

June 25, 2018

## **CITY COUNCIL AGENDA MEMORANDUM**

### **SUBJECT**

An Ordinance amending the Bellevue Land Use Code, Title 20 of the Bellevue City Code, by adding new section 20.20.455 providing regulations for the permitting of Homeless Services Uses; amending the Services Use Charts to identify the Land Use Districts where Homeless Services Uses may be permitted; adding new definitions to section 20.50.038 for consistency with new section 20.20.455 LUC; providing for severability; and establishing an effective date.

### **FISCAL IMPACT**

Information relayed from previous agenda memos note that fiscal impacts are generally not expected when new provisions are added to the Land Use Code when administered by Development Services (DS) staff during review of permit applications using standard notification practices. The Draft Land Use Code Amendment (LUCA) governing the permitting of Homeless Services Uses does, however, likely create new staff workload demand inside and outside of DS. The final terms of the Ordinance adopted by Council will determine the scope of staff workload to administer expanded noticing requirements and participate in the Good Neighbor Agreement (GNA) Advisory Committee. Although there would be a variety of new workload demands placed on staff if the Homeless Services Uses provisions are adopted, shelter and day center permits are expected to be limited in number.

### **STAFF CONTACTS**

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### **POLICY CONSIDERATION**

On June 11, the City Council held a public hearing on the Homeless Services Uses LUCA. For ease of reference, the Public Hearing Draft LUCA is included with this memorandum as Attachment A.

Following the public hearing on the Homeless Services Uses LUCA, Council discussed a process for suggesting amendments to the Public Hearing Draft code. The Mayor encouraged Councilmembers to work with staff to prepare suggested amendments to the Public Hearing Draft LUCA for consideration by the full Council. Draft code for Council-suggested changes completed prior to June 13 was included in the June 18 City Council Agenda Packet to allow extended time for public review. Draft code for Council-suggested changes completed after June 13, together with the draft code included in the June 18 packet, is included with this memorandum as Attachments B-E.

Final action on the Homeless Services Uses LUCA is tentatively scheduled for June 25 with reserved dates noted as July 2 and 16 if further Council discussion is necessary. During the June 25 Study Session, individual Councilmembers may request the full Council to include their suggested code language in the Ordinance by making a motion for consideration of the amendatory language. If the full Council approves the motion, then the amendment will be incorporated into the Draft Ordinance (a copy of which is attached to this memo), so that the final action will be approval of the Draft Ordinance with all modifications as approved by Council in individual amendments.

As of the date of this memorandum, staff has not received suggested amendment language to the following sections of the Public Hearing Draft LUCA: Purpose, Design Guidelines, Mitigation Measures, and Independent Technical Review. The discussion of Council-suggested amendments is expected to focus on the following topics: Good Neighbor Agreement Advisory Committee member composition, buffers and separation distances, and the permit processing paths (including code sections regarding Approval Process Required, Pre-Application Process and Determination of Permit Approval Path Required, Submittal Requirements, and City Approval Requirements for Homeless Services Uses). Other Council-suggested language clarifications have been proposed and will be discussed on June 25, but these changes represent clarifications that do not raise additional policy questions. The Council-suggested amendments are described more fully below.

### **BACKGROUND**

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 the 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 was the topic of public hearing consideration on 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).

At the June 11 public hearing, Council asked its citizens, stakeholders, and other interested parties for feedback on the following 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.

### **Council Amendments to the Public Hearing Draft LUCA**

Council has considered the remarks and emails received at its public hearing. Council-suggested code amendments to the Public Hearing Draft LUCA are arranged by topic and summarized below. Code language for the Council-suggested amendments is included with this memorandum in Attachments B – E. Final action on an Ordinance to amend the LUC and include provisions related to the permitting of Homeless Services Uses may occur as soon as June 25.

*Good Neighbor Agreement Advisory Committee Composition (Attachment B)*

Proposed by Councilmembers Lee, Zahn and Robinson, this alternative alters the Public Hearing Draft LUCA in the following manner:

1. Removes staff from the GNA Advisory Committee member composition section and places them in a support role as neutral facilitator and subject matter experts. Staff who are subject matter experts are drawn from the Parks and Community Service Department, Bellevue Police and Bellevue Fire, and identified by the relevant department Directors. (Lee)
2. Increases the GNA Advisory Committee resident composition from a maximum of five to a maximum of six. (Lee)
3. Increases at-large representation to a maximum of two. (Lee, Zahn)
4. Allows up to one K-12 school parent to represent the K-12 school student perspective and interests. (Lee)
5. Allows up to one representative of the faith-based community with subject matter expertise in the provision of sheltering services. (Robinson)
6. Decreases the surrounding business representatives from a maximum of three to a maximum of two, and adds up to one at-large business representative with a Citywide interest. (Zahn)
7. Increases the government or non-governmental organization representative from a maximum of one to a maximum of two and suggests a faith-based representative would be appropriate to fill one of these roles. (Zahn)

*Buffer Requirements from Sensitive Land Uses and Categories of Overnight Shelters (Attachment C)*

Proposed by Councilmembers Robertson and Nieuwenhuis, this alternative alters the Public Hearing Draft LUCA by creating separation requirements between Homeless Services Uses and sensitive land uses including schools (K-12) and residential land use districts (R-1 through R-30). The amendment also defines a shelter by population size in the following manner:

1. **Small Overnight Shelter:** A facility that has between 1 and 25 beds.
2. **Large Overnight Shelter:** A facility that has more than 25 beds up to a maximum of 100 beds.  
Shelters with more than 50 beds are also required to:
  - a. Locate within one mile of a public transit stop;
  - b. Locate greater than one-half mile from any other Homeless Services Use permitted under the terms of the LUC section 20.20.455, unless they are co-located as part of a single development.
3. **Separation from Sensitive Land Uses.**
  - a. Large Overnight Shelters shall not be located within 1,000 feet of any residential land use district (R-1 through R-30) or within 1,000 feet of any K-12 school.
  - b. Small Overnight Shelters shall not be located within 500 feet of any residential land use district (R-1 through R-30) or within 500 feet of any K-12 school.  
(Robertson/Nieuwenhuis)

*Permit Approval Process Amendments (Attachment D)*

Proposed by Councilmembers Chelminiak, Robinson, Robertson and Nieuwenhuis, these alternatives alter the process paths described in the Public Hearing Draft LUCA for the establishment and construction of a Homeless Services Use. The specifics of each alternative are summarized below.

1. **Conditional Use Permit and Development Agreement:** Preserves the suggested permitting path as noted within the Public Hearing Draft LUCA with the following clarifications. A Conditional Use Permit (CUP) is the default permitting process, unless the City Council agrees to negotiate a Development Agreement (DA). A pre-application meeting is only required when an applicant requests the City Council to consider negotiation of a DA. A DA is only used when the negotiated path is accepted by the Council based on objective criteria. (Chelminiak)
2. **Administrative Conditional Use Permit and Development Agreement:** Converts the permitting path from the quasi-judicial CUP to an Administrative Conditional Use Permit (ACUP) which requires the Director of Development Services to render a decision on a Homeless Services Uses permit application. An appeal of the Director's decision is available to the Bellevue Hearing Examiner, and the Hearing Examiner decision is appealable to Superior Court. The second option, DA, is provided as clarified in Alternative 1. (Chelminiak, Robinson)
3. **Hearing Examiner Conditional Use Permit and Development Agreement:** Creates a new permitting path specific to the establishment and construction of Homeless Services Uses. The CUP remains as a quasi-judicial process where the Director of Development Services makes a recommendation to the Hearing Examiner. The Hearing Examiner holds a public hearing and is required to render the final decision. An appeal of the Hearing Examiner's Decision on a Homeless Services Use permit is available to Superior Court. The second option, DA, is provided as clarified in Alternative 1. (Chelminiak)
4. **Development Agreement and Pre-Application Community Meeting Removed and Conditional Use Permit Required:** Preserves the CUP as the required permitting path as noted within the Public Hearing Draft LUCA. Removes the DA negotiated option. The Pre-Application Community Meeting is also removed, as it is not necessary to help inform the Council choice between the CUP and DA process paths. (Chelminiak)
5. **Development Agreement Removed and Conditional Use Permit with Pre-Application Community Meeting Required:** Preserves the CUP as the required permitting path as noted within the Public Hearing Draft LUCA. Removes the DA negotiated option. The Pre-Application Community Meeting is retained as an enhanced community engagement opportunity. (Robertson, Nieuwenhuis)

*Additional Amendment Language (Attachment E)*

Proposed by Councilmembers Zahn, Robertson, Nieuwenhuis, and Robinson, these alternatives each provide minor clarifications to the Public Hearing Draft LUCA in the following manner:

1. **Applicability Definition:** This amendment alters the Public Hearing Draft LUCA by providing clarifying language related to the definition of "Family" contained in LUC 20.50.020. (Zahn)
2. **Pre-Application Process:** This amendment alters the Public Hearing Draft LUCA mailing requirement for the pre-application community meeting to include the physical addresses within the mailing radius so that tenants are notified when a property is not occupied by the owner. (Robertson, Nieuwenhuis)
3. **Clarification regarding Collection of Personal Identification:** This amendment clarifies language in the Standard Operating Procedures plan required to encourage the collection of personal identification. (Robinson)

4. **Community Service Model for Homeless Services Uses:** This amendment moves the requirements for development of a Community Services Model from the GNA Advisory Committee to the Standard Operating Procedures. (Robinson)
5. **Law enforcement Coordination:** This amendment alters the suggested Public Hearing Draft LUCA by requiring coordination and communication between operators, Bellevue Police and other local and state law enforcement agencies. (Robinson)
6. **Law enforcement Coordination:** This amendment alters the suggested Public Hearing Draft LUCA by requiring coordination and communication between operators, Bellevue Police and other local and state law enforcement agencies for the purposes of administering sex offender notification and residency restrictions. (Robertson, Nieuwenhuis)
7. **Safety and Security Plan Modification:** This amendment alters the Public Hearing Draft LUCA by providing clarifying language regarding sex offender background checks. (Zahn)
8. **Special and Overlay District Requirements:** This amendment alters the Public Hearing Draft LUCA by providing clarifying language that provides examples of relevant Special/Overlay District Requirements. (Zahn)
9. **Mobile Safe Injection Sites Prohibited:** This amendment alters the suggested Public Hearing Draft LUCA by prohibiting mobile safe injection sites. (Robertson, Nieuwenhuis)
10. **Pre-Application Process Clarification.** This amendment alters the suggested Public Hearing Draft LUCA by requiring a shelter Operator to describe their experience operating a shelter for the specific population that they are proposing to serve. (Zahn)
11. **Code of Conduct Requirements.** This amendment alters the suggested Public Hearing Draft LUCA by streamlining the Code of Conduct provisions to require compliance with Bellevue City Code and the terms of the Good Neighbor Agreement. (Zahn)

#### **EFFECTIVE DATE**

If approved, this Ordinance becomes effective on July 6, 2018.

#### **OPTIONS**

1. Adopt the Ordinance amending the Bellevue Land Use Code, Title 20 of the Bellevue City Code, by adding new section 20.20.455 providing regulations for the permitting of Homeless Services Uses; amending the Services Use Charts to identify the Land Use Districts where Homeless Services Uses may be permitted; adding new definitions to section 20.50.038 for consistency with new section 20.20.455 LUC; providing for severability; and establishing an effective date.
2. Do not adopt the Ordinance and provide alternative direction to staff.

#### **RECOMMENDATION**

Option 1

**MOTION**

Adopt Ordinance No. 6419 amending the Bellevue Land Use Code, Title 20 of the Bellevue City Code, by adding new section 20.20.455 providing regulations for the permitting of Homeless Services Uses; amending the Services Use Charts to identify the Land Use Districts where Homeless Services Uses may be permitted; adding new definitions to section 20.50.038 for consistency with new section 20.20.455 LUC; providing for severability; and establishing an effective date.

**ATTACHMENTS**

- A. Public Hearing Draft LUCA
  - B. GNA Advisory Committee Member Composition
  - C. Buffers and Separation Distances
  - D. Permitting Approval Process Amendments
  - E. Additional Amendment Language - Clarifications
- Proposed Ordinance No. 6419

**AVAILABLE IN COUNCIL DOCUMENT LIBRARY**

Compilation of comment letters received on the Homeless Service Uses LUCA