

CITY COUNCIL AGENDA MEMORANDUM

SUBJECT

Public Hearing on Permanent Homeless Shelter Permitting Amendments to the Land Use Code (LUC) – Meeting 5.

FISCAL IMPACT

Fiscal impacts are generally not expected when new provisions are added to the LUC and administered by Development Services (DS) staff during review of permit applications using standard notification practices. The Public Hearing Draft Land Use Code Amendment (Draft LUCA) governing the permitting of Homeless Shelter Uses does, however, likely create new staff workload demand inside and outside of DS. The pre-application process for Homeless Services Uses is enhanced over the standard pre-application process, and will create demand for DS staff resources that is not currently recovered through permit fees. Enhancements to the standard noticing requirements include expansion of the 500-foot mailing radius to 1,000 feet, which would result in a very small increase in the notice mailing costs associated with a specific Homeless Services Use application (estimated to be approximately \$50).

The Development Agreement process option could create a new demand on staff resources in the City Attorney's Office, Community Development Department (CDD), and Code and Policy Development division that does not currently exist and is not currently recoverable through permit fees. Staff facilitation of the Good Neighbor Agreement (GNA) Advisory Committee work, and contribution of subject matter expertise to the GNA Advisory Committee and on Safety and Security plan review, could also create new demands on staff resources in the Community Development, Fire, Parks and Community Services, and Police departments that does not currently exist and is not currently recoverable through permit fees. New workload demands that would be placed on staff if the Draft LUCA is adopted cannot be quantified. However, shelter and day center permit applications are expected to be limited in number. Therefore, cost over time is not expected to be significant, and the total cost associated with these enhanced review requirements could be absorbed within existing resources. Council could also separately seek to recover these incremental costs through amendments to the fee ordinance.

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POLICY CONSIDERATION

In January, the City Council affirmed its intent to allow for a permanent homeless shelter in Bellevue by extending the Interim Official Control (IOC) that regulates shelter permitting, and by directing staff to develop permanent homeless shelter permitting regulations. A Council-endorsed community engagement approach and LUCA processing schedule was adopted on March 5. The initial draft of a Homeless Services Uses LUCA was introduced to the City Council on April 23, and Council held policy discussions regarding the content of the LUCA during May 7 and May 21 Study Sessions.

At the May 21 Study Session, Council set June 11 as the date for a public hearing on the Draft LUCA.

The following policy objectives provided guidance to City staff during development of the Draft LUCA that will be considered during the public hearing scheduled for June 11.

1. Work toward an Eastside solution for a permanent winter shelter (Council Priority);
2. Support the establishment of a year-round homeless shelter on the Eastside (2014 Diversity Advantage Plan);
3. Prevent individuals from becoming homeless, and for those that do experience homelessness, that it is rare, brief and one time (Committee to End Homelessness Interest Statement adopted by the Bellevue City Council on June 22, 2015); and
4. Regulate Homeless Services Uses in a manner that is not construed as criminalizing homelessness (City Council Policy discussion on May 5).

The policy consideration before the City Council, following receipt of public testimony, will be whether staff should be directed to prepare the ordinance necessary for final adoption of a permanent amendment to the LUC that will govern Homeless Services Uses which include shelters and day centers.

BACKGROUND

The City Council has been exploring and adapting the various components of Bellevue's response to homelessness in several initiatives over the years, including establishing and supporting a men's winter shelter, partnering with other Eastside jurisdictions to fund regional shelters, focusing investments in services to prevent and reduce homelessness through the human services funding process and adopting an affordable housing strategy. Over the course of approximately 18 months, those various initiatives and efforts have been drawn into a more comprehensive conversation, addressing the suite of facilities, services, enforcement and permitting that is needed to allow Bellevue to respond to this regional challenge in a way that reflects the values of this community.

During the May 21 Study Session, there was consensus on a Draft LUCA to address permanent shelter and day center regulations for persons experiencing homelessness, and Council scheduled a public hearing for June 11. Notice of the public hearing and availability of the staff report was published on May 24. The staff report, which describes the process used to develop the permanent regulations and includes a copy of the Draft LUCA, is included with this memorandum as Attachment A. The analysis required under SEPA to support adoption of the Draft LUCA under consideration by the City Council is included as Attachment B.

The purpose of the public hearing is for citizens, stakeholders and other interested parties to provide feedback on the Draft LUCA that is included in Attachment A. In addition to feedback on the Draft LUCA, the City Council also requested specific feedback from citizens, stakeholders, and other interested parties on two additional topics:

1. Whether the LUCA should require shelter operators to perform background checks/warrant searches on individuals seeking access to an overnight shelter; and
2. Whether the LUCA should require shelters to be separated in distance (using buffers) from sensitive uses such as residential areas, K-12 schools, parks, etc.

The balance of this agenda memorandum includes information regarding the additional topics identified by the City Council for specific feedback. This information is provided to assist citizens, stakeholders and other interested parties in the framing of their comments for the public hearing, and to assist the City Council in its policy discussion following the public hearing.

1. Should the Homeless Services Uses LUCA require shelter operators to perform background checks/warrant searches on individuals seeking access to an overnight shelter?

The Draft LUCA does not include language requiring a shelter operator to perform background checks/warrant searches on individuals seeking access to an overnight shelter. The Draft LUCA requires preparation of a “Code of Conduct” and a “Safety and Security Plan.” These documents are required to address use-specific characteristics that take into account unique locational circumstances regarding the site where a Homeless Services Use is proposed with the supportive services that will be provided at that site. The intent of these requirements is to provide a framework that can be administered Citywide in order to protect the health, safety and welfare of the occupants and employees of the Homeless Services Use, and the surrounding residents and businesses. Draft LUCA 20.20.455.C.2 and 20.20.455.F.2.g.

To achieve the stated health, safety and welfare objectives, the Code of Conduct, as drafted, is required at a minimum to include the following measures for governing conduct within a Homeless Services Use:

- i. No entry onto surrounding private properties, or areas of surrounding properties, that are not open to the public (e.g., office and residential spaces);*
- ii. Limit travel paths to public rights-of-way;*
- iii. No loitering or panhandling;*
- iv. Maintain the site aesthetics and do not litter;*
- v. Restrict smoking to designated areas of the site;*
- vi. Comply with City of Bellevue regulations governing public conduct (including but not limited to the prohibition on public camping, etc.); and*
- vii. Comply with terms of Good Neighbor Agreement provisions that apply to occupants of the Homeless Services Use.*

Draft LUCA 20.20.455.F.2.f and 20.20.455.H.2.d.

The Draft LUCA provides a process for the Code of Conduct provisions to be refined in response to the specific homeless population that is proposed to be served at a specific location. Refinement occurs through the GNA Advisory Committee process, which provides an opportunity for guidance regarding “operational concerns” and to “establish a plan for communications between the operator and the neighbors.” Draft LUCA 20.20.455.G.3. After the Code of Conduct is refined to reflect the proposed Homeless Services Use and location, the occupants are required to adhere to the terms of the GNA provisions that apply to the facility where they are being served. Draft LUCA 20.20.455.F.2.f.vii.

To further advance the site-specific approach to protecting health, safety and welfare, the Draft LUCA contains Safety and Security Plan provisions, which include but are not limited to the following:

- i. Criteria for rejection or removal of an individual seeking access to the proposed Homeless Services Use;*
- ii. A plan for deployment (including time, place and manner) of security patrols;*
- iii. A plan to address disruptive behavior within a Homeless Services Use and in the immediate vicinity that infringes on the safety of occupants or employees of the use, and a description of the consequences for engaging in disruptive behavior;*
- iv. A plan for managing loitering, panhandling, and unpermitted camping in the vicinity of the Homeless Services Use;*
- v. Identification of site specific magnet areas (e.g., greenbelts, parks, libraries, transit facilities, etc.) and a plan to address behavior that is inconsistent with the Code of Conduct and Bellevue City Code;*
- vi. Implementation of outstanding registered sex offender background checks and compliance with applicable registration and notification requirements;*

- vii. *A plan for managing individuals excluded from accessing the proposed Homeless Services Uses;*
- viii. *A plan for coordination between the Operator, Bellevue Public Safety staff (e.g., police, fire, park rangers, etc.), and private security forces employed by surrounding property and business owners;*
- ix. *Provision of a phone number and point of contact at the site of the proposed Homeless Services Use for the community to report concerns;*
- x. *A plan for addressing reported concerns and documenting resolution, and making this information publicly available; and*
- xi. *Identification of performance metrics that will be used to track compliance with the Safety and Security Plan.*

Draft LUCA 20.20.455.F.2.g.

Similar to the Code of Conduct, the Safety and Security Plan provisions are required to be refined in response to the specific homeless population that is proposed to be served at a specific site. In addition to the GNA Advisory Committee process described above, the Safety and Security Plan requires collaboration with Bellevue Public Safety staff to ensure location-appropriate security measures meet the objective of protecting the health, safety and welfare of the occupants, employees of the Homeless Services Use, and surrounding residents and businesses.

Any background check/warrant search requirement in the Draft LUCA would be included as part of the Security Plan for a homeless shelter use. If there is a legitimate governmental interest in requiring a background check/warrant search as part of the Safety and Security Plan as an enhanced safety measure, then potential occupants of the shelter should be informed at the outset that consent to this screening requirement is a condition included in the Safety and Security Plan to promote the safety of shelter occupants and employees, along with surrounding residents and businesses.

Public comment has raised the concern that a mandated warrant search requirement could dissuade individuals from seeking shelter and lead to the continued occupancy of public spaces that the unlawful public camping provisions of the Bellevue City Code (BCC 10.06.110) were designed to address. A final decision on whether to add background/warrant check requirements to the Draft LUCA depends on Council's ultimate conclusion about how best to meet public safety objectives with the ultimate goal of providing shelter for persons experiencing homelessness in Bellevue.

2. Should the Homeless Services Uses LUCA require shelters to be separated in distance (using buffers) from sensitive uses such as residential areas, K-12 schools, parks, etc.

The Draft LUCA does not include language requiring Homeless Services Uses to be separated in distance (using buffers) from any non-Homeless Services Uses. Shelters that are proposed to include more than 50 beds are required to be located greater than one-half mile from any other Homeless Services Use that is not part of the same development to avoid a concentration of these uses in any one area. Draft LUCA 20.20.455.I.3.b.ii.2. The Draft LUCA relies on the Land Use Charts to identify land use districts (or zones) where a Homeless Services Use could be located compatibly with other uses allowed in those districts/zones.

Two new uses are proposed to be regulated under the terms of the Draft LUCA. These new uses were defined based on public feedback and a review of applicable zoning classification references (e.g., the Standard Land Use Coding Manual, Standard Industrial Classification Manual and the North American

Industry Classification System). The two new uses are collectively referred to as “Homeless Services Uses” and their definitions are provided below for ease of reference.

- b. Day Services Center. A facility that offers a haven to people experiencing homelessness by providing a safe place to rest during the day. Support services for homeless populations is an integral part of a Day Services Center use and includes but is not limited to access to food, seating, showers, laundry, restrooms, storage, a computer lab, phones, fax and a critical mailing address. Spaces for meetings and examinations are generally provided to accommodate counseling and access to medical/dental and legal assistance.*

- d. Overnight Shelter: Permanent. Any facility that is constructed for the primary purpose of providing shelter for people experiencing homelessness in general or for specific populations of people experiencing homelessness. Supportive services may or may not be provided in addition to the provision of shelter.*

Draft LUCA 20.20.455.C.1.

To determine where Homeless Services Uses could be appropriately allowed under the terms of the Draft LUCA, Day Services Center and Permanent Overnight Shelter uses were evaluated for compatibility against the district descriptions contained in LUC 20.10.180 through 20.10.397. These two new uses were further compared to other similar and supportive uses allowed in each land use district/zone. Refer to Attachment C for a description of each land use district in Bellevue, and for a list of districts where Homeless Services Uses are proposed to be allowed by the Draft LUCA. For comparison purposes, Attachment C also includes a list of districts where Shelter Uses are currently allowed pursuant to the IOC.

The new Homeless Services Uses were found to be incompatible with single family and multifamily residential land use districts (including R-1 through R-30), because these uses are anticipated to be more commercial in character and the residential districts/zones also do not allow supportive services viewed as necessary in the due diligence report to support a successful Homeless Services Use. The Homeless Services Uses were also found to be incompatible with non-residential districts/zones that are intended to act as a buffer to residential land use districts (including Neighborhood Business, Neighborhood Mixed Use, Professional Office, Office and BelRed Office/Residential). Homeless Services Uses were not considered compatible with the Light Industrial (LI) district/zone, because of the limited availability of this land, and the intention for these areas to be reserved for light industrial uses that are becoming increasingly displaced in the City. The LI districts/zones also do not contain the public transportation infrastructure that is identified as necessary in the due diligence report to support a successful Homeless Services Use.

The Homeless Services Uses were intended to be allowed within compatible land use districts/zones that currently allow for a broad array of similar and supportive uses. No similar service uses are currently required to provide buffers or separation from differing uses that are allowed to locate in the same land use districts. As discussed above under the warrant search topic, “Standard Operating Procedures,” a “Code of Conduct” and a “Safety and Security Plan” are all required to be provided by the Operator. These documents are required to be specific to the homeless population that is proposed to be served at the specific site where it is proposed to be located. The intent of these requirements is to achieve a tailored approach to protecting the health, safety and welfare of the occupants and employees of the Homeless Services Use, and the surrounding residents and businesses. Draft LUCA 20.20.455.C.2 and 20.20.455.F.2.g.

The Draft LUCA is intended to strike a reasonable balance between the imposition of prescriptive safety and security requirements (such as buffers and separation distances) and the impact that such a code requirement could impose on siting of a Homeless Services Use. For instance, if the separation requirements for marijuana retailers were to be imposed on Homeless Services Uses, there would be limited land available to support the siting of a shelter in the City outside of properties that are held by religious institutions. To inform the policy discussion regarding buffers and use separation, an Interactive Map was created to show how the application of mandatory buffers could affect the land available to site a Homeless Services Use. The Interactive Map can be found at the following link: <http://cobgis.maps.arcgis.com/apps/webappviewer/index.html?id=8855c2e0715341dcb1cd89b4312ae739>

As described for the topic on background/warrant checks above, a final decision on whether to add separation/buffer requirements to the Draft LUCA depends on Council's ultimate conclusion about how best to meet public safety objectives with the ultimate goal of providing shelter for persons experiencing homelessness in Bellevue. Following receipt of public testimony on the Draft LUCA, staff is seeking direction from the Council on whether additional modifications to the code are necessary or whether an ordinance should be prepared for final adoption on June 25.

OPTIONS

1. Direct staff to prepare the ordinance necessary for final adoption of a permanent amendment to the LUC that will govern Homeless Services Uses.
2. Do not direct staff to prepare a final ordinance and provide alternative direction.

RECOMMENDATION

Option 1

MOTION

Direct staff to prepare the ordinance necessary for final adoption of a permanent amendment to the LUC that will govern Homeless Services Uses.

ATTACHMENTS

- A. Staff Report for Public Hearing on Homeless Services Uses LUCA
- B. SEPA Threshold Determination
- C. Land Use District Descriptions – Draft Homeless Services Uses Permitting Framework.

AVAILABLE IN COUNCIL DOCUMENT LIBRARY

Compilation of comment letters received in the ShelterLUCA@BellevueWA.gov mailbox