



Bellevue Planning Commission

January 24, 2024

PLANNING COMMISSION STUDY SESSION ITEM

SUBJECT

Study Session on a Land Use Code Amendment (LUCA) to support tree preservation, retention, replacement, and protection.

STAFF CONTACT(S)

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POLICY ISSUES

The initiated LUCA and BCCA advance Environmental Stewardship Plan (ESP) Action N.1.1. calling for a comprehensive review of code provisions related to trees to further support the achievement of the city's 40 percent tree canopy goal. Specific topics to be addressed include tree preservation, retention, replacement, and protection during construction.

DIRECTION NEEDED FROM THE PLANNING COMMISSION

ACTION

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DIRECTION

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INFORMATION ONLY

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Staff will be presenting the components of the proposed LUCA in several study sessions. After the study sessions, the Planning Commission will be asked to hold a public hearing on and recommend approval of the proposed LUCA.

	Topic Areas
<input checked="" type="checkbox"/>	<u>Study Session 1 (December 13): Overview</u> <ul style="list-style-type: none">Summary of major changes
<input checked="" type="checkbox"/>	<u>Study Session 2 (January 24): LUCA Review 1</u> <ul style="list-style-type: none">Additional Information Requested by CommissionersTree Credit System Calibration: Incentives, Flexibility and RequirementsLUCA Structure, Purpose and ApplicabilitySection-Specific DefinitionsCleanup Amendments
<input type="checkbox"/>	<u>Study Session 2 (February 28): LUCA Review 2</u>
<input type="checkbox"/>	<u>Public Hearing (To Be Scheduled):</u> <ul style="list-style-type: none">Required Public HearingPlanning Commission Recommendation

BACKGROUND/ANALYSIS

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.

Previous Planning Commission Requests

The Planning Commission requested additional information on several topics during the December 13 Study Session. This information is summarized by topic below.

Bellevue’s Tree Canopy

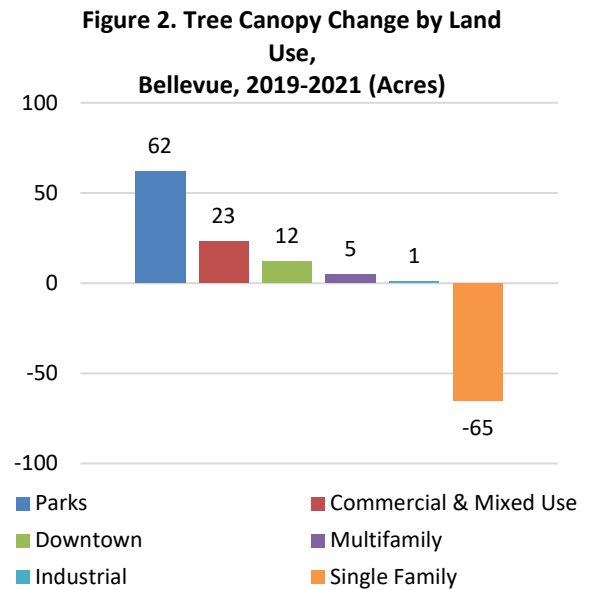
The Planning Commission requested additional information on Bellevue’s tree canopy, and how it compares to other cities in the region. The City has completed periodic tree canopy analyses in the past, and committed in 2021 to updating the data every two years. The 2023 analysis, which is based on 2021 imagery, identified both positive trends and opportunities for improvement. Most significantly, the City gained 450 acres of tree canopy from 2011 to 2021, and achieved 40% tree canopy. Bellevue’s overall tree canopy is high compared to many northwest cities, as shown in **Figure 1**. As a result, this code amendment is focused on preventing future net loss of canopy and protecting the health of our urban forest rather than significantly increasing overall canopy.

Figure 1. Tree Canopy by Land Use, Bellevue and Regional Cities

	Parks	Downtown	Single Family	Multifamily	Commercial/ Mixed Use	Industrial	Total
Bellingham ('18)	89%	14%	41% (All Residential)		18%	40%	42%
Bellevue ('21)	75%	11%	39%	33%	22%	28%	40%
Redmond ('17)	-	-	-	-	-	-	38%
Kirkland ('17)	70%	-	37%	31%	17% (General) 31% (Mixed Use)	25%	38%
Burien ('17)	-	-	-	-	-	-	30%
Portland ('20)	54%	33% (All Residential)			13%	9%	30%
Seattle ('21)	30% (Dev.) 82% (Natural)	5%	34%	23%	12%	4%	28%
Tacoma ('17)	56%	7%	15%	14%	7% (General) 10% (Neighborhood)	6% (Light) 4% (Heavy)	20%
Spokane ('20)	-	-	-	-	-	-	20%

While the overall canopy trend is positive, there is room for improvement in the equitable distribution of tree canopy across neighborhoods. From 2019 to 2021, Bellevue's single family residential neighborhoods lost 65 acres of tree canopy. This is a reversal from prior years. Proposed amendments to the City's tree retention system are intended to provide the authority to require adding trees for sites with very low canopy cover, and provide for more flexibility for sites with more expansive canopy cover.

No changes are proposed to Downtown code tree requirements applicable to development, including Green and Sustainability Requirements, as canopy trends since the 2017 Downtown Livability updates have been strong. The 12 acres of canopy added to Downtown from 2019-2021 added 3% total canopy cover to the neighborhood. This was the single largest percentage canopy increase for any Bellevue neighborhood during the period. While Downtown is exempt from applicable tree retention standards, tree removal outside development Downtown would still be subject to any updated permitting and replanting requirements.



Permitting Costs

The Planning Commission requested additional information on Bellevue's tree removal permitting costs, and how these compare to other cities. In Bellevue, tree removal with development is reviewed as part of the associated permit, approval, or review, not as a separate decision. Applicants are generally charged based on the hours of staff review, and individual planning staff reviewing tree retention will also review other components of the application. As a result, it is not currently possible to separate the specific cost for tree retention review. Costs and timelines will vary depending on the complexity of the project. Adding inspection requirements and other staff time-intensive requirements would increase project cost by adding staff hours.

Cost information can be provided for tree removal outside of development, as there is a specific permit process for tree removal outside of development. As shown in **Figure 3**, the total cost to remove up to 2 landmark or significant trees in Bridle Trails, or any number of trees above the permit threshold elsewhere in the City, is \$380. The total cost to remove more than 3 landmark or significant trees in Bridle Trails is \$734.

Figure 3. 2024 Bellevue Fee Schedule, Tree Removal Permits

	Operations Fee	Land Use Review	Inspection	Total Cost
Removing 2 or less trees in Bridle Trails	\$50	\$190	\$140	\$380
Removing 3 or more trees in Bridle Trails	\$50	\$544	\$140	\$734
Removing trees elsewhere	\$50	\$190	\$170	\$380

The increased cost for removing 3 or more trees in Bridle Trails is driven by increased land use review required by Bridle Trails' specific tree removal requirements. When removing more than two significant trees within any three-year period in Bridle Trails, the following Bridle Trails tree retention standards, normally only applicable during development, are triggered:

- Retaining all significant trees within 20 feet of the property line which do not constitute a safety hazard; and
- Retaining 25% of the total diameter inches of significant trees in the interior of the property.

Tree removal permitting costs in several regional cities are provided below:

- **Burien.** The total charge depends on the review time required. Minor tree removal permits cost \$272, plus \$103 per hour for review beyond the standard process. Major tree removal permits and tree retention plans are billed at \$118 per hour with a 5 hour minimum, for a minimum cost of \$565.
- **Issaquah.** Flat \$331 fee for tree removal permits, double in critical areas.
- **Kirkland.** Property owners may remove up to 2-4 significant trees per year, but must submit a free Tree Removal Notification form. The cost to remove more healthy trees or to top any trees is \$579. The cost to remove a landmark tree is \$595, and replanting requirements apply.
- **Redmond.** No fee for tree removal permits on developed single family lots, however each significant tree must be replaced at a cost of \$500/tree, and each landmark tree at a cost of \$2,000/tree. These funds are used for City tree planting efforts. For properties other than developed single family cost, tree removal permits cost \$119.
- **Sammamish.** Flat \$132 fee for tree removal permits.
- **Seattle.** The total charge depends on the review time required. Generally, tree removal permitting as charged at \$439 per hour. Emergency tree removal permitting is charged at half that rate, and there is no permit charge to remove an invasive tree.

Current Enforcement Approach and Potential Options for Updates

The Planning Commission requested additional information on Bellevue's current approach to enforcing tree regulations, and potential options for updates to provide meaningful deterrents. The City of Bellevue currently regulates code violations for tree related issues through Chapter 1.18 BCC and monetary penalties for violations are imposed under BCC 1.18.045. Any revisions to the BCC are not reviewed by the Planning Commission, though options under consideration are discussed here to clarify their omission from the LUCA under review.

For tree-related code violations, the current code requires that the City first seek voluntary compliance with the requirements of the code. If that is not possible, the City may then issue a notice of civil violation. Where a notice of civil violation is issued, a hearing before the Hearing Examiner is automatically scheduled. Following the hearing, the Hearing Examiner issues a decision as to whether a violation occurred, what corrective action is required, and what monetary penalties shall be imposed.

In a review of other jurisdictions, Bellevue's process is similar to its neighbors. In practice, the City rarely pursues monetary penalties beyond imposing double permit fees. In many cases, there is a lack of evidence to confirm that a violation has taken place and support moving forward with a hearing.

Proposed changes to permitting and tree retention may help address this ambiguity and provide better documentation to support more consistent enforcement. Staff are evaluating and seeking input on a number of potential additional enforcement mechanisms which could be introduced with the BCCA, including:

- Establishing inspection requirements to verify tree retention compliance before and after construction.
- Establishing higher penalties for repeat violators.
- Establishing registry for tree service providers, and only issuing permits for tree removal activity to registered contractors. Repeat violators would be barred from working on trees in Bellevue.
- Requiring signage during tree removal activity referencing permit number to confirm the activity has been approved.
- Maintenance agreements requiring the applicant to adhere to the approved tree retention plans.

Limitations of Minimum Tree Credit System

The Planning Commission requested information on any potential limitations to the minimum tree credit system. First, substantial up-front analysis is required to determine minimum tree credits across all development types, and to calibrate any incentives within this system. This analysis includes testing potential tree credit values for typical Bellevue development projects. Once credits are established, however, future project review and calculation of requirements for individual projects will be simpler compared to a minimum tree canopy approach. A follow-up LUCA may be required at some point in the future to refine established tree credits after adoption, though there is always the potential need for adjustments whenever the code is updated in a significant way.

Second, while tree credits are now used in several regional jurisdictions, many applicants are still likely to be unfamiliar with this approach. It will be important to ensure that the City provides appropriate educational materials for applicants, and provides sufficient training for staff reviewing projects under the new system. Staff are developing an implementation plan to ensure this information is available to applicants as soon as possible after action.

Finally, there is no one way to establish a minimum tree credit system, rather there are options along a continuum. The city has wide latitude in determining how to combine requirements and incentives, although this exists with any tree retention approach. On one extreme, a jurisdiction could simply establish minimum tree credit levels, and allow developments total flexibility to determine how those credits are achieved between tree retention, tree planting, and in-lieu fees. This maximizes development flexibility, but comes at the expense of certainty for preserving large trees. On the other extreme, a jurisdiction could establish very strict retention and replanting requirements which may apply even above the minimum tree credit level. This would maximize certainty for tree preservation, but come at the expense of development flexibility. City staff recommend a mixture of requirements and incentives for a potential Bellevue tree credit system, but it is important to clarify what that balance should be at the outset.

Calibrating Tree Credit System: Incentives, Flexibility, and Requirements

To calibrate Bellevue's approach to tree credits, previous suggestions from the Planning Commission and City Council for potential incentives, areas to accommodate flexibility, and potential required elements are summarized below. Staff will review this list for discussion during the meeting to identify

any gaps, items which Planning Commissioners recommend removing, or which require further review. Commissioners may also consider whether an item should be moved to a different category.

In previous Planning Commission and City Council study sessions, commissioners and councilmembers have suggested **incentives** to encourage:

- Retaining landmark trees
- Retaining and planting native species, particularly when replacing less desirable species like alders and cottonwoods
- Exceeding minimum tree retention requirements, particularly in neighborhoods with low tree canopy
- Affordable housing developments, and for homeowners adding DADUs in the future

Commissioners and councilmembers have previously suggested accommodating **flexibility** in the approach for:

- Supporting the right tree in the right place, generally, including flexibility for removing trees planted in areas where they are more likely to die or become nuisances, and for removing invasive species
- Scaling required tree credits with development intensity, with the highest requirements for single family development
- Increased building height to better accommodate retained trees
- Avoiding excessive expense for individual property owners removing trees outside the development process
- Accommodating neighborhoods with established private covenants to maintain views
- Ensuring genuinely hazardous trees can be removed without excessive expense

Commissioners and councilmembers have previously suggested support for updating **requirements**, including:

- Establishing permanent standards for landmark trees
- Reducing the significant tree definition to a six inch diameter, expanding the universe of regulated trees
- Continuing to discount less desirable trees, such as alders and cottonwoods, from tree retention eligibility
- Expanding tree replacement requirements, including street trees
- Preventing lot clearing before development, including adding the ability to look back several years at tree removal before a tree retention review
- Enforcement measures to address deliberately harming trees to get around requirements
- Requiring inspection of tree retention adherence before and after development
- Requiring a sign or other visual indication during tree removal activity that the activity is permitted
- Requiring some form of marker to identify trees to be retained during construction
- Keeping requirements as simple as possible

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 Credit 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. This updated structure is provided in **Attachment A**. In the new structure, sections specific to Bridle Trails have been removed. Instead, retention standards will be tailored to the type of development, such as large-lot single family development typically seen in Bridle Trails. The intent is to provide a comparable level of tree protection under the updated approach, without regulating one neighborhood in a fundamentally different manner than other neighborhoods when the type of development is otherwise similar.

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 LUCA will identify additional exemptions and exceptions only applicable to certain subsections, such as tree retention, in those subsections.

Section-Specific Definitions

The LUCA includes several new definitions specific to LUC 20.20.900:

1. Development Activity: Used to establish the types of activity which will trigger the section's requirements
2. Invasive or Noxious Species: Used to identify species which may not be planted, and which are not eligible for retention credit
3. Tree Canopy Site Area: Used to calculate the minimum tree credits required for the site, and the location where any required new trees may be planted

The Tree Canopy Site Area does not include critical areas and their buffers or shoreline vegetation conservation areas as there are separate regulations for trees in these areas established in their respective LUC chapters. Public rights-of-way, private roads, and submerged lands are already removed from the site area for the purposes of calculating minimum lot area. In addition, 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.

Required tree credits would be calculated per 1,000 square feet of Tree Canopy Site Area, by land use. The required tree credit rate by land use will be presented at a future meeting.

Cleanup Amendments

Staff have identified several definitions currently established in Chapter 20.50 LUC which are not used elsewhere in the code, except to be referenced as not applicable elsewhere. Staff also recommend adding clarifying language to the existing definition for District referencing LUC 20.10.020, which establishes Bellevue's Land Use Districts.

Public Engagement Methods

Staff has developed a public engagement plan with six modes of outreach to ensure the public, stakeholders, and interested parties have the opportunity to be informed and to provide comments. These modes will be employed across both phases of work, allowing members of the public to provide

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

- **Process IV Requirements.** Consistent with Chapter 20.35 LUC procedural requirements, public input will be solicited by a notice of application, notice of public hearing and the required public hearing.
- **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 and January 11.
- **Listening Sessions.** Focused listening sessions with representatives from community members, tree service providers, developers, environmental advocacy organizations, and Bellevue departments working with tree regulations.
- **Online Questionnaire.** Online questionnaire translated into multiple languages was available May 19-June 12 to gather broad perspectives on project priorities, ideas, and concerns. The questionnaire received 687 complete responses.
- **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.
- **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.

Anticipated Schedule

The anticipated timeline for processing the LUCA is as follows:

- Planning Commission Study Sessions: December 13, January 24, and February 28
- Planning Commission Public Hearing and Recommendation: to be scheduled
- City Council Study Session: to be scheduled
- City Council Action: to be scheduled

ATTACHMENT(S)

- A. Strike-Draft of Proposed LUCA