



## Planning Commission

# TRANSMITTAL

DATE: January 26, 2016

TO: Mayor Stokes and Members of the City Council

FROM: Chair Hilhorst and Members of the Planning Commission

SUBJECT: Land Use Code Amendment – Downtown Livability Initiative Early Wins  
File No. 12-127731

### I. INTRODUCTION

With this transmittal, the Planning Commission unanimously recommends that the City Council APPROVE this Land Use Code Amendment (LUCA) to create permanent regulations with respect to the Downtown Livability Initiative. This set of Early Win amendments is the first of two sets of land use code amendments that we will be transmitting to the City Council regarding the Downtown Livability Initiative.

### II. BACKGROUND

In 2013, the City Council formed and directed the Downtown Livability Citizen Advisory Committee (CAC) to develop recommendations to the Planning Commission for a Land Use Code update. The CAC's guidance came from the Downtown Subarea Plan and the 12 guiding principles set forth by the City Council. The CAC was charged with identifying implementation strategies that would make Downtown more viable, livable, and memorable.

The CAC held four open houses and three events with multiple focus groups, conducted walking tours, reviewed public comment, and participated in thirteen CAC meetings. The CAC provided one or more high level code-related recommendations on the following topics:

- Public Open Space
- Pedestrian Corridor
- Design Guidelines
- Amenity Incentive System
- Station Area Planning
- Building Height and Form
- Downtown Parking
- Other Topics

After the CAC completed its work and its final report had been written, the Planning Commission began its work on the land use code amendments. The Planning Commission held seven meetings throughout 2015. The first meetings oriented us to the work of the CAC, and included a walking tour of the southern portion of the Downtown District. Based on the CAC's final report and the meetings held before the Planning Commission, the Planning Commission identified the

Early Win topics to consider first. These early wins were discreet topics that could be addressed early in the code update process because there was consensus among the CAC members, and the topics were not complex. We chose the following topics to be addressed as Early Wins:

- Updates to the Downtown Use Charts
- Signage for Public Spaces
- Mechanical Screening and Location
- Landscaping Amendments.

Later in September 2015, we added two more topics to the Early Wins package:

- Weather Protection
- Extension of the Major Pedestrian Corridor to 112<sup>th</sup> Ave. N.E.

The Planning Commission also reviewed a new definition of Downtown which was written for the Land Use Code to provide more specificity and to align the boundary changes required by the Comprehensive Plan Update adopted in 2015.

### **III. PROPOSAL**

The proposed regulations are intended to follow the Downtown Livability CAC's recommendations to make Downtown Bellevue more livable. The following subjects were addressed by the Planning Commission:

- Permitted Uses
- Wayfinding Signage for Publicly Accessible Spaces
- Location and Screening of Mechanical Equipment
- Street Trees and Planter Strips
- Downtown Boundary
- Weather Protection
- Extension of the Pedestrian Corridor

#### **A. Permitted Uses.<sup>1</sup>**

The Land Use tables are proposed to move from LUC 20.10.440 to LUC Part 20.25A Downtown. Key changes include:

##### **1. Manufacturing**

- Two uses from the Manufacturing chart are currently permitted Downtown: printing and hand crafted products. These uses will remain permitted but have been relocated to the Services and Wholesale and Retail charts respectively to be nested with similar activities.
- The rest of the manufacturing chart would be deleted because manufacturing is not consistent with the vision for Downtown as a walkable, livable place with storefronts, and open public spaces.

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<sup>1</sup> Because the recommendation both revises the Downtown use charts and moves them from LUC 20.10.440 to Part 20.25A, the use charts were drafted with strike-outs. Normally, the use charts would not show the strike-outs when moving existing charts to a new location in the code. However, the strike-outs were included so that revisions to the existing use tables would be evident.

2. Recreation, Culture, and Entertainment

- Recreational activities such as miniature golf, tennis courts, community clubs, athletic fields, play fields, recreations centers and swimming pools would be permitted in all Downtown districts.
- Other recreational activities such as skating, bowling, gymnasiums, athletic clubs, health clubs, and recreational instruction would be permitted in all Downtown Districts except the DNTN-R District, where the use is permitted only when developed in a building which contains residential uses. Currently, these uses in all but the Downtown Mixed Use (DNTN-MU) district require an administrative conditional use permit, and those recreational uses proposed in the DNTN-R must be developed in a building that also contains residential uses.
- City Parks would be generally permitted. However, when located in the DNTN-R District will require an administrative conditional use permit, rather than an administrative conditional use permit if the park will have sports fields with lights or amplified sound. A nonrecreation use means a commercial, social service or residential use located on park property, but not functionally related to park programs and activities.

3. Residential

- Single-family residences are currently permitted in all but Downtown Office and Limited Business District. (DNTN-OLB) but are proposed to be disallowed in all Downtown districts. The stated purpose of Downtown in LUC 20.10.370 is to provide the financial and business hub of the community that is an aesthetically attractive area of intense use. Single family residences are not consistent with this purpose, nor do they respond to increasing market pressure for more intense uses such as multi-family condominiums and office buildings.
- Multi-family dwellings would be permitted in all Downtown Districts with the proposed addition of allowing multi-family dwellings in the DNTN-OLB.

4. Resources

- Veterinary clinic and hospitals would be permitted in all Downtown Districts rather than only being permitted in DNTN-MU. They must meet the requirements of LUC 20.20.130, which have additional standards for animal keeping and services.

5. Services

- In the Downtown-Office 2 (DNTN-O2), Downtown-Office 1 (DNTN-O1), DNTN-MU and DNTN-OLB, and OB Districts; drive-ins and drive-throughs for finance, insurance, and real estate uses would be permitted as a subordinate use pursuant to LUC 20.20.840 only if located within a structured parking area and not adjacent to any publicly accessible space. Previously, they were allowed outside in all districts, rather than within a structured parking facility. This is proposed because drive-in banks are not consistent with the idea of a walkable Downtown, rather they are more appropriately located in suburbs.
- Pet grooming and daycare would be added as permitted uses. In the DNTN-R, if the use occupies 2,000 square feet or less, then it is permitted outright. If the use occupies more than 2,000 square feet, an Administrative Conditional Use permit is required. Also, they must meet the general requirements of LUC 20.20.130, which have additional requirements for animal services.

6. Transportation and Utilities

- Park and rides, sometimes called park and pools in the LUC, would no longer be allowed because park and ride facilities are intended to provide suburban parking to people who are commuting on mass transit to the Downtown for work or other purposes. The idea is to encourage fewer single-occupancy vehicle trips into the Downtown, and park and rides would be inconsistent with this objective.
- On-site hazardous waste treatment and storage facilities are currently permitted with an administrative conditional use permit. Staff proposes to remove this use from the Downtown districts entirely because it is inconsistent with a livable, safe Downtown.
- Figure UT.5a has been updated to Map UT-7 to be consistent with the new Comprehensive Plan updates passed in August 2015. Both depict new or expanding electrical facilities.

7. Wholesale and Retail

- Recycling centers would be permitted outright in the DNTN-OLB district where they are currently not permitted at all. In the DNTN-R and DNTN-OB districts, recycling centers were permitted with a conditional use permit, but staff recommends an administrative conditional use permit. A recycling center is defined as “A collection point for small refuse items, such as bottles and newspapers, located either in a container or a small structure,” and applies to stand-alone facilities. Recycling areas that service tenants within a building are permitted outright.
- Automobile and motorcycle retail sales would be permitted in all districts but DNTN-R and DNTN-OB, but no outdoor storage or loading in the right-of-way will be allowed. Currently, these sales may only occur in the DNTN O-1 and DNTN O-2 districts.
- Currently, commercial trucks may not be sold in any Downtown district, this will not change. However, the word “commercial” was added to distinguish between those trucks that would be sold at a retail automobile establishment versus those used in heavy duty, commercial activities.
- Garden supply stores would be permitted in DNTN-R, DNTN-OB, and DNTN-OLB districts. Currently, they are only permitted in the DNTN-MU. This change would encourage livability for those who want to live Downtown and grow gardens on their decks, patios, and rooftops.
- Size restrictions, either a maximum of 1,500 or 3,000 gross square feet, would be eliminated for many uses in the DNTN-R district including hardware, general merchandise, food and convenience stores, apparel stores, furniture stores, drug stores, and pet shops.
- Pet shop grooming would be moved from the wholesale and retail chart to the services chart.
- Microbreweries would be allowed so long as they are combined with an eating and drinking establishment. There would no longer a requirement that the microbrewery is a subordinate use occupying 50 percent or less of the square footage of the entire establishment. The percentage was impossible for microbrewery owners to meet and remain viable, so staff proposes to remove the percentage.  
Drive-in and drive-through pharmacies are permitted as a subordinate use pursuant to LUC 20.20.840 only if located within a structured parking area and not adjacent to any publicly accessible space.

### B. Signage for Publicly Accessible Open Space

The Planning Commission identified three kinds of publicly accessible open space that will require signage. They are: plazas, through-block pedestrian connections (currently known as mid-block connections), and minor publicly accessible spaces. The proposal requires that three kinds of publicly accessible open space have wayfinding signage as provided in the in the City of Bellevue Transportation Department Design Manual. In addition, minor publicly accessible spaces would be required to be open between 8 a.m. to 10 p.m. or the operating hours of the adjacent businesses, whichever is shorter. Applicants that build an MPAS as a part of a development project would be required to record a legal agreement with King County to ensure that the MPAS remains open to the public notwithstanding a change in ownership.

### C. Location and Screening of Mechanical Equipment

#### 1. Screening

- The design and materials used for the visual barrier or structure shall be consistent with the architecture of the building.
- Vegetation used for screening will provide for 50 percent coverage upon installation and 100 percent coverage in 3 years. The previous provision only stated that there must be screening within 2 years. It should be noted that vegetation is not an appropriate noise mitigation measure.

#### 2. Exhaust (New Section)

- Exhaust equipment shall be located so that it does not discharge on a sidewalk or area designated accessible to the public.
- Exhaust air discharges or outlets would be located a minimum of 16 feet above the finished grade.
- Exhaust location and discharge would be listed in order of preference:
  - On the building rooftop,
  - Service drive or alley, or other façade that would not be adjacent to a public street, sidewalk, or right of way,
  - Located above a driveway or service drive to the property such as a parking garage or service court, or
  - Located adjacent to the public street or easement so long as it is not directly above an element that has earned an FAR Amenity Incentive System points

### D. Street Trees and Planter Strips

These amendments are aimed at providing the requisite space for healthy, long-lived street trees that provide shade, oxygen, and an aesthetically pleasing downtown. The space is also required so that there is less sidewalk damage and tree mortality. Also, planter strips and trees provide a buffer for pedestrians from vehicular traffic.

- Amends the width of planter strips from 4 feet to 5 feet, and tree pits from four by six feet or five by five feet to five by 10 feet.
- Amends the caliper of new trees from 3 inches to 2.5 inches;
- Requires spacing of 20, 25, and 30 feet for small, medium, and large trees as provided in the new Plate B, respectively;
- Requires permanent irrigation for street trees;
- Creates Plate A, which whether a planter strip or tree pits will be required by street;
- Updates Plate B, which lists tree species by street, for pest and disease resistance: suitability for the urban environment, and tree species availability;

- and,
- Explicitly refers to the Environmental Best Management Practices and Design Standards.

#### D. Downtown Boundary Redefinition

With respect to the western boundary, this amendment is necessary so that the LUC is consistent with the Comprehensive Plan Update adopted in August 2015. The eastern boundary has not been moved, it is simply defined with more specificity.

#### E. Overhead Weather Protection

Weather protection enhances walkability and was found by the Planning Commission to be especially important in the rainy season. Overhead weather protection includes arcades, awnings, and marquees as provided in the Amenity Incentive System. If these features meet the criteria in the Amenity Incentive System, they shall be eligible for Amenity Incentive System points. Other weather protection methods not included in the Amenity Incentive System may also be used to meet this requirement, if approved by the Director. Weather protection is proposed to correspond with the right-of-way designations. That is, the most weather protection is proposed on rights-of-way with the most pedestrian traffic. Those rights-of-way with the least pedestrian traffic would also have the least amount of required weather protection.

1. In Right-of-Way Designations A, B, and C, 75% of the building frontage shall have overhead weather protection.
2. In Right of Way Designations C, D, and D/R, 50% of the building frontage shall have overhead weather protection.
3. In Right-of-Way Designation E, overhead weather protection shall be provided at all entries.

#### F. Extension of the Major Pedestrian Corridor

The specific land use code amendment would formally extend the Major Pedestrian Corridor on NE 6<sup>th</sup> Street from 110th Avenue NE to 112th Avenue NE. The CAC called this extension the Civic Center block. It would provide an important link from the Transit Center to I-405 and would ultimately be a part of the Grand Connection which will extend from Meydenbauer Bay Park to Wilburton. The extension includes the City Hall Campus and any new development that might occur between City Hall and the Eastlink Light Rail Station on NE 6<sup>th</sup> Street.

### **IV. 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 November 12, 2015.

### **V. PUBLIC NOTICE, PARTICIPATION, COMMENT, AND RESPONSE**

Notice of the SEPA action regarding this Land Use Code amendment was published in the Weekly Permit Bulletin on November 15, 2012. Notice of the Public Hearing was published on November 12, 2015, and the hearing was held on November 18, 2015.

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 amendments was provided to state agencies on November 12, 2015. City Council final action can be taken anytime on or after January 13, 2016.

The Planning Commission considered public testimony and written comment which are set forth fully in the Planning Commission minutes. Most of the commenters requested more flexibility and fewer size restrictions in the use charts.

The Planning Commission engaged in a lengthy discussion drive-through windows for banks and pharmacies in different zones. Where allowed, we recommended that the drive-through windows be a subordinate use, located in a structure, and not adjacent to a publicly accessible space. The banks and other businesses that currently have drive-through windows would be “grandfathered” and allowed to keep them for as long as they stay in business.

The Planning Commission also discussed the hours during which a minor publicly accessible space should be open. We were specifically concerned about situations where an MPAS was required to be open outside of the hours that an adjacent business would be open. Because of this concern, the Planning Commission recommendation requires the lesser of 8 a.m. to 10 p.m. or the hours of the adjacent business.

The Planning Commission held a final study session on December 9, 2015 to consider the comments received at the public meeting, and unanimously recommends that the Council adopt the amendments contained in the Early Wins package provided as Attachment B-1 to this transmittal.

## **VI. 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;
- B. The amendment enhances the public health, safety or welfare; and
- C. The amendment is not contrary to the best interest of the citizens and property owners of the City of Bellevue.

The Planning Commission finds that the recommended Early Win amendments comply with the requirements for code amendment as provide in the Land Use Code.

## **RECOMMENDATION**

The Planning Commission unanimously recommends that the City Council APPROVE the amendments to the Land Use Code identified as Downtown Livability Early Wins as set forth in Attachment B-1.

## **Attachment**

B-1: Final Recommended Ordinance