?

The development agreement specifies the applicable development regulations for the agreed term, which provides certainty to developers. Overall, this level of certainty would decrease the cost of a project.

4. The development agreements will customize development standards in the code; how can we ensure that those changes are clearly communicated with the public along with the details on the public benefit that will be provided?

As part of the submittal requirements for the development agreement application, the applicant will be required to explicitly document all the proposed changes and deviations from the code. These changes will need to be outlined clearly since they will be used to inform the negotiation when the proposal is brought to Council. To determine the appropriate amount of public benefit provided, what the City will be affording in terms of relaxed standards will need to be explicit. The procedure to adopt a development agreement will include public notice, either in conjunction with public noticing of the underlying Land Use entitlement or independently where an application for a development agreement is allowed before an application for a land use entitlement is submitted. Through this public notice process, members of the public will be able to stay informed of the proposed changes through the weekly permit bulletin.

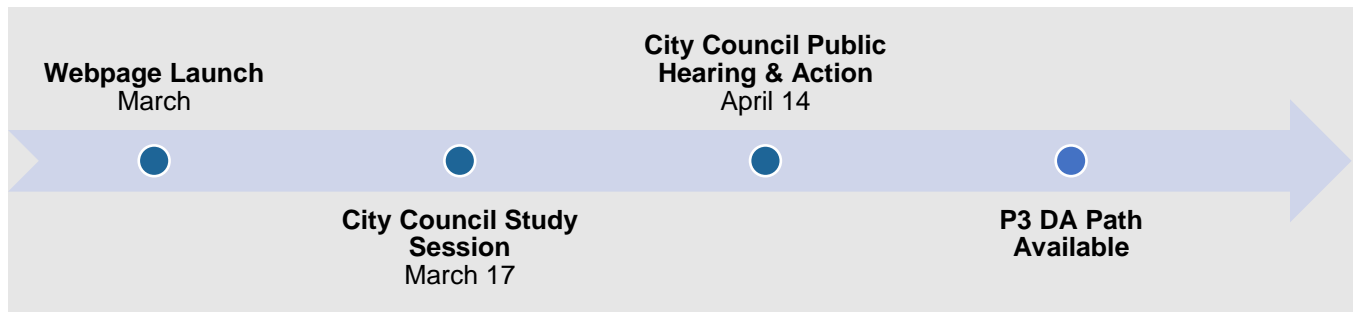
Public Engagement

Because the LUCA establishes a policy tool rather than approving a specific development project, public engagement is structured differently from a typical LUCA. Engagement is focused on transparency and awareness of the proposed LUCA and process. To promote transparency and public

awareness, staff are implementing a targeted engagement plan with two modes of outreach:

1. Process IV Requirements. Process consistent with Chapter 20.35 LUC procedural requirements to provide opportunities for public comment.
2. Online Presence. A City webpage was published in March for members of the public to find more information on the LUCA, updates on the review process, staff contact information, and methods for providing comments.

Project Timeline



POLICY & FISCAL IMPACTS

Policy Impact

The proposed P3 Development Agreement LUCA would provide City Council with a new and targeted tool to advance adopted policy priorities when the City owns, controls, or significantly funds a project. By allowing negotiated development flexibility in exchange for defined and enforceable public benefits, the LUCA would improve the feasibility of public-private partnership projects and support outcomes related to housing, sustainability, transit-oriented development, and economic vitality.

The LUCA is consistent with and helps implement the Comprehensive Plan and related functional plans, including the Economic Development Plan, Sustainable Bellevue Plan, and Affordable Housing Strategy.

Fiscal Impact

There is no direct fiscal impact associated with establishing the pathway for P3 development agreements. This LUCA establishes a regulatory framework and does not approve or fund any specific project.

Negotiation, review, and administration of individual development agreements will require staff time and resources. Any fiscal impacts associated with a specific development agreement, including potential revenues, expenditures, or long-term financial obligations, would be evaluated and disclosed as part of City Council's review and consideration of that development agreement.

OPTIONS

1. Adopt the ordinance relating to public-private partnership development agreements; amending the Land Use Code (LUC) to establish requirements and standards for public-private partnership

development agreements; amending Chapters 20.10, 20.20, 20.35, 20.50 of the Land Use Code; amending Parts 20.25A, 20.25M, 20.25Q, 20.25R, and 20.30F of the Land Use Code; Creating a new Part 20.30C of the Land Use Code; providing for severability; and establishing an effective date.

2. Provide alternative direction to staff.

ATTACHMENTS

- A. LUCA Staff Report
- B. Public-Private Partnership Development Agreement LUCA Final Strike-Draft
Proposed Ordinance No. 6911

AVAILABLE IN COUNCIL LIBRARY

N/A