



STAFF REPORT

DATE: July 18, 2022

TO: Mayor Robinson and Members of the City Council

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SUBJECT: Public Hearing on a Land Use Code Amendment (LUCA) to remove references to the East Bellevue Community Council (EBCC) from the Land Use Code (LUC) and to adopt previously disapproved ordinances within the EBCC jurisdiction area. This LUCA responds to recently enacted state legislation sunseting the existence of the EBCC. File No. 22-112471-AD.

I. BACKGROUND

A. EBCC History and LUCA Objectives

The EBCC was originally created in 1969 by voters as a condition of annexation into the City of Bellevue. As a community council, the EBCC is a creature of state law and has authority over certain land use decisions within its boundaries. Previously, if the City Council approves an ordinance amending the LUC or the Comprehensive Plan, that approval would not be effective within the jurisdiction of the EBCC until the EBCC votes to approve the ordinance or does not take any action within 60 days. If the EBCC votes to disapprove an ordinance, that ordinance is not effective within its jurisdiction. In the LUC, the disapproval is typically reflected with a footnote after the affected sections, noting that the section is not effective within the EBCC. Also, there are instances where a provision applies only in the EBCC, which are similarly noted. The result is that different provisions apply in the EBCC and the City.

The LUCA is in response to House Bill 1769 (HB 1769), passed by the Washington State Legislature in 2022, which, in part, amended RCW 35.14.060 to establish an expiration date for the statutory authority granted to community councils, and on January 1, 2023, state law provisions relating to and authorizing community councils will be repealed. For the EBCC, this expiration occurs on July 8, 2022.

This LUCA intends to address any resulting gaps and ambiguities, and put in place equitable, consistent, and predictable set of provisions citywide. To do so, the LUCA is

proposed to extend the citywide regulations into the EBCC area by adopting previously disapproved ordinances within the EBCC jurisdiction area.

B. Proposed LUCA

The LUCA amends several chapters in the LUC to remove all references, procedures, and other provisions related to the EBCC, and adopts previously disapproved ordinances within the EBCC to achieve a more uniform requirements and standards throughout Bellevue. A strike-draft of the LUCA is provided as Attachment A.

The components of the LUCA can be divided into two categories. The first category includes the procedural amendments, which will have minimal or no impacts on properties or land uses in the EBCC. The second category includes substantive amendments, which will change certain standards and requirements for developments and land uses in the EBCC.

Procedural Amendments

- *LI District Height Limit and Bonus:* Buildings in the Light Industrial (LI) Land Use District may exceed the underlying height limitation if certain criteria are met, but this allowance is not effective within the EBCC. No impact is anticipated, as there are no LI Districts in the EBCC area.
- *Homeless Services Uses:* The procedures to establish Homeless Services Uses are not effective within the EBCC area, and instead, these uses may be permitted as Transient Lodging. This LUCA will apply the city's Homeless Services Uses procedural requirements to the EBCC.
- *Permitting Procedures:* EBCC review and approval is a procedural step for various land use actions when the project is located in the EBCC jurisdiction. EBCC members are also listed as required recipients for public notice, quarterly staff reports, and other notifications distributed by the City. This LUCA will remove the EBCC from these procedures for the following actions:
 - Conditional Use Permits
 - Preliminary and Final Plats
 - Planned Unit Developments
 - Home Occupation Permits
 - Code Enforcement Actions

Substantive Amendments

- *R-7.5 Land Use District:* The R-7.5 Land Use District is not applicable in the EBCC. This LUCA will establish the R-7.5 Land Use District in the EBCC. However, there will be no immediate effect from this LUCA on the current Land Use Districts in the EBCC; and properties in the EBCC area would have to apply to be rezoned to R-7.5, subject to procedural requirements and approval criteria.
- *Land Use Tables:* The Land Use Tables in LUC 20.10.440 contain several land uses with specific requirements either only effective or not effective within the EBCC. The LUCA will remove any EBCC-specific provisions, and make applicable all citywide requirements within the EBCC, for the following standards:
 - City Park
 - Senior Housing in the Crossroads Subarea
 - Retail floor area limits in Community Business (CB) Land Use District
- *Basement parking height bonus:* An allowed height bonus is available to any building, regardless of use, in the Professional Office (PO), Office (O), Office and Limited Business (OLB), General Commercial (GC), Neighborhood Business (NB), or Community Business (CB) Land Use Districts if basement parking occupies a minimum of 75 percent of the building footprint. This allowable height bonus is only available to Office uses in the EBCC. The LUCA will make this allowable height bonus consistent citywide.
- *Residential Minimum Parking:* A reduction to minimum required parking spaces is available for residential uses within a certain distance of frequent transit. In the EBCC, this distance is 1/4-mile, whereas the citywide distance is 1/2-mile. This LUCA will increase the radius to match the citywide 1/2-mile within the EBCC area.
- *Trailers, boats, and large vehicles (Recreational Vehicles):* The LUC contains different standards for parking and screening recreational vehicles in the EBCC versus the remainder of the City. There are also different limits for how long a recreational vehicle may be occupied as a dwelling unit (up to 30 days citywide by permit; up to one year by permit in EBCC). This LUCA will remove EBCC-specific standards and extend the citywide standards to the EBCC area.
- *Definitions:* The LUC contains duplicate definitions that are either only effective or not effective within the EBCC area. The LUCA will remove EBCC-specific definitions and establish the remaining citywide definitions within the EBCC area. The following citywide definitions will be made effective in the EBCC area:

- Camper Shell
- Offset
- Recreational Vehicle
- Utility Trailer
- Watercraft
- Yard

II. REVIEW PROCESS

The content of this LUCA was introduced and presented to the City Council on June 21, during which a finding of necessity was entered for the Council to retain authority for processing this LUCA. Following their discussion, Council directed staff to schedule a public hearing for the proposed LUCA, which will be held on July 18. Following the public hearing, the City Council may adopt the proposed LUCA.

III. STATE ENVIRONMENTAL POLICY ACT (SEPA)

The application for SEPA review was noticed together with the Notice of Application for this LUCA on June 9. The environmental review indicates no probability of significant adverse environmental impacts occurring as a result of the proposal to amend the LUC. The City's SEPA Responsible Official is issuing a Determination of Non-significance (DNS) pursuant to the threshold determination requirements in WAC 197-11-310.

IV. 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. Notice of the LUCA application was published in the Weekly Permit Bulletin on June 9, and availability of the Weekly Permit Bulletin was noticed in the Seattle Times. Notice of the Public Hearing scheduled for July 18 was published in the Weekly Permit Bulletin on June 30, along with availability of this staff report.

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 for review and comment. The required notice to the Department of Commerce, including a copy of the draft LUCA, were transmitted on June 22, 2022, and is available for review in the code amendment file. No comments have been received by Commerce as of the date of this report.

Enhance Public Engagement

In addition to the public engagement requirements of LUC 20.35.415 *et seq* for City Council Legislative Actions under Process IV, staff has provided enhanced public engagement for this LUCA to include an online presence. A webpage was launched for this LUCA to provide opportunity for the public to learn about the LUCA, with sections on public information messages regarding LUCA progression and staff contact information to submit written comments.

Public Comments

As of this writing, one public comment has been received with regards to this LUCA. The comment expressed general opposition to the sunseting of community councils by the state legislature.

V. 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 amendment 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 proposed amendments adopt previously disapproved ordinances and extend citywide LUC provisions, to achieve fairness and equity, consistency, and predictability within the EBCC jurisdictional area. Each of the ordinances at issue were implemented through the LUCA process and were evaluated then for consistency with the Comprehensive Plan. As a result, the substance of each of the provisions has previously been determined by the City Council to be consistent with the City's Comprehensive Plan. The proposed LUCA is also supported by the following Comprehensive Plan policy:

Policy ED-6. Strive to provide an efficient, streamlined, timely, predictable, and customer-focused permit processes, conducted in a manner that integrates multiple city departments into a coordinated entity, recognized the role of development in creating places for economic activity.

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

Finding: The LUCA will enhance the public health, safety and welfare by enacting LUC provisions within the EBCC area that are applicable throughout the remainder of the City. These LUC provisions were each initially adopted by the City Council as

an exercise of their authority, in furtherance of the public health, safety, and welfare, which was identified by the City Council through its legislative process. Therefore, the extension of these existing LUC provisions to additional areas of the City also serves the public health, safety, and welfare.

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

Finding: The LUCA is not contrary to the interests of citizens and property owners. The public interest is generally identified in the Comprehensive Plan and the development regulations that implement it. As described above, the proposed amendments serve to extend previously rejected ordinances into the EBCC area, each of which was subject to the LUCA process and City Council adoption at the time. Upon adoption of these regulations, a determination was made that the proposals were in furtherance of the public interest. The impact of the amendments will be to extend those same regulations to other citizens and property owners to achieve a more uniform regulatory approach throughout Bellevue. As such, the public interest is advanced through this proposal.

VI. RECOMMENDATION

Staff has concluded that the EBCC Sunset 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 the LUCA to the City Council for approval.

ATTACHMENT:

- A. Proposed EBCC Sunset LUCA Strike-Draft