



Bellevue Planning Commission

February 23, 2022

PLANNING COMMISSION RECOMMENDATION

SUBJECT

Land Use Code Amendment (LUCA) to establish regulations for Permanent Supportive Housing, Transitional Housing, Emergency Housing, and Emergency Shelter in the Land Use Code (LUC). This LUCA responds to recent amendments in RCW 35A.21.430. File No. 21-111195-AD.

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POLICY ISSUES

The proposed LUCA responds to recent amendments to RCW 35A.21.430, which require cities to allow Permanent Supportive Housing and Transitional Housing in all Land Use Districts where residential or hotel/motel uses are allowed; and indoor emergency housing and indoor emergency shelter in all Land Use Districts where hotel and motel uses are allowed.

Further, the Comprehensive Plan contains several polices that support the proposed LUCA, including:

- **Comprehensive Plan Policy LU-15:** Provide, through land use regulation, the potential for a broad range of housing choices to meet the changing needs of the community.
- **Comprehensive Plan Policy HO-38:** Support regional efforts to prevent homelessness through the provision of a range of affordable housing options, and to support efforts to move homeless persons and families to long-term financial independence.
- **Comprehensive Plan Policy HS-18:** Support an intentional local community response to homelessness with housing and supportive services provided to families, youth, and single adults.

DIRECTION NEEDED FROM THE PLANNING COMMISSION

ACTION



DIRECTION



INFORMATION ONLY



Staff request that the Planning Commission recommend approval of the proposed LUCA.

BACKGROUND/ANALYSIS

The Staff Report describing the background and review process of the LUCA, as well as demonstrating compliance with decision criteria, is included with this Memorandum as Attachment A. A strike-draft of the proposed amendments is provided as Attachment B.

The Planning Commission reviewed and discussed the content of the proposed LUCA over three study sessions, on September 8, 2021, September 22, 2021, and December 8, 2021. The Planning Commission

then held a Public Hearing on the proposed LUCA on February 9. After the Public Hearing, the Planning Commission directed staff to bring back for a recommendation the proposed LUCA, along with additional information responding to Planning Commissioner's requests.

The requested information is organized below into five (5) topic areas. The first two topics—Items 1 and 2—involve potential modifications to the LUCA and are documented in the LUCA strike-draft (Attachment B) and the Potential Modifications Table (Attachment C). Staff have analyzed all five (5) topics and where applicable, noted our recommendation.

Planning Commission Requests

1. Can the LUCA accommodate the four suggestions for modifications submitted by the Eastside Housing Roundtable, Eastside Affordable Housing Convening, and the King County Regional Homelessness Authority?

- Item 1A. Revise the definition for Supportive Housing to exactly match the definition for Supportive Housing under the Growth Management Act, Chapter 36.70A RCW (GMA).

Response: Staff recommends including in the definition people "... at imminent risk of homelessness," consistent with the GMA definition. However, staff does not recommend matching the exact definition as it is limited to Permanent Supportive Housing and does not include the other two uses staff have proposed to be defined as Supportive Housing (Transitional Housing and non-transient Emergency Housing).

- Item 1B. Revise Supportive Services definition to state, "Supportive Services may include, but are not limited to, services such as..."

Response: Staff supports this modification. This modification adds additional clarity and would not change the practical application of this definition.

- Item 1C. Remove distinction between transient and non-transient Emergency Housing.

Response: Staff does not recommend incorporating this suggestion. Commenters indicated that Emergency Housing residents are typically not given strict time limits for their length of stay, and that this differentiation would result in an unnecessary imposition of such time limits. The distinction between transient and non-transient Emergency Housing was to control for intensity of use consistent with the existing framework of the LUC. Sites with shorter lengths of stay tend to have more activity and different impacts than sites with longer and more stable lengths of stay. Removing this distinction would necessitate a policy decision on whether Emergency Housing should be classified as Supportive Housing or Homeless Services Uses and how this housing type should be regulated.

- Item 1D. Establish Emergency Housing as a permitted use, rather than a conditional use, in all districts where hotels are allowed.

Response: Staff does not recommend incorporating this suggestion. This request presents a significant shift in the regulatory scheme for Emergency Housing from the current draft LUCA. In the current draft, non-transient Emergency Housing is categorized as Supportive Housing, and thus allowed in all districts where residential uses or hotels and motels are allowed. Transient Emergency Housing is defined as a Homeless Services Use and is a conditional use in all districts where hotels/motels are allowed. The current draft is optimal to address the varying types of Emergency Housing within the existing framework of the LUC.

2. What additional measures or requirements related to safety, community engagement, and neighborhood compatibility may be considered to address concerns raised during the Public Hearing?

Response: Staff does not recommend additional requirements beyond those in the strike-draft published for the public hearing. The draft LUCA regulates Supportive Housing consistent with residential uses, and includes additional provisions for more intensive uses. However, below are potential additional requirements that can be applied to Supportive Housing, sorted by the general topic areas heard during public comment. Staff have analyzed these new provisions and found that, if added, the LUCA would still meet the decision criteria in LUC 20.35J.135.

- Public Safety and Security.
 - Item 2A: Safety and Security Plan.
Requirement for the applicant to submit a plan describing measures they will employ to promote the safety of Supportive Housing occupants and surrounding neighbors. This may promote additional transparency around the use's security policies and procedures, but it adds time and cost for Supportive Housing providers during the permitting process.
 - Item 2B: Resident Codes of Conduct.
Requirement for the applicant to submit a code of conduct that applies to all residents and staff. The intent of this requirement is to promote transparency and ensure all residents are subject to the same rules. However, this requirement may also add time and cost during the permitting process for applicants.
 - Item 2C: Standard Operating Procedures.
Requirement for the applicant to submit documentation of the Supportive Housing use's operations, policies, and procedures. The strike-draft published for the public hearing included a similar requirement to provide contact information and general details of the use's operation as part of the registration. This requirement would go beyond the previously published strike-draft and may increase costs and time for applicants during permitting.
- Community Engagement
 - Item 2D: Community meeting requirement.
The Planning Commission may consider a requirement for a community meeting prior to establishing a Supportive Housing use. This requirement was previously presented to the

Planning Commission during the first study session on this LUCA. Based on the Commission's discussion and after consulting with stakeholders, this requirement was removed from the strike-draft. The required community meeting is intended to establish a dialogue between neighbors and the operator early in the process so concerns may be raised and responded to. However, this requirement is inconsistent with previous Planning Commission direction and may add process time.

- Neighborhood Compatibility.
 - Item 2E. Minimum buffer/spacing requirements between Supportive Housing uses. This requirement has been used by other jurisdictions and is intended to prevent a concentration of Supportive Housing uses. Conversely, the requirement may limit the ability for an adequate number of Supportive Housing uses to be established. See the strike-draft (Attachment B) under LUC 20.20.845(D) for the suggested language, which currently requires a one-quarter mile separation.
 - Item 2F. Limitation on number of bedrooms used for residential occupancy. This item was previously included in the strike-draft, but after discussion with the Planning Commission and consultation with stakeholders, the limit on the number of bedrooms was removed from the draft LUCA. Providers have indicated that a limit of 5 bedrooms or less would be financially burdensome to establish new Supportive Housing uses, and that any limitation would reduce opportunities for more people to be housed. Staff have included a limitation of six bedrooms under LUC 20.20.845(D) in the strike-draft (Attachment B). This would only apply to Supportive Housing uses in single-family residential Land Use Districts.

3. What were the public outreach strategies for this LUCA?

Response: The Process IV requirements for public notice have been followed, including twelve (12) public notices between the Interim Official Control (IOC) and LUCA. As a first step in a LUCA, a Notice of Application is published to notify the public that the LUCA is being considered by the City, and invites them to provide comments early in the process. The Notice of Public Hearing notifies the public of the upcoming hearing and provides detailed information about the LUCA in the staff report and strike-draft. The public hearing provides a forum for members of the public to give comments on the proposed LUCA prior to Planning Commission's recommendation, with the benefit of the published staff report and strike-draft for their review. During the public hearing on this LUCA, seventy-six written comments were provided, and eighteen people testified before the Commission.

Beyond the Process IV requirements, staff engaged directly with Supportive and Emergency Housing/Shelter providers, representatives from the nonprofit housing community, and city staff most familiar with these housing types. Additionally, a City webpage was created for this LUCA and was continually updated with relevant LUCA information, including status, contact information, and instructions to submit comments.

4. Are the housing types included in RCW 35A.21.430 only intended for people experiencing or at risk of homelessness?

Response: The housing types addressed by this LUCA are intended for people who are currently, or at risk of, experiencing homelessness. The GMA definition for Permanent Supportive Housing (RCW 36.70A.030(19)) states, "Permanent supportive housing is paired with on-site or off-site voluntary services designed to support a person... who was experiencing homelessness or was at imminent risk of homelessness... [emphasis added]". Staff have drafted this LUCA to be consistent with the GMA.

5. What is the intent of the transient vs. non-transient Emergency Housing framework?

Response: The primary intent for this distinction was to control for intensity of use for Emergency Housing in a way that fits within the existing framework of the LUC. Residential uses in the LUC are generally divided into transient and non-transient uses. Transient uses are highly restricted, or not allowed at all, in many residential Land Use Districts. By defining transient Emergency Housing as a Homeless Services Use, which are not permitted in lower-intensity residential districts, the current draft addresses this incompatibility. However, commenters have noted that application of this draft may impose unnecessary time limits on residents in Emergency Housing, and that these operations typically allow for all durations of stay within a single facility. Staff seek specific direction from the Planning Commission on this topic prior to amending the code language.

Public Engagement

Staff is implementing three 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 of the proposed LUCA on August 19, 2021;
 - Notice of Public Hearing and staff report on January 20;
 - Notice of East Bellevue Community Council (EBCC) Courtesy Hearing on January 20 and January 25;
 - EBCC Courtesy Hearing on February 1; and
 - Public hearing on the proposed LUCA on February 9.
2. Direct Engagement and Feedback: Dialogue with supportive housing providers, representatives of the affordable housing development community, and City staff familiar with supportive housing.
3. Online Presence. City webpage to provide opportunities for the public to stay informed and to request additional information, including:
 - Staff contacts; and
 - Public information regarding LUCA progression.

Anticipated Schedule

The anticipated timeline for processing the LUCA is as follows:

- Planning Commission Study Sessions: September 8, 2021, September 22, 2021 and December 8, 2021

- EBCC Courtesy Hearing: February 1
- Planning Commission Public Hearing: February 9
- Planning Commission Recommendation: February 23
- City Council Study Session: To be scheduled
- City Council Action: To be scheduled
- EBCC Public Hearing and Approval/Disapproval: To be scheduled

ATTACHMENT(S)

- A. Staff Report
- B. Strike-Draft of Proposed LUCA
- C. Potential Modifications Table