



STAFF REPORT

DATE: May 24, 2018

TO: Chair Barksdale and Members of the Planning Commission

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Development Services Department

SUBJECT: Public Hearing on Land Use Code Amendment (LUCA) necessary to achieve consistency with the new Downtown, Part 20.25A Land Use Code (LUC), and Eastgate LUC amendments; to incorporate International Building Code (IBC) and Bellevue City Code (BCC) amendments related to construction type in Factoria Development Area III; for general clean-ups and clarifications to correct errors, omissions and/or internal conflicts within the LUC and between the LUC and the BCC, including the landscape buffer provision in BelRed, Part 20.25D LUC; and establishing an effective date. File No. 17-131156-AD.

I. BACKGROUND

A. Recent Code Amendments.

In August and October 2017, the City Council adopted Ordinance No. 6366 related to the Eastgate subarea (the Eastgate Project) and Ordinance No. 6377 related to the Downtown subarea (the Downtown Livability Project). Additionally, changes to the IBC in 2016 enabled five levels of wood frame construction over two levels of concrete construction (5 over 2), and this 5 over 2 construction type was not permitted when Factoria 1 regulations were last amended in 2007. The Eastgate Project, the Downtown Livability Project, and the adoption of the 2016 IBC amending the BCC to incorporate the IBC provisions regarding 5 over 2 construction type entailed significant amendments to the LUC concerning the Downtown, Eastgate, and Factoria subareas. These legislative actions required amendments to general sections of the LUC and to the specific provisions for these subareas, and each of these recent Code amendments are discussed in detail below:

Ordinance No. 6366—Eastgate/I-90 Land Use and Transportation Project (Eastgate Project).

Ordinance No. 6366 amended the LUC to advance the Eastgate Project. Initiated in 2010, the Eastgate Project resulted in the Council-appointed Eastgate Citizens Advisory Committee's issuance of *The Eastgate / I-90 Land Use and Transportation Project Citizen Advisory Committee Final Report* (Eastgate CAC Report), which benefited from one and a half years of public outreach and planning work, including open houses, online surveys, stakeholder interviews, presentations to interest groups, and website updates. The City Council accepted the Eastgate CAC Report, and its corresponding principles and guidelines related to the Comprehensive Plan, LUC, Zoning Map, and Transportation Facilities Plan.

The draft LUC amendments for the Eastgate Project created three new land use designations, including a transit-oriented development district (EG-TOD), an expanded version of Office and Limited Business designation (OLB-2), and a Neighborhood Mixed-Use designation (NMU). Use tables, dimensional requirements, development standards, and design guidelines for each of the new land use districts were part of the draft amendments. Also, the draft amendments included rezones of certain areas to land use designations that already existed, and repeals of some concomitant zoning agreements.

Subsequently, and after holding 13 study sessions and a public hearing, the Commission recommended the draft land use regulations to the City Council. The City Council held additional study sessions, and received further comments and recommendations from the Transportation Commission. Finding the draft land use code amendments were consistent with the Eastgate Project principles, the Eastgate CAC Report, the Comprehensive Plan, and applicable decision criteria, the City Council then adopted Ordinance No. 6366 in August 2017.

Ordinance No. 6377—Downtown Livability Initiative.

Ordinance No. 6377 amended the LUC to advance the Downtown Livability Initiative. The City Council launched the Downtown Livability Initiative to update the LUC so that it better aligned with the updated Downtown Subarea Plan and changes that have occurred in the evolution of Downtown, and to focus on enhancing the livability of Downtown Bellevue.

A Council-appointed Citizen Advisory Committee (CAC) worked on the Downtown Livability Initiative from May 2013 to June 2014. The CAC evaluated and identified high-level recommendations for Downtown LUC amendments, including public open space, pedestrian corridor, design guidelines, amenity incentive system, station area planning, building height and form, downtown parking, and other topics. Between May 2015 and May 2017, the Planning Commission worked to evaluate and refine the CAC recommendation, and transmitted a recommended LUCA package to the City Council for final review and adoption.

The City Council reviewed and first adopted a smaller package of “Early Wins” code amendments. Then, after concluding six study sessions related to the Downtown Livability code amendments, the City Council adopted Ordinance No. 6377, which repealed the previous Part 20.25A LUC to add a new Part 20.25A LUC. The new Part 20.25A LUC provided new Downtown definitions, departures, tower requirements, and provisions regarding nonconformities, dimensions, amenity incentive system, development standards, and design guidelines.

2016 IBC Amendments.

The IBC that was adopted by the City in 2016 now allows for 5 over 2 construction type, which consists of five levels of wood frame construction over two levels of concrete construction. The 5 over 2 construction type is more cost effective and flexible for development of housing and was intended to help add to the diversity of housing choices available in the City. The total height for a 5 over 2 construction type is ideally 75 feet.

This construction type was not permitted in the City at the time Factoria 1 regulations were last amended in 2007, and as a result, the maximum height for Factoria Development Area (DA) III was set at 60 feet. The 60-foot maximum height for DA III was also set to accommodate the Target store, with parking below the retail store, rather than multifamily development.

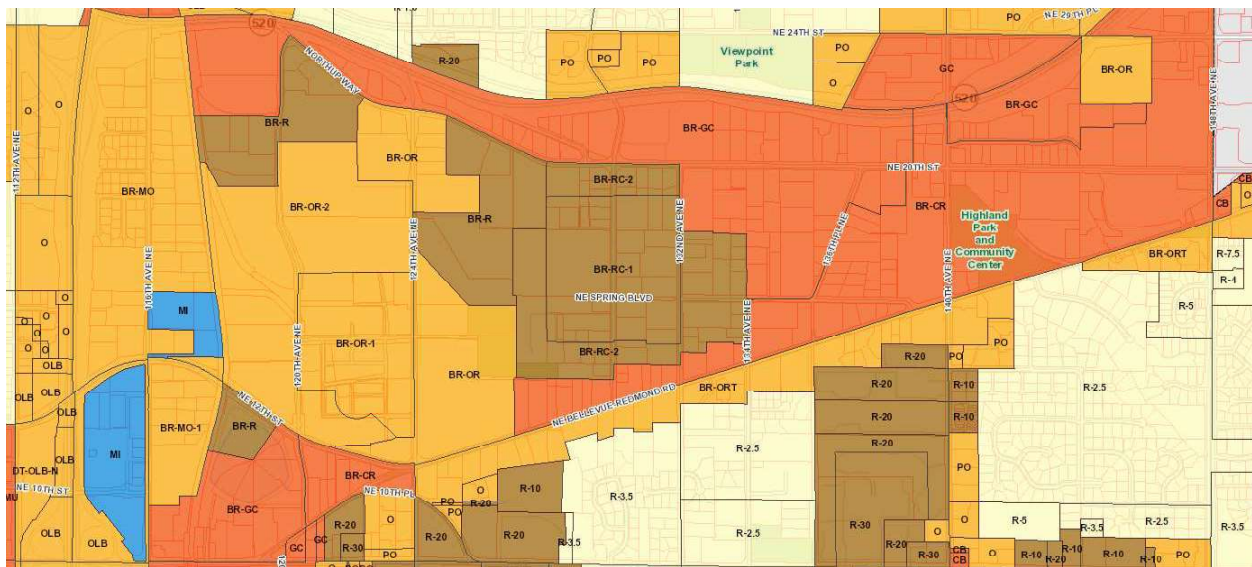
The 5 over 2 construction type is now permitted by the IBC and the BCC. In order to integrate and ensure consistency between the provisions of the IBC, BCC, and the LUC, the draft LUCA would permit 5 over 2 construction type in Factoria DA III. This construction type, if permitted, would increase the maximum height for multifamily in Factoria DA III from 60 feet to 75 feet. (LUC 20.25F.140). Further, the 75-foot maximum height for DA III would be consistent with the height requirements in DA II.

B. Conformance Amendments to the LUC Are Now Necessary.

In addition to the amendments necessary due to the Eastgate and Downtown ordinances and the 2016 IBC changes, updates to the Comprehensive Plan and continuing code development efforts in recent years created omissions and/or internal conflicts within the LUC and between the LUC and other city regulations. The City has identified necessary general clean-ups and clarifications during recent review and processing of land use approvals and permit applications.

One example is regarding maximum building heights in the dimensional requirement charts in LUC 20.25A.060.A.4. There are two numbers provided in these charts, one for the Maximum Building Height and another for the Maximum Building Height with Mechanical Equipment. On May 24, 2017, the Planning Commission decided to include both heights in the charts, as opposed to listing the uninhabitable mechanical space as a separate height exception, and the final Downtown Code is consistent with this direction. However, a remnant of the separate height exception remains in LUC 20.25A.060.B.3 which still allows a 20-foot height intrusion for mechanical equipment through an Administrative Departure.

Based on staff review of the May 24, 2017 Planning Commission minutes, it does not appear that the Commission intended to provide a 20-foot administrative intrusion opportunity in addition to the 20-foot height increase for mechanical equipment included in LUC 20.25A.060.A.4 (which would result in up to 40 feet of additional height for mechanical equipment). In the March 28, 2018 study session, staff confirmed that the separate height exception in LUC 20.25A.060.B.3 was not intended to remain in the final Downtown Code. As such, deletion of the height exception provision is included in these Conformance Amendments for clarity and consistency with the Planning Commission's previous recommendation.



BelRed Land Use Districts

Another example is regarding the perimeter landscape development, a 20-foot landscape buffer, that must be provided to create visual separation between different land use districts in BelRed. As currently written, LUC 20.25D.110.C.2 states that the landscape buffer “shall be provided along the interior property line of a district abutting BR-R and BR-ORT Land Use Districts.” Because several locations of

the BR-R district abut non-BelRed districts, which are not governed by Part 20.25D LUC (BelRed Code), there may be confusion as to where the landscape buffer must be installed. See properties south of NE Bellevue-Redmond Road in the map above.

For these instances, an amendment to LUC 20.25D.110.C.2 is necessary to clarify and ensure that the landscape buffer is provided as visual separation along the interior property line of the BR-R property, the property which Part 20.25D LUC applies to. The amended LUC 20.25D.110.C.2 reads:

2. Where Required. A 20-foot landscape buffer shall be provided along the interior property line of a district abutting BR-R Land Use District and along the interior property line of the BR-ORT Land Use District abutting any non-BelRed Land Use District.

C. Recommended LUCA Description

This recommended LUCA, i.e. Conformance Amendments, contains cross references and amendments to sections of the LUC necessary to effectively integrate and ensure consistency with the substance of adopted ordinances, regulations, and the Comprehensive Plan. Notably, these Conformance Amendments do not separately make any substantive changes to the LUC. The draft amendments are included in Attachment 1.

II. REVIEW PROCESS

In the March 28 study session, the recommended LUCA was introduced to the Planning Commission. The LUCA is required to achieve consistency with the new Downtown, Part 20.25A LUC, and Eastgate LUC amendments; to incorporate IBC and BCC amendments related to construction type in Factoria Development Area III; for general clean-ups and clarifications to correct errors, omissions and/or internal conflicts within the LUC and between the LUC and the BCC, including the landscape buffer provision in BelRed, Part 20.25D LUC; and establishing an effective date

After this introduction and discussion, the Commission directed the public hearing be scheduled for May 9, 2018 to receive comments and consider the recommended LUCA. Following the May 9 public hearing, the Commission discussed the recommended LUCA and subsequently voted to transmit to the City Council a recommendation for the LUCA adoption. During the next Planning Commission meeting on May 16, the Commission decided to schedule another public hearing on June 13, 2018 with new noticing documents, including this updated Staff Report and attached draft LUCA, that more comprehensively describe these Conformance Amendments.

Following the June 13 public hearing, the Commission will be asked to transmit to the City Council a recommendation for the LUCA adoption; or a recommendation for the LUCA adoption with modifications. During a subsequent public meeting (potentially in June 2018), the City Council will consider the draft LUCA, along with the Planning Commission's recommendation, and may take final action on the LUCA. If the Council adopts LUCA ordinance, the documents will be forwarded to the Washington State Department of Commerce (Commerce) pursuant to the Growth Management Act (GMA).

III. PUBLIC NOTICE

The notice required for legislative actions is governed by the terms of LUC sections 20.35.415 through 20.35.450. Notice of the LUCA Application and Public Hearing scheduled for May 9, 2018, including the Staff Report, was published on April 19, 2018 in the Weekly Permit Bulletin, and availability of the Weekly Permit Bulletin was noticed in the Seattle Times. Notice of the Public Hearing scheduled for May 9, 2018, including the availability of the Staff Report, was also published in the Seattle Times on April 20, 2018.

Notice of the Public Hearing scheduled for June 13, 2018, including this Staff Report, was published on May 24, 2018 in the Weekly Permit Bulletin, and availability of the Weekly Permit Bulletin was noticed in the Seattle Times. Notice of the Public Hearing scheduled for June 13, 2018, including the availability of this Staff Report, was also published in the Seattle Times on May 24, 2018.

All notices were also provided to members of the Community Council, representatives of neighborhood associations, community groups, and others who have subscribed to receive these notices.

Pursuant to the GMA, proposed amendments to the LUC must be sent to Commerce. A copy of the required transmittal to Commerce, including a copy of the proposed amendments, was transmitted on April 10, 2018, and is available for review in the code amendment file. As of the release of this Staff Report, no comments have been received from any state agencies.

In addition to the required public notice, information regarding this recommended LUCA is posted on the City's Code News website. This website provides access to materials regarding the draft amendment, staff contacts, and other relevant information.

Parts of the recommended LUCA concern general provisions that apply city-wide, including within the jurisdiction of the East Bellevue Community Council (EBCC). As such, the EBCC will hold a courtesy hearing on the proposed LUCA, currently scheduled for July 3, 2018. If this LUCA is adopted by the City Council, the EBCC will then be asked to approve the ordinance for it to become effective within the EBCC area. Notice of the public hearing and potential EBCC action will be properly provided.

IV. DECISION CRITERIA

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

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

Finding: The City of Bellevue has adopted three comprehensive plan policies that speak to the efficiency, consistency, and predictability of the permitting process:

POLICY ED-5. Develop and maintain regulations that allow for continued economic growth while respecting the environment and quality of life of city neighborhoods.

POLICY ED-6. Strive to provide an efficient, streamlined, timely, predictable and customer-focused permit processes, conducted in a manner that integrates multiple city departments into a coordinated entity, recognizing the role of development in creating places for economic activity.

POLICY ED-31. Maintain and update integrated land use and transportation plans to guide the future of the city's major commercial areas and help them respond to change.

The LUC contains the regulations that are used to implement the Comprehensive Plan in its totality, including the above listed policies specifically. The City Council adopted these regulations, along with the underlying policies, through its legislative (law-making) and long-term planning authority.

The recommended LUCA is consistent with and supports the Comprehensive Plan and these listed policies, as well as their corresponding regulations, by achieving consistency with the new Downtown, Part 20.25A LUC, and Eastgate LUC amendments, and general clean-ups to correct omissions and/or internal conflicts within the LUC and between the LUC and the BCC.

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

Finding: The recommended LUCA will enhance the public health, safety, and welfare by achieving consistency and correcting conflicts within the LUC and between the LUC and other city codes.

The recommended LUCA would properly develop and maintain the LUC, and ensure that the permitting process is efficient, streamlined, timely, predictable, and customer-focused, and that development and land use are coordinated within and between multiple city departments and codes.

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

Finding: The recommended LUCA is consistent with the best interest of the citizens and property owners as it will achieve consistency and correct conflicts within the LUC and between the LUC and other city codes.

V. STATE ENVIRONMENTAL POLICY ACT

Integrated environmental review occurred for the Eastgate Project and the Downtown Livability Project and resulted in the issuance of a Determination of Non-Significance on June 9, 2016 and February 16, 2017, respectively. Other conformance amendments not part of the Eastgate Project and the Downtown Livability Project are categorically exempt from the requirements of SEPA under WAC 197-11-800(19)(b).

VI. RECOMMENDATION

The recommended LUCA included in Attachment 1 is consistent with the decision criteria required for adoption of an amendment to the LUC. Staff recommends that the Planning Commission hold a public

hearing on the draft amendment, and following consideration of the testimony provided at the hearing and discussion, recommend to the City Council approval of the draft amendment.

ATTACHMENTS

1. Draft LUCA