



Planning Commission

TRANSMITTAL

DATE: May 11, 2016

TO: Mayor Stokes and Members of the City Council

FROM: Chair Hilhorst and Members of the Planning Commission

SUBJECT: Expansion of Floor Area Exception for Assisted Living Uses through Provisions of Affordable Housing
Land Use Code Amendment - File No. 16-126684-AD

With this transmittal the Planning Commission recommends by a unanimous vote (7 Planning Commission members in support) that the City Council:

- APPROVE the Land Use Code Amendment (LUCA) to expand the floor area exception to assisted living uses in the Bel-Red Medical Office Land Use District when affordable housing is provided.

The Planning Commission also recommends by a unanimous vote that the City Council:

- Forward to the Technical Advisory Group for the Affordable Housing Strategy a request to explore available techniques, and to recommend strategies for, the Planning Commission to pursue affordable housing opportunities, for seniors, in Bellevue, that include an assisted living care component.
- Earmark funds for addressing the demand for senior-focused special needs housing in Bellevue.

The recommended LUCA is contained in Attachment 1 to this transmittal. The balance of this Planning Commission transmittal describes the recommended amendment in greater detail, provides an overview of the public review process, and responds to the amendment decision criteria.

BACKGROUND

On December 14, 2015, representatives of Aegis Living came before the Council in Oral Communications with a request to initiate and expedite a LUCA that would affect their property in the BR-MO District. They presented specific LUCA language that would allow the maximum floor area dedicated to “assisted living” use in the BelRed Medical

Office District (BR-MO) to exceed the base FAR of 1.0 up to a maximum FAR of 2.0, subject to provision of a fee-in-lieu affordable housing incentive.

The City Council discussed the merits of undertaking a code amendment to achieve the objectives of the Aegis Living proposal on February 1 and February 22, 2016. On February 22, the Council initiated a narrowly tailored LUCA to enable increased density in multifamily districts city-wide for assisted living where combined with on-site or fee-in-lieu provision of affordable housing, and forwarded the LUCA to the Planning Commission for a public hearing and recommendation.

The Planning Commission held a public hearing and study session on the Council-directed code amendment on April 27, 2016. An additional study session on the final ordinance and transmittal was held on May 11, 2016. During the formulation of the recommended ordinance, the Planning Commission concluded that it would be premature to recommend a city-wide approach in response to the Aegis Living request before the Affordable Housing Strategy had been completed by the Technical Advisory Group (Tag).

At this time, the Planning Commission is recommending a surgical amendment to the Land Use Code (LUC), which will facilitate a fee-in-lieu increase to FAR in the Medical Office district of the BelRed Subarea that will position the City to take advantage of the opportunity presented by the Aegis Living request. Once the TAG has completed its work, the Planning Commission would like to revisit the affordable housing topic with the objective of incorporating tools identified by the TAG into the LUC to achieve affordable housing objectives city-wide. The Eastgate, Downtown Livability and BelRed Lookback initiatives will provide the Planning Commission with the opportunity to incorporate the TAG outcomes into the LUC quickly.

SUMMARY OF PROPOSAL RECOMMENDED BY THE PLANNING COMMISSION

The LUCA recommended by the Planning Commission would apply excepted FAR for affordable housing uses to the BelRed Medical Office (BR-MO) land use district. With the exception of the Office Residential District of the BelRed Subarea, the balance of the BelRed districts either currently except affordable housing as an existing amenity, or do not permit assisted living, congregate care and nursing home uses. To respond to the expedited nature of the Aegis Living request, the Planning Commission chose to focus on the compatibility of the assisted living uses in the BR-MO.

The Planning Commission would have preferred to limit this amendment to the Aegis property until such time as the work of the TAG was completed and could be used to inform this amendment. However, the Planning Commission was advised by City staff that code amendments applicable to individual properties would constitute an illegal spot zone. As a result, the scope of the amendment recommended by the Planning Commission was limited BR-MO to achieve the Aegis request without creating a spot zone.

During the Planning Commission review of the Aegis Living proposal, the need for assisted living uses in Bellevue was clearly demonstrated. Providing incentives for the construction of these assisted living uses in the Medical Office District was also clearly aligned with the overall vision for the BelRed Subarea, and would also reinforce the relationship between the BR-MO and the Medical Institution District where Overlake Hospital and Group Health are located. It was less clear that incenting assisted living uses in the BelRed Office Residential area would have the same alignment with the character of that land use district, and overall vision for BelRed. This realization was another reason why the Planning Commission chose to advance the FAR exception only in the BR-MO at this time, and to wait for the results of the TAG review before considering application of the exception amendment more broadly.

In the BR-MO, the new language would except up to 1 FAR of affordable housing from the calculation of FAR for a residential project if certain criteria are met. If the affordable housing is provided on-site, the amount of excepted FAR would be negotiated through a development agreement and the affordable housing would be required to meet applicable design criteria, a public benefit must be shown to be derived from development of affordable housing at the proposed location, and an agreement must be executed with the City to ensure that the affordable housing remains on the site for the life of the project.

If the affordable housing is not provided on-site, the applicant is required to pay a fee-in-lieu, and must execute an agreement with the City to ensure that the use remains dedicated to assisted living, congregate care or nursing home for the life of the project. In BelRed, calculation of the in-lieu-fee would be based on the affordable housing amenity rates of \$18 per square foot of bonus FAR that is adopted into the BelRed code.

The Planning Commission does not recommend the inclusion of an exception from FAR in the BelRed Office Residential, Eastgate, or Downtown land use districts at this time. The Eastgate and Downtown Livability initiatives are currently before Planning Commission for review, and the BelRed Lookback is anticipated to be coming before the Planning Commission in 2017. Calibration of code standards and amenity system requirements will be an important component of each piece of subarea work before the Commission. As a result, the Planning Commission believes that a city-wide affordable housing exception and/or incentive is best reviewed holistically as part of the other pending work program items. There is no opportunity to be lost by including this work in other Planning Commission efforts that are currently underway, and the BelRed component of the LUCA is being moved forward for Council action will allow the City to take advantage of the opportunity that is currently presented by the Aegis Living project.

A copy of the recommended LUCA is included in Attachment 1 to this transmittal.

PUBLIC NOTICE AND COMMENT

Notice of the public hearing and application for environmental review under the State Environmental Policy Act (SEPA) together with the SEPA checklist were published in the City's Weekly Permit Bulletin on April 7, 2016. Notice of the SEPA threshold determination was published on April 21, 2016 in the Weekly Permit Bulletin. As of the writing of this staff report, public comments were limited to those received during the public hearing and those provided by Aegis representatives in response to questions raised by the Planning Commission during the April 27 study session.

At the hearing, three members of the public spoke to the LUCA proposal. The themes from the public testimony received at the hearing were as follows:

1. Public Comment: Creation of affordable housing is a City goal, but the collection of an in-lieu fee is only the first step in the realization of that goal. The City needs to take steps to ensure that affordable housing is constructed in Bellevue.

Study Session Discussion: The Planning Commission agreed with this public comment and is recommending in this Transmittal Memorandum that the City Council forward to the Technical Advisory Group for the Affordable Housing Strategy a request to explore and recommend regulatory strategies for the Planning Commission to pursue opportunities that create affordable housing, for seniors, in Bellevue, that include an assisted living care component. The Planning Commission understands that the Council sets the policy for expenditure of affordable housing dollars generated by the fee-in-lieu program, and would also like to see these funds earmarked to help residents living in our community where demand exceeds available resources.

2. Public Comment: Increases in FAR can impact transportation systems.

Study Session Discussion: The Planning Commission understands from its review of this topic, that transportation impacts of assisted living facilities are anticipated to have negligible impacts on the transportation infrastructure, because individuals in these facilities do not drive.

3. Public Comment: Assisted living uses available in Bellevue are not sufficient to meet anticipated demand.

Study Session Discussion: The Planning Commission concluded that there was a pressing need for assisted living, congregate care and nursing home uses in Bellevue. This was one of the reasons that the Planning Commission has requested that regulatory options be evaluated by the TAG and referred to the Planning Commission for further study. The pressing need for senior care services in Bellevue was also served as impetus for the Planning Commission to recommend

that funds collected from the Bellevue in-lieu-fee program be utilized to support senior projects (with an affordable care component) that are constructed in Bellevue.

4. Public Comment: The narrowly scoped fee-in-lieu proposal before the Planning Commission is not the proper forum to study or propose implementation strategies necessary to meet demand for assisted living uses that are affordable to seniors when their household income is less than 80 percent of the median annual income for the Seattle Metropolitan Area.

Study Session Discussion: The Planning Commission remains committed to promoting a variety of housing opportunities to meet the needs of all members of the community, to provide incentives to encourage affordable housing, and to provide reasonable accommodation for housing people with special needs in all areas of the City, consistent with the Comprehensive Plan Housing Vision, Goals and applicable Policies. As stated elsewhere in this Transmittal, the Planning Commission is recommending that the City Council forward to the TAG for the Affordable Housing Strategy a request to explore available techniques and recommend regulatory strategies to the Planning Commission for Bellevue to pursue opportunities that create affordable housing, for seniors, in Bellevue, that include an assisted living care component.

5. Public Comment: The FAR increase proposed in response to the Aegis Living request should be limited to BelRed, and consideration of the applicability of this amendment to Downtown should be considered as part of the Downtown Livability Initiative.

Study Session Discussion: The narrowly scoped fee-in-lieu proposal to advance the FAR exception and take advantage of the affordable housing funding opportunity presented by the Aegis Living proposal is important. An approach to incorporating an affordable housing bonus city-wide should be considered holistically, and should be informed by the work of the TAG. There is no opportunity to be lost by including the TAG work later in other Planning Commission initiatives that are currently underway, and the BelRed Medical Office component of the LUCA is being moved forward for Council action to take advantage of the opportunity that is currently presented by the Aegis Living project.

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 the state agencies with a request to expedite their review so that the City Council could take final action as soon as the Planning Commission completed its recommendation. Notice that the City of Bellevue had met its Growth Management Act-mandated notice to state agency requirements in RCW 36.70A.106 was received for this recommended amendment on May 4, 2016.

STATE ENVIRONMENTAL POLICY ACT (SEPA)

The application for SEPA review was noticed together with the draft LUCA and the notice of the public hearing. The environmental review indicated no probability of significant adverse environmental impacts occurring as a result of the programmatic proposal to amend the Land Use Code to allow a floor area increase for assisted living uses through the provision of affordable housing. The City codes and requirements, applicable to projects that could take advantage of this code amendment, including SEPA, the Land Use Code, Noise Ordinance, Building Code and other construction codes will adequately mitigate expected environmental impacts. Therefore, a Determination of Non-significance (DNS) was issued under the State Environmental Policy Act.

The following is a summary of the environmental review for this proposal that was taken into account by the Planning Commission in making its decision:

A. Environmental Record

The environmental summary consisted of analysis based on the following documents and studies in the environmental record or, if noted, incorporated by reference.

- Environmental Checklist, Supplemental Sheet for Nonproject Actions, prepared by Trish Byers, Code Development Manager, City of Bellevue Development Services Department, dated April 7, 2016.
- Draft Land Use Code Amendment; File No. 16-126684-AD.

B. Proposed Timing and Phasing

The Planning Commission held its public hearing on the amendment on April 27, 2016. Following the public hearing, the Planning Commission formulated its recommendation and by this memorandum is transmitting it to the City Council. The Planning Commission asks that the City Council act on the Planning Commission recommendation on the draft LUCA included in Attachment 1 during a future City Council meeting.

C. Environmental Summary

Purpose and Need:

Aegis Living has requested an increase in density in the BR-MO District for assisted living that also contributes to affordable housing. The rationale for the amendment was to facilitate assisted living to meet the needs of a growing older population, as well as the public benefit in promoting affordable housing. With a growing older population, Bellevue will face an increasing need for assisted living housing. The Council has already recognized the need for more affordable housing opportunities, and initiated work on an Affordable Housing Strategy.

The Aegis Living proposal represents an opportunity for an “early win” in advancing the affordable housing strategy. As a result, the Aegis concept of promoting a density

bonus for assisted living, combined with on-site or fee-in-lieu affordable housing is being recommended by the Planning Commission in the BelRed Medical Office land use district. Broader application of the FAR exception is being recommended for consideration as the Planning Commission reviews the Eastgate Subarea Plan, Downtown Livability and the BelRed Lookback initiatives.

Major Conclusions, Significant Areas of Controversy and Uncertainty:

The major conclusions are that the proposal will likely result in the generation of fees to support the off-site construction of affordable housing when developers seek to increase floor area available for their proposed assisted living, congregate care and nursing home uses. Uncertainty exists as to whether the LUCA will support the creation of on-site assisted living, congregate care and nursing home uses that are affordable to households with an income of less than 80% of the median annual income for King County. There are no known significant areas of controversy.

Issues to be Resolved, Including Environmental Choices to Made Between Alternatives Courses of Action

Adoption of the proposed Land Use Code Amendment will permit assisted living developers to exceed the applicable base FAR by up to 1.0 additional FAR, subject to provisions of a fee-in-lieu for affordable housing. Any proposed assisted living development project that proposes to use the FAR exception will continue to be subject to Design Review pursuant to the City of Bellevue's Process II permit review procedure, and will require conformance with all applicable design guidelines and development standards.

The alternative course of action would be to not adopt the proposed Land Use Code Amendment. If the Land Use Code Amendment is not adopted, the contemplated fee-in-lieu would be not be created. Known in-lieu-fee contributions proposed to be generated by the Aegis Living proposal would be lost, and future fees would be foreclosed. If the standard BelRed residential rate of \$18/sf were applied to exempt 1.0 FAR on the 35,000 square foot Aegis Living property, this would generate about \$0.6M.

VI. REVIEW PROCESS AND APPLICATION OF DECISION CRITERIA

A LUCA is reviewed through Process IV per LUC 20.35.400 - .450. Following review of the draft LUCA, the Planning Commission directed staff to schedule a public hearing for April 27, 2016. Following the public hearing on April 27, the Planning Commission held a study session and began to formulate the content of its recommendation on this LUCA. The Planning Commission finalized its recommendation at the May 11 meeting, based on specific decision criteria set forth in Land Use Code section 20.30J.135.

LUC 20.30J.135 establishes the decision criteria for an application to amend the text of the Land Use Code. Those criteria, and the relationship of the proposal to them, are discussed below:

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

The Comprehensive Plan General Elements as well as the Bel-Red Subarea Plan contain policies applicable to this LUCA proposal. The most relevant policies are listed below:

- **Comprehensive Plan Housing Vision.** *Bellevue meets the housing needs of its diverse population, strengthening neighborhoods and communities.*
- **Comprehensive Plan Housing Goal.** *To maintain the vitality and stability of single family, multifamily and mixed used neighborhoods, and promoting a variety of housing opportunities to meet the needs of all members of the community.*
- **Policies HO-7 and HO-23.** *Encourage the development of affordable housing through incentives and other tools consistent with state-enabling legislation.*
- **Policy HO-11.** *Encourage housing opportunities in mixed residential/commercial settings throughout the City.*
- **Policy HO-12.** *Provide incentives to encourage residential development for a range of household types and income levels in multifamily and mixed use commercial zones.*
- **Policy HO-34.** *Provide reasonable accommodation for housing people with special needs in all areas, and avoid concentrations of such housing, while protecting residential neighborhoods from adverse impacts.*

Finding: The LUCA encourages the development of affordable housing by excepting floor area devoted to assisted living, nursing home or congregate care uses through the provisions of affordable housing. The LUCA provides implementation flexibility by allowing use of the FAR exception when a component of affordability is provided on-site subject to the terms of a Council-approved development agreement, or by payment of a fee-in-lieu to support affordable housing off-site.

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

Finding: By linking the affordable housing incentive to the creation of assisted living, the LUCA may also encourage developers to accommodate affordability into assisted living projects which will support a range of household types and income levels that are currently underserved by affordable housing options.

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

Finding: The LUCA allows the FAR exception only in the BelRed Medical Office land use district where assisted living, congregate care and nursing home uses are currently allowed, where affordable housing is currently not incentivize, and where there is a

natural synergy between the assisted care uses and those used found in the Medical Institution District (including Group Health and Overlake Hospital). As a result, residential neighborhoods will be protected from an increase in development intensity of a type and scale that is not already contemplated by the underlying zoning.

CONCLUSION

Upon consideration of the analysis presented in this Transmittal, consideration of public testimony, and review of the record, the Planning Commission recommends APPROVAL of the Land Use Code Amendment by an unanimous vote of the Planning Commission to expand the floor area exception to assisted living uses in the BelRed Medical Office Land Use District when affordable housing is provided. The recommended LUCA is contained in Attachment 1 to this transmittal.

The Planning Commission also requests that the City Council forward to the Affordable Housing Strategy TAG a request to recommend regulatory strategies for the Planning Commission to pursue opportunities to create affordable housing, for seniors, in Bellevue, that include an assisted living care component that can be used to inform Planning Commission review of Eastgate, Downtown and BelRed codes. In addition, the Planning Commission requests that the City Council earmark funds for addressing the demand for senior-focused special needs housing for projects that are located in Bellevue.

ATTACHMENTS

1. Recommended LUCA to expand the floor area exception to assisted living uses in the Bel-Red Medical Office land use district when affordable housing is provided