



**DATE:** May 9, 2016

**TO:** Mayor Stokes and City Council Members

**FROM:** Mike Brennan, Director, 452-4113  
Carol V. Helland, Land Use Director, 452-2724  
Development Services Department (DSD)

Chris Salomone, Director, 452-6191  
Dan Stroh, Planning Director, 452-5255  
James Henderson, Economic Development Director, 452-7910  
Department of Planning and Community Development (PCD)

**SUBJECT:** Consideration of Expanded Regulatory Implementation Tools and Associated Resources to Support the City Council's Economic Development Priorities

Under the new Economic Development (ED) Plan, a set of actions referred to as "foundational strategies" are being identified and carried out by departments across the City organization. These actions are critical to creating a climate that attracts talent and investment to the City of Bellevue. Additionally, having a well-planned city and an efficient and predictable Development Services (DS) function helps Bellevue attract and retain businesses, developers, and entrepreneurs who seek an attractive, sustainable and business-friendly environment.

In October 2015, the Council endorsed an ambitious Planning and Land Use Code development work program to support the Community Vision articulated in the updated Comprehensive Plan. Staff from DSD and PCD were directed to collaborate on the Planning and Land Use Code (LUC) update work necessary to create the regulatory framework to implement the vision through the permitting process for areas such as Eastgate/I-90, Downtown, Wilburton, and the Grand Connection.

During the work program discussions, Council asked staff to explore and experiment with new techniques to generate efficiencies in advancing planning and code development work, and respond more quickly to emerging opportunities that align with the City's ED goals. Council also recognized the need to assess staffing and resource needs to ensure adequate capacity is available to complete work program commitments and capture emergent ED opportunities.

Responding to Council direction with near term actions, staff is recommending the expanded use of available **Regulatory Implementation Tools** when needed to expedite code amendment processing time to take advantage of time-constrained opportunities that achieve identified ED goals. The proposed approaches deployed later on tonight's agenda, and those planned for upcoming Study Sessions, include the use of Development Agreements, Interim Official Controls, narrowly scoped amendments processed through the Planning Commission, and Contract Rezones. At the Study Session, staff will provide a detailed explanation about how several current opportunities advance the Council's ED priorities, describe the Regulatory Implementation Tool recommended to seize these opportunities, and explain the Council actions necessary to implement the proposed changes.

To take advantage of the current ED opportunities, staff resources allocated to the Council adopted work program are being redirected to accommodate requests for expedited code amendments. Examples of recent and un-programed work includes code amendments to create an affordable housing fee in return for a floor area ratio increase (Aegis), a Development Agreement allowing installation of a pedestrian bridge between the Lincoln Square developments, and a code amendment to promote corporate branding opportunities with high-rise sign installations. This emergent and time-constrained work is vital to achieving City ED objectives but has the consequence of causing undesirable delays in other work program priorities such as the Critical Areas Update, small cell wireless/broadband connectivity, vegetation management for Electrical Utility facilities, and Pipeline Safety scoping.

The ultimate objective is to ensure that the staff resources are positioned to respond to state and federal mandates and emergent time-constrained ED opportunities, while continuing to meet Council-adopted work program commitments. Options for expanded staffing and support through professional service contracts will be pursued near-term and concurrently through the 2017-18 budget process. Being thoughtful about timing of commitments, available resources, and tailoring the implementation strategies to the identified need, will help balance short and long term demands, and improve predictability in completing this work.

The balance of this memorandum focuses on describing circumstances where it may be appropriate to expand the City's use of available regulatory tools in order to meet identified Economic Development Office opportunities to attract, retain and expanded businesses in Bellevue. Staff is seeking Council feedback on the use of these regulatory implementation tools and whether to advance the specifically described economic development proposals outlined below.

### **Expanded Use of Regulatory Implementation Tools**

#### **1. Development Agreements – provides flexibility**

A development agreement is a voluntary contract between the City and a person who controls property within the jurisdiction. The use of development agreement is authorized under the terms of the Local Project Review Act – RCW 36.70B.170-.210. Development agreements are used to describe the obligations of both parties, and

specify the standards and conditions that will govern development of the property. Although the agreements are voluntary, once made they are binding on the parties and their successors. A development agreement provides assurances to the developer that the development regulations that apply to the project will not change during the term of the agreement. Local jurisdictions must hold a public hearing prior to approving a development agreement, and may only impose standards as authorized in applicable codes.

A development agreement is being presented tonight for Council consideration of the Kemper Development Company request to construct a pedestrian bridge over the Pedestrian Corridor (NE 6<sup>th</sup> Street Right of Way) between Bellevue Way and 105<sup>th</sup> Ave NE. The LUC and Pedestrian Corridor Design Guidelines allow for the pedestrian corridor to be bridged for weather protection, but do not contemplate a specific design. A development agreement in this case provides a process path for the Council to approve a bridge design, and the associated right of way use, in return for ground plane improvements that will incorporate the future design recommendations from Balmori Associates of New York. Study session materials are provided with tonight's Council packet to initiate the proposed development agreement and phasing plan for pedestrian corridor bridge and weather protection.

## 2. Interim Official Controls – provides a bridge to permanent regulations

Interim official controls are an alternative technique to a moratorium. A moratorium is used by local governments to preserve the status quo during the development of new plans and regulations in order to prevent the vesting of new projects to old standards. An interim official control puts temporary regulations in place to guide new development while permanent regulations are being prepared. The City of Bellevue adopted interim official controls to govern marijuana retail while permanent regulations were being developed.

Notice and a public hearing are not necessary prior to enactment of an interim official control, so these regulations can be put in place quickly. However, a public hearing must be held within 60 days of its adoption. Interim official controls can stay in effect for up to six months, and may be renewed for additional six-month periods if a subsequent public hearing is held and findings of fact are made prior to each renewal. Staff is proposing the use of interim official controls in two instances to put interim regulations in place that advance Council-adopted ED goals while new regulations are being prepared and adopted.

Implementation of an Interim Official Control could occur as early as next week. By contrast, a typical Land Use Code update process, even expedited, could take 6-8 weeks with required noticing, Planning Commission recommendation, and final action by the City Council.

### Banks and Financial Institutions as Pedestrian Oriented Frontage and Retail Activity:

The Industrial and Commercial Bank of China (ICBC) seeks to locate a financial institution in tenant space located at 11100 NE 8th Street that is restricted to uses which currently meet the definition of "Pedestrian Oriented Frontage" and "Retail Activity." The

Planning Commission is currently working on the Downtown Livability Initiative, which is expected to lead to code amendments by the end of 2016. The ICBC proposal has the potential to embody the characteristics of pedestrian oriented frontage and retail activity that are envisioned by the City Council for Downtown, and ICBC's location to Bellevue will advance the economic development goals adopted by the Council.

By adopting an Interim Official Control to allow financial institutions to locate in tenant spaces currently restricted to pedestrian oriented uses and retail activity, the Council ED vision can be effectuated in the near-term while the permanent regulations are being developed by the Planning Commission. Staff is requesting direction this evening on whether the City Council wants to proceed with adoption of an Interim Official Control to implement the code change described above.

#### Relocation of Businesses Displaced by Sound Transit

To implement the alignment for the Sound Transit East Link project, property acquisitions in both residential and commercial zones of the City are necessary. In some instances, partial property takings that have limited impacts on the current property use meets the need, while in other instances, a full property taking is necessary resulting in the displacement of homeowners or commercial businesses.

The dislocation of a small number of businesses in BelRed due to East Link has presented a significant challenge to owners who want to keep their businesses in Bellevue and stay in close proximity to their original location. Park Place LTD, an auto dealership currently located at 13710 NE 20<sup>th</sup> St. in the BelRed Subarea, has found it difficult to find property and buildings for their operations while meeting current Land Use Code requirements adopted to implement a transition of the BelRed Subarea from a light industrial area to commercial and residential mixed use area.

By adopting an Interim Official Control, Council could choose to allow businesses dislocated by the Sound Transit East Link project to relocate to existing buildings within the BelRed Subarea under the previous zoning regulations that allowed light industrial and general commercial uses. This alternative aligns with the City's ED goal of business retention with limited impact on the planned transition envisions for this area of the City. The adoption of interim controls would provide a near-term solution that would be evaluated as part of the "BelRed Lookback" scheduled to come back to the Council later this year. Staff is requesting direction this evening on whether the City Council wants to proceed with adoption of an Interim Official Control to implement the code change described above.

### 3. Council-Processed Code Amendments – expedites code amendment timeline

Council-processed and narrowly scoped code amendments are a mechanism to expedite code changes that support emerging opportunities and economic development objectives. The traditional code amendment process entails many steps, including Council initiation, hand-off to the Planning Commission, study sessions and a public hearing before the Commission, a recommendation from the Planning Commission back to the City Council, and study session(s) and final action by the Council. When the Council has a targeted amendment or solution to address a specific circumstance,

Council-processed, or narrowly scoped amendments sent to the Planning Commission, can reduce time typically associated with code processing and adoption.

The Floor Area Ratio (FAR) increase requested by Aegis Living is an example of a narrowly tailored amendment that was forwarded to the Planning Commission. The Council directed staff to amend the code in a very specific way, and the Planning Commission is working hard to recommend a code amendment that is consistent with the direction received. The Planning Commission recommendation on the FAR increase proposal is scheduled to be transmitted to the City Council in May with final action by the Council anticipated in June.

#### 4. Contract Rezones/Concomitant Agreements

The term “contract rezone” generally refers to circumstances where the City grants a rezone in exchange for a developer meeting certain conditions related to future development. Bellevue has used “concomitant agreements” to condition rezones adopted for projects such as the Kelsey Creek Center site and on the Lake Hills Shopping Center site. This technique is quasi-judicial in nature and Council communication must be in conformance with the Appearance of Fairness Doctrine.

Applicants seeking to change the terms of a previously issued concomitant agreement would need to go through the rezone process to modify applicable conditions.

Development Services recently received a rezone application from the owners of the Bellevue Technology Campus (formerly referred to as the Unigard site on 156<sup>th</sup> Ave NE) and will likely rely on the concomitant agreement tool to process the applicant's request. This application will need to work through the permit review process before Council can engage. As a result, no packet materials have been prepared for this topic.

Deployment of the Regulatory Implementation Tools to address the opportunities that are described above, will allow the Council and staff to experiment with new ways to achieve desired implementation outcomes that advance the Council vision. Staff will be present at the Council meeting on May 9 and look forward to discussing these tools to accomplish our work in a deliberate, but more agile, way. Direction to proceed with the two Interim Official Controls described in this memorandum, will start the process experiment with respect to these tools, and ensure that the staff remain focused on the topics of highest priority to the Council until such time as additional resource can be added to support this important work.