



# STAFF REPORT

DATE: August 25, 2021

TO: Chair Moolgavkar and Members of the Planning Commission

FROM: Trisna Tanus, Consulting Attorney, 452-2970  
Kristina Gallant, Senior Planner, 452-6196  
*Development Services Department*

**SUBJECT:** Public Hearing on a Land Use Code Amendment (LUCA) to establish a density bonus and additional modifications to other standards and requirements in the Land Use Code (LUC) for affordable housing developments on certain public, non-profit, or religious organization-owned properties. File No. 21-102681-AD.

## I. BACKGROUND

The proposed LUCA will repeal and replace LUC 20.20.128 and amend other provisions in chapters 20.10, 20.20, 20.25A, 20.25D, 20.25P and 20.50 LUC to establish a density bonus for affordable housing developments on certain public, non-profit, or religious organization-owned properties, consistent with State regulations and recently adopted Comprehensive Plan policies. Affordable housing is defined in LUC 20.50.010. Attachment A is a strike-draft of the proposed LUCA.

In 2019, the Washington State Legislature enacted a requirement in RCW 35A.63.300 for cities planning under the Growth Management Act to provide an increased density bonus consistent with local needs for any affordable housing development for real property owned or controlled by a religious organization. This affordable housing must be part of a binding obligation that requires the development to be used exclusively for affordable housing purposes for at least 50 years, even if the religious entity no longer owns the property.

In 2020, the City adopted Ordinance No. 6562 to add several policies, Policies HO-33, HO-34, and HO-35, in the Comprehensive Plan Housing Element to support the provisions of RCW 35A.63.300. These policies are intended to implement a density bonus and modifications to other standards and requirements in the LUC for eligible properties, in order to increase affordable housing development. The density bonus under the proposed LUCA will satisfy the requirements in RCW 35A.63.300, as well as implement Policies HO-33 and HO-34.

Policies HO-33 and HO-34 and this LUCA also advance Action C-1 of the City's 2017 Affordable Housing Strategy (AHS). The AHS established an "ambitious goal" of adding up to 2,500 affordable homes in Bellevue within 10 years of implementation. Action C-1 is one of 21 actions identified under the five AHS strategy areas. Action C-1 calls for "increasing development potential on suitable land owned by public, non-profit housing, and faith-based entities for affordable housing" and can make a significant contribution to achieving the AHS goal.

While this proposed LUCA is a considerable piece in the overall advancement of Action C-1, this LUCA does not preclude other measures that the City may put in place. For instance, there may be additional CPAs, LUCAs, or other programs to further advance Action C-1 in the future.

## **II. REVIEW PROCESS**

The content of the LUCA was divided into five topics for review: (1) Eligibility Criteria; (2) New Density Bonus; (3) Clean-up; (4) Dimensional Standard Modification; and (5) Applicable Procedures and Attached Housing Units. In the April 14 Study Session, the Planning Commission was introduced to the proposed LUCA, and considered Topics 1, 2, and 3. The Planning Commission raised comments and questions about the proposed density bonus and expressed an interest in maximizing the bonus, especially for properties on an arterial and with frequent transit service.

In the May 12 Study Session, the Planning Commission considered Topics 2, 4, and 5, as well as additional information about the framework and basis for the density bonus. The Planning Commission expressed concerns that the density bonus would not be effective. In addition, the Planning Commission expressed interest in identifying methods to consider unique site characteristics that could support greater density on properties located in single family land use districts, such as transit service and adjacency to intensive uses. After discussion, the Planning Commission directed staff to hold a third study session to respond to these concerns.

In the June 23 Study Session, staff provided additional information and LUCA revisions in response to the May 12 discussion. Staff affirmed that the proposed 50% density bonus is the greatest by-right bonus possible without amending the Comprehensive Plan. Given this limit, staff presented a new "Super Bonus" option to respond to the Planning Commission's request to accommodate greater density on qualifying properties in single family land use districts meeting certain locational criteria. Development meeting these criteria would be able to apply for a Conditional Use Permit (CUP) granting additional density, up to the level possible in the most intensive land use district located within 300 feet. Proposals must still meet all conditional use permit decision criteria for approval, so additional density with a "Super Bonus" cannot be guaranteed. CUP applications for projects located within the EBCC jurisdiction are processed as Process III City Council quasi-judicial decisions. After the City Council decision for a project, the EBCC would also be required to either approve, disapprove or approve with conditions any CUP.

Staff advised that the Comprehensive Plan Amendment process was likely to be a better option for most projects, and that a Super Bonus might not align with direction from the City Council. The Planning Commission discussed the "Super Bonus" and expressed concerns about the complexity of the CUP process and that the program would still not produce enough housing. After discussion, the Planning Commission directed staff to schedule the required public hearing for this proposed LUCA.

This Staff Report provides an analysis of the proposed LUCA, including the Super Bonus, so that the public may comment and the Planning Commission may consider the entirety of the LUCA. Following the public hearing, the Planning Commission will be asked to make a recommendation to approve the proposed LUCA, with or without the Super Bonus and/or other modifications, for transmittal to the City Council. The City Council is anticipated to consider the LUCA and the Planning Commission Recommendation at a future meeting. The EBCC will be

introduced to the LUCA at a courtesy public hearing, and will hold a public hearing to make an approval/disapproval decision, consistent with procedural requirements for this legislative item.

### **III. STATE ENVIRONMENTAL POLICY ACT (SEPA)**

The application for SEPA review was noticed together with the notice of application for the proposed LUCA on February 4, 2021. The environmental review indicates no probability of significant adverse environmental impacts occurring as a result of the LUCA. The City's SEPA Responsible Official is issuing a Determination of Non-Significance (DNS) pursuant to the threshold determination requirements in WAC 197-11-310.

### **IV. PUBLIC ENGAGEMENT**

#### Required Public Notice

The notice required for City Council Legislative Actions (Process IV) is governed by LUC 20.35.415 through 20.35.450. Notice of the LUCA application, including notice of the SEPA, was published in the Weekly Permit Bulletin on February 4, 2021, and availability of the Weekly Permit Bulletin was noticed in the Seattle Times. Notice of the Public Hearing will be published in the Weekly Permit Bulletin on September 2, 2021, along with availability of this staff report. The notice of public hearing was also provided to members of the EBCC and those individuals who have subscribed to receive these notices and those who have expressed interest on this topic.

#### Department of Commerce Notice

Pursuant to the Washington State Growth Management Act, proposed amendments to the LUC must be sent to the Washington State Department of Commerce to review and comment on the proposed amendments to the LUC. The required notice to the Department of Commerce and the initial draft LUCA were transmitted on June 30, 2021, and a copy of both documents is available for review in the code amendment file. No comments have been received by Commerce as of the date of this report.

#### Enhanced Public Engagement

In addition to the requirements of LUC 20.35.415 *et seq* for City Council Legislative Actions, staff has provided enhanced public outreach for this LUCA to include an online presence. A webpage was launched for this LUCA to provide opportunity for the public to learn about the LUCA, with sections on public information messages regarding the LUCA progression, and staff contact information to submit written comments.

Staff has met with representatives of the affordable housing development community to discuss the proposed LUCA. In addition, staff have held open houses with representatives of the faith community and the general public to share information and answer questions.

As of the date of this staff report, staff has received numerous comments and feedback. All comments received to date have been supportive of increasing density for affordable housing consistent with RCW 35A.63.300, and this effort to implement Policies HO-33 and HO-34 and AHS Action C-1. Commenters have also expressed concern that the 50% density bonus is not

sufficient to meet affordable housing needs. Commentors expressed support for a future process to amend the Comprehensive Plan to facilitate a greater bonus for affordable housing.

## V. 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 these proposed amendments to them, are discussed below:

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

**Finding:** The proposed LUCA is consistent with the Comprehensive Plan. The amendment will increase capacity for affordable housing on any qualifying property owned by faith-based or non-profit housing entities, or on surplus property owned by public entities. The by-right density bonus and modifications to other standards and requirements will result in developments that are compatible with the vision and policies of underlying land use districts. The LUCA includes a requirement to ensure affordable housing built using the density bonus and modifications remains affordable for the life of the project. While the “Super Bonus” component of the LUCA is consistent with the Comprehensive Plan by incorporating Conditional Use Permit decision criteria, a Comprehensive Plan Amendment may still be a more appropriate method to achieve density beyond the by-right bonus. The proposed LUCA is supported by the following Comprehensive Plan policies:

**Policy LU-15.** Provide, through land use regulation, the potential for a broad range of housing choices to meet the changing needs of the community.

**Policy HO-7.** 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-23.** Encourage the development of affordable housing through incentives and other tools consistent with state-enabling legislation.

**Policy HO-26.** Provide incentives and work in partnership with not-for-profit and for-profit developers and agencies to build permanent low- and moderate-income housing.

**Policy HO-30.** Ensure that all affordable housing created in the city with public funds or by regulation remains affordable for the longest possible term.

**Policy HO-33.** Implement Affordable Housing Strategy C-1 by providing bonuses and incentives to increase permanently affordable housing on any qualifying property owned by faith-based or non-profit housing entities, or on surplus property owned by public entities.

**Policy HO-34.** Implement the bonuses and incentives for qualifying properties to respond to the different conditions of multifamily and single family land use districts that are outside of Downtown, BelRed, and Eastgate TOD.

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

**Finding:** The proposed LUCA will enhance the public health, safety and welfare of people in the City. Adding to the Affordable Housing supply is an identified need and priority. This LUCA is anticipated to encourage affordable housing development and increase the affordable housing supply in the City.

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

**Finding:** The proposed LUCA is not contrary to the interests of citizens and property owners of the City as the density bonus and modifications to other standards and requirements will result in developments that are compatible with the vision and policies of existing land use districts.

## VI. RECOMMENDATION

Staff has concluded that the Affordable Housing Density Bonus LUCA to establish a density bonus and modifications to other standards and requirements in the LUC for affordable housing developments on certain public, non-profit, or religious organization-owned properties, as drafted in Attachment A, is consistent with the decision criteria required for adoption of amendments to the text of the LUC, pursuant to Part 20.30J LUC. Staff recommends that the Planning Commission directs staff to prepare the LUCA for recommendation to Council.

### ATTACHMENTS:

A. Proposed LUCA Strike-Draft