



DATE: November 26, 2024

TO: Mayor Robinson and Members of the City Council

FROM: Nick Whipple, Assistant Director, 452-4578
Development Services Department

SUBJECT: Proposed Land Use Code Amendment (LUCA) to streamline the permitting process by implementing provisions of the Local Project Review Act (RCW 36.70B), as amended by Senate Bill 5290 (SB 5290), and by establishing a clear rulemaking procedure within the City's Development Services Department for consistency. File No. 24-125989-AD.

I. BACKGROUND

The Washington State Growth Management Act (GMA) requires jurisdictions like Bellevue to adopt consistent comprehensive land use plans and implement them through locally adopted development regulations. The GMA outlines specific goals to guide regulation development for jurisdictions fully planning under the GMA, including timely and fair permit processing to ensure predictability, as noted in RCW 36.70A.020.

To support this goal, the Washington State Legislature enacted the Local Project Review Act (Chapter 36.70B RCW) in 1995, establishing requirements for reviewing project permits, providing public notice, and determining application completeness, among other provisions related to permit decision-making. In 2001, the Act was amended to mandate that local jurisdictions act on permit applications within 120 days unless additional time is required, and that some agencies produce annual permit timeline performance reports for transparency.

In the 2023 legislative session, the Washington State Legislature passed SB 5290, which the Governor signed into law. This bill updated portions of the Local Project Review Act to further streamline project review and permitting processes, especially for housing development, with the goal of reducing approval times for compliant projects. SB 5290 includes 13 sections of mandatory and voluntary measures to support local permit streamlining, and it designates the Washington Department of Commerce as the lead agency for implementation.

Key SB 5290 Requirements for Land Use Code (LUC) Implementation

1. Permit Timelines

SB 5290 sets new permit review timeframes in three tiers based on public involvement levels. Local governments may modify these timelines by ordinance:

- **65 days** for permits with no public notice.
- **100 days** for permits requiring public notice but not a hearing.
- **170 days** for permits requiring both public notice and a hearing.

These timeframes apply to the full review period, excluding the initial completeness check and any waiting time for applicant responses. Per RCW 36.70B.080, these timelines will take effect on January 1, 2025, unless locally adjusted for special circumstances.

2. Procedural Changes

SB 5290 introduces procedural updates, including revised definitions, new requirements for determining application completeness, exclusions of site plan review for most interior alterations, clarified application submittal requirements, and minor citation amendments.

City Council Initiation and Review

The City Council initiated this LUCA on June 11 and retained processing authority, opting for no review or recommendation from the Planning Commission. On October 15, Council reviewed the proposed permit streamlining LUCA, including proposed changes to the Director's rulemaking process. The proposed LUCA is included in this staff report as Attachment A. Council directed staff to prepare the LUCA for public hearing. The required public hearing on this LUCA will be held by Council on November 26.

II. PROPOSED LUCA

Project Permit Submittal Requirements

SB 5290 mandates that the city's completeness decisions for project permit applications rely solely on the published list of submittal requirements. While additional information may be requested to aid in application review, only specified submittal requirements determine completeness. The proposed LUCA ensures that submittal requirements for each project type are available on the City's website.

Application Completeness Check Procedure

The new timelines under SB 5290 start when an application is deemed complete. Currently, the Director has 28 days to notify applicants if their application is complete or specify

missing items. If no determination is provided within 28 days, the application is automatically deemed complete.

The proposed LUCA refines this process by specifying that the 28-day period starts after a preliminary intake review. During intake, staff confirm whether required submittal documents are present and correctly formatted. After intake, the application is considered to be received and the official 28-day review period begins, measured in calendar days. During this period, reviewers check if the application materials satisfy substantive requirements. If incomplete, the Director issues a notice detailing missing elements. If the applicant provides additional information, the Director has 14 days to determine completeness or request further details.

Permit Timelines

The LUCA implements SB 5290's 65-, 100-, and 170-day review periods. Complex permit types such as Critical Areas Land Use Permits, Shoreline Substantial Development Permits, Design Reviews, and Master Development Plans are set to a 170-day timeline, as directed by Council on June 11, accommodating the complexity and extensive analysis involved with this land use applications.

Days are counted from the completeness determination date until the final decision, excluding:

- Periods when additional information is requested until it's received.
- Times when applicants suspend or resume review.
- Duration of administrative appeals.

Permit timelines can change if the applicant modifies the use type from the original application or does not respond for over 60 days after being notified of missing information.

Rulemaking

LUC 20.40.100 currently outlines a basic rulemaking process, but the Department plans to update it to address environmental review, vested rights, emergencies, rulemaking versus code interpretations, and to provide an appeal path for rulemaking that doesn't currently exist. The LUCA proposes:

1. Requiring SEPA review for applicable rules.
2. Allowing permits to vest under rules similar to LUC 20.40.500.
3. Enabling emergency rules (up to 90 days) for urgent situations.
4. Clarifying site-specific interpretations for Part 20.30K LUC (Interpretation of the Land Use Code) and that a rule can be interpreted pursuant to Part 20.30K LUC.

5. Providing clear appeal procedures.

Proposed procedural changes include expanded notice options, a 21-day comment period, and eliminating public hearings in favor of written comments, enabling more detailed and accessible public engagement. This change aligns with practices in King County and Seattle and is expected to streamline responses to community needs.

Other Measures

The LUCA also introduces measures to support SB 5290:

- Pre-Application Conferences: Adds this requirement for short plats and Critical Areas permits.
- Site Plan Review: Clarifies that site plan review is not required for interior-only projects.

III. REVIEW PROCESS

The LUCA adoption process is an action taken by the City Council or is handled as a Process IV decision under LUC 20.35.400-.450. A Process IV decision requires a notice of application, a notice of public hearing, and the holding of a public hearing before any final action is taken. While the Planning Commission typically serves in an advisory role by first considering the proposed amendment, conducting the required public hearing, and making a recommendation to the Council, in this case, the Council made a finding of necessity to retain processing of this LUCA, as determined at their June 11 meeting.

On October 15, the City Council reviewed the proposed LUCA and directed staff to prepare the LUCA ordinance for a public hearing. This hearing is scheduled for November 26, allowing the public an opportunity to comment directly to the Council on the LUCA. Following the hearing, the Council may then take final action on the LUCA.

IV. STATE ENVIRONMENTAL POLICY ACT (SEPA)

The Environmental Coordinator for the City of Bellevue has determined that this LUCA is Categorically Exempt from the Threshold Determination requirements of SEPA pursuant to the terms of WAC 197-11-800(19).

V. PUBLIC ENGAGEMENT

Required Public Notice

The notice required for City Council Legislative Actions (Process IV) is governed by LUC 20.35.415 through 20.35.450. Public notice of the LUCA application and public hearing was

published in the Weekly Permit Bulletin on November 7, and availability of the Weekly Permit Bulletin was noticed in the Seattle Times.

Department of Commerce Notice

Pursuant to the Washington State Growth Management Act, proposed amendments to the LUC must be sent to the Washington State Department of Commerce to review and comment on the proposed amendments to the LUC. The required notice to the Department of Commerce and the initial draft LUCA were transmitted on October 30 and a copy of both documents is available for review in the code amendment file. No comments have been received by Commerce as of the date of this report.

Public Comments

As of the date of this staff report, no public comments have been received.

VI. 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 these proposed amendments to them, are discussed below:

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

Finding: The proposed LUCA is consistent with the Comprehensive Plan. The City of Bellevue has adopted comprehensive plan policy ED-7 that speaks to the efficiency, consistency and predictability of the permitting process that guide citizen and applicant participation in the permit process:

Comprehensive Plan Policy ED-7. Provide an efficient, streamlined, timely, predictable and customer-focused permit process, conducted in a manner that integrates multiple city departments into a coordinated entity.

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

Finding: This LUCA will enhance public health, safety, and welfare by enacting clearer application processes and timelines for permit applications and improving the rulemaking process by replacing the public hearing requirement with an extended comment period to enable a broader cross-section of the community to provide input, particularly those who may not be able to attend a public hearing that is limited to one evening.

Additionally, updates to rulemaking procedures will include requirements for environmental review and enable the director to enact emergency rules. By

integrating SEPA reviews and enabling emergency rulemaking, the LUCA supports timely and appropriate responses to both expected and unforeseen situations. Emergency rulemaking ensures the city can act swiftly, preserving public health, safety and welfare without delays.

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

Finding: The proposed LUCA is not contrary to the best interests of the citizens and property owners of the City of Bellevue. The LUCA serves the best interests of Bellevue's citizens and property owners by enhancing transparency, efficiency, and responsiveness in the city's permit processes. Clearer timelines and defined application requirements reduce delays and ensure thorough project review, benefiting both residents and developers. Updated rulemaking procedures increase public participation and ensure rules are aligned with environmental standards.

VII. RECOMMENDATION

Staff has concluded that the Permit Streamlining LUCA, as drafted in Attachment A, is consistent with the decision criteria required for adoption of amendments to the text of the LUC, pursuant to Part 20.30J LUC. Staff recommends that the City Council adopt the proposed LUCA.

ATTACHMENT:

- A. Proposed Permit Streamlining LUCA Strike-Draft