



Planning Commission

TRANSMITTAL

DATE: March 26, 2015

TO: Mayor Balducci and Members of the City Council

FROM: Chairman Laing and Members of the Planning Commission

SUBJECT: Land Use Code Amendment – Permanent Regulations Governing Individual Room Rentals in Residential Dwellings, File No. 13-133383 AD

INTRODUCTION

With this transmittal, the Planning Commission unanimously recommends that the City Council APPROVE this Land Use Code Amendment (LUCA) to create permanent regulations governing the rental of individual rooms in residential dwellings. When adopted, these regulations will replace interim regulations initially adopted by Ordinance No. 6128 and currently in effect.

BACKGROUND

In September 2013 the City Council, in response to concerns raised by community residents about an emerging business model whereby an ownership group was purchasing homes with the intention of renting out individual rooms under separate lease agreements, adopted Ordinance No. 6128 as an emergency measure to address, on an interim basis, that practice and its potential impacts. Initially in effect for six months, the provisions of Ordinance No. 6128 were later extended by Council adoption of Ordinance No. 6152, and again by Council adoption of Ordinances Nos. 6172 and 6219. The interim regulations are now in effect until September 23, 2015 unless either replaced by permanent regulations or extended further by Council action.

Council adopted the interim regulations to give the Planning Commission sufficient time to develop permanent regulations. To help the Commission in its work, Council approved a list of “guiding principles,” intended to result in targeted permanent amendments to the Land Use Code to address the concerns expressed by the community.

The interim regulations currently in effect have the following key features:

- It lowers the number of unrelated people who can live together from 6 to 4;
- It clarifies what constitutes “related persons” (in the definition of “family”);
- It allows more than 4 unrelated people to live together if they can demonstrate that they operate in a manner “functionally equivalent” to a family;
- It clarifies the definition of “boarding/rooming houses and bed and breakfasts”; and
- It provides for amortization of uses/leases that do not conform to the interim regulations.

PROPOSAL

The proposed permanent regulations are intended to accomplish the following:

- Allow the rental of an entire dwelling (no individual room rentals) to a “traditional” family, all of whom are related by blood, marriage, or legal adoption, with no maximum on the number of occupants.
- Allow the rental of an entire dwelling on a single lease (no individual room rentals) to a “self-identified” group of adults (all unrelated or some combination of related/unrelated), maximum 4 adults total, provided that unrelated adults may demonstrate they are living together as the functional equivalent of a family.
- Continue to allow a dwelling to have a bed & breakfast or boarding house use, maximum 2 rooms, subject to Home Occupation permit and all other current regulations, but clarify that such dwelling is owner-occupied.
- Regulate as a “rooming house” a dwelling that is not owner-occupied and offers individual rooms for rent.

The proposed ordinance establishes “Rooming House” as a use, defined as follows:

“Rooming House. A non-owner-occupied dwelling in which rooms are offered for rent or lease on an individual room basis.”

This definition, together with the proposed regulations summarized below, is proposed because it is this form of rental structure (i.e., multiple leases for single rooms) which has been identified by the community as their primary concern.

Key features of the proposed ordinance include:

- A rooming house would be allowed only in multi-family and mixed-use land use districts, not in single-family districts.
- Special regulations would apply to rooming houses (see below).
- Definitions of “Bed and Breakfast” and “Boarding House” would be revised to reflect owner-occupancy, and to specifically exclude “Rooming House”. All other existing regulations that pertain to Bed and Breakfast and Boarding House uses would remain unchanged, including the requirement for a Home Occupation permit for either use.
- Definition of “Family” would place a 4-person limit on the total number of adult occupants, unless all are related by blood, marriage, or adoption or unrelated adults demonstrate they are living together as the functional equivalent of a family.
- Determinations by the Director regarding whether a group of individuals meet the criteria for the “functional equivalent of family” will be made in writing and available for public access.
- A new definition of “Single Housekeeping Unit” is proposed.
- As noted above, a new definition of “Rooming House” is proposed.
- Provision for amortization of certain legally-established uses/leases that do not conform to the permanent regulations

Proposed Special Regulations for Rooming House uses:

The following general development requirements are proposed specifically for Rooming Houses:

- The Rooming House will be located in a detached single-family dwelling on its own parcel; and
- The Rooming House will offer no more than four rooms for rent to not more than a total of five individuals at any one time; and
- All rooms offered for rent shall be legally-established bedrooms; and
- An owner, landlord, or registered agent shall be identified as the party responsible and accountable for compliance with the terms of the applicable Land Use Code provisions. Said party shall be local and the name and contact information for that party shall be filed with the City prior to establishing the rooming house; and
- Legal on-site parking exists or will be provided, in a quantity equal to or greater than the number of bedrooms in the leased residence; and
- Appropriate provisions will be made for maintenance of the property exterior; and
- Appropriate provisions will be made for refuse collection, including trash, recycling, and yard waste; and
- A Rooming House shall comply with City of Bellevue noise and nuisance laws and health and safety codes, and with all other applicable City and State codes and regulations; and
- The designated owner, landlord, or registered agent shall be the “person responsible for the violation” in any civil violations proceedings under the terms of Chapter 1.18 BCC for failure to comply with this section. Tenants shall not be identified as responsible parties by virtue of signing a lease prepared by the owner, landlord, or registered agent for renting a room in a Rooming House.

At our June 11, 2014 study session the Commission discussed whether an Administrative Conditional Use permit should be required for Rooming Houses uses, but determined that such a requirement would not be necessary and might even hinder a goal of the proposed regulations, i.e., removing rooming houses from single-family districts. Therefore, the Commission proposes that rooming houses be a permitted use, rather than an administrative conditional use, in the multi-family and mixed-use districts identified in the proposed ordinance.

At our March 25, 2015, study session the Commission considered recommended revisions to the proposed regulations by the City Attorney, which the Commission unanimously voted to include along with an additional requirement described below. The revisions include providing a specific exemption for unrelated adults who live together as the functional equivalent of a family and clarifying that related people living together in a household are considered a single housekeeping unit. The Commission amended the exemption to require any determination by the City that a group of unrelated adults are functioning as a family be in writing so that it would be accessible to interested citizens as a public record. Finally, to address the neighborhood concerns regarding delays that would extend the amortization period beyond July 2015, which date was intended sunset for current practices, the Commission amended the amortization schedule to provide that current rental uses that are non-compliant with the proposed new regulations must cease at either the earlier of the expiration of the last lease or one year from the effective date of the permanent ordinance. This approach allows landlords to realize lease terms while providing neighbors the assurance that new regulations will take effect expeditiously.

STATE ENVIRONMENTAL POLICY ACT

The Environmental Coordinator for the City of Bellevue has determined that this proposal will not result in any probable, significant, adverse environmental impacts. A Determination of Non-Significance (DNS) was issued on August 21, 2014.

PUBLIC NOTICE, PARTICIPATION, COMMENT, AND RESPONSE

Notice of the LUCA application was published in the Weekly Permit Bulletin on May 22, 2014. Notice of the Public Hearing was published on August 21, 2014, and the hearing was held on September 10, 2014.

There has been significant public interest in this amendment, as evidenced by substantial public testimony at each of the Planning Commission study sessions and public hearing held on this topic. In fact, this amendment arose in response to public concerns expressed by members of the public regarding the practice of renting rooms in residential dwellings to multiple individuals on multiple leases when an owner did not reside in the residence. In addition, the Commission heard from a “housing panel” assembled by staff and consisting of representatives from the Spiritwood neighborhood, Bellevue College, Rental Housing Association of Washington, and Master Builders Association. Also, a Spiritwood neighborhood representative and Rental Housing Association of Washington representative met with City staff to provide their perspectives and suggestions for development of the permanent regulations.

The East Bellevue Community Council held a courtesy hearing on the proposal on August 5, 2014. The subject of this ordinance has been of significant interest to the EBCC and residents within its jurisdiction, and several questions were asked by both the EBCC and members of the public for clarification. The EBCC suggested no changes to the proposed ordinance.

Pursuant to the Washington State Growth Management Act, state agencies must be given 60 days to review and comment on proposed amendments to the Land Use Code. A copy of the proposed amendment was provided to state agencies on July 10, 2014. No comments from state agencies have been received.

At the September 10, 2014 public hearing, several oral and written comments were submitted to the Planning Commission. While commenters were in support of regulations to address the room rental practice, several questions were raised and concerns expressed about enforcement of ordinance provisions and penalties for violations, the meaning of language or definitions in the proposed regulations, the constitution of a “family”, the number of unrelated people who can rent together as a family, the manner in which children are counted toward the total number of renters, as well as impacts that some commenters associate with some rentals, such as vehicles, noise, and similar impacts.

In response to these concerns, the Planning Commission concluded that the number of unrelated individuals that could rent together as a “family” under a single lease agreement in a single-family district should be limited to four. The Commission considered limits ranging from two to six, and concluded that six unrelated adults sharing a residence in a single-family district, even under a single lease, can adversely impact the surrounding neighborhood much the same as a Rooming House. It did not seem necessary to lower the limit to two or three persons.

The Planning Commission also clarified that any limit on the number of renters applies to adults, and not children. The Commission also acknowledged that the City has several codes in effect to address nuisance concerns, building standards, and (in BCC 1.18) code violations and penalties. The Commission recognizes that there will always be some landlords and tenants who will violate the rules and will be a challenge for enforcement actions, but the proposed permanent regulations, in combination with laws already in place in Bellevue, should effectively reduce the number of non-compliant rental situations and their attendant impacts.

The Planning Commission held a final study session on March 25, 2015 to consider the City Attorney's recommended revisions to the Commission's recommendation, which the Planning Commission amended and adopted unanimously, along with other revisions described in the "Proposal" section of this memo above.

APPLICABLE DECISION CRITERIA – LAND USE CODE PART 20.30J

LUC 20.30J.135 provides the decision criteria for amendments to the text of the Land Use Code:

A. The amendment is consistent with the Comprehensive Plan; and

The proposed amendment is supported by the following Comprehensive Plan policies:

Land Use Element Goal: To develop and maintain a land use pattern that:

- Protects natural systems and helps realize the vision of a "City in a Park";
- Maintains and strengthens the vitality, quality and character of Bellevue's residential neighborhoods;
- Supports the Downtown Urban Center and a variety of other commercial areas serving the city and the larger region;
- Supports and is supported by a variety of mobility options;
- Is aesthetically pleasing; and
- Makes efficient use of urban land.

LU-19. Maintain stability and improve the vitality of residential neighborhoods through adherence to, and enforcement of, the city's land use regulations.

HO-3. Refine Land use Code standards to improve the compatibility of single family infill development with the neighborhood.

B. The amendment enhances the public health, safety or welfare; and

The amendment will enhance the public health, safety, and welfare by regulating a business practice that has adversely impacted single-family neighborhoods. It will limit this practice to appropriate land use districts, thereby reinforcing the quality and character of single-family neighborhoods.

C. The amendment is not contrary to the best interest of the citizens and property owners of the City of Bellevue.

The amendment is consistent with the best interest of the citizens and property owners. It will allow for a variety of housing opportunities while preserving the quality and character of single-family neighborhoods.

RECOMMENDATION

The Planning Commission recommends that the City Council APPROVE the proposed Land Use Code Amendment as set forth in Attachment B.