



Planning Commission

TRANSMITTAL

DATE: June 13, 2018

TO: Mayor Chelminiak and Members of the City Council

FROM: Chair Barksdale and Members of the Planning Commission

SUBJECT: *Conformance Land Use Code Amendment* – File No. 17-131156-AD

With this transmittal the Planning Commission recommends by a unanimous vote of 6 to 0 (one Commissioner absent) that the City Council:

- APPROVE the 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.

This recommended LUCA satisfies the Decision Criteria for a Land Use Code Amendment (see Review Process and Application of Decision Criteria).

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

BACKGROUND

A. Background

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, the City adopted an updated IBC that now 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 BCC. These legislative actions are discussed below:

Ordinance No. 6366—Eastgate/I-90 Land Use and Transportation Project (the 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, 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 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 amendments. Also, the amendments included rezones of certain areas to land use designations that already existed and repealed some concomitant zoning agreements. The City Council 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. 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 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 allowed for 5 over 2 construction type, consisting 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 is intended to help add to the diversity of housing choices available in the City. The total height for a 5 over 2 construction type would ideally be 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. To integrate and ensure consistency between the provisions of the IBC, BCC, and the LUC, the recommended LUCA would permit 5 over 2 construction type in Factoria DA III and increase the maximum height for multifamily in Factoria DA III from 60 feet to 75 feet (LUC 20.25F.140).

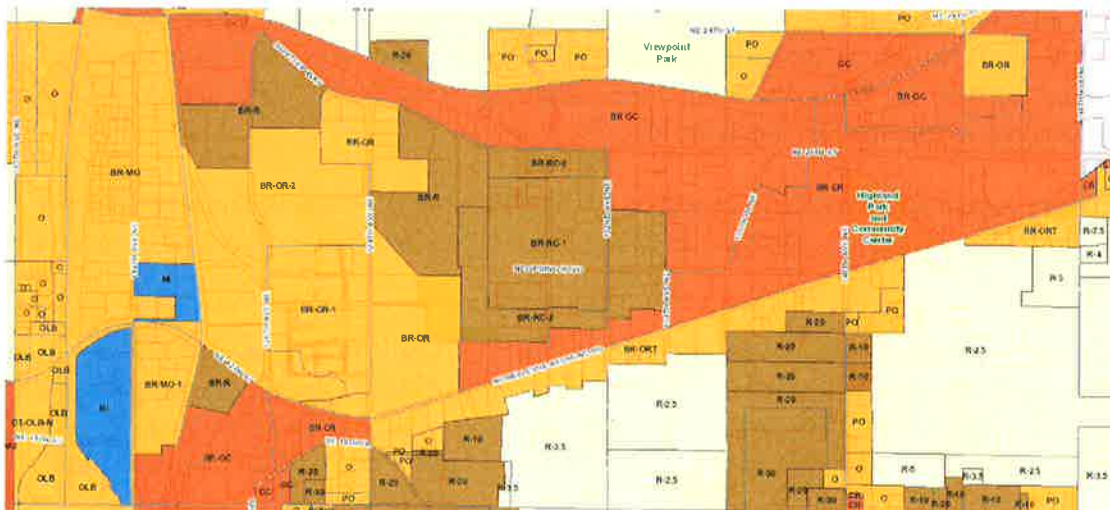
B. Conformance Amendments Are Now Necessary.

In addition to the amendments necessary due to the above described legislative actions, 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 also identified necessary general clean-ups and clarifications during its review and processing of land use approvals and permit applications.

One example was regarding maximum building heights in the dimensional requirement charts in LUC 20.25A.060.A.4. There were 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 remained in LUC 20.25A.060.B.3 which still allowed a 20-foot height intrusion for mechanical equipment through an Administrative Departure.

The May 24, 2017 Planning Commission minutes showed that the Commission did not intend 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). Deletion of the height exception provision was included in the recommended LUCA for clarity and consistency with the Planning Commission's previous recommendation.

Another example was regarding the perimeter landscape development, a 20-foot landscape buffer, that had to be provided to create visual separation between different land use districts in BelRed. As currently written, LUC 20.25D.110.C.2 stated 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 abutted non-BelRed districts, which were not governed by Part 20.25D LUC (BelRed Code), applicants have expressed confusion as to where the landscape buffer had to be installed. See properties south of NE Bellevue-Redmond Road in the map below.



BelRed Land Use Districts

For these instances, an amendment to LUC 20.25D.110.C.2 was necessary to clarify and ensure that the landscape buffer would be 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 would state:

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.

SUMMARY OF PROPOSAL

The LUCA recommended by the Planning Commission is necessary to achieve consistency with the new Downtown and Eastgate LUC amendments; to effectuate flexibility offered in the International Building Code (IBC) and Bellevue City Code (BCC) amendments related to construction type in Factoria Development Area III; and 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. The recommended LUCA is essential to effectively integrate and ensure consistency with the substance of adopted ordinances, regulations, and the Comprehensive Plan. The recommended LUCA does not separately make any substantive changes to the LUC.

PUBLIC NOTICE AND COMMENT

The notice required for legislative actions was 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 and draft LUCA, 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 and draft LUCA, was also published in the Seattle Times on April 20, 2018.

Notice of the Public Hearing scheduled for June 13, 2018, including the Staff Report and draft LUCA, 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 the Staff Report and draft LUCA, 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 had 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. At the time of the June 13 Public Hearing, no comments had been received from any state agencies.

In addition to the required public notice, information regarding this recommended LUCA had been posted on the City's Code News website. This website provided 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 recommended LUCA on September 5. 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 courtesy public hearing and potential EBCC action will be properly provided.

STATE ENVIRONMENTAL POLICY ACT (SEPA)

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 were categorically exempt from the requirements of SEPA under WAC 197-11-800(19)(b).

REVIEW PROCESS AND APPLICATION OF DECISION CRITERIA

Land Use Code amendments must undergo Process IV Review per LUC 20.35.400 – 450. These are City Council legislative actions that require a public hearing, include a recommendation by the Planning Commission, and final action by the City Council.

In the March 28 study session, the recommended LUCA was introduced to the Planning Commission and after 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 and updated Staff Report, including the draft LUCA, that more comprehensively described the geographic reach of the amendments. The Commission held the June 13 public hearing, and after discussion and deliberation, the Commission unanimously voted to transmit to the City Council a recommendation for the LUCA adoption.

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

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 has 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 IBC and 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 will properly update 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.

CONCLUSION

Upon consideration of the analysis presented in this Transmittal, consideration of public testimony, and review of the record, the Planning Commission recommends APPROVAL by a unanimous vote of 6 to 0 (one Commissioner absent) of the Recommended LUCA included in Attachment 1.

ATTACHMENTS

1. Recommended Conformance LUCA