

CITY COUNCIL REGULAR SESSION

Public hearing on a proposed Land Use Code Amendment (LUCA) to conform provisions within the Shoreline Master Program (SMP), chapter 20.25E of the Land Use Code (LUC), to remove references to the East Bellevue Community Council (EBCC), and to remove City Council appeal authority for Process I land use decisions. This LUCA conforms the SMP and LUC with Ordinance Nos. 6670 and 6673.

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Development Services

EXECUTIVE SUMMARY

At the January 9 Study Session, staff presented the proposed LUCA to Council, after which Council entered a finding of necessity to retain processing of the LUCA. Staff also noted that tonight's public hearing had been scheduled and noticed pursuant to the requirements of the Shoreline Management Act, Chapter 90.58 RCW, and in coordination with the Department of Ecology.

RECOMMENDATION

Hold the public hearing on the proposed SMP Conformance LUCA and, following the public hearing, direct staff to prepare the LUCA Conformance Ordinance for final adoption at a future meeting.

BACKGROUND/ANALYSIS

Background

This proposed LUCA is in response to two Ordinances adopted by Council in 2022. The staff report detailing the background and components of the proposed LUCA, as well as its relationship to the LUCA decision criteria in LUC 20.30J.135, can be found as Attachment A. The strike-draft of the proposed LUCA is provided as Attachment B, and the draft Ordinance is provided as Attachment C.

On July 18, 2022, Council adopted Ordinance No. 6670 (Attachment D), which removed references to the EBCC from the LUC following the Washington State Legislature's amendments to Chapter 35.14 RCW dissolving the remaining community councils in the state. On August 1, 2022, Council adopted Ordinance No. 6673 (Attachment E), amending LUC procedures for Process I and III decisions by removing the City Council's authority for hearing quasi-judicial appeals to Hearing Examiner decisions and recommendations. Amendments to sections of the LUC that are part of the City's SMP were not advanced this past summer because those sections require State Department of Ecology (Ecology) review and involvement. As proposed, this LUCA conforms the City's SMP (Chapter 20.25E LUC) to both Ordinances.

Council was introduced to the SMP Conformance LUCA during a study session on January 9. Following discussion, Council directed staff to schedule the public hearing. After the hearing, the City will submit the proposed LUCA materials and any public comments received to Ecology for an Initial Determination of Consistency with the Shoreline Management Act. The LUCA may be adopted by

Council following Ecology's initial determination.

Proposed LUCA Components

The City's SMP contains several references to the former EBCC. These references include a requirement to send all members of the EBCC a copy of any shoreline-related legal notice, as well as an outdated reference to EBCC final decision-making authority. As the EBCC is no longer in existence, these references should be removed from the SMP, consistent with Ordinance No. 6670.

Further, land use actions within the City's shoreline overlay are regulated by chapter 20.25E LUC. The Chapter provides for three categories of shoreline-related actions, Process I – III, with Process I decisions made by the Hearing Examiner and appealable to the City Council. Consistent with Ordinance No. 6673, the proposed LUCA will remove the appeal pathway through the City Council and instead direct appeals to the Washington State Shoreline Hearings Board. No changes are proposed to the review or appeal procedures for Shoreline Process II and III actions. Finally, outdated references to the former City Council appeal process erroneously remain in LUC 20.35.140 and LUC 20.35.355.H, and as such, these erroneous references are proposed for removal under this LUCA.

Process and Engagement

Department of Ecology Review Process

A separate amendment process is required for the SMP per the Shoreline Management Act, Chapter 90.58 RCW, and Ecology procedures for SMP review and approval under Chapter 173-26 WAC. Because of the additional review required by Ecology, Ordinances Nos. 6670 and 6673 did not include amendments to the SMP in order to efficiently process those LUCAs. An overview and proposed schedule of the SMP amendment process can be found in the staff report.

Public Engagement

Notice of this LUCA was consistent with Chapter 20.35 LUC procedural requirements to provide opportunities for public comment. Notice of application for this LUCA was published in the Weekly Permit Bulletin on December 8, 2022. Staff also created a project webpage for this LUCA, which launched on December 12, 2022. Finally, a Notice of Public Hearing with a minimum 30-day comment period was published on December 22, 2022. Each notice was coordinated with Ecology, as they also issue notices for local SMP amendments. A description of the public engagement strategies employed for the project can be found in the staff report.

POLICY & FISCAL IMPACTS

Policy Impact

This proposed LUCA conforms the City's SMP with other amendments recently adopted by Council. Further, the LUCA is supported by the following Comprehensive Plan policies encouraging efficient and predictable project review:

- **Comprehensive Plan Policy CE-5:** Develop and maintain Land Use Code provisions that define the process and standards relevant to each stage of land use decision making, and educate the public about these processes and standards to promote meaningful citizen engagement.

- **Comprehensive Plan 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, recognizing the role of development in creating places for economic activity.

Fiscal Impact

There is no fiscal impact associated with this LUCA.

OPTIONS

1. Hold the public hearing on the proposed SMP Conformance LUCA and, following the public hearing, direct staff to prepare the LUCA Conformance Ordinance for final adoption at a future meeting.
2. Hold the public hearing and, following the public hearing, provide alternative direction to staff.

ATTACHMENTS

- A. Staff Report
- B. Strike-Draft
- C. Draft Ordinance
- D. Ordinance No. 6670
- E. Ordinance No. 6673

AVAILABLE IN COUNCIL LIBRARY

N/A