



Bellevue Planning Commission

October 9, 2024

PLANNING COMMISSION DISCUSSION ITEM

SUBJECT

Study Session on the Middle Housing Land Use Code Amendment (LUCA) and Bellevue City Code Amendment (BCCA) to implement House Bills (HB) 1110 and HB 1337.

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POLICY ISSUES

In 2023, the Washington State Legislature adopted House Bills (HB) 1110 and HB 1337, amending the Growth Management Act, Chapter 36.70A RCW (GMA), requiring many cities to amend their codes to permit additional densities and housing typologies in predominantly residential land use districts, along with several other associated requirements to help encourage the development of those housing types. City Council previously initiated work on the middle housing code updates as a part of the “Next Right Work” program in January 2023. Bellevue is now required to adopt necessary amendments to comply with these new GMA requirements by June 30, 2025.

The Comprehensive Plan Periodic Update process provided the first step in implementing these new GMA requirements, including amendments to the Land Use Map and policies. This Plan is scheduled for adoption by Council in October. Draft Comprehensive Plan policies that support the development of middle housing in the city, include:

- **Housing Element Policy HO-17:** Allow attached and detached accessory dwelling units in residential and mixed-use areas with the ability to be rented or sold individually.
- **Housing Element Policy HO-19:** Ensure that policies and regulations allow for middle scale housing, such as duplexes, triplexes, fourplexes, townhomes, small apartment buildings, cottage housing, and courtyard apartments.

This project will include changes to both the Bellevue City Code (BCC) and Land Use Code (LUC), and will apply citywide to all areas of the city zoned predominantly for residential use. The goal of HB 1110 and HB 1337, as passed by the state, is to encourage the development of housing types and densities that are not prevalent in most cities in the region due to zoning restrictions.

DIRECTION NEEDED FROM THE PLANNING COMMISSION

ACTION

DIRECTION

INFORMATION ONLY

The goal of this study session is to introduce the Planning Commission to HB 1110 and HB 1337 and associated proposed scope for the BCCA and LUCA. Staff requests input from the Planning Commission on the approach to the BCCA and LUCA to inform outreach and code drafting.

BACKGROUND/ANALYSIS

Bill Overview

HB 1110

Generally, HB 1110 requires cities of a certain size to permit housing typologies and densities that allow for more units than single-family homes but fewer than a typical large apartment building. The requirements are tiered depending on the population size of each jurisdiction, with the City of Bellevue fitting into the largest population category, Tier 1. As a Tier 1 city, Bellevue is required to permit at a minimum four units per lot citywide in all areas zoned predominantly for residential use. This minimum increases to six units per lot when a property is located within a one-quarter mile walking distance of a major transit stop. Major transit stops are defined by the state to include commuter rail stops, stops on rail or fixed guideway systems, and stops on bus rapid transit routes, including those under construction. The minimum number of units may also increase to six if at least two affordable units are provided.

Additional requirements to be addressed from HB 1110 include:

- Must allow at a minimum six of the following nine types of middle housing on all residential lots: duplex, triplex, fourplex, fiveplex, sixplex, townhouses, stacked flats, courtyard apartments, and cottage housing
- Must allow unit lot subdivisions where the number of lots created is equal to the minimum density required
- Shall not impose requirements on middle housing that are more restrictive than those required for detached single-family residences
- Shall apply the same development permit process that is applied to detached single-family residences
- Shall apply the same environmental review process that is applied to detached single-family residences
- Shall not require off-street parking as a condition of permitting development of middle housing within one-half mile walking distance of a major transit stop
- Shall not require more than one off-street parking spaces per unit for middle housing development on lots up to 6,000 square feet in size before any subdivision
- Shall not require more than two off-street parking spaces per unit for middle housing development on lots greater than 6,000 square feet before any subdivision
- Cities are not required to permit the minimum density per lot on lots smaller than 1,000 square feet after subdivision

HB 1337

This bill was passed in the same legislative year as HB 1110 and implements several requirements associated with Accessory Dwelling Units (ADUs), both Attached Accessory Dwelling Units (AADUs) and Detached Accessory Dwelling Units (DADUs). On July 17, 2023 the City Council adopted [Ordinance No. 6746](#), which included many changes to the City's AADU requirements to address the HB 1337 mandates. Requirements from the bill that will still need to be addressed in this code update include:

- Must permit the development of DADUs
- Must permit two ADUs in any configuration in addition to the principal unit, whether attached, detached, or a combination

- Shall define a principal unit as the single-family housing unit, duplex, triplex, townhomes, or other housing unit located on the same lot as an accessory dwelling unit.
- Cannot assess impact fees on the construction of ADUs that are greater than 50% of the impact fees that would be imposed on the principal unit
- Cannot require that the owner of a lot to reside in the DADU or another housing unit on the same lot.
- Must allow a DADU on any lot that meets the minimum lot size required for the principal unit
- Cannot establish a maximum gross floor area for a DADU that is less than 1,000 square feet
- Cannot establish building height limits less than 24 feet unless the principal unit is less than 24 feet. Should the principal unit have a roof height less than 24 feet, the maximum allowable height of the DADU shall be no less than the principal unit
- Cannot impose setback requirements, coverage limits, tree retention standards, or any structure design or aesthetic requirements that are more restrictive than those for the principal unit
- Must allow DADUs to be sited at the lot line if the lot line abuts a public alley, unless the city routinely plows snow on the public alley
- Must allow DADUs to be converted from existing structures, even if they do not conform to current code requirements for setbacks or lot coverage
- Cannot prohibit the sale or condominiumization of a DADU
- Cannot require public street improvements as a condition of permitting an ADU
- Cannot require off-street parking for a DADU proposed within one-half mile walking distance of a major transit stop
- Cannot require more than one off-street parking space per DADUs on lots smaller than 6,000 square feet before any subdivision
- Cannot require more than two off-street parking spaces per DADU on lots greater than 6,000 square feet before any subdivision

City Council Initiation

As noted earlier, this middle housing code update was initiated by City Council as a part of the Next Right Work program on January 17, 2023, prior to the adoption of HB 1110. Direction from Council includes encouraging middle scale housing development in general and allowing for ownership options, as well as developing a preapproved DADU design program.

Baseline Required Components the Proposed LUCA Needs to Address

Where the BCC and LUC Already Comply

HB 1110 and 1337 contain a few requirements that the city's code already complies with. These include the following:

- Permitting AADUs
- Permitting unit lot subdivisions
- No codified restrictions on condominiumization
- Parking reductions for multi-family, senior housing, and affordable housing near frequent transit service.
- Parking reductions for AADUs, and parking exemptions for AADUs near frequent transit service
- No citywide design standards for multifamily housing, and only administrative design review where standards exist
- SEPA categorical exemptions for smaller projects:

- 30 or less single-family residential dwelling units
- 200 or less multi-family residential dwelling units

Additional requirements of the two bills that we are required to include as part of the update are detailed below.

Units per Lot

As a Tier 1 city, Bellevue is required to permit up to four units per lot citywide for any lots zoned predominantly for residential, which includes all R-land use districts. Further, if a subject lot is located within one-quarter mile of a major transit stop or provides at least two affordable units, it may be developed with up to six units per lot. The LUC currently regulates density in residential land use districts based on dwelling units per acre (DU/AC) as well as through regulating minimum lot sizes. At a minimum, for land use districts that are currently categorized as single-family (R-1 through R-7.5), regulating density through DU/AC will need to change as HB 1110 regulates density via units per lot rather than units per acre. For multifamily land use districts (R-10 through R-30), there may be situations depending on lot size where the minimum allowance through HB 1110 supersedes the underlying DU/AC and vice versa. To avoid reducing the development capacity of those multifamily areas below the current standard, the code will need to include language that allows the larger of the two calculations to apply, i.e. does units per lot or units per acre yield more units.

Minimum Lot Size

As noted in the prior section, there are situations in the multifamily land use districts where imposing density through both minimum lot size and DU/AC could conflict with the minimum density requirements of HB 1110. For example, the minimum lot size in the R-10 land use district is 8,500 square feet, which would yield only one unit at the density limit of 10 DU/AC. However, HB 1110 would require that lot be permitted up to 4 or 6 units, depending on proximity to transit and the inclusion of affordable units. Further, HB 1110 requires the city to permit unit lot subdivisions that yield the same number of lots as permitted units. Therefore, we will need to assess the current unit lot subdivision requirements to ensure they are consistent with state law and do not create barriers to allowing separate ownership of middle housing units through a unit lot subdivision.

There are a few options to explore around this topic to help simplify the code and remain consistent with HB 1110:

- Removing minimum lot sizes in multifamily land use districts
- Significantly reducing minimum lot sizes in multifamily land use districts
- Exempting middle housing developments from minimum lot size requirements in all land use districts

Parking

There are a few considerations regarding the minimum off-street parking standards that will be important in developing the LUC for this project. The code will need to comply with the parking standards adopted in both HB 1110 and 1337, which in some cases are less than what is currently required.

There are also requirements associated with parking that are driven by the building code, which categorizes residential occupancy types in a way that does not cleanly comport with HB 1110. The issue

may arise where a middle housing project may be required by building code to provide certain facilities, such as Electric Vehicle (EV) readiness facilities that wouldn't otherwise be required for a single-family project, which appears to conflict with HB 1110. Some small reductions to the minimum parking requirements would resolve this issue, so long as the required parking for a building does not exceed nine spaces. This is an important consideration because the city cannot change the building code standards that are directed by the state when the change results in something less than what the state code requires. As the Department of Commerce (DOC) has thus far not provided guidance on how to resolve these conflicts between the state building codes residential occupancy type definitions and the requirement of HB 1110 to treat middle housing projects the same as single-family housing types, adjusting our parking calculations to fit within the existing building code provides a simple path for the city to ensure we are not adding regulatory burden to middle housing that is prohibited by HB 1110.

Permitting

The implementation component of this project is going to be vital to the success of the code and staff has begun discussions with the Business Services team in Development Services to determine what system and permitting changes might be needed. These may include, but are not limited to, a new or revised permit type specific to middle housing projects, reviewing and potentially revising the fees associated with permitting middle housing, working with different review divisions to understand how to categorize middle housing within their subject area to ensure consistency between middle housing and single-family projects, and robust training with review staff during and after code development to ensure the code is understandable to apply.

State Environmental Policy Act (SEPA) Review

Staff will implement changes to the Environmental Procedures Code, Chapter 22.02 of the BCC to ensure that the same environmental review procedure is being applied to middle housing projects that is applied to single-family projects. Staff anticipates minimal changes to this part of the BCC given the exemption thresholds are significantly higher than middle housing densities, but some of the language will need to be adjusted. The current categorical exemptions for residential projects are for the construction or location of 30 or less single-family dwelling units, and 200 or less multifamily dwelling units.

Public Engagement

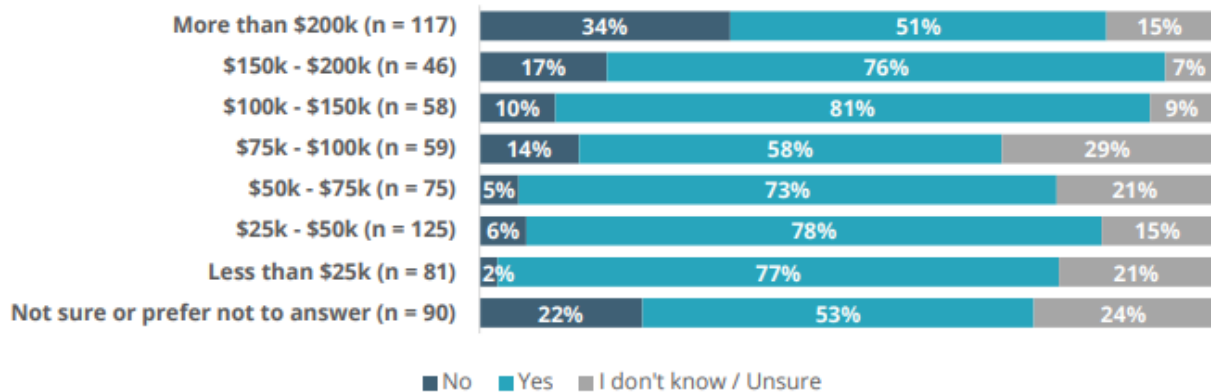
Comprehensive Plan Middle Housing Engagement

Several phases of engagement were completed through the development of the draft 2044 Comprehensive Plan, including robust engagement around middle housing. These include a [middle housing questionnaire](#) that was conducted in November 2022, a [June 2023 engagement report](#) for middle housing produced by Eastside Housing for All in coordination with Eastside partner cities and A Regional Coalition for Housing (ARCH), and a [statistically valid survey](#) that was conducted as a part of the engagement report. Staff has reviewed these materials and discussed engagement work done through the ARCH engagement report. It was important that the engagement work ensured that members of the community who are not always engaged on housing topics, including those most impacted by the lack of housing affordability, were heavily involved in the process. This will help make sure our approach to developing and implementing the regulations reflects the entire community in an equitable manner.

Those engaged with the broader Eastside June 2023 middle housing survey and questionnaire were overall positive in their support for having middle housing options in their respective cities, regardless of

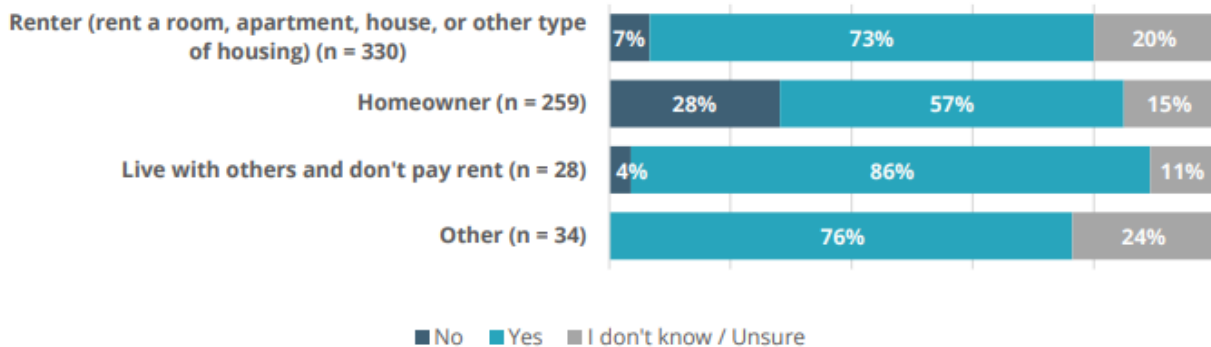
income level and whether they rented or owned their homes. A few figures from that report are provided below with additional detail. An overwhelming majority of 89% of the 456 respondents who do not currently own a home responded that they would like to own a home someday, and a majority of the 523 respondents stated that middle housing options would have helped them avoid moving out of the area due to high housing costs.

Q: "Do you support having Middle Housing options in your city even if you may not be able to afford it?"



Note: 651 Respondents

Source: Eastside For All, 2023.



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The earlier engagement work done in November 2022, which was conducted prior to the adoption of HB 1110, was generally also positive with 92% of respondents expressing interest in at least one type of middle housing in at least one area of the city.

Additional Engagement Opportunities

Beyond strictly complying with HB 1110, a primary objective of this code amendment is to address a portion of our housing needs over the next 20 years and beyond. This will be achieved through updates

to our regulations aimed at increasing housing options and diversity, as well as expanding affordable housing opportunities within the city. By allowing for middle housing in all residential areas, this code update seeks to foster a more equitable future for Bellevue, rectifying historical racist and exclusionary housing practices, and ensuring our neighborhoods are economically and racially inclusive. To that end, staff are exploring options to exceed the minimum density requirements established by HB 1110 in certain circumstances, with the goal of increasing affordable housing opportunities and leveraging transit investments throughout the city.

Staff will utilize Engaging Bellevue to conduct 1-2 questionnaires regarding what, if any, additional density beyond the HB 1110 mandate would be supported by respondents, as well as the location considerations and criteria they would prioritize when determining where to allow additional density. Other work completed that staff is utilizing to make this consideration includes the ARCH middle housing market analysis, and draft code developed by other Washington cities or being considered for adoption by those cities. More detail on other jurisdictions is provided below.

Staff is also working with stakeholders in the development community to understand what elements of site regulations can help make it easier to provide ownership paths including how different utilities are metered and oriented, as well as ensuring the ability to subdivide middle housing projects where the typology is feasible for subdivision. Staff is also sharing information with the broader public about the steps the City is taking to meet the requirements of the GMA. Opportunities will be provided for the public and stakeholders to learn more about the proposed approach and offer feedback to help shape the upcoming LUCA and BCCA.

What Neighboring Jurisdictions are Planning

The City of Redmond's draft code proposes a minimum of six units citywide and eight units when two affordable units are included, which goes beyond their baseline requirements as a Tier 1 city. The City of Bothell has adopted code meeting the Tier 2 city requirements, but staff were directed to explore updating the code to meet the Tier 1 city requirements in 2025. Tier 2 cities, which are cities with a population of at least 25,000, but less than 75,000 based on estimates provided by the Office of Financial Management (OFM). Tier 2 cities are currently only mandated by HB 1110 to provide a minimum of two units citywide and four units within one-quarter mile of a major transit stop or when providing at least one affordable unit. By adopting Tier 1 city requirements ahead of meeting the population threshold of 75,000, Bothell would be voluntarily increasing minimum density citywide. The City of Kirkland, which is also a Tier 1 city, is also in the early scoping stages of their middle housing code development, but have expressed an interest in trying to create some consistency between jurisdictions when it comes to middle housing code.

Proposed Scope Beyond the Baseline

Additional Densities

As mentioned in the engagement discussion, staff is considering additional density beyond the base requirements in HB 1110 to improve market feasibility of middle housing projects and further support Bellevue's housing goals, which may include additional affordability incentives beyond the baseline requirements. Potential considerations for the location of additional density could include adjacency to frequent transit, mixed-use centers, and existing or proposed neighborhood centers. Draft Comprehensive Plan policies that are supportive of this path include:

- LU-1.1) Direct most of the city's growth to the Downtown Regional Growth Center, other Countywide Centers (see Map LU-3) and to other areas designated for compact, mixed use development served by a full range of transportation options.
- LU-1.2) Plan for housing growth with a broad range of housing choices to meet the changing needs of the community.
- LU-4: Promote a land use pattern integrated with a multimodal transportation system.
- LU-10: Work toward a land use pattern that makes it possible for people to live closer to where they work regardless of household income.
- LU-20: Monitor trends in Bellevue's Mixed Use Centers and other job centers and amend policies and regulations as needed, to maintain the vitality of these centers.
- LU-22: Establish Countywide Centers (see Map LU-3) as focal points for local and county planning and investment to support a concentration of jobs, housing, shopping, transportation mobility options and recreational opportunities.
- LU-28: Provide for a mix of housing, office, service and retail uses in a compact walkable development pattern that optimizes the benefits of transit investment in Bellevue's mixed use areas.
- LU-36: Employ land use incentive systems that offers additional development capacity or flexibility in exchange for commensurate public benefits that address identified needs of that area.
- LU-47: Implement land use patterns that promote walking, bicycling, or other active transportation modes in order to increase public health.
- HO-18: Promote housing density, choice and affordability in areas served by the frequent transit network, businesses serving the community's day-to-day needs and significant nodes of employment.
- TR-130: Support means to reduce per capita vehicle miles traveled and transportation-source greenhouse gas emissions.

Flexibility in Permitted Housing Typology and Development Regulations

While HB 1110 requires the City to allow at least six of the nine types of middle housing defined in the bill, staff recommends not regulating the typology of housing beyond the development regulations applicable to the respective land use district and the density permitted for a given property. The nine types of middle housing, as defined in HB 1110, are duplexes, triplexes, fourplexes, fiveplexes, sixplexes, townhouses, stacked flats, courtyard apartments, and cottage housing. The law also permits cities to allow ADUs to count towards the unit yield of a site. There are also overlaps between these housing types. For example, a sixplex could take the form of a set of attached townhouses, stacked flats, cottages, or a courtyard style apartment complex. Required setbacks, tree retention, building coverage, maximum square footage, height, and impervious surface coverage inform the massing of each of these structure types on a given site more than the type of structure itself. Ultimately, it is also likely that the development regulations will inherently determine what structure types are feasible for a given parcel.

Not restricting the type of middle housing will provide much more flexibility and simplicity in the code, and a combination of the characteristics of a site and the development regulations will guide the type of development we see. For example, smaller infill sites are more likely to see a mix of standard single-family homes and ADU(s), or smaller cottage or townhome style development.

There are a few site development adjustments to consider that would also help with development, such as greater flexibility with front and rear yard setbacks, coverage, and a small increase in the permitted height from 30 to 35 feet. The city already permits building heights up to 35 feet in all R land use districts when a pitched roof is proposed, save for R-10 and R-15 which only permit up to 30 feet, and up to 40 feet in the R-30 land use district. The R-20 land use district permits up to 30 feet with the potential to go up to 40 feet in some situations, save for in the Transition Overlay District. Staff will also need to review how the recently adopted tree ordinance comports with different types of middle housing developments to see if adjustments to those regulations may be beneficial for encouraging middle housing development.

Site Design for Cottage and Courtyard Housing

Staff will need to develop some parameters for site design with cottage and courtyard style housing, however these can also be relatively straightforward and simple. Considerations include scale of shared open space, orientation of the open space to the structures, location and orientation of parking, pedestrian pathways, cottage size, and building separation.

Pre-Approved DADU Designs

Post-adoption, staff will begin work on developing a program for pre-approved DADU designs that the public can utilize to develop on their lots. These kinds of programs are helpful for homeowners who may not have the resources or ability to engage an architect and can reduce development timelines and costs.

Implementation Discussion with Internal Staff

Staff is implementing multiple 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
 - Public hearing on the proposed LUCA
2. Direct Engagement and Feedback. Information gathering from the development and design community about site and building regulations that can hinder middle housing development, informing the public of the LUCA, and asking the public for feedback on increasing densities beyond the state mandate.
3. Online Presence. City webpage and Engaging Bellevue page to provide opportunities for the public to stay informed and to request additional information, including:
 - Staff contact
 - Information on the LUCA and LUCA schedule
 - Interactive engagement through Engaging Bellevue

LUCA Schedule

Staff is currently refining the scope of the BCCA and LUCA and will be continuing to engage stakeholders in the development community, as well as the broader public, through the end of the year. Staff is

aiming to have a draft of the LUCA ready to review for Planning Commission review by February 2025 to meet the state's June 30, 2025, deadline.

ATTACHMENT(S)

A. HB 1110

B. HB 1337