

July 24, 2017

CITY COUNCIL STUDY SESSION ITEM

SUBJECT

Request for Council direction on three issues related to the Eastgate/I-90 Land Use Code amendments (LUCA) to allow staff to prepare a final ordinance for Council adoption.

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POLICY ISSUES

Should the City Council adopt the Eastgate Land Use Code Amendment (LUCA) with or without modifications presented in this memorandum to respond to issues raised after the Planning Commission recommendation was transmitted?

Issues remaining following the July 10 study session include:

1. Neighborhood Mixed Use Amendments – Discussion on July 10 led to a Council request for changes that would permit a departure from ground floor non-residential use standards in the Neighborhood Mixed Use zoning district. Refer to Attachment A.
2. Prohibition of Safe Injection Sites – Attachment B includes language that prohibits safe injection sites in Eastgate and throughout the rest of the City (with the exception of Downtown and BelRed). This is accomplished by adding a footnote to the “Professional Services: Medical Clinics and Other Health Care Related Services” use classification that defines the activity that occurs at a safe injection site and prohibits the activity outright.
3. Shelter Amendments – A change in the process for permitting the shelter use within the Eastgate area from the Conditional Use Permit (CUP) process included in the Planning Commission’s recommendation to a Development Agreement. Draft land use code language reflecting that direction was published with the July 10 packet materials in advance of tonight’s discussion. Refer to Attachment B. Tonight’s discussion will focus on whether the change as drafted should be incorporated into the Eastgate LUCA, or whether additional work is needed on the process. (A general update on the status of other topics related to the Eastside Men’s Shelter and Supportive Housing Project outside the scope of the Eastgate LUCA will be provided during a separate item on tonight’s agenda.)

DIRECTION NEEDED FROM COUNCIL

ACTION



DIRECTION



INFORMATION ONLY



The purpose of this Study Session is to receive City Council direction on whether to modify the Neighborhood Mixed Use and Transient Lodging provisions of the Planning Commission Recommendation as described above and include a prohibition of safe injection sites; and to set an adoption date for the Eastgate LUCA ordinance, recommended for August 7.

In addition to information provided to support the above policy discussion, the packet materials include:

- A description of the relationship between the affordable housing incentive and the Multi-Family Tax Exemption and how the two regulations would work together. This information is provided as a follow-up to the Council discussion on July 10. Additional direction on this point is not needed, but staff will be prepared to answer any remaining Council questions on the subject.
- Identification and correction of an error in the document published on July 10. That error was identified by stakeholders, and it has been corrected in the proposed code included as Attachment D to this memorandum. Additional detail about the error and correction is included at the end of the memo.

BACKGROUND/ANALYSIS

Council has conducted five (5) study sessions to date related to the Eastgate code amendments. Three of those study sessions (September 19, 2016, March 20, 2017, July 10, 2017) were held to review the LUCA recommended by the Planning Commission. Two other study sessions (November 8, 2016 and March 6, 2017) were held to consider short term transportation improvements in the Eastgate/I-90 Corridor area in response to citizen concerns about traffic congestion during the code amendment process.

Council has three remaining issues to resolve: i) the requirement for ground floor non-residential uses within the Neighborhood Mixed Use (NMU) zoning district and its applicability to the Trailers Inn RV Park site; ii) confirmation of the approach to banning safe-injection sites; and iii) incorporating Council direction to use a Development Agreement as the vehicle for establishing a shelter use within the Eastgate land use districts, rather than the CUP process included in the Planning Commission's transmittal.

A. Neighborhood Mixed Use (Attachment A)

Neighborhood Mixed Use (NMU) is defined as a land use designation that provides for a mix of retail, service, office, and residential uses, with an emphasis on neighborhood retail and service uses. This district is designed to be compatible with nearby residential neighborhoods and to be easily accessible from the nearby office and residential uses that it serves. (Bellevue Comprehensive Plan)

This district is meant to revitalize the old Neighborhood Business (NB) zoning district, which was viewed as too restrictive with respect to the inclusion of residential uses in neighborhood business districts. NMU provides additional flexibility, but the emphasis remains on "neighborhood retail and service uses." The NMU district is envisioned for use citywide. Therefore, the implementing code

language is drafted to allow for the potential application of this policy in a wide range of specific contexts when individual projects within NMU are proposed in the future.

City Council discussed the NMU zoning district most recently at a study session held July 10. At that time, the Trailers Inn RV Park property owner raised a site-specific set of challenges to applying the code language to a particular project within the Eastgate NMU area. The owner was concerned that the ground floor nonresidential use requirement on every building in a multifamily development wouldn't be feasible at the 156th Ave. SE location. That location is hampered by the lack of pedestrian traffic, topography, and the inability to be seen from adjacent neighborhoods and nearby arterials.

In response to these concerns, Council requested further information to help inform a decision about whether modifications to the code language were needed. Council also asked whether it would be possible to maintain the overall intent of the NMU zoning district but permit some flexibility for site-specific challenges.

The situation presented by the Trailers Inn RV Park property does present challenges for strict application of the code language. Any multifamily development in the NMU will require ground floor nonresidential uses. However, nonresidential uses can encompass many more uses than retail, including services, recreation uses, and resource uses. Retail would only allow the sales of products, such as a convenience store or a pharmacy.

If the NMU District were employed elsewhere in the City, there will be locations where multifamily development is allowed, but nonresidential businesses could not survive because of the lack of traffic and visibility at these specific locations. Though the Code should encourage mixed use multifamily development in the NMU, some flexibility is warranted in isolated locations.

Allowing for additional flexibility, applied through the permit process, would be beneficial for the Trailers Inn RV Park property and for other properties that may present unique challenges. Staff recommends a solution that adds flexibility and criteria for applying the flexibility, rather than a site-specific carve-out. This more general flexibility will allow for solutions not only for the Trailers Inn RV Park property, as the project design continues to evolve, but for future properties and projects as well. The language below would be added as a new footnote 11 in the use charts for multifamily housing in the NMU District.

(11) The Director may allow a departure from the requirement to provide ground floor neighborhood serving (nonresidential) uses in multifamily developments, provided that the departure is necessary to mitigate an economic hardship that would preclude project viability. A departure may be granted where the applicant demonstrates that:

- (a) The required neighborhood serving uses do not front on an arterial;
- (b) Visual and physical access to the required neighborhood serving uses is limited by topography or other site specific obstacles; and,
- (c) The required neighborhood serving uses would not be visible from other development located in the NMU district, adjacent neighborhoods, nearby arterials or highways.

A departure may be allowed for all sides of the building or some portion thereof, provided that the approved departure is consistent with the NMU land use district definition included in the

Comprehensive Plan. If a departure is granted, ancillary residential uses such as a meeting room, leasing office, kitchen, daycare and work-live space is preferred over occupied residential living space.

Council is being asked to provide direction on whether to include proposed language in LUC section 20.10.440 of the Eastgate LUCA to provide additional flexibility for development of NMU sites.

B. Prohibition of Safe Injection Sites (Attachment B)

Council provided direction in April to pursue a ban citywide on “Community Health Engagement Locations (CHEL),” also known as “safe injection sites”. The concept of a CHEL as a potential response to county-wide impacts from heroin use and heroin addiction is part of a separate regional conversation led by King County. In April, Council directed staff to prepare the necessary code language to ban CHELs or safe injection sites not only in Eastgate, but city-wide. The language needed to implement the ban in areas outside of Downtown and BelRed is found in Attachment B. The prohibition on safe injection sites would be made applicable to Downtown as part of the Livability Update and to BelRed as part of the Lookback project. Significant discussion of this language is not expected Monday night; staff is simply looking for confirmation that it should be included in the final ordinance adopting the Eastgate LUCA.

C. Regulations Relating to Establishing a Homeless Shelter Use (Attachment B)

As part of work on the City Council’s priority to establish a permanent men’s shelter on the eastside, Congregations for the Homeless (CFH) is proposing a permanent men’s shelter in the EG-TOD district on property owned by King County. This work is referred to as the “Eastside Men’s Shelter and Supportive Housing Project”. The proposal to site the Men’s Shelter and Supportive Housing Project in Eastgate came after the Planning Commission had completed its recommendation on the Eastgate LUCA, but before Council adopted the recommendations.

Stakeholder feedback on the Eastside Men’s Shelter raised a number of concerns and requests for certainty around the impacts of such a use, operational procedures, and public involvement. That feedback had implications for the Eastgate LUCA, as well as citywide provisions regulating shelter uses. In order to address this stakeholder feedback, on April 17 and June 5, the Council directed staff (among other things) to:

- Require and participate in the formation of a Men’s Shelter and Supportive Housing Project advisory committee;
- Add a Development Agreement for shelter uses to the Eastgate LUCA; and
- Bring forward a schedule and plan for homeless shelter siting provisions citywide.

In the Eastgate LUCA, the Planning Commission recommended that transient lodging be considered a conditional use in the EG-TOD district as well as in the NMU and OLB 2 districts. The intention behind this change was to increase clarity of the code around the shelter use, and to require a more involved permitting process that would foster public engagement. At the April 17 and June 5 study sessions, the Council concurred with these goals, and determined that a Development Agreement could have even more significant advantages to meeting those goals than the CUP initially recommended by the Planning Commission.

A Development Agreement is a tool that can be used to tailor very detailed mitigation and process requirements, with more specificity for an individual project than a standard permitting process allows.

The Development Agreement is a legislative action acted on by the City Council after a public hearing, meaning that the Council can engage with and listen to feedback from stakeholders as well as the project applicant throughout the process of defining the terms of the Agreement. In the case of a proposal to establish a shelter, a Development Agreement would be anticipated to come early in the development process and would address the use of an advisory committee to inform project design and to establish a “good neighbor” set of protocols, communication expectations and metrics.

In order to incorporate the Development Agreement process into the Planning Commission recommendation and provide greater clarity in the code around this use, staff recommends adding a ‘transient lodging’ use to the Land Use Code use charts, noting that such a use requires approval of a Development Agreement as an alternative to the Planning Commission recommended CUP. That change is reflected in Attachment B.

The City Council in its June 5 discussion determined that additional clarity around the shelter use and how it is regulated would be beneficial in the other land use districts in the city where a shelter is currently allowed. The Land Use code does not have a separate line on the chart defining the use, but rather the use is regulated as part of the “hotel/motel” use category. As it stands, outside of Eastgate, a shelter use is allowed through the process identified for hotel/motel uses in the following land use districts:

- Office/Limited Business (OLB);
- Community Business (CB);
- Factoria Land Use Districts 1, 2, and 3;
- All downtown land use districts; and
- The following BelRed land use districts – medical office, office/residential; residential/commercial, general commercial, and commercial/residential.

In order to achieve consistency across land uses in terms of the applicable process and expectations for a shelter use, staff is suggesting that shelter-related amendments, consistent with the Council’s final direction on the Eastgate provisions, be incorporated as part of each LUCA that comes before Council. Under this approach, the final provisions adopted into Eastgate would also be reflected in the Downtown Livability Update that is currently before Council for consideration. The transient lodging issues would be addressed in BelRed as part of the BelRed Lookback that is docketed for initiation. This approach would then be carried forward to future code update projects, such as Wilburton/Grand Connection. This proposed process and schedule for pursuing the city-wide shelter provisions would replicate the language found in Attachment B in the future code processes in Wilburton and the BelRed Lookback, and would come to the Planning Commission and Council as part of those broader work plans.

D. Affordable Housing and Multi-Family Tax Exemption (Attachment C)

Council gave staff direction at the July 10 study session to incent affordable housing through a 1.0 FAR exemption of the EG-TOD and NMU zoning districts. The incentive would allow developers to build two market rate units for every one affordable unit in the 1.0 FAR exemption.

The topic of Multi-Family Tax Exemption (MFTE) surfaced during the affordable housing discussion. Council had several issues for staff to follow-up and report back. Council had similar questions during discussions of the Downtown Livability code amendments. It should be noted that one of the implementation tools approved by Council in the Affordable Housing Strategy (June 2017) is a study of

the MFTE ordinance. The purpose of that study is to increase developer participation in the use of the MFTE. The results of that study are expected later this year. The information provided in this discussion is not intended to pre-empt Council MFTE policy discussions that will occur later this year but may help to provide some context on issues that will be addressed in the update to the MFTE program.

The land use bonus incentive was analyzed with current economic metrics and it is expected to provide a positive economic benefit that will incent the private sector to build affordable units as part of a development. As currently drafted, the land use bonus incentive creates affordable units only at 80 percent AMI. There was some interest expressed in the possibility of using the city incentive programs to create affordable housing at greater affordability levels (e.g. 60 percent AMI, 70 percent AMI). Currently the MFTE does achieve that objective, but in response to Council comments and that MFTE only creates affordability for 12 years, staff has explored an option for Council's consideration of using the density bonus incentive to creating greater affordability.

Attachment C provides some background information on the MFTE program as well as an explanation of how it works when a project is utilizing both the land use density incentive and the MFTE program. Several options using a hypothetical project are presented. While Attachment C present options for how the Eastgate land use incentives could work in combination with the MFTE program, a decision by Council is not needed at this time. Staff recommendation is that Council comments regarding the MFTE program will be used to inform staff work on the update to the overall MFTE program, which is scheduled for later this year as part of Phase 1 of the City's Affordable Housing Strategy Implementation Program.

As mentioned above, the Council has already provided direction regarding using a 2:1 bonus ratio for providing affordable housing at 80 percent AMI. Related to the Eastgate code amendments, staff is raising the question of whether, under the land use bonus incentive, a developer can choose to do fewer affordable units if they are at a greater level of affordability. The intent is that such an option would have the same economic impact to the developer as using the 2:1 bonus ratio for housing affordable at 80 percent AMI. The staff recommendation is that, if the council is interested in this option, it would be at the selection of the developer and the alternative ratio would be every two affordable units at 70 percent of median income equals three units affordable at 80 percent of median income. The impact of using this ratio is illustrated in Attachment C.

Council requested follow-up on the question of what happens to the low income people living in the RV Park. The RV Park is considered to be a recreational vehicle park for transient recreational camping. Relocation assistance programs available for mobile home owners when a park closes are not available for owners of RVs and travel trailers. The City is not funding any housing on this site. Further investigation would be required to determine if the RV Park is housing permanent residents, and if so, any potential affordable housing needs if the site redeveloped and residents are relocated.

E. Eastgate LUCA with Council Direction Received to-date and Errata (Attachment D)

An updated version of the Eastgate LUCA is included as Attachment D. This update includes Council direction received to-date on incorporation of Low Impact Development (LID) provisions, a land use phasing option recommended for the EG-TOD district by Urban Renaissance, and additional flexibility to allow the establishment of auto dealerships on sites where auto retail sales would have been permitted

prior to the passage of the Eastgate LUCA and associated rezone. These changes were discussed and final direction was provided at the July 10 Council meeting.

One error was also brought to the attention of staff and fixed. The Planning Commission recommendation did not permit hospitals to locate in OLB-2 and NMU land use districts. This use was inadvertently shown as permitted in the LUCA version that went to Council in the Planning Commission transmittal last year and was republished on July 10. This error has been addressed in the updated Eastgate LUCA included with this memorandum as Attachment D (refer to the Chart 20.10.440 Services Chart – Hospitals).

A copy of the legislative zoning map is also included for Council reference as Attachment E.

OPTIONS

1. Provide direction on including proposed language in the Eastgate LUCA to:
 - a. Provide additional flexibility for development of NMU sites that are located on the perimeter of an area established with neighborhood-serving uses;
 - b. Confirm the draft provisions of Attachment B adequately reflect Council direction to prohibit safe injection sites; and
 - c. Provide direction on modifications to respond to Council direction regarding regulations related to the shelter use as drafted in Attachment B.
2. Provide alternative direction.

RECOMMENDATION

Option 1

ATTACHMENTS

- A. Neighborhood Mixed Use
- B. Permanent Men's Shelter Response
- C. Affordable Housing Land Use Incentive and MFTE
- D. Eastgate LUCA with Council direction received to-date and errata
- E. Eastgate Legislative Rezone Map

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N/A