



Bellevue Planning Commission

September 25, 2024

PLANNING COMMISSION STUDY SESSION ITEM

SUBJECT

Study Session on a proposed Land Use Code Amendment encouraging the redevelopment of existing buildings into residential uses, consistent with House Bill (HB) 1042.

STAFF CONTACT(S)

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POLICY ISSUES

In 2023, the Washington State Legislature passed HB 1042 (Bill) requiring that cities amend their codes to encourage the interior redevelopment of existing commercial or mixed-use buildings into residential development and encourage the redevelopment of existing residential buildings at a higher density. The required code changes will apply to all buildings over three years old in mixed-use and commercial land use districts that permit multifamily housing. The full text of the Bill is provided as Attachment A.

The Comprehensive Plan contains several polices that support the proposed Land Use Code Amendment (LUCA), including:

- **Comprehensive Plan Policy HO-11.** Encourage housing opportunities in mixed residential/commercial settings throughout the city.
- **Comprehensive Plan HO-12.** Provide incentives to encourage residential development for a range of household types and income levels in multifamily and mixed-use commercial zones.
- **Comprehensive Plan Policy HO-17.** Evaluate the housing cost and supply implications of proposed regulations and procedures.

DIRECTION NEEDED FROM THE PLANNING COMMISSION

ACTION

DIRECTION

INFORMATION ONLY

The goal of this study session is to introduce the Planning Commission to the proposed LUCA, outlining the objectives, scope, and proposed code changes. Staff requests input from the Planning Commission on the proposed LUCA and to direct staff to prepare the LUCA for public hearing at a future meeting.

BACKGROUND/ANALYSIS

Bill Overview

The Bill aims to encourage the redevelopment of existing buildings into residential uses. "Existing buildings" are those which received a certificate of occupancy at least three years ago, as defined in the Bill. The Bill's requirements extend to all such buildings located in mixed-use or commercial land use districts which allow multifamily housing. A map of the geographic scope of Bellevue's Land Use Districts meeting these criteria has been included as Attachment B.

City must change the code to accommodate the following areas of flexibility for such projects:

- Accommodate a residential density increase of at least 50%
- Existing parking may be required to remain, but no additional parking is required to be added for residential units
- Permitting requirements may not be more restrictive than what is required for a new build
- Any form, use, or design standards may not be more restrictive than requirements for equivalent housing in the same district
- Projects are exempt from any exterior design or architectural changes
- Ground floor commercial or retail requirements do not apply unless the project is located along a major pedestrian corridor, as defined by the city
- Any existing non-conformities cannot be used to deny a building permit
- Projects are exempt from transportation concurrency study or environmental review requirements

While projects cannot be denied for existing non-conformities, the City may still require changes to eligible development proposals for life safety reasons such as sprinklers and fire exits.

City Council Initiation

City Council initiated work on the LUCA on July 16. At the meeting, Council expressed interest in further encouraging the redevelopment of existing buildings through incentives and going beyond strict compliance with the Bill. Staff has spoken to stakeholders on what provisions are critical to include in the LUCA to ensure the Land Use Code (LUC) does not hamper the redevelopment of existing buildings. The stakeholders also shared additional measures to help support the feasibility of these proposals. The draft LUCA provides flexibility beyond the Bill's requirements by:

- Allowing a small amount of additional floor area for retrofitting essential building elements, such as accommodating ADA requirements
- Allowing for a maximum 20-foot tall residential penthouse, mechanical equipment, or shared spaces related to residential uses to be added to the rooftop of the building, where structurally possible
- Exempting eligible development proposals from multifamily play area requirements
- Providing flexibility in the size and siting of recycling and solid waste areas

These items, described in detail below, are provisions Seattle has employed in its legislation and which have been referenced by developers as providing a significant positive impact in project feasibility. There are available financial incentives beyond the scope of this LUCA which are summarized in this agenda memo and will be discussed with the City Council as part of separate affordable housing initiatives.

Components of the Proposed LUCA

The LUCA will focus on ensuring direct compliance with the requirements laid out in the Bill and incorporates recommendations from stakeholders with experience in redeveloping residential conversion projects to ensure the LUCA can be successful in promoting redevelopment. Provisions of the LUC related to the redevelopment of existing buildings are proposed to be included in a new section of

the code (LUC 20.20.727) and referenced as a footnote in the use tables to increase clarity. A strike-draft of the proposed LUCA has been included as Attachment C.

Building Form

The proposed LUCA allows small expansions to an existing structure to improve the feasibility of existing buildings redeveloping into residential uses. Under the LUCA, existing buildings would be allowed to add one additional story for a residential penthouse, stairs, mechanical equipment, or rooftop features related to residential uses, such as a rooftop patio. Additionally, a building would be allowed to expand horizontally by no more than five percent of the floor area to accommodate changes required by building or energy code, safety features, ADA requirements, mechanical equipment, plumbing and ductwork expansions, awnings, and bays. These allowances go beyond the requirements of the bill which limits its applicability to existing buildings with no expansions to the building shell.

The LUCA also allows existing buildings redeveloping into residential uses to be exempt from the dimensional requirements of the code. This would allow the horizontal expansions necessary to accommodate residential conversion to be built into the setback or exceed lot coverage requirements. Additionally, the 20-foot residential penthouse would be able to exceed the maximum building height in the underlying land use district.

Staff has proposed these changes based on conversations with stakeholders looking at redeveloping buildings in the region. In these conversations the importance of allowing flexibility within the code was stressed as many of the buildings may need changes to meet current standards or requirements. It was also noted that simple redevelopment of these buildings is not financially feasible at this time and the allowance of an additional residential penthouse floor can help to alleviate some of the funding gap these projects face. The proposed language is similar to Seattle's approach for residential conversions, which has proven successful in encouraging the redevelopment of existing buildings into residential uses.

Density

Buildings that are being redeveloped into residential uses will be allowed to accommodate up to 150% of the maximum dwelling units per acre (DU/A) or floor area ratio (FAR) established for the underlying Land Use District. For example, if a building is in a land use district which allows 30 DU/A, a redevelopment project is allowed 45 DU/A or buildings with an allowed FAR of 1 would be allowed 1.5 FAR.

As the LUCA only applies to existing buildings, additional FAR would generally only be utilized for the allowed five percent increase in floor area and for converting existing areas of a building that are exempt from FAR to uses that are not exempt from FAR. For example, in the Downtown Land Use Districts, active uses on the ground floor are exempt from FAR. If a project were to convert these previously exempt areas to housing, that area would generally count towards the overall maximum FAR of the project despite not increasing the floor area of the building. In areas which currently include an amenity incentive program, existing buildings which have received additional square footage through the program would be required to maintain the use from which the bonus was received on site.

Parking

The LUCA requires that redevelopment projects meet applicable parking requirements in the LUC. If the existing parking is not sufficient to meet the parking requirements, no additional parking is required to be added for residential uses, but additional parking may be required for commercial uses. This is consistent with the Bill's requirements. The proposed LUCA allows the developer to choose which uses to apply the existing parking towards, which would allow the entirety of the existing parking to be dedicated towards commercial uses. Staff recommend providing flexibility in parking to maximize the incentive to redevelop existing buildings into residential uses. As many of the mixed-use areas of the city are in close proximity to the frequent transit areas, including the new light rail system, the impact of the proposed parking flexibility on neighboring areas is expected to be limited.

Ground Floor Uses

Nonresidential ground floor use requirements apply in many mixed-use areas of the city. The Bill requires that the City exempt eligible redevelopment projects from such requirements unless the building fronts a major pedestrian corridor. The Bill does not provide guidance in what defines a "major pedestrian corridor", and leaves cities to establish a definition.

Under the LUCA, "major pedestrian corridor" is defined and limited to "A" Rights-of-Way as laid out in the Downtown Land Use Code. The "A" Rights-of-Way include the Grand Connection, NE 6th Street, most of Bellevue Way within Downtown, and Main Street through Old Bellevue. A map of the Downtown Right-of-Way designations is included as Attachment D. This would permit eligible redevelopment proposals located in areas not adjacent to "A" Rights-of-Way where first floor use requirements otherwise apply to use the ground floor for residential uses. The code has been drafted in a manner to allow the City to easily expand the list of major pedestrian corridors as neighborhood plans and LUCAs are completed, if necessary. Staff recommend keeping the definition of "major pedestrian corridor" in the context of this LUCA as narrow as possible to encourage residential conversions. The number of existing buildings that are suitable for conversion, have interested owners, and can feasibly be converted is very small. For example, in adopting of their code related to the redevelopment of existing office buildings into residential uses, the City of Seattle estimated that there are 12 projects in Downtown Seattle anticipated to redevelop in the next seven years. As a result, staff do not anticipate that easing ground-level use requirements for these projects will significantly hinder broader street activation goals.

Non-Conformities

A legal non-conformity is present where new LUC standards are imposed, resulting in an existing building or site no longer meeting LUC requirements. For example, if an existing building is 100 feet in height and a new code limits building height to 75 feet, the 100 foot building becomes a legal non-conformity. The current LUC generally does not allow for non-conforming structures to be expanded or remodeled if the remodel equates to greater than 100% of the replacement value of the structure. The LUC also does not allow for non-conforming sites to be changed without bringing the site into compliance with current LUC requirements. The proposed LUCA would exempt buildings redeveloping into residential uses from the non-conforming provisions of the code.

Multifamily Play Areas

The LUCA proposes exempting redevelopment projects from the multifamily play area requirements. As many buildings that are redeveloping into residential uses were constructed for offices uses, they would not have been subject to the play area requirements when constructed and may not have the physical

space to place one on site. To ensure existing buildings are able to be redeveloped and improve overall viability, staff recommend exempting eligible projects from this requirement. The majority of mixed-use areas in the city are located within 1/3-mile walking distance to open space or trails, providing easy access to community space and recreation opportunities to residents of the redeveloped buildings.

Recycling and Solid Waste Collection Areas

In conversation with stakeholders involved in redeveloping existing buildings, it was noted that any required reconfiguration of interior areas could be problematic in redeveloping the building. The LUC does not generally regulate the interior configuration of buildings but does have requirements relating to recycling and solid waste rooms within residential structures. The LUCA proposes to exempt existing buildings from this requirement.

Other Considerations Separate from the LUCA

Transportation and Environmental Studies

The Bill requires that the City exempt buildings redeveloping into residential uses from transportation concurrency requirements and environmental studies. These items will be addressed separately through a Bellevue City Code Amendment.

Financial Incentives

Based on information provided by the consulting firm AECOM in a presentation to the Puget Sound Regional Council (PSRC) most office-to-residential conversion projects have a funding gap of 15-25% of the total project cost, or \$50-125 per square foot of redeveloped area. Additionally, in conversations with stakeholders, it was noted that the redevelopment of existing buildings is generally not feasible without some sort of financial incentive to cover this gap. The State has recently adopted an incentive for office-to-residential conversions that provide affordable housing (House Bill 6175) which has been successful in assisting projects in Seattle. As the state incentive is financial, and would be implemented through a different process, there is no need to address it in this LUCA. Staff has spoken with Community Development, and creation of a program related to the incentive is on their workplan for Council consideration and potential adoption in 2025. Projects providing affordable housing may also qualify for Low-Income Housing Tax Credits (LIHTC) and other federal programs depending on site specific conditions.

Building and Energy Code

Stakeholders also emphasized that building and energy code requirements are major impediments to the redevelopment of existing buildings. Flexibility to improve code compliance without having to meet existing codes was stressed as vital to the success of redevelopment within existing buildings. The building code that applies to existing buildings allows for meeting standards where feasible but allows flexibility where not feasible. The State energy code does not include these flexibility provisions and Bellevue is not able to adopt energy code provisions that are less strict or more flexible than the state code. The City has requested clarification from the Washington State Building Code Council on whether the intent of the energy code was to include the same or similar provisions as the building code in relation to existing buildings which would allow us to require compliance where feasible.

Public Engagement

Staff is implementing multiple modes of outreach to ensure the public, stakeholders, and interested parties have the opportunity to be informed and to provide comments.

1. Process IV Requirements. Process consistent with Chapter 20.35 LUC procedural requirements to provide opportunities for public comment, including:
 - Notice of Application
 - Public hearing on the proposed LUCA

2. Direct Engagement and Feedback. Information gathering about the barriers to redeveloping existing buildings and inform the public of the LUCA.
 - Discussions with development teams, including a developer redeveloping a building in Seattle
 - Outreach to the Bellevue Chamber of Commerce, Bellevue Downtown Association, and the Eastside Housing Roundtable
 - Development Services Department Newsletter write-up, including a link to the City webpage and staff contact information

3. Online Presence. City webpage to provide opportunities for the public to stay informed and to request additional information, including:
 - Staff contact
 - Information on the LUCA and LUCA schedule

Anticipated LUCA Schedule

The anticipated timeline for processing the LUCA is as follows:

Date	Topic Areas
September 25	<u>Planning Commission Study Session:</u> <ul style="list-style-type: none"> • Introduction and direction
To Be Scheduled	<u>Planning Commission Public Hearing and Recommendation:</u> <ul style="list-style-type: none"> • Planning Commission has the option to make recommendation any point after the public hearing
To Be Scheduled	<u>Planning Commission Recommendation (if needed):</u> <ul style="list-style-type: none"> • Planning Commission recommendation to City Council
To Be Scheduled	<u>City Council Study Session:</u> <ul style="list-style-type: none"> • Present Planning Commission recommendation to City Council
To Be Scheduled	<u>City Council Action:</u> <ul style="list-style-type: none"> • Final ordinance for City Council action

ATTACHMENT(S)

- A. House Bill 1042
- B. Map of LUCA Geographic Scope
- C. LUCA Strike-draft
- D. Right of Way Designations (LUC Figure 20.25A.170.B)