

**CITY COUNCIL STUDY SESSION**

Land Use Code Amendment (LUCA) and amendments to the Noise Control Code, Bellevue City Code (BCC) Chapter 9.18, the Sign Code, Chapter 22B.10 BCC, and the Environmental Procedures Code, Chapter 22.02 BCC, necessary to achieve consistency with the new Downtown Code, Part 20.25A Land Use Code (LUC), Eastgate LUC amendments, and new State Environmental Policy Act (SEPA) rules; to incorporate International Building Code (IBC) and 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 BCC.

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**DIRECTION NEEDED FROM COUNCIL****DIRECTION**

Review and discuss the recommended LUCA and amendments to the Noise Control Code, Sign Code, and Environmental Procedures Code (Conformance Amendments); and direct staff to bring back the Ordinances for final action on October 1.

**RECOMMENDATION**

Direct staff to bring the Ordinances as drafted for final action on October 1.

**BACKGROUND & ANALYSIS****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). There were also changes to non-City codes and regulations that directly impacted the BCC. First, in 2016 the IBC 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. Second, the Washington State Department of Ecology completed administrative updates to the SEPA rules in Chapter 197-11 of the Washington Administrative Code (WAC) in response to the 2012 Natural Resources Reform Bill enacted by the Washington State Legislature.

**The Eastgate/I-90 Land Use and Transportation Project (Eastgate Project)**

Ordinance No. 6366 amended the LUC to advance the Eastgate Project. 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 the Office and Limited Business designation (OLB-2), and a Neighborhood Mixed-Use designation (NMU). The amendments added use tables, dimensional requirements, development standards, and design guidelines for each of the new land use districts. Also, the amendments rezoned 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.

#### The Downtown Livability Initiative

Ordinance No. 6377 amended the LUC to advance the Downtown Livability Initiative. This Ordinance 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, the amenity incentive system, development standards, and design guidelines. The City Council adopted Ordinance No. 6377 in October 2017.

#### 2016 IBC Amendments

The IBC 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. The intent for allowing this construction type is 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.

#### Department of Ecology (DOE) Updates to the SEPA Rules

In 2012, the Washington State Legislature enacted 2ESSB 6406 the Natural Resources Reform Bill, in order to streamline and improve the efficiency of regulatory processes, while maintaining natural resource protection. In response, DOE completed administrative updates to the SEPA rules in Chapter 197-11 WAC to improve this environmental law for cities, counties, and project applicants through more effective coordination with current land-use planning and development regulations and streamlined regulatory process.

The Eastgate Project, the Downtown Livability Project, the 2016 amendments to the BCC incorporating the IBC provisions regarding 5 over 2 construction type, and the updated SEPA rules entailed significant regulatory amendments. Additionally, there were updates to the Comprehensive Plan and continuing code development efforts in recent years. These regulatory and code development efforts created omissions and/or internal conflicts within, and between, various codes in the BCC. Moreover, the City identified necessary general clean-ups and clarifications from its review and processing of land use approvals and permit applications. Thus, these Conformance Amendments to the LUC, the Noise Control Code, the Sign Code, and the Environmental Procedures Code are necessary to achieve consistency with legislative and state regulatory actions, as well as for general clean-ups and clarifications to correct errors, omissions, and/or internal conflicts within the BCC.

#### **Recommended LUCA**

As required by LUC 20.35.410, the proposed LUCA was introduced to the Planning Commission during a March 28 study session. The Planning Commission then held two public hearings, May 9 and June 13, to receive public comments and further consider the proposed LUCA. Following the June 13 public hearing, the Planning Commission decided to recommend adoption of the proposed LUCA. The Planning Commission's Recommendation is included as Attachment A.

The East Bellevue Community Council (EBCC) considered the proposed LUCA at a courtesy public hearing on September 11, pursuant to LUC 20.35.435. The EBCC specifically considered those portions of the LUCA applicable City-wide, and as such, within the EBCC jurisdictional area. Further, there are two parcels within the EBCC area that were affected by the Eastgate Project, and the EBCC's approval or disapproval of the LUCA will impact those two parcels.

The recommended LUCA conforms general sections of the LUC to new or revised Eastgate, Downtown, and Factoria chapters of the LUC, and also provides general clean-ups and clarifications to correct errors, omissions and/or internal conflicts within the LUC, and between the LUC and the BCC. For instance, at the time Factoria 1 regulations were last amended in 2007, the 5 over 2 construction type was not allowed by the IBC, 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. With the update to the IBC to allow the 5 over 2 construction type, the recommended LUCA would integrate the provisions of the IBC and BCC by increasing the maximum height for multifamily in Factoria DA III from 60 feet to 75 feet (LUC 20.25F.140). This increase would allow the 5 over 2 construction type to be built in Factoria DA III and would be consistent with the same 75-foot maximum height requirements in Factoria DA II. However, no new development density or intensity in Factoria DA III is permitted by the recommended LUCA.

Another example pertains to 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, allowing for a 20-foot height intrusion for mechanical equipment through an Administrative Departure.

Based on staff review of the May 24, 2017 Planning Commission minutes, the record shows 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). At the March 28 study session, staff confirmed with the Planning Commission 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 was included in the recommended LUCA for clarity and consistency with the Planning Commission's previous recommendation.

In another instance, the location of the perimeter landscape development, a 20-foot landscape buffer required to be provided to create visual separation between different land use districts in BelRed, is unclear. 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



to effectuate the purposes of the Noise Control Code in Eastgate and Downtown Land Use Districts, accurate cross references and general clean-up and corrections to other sections of the Noise Control Code are necessary. For instance, the Conformance Amendments to the Noise Control Code includes the correct Downtown Land Use Districts and additional districts of OLB-2, EG-TOD, and NMU from the Eastgate code as Commercial Land Use Districts in BCC 9.18.025.B.

#### Conformance Amendments to the Sign Code

The City's Sign Code provides standards for the design, placement, size and maintenance of all exterior signs and sign structures in the City for the purpose of permitting and encouraging the design of signs which are responsive to the needs of the public. The proposed Conformance Amendments are necessary to effectuate the purposes of the Sign Code in the Eastgate and Downtown Land Use Districts.

For example, BCC 22B.10.025.B.1 requires Design Review for certain Land Use or Overlay Districts. The proposed amendment to this section includes the correct Downtown Land Use District designation and the addition of OLB-2 and NMU Land Use Districts, for consistency with the new Downtown and Eastgate LUC amendments.

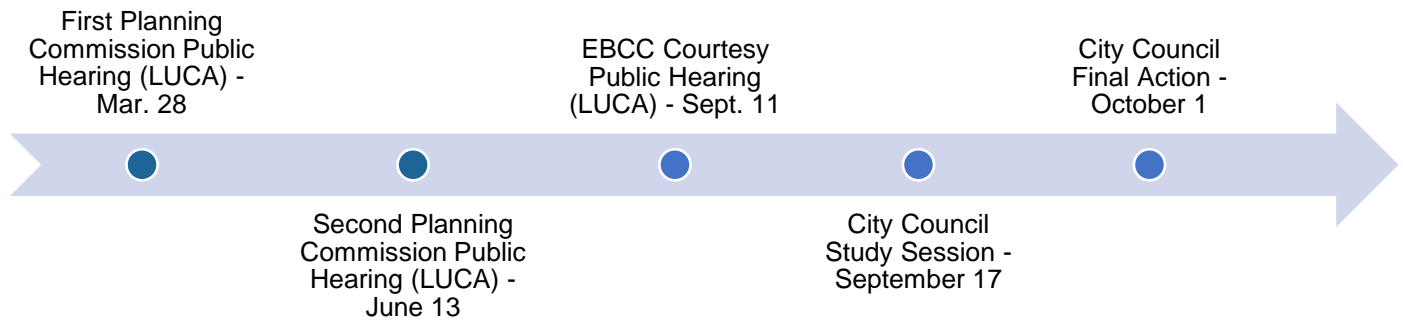
Another example is to correct a drafting artifact in BCC 22B.10.025.E.1 pertaining to an exception for "enterprises occupying at least 180,000 new square feet or corporate headquarters occupying at least 120,000 square feet" so that such enterprises could have signage at the upper levels of high-rise buildings. This exception was intended to be modified to "enterprise occupying at least 75,000 new square feet" by Ordinance No. 6288, but was erroneously excluded. The Conformance Amendments include this correction, and other clean-ups and clarifications of terminologies.

#### Conformance Amendments to the Environmental Procedures Code

The City's Environmental Procedures Code adopts the policies and objectives of SEPA, Chapter 43.21C RCW, has the purpose of implementing the requirements of SEPA and the SEPA rules, and adopts by reference sections and subsections of the SEPA rules, Chapter 197-11 WAC. In response to the state legislature's 2012 enactment of 2ESSB 6406, the Natural Resources Reform Bill, which streamlined and improved the efficiency of regulatory processes, DOE completed administrative updates to the SEPA rules in Chapter 197-11 of the Washington State Administrative Code (WAC). These updates were intended to improve this environmental law for cities, counties, and project applicants through more effective coordination with current land-use planning and development regulations and streamlined regulatory process.

Amendments to the Environmental Procedures Code are necessary to achieve consistency with the updated state regulations, and to clean-up and correct errors, omissions and/or internal conflicts within this Code. Examples of these amendments includes an updated list of chapters from Chapter 197-11 WAC, which the City adopted by reference in BCC 22.02.020; corrected state law and BCC cross-references in BCC 22.02.032.B and D, BCC 22.02.034.A, and BCC 22.02.080.A.

## Review Process



The timeline above contains the review process for the Conformance Amendments as a whole. Council will consider the recommended Conformance Amendments during the September 17 Study Session, with final action anticipated at a subsequent meeting.

## POLICY & FISCAL IMPACTS

The proposed Conformance Amendments will correct errors and foster consistency between the LUC, the Noise Control Code, the Sign Code, the Environmental Procedures Code and the new Downtown Code, Eastgate LUC amendments, and new SEPA rules. The Amendments will also incorporate IBC and BCC amendments related to construction type in Factoria Development Area III and provide general clean-ups and clarifications to correct errors, omissions, and/or internal conflicts within the BCC.

The fiscal impact of the recommended Conformance Amendments is generally anticipated to be minimal and to be met with current staffing levels through the permitting functions of the City administered by Development Services.

## OPTIONS

1. Direct staff to bring the Ordinances as drafted for final action on October 1.
2. Direct staff to bring the Ordinances with modifications for final action on October 1.
3. Provide alternative direction to staff.

## ATTACHMENTS & AVAILABLE DOCUMENTS

- A. Planning Commission Transmittal to the City Council dated June 13, 2018
- B. Proposed LUCA Ordinance
- C. Proposed Noise Control Code Amendment Ordinance
- D. Proposed Sign Code Amendment Ordinance
- E. Proposed Environmental Procedures Code Amendment Ordinance

## AVAILABLE IN COUNCIL LIBRARY

N/A