



DATE: December 17, 2020

TO: Chair Moolgavkar and Members of the Planning Commission

FROM: Trisna Tanus, Consulting Attorney, 452-2970
Nick Whipple, Senior Planner, 452-4578
Development Services Department

SUBJECT: Public Hearing on a Land Use Code Amendment (LUCA) to remove the three-year wait period to establish an Accessory Dwelling Unit (ADU) in new single-family residential construction. File No. 20-105151-AD.

I. BACKGROUND

The proposed ADU LUCA will amend Land Use Code (LUC) 20.20.120 Accessory Dwelling Units to remove the three-year wait period to establish an ADU in a new single-family residential construction. A strike-draft of the proposed ADU LUCA is provided as Attachment A.

Currently, the LUC restricts the establishment of an ADU until three (3)-years after the final building permit inspection of new construction. This restriction is inefficient, and retrofitting an existing home to include an ADU results in increased financial cost and a delay in the ability to add to the City's housing supply. This LUCA will remove this three-year restriction and allow ADUs to be built concurrently and within new single-family construction.

This proposed ADU LUCA is in response to the City's Affordable Housing Strategy, Action B-2, which calls for updating the ADU standards in the LUC to increase the overall supply of ADUs in the City. Allowing for the construction and permitting of ADUs at the time of new construction will make ADUs more feasible to build and encourage construction of this type of housing option in residential neighborhoods. ADUs provide diversity in housing size, type, geographic location, and cultural options to help ensure all residents are welcomed, and to ensure that long-term residents can remain in the City.

II. REVIEW PROCESS

In the December 9 Study Session, the proposed ADU LUCA was introduced to the Planning Commission for review and discussion. After discussion, the Planning Commission directed staff to schedule the required public hearing for January 13. Following the public hearing on January 13, the Planning Commission will be asked to make a recommendation for transmittal to the City Council for final action.

The City Council is anticipated to consider the ADU LUCA and the Planning Commission Recommendation on February 1, and may take final action on February 22.

The EBCC is anticipated to be introduced to and hold a courtesy public hearing on the ADU LUCA on February 2. The EBCC is tentatively scheduled to hold a public hearing and make an approval/disapproval decision on March 2.

III. 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 December 3, 2020, and availability of the Weekly Permit Bulletin was noticed in the Seattle Times. Notice of the Public Hearing was published in the Weekly Permit Bulletin on December 17, 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 November 17, 2020, and a copy of both documents is available for review in the code amendment file. The LUCA is identified by Commerce as ID_2020-S-2029. No comments have been received by Commerce as of the date of this report.

Enhanced Public Notice

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.

Public Comments

As of the date of this staff report, staff has received general inquiries from the public seeking clarification on the current ADU process and information on the effective date of the proposed amendments, presumably to take advantage of this LUCA.

IV. 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 remove a barrier to construct ADUs by allowing ADUs to be permitted and built at the time of new construction. ADUs provide diversity in housing size, type, geographic location, and cultural options to help ensure all residents are welcomed, and to ensure that long-term residents can remain in their homes or neighborhood. The LUCA will make ADUs more feasible and encourage the construction of this flexible and affordable housing choice in residential neighborhoods. The proposed code amendment is supported by the following Comprehensive Plan policies:

Policy HO-15. Allow attached accessory dwelling units in single family districts subject to specific development, design, location, and owner occupancy standards. Allow detached accessory dwelling units where expressly allowed by neighborhood subarea plans.

Policy HO-17. Evaluate the housing cost and supply implications of proposed regulations and procedures.

Policy HO-19. Support housing options, programs, and services that allow seniors to stay in their homes or neighborhood. Promote awareness of Universal Design improvements that increase housing accessibility.

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.

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

Finding: The amendment will enhance the public health, safety and welfare of people by making ADUs more feasible to construct, thereby encouraging the availability of housing choices in existing residential neighborhoods. Allowing for a diversity in housing types provides cultural options for residents and enables long-term residents to stay in their home or neighborhood.

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

Finding: The amendment is not contrary to the interests of citizens and property owners of the City as it will continue to allow for attached ADUs in single-family homes and remove an identified barrier to build ADUs in the City.

V. RECOMMENDATION

Staff has concluded that the ADU LUCA to remove the three-year wait period to establish an ADU in a new single-family residential construction, 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 direct staff to prepare the LUCA for recommendation to Council.

ATTACHMENTS:

A. Proposed ADU LUCA Strike-Draft

20.20.120 Accessory Dwelling Units

A. Definitions.

1. ~~“Accessory dwelling unit” means a subordinate dwelling unit incorporated within a single family structure. Accessory dwelling units may not be subdivided or otherwise segregated in ownership from the primary residence structure.~~
2. ~~“Existing single family dwelling” means that permits for construction of the principal dwelling were finalized (occupancy approved) at least three years prior to application for accessory dwelling unit.~~
3. ~~“Owner occupancy” means a property owner, as reflected in title records, makes his or her legal residence at the site, as evidenced by voter registration, vehicle registration, or similar means, and actually resides at the site more than six months out of any given year, and at no time receives rent for the owner occupied unit.~~

Commented [A1]: Moved to Chapter 20.50 Definitions

Commented [A2]: Removing 3-year ownership requirement- allows ADUs to be included in building permits.

Commented [A3]: Moved to Chapter 20.50 Definitions

BA. General.

One accessory dwelling unit is permitted as subordinate to ~~an existing~~ single-family dwelling provided the following criteria are met:

Commented [A4]: Removes the 3-year ownership requirement

1. ~~Accessory dwelling units may not be subdivided or otherwise segregated in ownership from the primary residence structure;~~
2. Either the primary residence or the accessory dwelling unit must be occupied by an owner of the property ~~that meets the definition of owner occupancy in LUC 20.50.038;~~
23. The total number of occupants in both the primary residence and the accessory dwelling unit combined may not exceed the maximum number established by the definition of family in LUC 20.50.020;
34. The accessory dwelling unit shall contain not less than 300 square feet and not more than 800 square feet, excluding any related garage area; provided, if the accessory unit is completely located on a single floor, the Director may allow increased size in order to efficiently use all floor area, so long as all other standards set forth in this section are met;
45. The square footage of the accessory dwelling unit, excluding any garage area, shall not exceed 40 percent of the total square footage of the primary residence and accessory dwelling unit combined, excluding any garage area;
56. There shall be one off-street parking space provided for the accessory dwelling unit, which is in addition to any off-street spaces required for the primary residence;
67. The construction of a second entry door facing ~~on~~ a street front for entrance into an accessory unit is prohibited; new entrances not facing ~~on~~ a street front are permitted on the sides and rear of a house, or on ~~the~~ front side ~~of a house~~ facing ~~on~~ a street where no other ~~entry~~ door exists; provided, that existing single-family structures with two or more entry doors facing ~~on~~ a street shall not be prohibited from using one of those doors to access the accessory unit; and
78. The accessory dwelling unit shall meet all technical code standards, BCC Title 23, including building, electrical, fire, and plumbing code requirements.

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B. Location.

Accessory dwelling units shall not be permitted in structures detached from the primary residence, including but not limited to guest cottages, detached garages, or workshops.

C. Limitations.

A site may not contain both an accessory dwelling unit and a business subject to the regulations in Part 20.30N LUC for a Home Occupation Permit.

D. Affordable Housing.

The creation of an accessory dwelling unit shall not satisfy the affordable housing requirements in LUC 20.20.128.

E. Inspection and Registration.

1. Any property owner seeking to establish an accessory dwelling unit shall apply to register the unit with the Development Services Department.
2. The property owner shall file a completed registration application form affirming that at least one owner will occupy the primary residence or the accessory unit, and the property owner shall agree to the limits on total number of residents and all other standards as provided above. The registration application shall include a requirement for mailing labels for all owners of property lying within 500 feet of the site.
3. After receipt of a complete application form and prior to approval of any accessory dwelling unit, the Director shall inspect the property to confirm that minimum and maximum size limits are met, required parking is provided, design limitations regarding front entrances are met, and technical code standards are met.
4. The registration form or other form as required by the Director shall be filed as a deed restriction with the King County Department of Records and Elections to indicate the presence of the accessory dwelling unit, the requirement of owner occupancy, and other standards for maintaining the unit as described above.
5. The Director shall report annually to the City Council on accessory dwelling unit registration, number of units and distribution throughout the City, average size of units, and number and type of complaint- and enforcement-related actions.
6. After approval, the Director shall provide notice of the registration of the accessory unit to owners of property within 500 feet of the registered site. The notice shall state that the unit complies with the standards of this section, shall describe the requirements for maintaining the unit, and shall explain how to obtain general information and how to request inspections.
7. Cancellation of the accessory unit's registration may be accomplished by the owner filing a certificate with the Director for recording at the King County Department of Records and Elections, or may occur as a result of enforcement action. The cancellation certificate will confirm that the residence has reverted to use as a single dwelling.

20.50.010 A definitions.

Accessory dwelling unit. A subordinate dwelling unit incorporated within a single-family structure.

20.50.038 O definitions.

Owner occupancy. A property owner, as reflected in title records, makes his or her legal residence at the site, as evidenced by voter registration, vehicle registration, or similar means, and actually resides at the site more than six months out of any given year, and at no time receives rent for the owner-occupied unit.

Commented [A6]: ADU definitions moved here (LUC definitions)

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