

CITY COUNCIL AGENDA TOPIC

Recommended Land Use Code Amendment and proposed Bellevue City Code Amendment encouraging the redevelopment of existing buildings into residential uses to respond to Engrossed Substitute House Bill 1042, a 2023 state law restricting requirements that may apply to existing buildings converting to residential use.

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EXECUTIVE SUMMARY

DIRECTION

Introduction to the recommended Redevelopment of Existing Buildings Land Use Code Amendment (LUCA) and proposed Bellevue City Code Amendment (BCCA). Planning Commission Chair Goeppele will present the Planning Commission recommendation approving the Land Use Code Amendment. The Resolution documenting this recommendation is included as Attachment A. Following discussion, staff is seeking Council direction to prepare the Ordinance for final action as part of the consent agenda at a future meeting.

RECOMMENDATION

Finalize the LUCA and BCCA Ordinances for final action as part of the consent agenda at a future meeting.

BACKGROUND/ANALYSIS

Background

In 2023, the Washington State Legislature passed Engrossed Substitute House Bill [\(ESHB\) 1042](#) requiring that cities amend their codes with the intent to encourage the interior redevelopment of existing commercial or mixed-use buildings into residential development and encourage the redevelopment of existing residential buildings at a higher density. “Existing buildings” are those which received a certificate of occupancy at least three years ago. The requirements of ESHB 1042 extend to all such buildings located in mixed-use or commercial land use districts which allow multifamily housing. A map of the geographic scope of the Land Use Districts meeting these criteria has been included as Attachment B.

By June 30, 2025, the City must amend the Land Use Code (LUC) and Bellevue City Code (BCC) to accommodate the following areas of flexibility in response to ESHB 1042:

- Allow a minimum residential density increase of 50%.
- Existing parking may be required to remain, but no additional parking is required to be added for residential units.
- Permitting requirements must not be more restrictive than what is applied to new construction.

- Standards related to form, use, or design must not be more restrictive than requirements for equivalent housing in the same district.
- Projects are exempt from any exterior design or architectural changes.
- Ground floor commercial or retail use requirements do not apply unless the project is located along a major pedestrian corridor, as defined by the City.
- Any existing non-conformities cannot be used as grounds to deny a building permit, except that the City may require changes for life safety reasons, such as requiring sprinklers and fire exits.
- Projects are exempt from transportation concurrency study or environmental review requirements.

On July 16, 2024, Council initiated work on the LUCA and BCCA to respond to ESHB 1042 and promote the conversion of buildings from nonresidential to residential uses in mixed-use areas. At the meeting, Council expressed interest in further encouraging the redevelopment of existing buildings through incentives and going beyond strict compliance with the ESHB 1042. The City has received input, both through direct outreach and through the Planning Commission process, on what provisions are critical to include in the LUCA to ensure the LUC does not hamper the redevelopment of existing buildings. A strike-draft of the recommended LUCA is provided as Attachment C.

Planning Commission Process

The LUCA was reviewed by the Planning Commission during a study session on September 25, 2024. Following the study session, the Planning Commission directed staff to prepare the LUCA for public hearing consistent with the City's Process IV land use process on October 23, 2024. A staff report describing the background, review process, and this LUCA's compliance with the decision criteria was provided to the Planning Commission, made available for the public hearing, and is included as Attachment D.

During the LUCA review process the Planning Commission received public testimony suggesting the LUCA be amended to allow conversion projects to fully utilize the existing building envelope rather than providing a density cap of 50%, as provided in ESHB 1042. During the public hearing, the Commission expressed support for this change to further promote conversion projects beyond the State mandate.

During the public hearing, some Commissioners also expressed interest in allowing greater building height increases for existing structures to further incentive and promote commercial-to-residential conversions. Some suggested that buildings adding several stories should qualify under the recommended LUCA.

Staff clarified that ESHB 1042 and the recommended LUCA aim to support redevelopment within existing structures rather than encourage significant expansions of existing buildings. Allowing large-scale expansions under this LUCA would require extensive analysis of the LUCA provisions and greater allowances would likely not afford a project the same exemptions from the State Environmental Policy Act (SEPA) and transportation concurrency requirements afforded to projects under ESHB 1042. These exemptions support the feasibility of residential redevelopment projects and are critical to maintain. After deliberation the Planning Commission voted 4-3 to recommend that the City Council adopt the LUCA.

Components of the Recommended LUCA

The recommended LUCA provides direct compliance with ESHB 1042 and incorporates recommendations from stakeholders and the Planning Commission to ensure the amendments can be successful in promoting redevelopment. Provisions of the LUC related to the redevelopment of existing buildings are proposed to be included in a new section of the LUC (LUC 20.20.727 Redevelopment of Existing Buildings) and referenced as a footnote in the land use charts to increase clarity.

Building Form

The recommended LUCA allows small expansions to an existing structure to improve the feasibility of existing buildings redeveloping into residential uses. Under the LUCA, existing buildings would be allowed to add one additional story for a residential penthouse, stairs, mechanical equipment, or rooftop features related to residential uses, such as a rooftop patio. Additionally, a building would be allowed to expand horizontally by no more than five percent of the floor area to accommodate changes required by building or energy code, safety features, ADA requirements, mechanical equipment, plumbing and ductwork expansions, awnings, and bays. These expansion allowances go beyond the requirements of the bill.

The LUCA also allows existing buildings redeveloping into residential uses to be exempt from the dimensional requirements of the LUC. This would allow the horizontal expansions necessary to accommodate residential conversion to be built into the setback or exceed lot coverage requirements. Additionally, the 20-foot residential penthouse would be able to exceed the maximum building height in the underlying land use district.

Density

The LUCA exempts qualifying existing buildings from all density requirements, allowing conversion projects to take advantage of the full building envelope. Going beyond the State mandate to allow a 50% density increase and removing the density limits for conversion projects further incentivizes the redevelopment of existing buildings, making efficient use of an entire building and increasing the effectiveness of the LUCA.

As the LUCA only applies to existing buildings, additional floor area ratio (FAR) would generally only be utilized for the allowed five percent increase in floor area and for converting existing areas of a building that are exempt from FAR to uses that are not exempt from FAR. For example, in the Downtown Land Use Districts, active uses on the ground floor are exempt from FAR. If a project were to convert these previously exempt areas to housing, that area would generally count towards the overall maximum FAR of the project despite not increasing the floor area of the building. In areas which currently include an amenity incentive program, existing buildings which have received additional square footage through the incentive program would be required to maintain the use from which the bonus was received on site, but the location of the benefit or amenity may be moved elsewhere on the site or within the existing building subject to the approval of the Director.

Parking

The LUCA requires that redevelopment projects meet applicable parking requirements in the LUC. If the existing parking is not sufficient to meet the parking requirements, no additional parking is required

to be added for residential uses, but additional parking may be required for commercial uses. This is consistent with the requirements of ESHB 1042.

Ground Floor Uses

Nonresidential ground floor use requirements apply in many mixed-use areas of the City. ESHB 1042 requires cities to exempt eligible redevelopment projects from such requirements. However, cities may still require nonresidential ground floor use requirements when a building fronts a “major pedestrian corridor,” which may be defined by the City.

The LUCA defines “major pedestrian corridor” as “A” Rights-of-Way, consistent with how the City defines these corridors in LUC 20.25A (Downtown Land Use Code). The “A” Rights-of-Way include the Grand Connection, NE 6th Street, most of Bellevue Way within Downtown, and Main Street through Old Bellevue.

Non-Conformities

A legal non-conformity refers to a site, structure, or land use that was legally established under the LUC that was in place at the time of its development but no longer complies with current LUC requirements due to subsequent changes. Legal non-conformities are typically present where new LUC standards are imposed, resulting in an existing building or site no longer meeting the latest LUC requirements. The LUCA exempts buildings redeveloping into residential uses from the non-conforming provisions of the code, enabling greater flexibility for building remodels and expansions that would not otherwise be supported under the non-conforming provisions of the LUC. However, the requirements of the shoreline overlay district and the critical areas overlay district will continue to apply.

Multifamily Play Areas

The LUCA proposes exempting redevelopment projects from the multifamily play area requirements. As many buildings that are redeveloping into residential uses were constructed for offices uses, they would not have been subject to the play area requirements when constructed and may not have the physical space to place one on site.

Recycling and Solid Waste Collection Areas

The LUCA requires at least one recycling and solid waste collection area for all qualifying buildings. Additionally, the proposed LUCA allows the Director of Development Services to determine the appropriate square footage and screening of the collection areas. By allowing the Director to determine the appropriate size and screening for collection areas on a case-by-case basis the recommended LUCA ensures that these areas can function within existing buildings without preventing the redevelopment of the building into residential uses.

Components of the Proposed BCCA

The proposed BCCA will amend the Multimodal Concurrency Code, chapter 14.10 BCC; and the Bellevue Environmental Procedures Code, chapter 22.02 BCC. The proposed BCCA includes amendments necessary to comply with ESHB 1042 and clean-up amendments to the Bellevue Environmental Procedures Code. The proposed BCCA is included as Attachment E.

Multimodal Concurrency Code

An exemption from the City’s multimodal concurrency requirements has been added to BCC 14.10.020 as required by ESHB 1042. Existing buildings meeting the criteria as defined in the LUC will not be required to analyze transportation impacts of the redevelopment from commercial to residential use.

Bellevue Environmental Procedures Code

Three amendments to the City’s Environmental Procedures Code are proposed under this BCCA. These amendments respond to requirements in ESHB 1042 and relate to prior Council actions.

SEPA Categorical Exemption to Comply with ESHB 1042

A categorical exemption from SEPA requirements has been added to BCC 22.02.032 as required by ESHB 1042. This change will exempt all existing buildings meeting the requirements of the recommended LUCA from SEPA processes. This update ensures compliance with state mandates and will facilitate more streamlined project review.

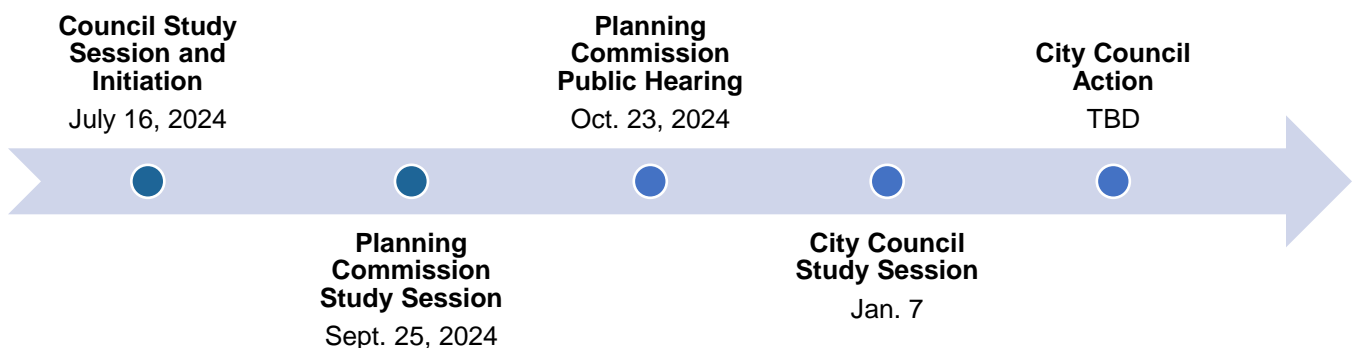
SEPA Categorical Exemption Clarifying “Exempt” Mixed-Use Development

This proposed amendment is not required under ESHB 1042. The amendments aims to clarify and align with past City Council policy decisions (Ordinance No. 6754) regarding the expansion of SEPA categorical exemptions for residential and mixed-use developments. Specifically, the amendment maintains the Council's previous decision to exempt projects containing up to 200 residential dwelling units from SEPA review and now includes a threshold for the amount of commercial development that qualifies as "exempt" within a mixed-use project.

Non-Project Action SEPA Appeal Process Alignment

This proposed amendment revises the SEPA threshold determination appeal process for non-project City Council actions to fix a gap in the Environmental Procedures Code. The amendment will merge the SEPA threshold determination for a non-project City Council action with the underlying Council action and provide consistency for the threshold determination appeal process associated with non-project City Council actions.

Project Timeline



Public Engagement

The City followed a public engagement plan with four modes of outreach and engagement to ensure the public, stakeholders, and interested parties had access to up-to-date project information and the opportunity 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 and Public Hearing for the proposed LUCA
 - Public hearing on the proposed LUCA
2. Direct Engagement and Feedback: Interviews with developers and architects looking to redevelop existing buildings or with experience redeveloping existing buildings.
3. Community Outreach:
 - Information about the LUCA, contact information, and study session date provided in the Summer 2024 DSD Newsletter
 - Bellevue Development Committee engagement on September 11, 2024
 - Informational email to Community and Neighborhood Leaders distribution list
4. Online Presence: City webpage to provide opportunities for the public to stay informed and to request additional information, including:
 - Staff contact information
 - Information regarding the LUCA

POLICY & FISCAL IMPACTS

Policy Impact

The proposed LUCA and BCCA is consistent with the Housing Element of the Comprehensive Plan.

Fiscal Impact

The LUCA and BCCA may have a small positive fiscal impact by encouraging vacant or underutilized buildings to redevelop into denser, better-occupied uses, potentially increasing tax revenues from the property.

OPTIONS

1. Direct staff to finalize the Land Use Code Amendment and Bellevue City Code Amendment Ordinances for final action as part of the consent agenda at a future meeting.
2. Provide alternative direction to staff.

ATTACHMENTS

- A. Planning Commission Resolution
- B. Geographic Scope Map
- C. LUCA Strike-draft
- D. Staff Report
- E. BCCA Strike-draft

AVAILABLE IN COUNCIL LIBRARY

N/A