

East Bellevue Community Council
Summary Minutes of Regular Meeting

March 2, 2021
6:30 p.m.

Virtual Meeting
Bellevue, Washington

PRESENT: Chair Hummer, Vice Chair Epstein, Alternate Vice Chair Dhananjaya, and Councilmembers Gooding and Kasner

ABSENT: None.

STAFF: Trisna Tanus, Consulting Attorney, Development Services Department
Nick Whipple, Senior Planner, Development Services Department

1. **CALL TO ORDER**

The meeting was called to order at 6:30 p.m., with Chair Hummer presiding.

2. **ROLL CALL/FLAG SALUTE**

Deputy City Clerk Karin Roberts called the roll. All Councilmembers were present. Vice Chair Epstein led the flag salute.

3. **APPROVAL OF AGENDA**

Councilmember Dhananjaya moved to approve the agenda. Vice Chair Epstein seconded the motion, which carried by a vote of 5-0.

4. **COMMUNICATIONS: WRITTEN AND ORAL**

Chair Hummer read a communication from Michelle Wannamaker, a resident of the Eastgate area. Ms. Wannamaker expressed concern regarding the construction of large new homes in the Eastgate area. She wrote that she opposes the Land Use Code Amendment (LUCA) that would remove the three-year wait period for establishing an attached accessory dwelling unit (ADU) with new construction because she does not believe it will provide affordable housing. She expressed concern that the ADUs are targeted toward technology company workers. She said that property owners will want to maximize their profits from ADUs. She said that discussions by staff, the Planning Commission, and the City Council indicate that the proposal will help senior adults remain in their homes. However, Ms. Wannamaker said she did not feel confident of that predicted result. She expressed concern about proposals for future consideration to remove parking requirements for certain housing units. Ms. Wannamaker encouraged producing more affordable housing by maintaining and rehabilitating existing housing stock.

Chair Hummer noted that Ms. Wannamaker's communication and another written communication about Puget Sound Energy's transmission lines have been provided to EBCC members.

5. **REPORTS OF CITY COUNCIL, BOARDS, and COMMISSIONS:** None.

6. **REPORT OF THE CHAIR**

Chair Hummer encouraged EBCC members to follow the meetings of the Planning Commission and the City Council this summer as they address land use issues.

7. **PUBLIC/COURTESY HEARINGS**

(a) Public Hearing: Accessory Dwelling Units Land Use Code Amendment

Chair Hummer introduced the public hearing and discussion regarding the proposed Land Use Code Amendment (LUCA) to modify requirements for attached accessory dwelling units (ADUs), noting that the EBCC courtesy hearing was held in February.

Trisna Tanus, Consulting Attorney, opened the staff report and requested action by the EBCC to approve City Council Ordinance No. 6567, amending Land Use Code 20.20.120 relating to ADUs. The City Council adopted Ordinance No. 6567 on February 16.

Nick Whipple, Senior Planner, said the proposed ADU LUCA will remove the three-year wait period for establishing an attached ADU with new single-family home construction. The Land Use Code currently restricts the establishment of an attached ADU until three years after the final building permit inspection of new construction. The proposed LUCA will remove this three-year restriction and allow ADUs to be built concurrently and within new single-family construction. The City permitted five new ADUs in 2020 and eight new ADUs in 2019. The City received 149 new single-family building permit applications last year. Mr. Whipple said approximately 40 of those applications chose to incorporate elements that would facilitate the future creation of an attached ADU (e.g., sink, refrigerator, cabinets and other kitchen features).

Mr. Whipple said that the removal of the three-year wait period rule is anticipated to increase the supply of housing choices in Bellevue. The proposal advances the City's Affordable Housing Strategy plan, specifically Action B-2 which calls for updates to the City's ADU regulations. The LUCA makes the construction of ADUs more feasible and increases the overall number of housing units in Bellevue.

Mr. Whipple described the City's public engagement process, including the notice of application, public hearing, and discussions with developers and the Master Builders Association of King and Snohomish Counties. He said staff heard from a number of property owners who are in favor of removing the three-year wait rule, and a number of individuals similarly expressed support during the Planning Commission's public hearing. Public outreach also included the creation of a web page to provide information on the proposed LUCAs. Mr. Whipple noted that Action B-1 of the Affordable Housing Strategy addresses increasing both the supply and types of housing available in Bellevue.

Mr. Whipple recalled that the ADU LUCA was introduced to the Planning Commission in December 2020, and the commission held a public hearing on January 13. There was strong community support during the public hearing to remove the three-year wait rule. Staff introduced the proposed ADU LUCA to the City Council on February 1, and the City Council directed staff to prepare an ordinance for future action. Mr. Whipple said staff provided a courtesy hearing with the EBCC regarding the LUCA in February. The City Council adopted Ordinance No. 6567 approving the change to the three-year wait period on February 16.

Chair Hummer thanked staff for the presentation.

At 6:51 p.m., Councilmember Gooding moved to open the public hearing. Councilmember Kasner seconded the motion, which carried by a vote of 5-0.

Heidi Dean noted that she lives in Newport Hills and not within the EBCC jurisdiction, but the issue is important for her neighborhood as well. She encouraged EBCC members to ask about who is residing in existing ADUs. She expressed an interest in the anticipated ADU rental rates and asked whether they are intended to be occupied by the property owner or a tenant. She concurred with Ms. Wannamaker's earlier written communication that the ADUs will be occupied primarily by technology company workers, which benefits businesses but not the neighborhoods. She said that increasing the housing supply does not guarantee an increase in affordable housing. Ms. Dean expressed concern that the Lake Hills area will bear the brunt of the proposed regulation. She noted that, if she thought removing the three-year wait period would help older adults to stay in their homes and/or provide affordable housing, she could likely be supportive of the LUCA.

At 6:56 p.m., Vice Chair Epstein moved to close the public hearing. Councilmember Kasner seconded the motion, which carried by a vote of 5-0.

Chair Hummer invited feedback from the EBCC. She noted that a draft memo will be prepared to summarize the comments which will be forwarded to the Planning Commission and the City Council. She said this practice will be followed going forward for issues considered by the EBCC.

Councilmember Kasner noted that the matter is before the EBCC for action tonight, given that the City Council already adopted the ordinance approving the rule change. He questioned the need for sending a memo to the City Council and the Planning Commission.

Ms. Hummer said she believes it is important for the EBCC to outline its reasons for the decisions that are made.

Councilmember Kasner spoke in support of the proposed LUCA. He noted that eliminating the three-year wait rule will increase the housing stock by adding units. While it might not provide affordable housing, ADUs are small and are developed on existing property. He said the ADU projects will retain the look and feel of the single-family homes and improve the quality of neighborhoods. Mr. Kasner said that ADUs provide an option for individuals starting their careers or those wanting to age in place.

Vice Chair Epstein spoke in support of removing the three-year wait rule and encouraging ADUs as a housing option. While ADUs do not necessarily provide affordable housing, they provide a good housing option for multigenerational families and for aging in place. He observed that adding kitchen elements does not necessarily mean that a property owner will later develop an ADU.

Councilmember Gooding expressed support for the LUCA, noting that ADUs will provide more flexibility and opportunities for property owners, including for families to take care of their elders. He noted that increasing taxes, the increasing cost of living due to the economy, and environmental restrictions add to the cost of housing.

Councilmember Dhananjaya asked whether there is data to support the expectation that removing the three-year wait period will produce more ADUs. Mr. Whipple said the City has heard from developers and others that it is more expensive to retrofit a home to add an ADU than to be able to include it when a house is originally built. In further response to Mr. Dhananjaya, Mr. Whipple said he researched requirements in other jurisdictions and was unable to find a similar rule regarding a wait period.

In further response to Mr. Dhananjaya, Mr. Whipple said the rule has been in place since the City originally adopted the ADU requirements in 1993, and they have remained essentially unchanged. He said the recitals in that ordinance did not provide the rationale for the three-year wait period.

Councilmember Dhananjaya said he concurred with Councilmember Kasner that while ADUs are not guaranteed to produce affordable housing units, they do increase overall housing choices. Mr. Dhananjaya expressed support for the LUCA.

Chair Hummer said that, according to the decision criteria for the EBCC's land use decisions, the EBCC may approve an amendment to the Land Use Code if it is consistent with the Comprehensive Plan; enhances public safety, health or welfare; and is not contrary to the best interests of citizens and property owners in the EBCC jurisdiction.

Responding to Ms. Hummer, Mr. Whipple confirmed that including a cooking element fulfills the definition of a kitchen in the Land Use Code. Single-family homes are typically allowed to have only one kitchen unless they apply for an ADU permit. In further response to Ms. Hummer, Ms. Tanus said there have been enforcement cases related to property owners installing second kitchens without proper permitting or compliance with the three-year wait rule.

Chair Hummer said the Land Use Code requires that an annual report regarding ADUs should be presented to the City Council. Ms. Tanus said staff could follow up with more information regarding past reports.

Responding to Chair Hummer, Mr. Whipple said that individuals who were opposed to the LUCA during the public hearings were skeptical about whether removing the three-year wait period would increase the supply of affordable housing. Mr. Whipple recalled that those individuals were from northeast Bellevue and he spoke with them after their input to provide

more information. Chair Hummer said she would have appreciated receiving more information regarding the communications that were submitted to the Planning Commission. Mr. Whipple reiterated that the LUCA is part of the strategy to increase the housing supply and housing choices.

In further response to Chair Hummer, Mr. Whipple said that property owners are required to complete a single-family use agreement when they include features such as a sink, wet bar, cabinets, and dishwasher. The agreement is recorded on the property and indicates that a property owner may not create an ADU without going through the proper registration process with the City to add a cooking appliance.

Chair Hummer said she was unable to find information on the City's web site regarding the process for the ADU LUCA and related public input. She encouraged making the land use information more easily accessible. Ms. Tanus commented regarding the structure of the web pages and said she will pass the information on to the appropriate staff.

Ms. Hummer encouraged everyone to pay attention to the comments from Ms. Dean and Ms. Wannamaker. Ms. Hummer expressed concern regarding parking impacts and rental costs. Responding to Ms. Hummer, Ms. Tanus said the City does have data regarding the number of ADU registrations in Bellevue. However, the City does not regulate the occupants or the rental rates.

Chair Hummer expressed support for removing the three-year wait period. However, she noted that the Planning Commission appears to potentially support removing the requirements for off-street parking and owner occupancy. She is opposed to any further changes beyond removing the wait period for constructing an ADU in a new single-family home. She said that removing the wait period will add to the versatility of the homes and increase the availability of housing options.

(b) Public Hearing: Unit Lot Subdivision Land Use Code Amendment

Ms. Tanus said staff is requesting action following the public hearing regarding City Council Ordinance No. 6568 approving the unit lot subdivision LUCA.

Mr. Whipple said the LUCA establishes provisions in Chapter 20.45A, Platting and Subdivisions, and Chapter 20.45B, Short Plats and Short Subdivisions for Unit Lot Subdivisions in multifamily land use districts. The proposed LUCA allows unit lot subdivisions in Bellevue to enable individual townhouse units to be owned fee simple, as an alternative to condominium ownership. Fee simple ownership means a property owner holds absolute title in the townhouse unit and the land. Chapter 20.45A applies to projects with 10 or more lots, and Chapter 20.45B refers to projects with nine or fewer lots.

Mr. Whipple said that unit lot subdivisions create a distinction between the original or parent lot and the units lots created within the parent lot. He said that setbacks and other dimensional requirements will apply to the overall parent lot of the subdivision and not to the individual townhouses. Under the current code, townhouses may be constructed in Bellevue as part of a

planned unit development (PUD). Mr. Whipple noted that PUDs are typically used when there is a need for a special development feature to accommodate critical areas.

Mr. Whipple said staff anticipates that provisions for unit lot subdivisions will encourage infill development and increase the number of housing units in Bellevue. While the homes are not anticipated to provide income-restricted, affordable housing units, the LUCA is anticipated to provide an incentive for the development of more townhomes with fee simple ownership versus traditional condo ownership of inside spaces only. The LUCA is intended to remove barriers to the creation of more housing options. Mr. Whipple said the City has heard concerns from developers and builders about the increased insurance requirements and costs related to developing condominiums versus townhomes.

Mr. Whipple recalled that public outreach included the noticing of the application and the public hearing. The unit lot subdivision application included a SEPA (State Environmental Policy Act) notification and a final threshold determination. Staff also engaged with the development community and the Master Builders Association of King and Snohomish Counties. Mr. Whipple said that a number of jurisdictions around Puget Sound have successfully implemented unit lot subdivisions. The Planning Commission's public hearing for the LUCA was held on January 13. The City Council adopted Ordinance No. 6568 on February 16.

Chair Hummer thanked staff for the presentation.

At 7:39 p.m., Vice Chair Epstein moved to open the public hearing. Councilmember Kasner seconded the motion, which carried by a vote of 5-0.

No one came forward to comment.

At 7:40 p.m., Councilmember Dhananjaya moved to close the public hearing. Councilmember Gooding seconded the motion, which carried by a vote of 5-0.

Councilmember Kasner observed that the LUCA represents a minor change, and there does not appear to be any community opposition. He expressed support for the LUCA as a tool for creating more housing.

Responding to Councilmember Dhananjaya, Mr. Whipple confirmed that the LUCA will not change the appearance of townhomes. However, it will provide a fee simple ownership option in which the homeowner owns both the structure and the underlying land. In further response, Mr. Whipple said that the liability associated with condo development is a financial barrier for builders. Unit lot subdivisions will provide a housing alternative for individuals to consider.

Councilmember Dhananjaya expressed support for the unit lot subdivision LUCA and ordinance.

Councilmember Gooding expressed support for the LUCA, noting that it will provide a more affordable housing choice.

Responding to Vice Chair Epstein, Mr. Whipple said that other jurisdictions that have implemented unit lot subdivisions have experienced the use of that option by developers. Since

the City Council's adoption of the ordinance on February 16, the City has received four pre-development services applications to learn more about the unit lot subdivision provisions.

In further response to Vice Chair Epstein, Mr. Whipple said the City does not require homeowners' association (HOA) fees for unit lot subdivisions. However, the developer may choose to establish an HOA fee. PUDs have different requirements, including that the project preserve a minimum of 40-percent open space. Mr. Whipple said PUDs are typically used to accommodate sites with critical areas and environmental constraints.

Responding to Chair Hummer, Mr. Whipple said the ordinance applies to attached multifamily dwellings, which are townhomes versus apartment-style buildings. In further response, Mr. Whipple said the development of townhomes has always been allowed in Bellevue. However, the development community has indicated it is not financially feasible to develop townhome-type developments in multifamily districts because they must currently be classified as a condo project. Mr. Whipple noted that traditional condo ownership includes ownership of only the interior of the units.

Ms. Hummer said she has heard about the complexity of developing PUDs. Mr. Whipple said the LUCA will not amend the regulations applied to PUDs.

Chair Hummer expressed support for the unit lot subdivision LUCA.

8. RESOLUTIONS

- (a) Resolution No. 588 approving City Council Ordinance No. 6567

Councilmember Kasner moved to adopt Resolution No. 588 approving City Council Ordinance No. 6567. Vice Chair Epstein seconded the motion, which carried by a vote of 5-0.

- (b) Resolution No. 589 approving City Council Ordinance No. 6568

Vice Chair Epstein moved to adopt Resolution No. 589 approving City Council Ordinance No. 6568. Councilmember Kasner seconded the motion, which carried by a vote of 5-0.

9. NEW BUSINESS

Chair Hummer said she would like to review the EBCC's discussion from the 2019 retreat to determine the status of the items that were discussed. She noted her ongoing interest in holding a joint meeting with the Planning Commission and encouraged EBCC members to participate in regular Planning Commission meetings. Upcoming issues for the Planning Commission and the EBCC include parking requirements for certain housing near transit service and the use of faith-based and nonprofit-owned properties for housing.

Ms. Hummer said she anticipates a meeting with Utilities Department staff later this summer regarding the replacement of a culvert on Kelsey Creek that is under Lake Hills Boulevard.

Chair Hummer suggested holding an EBCC retreat in September.

Councilmember Kasner suggested exploring the possibility for neighborhood outreach and conflict resolution staff to participate in the EBCC's retreat.

10. APPROVAL OF MINUTES

- (a) Summary Regular Meeting Minutes of February 2, 2021

Councilmember Kasner moved to approve the minutes of the February 2, 2021 Regular Meeting. Vice Chair Epstein seconded the motion, which carried by a vote of 5-0.

11. ADJOURNMENT

At 8:02 p.m., Chair Hummer declared the meeting adjourned.

Karin Roberts, CMC
Deputy City Clerk

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