

CITY COUNCIL AGENDA TOPIC

Revised amendment to 2009 Development Agreement for the Spring District Catalyst Project and conformance Land Use Code Amendment

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EXECUTIVE SUMMARY**DIRECTION**

Council will consider the revised amendment to the 2009 Development Agreement (DA) between the City of Bellevue and WR-SRI 120th LLC (Wright Runstad) for the Spring District Catalyst Project and the attendant conformance Land Use Code Amendment (LUCA). Following discussion, staff requests Council direction to prepare the proposed LUCA for public hearing and potential adoption and prepare the DA amendment for final approval.

RECOMMENDATION

Prepare the proposed LUCA for public hearing and potential adoption and prepare the DA amendment for Council consideration at the December 11 Council meeting.

BACKGROUND/ANALYSIS

On August 7, Council considered the proposed DA amendment for the Spring District Catalyst Project in BelRed. At the same time, Council initiated and retained processing of the conformance LUCA to allow the DA amendment and ensure compliance with RCW 36.70B.170(1).

Spring District History and Initial Negotiations

Wright Runstad and the City executed the DA for the Spring District Catalyst Project on July 10, 2009. A DA pursuant to chapter 36.70B RCW is required for any Catalyst Project, and the Spring District is the only Catalyst Project in the City. No other project qualifies as a Catalyst Project under the criteria in LUC 20.25D.035. A copy of the 2009 DA is included with this Agenda Memo as Attachment A.

To date, 19 parcels in the Spring District have been developed under the Master Development Plan (MDP) for the Spring District, and eight parcels remain as future development sites in connection with Phase 3 of the MDP. Currently, the following terms of the DA have been satisfied: all Catalyst Project criteria, all open space minimum development requirements, and all minimum residential development requirements.

The original DA executed by the City and Wright Runstad will expire on May 3, 2027. To complete the anticipated development of the remaining parcels and satisfy the commitments in the DA, Wright Runstad approached the City and requested an additional ten (10) years of vesting for the undeveloped

parcels in the Spring District. Development Services and the City Attorney’s Office then met with Wright Runstad’s managers and their attorneys and introduced the following DA amendment on August 7:

- Extension of vested status for an additional 10 years, for a total of 25 years, expiring on May 3, 2037;
- Locked in fee-in-lieu rates for Tier 1 amenities at \$4 per square foot through May 3, 2027, then increased fee-in-lieu set at 45 percent of the published Tier 1 fee-in-lieu rate thereafter; and
- The City may apply the fee-in-lieu amenity payments to support the development of affordable housing.

The attendant conformance LUCA presented on August 7 would amend the Catalyst Project provisions in LUC 20.25D.035 to authorize the DA amendment. The DA amendment and the LUCA are separate, but related, Council actions because RCW 36.70B.170 requires that the provisions of the DA shall be consistent with the applicable development regulations adopted by the City Council.

Revisions to Proposed DA Amendment Based on Council Feedback

Based on Council feedback at the August 7 meeting, the City continued negotiations with Wright Runstad. Through these continued negotiations, the revised DA amendment before Council tonight has a different fee-in-lieu schedule that is more beneficial to the City. Under the revised proposal, the DA amendment would still lock in the current \$4 per square foot fee-in-lieu rate for Tier 1 amenities through May 3, 2027. However, the fee-in-lieu rate would increase to 55 percent of the published Tier 1 fee-in-lieu rate between May 4, 2027 and May 3, 2031. Thereafter, the fee-in-lieu rate would increase to 60 percent of the published Tier 1 fee-in-lieu rate.

Under the revised DA amendment, Wright Runstad would still receive a significant reduction in the Tier 1 fee-in-lieu rate for the life of the Catalyst Project. As a result of the Council feedback on August 7, the revised DA amendment now includes a 10 percent fee-in-lieu rate increase from May 2027 to May 2031 and a 15 percent fee-in-lieu rate increase after May 2031 as compared to the proposed DA amendment that Council originally considered on August 7. The Tier 1 fee-in-lieu rate will not match the published rate for the life of the Catalyst Project MDP, but the Tier 1 fee-in-lieu rate will be increased from what the City is currently entitled to collect under the DA and associated LUC provisions.

For ease of reference, the below chart compares the City’s current LUC, the current DA, and the changes to the DA proposed by this revised DA amendment:

	Current LUC	Current DA	Amended DA
Extended vesting of Master Development Plan	No	Yes: 15 Years	Yes: 25 Years
Developer-Funded Catalyst Project Infrastructure Requirement	No	Yes	Yes
Reduced payment of Tier 1 fees-in-lieu for Catalyst Project	100%	17% of Published Rate	55% of Published Rate from May 4,

			2027 to May 3, 2031 60% of Published Rate thereafter
Tier 1 fees-in-lieu for Wright Runstad commercial development may be used to support affordable housing (at City's option)	No	No	Yes

In addition to the renegotiated Tier 1 fee-in-lieu rate, the parties have clarified other terms in the DA based on Council's August 7 feedback. Specifically, the revised DA amendment now includes language clarifying that Wright Runstad cannot "cherry-pick" future development standards or new City regulations during the term of the DA. This revised DA amendment language confirms that Section C of the original DA will remain in effect for the life of the DA; and during the time period that the DA remains in effect, the Spring District shall be subject to Section C unless the DA is further amended. The City Attorney's Office and Development Services worked with Wright Runstad's attorneys to revise the DA amendment and incorporate these clarifications.

As previously explained on August 7, Wright Runstad will benefit from the revised DA amendment because it will continue to receive a reduced Tier 1 fee-in-lieu rate and will gain an additional 10 years of vesting for the undeveloped parcels in the Spring District. The City will receive a benefit based on the continued commitment by Wright Runstad to invest in developer-funded infrastructure in connection with the Spring District development, and the City will have the option, for the first time under the DA and LUC provisions, to apply fee-in-lieu payments to affordable housing. A copy of the revised DA amendment is included as Attachment B to this Agenda Memo.

Responses to Additional Council Questions

During the August 7 Study Session, Council requested additional information regarding the specific developer-funded Catalyst Project infrastructure that Wright Runstad has constructed in connection with the MDP for the Spring District. The following construction meets the criteria in LUC 20.25D.035.A.3 and Sections A.2 and F.2 of the DA to qualify as Developer Funded Catalyst Project Infrastructure:

- Phase 1: NE District Way, sections of 123rd Avenue NE with public access easement, 121st Avenue NE, Tract C (approximately 30,000 sq. feet of publicly accessible recreation space), and Tracts G, J & K (Mini Park under Section A.2 of DA);
- Phase 2: 121st Avenue NE (continued construction), NE 14th Terrace, Sound Transit Platform Connection Plaza (Lot 3C); and
- Phase 3: 124th multi-purpose path frontage (to be constructed in 2024), 123rd Avenue NE (continued construction).

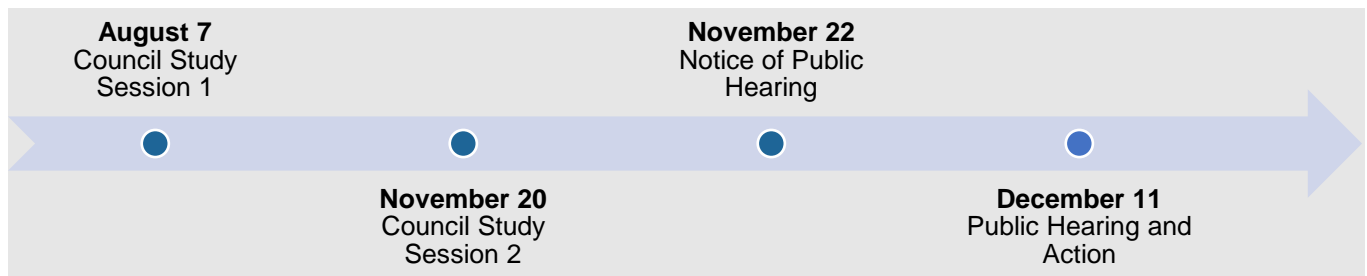
Future Developer Funded Catalyst Project Infrastructure anticipated on the MDP project site in connection with Phase 3 of the Spring District includes the construction of NE 16th Street, the completion of 123rd Avenue NE, construction of a section of 122nd Avenue NE (north of NE 16th Street), and construction of a section of NE 17th Street NE.

Council also requested information regarding a revised LUCA and DA amendment that would allow the City, at its option, to devote the Tier 1 fee-in-lieu amenity payments to support the development of affordable commercial space in BelRed. While the City could expand the Tier 1 public benefits identified and included in the LUC in connection with this revised DA amendment, staff recommends addressing support for affordable commercial space through the future policy work associated with the Comprehensive Plan Periodic Update and BelRed Look Forward. Council will be reviewing and updating policies in the BelRed Subarea Plan in connection with each of these legislative items, and Council will have an opportunity to holistically address potential changes to policies, regulations, and implementation strategies for achieving the BelRed vision during these legislative work programs.

Finally, the current regulations in chapter 20.25D LUC anticipate that Tier 1 amenity payments would be devoted to affordable housing, park dedications, park improvements, trail dedications and easements, stream restoration, or regional transfer of development rights. Staff recommends that Council maintain the structure of these current regulations, which are broader than the targeted Catalyst Project provisions in LUC 20.25D.035, and then consider funding for affordable commercial space when processing the proposed BelRed policies included in the Comprehensive Plan Periodic Update and the BelRed Look Forward work programs. These legislative work programs will allow all City stakeholders, including but not limited to affected City Departments, the public, and private development interests, to provide their input as Council considers the policy and financial implications necessary to support the significant growth in BelRed that is anticipated outside of the Spring District project area.

Review Process

A public hearing has been tentatively scheduled for the LUCA on December 11 as required by LUC 20.35.430. No later than 14 days prior to the hearing, legally required public notice will be posted in the City’s Weekly Permit Bulletin and published in the Seattle Times. Upon completion of the hearing, Council may adopt the proposed LUCA. Additionally, if directed by Council, the DA amendment may be prepared for final action at the same meeting on December 11. The below timeline illustrates the review process for the DA amendment and LUCA:



POLICY & FISCAL IMPACTS

Policy Impact

The proposed DA amendment and conformance LUCA are consistent with the following Comprehensive Plan policies for the BelRed Subarea:

- **POLICY S-BR-79.** Establish a financial strategy that provides for the costs of public infrastructure and amenities needed to support BelRed development and identified as specific projects in this Plan to be born[e] by various parties based on their relative shares of impacts and benefits. Cause developing properties to contribute the principal share of needed public improvements, to the extent they are the primary beneficiary of such improvements. Implement existing and new financial tools as needed to carry out this strategy.

Discussion: Redevelopment of the Bel-Red Subarea requires a broad array of investments in public infrastructure and amenities. Various classes of properties, including developing properties, existing properties, and the general City should share these costs based upon the relative share of benefits they receive.

- **POLICY S-BR-81.** Allow for private development to voluntarily advance the building of public infrastructure improvements, in order to enable land use to proceed in sync with the availability of needed infrastructure; consistent with the phasing approach set forth in Policy S-BR-4. Such investment may be repaid in part by latecomers agreement or similar device.

Fiscal Impact

Under the revised DA amendment, Wright Runstad will continue to pay a Tier 1 fee-in-lieu amenity rate that is below the published rate that would otherwise be applicable to private development in BelRed. The DA amendment will lock in the \$4 per square foot fee-in-lieu rate for Tier 1 amenities through May 3, 2027; but after May 3, 2027, the DA amendment will raise the fee-in-lieu rate to 55 percent of the published Tier 1 fee-in-lieu rate, then finally increase to 60 percent of the published rate after May 3, 2031. Under the terms of the proposed DA amendment, the City may apply Tier 1 fee-in-lieu amenity payments made by Wright Runstad to support the development of affordable housing in addition to the park dedications, park improvements, and other Tier 1 amenities identified in the LUC.

OPTIONS

1. Prepare the proposed Land Use Code Amendment for public hearing and potential adoption and prepare the DA amendment for Council consideration at the December 11 Council meeting.
2. Provide alternative direction to staff.

ATTACHMENTS

- A. 2009 Development Agreement
- B. Revised Amendment to the 2009 Development Agreement
- C. Proposed LUCA Strike-Draft

AVAILABLE IN COUNCIL LIBRARY

N/A