

CITY COUNCIL AGENDA TOPIC

Recommended Land Use Code Amendment to update tree preservation, retention, replacement, and protection provisions in the Land Use Code to better support citywide tree canopy goals. File 22-128467-AD.

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EXECUTIVE SUMMARY**DIRECTION**

Staff will introduce the recommended Land Use Code Amendment (LUCA). Planning Commission Vice-Chair Craighton Goepple will present the Planning Commission recommendation approving the LUCA. The Resolution documenting this recommendation is included as Attachment A.

Following discussion, staff is seeking Council direction to prepare the Ordinance for final action at a future meeting.

RECOMMENDATION

Direct staff to finalize the LUCA Ordinance for final action at a future meeting.

BACKGROUND/ANALYSIS**Background**

Bellevue's Environmental Stewardship Plan Action N.1.1 calls to introduce additional requirements for tree preservation to further support the achievement of the 40 percent tree canopy goal. This action includes a comprehensive review and update of provisions in the Land Use Code (LUC) and Bellevue City Code (BCC) for tree preservation, retention, replacement, and protection during construction.

Bellevue's tree canopy is a critical environmental asset and central to the vision of a "City in a Park". Tree retention requirements were first added to the LUC in the 1980s. Since then, the City's code provisions related to trees have been updated periodically, but never in a comprehensive fashion.

The recommended LUCA will amend chapters 20.20, 20.25A, 20.25B, 20.25F, 20.25Q and 20.50 to update tree preservation, retention, replacement, and protection provisions in the Land Use Code (LUC) to better support citywide tree canopy goals. A strike-draft of the recommended LUCA is provided as Attachment B.

At a future meeting, staff will present proposed updates to tree-related provisions in the Bellevue City Code (BCC). The BCC addresses topics including:

- Permitting to remove trees outside the development process
- Tree replacement requirements outside the development process
- Enforcement and penalties

Planning Commission Process

This LUCA was reviewed by the Planning Commission during study sessions on December 13, January 24, and March 27. Following discussion, the Planning Commission directed staff to prepare the LUCA for public hearing consistent with the City's Process IV land use process on April 24. A staff report describing the background, review process, and this LUCA's compliance with the decision criteria was provided to the Planning Commission, made available for the public hearing, and is included as Attachment C.

Components of the Recommended LUCA

Under Bellevue's current tree retention requirements, applicants must retain a percentage of the significant trees in place when making their application. This system does not provide Development Services with the authority to require planting trees when a site has few or no trees. The recommended LUCA would instead implement a new minimum tree density approach where applicants must maintain a minimum tree density, measured in tree credits, through retention or new planting.

This approach, and other components of the recommended LUCA, can be summarized into the following topics:

1. LUCA Structure, Purpose, and Applicability
2. Definitions
3. Minimum Tree Density
4. Development Flexibility
5. Tree Protection

LUCA Structure, Purpose, and Applicability

Staff have developed an updated structure for LUC 20.20.900 (Tree retention and replacement) to incorporate the new minimum tree density system and to improve clarity and ease of use. The purpose of the section has been revised to emphasize canopy goals and environmental benefits while deemphasizing appearance. In the new structure, sections specific to Bridle Trails have been removed. Instead, minimum tree densities have been developed to respond to the Land Use District and proposed type of development.

The applicability section has been revised for clarity while maintaining existing applicability, exemptions, and exceptions from the section requirements as a whole. This includes continuing to exempt the Downtown and East Main Land Use Districts from tree retention requirements. The proposed LUCA will apply to the Wilburton and BelRed subareas, and upcoming code amendments specific to those subareas will consider if subarea-specific standards are appropriate.

Definitions

The LUCA includes several new or updated definitions which will apply throughout the Land Use Code.

Measurement and Qualifications

- "Caliper" establishes the procedure for correctly measuring nursery trees. This measurement is used to determine that a newly-planted tree meets the minimum standard to be eligible for one

tree credit. The LUCA also includes clean-up amendments to correct inappropriate usage of this term.

- “Diameter at Breast Height” establishes the procedure for correctly measuring existing trees. The LUCA also includes clean-up amendments to correct inappropriate usage of this term and to remove alternate definitions in specific subsections which are no longer necessary.
- “Qualified Tree Professional” establishes the qualifications necessary to be considered a qualified tree professional. This is used to establish which professionals are qualified to prepare tree protection plans and provide other tree-specific recommendations for a development proposal.

Tree Health and Safety

- “Viable Tree” establishes health, structure, and form criteria which a qualified tree professional may use to establish that a tree is or is not appropriate for retention. Trees which meet the criteria for excellent, good, or fair are viable trees. Non-viable trees are not considered significant or landmark trees.
- “Hazardous Tree” establishes criteria which a qualified tree professional may use to establish that a tree is hazardous. In addition to structural defects and/or disease, hazardous trees are also located in areas where people are property are likely to be located and could be injured or damaged by tree failure, and the condition cannot be addressed with reasonable and proper arboricultural practices.

Significant Tree

The LUCA includes several updates to the existing Significant Tree definition. This definition is important, as only significant trees are subject to Bellevue’s regulations. The most significant change is in reducing the minimum diameter from 8 inches to 6 inches in diameter at breast height. Significant Trees must also be viable trees.

Landmark Tree

The LUCA includes a new, permanent definition of Landmark Tree. Landmark Trees are defined as viable trees at least 24 inches in diameter. Alders and Cottonwoods cannot be Landmark Trees. The definition also includes a table with alternate, lower diameter thresholds that apply to several slower-growing, but high quality native tree species.

Minimum Tree Density

The LUCA establishes that applicants must maintain a minimum tree density, measured in tree credits, within the Tree Canopy Site Area. The Tree Canopy Site Area is the area of the project limit remaining after removing critical areas, shoreline vegetation conservation areas, and their buffers as there are separate regulations for trees in these areas. Public rights-of-way, private roads, and submerged lands are also removed from the Tree Canopy Site Area. Separate standards regulate trees in the public rights-of-way, including street tree planting requirements. Private roads and submerged lands are not appropriate locations to support long-term tree canopy.

The minimum tree credits scale with the size of the Tree Canopy Site Area, Land Use District, and use. While the minimum canopy can, depending the site, be achieved through retaining trees, planting trees,

or a mixture of the two, the intent is for applicants to first retain trees before planting.

Retained Trees

Retained trees receive tree credits based on their diameter at breast height, with a 50% discount for alders and cottonwoods. Invasive and noxious species are not eligible for tree credits. The LUCA provides guidance on selecting existing trees for retention in the following order of priority:

- Landmark Trees
- Trees located in groves (at least three significant trees with overlapping or touching crowns)
- Significant trees located in the required perimeter landscaping area
- Other significant trees

This priority order is provided as guidance and does not change the minimum tree density applicable to any site. Landmark Trees and groves are prioritized as they provide greater long-term ecological benefits to the urban forest compared to single, smaller-sized trees. Certain trees are not eligible for tree credits, including invasive or noxious species, trees located outside the Tree Canopy Site Area, and trees in areas devoted to access and sight areas as defined in the Transportation Code.

If a site is below the minimum tree density at the time of the application, any existing viable significant trees can only be removed if necessary to achieve the development density, if a qualified tree professional determines they are hazardous or inappropriate for retention, or the site is located in a wildland-urban interface and removing trees is necessary to maintain defensible space requirements. If a site is lacking existing trees and trees were removed within the previous three years, all trees must be replanted at a rate of 1:1 for significant trees or 2:1 for landmark trees, unless replanting was already required previously.

Planted Trees

Each newly planted tree meeting certain size standards provides 1 tree credit, except Alders and Cottonwoods, which do not provide tree credits when planted. Plantings shall be appropriate for the climate, topography, and hydrologic characteristics of the site, in the written opinion of a qualified tree professional. Planting invasive or noxious species is prohibited. Any trees planted or retained to meet other requirements count toward the minimum tree density, although other planting requirements may not be reduced if the property exceeds the minimum tree density.

A fee in-lieu is proposed as a last resort option when an applicant demonstrates that all planting options have been considered and are infeasible. The director will verify when fees in-lieu are appropriate. Staff are developing the initial fee amount, which will be based on the cost of a new tree, installation, maintenance for three years, and fund administration.

Alternative Tree Density Option

Certain transportation or utilities projects may not be able to fully achieve the minimum tree density on site and must also comply with certain federal requirements or franchise agreements. These requirements can require removing trees above a certain height in certain areas and set limits on new planting. The alternative tree density option provides these projects with greater flexibility to achieve the minimum tree density, including through off-site planting within the City of Bellevue. The Director must

approve the project's eligibility to use this option and must also approve the alternative tree density proposal for consistency with the purpose of the LUC section. The strike draft included in the packet contains one minor change from the version recommended by the Planning Commission. Proposed LUC 20.20.900(E)(6)(b)(ii)(3) previously referenced "Best Available Science," which is a term unique to critical area regulations. The proposed LUCA is not a critical area regulation; therefore, staff proposes to replace reference to "Best Available Science" with language requiring that any "innovative mitigation plan" be acceptable to the Director and be based on science endorsed by a Qualified Tree Professional.

Development Flexibility

The recommended LUCA provides flexibility for certain development standards in certain circumstances. These are:

- Reduced parking, if the reduction will enable preserving a grove or landmark trees, and the project will exceed the minimum required minimum tree density.
- Extending five feet into the required rear yard or 50% into the required front yard when the maximum development density cannot be achieved, the modification will enable the applicant to retain additional landmark trees or a grove beyond the required minimum, or the proposal is for affordable housing and will exceed the required minimum.
- Maximum building height may be increased by up to 12 feet when the maximum development density cannot be achieved, the modification will enable the applicant to retain additional landmark trees or a grove beyond the required minimum, or the proposal is for affordable housing and will exceed the required minimum. This increase is not available for proposals of one dwelling unit per lot, or within transition areas.

Tree Protection

Applicants are required to use tree protection techniques during construction, which are to be identified in the required tree protection plan. This requirement is established in the Bellevue City Code and will be updated with the associated Bellevue City Code Amendment.

If an applicant is granted modifications to development standards to retain specific trees, the applicant is required to record a covenant prohibiting development within any portion of any tree protection zone which is avoided by the development standard modification. If an applicant had to plant new trees to achieve minimum density, a three-year maintenance assurance device may be required by the Director. Environmental planning staff recommend three years in most cases, as this is consistent with the City's guidance for critical areas and is a sufficient establishment period for most newly-planted trees. In certain circumstances, such as when larger trees are planted, a longer period of time may be necessary for the trees to become established. As a result, the recommended LUCA provides the Director flexibility to define an alternate, longer maintenance period when appropriate.

Public Engagement

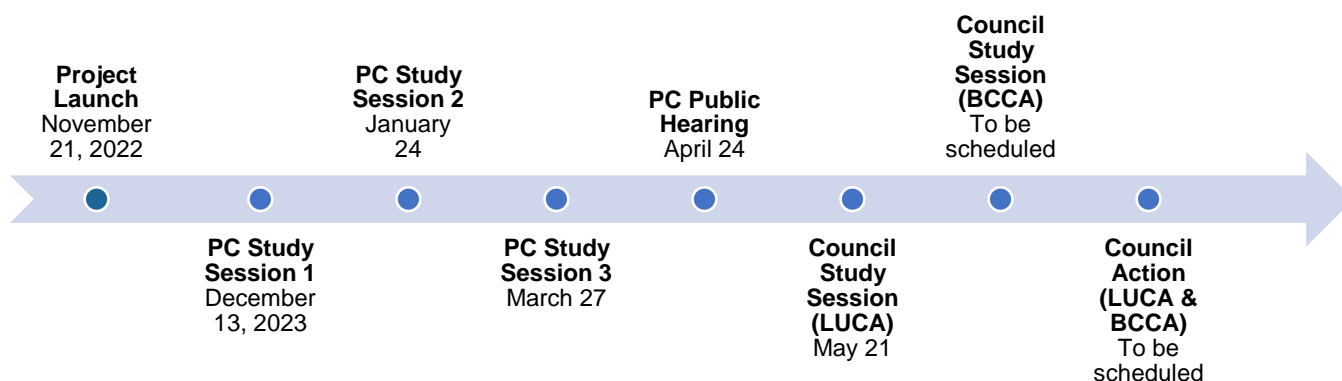
Staff followed a public engagement plan with six modes of outreach to ensure the public, stakeholders, and interested parties have had the opportunity to be informed and to provide comments. These modes have been, and will continue to be, employed for both the LUCA and BCCA, allowing members of the

public to provide comment at key intervals and for staff to respond to feedback in developing recommendations.

1. Process IV Requirements. Process consistent with Chapter 20.35 LUC procedural requirements to provide opportunities for public comment, including:
 - Notice of Application of the proposed LUCA on December 8, 2022;
 - Notice of Planning Commission public hearing and staff report on April 4; and
 - Planning Commission public hearing on April 24.
2. Public Information Sessions. At least two public information sessions will be held to provide information on the project and solicit feedback from the general public. Public information sessions were held on June 8, 2023 and January 11.
3. Listening Sessions. Focused listening sessions with representatives from community members, tree service providers, developers, environmental advocacy organizations, neighborhood associations and Bellevue departments working with tree regulations.
4. Online Questionnaire. Online questionnaire translated into multiple languages was available May 19-June 12, 2023 to gather broad perspectives on project priorities, ideas, and concerns. The questionnaire received 687 complete responses.
5. Direct Engagement and Feedback. Dialogue with environmental advocates, residents, developers, and neighbor and peer cities. Staff sent an invitation to all Bellevue neighborhood associations offering to present at their meetings on the project and answer questions, but interest to date has been limited. Staff presented proposed amendments and gathered input from the BDC on January 10. The LUCA strike-draft was shared at the March 13 BDC meeting, shared with a broader group of interested stakeholders, and posted to the project webpage.
6. Online Presence. Engaging Bellevue and City webpages to provide the public information about the project, who to direct questions to, and how to submit comments.

Review Process

The timeline identifies the LUCA and BCCA review process. Council will consider the recommended LUCA during the May 21 Study Session, with final action at a future meeting.



POLICY & FISCAL IMPACTS

Policy Impact

The recommended LUCA will advance the Environmental Stewardship Plan.

Fiscal Impact

There is no fiscal impact associated with implementing the recommended LUCA.

OPTIONS

1. Direct staff to finalize the Land Use Code Amendment Ordinance for final action at a future meeting
2. Provide alternative direction to staff.

ATTACHMENTS

- A. Planning Commission Resolution
- B. Strike-Draft of Recommended LUCA
- C. Staff Report

AVAILABLE IN COUNCIL LIBRARY

N/A