

EAST BELLEVUE COMMUNITY COUNCIL

Packet Materials for
REGULAR MEETING

June 6, 2017



Welcome to Your East Bellevue Community Council Meeting

Community Council meetings offer you the chance to express your opinions to your elected officials. Community Council members welcome your participation and hope that the following information is helpful:

Oral Communications

Public participation is encouraged by the Community Council. On each agenda, Item 4 and 13 are set aside to allow you to speak on any subject you wish, except those subjects listed for public hearing. You must sign up in order to be recognized by the Chair. When you are called upon, stand up, give your name and address for the record, and state your views. Please speak loudly and clearly if you are in the back of the room so that your remarks will be audible on the recorder. If many people wish to speak, the Chair may decide to limit the amount of time allowed for each individual's comments in the interests of conducting the meeting in a reasonable and practical fashion. The Community Council will not respond to comments directly, but will take matters under advisement and will ask for staff to prepare a response when necessary.

Courtesy Public Hearing

A courtesy public hearing on a particular project gives the citizen, the applicant, and Community Council members an opportunity to review a project, ask questions, make suggestions, and express concerns prior to the formal processing of the application and the commencement of the Hearing Examiner process. Community Council members take no formal action at this time.

Courtesy public hearings are also held on proposed legislation, such as changes to the Comprehensive Plan. In this case, citizens have the opportunity to provide input to staff and elected officials in this informal setting. Such testimony does not take the place of an appearance before the Planning Commission, however.

If you wish to speak at a courtesy public hearing, sign your name on the sign up sheet and do as you would for "Oral Communications", i.e., stand up, state your name and address and present your views as briefly as possible. If you have no new information to be considered, simply say that you support or disagree with a previous speaker.

Public Hearing

State Statute allows the Community Council 60 days to approve or disapprove City Council ordinances or resolutions regarding land use matters within its jurisdiction. Disapproval means that the legislation does not apply within the Community Council service area, or that the project is denied. A public hearing is held before the decision is made. First, the staff makes a presentation and Council members ask their questions. Then the hearing is opened and the public is invited to comment. To speak, follow the procedures described above. Everyone who wishes to speak will have the opportunity to do so. After the last person has spoken, the hearing is closed. Then Council members discuss the issue and make their decision. The audience may not comment during the Community Council's deliberations unless invited to do so.

If you have any questions, feel free to call the City Clerk's office at (425) 452-6806.

Agenda

CITY OF BELLEVUE
EAST BELLEVUE COMMUNITY COUNCIL
Regular Meeting

Lake Hills Clubhouse
15230 Lake Hills Boulevard, Bellevue WA

Tuesday, June 6, 2017 6:30 - 8:30 PM

	Page No.
1. Call to Order	
2. Roll Call	
3. Flag Salute	
4. Communications: Written and Oral	
5. Reports of City Council, Boards and Commissions	
(a) Community Council Business and New Initiatives	
(b) November 2017 Election	
a. Appointments to Pro and Con Argument Committees	<u>1</u>
b. Adoption of Voter's Pamphlet Explanatory Statement	<u>3</u>
6. Approval of Agenda	
7. Department Reports	
(a) Kelsey Creek Culvert Replacement	
(b) Memo regarding EBCC Retreat Follow-Up	<u>5</u>
(c) Memo regarding Lake Hills Public Art Project (For information only; no staff presentation)	<u>7</u>
8. Public/Courtesy Hearings	
(a) Courtesy Hearing: Proposed amendment to the Land Use Code (LUC) to eliminate quasi-judicial appeals to the City Council	<u>9</u>
9. Resolutions	
10. Committee Reports	

11. Unfinished Business

- (a) Update regarding PSE Litigation

12. New Business

- (a) Discussion Regarding Potential Future Agenda Items *
 - Eastgate Land Use Code Amendments
 - City Website Tutorial

**The future agenda items are not specific to any date. They will appear on the EBCC Agenda as they become ripe for discussion/action.*

13. Continued Communications

14. Executive Session

15. Approval of Minutes

- (a) Summary Special Meeting Minutes April 25, 2017 37
- (b) Summary Regular Meeting Minutes May 2, 2017 45

16. Adjournment



City Clerk's Office Memo

To: East Bellevue Community Council
From: Karin Roberts, Deputy City Clerk
Date: June 6, 2017
Re: Statement Committee Appointments for 2017 Voters' Pamphlet

The Community Council is responsible for appointing committees to prepare statements in favor of and in opposition to the Community Council Continuation Proposition slated for the November 7, 2017 General Election.

Staff has solicited applicants to represent both sides of the issue via two press releases and a recruitment on the City's website. At the conclusion of the May 15th deadline, four applications were received, all wishing to participate on the argument committee "For Continuation". The committee is limited to three members, but the committee can have an unlimited number of persons assist them to prepare the statement. No applications were received for participation on the "Against Continuation" statement committee.

After a motion and vote has been taken to appoint committee members, the Deputy City Clerk will notify King County Elections of the appointments. In addition, the Deputy City Clerk will notify the appointees and provide them with King County Elections' guidelines for the Voters Pamphlet Statement, associated deadlines, and necessary contact information.

Suggested motion language: Move to appoint _____, _____, and _____ to prepare the "For Continuation" position statement in the 2017 Voters' Pamphlet.



City Clerk's Office Memo

To: East Bellevue Community Council
From: Karin Roberts, Deputy City Clerk
Date: June 6, 2017
Re: Explanatory Statement for 2017 Voters' Pamphlet

The City of Bellevue is responsible for coordinating with their legal counsel to prepare an explanatory statement for the 2017 Voters' Pamphlet. The explanatory statement states the effect of a ballot measure if passed into law, and only covers the anticipated effect of the measure should it be passed into law. The statement is not an argument in favor of or in opposition to the measure.

After a motion and vote has been taken to adopt the explanatory statement, the Deputy City Clerk will submit the statement to King County Elections for inclusion in the 2017 Voters' Pamphlet.

Suggested motion language: Move to adopt the explanatory statement as printed in the packet for the 2017 Voters' Pamphlet.

East Bellevue Community Municipal Corporation

Explanatory Statement

In 1969 the East Bellevue annexation to the City of Bellevue was approved by the voters residing within the annexation boundaries. The voters also approved the creation of a community municipal corporation for the annexed area, which has a five member governing body elected by the voters, called the “community council”. The community council has authority to approve or disapprove ordinances and resolutions of the city council affecting land, buildings and structures within the community council municipal corporation with respect to the following: 1) comprehensive plan; 2) zoning ordinances; 3) conditional use permits; 4) subdivision ordinances; 5) subdivision plats; and, 6) planned unit developments.

The community council may also advise, consult and cooperate with the city council on local matters directly or indirectly affecting the service area.

Under state law, the community municipal corporation may continue in existence for four year periods with the approval of the voters within its jurisdictional boundaries. On February 7, 2017 the East Bellevue Community Council adopted Resolution No. 561 requesting that a proposal for continuation be placed on the ballot.

If a majority of votes is cast for continuation, the East Bellevue Community Council shall continue in existence for a four-year period. If a majority of votes is not cast for continuation, it shall cease to exist and cannot be reestablished.

Local Focus

The East Bellevue Community Municipal Corporation was created under the provisions of RCW 35.14 in 1969. It has authority under state law to approve or disapprove City Council ordinances and resolutions regarding zoning and land use matters as they apply within its jurisdictional boundaries. It may also advise the City Council on other local matters.

William Capron, Chair
East Bellevue Community Council

Approved as to form:

Legal Counsel, Catherine Drews



MEMORANDUM

DATE: June 6, 2017

TO: Chair Capron and Members of the East Bellevue Community Council

FROM: Karin Roberts, Deputy City Clerk

SUBJECT: 2017 Retreat Summary

The East Bellevue Community Council (EBCC) held a retreat on April 25, 2017. The retreat was a facilitated discussion between the EBCC, the City Council Liaison, and City staff. The purpose of the retreat was to discuss both how the EBCC can have a more effective and collaborative relationship with the City of Bellevue and how the EBCC can have more effective, productive, and courteous meetings.

Per discussion at the EBCC retreat, there was interest from the Council to be more proactive in the decision making process and less reactive to emerging issues. In response, the Deputy City Clerk and Assistant City Manager agreed to explore three prioritized requests expressed at the retreat. The first request was to ensure all Councilmembers receive the City of Bellevue Weekly Permit Bulletin, which provides official notice of land use applications, public meetings, decisions, recommendations, public hearings, and appeals of land use decisions in Bellevue. Currently, only two of the five Councilmembers have signed up to receive email notification when the latest bulletin is posted. The Deputy City Clerk can assist the three remaining Councilmembers in signing up to receive the Weekly Permit Bulletin, if requested. For the Council's information, the Deputy City Clerk currently reviews the bulletin and notifies the EBCC via email when a project is noticed that falls within the jurisdictional boundaries of the EBCC.

The second request was to add a check-box to the Development Services permit application that would indicate if a project falls within the jurisdictional boundaries of the EBCC. Following a lengthy discussion with Development Services, staff concluded that adding a check-box to the permit application may not produce the desired outcome. The EBCC would be notified of permits that they have no jurisdictional authority over and permits that may not be complete or even be allowed to move forward in the permitting process. Development Services staff proposed an alternative that they believe would satisfy the request of the EBCC. The proposal would include the Deputy City Clerk on the draft copy of the Weekly Permit Bulletin, which is created several days prior to the publication of the final bulletin. The Deputy City Clerk will follow the current process of reviewing the bulletin and notifying the EBCC via email when a project is noticed that falls with their boundary. This will result in the EBCC being given several additional days' notice before the final Weekly Permit Bulletin comes out and before any Notice of Application sign is posted on a property.

The third request was to work with staff to establish a process wherein the EBCC is provided with the same upcoming quasi-judicial alerts as the City Council receives. Currently every Bellevue City Councilmember is signed up to receive the Weekly Permit Bulletin alerts. The Weekly Permit Bulletin describes the process applicable to every permit that requires notice. The Development Services Department (DSD) recommends that EBCC members also sign up for these alerts, a practice that is consistent with what DSD has done for the City Council. As described above, the Deputy City Clerk can assist the three remaining Councilmembers in signing up to receive the Weekly Permit Bulletin, if requested.

In addition to the Weekly Permit Bulletin, a courtesy notification is also sent to the City Council (via email only) when Process III projects are noticed. The Deputy City Clerk will work with staff to ensure that members of the EBCC are notified once a matter becomes quasi-judicial.



DATE: May 26, 2017

TO: East Bellevue Community Council

FROM: Scott MacDonald, Associate Planner, 452-4852
smacdonald@bellevuewa.gov
Planning & Community Development

SUBJECT: Lake Hills – Delight in Green Public Art

INFORMATION

On March 7, staff provided an update to the EBCC on possibly siting the artwork Delight in Green in Lake Hills. Feedback from the presentation and the following discussion with residents supported the idea and suggested two possible sites that would allow for a more permanent location for the artwork: 148th and Main Street, and 148th and the Lake Hills Greenbelt Trail. Following the meeting, staff received a letter from the Lake Hills Neighborhood Association that prioritized siting the artwork at 148th and the Lake Hills Greenbelt Trail.



At the Bellevue Arts Commission's April meeting, staff presented a recap of the discussion from the March EBCC meeting, spoke about the two possible sites, and relayed the letter to the commission from the Lake Hills Neighborhood Association. The Arts Commission recommended pursuing the preferred site at the trail for the artwork.

NEXT STEPS

Staff has been in correspondence with the artist, Danielle Foushee, regarding the new site and she is very happy with the possible location. Staff will be confirming with Transportation that siting the artwork in this location does not conflict with any other projects and does not pose safety issues. Once staff has that confirmation, staff will apply for permits and seek a contractor to perform the installation. The expected completion of the installation, if all goes as planned with the preferred site, is by the end of August.



DATE: June 6, 2017

TO: Chair Capron and Members of the East Bellevue Community Council

FROM: Matt McFarland, Assistant City Attorney, 452-6829
Carol Helland, Code & Policy Director, 425-2724

SUBJECT: Courtesy Public Hearing on proposed Land Use Code amendment to the quasi-judicial appeal process in Process III land use matters.

INTRODUCTION

On June 6, 2017, the East Bellevue Community Council (EBCC) will hold a courtesy hearing to consider the proposal to amend the Bellevue Land Use Code (LUC) to eliminate quasi-judicial appeals to the City Council of Hearing Examiner recommendations in Process III land use matters.

The proposed LUC amendment will not change the EBCC's authority to approve or disapprove of the Council's final decision on land use matters that fall within the EBCC's jurisdiction, and no action is required by the EBCC. The City Council will hold a public hearing on the proposed LUC amendment later this summer.

BACKGROUND/ANALYSIS

The LUC provides for appeals to the City Council of Hearing Examiner recommendations on Process III permit matters. Process III permits include Conditional Use Permits (CUP), Preliminary Subdivision Approval (Plat), and Planned Unit Developments (PUDs) within the jurisdiction of the EBCC.

Under Part 20.35 LUC, the Hearing Examiner issues a recommendation—not a decision—to Council on Process III permit applications. Council considers the Hearing Examiner's recommendation and then issues a final decision. If an appeal of the Hearing Examiner's recommendation is filed, the Council adjudicates the merits of the appeal at the same time it issues the final decision on the permit application.

Under controlling state law (RCW 35.14.040), the EBCC has 60-days to approve or disapprove of the City Council's final decision on Process III permits within the EBCC's jurisdiction. The proposed LUC amendment will not change the EBCC's authority to approve or disapprove of these land use decisions by Council.

Instead, the LUC amendment would remove appeals to the City Council of Process III Hearing Examiner recommendations. The amendment would preserve (1) the Hearing Examiner's role in providing a recommendation to Council, (2) the City Council's role as

the final decision-maker, and (3) the EBCC's approval/disapproval role when the permit falls within the EBCC's jurisdiction. The City Council's final decision—and the EBCC's approval/disapproval of the Council's final decision for matters within the EBCC's jurisdiction—would remain appealable to Superior Court, or, as required by law, to the State Shoreline Hearings Board.

On several occasions, the City Council has indicated a preference that appeals of Hearing Examiner decisions and recommendations should be adjudicated by state courts (or by the Shoreline Hearings Board). This is because when the Council adjudicates land use appeals, it acts in a quasi-judicial capacity, which requires Council to act like a judge. The City Council must review all of the evidence in the record and then apply the controlling law to the evidence to determine the outcome of the appeal. In addition, the City Council must avoid political influence or pressure from the public because Council is required to be fair, impartial and unbiased. There are specific rules that Council must follow related to contact with citizens regarding matters that Council will hear on appeal, and Council is not allowed to advocate for a specific position or outcome when acting like a judge during a quasi-judicial appeal.

In contrast to the City Council, Hearing Examiners are trained land use experts who are impartial and objective decision-makers. Hearing Examiners are hired because of their background in land use and municipal adjudication, and their role is to conduct a public hearing, consider and weigh all of the evidence in the record, and then adopt findings of fact and conclusions of law by applying the controlling law to the evidence. As non-elected officials, Hearing Examiners are not susceptible to political pressure or threats from parties to the land use action, and they are trained to act as fair and unbiased judges whose decisions are not influenced by politics or election cycles.

Under the proposed LUC amendment, Council would retain its legislative authority to adopt clear and effective policies and regulations that govern all land use permits, but Council would not adjudicate land use appeals as part of the permit review process. Likewise, under the amendment, the EBCC's role in the land use process would not change, and the EBCC would retain its authority to approve or disapprove of City Council decisions on Process III permits subject to the EBCC's jurisdiction. As mentioned above, the EBCC's role in Process III land use matters within its jurisdiction is controlled by state law.

CODE AMENDMENT APPROACH

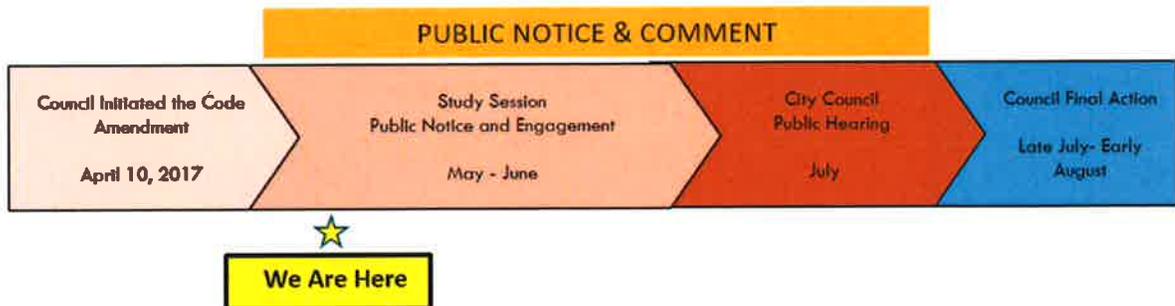
Scope and Schedule of the LUC Amendment

In response to the City Council's direction to initiate a code amendment on April 10, staff began drafting the language necessary to remove quasi-judicial appeals to Council from the LUC. The draft LUC amendment is included with this memorandum as Attachment A.

Following a second study session on May 22, the City Council directed staff to proceed with the proposed LUC amendment and asked staff to provide additional information as

the amendment process moves forward this summer. Specifically, Council directed staff to recommend how Council can remain “looped in” at each stage of the land use process and directed staff to identify amendments and updates to other portions of the city code that may be required as a result of the proposed LUC amendment. Council also requested additional information concerning whether the LUC amendment would impact Council’s ability to represent the public.

Staff anticipates that work on the proposed LUC amendment can be completed prior to the summer break as outlined below:



Staff encourages all members of the public who are interested in the proposed LUC amendment to participate in the City Council public hearing that will occur this summer. If requested, staff is also available to meet with community groups or individuals to describe the amendment prior to the scheduled public hearing.

ATTACHMENTS

- A. Draft LUC Amendment regarding Quasi-Judicial Appeals
- B. Comparison of Process III Land Use Matters Under Existing LUC and under the Draft LUC Amendment

Attachment A

Bellevue City Code
Chapter 20.35 REVIEW AND APPEAL
PROCEDURES

Page 1/23

Chapter 20.35

REVIEW AND APPEAL PROCEDURES

Sections:

- 20.35.010 Purpose and scope
- 20.35.015 Framework for decisions
- 20.35.020 Pre-application conferences
- 20.35.030 Applications
- 20.35.035 Method of mailing and publication
- 20.35.040 Constructions notices
- 20.35.045 Land use decisions – When final
- 20.35.070 Appeal of City land use decisions to Superior Court
- 20.35.080 Merger of certain decisions
- 20.35.085 Appeals of non-land use matters
- 20.35.100 Process I: Hearing Examiner quasi-judicial decisions
- 20.35.120 Notice of application
- 20.35.125 Minimum comment period
- 20.35.127 Public meetings
- 20.35.130 Director's recommendation
- 20.35.135 Public notice of Director's recommendation
- 20.35.137 Hearing Examiner public hearing
- 20.35.140 Hearing Examiner decision
- ▼ 20.35.200 Process II: Administrative decisions
- 20.35.210 Notice of application
- 20.35.225 Minimum comment period
- 20.35.227 Public meetings
- 20.35.230 Director's decision
- 20.35.235 Notice of decision
- 20.35.250 Appeal of Process II decisions
- 20.35.300 Process III: City Council quasi-judicial decisions
- 20.35.320 Notice of application
- 20.35.325 Minimum comment period
- 20.35.327 Public meetings
- 20.35.330 Director's recommendation
- 20.35.335 Public notice of Director's recommendation
- 20.35.337 Hearing Examiner public hearing
- 20.35.340 Hearing Examiner recommendation
- ▼ 20.35.355 City Council decision on the application
- 20.35.365 Community Council review and decision
- 20.35.400 Process IV: City Council legislative actions
- 20.35.410 Planning Commission procedure
- 20.35.415 Notice of application
- 20.35.420 Public hearing notice
- 20.35.430 Public hearing
- 20.35.435 Community Council courtesy hearing
- 20.35.440 City Council action
- 20.35.450 Community Council review and action
- 20.35.500 Process V: Administrative decisions with no administrative appeal
- 20.35.510 Notice of application
- 20.35.520 Minimum comment period
- 20.35.525 Public meetings
- 20.35.530 Director's decision

Deleted: 20.35.150 Appeal of Hearing Examiner decision

Deleted: 20.35.350 Appeal of Hearing Examiner recommendation

The Bellevue City Code is current through Ordinance 6352, passed April 17, 2017, and Resolution 9267, passed May 1, 2017.
5/5/2017

- 20.35.535 Notice of decision
- 20.35.540 Appeal of Process V decisions

20.35.010 Purpose and scope.

The purpose of this chapter is to establish standard procedures for all land use and related decisions made by the City of Bellevue. The procedures are designed to promote timely and informed public participation, eliminate redundancy in the application, permit review, and appeal processes, minimize delay and expense, and result in development approvals that further City goals as set forth in the Comprehensive Plan. As required by RCW 36.70B.060, these procedures provide for an integrated and consolidated land use permit process. The procedures integrate the environmental review process with the procedures for review of land use decisions and provide for the consolidation of appeal processes for land use decisions. (Ord. 4972, 3-3-97, § 3)

20.35.015 Framework for decisions.

A. Land use decisions are classified into five processes based on who makes the decision, the amount of discretion exercised by the decisionmaker, the level of impact associated with the decision, the amount and type of public input sought, and the type of appeal opportunity.

B. Process I decisions are quasi-judicial decisions made by the Hearing Examiner on project applications. The following types of applications require a Process I decision:

1. Conditional Use Permits (CUPs) and Shoreline Conditional Use Permits;
2. Preliminary Subdivision Approval (Plat); and
3. Planned Unit Development (PUD) Approval; provided, that applications for CUPs, shoreline CUPs, preliminary plats, and PUDs, within the jurisdiction of a Community Council pursuant to RCW 35.14.040, shall require a Process III decision.

C. Process II decisions are administrative land use decisions made by the Director. Threshold determinations under the State Environmental Policy Act (SEPA) made by the Environmental Coordinator and Sign Code variances are also Process II decisions. (See the Environmental Procedures Code, BCC 22.02.034, and Sign Code, BCC 22B.10.180). The following types of applications require a Process II decision:

1. Administrative amendments;
2. Administrative Conditional Use;
3. Design Review;
4. Home Occupation Permit;
5. Interpretation of the Land Use Code;
6. Preliminary Short Plat;
7. Shoreline Substantial Development Permit;
8. Variance and Shoreline Variance;
9. Critical Area Land Use Permits;
10. Master Development Plans;
11. Design and Mitigation Permits required pursuant to Part 20.25M LUC, Light Rail Overlay District; and

Attachment A

12. Land use approvals requiring a threshold determination under SEPA when not consolidated with another land use decision identified in this section.

D. Process III decisions are quasi-judicial decisions made by the City Council. The following types of applications require a Process III decision:

1. Site-specific or project-specific rezone;
2. Conditional Use, Shoreline Conditional Use, Preliminary Plat, and Planned Unit Development projects subject to the jurisdiction of a Community Council pursuant to RCW 35.14.040; and
3. A rezone of any property to the OLB-OS Land Use District designation.

E. Process IV decisions are legislative nonproject decisions made by the City Council under its authority to establish policies and regulations regarding future private and public development and management of public lands. The following are Process IV decisions:

1. Consideration of suggestions for amendments to the Comprehensive Plan;
2. Amendments to the text of the Land Use Code or Comprehensive Plan;
3. Amendments to the Comprehensive Plan Map;
4. Amendments to the Zoning Map (rezones) on a Citywide or areawide basis.

F. Process V decisions are administrative land use decisions made by the Director, for which no administrative appeal is available. The following are Process V decisions:

1. Temporary Encampment Permits.

G. Other types of land use applications and decisions made by the Director, including those set forth below, are minor or ministerial administrative decisions, exempt from the above land use processes. Notice and an administrative appeal opportunity are not provided. LUC 20.35.020 through 20.35.070, however, apply to all land use applications.

1. Boundary Line Adjustment;
2. Final Plat (also requires Hearing Examiner approval prior to recording);
3. Final Short Plat;
4. Land Use Exemption;
5. Temporary Use Permit;
6. Vendor Cart Permit;
7. Requests for Reasonable Accommodation as defined by Part 20.30T LUC*;
8. Applications and decisions for activities for which the Director of the Utilities Department has granted an exemption to the "minimum requirements for new development and redevelopment" pursuant to BCC 24.06.065.C. (Ord. 6197, 11-17-14, §§ 26, 27, 28; Ord. 6102, 2-27-13, § 6; Ord. 5727, 3-19-07, § 3; Ord. 5717, 2-20-07, § 11; Ord. 5683, 6-26-06, § 28; Ord. 5650, 1-3-06, § 3; Ord. 5615, 7-25-05, § 2; Ord. 5587, 3-7-05, § 10; Ord. 5481, 10-20-03, § 15; Ord. 5403, 8-5-02, § 12; Ord. 5328, 11-19-01, § 1; Ord. 5233, 7-17-00, § 2; Ord. 4978, 3-17-97, § 8; Ord. 4972, 3-3-97, § 3)

*Not effective within the jurisdiction of the East Bellevue Community Council.

20.35.020 Pre-application conferences.

A pre-application conference is required prior to submitting an application for Conditional Use or Shoreline Conditional Use Permits, preliminary subdivision approval, planned unit developments, Master Development Plans, Design and Mitigation Permits required pursuant to Part 20.25M LUC, Light Rail Overlay District, and Design Review projects, unless waived by the Director. (Ord. 6102, 2-27-13, § 7; Ord. 5587, 3-7-05, § 11; Ord. 4972, 3-3-97, § 3)

20.35.030 Applications.

A. Who May Apply.

Applications for the various types of land use decisions may be made by the following parties:

1. The property owner, authorized agent of the owner, or Regional Transit Authority authorized by LUC 20.25M.010.C to apply for permits may apply for any type of Process I, Process II, or Process III land use decision.
2. A resident of the dwelling may apply for a Home Occupation Permit.
3. The City Council, the Director of the Development Services Department or the Planning Director may apply for a project-specific or site-specific rezone or for an areawide (Process IV) rezone.
4. The Planning Commission may propose site-specific and non-site-specific amendments to the Comprehensive Plan Map or to the text of the Comprehensive Plan for consideration pursuant to the procedure for consideration of Comprehensive Plan Amendments set forth in LUC 20.30I.130.B.2.
5. City Council, the Planning Commission, or the Director with the concurrence of either body, may initiate an amendment to the text of the Land Use Code.
6. A property owner or authorized agent of a property owner may apply to propose a site-specific amendment to the Comprehensive Plan pursuant to the annual procedure for consideration of Comprehensive Plan Amendments set forth in LUC 20.30I.130.A.
7. Any person may apply to propose a non-site-specific amendment to the Comprehensive Plan pursuant to the annual procedure for consideration of Comprehensive Plan Amendments set forth in LUC 20.30I.130.A.
8. Any person may request an interpretation of the Land Use Code. In addition, the Director may issue interpretations of the Land Use Code as needed.

B. Submittal Requirements.

The Director shall specify submittal requirements, including type, detail, and number of copies for an application to be complete. The Director may waive specific submittal requirements determined to be unnecessary for review of an application. The Director may require additional material such as maps, studies, or models when the Director determines such material is needed to adequately assess the proposed project.

C. Notice of Complete Application.

1. Within 28 days after receiving a land use permit application, the Director shall mail, fax, or otherwise provide to the applicant a written determination that the application is complete, or that the application is incomplete and what is necessary to make the application complete.
2. If the Director does not provide a written determination within the 28 days, the application shall be deemed complete as of the end of the 28th day.

3. If additional information is needed to make the application complete, within 14 days after an applicant has submitted the information identified by the Director as being needed, the Director shall notify the applicant whether the application is complete or what additional information is necessary.

4. A land use application is complete for purposes of this section when it meets the submittal requirements established by the Director and is sufficient for continued processing even though additional information may be required or project modifications may be undertaken subsequently. The determination of completeness shall not preclude the Director from requesting additional information or studies either at the time of the notice of completeness or subsequently, if new information is required to complete review of the application or substantial changes in the permit application are proposed.

D. Project Timelines.

Subject to Chapter 36.70B RCW, the Director shall establish reasonable and predictable timelines for review of land use applications and shall provide target dates for decisions on such applications. The project timelines established by the Director may be modified for a proposal including a critical areas report as set forth in LUC 20.25H.270. (Ord. 6102, 2-27-13, § 8; Ord. 5790, 12-3-07, § 6; Ord. 5683, 6-26-06, § 29; Ord. 5650, 1-3-06, § 4; Ord. 5481, 10-20-03, § 16; Ord. 5328, 11-19-01, § 2; Ord. 5233, 7-17-00, § 3; Ord. 4972, 3-3-97, § 3)

20.35.035 Method of mailing and publication.

A. Mailing.

For purposes of this chapter, reference to "mailing" shall include either U.S. postal mail or electronic mail. The City shall, however, provide notification by electronic mail only when requested by the recipient, provided nothing in this subsection negates the City's responsibility to provide notice by U.S. postal mail where State or local law requires that form of notification.

B. Publication.

For purposes of this chapter, reference to "publication" shall include either publication in the City's official newspaper of record, electronic notification through use of the City's official website, or by inclusion in the City's weekly permit bulletin, provided nothing in this subsection negates the City's responsibility to provide notice by publication in its official newspaper of record where State or local law requires that form of publication. (Ord. 5790, 12-3-07, § 13)

20.35.040 Construction notices.*

The Director may require construction posting and neighborhood notification for any development on real property. Removal of or failure to post a construction notice required by the Director shall constitute a violation of this section and otherwise is enforceable under Chapter 1.18 BCC. (Ord. 5791, 12-3-07, § 8)

*Code reviser's note: Ordinance 5791 adds these provisions as LUC 20.35.035. This section has been renumbered to prevent duplication of numbering.

20.35.045 Land use decisions – When final.

When a decision is made to approve, conditionally approve, or deny an application, the applicant shall be notified. Process V decisions and minor or ministerial administrative land use decisions that are not subject to administrative appeal shall be final at the time of the Director's decision that the application conforms to all applicable codes and requirements. Process I decisions are final on the date of the Hearing Examiner's written decision on the application is mailed. Process II decisions are final upon expiration of any applicable City administrative appeal period, or, if appealed, on the day following issuance of a final City decision on the administrative appeal. Process III and IV decisions are final on the date of the City Council's final decision or action on the application or proposal, subject to LUC 20.35.355.G, 20.35.365 and 20.35.450 regarding Community Council jurisdiction. (Ord. 5615, 7-25-05, § 3; Ord. 5481, 10-20-03, § 17; Ord. 4972, 3-3-97, § 3)

Deleted: upon expiration of any applicable City administrative appeal period, or, if appealed,

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20.35.070 Appeal of City land use decisions to Superior Court.

A. General. A final City decision on a land use permit application (Processes I through III and V), except for shoreline permits, may be appealed to Superior Court by filing a land use petition meeting the requirements set forth in Chapter 36.70C RCW. The petition must be filed and served upon all necessary parties as set forth in state law and within the 21-day time period as set forth in RCW 36.70C.040. Notwithstanding the provisions of this paragraph, the time for filing an appeal of a final Process II land use action that has been merged with a Process III application will be tolled until the Process III decision is final. Requirements for fully exhausting City administrative appeal opportunities, if any are available, must be fulfilled. An appeal of a Shoreline Substantial Development Permit, a Shoreline Conditional Use Permit, or a shoreline variance shall be to the State Shoreline Hearings Board and shall be filed within 21 days as set forth in RCW 90.58.180.

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B. A final City action on a legislative nonproject land use proposal (Process IV) may be appealed by petition to the Growth Management Hearings Board as set forth in LUC 20.35.440.C and RCW 36.70A.290. (Ord. 5615, 7-25-05, § 4; Ord. 5089, 8-3-98, § 40; Ord. 4972, 3-3-97, § 3)

20.35.080 Merger of certain decisions.

A. Process I and III and Process II, Including SEPA Threshold Determinations. When a single project includes a combination of Process I, Process II, including the SEPA threshold determination associated with the Process I or III action and/or Process III land use applications, review of the project shall combine review of the Process I, Process II, and Process III components. A consolidated report setting forth the Process I and/or Process III recommendation of the Director and the Process II decisions will be issued.

B. SEPA Threshold Determination with Process IV or Process V Decisions. The SEPA threshold determination associated with a Process IV or Process V action shall be merged with the Process IV and Process V action, and processed according to the notice, decision, appeal and other procedures set forth in LUC 20.35.400 through 20.35.450 (Process IV) or LUC 20.35.500 through 20.35.540 (Process V). (Ord. 5615, 7-25-05, § 5; Ord. 4972, 3-3-97, § 3)

20.35.085 Appeals of nonland use matters.

Certain other appealable administrative decisions are made by City departments, including but not limited to decisions pursuant to the City's Traffic Standards Code, Chapter 14.10 BCC; Transportation [Impact Fee Program](#), Chapter 22.16 BCC; the School Impact Fees for Issaquah School District No. 411 [And Renton School District No. 403](#), Chapter 22.18 BCC; the Sewer [Utility Code](#), Chapter 24.04 BCC; the Storm and Surface Water Utility Code, Chapter 24.06 BCC; the Sign Code, Chapter 22B.10 BCC; and the Environmental Procedures Code, Chapter 22.02 BCC. These types of non-Land Use Code appeals are heard and decided by the City Hearing Examiner. When associated with a consolidated Land Use permit application, the appeal will be heard in conjunction with any appeal on the Land Use application. In some cases, the relevant code modifies the appeal process slightly compared to Land Use Code appeals. (See e.g., Transportation [Impact Fee Program](#): only [developer](#) may appeal.) In such cases, and as to those codes only, the procedures governing other appeals shall control. In all cases, however, the final City decision on the administrative appeal is made by the Hearing Examiner. Information on non-Land Use Code appeals is available from the department administering the relevant code and from the City Hearing Examiner. (Ord. 4978, 3-17-97, § 9; Ord. 4972, 3-3-97, § 3)

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20.35.100 Process I: Hearing Examiner quasi-judicial decisions.

A. LUC 20.35.100 through 20.35.150 contain the procedures the City will use in implementing Process I. This process begins with a complete application, followed by notice to the public of the application and a public comment period, during which time an informational meeting will be held. If required by the State Environmental Policy Act (SEPA) a threshold determination will be issued by the Environmental Coordinator. The threshold determination may be issued in conjunction with issuance of the Director's recommendation on the application. If an Environmental Impact Statement (EIS) is required, however, the threshold determination will be issued early and the EIS will be completed prior to issuance of the Director's recommendation. If the requirement to prepare an EIS or a supplemental EIS is appealed by the applicant, that appeal will also be resolved prior to issuance of the Director's recommendation.

The Bellevue City Code is current through Ordinance 6352, passed April 17, 2017, and Resolution 9267, passed May 1, 2017.
5/5/2017

Attachment A

B. Following issuance of the Director's recommendation, a public hearing will be held before the City Hearing Examiner. If a SEPA Determination of Nonsignificance (DNS) was issued (no EIS required) and an appeal of the DNS has been filed, the appeal hearing on the DNS will be combined with the public hearing on the Director's recommendation. Following the public hearing, the Hearing Examiner will issue a written report which will set forth a decision to approve, approve with modifications, or deny the application. The Examiner's report will also include a final City decision on any DNS or other Process II appeal.

C. The decision of the Hearing Examiner on a Process I application is the final City decision on a Process I application. A final decision by the Hearing Examiner on a Process I application may be appealed to Superior Court as set forth in LUC 20.35.070, except that an appeal of a shoreline conditional use permit shall be filed with the Shorelines Hearings Board.

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D. Subject to LUC 20.35.070, the applicant may commence activity or obtain other required approvals authorized by the Process I decision the day following the Hearing Examiner's decision approving or approving with modifications the Process I application. Activity commenced before the expiration of the full appeal period in LUC 20.35.070, is at the sole risk of the applicant. (Ord. 4972, 3-3-97, § 3)

20.35.120 Notice of application.

A. Notice of application shall be provided, pursuant to the requirements of this section, within 14 days of issuance of the notice of completeness for an application for a Process I land use decision. See additional noticing requirements in LUC 20.45A.110 for preliminary subdivisions (plats).

B. The Director shall provide notice of the application as follows:

1. Publication of the project description, location, types of City permits or approvals applied for, date of application and location where the complete application file may be reviewed in a newspaper of general circulation in the City;
2. Mailed notice to owners of real property within 500 feet of the project site including the following information:
 - a. The date of application;
 - b. The project description and location;
 - c. The types of City permits or approvals applied for;
 - d. The Director may, but need not, include other information to the extent known at the time of notice of application, such as: the identification of other City permits or approvals required, related permits from other agencies or jurisdictions not included in the City permit process, the dates for any public meetings or public hearings, identification of any studies requested for application review, any existing environmental documents that apply to the project, and a statement of the preliminary determination, if one has been made, of those development regulations that will be used for project mitigation;
3. Mailed notice of the application including at least the information required in subsection A.1 of this section to each person who has requested such notice for the calendar year and paid any applicable fee as established by the Director. Included in this mailing shall be all members of a Community Council and a representative from each of the neighborhood groups, community clubs, or other citizens' groups who have requested regular notice of land use actions. As an alternative to mailing notice to each such person, notice may be provided by electronic mail only, when requested by the recipient.

C. The applicant shall provide notice of the application as follows:

1. Posting of two signs or placards on the site or in a location immediately adjacent to the site that provides visibility to motorists using adjacent streets. The Director shall establish standards for size,

color, layout, design, wording, placement, and timing of installation and removal of the signs or placards. (Ord. 5718, 2-20-07, §§ 1, 3; Ord. 5481, 10-20-03, § 18; Ord. 5089, 8-3-98, § 41; Ord. 4972, 3-3-97, § 3)

20.35.125 Minimum comment period.

- A. The Notice of Application shall provide a minimum comment period of 14 days. The Director's recommendation on a Process I application will not be issued prior to the expiration of the minimum comment period.
- B. Comments should be submitted to the Director as early in the review of an application as possible and should be as specific as possible.
- C. The Director may accept and respond to public comments at any time prior to the closing of the public hearing record.
- D. For projects requiring review under the State Environmental Policy Act (SEPA), a single comment letter may be submitted to the Director or the Environmental Coordinator addressing environmental impacts as well as other issues subject to review under the approval criteria for the Process I decision. (Ord. 4972, 3-3-97, § 3)

20.35.127 Public meetings.

A public meeting is required for all Process I applications. The Director may require the applicant to participate in the meeting to inform citizens about the proposal. Public meetings shall be held as early in the review process as possible for Process I applications. Notice of the public meeting shall be provided in the same manner as required for notice of the application. The public meeting notice will be combined with the notice of application whenever possible. (Ord. 4972, 3-3-97, § 3)

20.35.130 Director's recommendation.

A written report of the Director making a recommendation to the Hearing Examiner for approval, approval with conditions or with modifications, or for denial shall be prepared. The Director's recommendation shall be based on the applicable Land Use Code decision criteria, shall include any conditions necessary to ensure consistency with City development regulations, and may include any mitigation measures proposed under the provisions of the State Environmental Policy Act (SEPA). (Ord. 4972, 3-3-97, § 3)

20.35.135 Public notice of Director's recommendation.

- A. Notice of Recommendation, SEPA Determination, and Hearing Examiner Hearing.
1. Public Notice of the availability of the Director's recommendation shall be published in a newspaper of general circulation. If a Determination of Significance (DS) was issued by the Environmental Coordinator, the notice of the Director's recommendation shall state whether an EIS or Supplemental EIS was prepared or whether existing environmental documents were adopted. If a Determination of Nonsignificance (DNS) is issued, the DNS may be issued and published in conjunction with the Director's recommendation except as provided in the Environmental Procedures Code, BCC 22.02.031 and 22.02.160. The notice of recommendation shall also include the date of the Hearing Examiner public hearing for the application, which shall be scheduled no sooner than 14 days following the date of publication of the notice.
 2. The Director shall mail notice of the recommendation and public hearing to each owner of real property within 500 feet of the project site.
 3. The Director shall mail notice to each person who submitted comments during the comment period or at any time prior to the publication of the notice of recommendation.
 4. The Director shall mail notice to each person who has requested such notice for the calendar year and paid any applicable fee as established by the Director. Included in this mailing shall be all members of a Community Council and a representative from each of the neighborhood groups, community clubs, or other citizens' groups who have requested regular notice of land use decisions.

As an alternative to mailing notice to each such person, notice may be provided by electronic mail only, when requested by the recipient.

5. See additional noticing requirements in LUC 20.45A.110 for preliminary subdivisions (plats). (Ord. 5718, 2-20-07, §§ 1, 4; Ord. 5481, 10-20-03, § 19; Ord. 4972, 3-3-97, § 3)

20.35.137 Hearing Examiner public hearing.

A. Participation in Hearing.

Any person may participate in the Hearing Examiner public hearing on the Director's recommendation by submitting written comments to the Director prior to the hearing or by submitting written comments or making oral comments at the hearing.

B. Transmittal of File.

The Director shall transmit to the Hearing Examiner a copy of the Department file on the application including all written comments received prior to the hearing, and information reviewed by or relied upon by the Director or the Environmental Coordinator. The file shall also include information to verify that the requirements for notice to the public (notice of application, notice of SEPA decision, and notice of Director's recommendation) have been met.

C. Hearing Record.

The Hearing Examiner shall create a complete record of the public hearing including all exhibits introduced at the hearing and an electronic sound recording of each hearing. (Ord. 4972, 3-3-97, § 3)

20.35.140 Hearing Examiner decision.

A. Criteria for Decision.

The Hearing Examiner shall approve a project or approve with modifications if the applicant has demonstrated that the proposal complies with the applicable decision criteria of the Bellevue City Code. The applicant carries the burden of proof and must demonstrate that a preponderance of the evidence supports the conclusion that the application merits approval or approval with modifications. In all other cases, the Hearing Examiner shall deny the application.

B. Limitation on Modification.

If the Hearing Examiner requires a modification which results in a proposal not reasonably foreseeable from the description of the proposal contained in the public notice provided pursuant to LUC 20.35.135, the Hearing Examiner shall conduct a new hearing on the proposal as modified.

C. Conditions.

The Hearing Examiner may include conditions to ensure a proposal conforms to the relevant decision criteria.

D. Written Decision of the Hearing Examiner.

The Hearing Examiner shall within 10 working days following the close of the record distribute a written report supporting the decision. The report shall contain the following:

1. The decision of the Hearing Examiner; and
2. Any conditions included as part of the decision; and
3. Findings of facts upon which the decision, including any conditions, was based and the conclusions derived from those facts; and

4. A statement explaining the process to appeal the decision of the Hearing Examiner to the City Council.

E. Distribution.

The Office of the Hearing Examiner shall mail the written decision, bearing the date it is mailed, to each person who participated in the public hearing. (Ord. 4972, 3-3-97, § 3)

20.35.200 Process II: Administrative decisions.

A. LUC 20.35.200 through 20.35.250 contain the procedures the City will use in implementing Process II. A Process II land use decision is an administrative decision made by the Director of the Development Services Department. Process II applications go through a period of public notice and an opportunity for public comment. An informational meeting may be held for projects of significant impact or for projects involving major changes to the expected pattern of development in an area. The Director then makes a decision based upon the decision criteria set forth in the Code for each type of Process II application. Public notice of the decision is provided, along with an opportunity for administrative appeal of the decision.

B. If required by the State Environmental Policy Act (SEPA), a threshold determination will be issued by the Environmental Coordinator. The threshold determination is also a Process II decision, except as set forth in LUC 20.35.015.C, and may be issued in conjunction with the Director's decision on the accompanying land use decision. If an Environmental Impact Statement (EIS) is required, however, the threshold determination will be issued early and the EIS will be completed prior to the issuance of the accompanying land use decision. If the requirement to prepare an EIS or a supplemental EIS is appealed by the applicant, that appeal will be resolved prior to the issuance of the land use decision. (See BCC 22.02.031 and 22.02.160 regarding timing of issuance of the threshold determination.)

C. Process II decisions of the Director and SEPA threshold determinations are final decisions, effective on the day following the expiration of any associated administrative appeal period, except that for projects where no person or entity submitted comments prior to the date the final decision was issued pursuant to LUC 20.35.250.A.1, the Process II decision is a final decision effective on the date of issuance. If an administrative appeal is filed by a person or entity that submitted comments prior to the date the final decision was issued as set forth in LUC 20.35.250.A.1, the decision is not final until the appeal is heard and decided by the City Hearing Examiner, the Shoreline Hearings Board pursuant to LUC 20.35.250.B and RCW 90.58.180, or the Growth Management Hearings Board pursuant to LUC 20.35.250.C and RCW 36.70A.290.

D. Where no person or entity has submitted comments prior to the date the final decision was issued, as set forth in LUC 20.35.250.A.1, the City may issue project permits during the appeal period, provided the applicant submits a waiver of appeal statement to the City. Nothing in this provision shall require the City, however, to issue project permits prior to the expiration of the appeal period. (Ord. 5790, 12-3-07, § 12; Ord. 5615, 7-25-05, § 6; Ord. 5233, 7-17-00, § 4; Ord. 4972, 3-3-97, § 3)

20.35.210 Notice of application.

A. Notice of application for Process II land use decisions shall be provided within 14 days of issuance of a notice of completeness as follows:

Table 20.35.210.A

Application Type	Publish	Mail	Sign
Administrative Amendment	X	X	X
Administrative Conditional Use	X	X	X
Design Review	X	X	X

The Bellevue City Code is current through Ordinance 6352, passed April 17, 2017, and Resolution 9267, passed May 1, 2017.
5/5/2017

Deleted: 20.35.150 Appeal of Hearing Examiner decision.

A. A Process I decision of the Hearing Examiner may be appealed to the City Council as follows:

1. Who May Appeal. The decision of the Hearing Examiner may be appealed by any person who participated in the public hearing as provided for in LUC 20.35.137, or by the applicant or the City.

2. Form of Appeal. A person appealing the decision of the Hearing Examiner must file with the City Clerk a written statement of the findings of fact or conclusions which are being appealed and must pay a fee, if any, as established by ordinance or resolution. The written statement must be filed together with an appeal notification form available from the Office of the City Clerk.

3. Time and Place to Appeal. The written statement of appeal, the appeal notification form, and the appeal fee, if any, must be received by the City Clerk no later than 14 days following the date the decision of the Hearing Examiner was mailed.

4. Hearing Required. The City Council shall conduct a closed record appeal hearing in order to decide upon an appeal of the decision of the Hearing Examiner. The decision on any such appeal shall be made within such time as is required by applicable state law.

5. Public Notice of Appeal Hearing.

a. Content of Notice. The City Clerk shall prepare a notice of an appeal hearing containing the following:

i. The name of the appellant, and if applicable the project name, and

ii. The street address of the subject property, and a description in nonlegal terms sufficient to identify its location, and

iii. A brief description of the decision of the Hearing Examiner which is being appealed, and

iv. The date, time and place of the appeal hearing before the City Council.

b. Time and Provision of Notice. The City Clerk shall mail notice of the appeal hearing on an appeal of the decision of the Hearing Examiner no less than 14 days prior to the appeal hearing to each person entitled to participate in the appeal pursuant to LUC 20.35.150.A.6.a.

6. Closed Record Hearing on Appeal to City Council.

a. Who May Participate. The applicant, the appellant, the applicable Department Director, or representative of these parties may participate in the appeal hearing.

b. How to Participate. A person entitled to participate may participate in the appeal hearing by: (1) Submitting written argument on the appeal to the City Clerk no later than the date specified in the City Council's Rules of Procedure; or (2) making oral argument on the appeal to the City Council at the appeal hearing. Argument on the appeal is limited to information contained in the record developed before the Hearing Examiner and must specify the findings or conclusions which are the subject of the appeal, as well as the relief requested from the Council.

Attachment A

Application Type	Publish	Mail	Sign
Home Occupation Permit	X	X	
Interpretation of Land Use Code	X		
Preliminary Short Plat	X	X	X
Shoreline Substantial Development Permit	X	X	
Variance, Shoreline Variance	X	X	
Critical Areas Land Use Permit	X	X	
Land Use approvals requiring SEPA Review when not consolidated with another land use decision, as provided for in LUC 20.35.015.C.12	X		
Master Development Plan	X	X	X

1. For Process II decisions not included in Table 20.35.210.A, notice of application shall be provided by publication and mailing.
2. When required by Table 20.35.210.A, publishing shall include publication of the project description, location, types of City permits or approvals applied for, date of application and location where the complete application file may be reviewed, in a newspaper of general circulation in the City.
3. Mailing shall include mailed notice to owners of real property within 500 feet of the project site including the following information:
 - a. The date of application;
 - b. The project description and location;
 - c. The types of City permit(s) or approval(s) applied for;
 - d. The Director may, but need not, include other information to the extent known at the time of notice of application, such as: the identification of other City permits required, related permits from other agencies or jurisdictions not included in the City permit process, the dates for any public meetings or public hearings, identification of any studies requested for application review, any existing environmental documents that apply to the project, and a statement of the preliminary determination, if one has been made, of those development regulations that will be used for project mitigation.
4. If signs are required, two signs or placards shall be posted by the applicant on the site or in a location immediately adjacent to the site that provides visibility to motorists using adjacent streets. The Director shall establish standards for size, color, layout, design, wording, placement, and timing of installation and removal of the signs or placards.
5. Mailings shall also include mailing notice of the application including at least the information required in subsection A.1 of this section to each person who has requested such notice for the calendar year and paid any fee as established by the Director. This mailing shall also include all members of a Community Council and a representative from each of the neighborhood groups, community clubs, or other citizens' groups who have requested notice of land use activity. As an alternative to mailing notice to each such person, notice may be provided by electronic mail only, when requested by the recipient. (Ord. 6197, 11-17-14, § 29; Ord. 5718, 2-20-07, §§ 1, 5; Ord. 5683, 6-26-06, § 30; Ord. 5587, 3-7-05, § 12; Ord. 5481, 10-20-03, § 20; Ord. 5089, 8-3-98, § 43; Ord. 4972, 3-3-97, § 3)

20.35.225 Minimum comment period.

- A. The Notice of Application shall provide a minimum comment period of 14 days. The Director's decision on a Process II application will not be issued prior to the expiration of the minimum comment period.
- B. Comments should be submitted to the Director as early in the review of an application as possible and should be as specific as possible.
- C. The Director may accept and respond to public comments at any time prior to making the Process II decision.
- D. For projects requiring review under the State Environmental Policy Act (SEPA), a single comment letter may be submitted to the Director or the Environmental Coordinator addressing environmental impacts as well as other issues subject to review under the approval criteria for the Process II decision. (Ord. 4972, 3-3-97, § 3)

20.35.227 Public meetings.

The Director may require the applicant to participate in a public meeting to inform citizens about a proposal; provided, that a public meeting shall be required for every Design and Mitigation Permit submitted pursuant to Part 20.25M LUC. When required, public meetings shall be held as early in the review process as possible for Process II applications. For projects located within the boundaries of a Community Council, the public meeting may be held as part of that Community Council's regular meeting or otherwise coordinated with that Council's meeting schedule. Notice of the public meeting shall be provided in the same manner as required for notice of the application. The public meeting notice will be combined with the notice of application whenever possible. (Ord. 6102, 2-27-13, § 9; Ord. 4972, 3-3-97, § 3)

20.35.230 Director's decision.

A written record of the Process II decision shall be prepared in each case. The record may be in the form of a staff report, letter, the permit itself, or other written document and shall indicate whether the application has been approved, approved with conditions or denied. The Director's decision shall be based on the applicable Land Use Code decision criteria, shall include any conditions to ensure consistency with City development regulations, and may include mitigation measures proposed under the provisions of the State Environmental Policy Act (SEPA). (Ord. 4972, 3-3-97, § 3)

20.35.235 Notice of decision.

- A. Public notice of all Process II decisions shall be published in a newspaper of general circulation.
- B. The Director shall mail notice of the decision to each person who submitted comments during the public comment period or at any time prior to issuance of the decision.
- C. The Director shall mail notice to each person who has requested such notice and paid any fee as established by the Director. Included in this mailing shall be all members of a Community Council and a representative from each of the neighborhood groups, community clubs, and other citizens' groups who have requested regular notice of land use decisions. As an alternative to mailing notice to each such person, notice may be provided by electronic mail only, when requested by the recipient. (Ord. 5481, 10-20-03, § 21; Ord. 4972, 3-3-97, § 3)

20.35.250 Appeal of Process II decisions.

A. Process II decisions, except for shoreline permits and SEPA Threshold Determinations on Process IV or Process V actions, may be appealed as follows:

1. Who May Appeal. The project applicant or any person who submitted written comments prior to the date the decision was issued may appeal the decision.
2. Form of Appeal. A person appealing a Process II decision must file a written statement setting forth:

Attachment A

- a. Facts demonstrating that the person is adversely affected by the decision;
- b. A concise statement identifying each alleged error and the manner in which the decision fails to satisfy the applicable decision criteria;
- c. The specific relief requested; and
- d. Any other information reasonably necessary to make a decision on the appeal.

The written statement must be filed together with an appeal notification form available from the Office of the City Clerk. The appellant must pay such appeal fee, if any, as established by ordinance or resolution at the time the appeal is filed.

3. Time and Place to Appeal. The written statement of appeal, the appeal notification form, and the appeal fee, if any, must be received by the City Clerk no later than 5:00 p.m. on the 14th day following the date of publication of the decision of the Director; except that if the Director's decision is consolidated with a threshold Determination of Nonsignificance under the State Environmental Policy Act for which a comment period pursuant to WAC 197-11-340 must be provided, the appeal period for the consolidated decision shall be 21 days.

B. Shoreline Permit Appeals.

An appeal of a Shoreline Substantial Development Permit or a shoreline variance shall be to the State Shoreline Hearings Board and shall be filed within 21 days as set forth in RCW 90.58.180.

C. SEPA Threshold Determinations on Process IV and Process V Actions.

1. Process IV. An appeal of a SEPA threshold determination on a Process IV action shall be filed together with an appeal of the underlying Process IV action. The appeal shall be by petition to the Growth Management Hearings Board and shall be filed within the 60-day time period set forth in RCW 36.70A.290.

2. Process V. An appeal of a SEPA threshold determination on a Process V action shall be filed together with an appeal of the underlying Process V action. The appeal shall be as set forth in LUC 20.35.070 and 20.35.540.

D. Notice of Appeal Hearing.

If a Process II decision is appealed, a hearing before the City Hearing Examiner shall be set and notice of the hearing shall be mailed to the appellant, the applicant, and all parties of record by the applicable Department Director. Notice shall be mailed no less than 14 days prior to the appeal hearing; except that if the Process II decision has been consolidated with a recommendation on a Process I or Process III application, any appeal of the Process II decision shall be consolidated with the Process I or Process III public hearing. No separate notice of a Process II appeal need be provided if the public hearing has already been scheduled for the Process I or Process III component of an application.

E. Hearing Examiner Hearing.

The Hearing Examiner shall conduct an open record hearing on a Process II appeal. The appellant, the applicant, and the City shall be designated parties to the appeal. Each party may participate in the appeal hearing by presenting testimony or calling witnesses to present testimony. Interested persons, groups, associations, or other entities who have not appealed may participate only if called by one of the parties to present information; provided, that the Examiner may allow nonparties to present relevant testimony if allowed under the Examiner's Rules of Procedure.

F. Hearing Examiner Decision on Appeal.

Attachment A

Within 10 working days after the close of the record for the Process II appeal, the Hearing Examiner shall issue a decision to grant, grant with modifications, or deny the appeal. The Examiner may grant the appeal or grant the appeal with modification if:

1. The appellant has carried the burden of proof; and
2. The Examiner finds that the Process II decision is not supported by a preponderance of the evidence.

The Hearing Examiner shall accord substantial weight to the decision of the applicable Department Director and the Environmental Coordinator.

G. Appeal of Hearing Examiner Decision.

A final decision by the Hearing Examiner on a Process II application may be appealed to Superior Court as set forth in LUC 20.35.070.

H. Time Period to Complete Appeal Process.

In all cases except where the parties to an appeal have agreed to an extended time period, the administrative appeal process shall be completed within 90 days from the date the original administrative appeal period closed. Administrative appeals shall be deemed complete on the date of issuance of the Hearing Examiner's decision on the appeal. (Ord. 6197, 11-17-14, § 30; Ord. 5615, 7-25-05, § 7; Ord. 4972, 3-3-97, § 3)

20.35.300 Process III: City Council quasi-judicial decisions.

LUC 20.35.300 through 20.35.365 contain the procedures the City will use in implementing Process III. The process is similar to Process I, except that the Hearing Examiner makes a recommendation to the City Council following the public hearing. The City Council acts as the final decisionmaker. (Ord. 4972, 3-3-97, § 3)

Deleted: even when no appeal of the Hearing Examiner recommendation is filed

20.35.320 Notice of application.

A. Notice of application shall be provided, pursuant to the requirements of this section, within 14 days of issuance of the notice of completeness for an application for a Process III land use decision. See additional noticing requirements in LUC 20.45A.110 for preliminary subdivisions (plats).

B. The Director shall provide notice of the application as follows:

1. Publication of the project description, location, types of City permits or approvals applied for, date of application and location where the complete application file may be reviewed in a newspaper of general circulation in the City.
2. Mailed notice to owners of real property within 500 feet of the project site including the following information:
 - a. The date of application;
 - b. The project description and location;
 - c. The types of City permits or approvals applied for;
 - d. The Director may, but need not, include other information to the extent known at the time of notice of application, such as: the identification of other City permits or approvals required; related permits from other agencies or jurisdictions not included in the City permit process; the dates for any public meetings or public hearings; identification of any studies requested for application review; any existing environmental documents that apply to the project; and a statement of the preliminary determination, if one has been made, of those development regulations that will be used for project mitigation.

3. Mailed notice of the application including at least the information required in paragraph A.1 of this section to each person who has requested such notice for the calendar year and paid any applicable fee as established by the Director. Included in this mailing shall be all members of a Community Council and a representative from each of the neighborhood groups, community clubs, or other citizens' groups who have requested regular notice of land use actions. As an alternative to mailing notice to each such person, notice may be provided by electronic mail only, when requested by the recipient.

C. The Applicant shall provide notice of the application as follows:

1. Posting of two signs or placards on the site or in a location immediately adjacent to the site that provides visibility to motorists using adjacent streets. The Director shall establish standards for size, color, layout, design, wording, placement, and timing of installation and removal of the signs or placards. (Ord. 5718, 2-20-07, §§ 1, 6; Ord. 5481, 10-20-03, § 22; Ord. 5089, 8-3-98, § 44; Ord. 4972, 3-3-97, § 3)

20.35.325 Minimum comment period.

A. The Notice of Application shall provide a minimum comment period of 14 days. The Director's recommendation on a Process III application will not be issued prior to the expiration of the minimum comment period.

B. Comments should be submitted to the Director as early in the review of an application as possible and should be as specific as possible.

C. The Director may accept and respond to public comments at any time prior to the closing of the public hearing record.

D. For projects requiring review under the State Environmental Policy Act (SEPA), a single comment letter may be submitted to the Director or the Environmental Coordinator addressing environmental impacts as well as other issues subject to review under the approval criteria for the Process III decision. (Ord. 4972, 3-3-97, § 3)

20.35.327 Public meetings.

A. A public meeting is required for all Process III applications. The Director may require the applicant to participate in the meeting to inform citizens about the proposal. Public meetings shall be held as early in the review process as possible for Process III applications. Notice of the public meeting shall be provided in the same manner as required for notice of the application. The public meeting notice will be combined with the notice of application whenever possible.

B. Community Council Meetings. If an application is within the jurisdiction of a Community Council pursuant to Chapter 35.14 RCW, the public meeting shall be held as part of that Community Council's regular meeting. The meeting may be conducted according to the Community Council's rules for a courtesy public hearing or otherwise coordinated with that Council's meeting schedule. (Ord. 4972, 3-3-97, § 3)

20.35.330 Director's recommendation.

A written report of the Director making a recommendation to the City Council for approval, approval with conditions or with modifications, or for denial shall be prepared. The Director's recommendation shall be based on the applicable Land Use Code decision criteria, shall include any conditions to ensure consistency with City development regulations, and may include any mitigation measures proposed under the provisions of the State Environmental Policy Act (SEPA). (Ord. 4972, 3-3-97, § 3)

20.35.335 Public notice of Director's recommendation.

Notice of Recommendation, SEPA determination, and Hearing Examiner hearing.

A. Public notice of the availability of the Director's recommendation shall be published in a newspaper of general circulation. If a Determination of Significance (DS) was issued by the Environmental

Coordinator, the notice of the Director's recommendation shall state whether an Environmental Impact Statement (EIS) or Supplemental EIS was prepared or whether existing environmental documents were adopted. If a Determination of Nonsignificance (DNS) is issued, the DNS may be issued and published in conjunction with the Director's recommendation. The notice of recommendation shall also include the date of the Hearing Examiner public hearing for the application, which shall be scheduled no sooner than 14 days following the date of publication of the notice.

- B. The Director shall mail notice of the recommendation and public hearing to each owner of real property within 500 feet of the project site.
- C. The Director shall mail notice to each person who submitted comments during the comment period or at any time prior to the publication of the notice of recommendation.
- D. The Director shall mail notice to each person who has requested such notice for the calendar year and paid any applicable fee as established by the Director. Included in this mailing shall be all members of a Community Council and a representative from each of the neighborhood associations, community clubs, or other citizens' groups who have requested notice of land use actions. As an alternative to mailing notice to each such person, notice may be provided by electronic mail only, when requested by the recipient.
- E. See additional noticing requirements in LUC 20.45A.110 for preliminary subdivisions (plats). (Ord. 5718, 2-20-07, §§ 1, 7; Ord. 5481, 10-20-03, § 23; Ord. 4972, 3-3-97, § 3)

20.35.337 Hearing Examiner public hearing.

- A. Participation in Hearing.

Any person may participate in the Hearing Examiner public hearing on the Director's recommendation by submitting written comments to the Director prior to the hearing or by submitting written comments or making oral comments at the hearing.

- B. Transmittal of File.

The Director shall transmit to the Hearing Examiner a copy of the Department file on the application including all written comments received prior to the hearing, and information reviewed by or relied upon by the Director or the Environmental Coordinator. The file shall also include information to verify that the requirements for notice to the public (notice of application, notice of SEPA decision, and notice of Director's recommendation) have been met.

- C. Hearing Record.

The Hearing Examiner shall create for the City Council a complete record of the public hearing including all exhibits introduced at the hearing and an electronic sound recording of each hearing. (Ord. 4972, 3-3-97, § 3)

20.35.340 Hearing Examiner recommendation.

- A. Criteria for Recommendation.

The Examiner shall recommend approval or approval with conditions or modification if the applicant has demonstrated that the proposal complies with the applicable decision criteria of the Bellevue City Code. The applicant carries the burden of proof and must demonstrate that a preponderance of the evidence supports the conclusion that the application merits approval or approval with modifications. In all other cases, the Hearing Examiner shall recommend denial of the application.

- B. Limitation on Modification.

If the Hearing Examiner recommends a modification which results in a proposal not reasonably foreseeable from the description of the proposal contained in the public notice provided pursuant to LUC 20.35.335, the Hearing Examiner shall conduct a new hearing on the proposal as modified.

Attachment A

C. Conditions.

The Hearing Examiner may include conditions to ensure the proposal conforms to the relevant decision criteria.

D. Written Recommendation of the Hearing Examiner.

The Hearing Examiner shall within 10 working days following the close of the record distribute a written report including a recommendation on the public hearing. The report shall contain the following:

1. The recommendation of the Hearing Examiner; and
2. Any conditions included as part of the recommendation; and
3. Findings of facts upon which the recommendation, including any conditions, was based and the conclusions derived from those facts; and
4. The date on which the matter has been scheduled for consideration by the City Council.

E. Distribution.

The Office of the Hearing Examiner shall mail the written recommendation, bearing the date it is mailed, to each person who participated in the public hearing. (Ord. 4972, 3-3-97, § 3)

20.35.355 City Council decision on the application.

A. General.

The City Council shall, at a public meeting, consider and take final action on each Process III application.

B. Elements to be Considered.

The City Council shall not accept new information, written or oral, on the application, but shall consider the following in deciding upon an application:

1. The complete record developed before the Hearing Examiner; and
2. The recommendation of the Hearing Examiner; and
3. The comments of a Community Council with jurisdiction pursuant to Chapter 35.14 RCW.

C. Decision.

The City Council shall either:

1. Approve the application; or
2. Approve the application with modifications; or
3. Remand the application to the Hearing Examiner and the Director for an additional public hearing limited to specific issues identified by the Council; or
4. Deny the application.

D. Ordinance.

Deleted: A statement explaining the process to appeal the recommendation of the Hearing Examiner; and ¶ 5.

Deleted: and information on how to find out whether the Examiner's recommendation has been appealed

Deleted: 20.35.350 Appeal of Hearing Examiner recommendation.¶

A. A Process III recommendation of the Hearing Examiner may be appealed to the City Council as follows:¶

1. Who May Appeal. The recommendation of the Hearing Examiner may be appealed by any person who participated in the public hearing as provided for in LUC 20.35.337, or by the applicant or the City.¶

2. Form of Appeal. A person appealing the recommendation of the Hearing Examiner must file with the City Clerk a written statement of the findings of fact or conclusions which are being appealed and must pay a fee, if any, as established by ordinance or resolution. The written statement must be filed together with an appeal notification form available from the Office of the City Clerk.¶

3. Time and Place to Appeal. The written statement of appeal, the appeal notification form, and the appeal fee, if any, must be received by the City Clerk no later than 14 days following the date the recommendation of the Hearing Examiner was mailed.¶

4. Hearing Required. The City Council shall conduct a closed record appeal hearing and shall decide upon an appeal of the recommendation of the Hearing Examiner prior to or in conjunction with taking final action on the application pursuant to LUC 20.35.355. The decision on any appeal of the Hearing Examiner's recommendation and final action on the application shall be made within such time as is required by applicable state law.¶

5. Public Notice of Appeal Hearing.¶

a. Content of Notice. The City Clerk shall prepare a notice of an appeal hearing containing the following:¶

- i. The name of the appellant, and if applicable the project name, and¶
- ii. The street address of the subject property, and a description in nonlegal terms sufficient to identify its location, and¶
- iii. A brief description of the recommendation of the Hearing Examiner which is being appealed, and¶

Deleted: If an appeal of the Hearing Examiner recommendation was filed, the City Council will consolidate and integrate the appeal hearing and decision into their consideration of the application.

Deleted: ; and¶

4. The City Council decision on any appeal of the recommendation of the Hearing Examiner

Deleted: , incorporating its decision on any appeal pursuant to LUC 20.35.350

Deleted: , also incorporating its decision on any appeal pursuant to LUC 20.35.350

Attachment A

1. Conditions. The City Council may, based on the record, include conditions in any ordinance approving or approving with modifications an application in order to ensure conformance with the criteria under which the application was made.
2. Findings of Fact and Conclusions. The City Council shall include findings of fact and conclusions derived from those facts which support the decision of the Council, including any conditions, in the ordinance approving or approving with modifications the application. The City Council may by reference adopt some or all of the findings and conclusions of the Hearing Examiner.

E. Required Vote.

The City Council shall adopt an ordinance which approves or approves with modifications the application by a majority vote of the membership of the City Council. Any other vote constitutes a denial of the application.

F. Distribution.

The City Clerk shall mail a letter, bearing the date it is mailed, indicating the content of the final decision of the City to any person who participated in the public hearing before the Hearing Examiner on the application.

G. Effect of Decision.

1. The decision of the City Council on the application is the final decision of the City and may be appealed to Superior Court as provided in LUC 20.35.070.
2. For City Council decisions that are subject to the jurisdiction of a Community Council pursuant to RCW 35.14.040, the decision of the City Council shall be final upon the earlier of the date of Community Council action or upon the end of the 60th day following City Council action.

H. Commencement of Activity.

Subject to LUC 20.35.365 and 20.35.070 the applicant may commence activity or obtain other required approvals authorized by the Process III decision the day following the effective date of the ordinance approving the project or approving it with modifications. Activity commenced prior to the expiration of the full appeal period, LUC 20.35.070, is at the sole risk of the applicant. (Ord. 5481, 10-20-03, § 24; Ord. 4972, 3-3-97, § 3)

20.35.365 Community Council review and decision.

A. If the City Council approves, or approves with modifications, an application within the jurisdiction of a Community Council pursuant to RCW 35.14.040, that approval is not effective within the jurisdiction of the Community Council until the Community Council votes to approve the ordinance, or the Community Council fails to disapprove the ordinance within 60 days of the enactment of that ordinance.

B. The applicable Department Director shall prepare and distribute notice of the public hearing at which the Community Council will take action in accordance with the Community Council's Rules of Procedure.

C. The decision of the Community Council may be appealed to Superior Court as provided for in state law under the Land Use Petition Act, Chapter 36.70C RCW. (Ord. 5089, 8-3-98, § 46; Ord. 4972, 3-3-97, § 3)

20.35.400 Process IV: City Council legislative actions.

LUC 20.35.400 through 20.35.450 contain the procedures the City shall use to make legislative land use decisions (Process IV actions). The process shall include a public hearing, held by either the Planning Commission or City Council, and action by the City Council. Review under the State Environmental Policy Act (SEPA) and the Bellevue Environmental Procedures Code may be required. An action by a Community Council may also be required, in which case the Community Council may hold a courtesy

public hearing at any time prior to the City Council action. (Ord. 5790, 12-3-07, § 10; Ord. 4972, 3-3-97, § 3)

20.35.410 Planning Commission procedure.

A. General.

Process IV proposals may be introduced to the Planning Commission, which may schedule study sessions as needed to consider the proposal. Prior to making a recommendation, the Planning Commission shall schedule a public hearing. After the public hearing, and after any further study sessions as may be needed, the Planning Commission shall transmit its recommendation to the City Council through the applicable Department Director and the City Clerk. Alternatively, the City Council may conduct its own process and hold its own public hearing when the proposal is for a change to the text of the Land Use Code, provided a finding of necessity is made.

B. Criteria.

The Planning Commission may recommend the Council adopt or adopt with modifications a proposal if it complies with the applicable decision criteria of the Bellevue City Code or Land Use Code. In all other cases, the Planning Commission shall recommend denial of the proposal.

C. Limitation on Modification.

If the Planning Commission recommends a modification which results in a proposal not reasonably foreseeable from the notice provided pursuant to LUC 20.35.420, the Planning Commission shall conduct a new public hearing on the proposal as modified.

D. Required Vote.

A vote to recommend adoption of the proposal or adoption with modification must be by a majority vote of the Planning Commission members present and voting. (Ord. 5790, 12-3-07, § 11; Ord. 5650, 1-3-06, § 5; Ord. 4972, 3-3-97, § 3)

20.35.415 Notice of application.

A. The Director shall provide notice of the application as follows:

1. Publication of a brief description of the action or approval requested; if the application involves specific property, the street address of the subject property; name of the applicant and project name; date of application; and location where the complete application file may be reviewed in a newspaper of general circulation in the City.

2. If the proposal involves specific property, rather than an areawide or zonewide change, notice of the application containing at least the information in subsection A.1 of this section shall be mailed to each owner of real property within 500 feet of any boundary of the subject property.

3. The Director shall mail notice containing at least the information in subsection A.1 of this section to each person who has requested such notice for the calendar year and paid any applicable fee as established by the Director. Included in this mailing shall be all members of a Community Council and a representative from each of the neighborhood associations, community clubs, or other citizens' groups who have requested notice of land use actions. As an alternative to mailing notice to each such person, notice may be provided by electronic mail only, when requested by the recipient.

4. If the proposal involves specific property, rather than an areawide or zonewide change, two signs or placards shall be posted by the applicant on the site or in a location immediately adjacent to the site that provides visibility to motorists using the adjacent streets. The Director shall establish standards for size, color, layout, design, wording, placement, and timing of installation and removal of the signs or placards. (Ord. 5718, 2-20-07, §§ 1, 8; Ord. 5481, 10-20-03, § 25)

20.35.420 Public hearing notice.

A. Content.

When the Planning Commission or City Council has scheduled a public hearing on a Process IV proposal, the applicable Department Director shall prepare a notice containing the following information:

1. The name of the applicant, and, if applicable, the project name;
2. If the application involves specific property, the street address of the subject property;
3. A brief description of the action or approval requested;
4. The date, time and place of the public hearing; and
5. A statement of the right of any person to participate in the public hearing as provided for in LUC 20.35.430.

B. Provision of Notice.

1. The applicable Department Director shall provide for notice of the public hearing to be published in a newspaper of general circulation in the City at least 14 days prior to the date of the public hearing.
2. If the proposal involves specific property, rather than an areawide or zonewide change, two signs or placards shall be posted by the applicant on the site or in a location immediately adjacent to the site that provides visibility to motorists using the adjacent streets. The Director shall establish standards for size, color, layout, design, wording, placement, and timing of installation and removal of the signs or placards.
3. If the proposal involves specific property, rather than an areawide or zonewide change, notice of the public hearing shall be mailed to each owner of real property within 500 feet of any boundary of the subject property.
4. The Director shall mail notice to each person who has requested such notice and paid any fee as established by the Director. Included in this mailing shall be all members of a Community Council and a representative from each of the neighborhood groups, community clubs, and other citizens' groups who have requested regular notice of land use actions. As an alternative to mailing notice to each such person, notice may be provided by electronic mail only, when requested by the recipient.
5. The Director shall mail notice to each person who submitted comments during the comment period or at any time prior to the publication of the notice of public hearing. (Ord. 5718, 2-20-07, §§ 1, 9; Ord. 5481, 10-20-03, § 26; Ord. 5089, 8-3-98, § 47; Ord. 4972, 3-3-97, § 3)

20.35.430 Public hearing.

A. Participation.

Any person may participate in the public hearing by submitting written comments to the applicable Department Director prior to the hearing or by submitting written or making oral comments to the Planning Commission or the Council at the hearing. All written comments received by the applicable Department Director shall be transmitted to the Planning Commission or City Council not later than the date of the public hearing.

B. Hearing Record.

The Planning Commission or City Council shall compile written minutes of each hearing. (Ord. 4972, 3-3-97, § 3)

20.35.435 Community Council courtesy hearing.

A. If the proposal is subject to jurisdiction of a Community Council pursuant to RCW 35.14.040, the Community Council may hold a courtesy public hearing at any time prior to the City Council action. Comments from the Community Council on the proposal may be forwarded to the Planning Commission or directly to the City Council.

B. The applicable Department Director shall prepare and distribute notice for the courtesy hearing as set forth in the Community Council Rules of Procedure. (Ord. 4972, 3-3-97, § 3)

20.35.440 City Council action.

A. General.

The City Council shall consider at a public meeting each recommendation transmitted by the Planning Commission and each proposal before the Council at the Council's own direction. The Council shall take legislative action on the proposal in accordance with state law.

B. City Council Action.

The City Council may take one of the following actions:

1. Adopt an ordinance or resolution adopting the proposal or adopting the proposal with modifications; or
2. Adopt a motion denying the proposal; or
3. Refer the proposal back to the Planning Commission for further proceedings, in which case the City Council shall specify the time within which the Planning Commission shall report back to the City Council with a recommendation.

C. Effect of City Council Action.

The action of the City Council on a Process IV proposal may be appealed together with any SEPA Threshold Determination by filing a petition with the Growth Management Hearings Board pursuant to the requirements set forth in RCW 36.70A.290. The petition must be filed within the 60-day time period set forth in RCW 36.70A.290(2). (Ord. 4972, 3-3-97, § 3)

20.35.450 Community Council review and action.

A. If the City Council adopts, or adopts with modifications, a proposal within the jurisdiction of a Community Council pursuant to RCW 35.14.040, that action is not effective within the jurisdiction of the Community Council until the Community Council votes to approve the ordinance or resolution, or the Community Council fails to disapprove the ordinance or resolution within 60 days of the enactment of that ordinance or resolution.

B. Notice.

The applicable Department Director shall prepare and distribute notice of the public meeting at which the Community Council will take action as provided for in the Rules of Procedure of the Community Council. (Ord. 4972, 3-3-97, § 3)

20.35.500 Process V: Administrative decisions with no administrative appeal.

A. This section through LUC 20.35.540 contain the procedures the City will use in implementing Process V. A Process V land use decision is an administrative decision made by the Director of the Development Services Department. Process V applications go through a period of public notice and an opportunity for public comment. A public meeting may be held for Process V applications where required for each type of Process V application. The Director then makes a decision based upon the decision criteria set forth in the Code for each type of Process V application. Public notice of the decision is provided, but there is no opportunity for administrative appeal of the decision.

B. If required by the State Environmental Policy Act (SEPA), a threshold determination will be issued by the Environmental Coordinator. The threshold determination for an underlying Process V application is also a Process V decision, and may be issued in conjunction with the Director's decision on the accompanying land use decision. If an Environmental Impact Statement (EIS) is required, however, the threshold determination will be issued early and the EIS will be completed prior to the issuance of the accompanying land use decision. If the requirement to prepare an EIS or a supplemental EIS is appealed by the applicant, that appeal will be resolved prior to the issuance of the land use decision. (Ord. 5615, 7-25-05, § 8)

20.35.510 Notice of application.

A. Notice of application for Process V land use decisions shall be provided within 14 days of issuance of a notice of completeness pursuant to the requirements of this section. See additional noticing requirements in LUC 20.30U.122 for Temporary Encampment Permits.

B. The Director shall provide notice of the application as follows:

1. Publication of the project description, location, types of City permits or approvals applied for, date of application and location where the complete application file may be reviewed, in a newspaper of general circulation in the City.

2. Mailed notice to owners of real property within 500 feet of the project site including the following information:

- a. The date of application;
- b. The project description and location;
- c. The types of City permit(s) or approval(s) applied for;

d. The Director may, but need not, include other information to the extent known at the time of notice of application, such as: the identification of other City permits required, related permits from other agencies or jurisdictions not included in the City permit process, the dates for any public meetings, identification of any studies requested for application review, any existing environmental documents that apply to the project, and a statement of the preliminary determination, if one has been made, of those development regulations that will be used for project mitigation.

3. Mailed notice of the application including at least the information required in paragraph B.2 of this section to each person who has requested such notice for the calendar year and paid any fee as established by the Director. This mailing shall also include all members of a Community Council and a representative from each of the neighborhood groups, community clubs, or other citizens' groups who have requested notice of land use activity. As an alternative to mailing notice to each such person, notice may be provided by electronic mail only, when requested by the recipient. (Ord. 5718, 2-20-07, § 10; Ord. 5615, 7-25-05, § 9)

20.35.520 Minimum comment period.

A. The Notice of Application shall provide a minimum comment period of 14 days. The Director's decision on a Process V application will not be issued prior to the expiration of the minimum comment period.

B. Comments should be submitted to the Director as early in the review of an application as possible and should be as specific as possible.

C. The Director may accept and respond to public comments at any time prior to making the Process V decision.

D. For projects requiring review under the State Environmental Policy Act (SEPA), a single comment letter may be submitted to the Director or the Environmental Coordinator addressing environmental

impacts as well as other issues subject to review under the approval criteria for the Process V decision. (Ord. 5615, 7-25-05, § 10)

20.35.525 Public meetings.

The Director may require the applicant to participate in a public meeting to inform citizens about a proposal. When required, public meetings shall be held as early in the review process as possible for Process V applications. For projects located within the boundaries of a Community Council, the public meeting may be held as part of that Community Council's regular meeting or otherwise coordinated with that Council's meeting schedule. Notice of the public meeting shall be provided in the same manner as required for notice of the application. The public meeting notice will be combined with the notice of application whenever possible. (Ord. 5615, 7-25-05, § 11)

20.35.530 Director's decision.

A written record of the Process V decision shall be prepared in each case. The record may be in the form of a staff report, letter, the permit itself, or other written document and shall indicate whether the application has been approved, approved with conditions or denied. The Director's decision shall be based on the applicable Land Use Code decision criteria, shall include any conditions to ensure consistency with such decision criteria and with City development regulations, and may include mitigation measures proposed under the provisions of the State Environmental Policy Act (SEPA). (Ord. 5615, 7-25-05, § 12)

20.35.535 Notice of decision.

- A. Public notice of all Process V decisions shall be published in a newspaper of general circulation.
- B. The Director shall mail notice of the decision to each person who submitted comments during the public comment period or at any time prior to issuance of the decision and who provided an adequate address for mailing.
- C. The Director shall mail notice to each person who has requested such notice and paid any fee as established by the Director. Included in this mailing shall be all members of a Community Council and a representative from each of the neighborhood groups, community clubs, and other citizens' groups who have requested regular notice of land use decisions. As an alternative to mailing notice to each such person, notice may be provided by electronic mail only, when requested by the recipient. (Ord. 5615, 7-25-05, § 13)

20.35.540 Appeal of Process V decisions.

The Director of the Development Services Department's decision regarding a Process V application may be appealed to Superior Court pursuant to LUC 20.35.070. An appeal of a SEPA Threshold Determination on a Process V action shall be filed together with an appeal of the underlying Process V action. (Ord. 5615, 7-25-05, § 14)

ATTACHMENT B:
Comparison of Process III Under Existing Land Use Code (LUC) And Under LUC Amendment

Process III	<u>Existing LUC</u>	<u>LUC Amendments</u>
Permit Types:	Rezones and SCUPs, along with CUPs, Plats, and PUDs within EBCC jurisdiction LUC 20.35.015.D	No change
Director Role:	Makes recommendation LUC 20.35.330	No change
Hearing Examiner Role:	Holds public hearing and provides recommendation to City Council LUC 20.35.337 LUC 20.35.340	No change
Appeal of the Hearing Examiner Recommendation:	Hearing Examiner recommendation appealable to City Council LUC 20.35.350	Hearing Examiner recommendation NOT appealable to City Council
Council Role in Process III Land Use Matters:	Adjudicates any appeal of Hearing Examiner recommendation Issues decision on Process III application LUC 20.35.350 LUC 20.35.355	Issues decision on Process III application only
EBCC Role in Process III Land Use Matters within EBCC jurisdiction:	Final action within 60 days of City Council decision RCW 35.14.040 LUC 20.35.365	No change
Appeal of final decision:	Council decision appealable to Superior Court, or to Shoreline Hearings Board for SCUP EBCC decision appealable to Superior Court LUC 20.35.355.G LUC 20.35.365	No change

East Bellevue Community Council
Summary Minutes of Special Meeting/Retreat

April 25, 2017
6:00 p.m.

Lake Hills Clubhouse
Bellevue, Washington

PRESENT: Chair Capron, Vice Chair Kasner, Alternate Vice Chair Hummer, and Councilmembers Gooding and Hughes

ABSENT: None.

STAFF: None.

1. **Council Retreat**

(a) Welcome and Introductions

The meeting was called to order at 6:00 p.m., with Chair Capron presiding.

Robert Jean, retreat facilitator, introduced himself as a semi-retired city manager. He helped to start the City of Newcastle and the City of University Place, and worked for the latter for 15 years before retiring. Over his 40-year career, he also worked for the City of Puyallup and other cities in Washington, Oregon and California.

Chair Capron said he has lived in Bellevue since 1968, which is the year the East Bellevue Community Council was formed. He has been a businessman over the past 35 years and currently owns the Chevron station at 148th Avenue and Main Street. He began attending EBCC meetings when the City was considering a zoning change that would have affected his business. He joined the EBCC six years ago with an interest in serving the community.

Mr. Capron said his goal for the retreat is to become more focused on the EBCC's purpose and authority under state law. He expressed concern that the Council spends time on issues that it cannot influence, which distracts from focusing on the few issues within its sphere of influence.

Councilmember Gooding said he joined the Council in 2006 to contribute to the community and to learn more about city government. His interest for the retreat is to become more focused on priorities and to function well as a group.

Councilmember Hughes said he has lived in Bellevue since 1982. He noted his past experience as a geo-physicist, computer programmer, economist, corporate and international planner, and financial planner. He wants his involvement with the EBCC to be worthwhile and beneficial for

the community. Mr. Hughes said he would like to see more effective communication and mutual respect during meetings.

Councilmember Hummer said she grew up in Bellevue in the Enatai neighborhood and moved to East Bellevue as an adult. She would like the retreat to lead to more effective EBCC meetings and community involvement. She listed her goals for the retreat: 1) build respect among EBCC members, 2) run more productive and civil meetings, and 3) effectively represent the community.

Councilmember Kasner said he served on the Bellevue Parks and Community Services Board in the 1990s, including as Board Chair, and he has served on the EBCC for a number of years. He noted his interest in discussing the issue of whether the EBCC is and/or should be proactive versus reactive. He would like more communication from the City on issues and projects before they are placed before the EBCC for input or a decision.

City Councilmember Jennifer Robertson, liaison to the EBCC, noted her interest in being a resource for the EBCC. She would like everyone to come out of the retreat feeling better about their working relationships with each other and the City. She suggested that the EBCC develop formal ground rules for discussions and meeting protocol, which she noted has been helpful for the City Council.

Kyle Stannert, Assistant City Manager and City Clerk, said he would like to see the retreat result in the identification of the EBCC's key priorities and/or objectives for the coming year.

Mr. Jean said he was hearing a common interest in improving communications and having a more effective, collaborative working relationship. He briefly highlighted the history of zoning, land use planning, and comprehensive plans in Washington, noting that the Community Council's role has become more complex over the past few decades. He observed it would be helpful for the EBCC to be alerted about potential quasi-judicial items and to use the blue permit bulletins to know about upcoming projects that might affect their jurisdiction. Mr. Jean acknowledged the EBCC's request that the City's permit checklists include an item to indicate whether the project falls within the EBCC's jurisdiction.

Responding to Mr. Jean, Deputy City Clerk Karin Roberts said she would like the EBCC members to be able to discuss their topics of interest and to leave the retreat feeling like it was a worthwhile meeting.

(b) Review of RCW 35.14.040 and Bellevue Land Use Code 20.35

Mr. Jean acknowledged that the attorney assigned to the EBCC changed recently. He suggested it would be helpful for the EBCC and the new attorney to discuss her role as well as the EBCC's understanding and expectations regarding that relationship.

Mr. Hughes expressed concern that, sometimes during oral communications, Councilmembers and audience members get into discussion/debate about specific issues. As a separate issue, he

said it would be helpful to know more about projects in East Bellevue in order to be able to respond better to inquiries from the public during meetings.

Mr. Jean said residents might find it easier to take issues to the EBCC instead of the City Council. However, it is more effective to focus on issues that can be influenced by the EBCC, and to refer other issues to the City Council.

Councilmember Kasner expressed concern regarding proposed changes to the City Council's quasi-judicial role.

City Councilmember Robertson said that changing the quasi-judicial process has been on the City Council's work plan for 6-7 years. Under state law, the City Council takes the final action on rezones and would continue to do so. However, certain land use decisions processed through the Hearing Examiner would be appealed to the courts instead of to the City Council. Ms. Robertson clarified that the EBCC would still act on items currently within its jurisdiction (e.g., conditional use permits).

Mr. Stannert said that, due to state law requirements for rezones in the Community Council's jurisdiction, the EBCC's role as the decision maker in Process III applications would not change.

Mr. Kasner expressed concern that information on land use items within the EBCC's jurisdiction is not forwarded to the EBCC until the City Council takes action. Mr. Jean suggested it might be helpful for the EBCC to discuss the quasi-judicial issue with the EBCC attorney.

Ms. Robertson reiterated that any issue currently subject to EBCC review and action will continue to fall under its jurisdiction.

Mr. Jean said there is a formal procedure in Bellevue's Land Use Code that allows the EBCC to become involved in quasi-judicial matters earlier in the process. He suggested that the Community Council address those regulations with the EBCC attorney. He further suggested that EBCC members discuss their legislative, administrative, and quasi-judicial roles with the attorney.

Councilmember Hummer suggested moving on to discuss topics identified in the working agenda. She expressed concern that the retreat discussion was getting off topic, which happens in the regular EBCC meetings.

Mr. Jean suggested that the EBCC consider two threshold questions when a topic arises: 1) Is the item legislative, quasi-judicial, or administrative? and, 2) Is the item within the EBCC's authority and jurisdiction?

(c) EBCC Communications and Working Relationships

Mr. Jean said it is critical to have mutual respect on the Community Council, even when members disagree.

Chair Capron observed that he does not see issues with individuals not respecting each other's ideas. However, he expressed concern that Councilmembers and residents in the audience sometimes start talking without being acknowledged, and sometimes there are several conversations at one time. He said it is a challenge, as Chair, to keep the meetings organized and efficient while wanting to have less formal meetings than the City Council.

Mr. Jean suggested that every Councilmember have at least one chance to speak on a topic before anyone takes a second opportunity to speak.

Councilmember Gooding concurred that the meetings could be more orderly, and individuals should not speak unless recognized by the Chair.

Mr. Jean suggested a technique of listening, paraphrasing, summarizing the potential option/s, and seeking clarification regarding what the person is requesting. Then the EBCC can consider the two threshold questions before deciding how to proceed.

Regarding Ms. Hummer's concerns about discussions in EBCC meetings getting derailed, Mr. Jean suggested using the phrase "point of order" to steer the discussion back to the relevant topic. Ms. Hummer said she has tried that approach, but the discussion tends to continue. Mr. Jean said the EBCC could decide whether to formally recognize the technique and, if so, Councilmembers should be respectful of each other when a point of order is raised.

Ms. Hummer noted that sometimes a Councilmember's comment can become a personal attack. Mr. Jean said that would be another good time to call point of order. He said the Chair might also want to declare a short break to defuse the situation, and resume with a more focused approach. He said it is the Chair's job to facilitate the conversation and to ensure that everyone has the opportunity to speak, without one Councilmember dominating the discussion.

Responding to Ms. Hummer, Ms. Robertson observed that sometimes an issue raised during public comment will generate extensive discussion among the Community Council, even when the topic is not on the agenda. Ms. Robertson suggested two options to consider: 1) hold special quarterly meetings during which the public can engage with EBCC members, and/or 2) reserve Councilmembers' comments and reactions to a public speaker until the agenda item reserved for Council Business. City Councilmembers periodically use Council Business as a time to refer to a comment made during oral communications and to ask staff for follow-up information on the topic. Ms. Robertson noted that the City Council changed its practice of oral reports during Council Business to written reports, with a few exceptions (e.g., commenting on an oral communications topic or a new, time-sensitive item; voting to approve Board and Commission members).

With regard to personal attacks or disrespect between Councilmembers, Ms. Robertson said the City Council addressed the subject during a retreat, established ground rules, and agreed that treating each other with respect is necessary and fosters genuine positive feelings between individuals over time.

Responding to questions about staff's role related to the EBCC, Mr. Stannert said Councilmembers may direct questions and requests for information through Ms. Roberts, who will speak with the appropriate staff. If staff is not responsive, Mr. Stannert said he can step in and contact staff.

Chair Capron expressed concern that sometimes staff in other departments have not been responsive to requests. Mr. Jean suggested that Mr. Capron take those issues through Ms. Roberts or, if necessary, the City Manager's Office. If multiple attempts are not successful, Mr. Jean said every citizen has the right to take issues and concerns to their elected officials. However, he advised that going directly to the Mayor or City Council could jeopardize the trust between the EBCC and staff.

Responding to City Councilmember Robertson, the EBCC members confirmed they have received responses to requests that she has forwarded to staff on their behalf.

Councilmember Hughes observed that the Chair does not always maintain firm control of EBCC meetings and sometimes allows individuals to speak and dominate discussions. He also suggested it would be helpful if Councilmembers submit, perhaps a week before the meeting, key topics and/or agenda items they expect to raise in Council business or under other agenda items.

Councilmember Kasner reiterated his concern that the EBCC needs to receive information about upcoming items and projects earlier in the process.

Councilmember Hummer suggested first working out the issues related to how meetings are planned and managed, and how EBCC members and the public interact in meetings, before addressing the issue of whether the EBCC should/can be proactive versus reactive. She said EBCC members may raise issues and seek a Council consensus to be a spokesperson before the City Council, as she did in advocating for year-round operations of certain park restrooms that were closed during the winter due to the recession.

Ms. Hummer expressed support for using the point of order cue, listening carefully to constituents but withholding comments until later in the meeting, and submitting Council Business reports in writing before meetings. She suggested deferring extensive discussion related to public comment or Council Business topics to the Unfinished Business or New Business agenda items. She noted that certain meeting attendees may have an interest in one topic and it would be respectful to the public to address those issues earlier in the meeting. Mr. Jean concurred and suggested limiting discussion on topics that are not on the agenda until they can be added to a future agenda.

Councilmember Kasner said the EBCC's meeting attendance is at record highs. He disagreed with comments from his colleagues that meetings are not run efficiently.

Chair Capron acknowledged that he could do a better job sometimes at managing the meetings.

Responding to Ms. Hummer, Councilmember Robertson concurred that the meetings could be more efficient. Ms. Robertson suggested focusing on specific agenda items, limiting the length of

151

East Bellevue Community Council
Special Meeting/Retreat – April 25, 2017

time that residents are allowed to speak, and submitting written Council Business reports in advance of the meetings and/or moving Council Business to later in the agenda.

Mr. Jean recapped the discussion so far, including the issue of whether the EBCC is proactive versus reactive. Chair Capron noted that, if the EBCC is not given information in advance, it is forced to be reactive.

Responding to Councilmember Hughes regarding the relationship between the EBCC and the Lake Hills Neighborhood Association, Mr. Jean confirmed that three EBCC members should not attend without public notice. However, all EBCC members are allowed to go to the same party or other event, as long as members are not deliberating toward a decision.

Ms. Hummer asked to go back to the topic of EBCC meeting etiquette. Mr. Jean observed that the Council can effectively balance the formal versus informal nature of the meeting. If the meeting discussions stray too far from the agenda or someone is dominating the conversation, Mr. Jean suggested asking for the point of order, at which point the Chair may ask the Council how it wants to proceed.

Councilmember Hughes suggested addressing how Councilmembers behave at meetings, which is different than the formal versus informal issue. He noted that some Councilmembers like to wear a tie and jacket, while others are less formal. Mr. Jean said the Councilmembers' behavior and mutual respect is more important than how the Council dresses. Chair Capron opined that more professional clothing shows respect for the elected office. Mr. Jean said the topic could be discussed among Councilmembers. However, he said members are elected as individuals and may dress and represent themselves as they choose.

Councilmember Kasner said the Boards and Commissions are served full dinners, and members often continue to eat through the meeting. The EBCC receives sandwiches, and he tries to get to the meeting early enough to eat before taking his seat at the Council table. He observed that more people will notice if he is not at the table because he is sitting at the back of the room eating than will notice if he is at the table eating. He said there are more important things to discuss.

Mr. Jean said he is aware of a Council that designates the first half hour of meetings as a study session and eats during that time.

Moving on, Mr. Jean noted the issue of subcommittees and strongly recommended against them due to potential complications related to whether there is a quorum and how decisions are being made.

Councilmember Kasner said he would like EBCC members to be assigned as liaisons to Boards and Commissions. Mr. Jean said that sending one EBCC member to a Board or Commission does not represent a subcommittee. However, if two members become involved with the same Board or Commission meeting, that becomes a subcommittee, which is subject to all of the same noticing and open meeting rules as the regular EBCC meetings.

Councilmember Robertson suggested sending City Council, Board, and Commission agendas to EBCC members, if they want them. Mr. Stannert said citizens may sign up on the City's web site to receive City Council meeting agendas.

Noting the time, Mr. Jean summarized the general ground rule concepts touched on during the discussion:

- Be respectful if you want to be respected.
- Be professional if you expect people to act professionally.
- Practice active listening. Seek first to understand, then to be understood.
- Paraphrase what you heard and encourage discussion of options and/or solutions.
- One speaker at a time.
- Every member should have the opportunity to speak before a second round.

Mr. Jean said he would submit his notes to Ms. Roberts. He suggested the Council might want to select topics from tonight's discussion for follow-up at future regular meetings.

Mr. Jean noted Mr. Gooding's suggestion to allow informal discussion, but to move to a motion/formal action within a reasonable amount of time. Mr. Jean said that would help the EBCC to focus and to be clear about outcomes.

Mr. Jean summarized that Ms. Hummer commented she would like more positive community and staff interaction and to have better controlled, effective meetings.

Mr. Jean recalled Chair Capron's interest in focusing discussions on agenda items and topics within the EBCC's influence.

Mr. Jean said Mr. Hughes indicated he would like meetings to be more effective and efficient as well as a more positive and constructive experience.

Mr. Jean said he heard Mr. Kasner say that he wants more effective engagement and information early in planning processes to enable the EBCC to be proactive.

Mr. Jean noted Councilmember Robertson's interest in being helpful to the EBCC as a resource and in connecting them with the appropriate person to respond to their requests for information. Mr. Jean recalled Mr. Stannert's suggestion that the EBCC Chair contact him if staff is not responding to the EBCC's or Deputy City Clerk's requests.

Councilmember Hughes suggested a presentation to the EBCC about how to access City information, including from staff and the web site. Mr. Stannert said staff is available to provide that training to the EBCC.

Mr. Hughes said the greatest gift in life is one's time, and the meetings should be time well spent.

Councilmember Hummer questioned how EBCC members can help the Chair in his role. Mr. Jean said the job of a Mayor or Chair is to ensure the opportunity for input from the community,

153

East Bellevue Community Council
Special Meeting/Retreat – April 25, 2017

staff, and EBCC members. He suggested that the Vice Chair or another designated member assume the role of timekeeper to help keep the meetings on track and to suggest deferring new topics to future meetings.

Responding to Mr. Jean, Councilmember Kasner said the evening's discussion was a good beginning. Mr. Kasner acknowledged Don Marsh and Pam Johnston for sitting through the retreat and listening. He said he likes the idea of choosing specific items for follow-up in future meetings.

Councilmember Hughes thanked Mr. Jean and everyone for coming to the retreat.

Councilmember Hummer said the discussion was worthwhile.

Councilmember Gooding said it was a great meeting and helpful to the Council.

Chair Capron said it was a good discussion about a number of issues, and he learned tips on how to be a better chair. He thanked Mr. Jean for his time.

City Councilmember Robertson said it was a good discussion. She suggested it would be useful to have further conversations and decisions regarding ground rules and potential changes to the EBCC meeting format.

Mr. Stannert thanked Mr. Jean for facilitating the retreat. Mr. Stannert concurred with suggestions to agree on ground rules and other practices that will produce better meetings.

Ms. Roberts said she was pleased with the Council's positive response to the retreat. She is glad that Councilmembers were able to air a number of issues openly and honestly. She thanked Mr. Jean for his presentation and feedback.

Councilmember Hummer moved to adjourn, and Councilmember Gooding seconded the motion. The motion carried by a vote of 5-0, and the meeting was adjourned at 8:30 p.m.

Karin Roberts, CMC
Deputy City Clerk

/kaw

East Bellevue Community Council
Summary Minutes of Regular Meeting

May 2, 2017
6:30 p.m.

Lake Hills Clubhouse
Bellevue, Washington

PRESENT: Chair Capron, Vice Chair Kasner, Alternate Vice Chair Hummer and Councilmembers Gooding and Hughes

ABSENT: None.

STAFF: Ron Kessack, Transportation Department

1. **CALL TO ORDER**

The meeting was called to order at 6:31 p.m., with Chair Capron presiding.

2. **ROLL CALL**

Deputy City Clerk Karin Roberts called the roll. All Councilmembers were present.

3. **FLAG SALUTE**

Vice Chair Kasner led the flag salute.

4. **COMMUNICATIONS: WRITTEN AND ORAL**

Keri Pravitz, Puget Sound Energy, spoke about the Energize Eastside Phase 2 Draft Environmental Impact Statement (EIS) coming out on Monday, May 8. The public comment period ends on June 21. A public hearing will be held on Thursday, May 25 at Bellevue City Hall, 6:00-9:00 p.m. Ms. Pravitz said PSE will continue its analysis of the EIS as it prepares its permit applications this summer. She said PSE continues to meet with property owners along the alignment to discuss construction and project impacts.

Responding to Councilmember Kasner, Ms. Pravitz said six routes will continue to be studied for the preparation of the Final EIS.

Barbara Benson provided an update on the recent Lake Hills Neighborhood Association (LHNA) meeting. She said City Code Compliance staff attended to talk about Airbnb and single-family room rentals. She noted that City staff respond to complaints regarding potential violations of the single-family room rental ordinance. Bellevue Police Captain Andrew Popochock attended the meeting to talk about safety and crime prevention in the neighborhood.

Ms. Benson said the LHNA is organizing a gardening group for exchanging information and perhaps providing gardening and lawn assistance to neighbors who are elderly or ill and unable to work in their yards. The first meeting will be May 13 at the ranger station on 156th Avenue. Ms. Benson said the neighborhood picnic will be held in July.

Irene Fernandes said Code Compliance staff expressed an interest in rental registration, noting that is the best way to address room rental issues. However, so far the proposal has not been moved forward with the City Council.

5. REPORTS OF CITY COUNCIL, BOARDS AND COMMISSIONS

- (a) Community Council Business and New Initiatives

[Moved to later in agenda.]

6. APPROVAL OF AGENDA

Councilmember Hummer moved to shift Agenda Item 5(a), Reports of City Council, Boards and Commissions to follow Agenda Item 13, Continued Communications. Councilmember Hughes seconded the motion. The motion carried by a vote of 5-0.

Responding to Chair Capron, Deputy City Clerk Roberts said a permanent change in the EBCC agenda format requires a resolution to modify the Rules of Procedure. Responding to Councilmember Kasner, Ms. Roberts confirmed that would be an opportunity to review all of the rules to consider amendments.

Councilmember Hughes suggested adding Agenda Item 12(c), Discussion regarding how potential future agenda items are chosen and added to the agenda.

Vice Chair Kasner suggested adding Agenda Item 12(d), Retreat Follow-Up Discussion.

Councilmember Hummer moved to approve the agenda, as amended. Vice Chair Kasner seconded the motion, which carried by a vote of 5-0.

7. DEPARTMENT REPORTS

- (a) Proposed Land Use Code Amendment (LUCA) regarding City Council and Quasi-Judicial Appeals

Chair Capron noted the management brief in the meeting packet from Catherine Drews, Assistant City Attorney, regarding the proposed Land Use Code Amendment (LUCA) to eliminate quasi-judicial appeals to the City Council. He noted the memo indicates that the change would have no effect on the EBCC's current decision authority.

Councilmember Kasner said he was alerted to this issue by Don Marsh. Mr. Kasner said it troubles him on a number of levels, whether it affects the EBCC or not. Chair Capron suggested

staying focused on what affects the EBCC's jurisdiction. Mr. Kasner said the memo raises a number of questions for him.

Chair Capron said the timing of the City Council's decision is not known, and it does not affect the EBCC's authority. He suggested waiting for the City Council's decision and asking Ms. Drews to attend an EBCC meeting to provide a briefing.

Mr. Kasner said he would like an explanation of why it does not change the EBCC's authority. He said the change would eliminate appeals of Hearing Examiner's decisions to the City Council for certain land use applications.

Mr. Capron observed that the proposed change appears to be an improvement.

Councilmember Hughes questioned whether it is accurate that the change will not affect the EBCC's decision authority.

Mr. Capron requested that Ms. Drews come to the June EBCC meeting with a presentation regarding the topic.

Ken Seal observed that the quasi-judicial proposal appears to remove the City Council's authority on land use decisions. He wondered whether that would comply with state law.

Mr. Kasner stated his understanding that using Hearing Examiners puts the City in a better position than having laymen Councilmembers trying to understand zoning and codes in order to rule on the advisability of a land use change. He believes this is an abdication of the City Council's responsibility. He said it is legal. However, the Hearing Examiner is not elected and there are other issues as well.

Mr. Seal expressed concern that the proposal would remove accountability for the City Council.

Councilmember Hummer suggested waiting for Ms. Drews to provide a presentation to the EBCC, rather than speculating on the implications of the proposed change.

Cynthia Vautier said she has concerns about the proposed change. Chair Capron suggested she consider taking her concerns to the City Council, which will make the decision.

Councilmember Hughes said there are residents who have submitted letters on the topic to the City Council.

Mr. Capron observed that the City Council will likely make a decision before Ms. Drews' update. He reiterated his request to invite Ms. Drews to the next EBCC meeting. Mr. Kasner said he would like to receive information on the topic that will be provided in the City Council's meeting packet.

Councilmember Hummer suggested that residents consider contacting City Councilmember Jennifer Robertson, liaison to the EBCC, with their concerns as well. Ms. Hummer noted that Ms. Robertson is a land use attorney and is responsive to citizens' inquiries.

8. **PUBLIC/COURTESY HEARINGS**: None.
9. **RESOLUTIONS**: None.
10. **COMMITTEE REPORTS**: None.
11. **UNFINISHED BUSINESS**: None.
12. **NEW BUSINESS**
 - (a) 2016 Neighborhood Safety, Connectivity, and Congestion Management Levy Presentation

Ron Kessack, Transportation Department Assistant Director, presented information regarding the 2016 Neighborhood Safety, Connectivity and Congestion Management Levy. He provided a general update on the levy and identified specific projects within and bordering the EBCC area. He provided a map showing all of the 2017 and 2018 transportation projects.

Mr. Kessack said the levy is intended to address the substantial backlog of project requests. The November ballot measure approved a property tax of \$0.15 per \$1,000 assessed value (AV), which will generate approximately \$7.4 million annually. The levy is intended to complete projects within six categories: 1) neighborhood safety, 2) congestion management, 3) intelligent transportation systems (ITS), 4) maintenance, 5) sidewalks and pathways, and 6) bike projects. He said the City Council's general direction was to set aside \$2 million per year for congestion management projects, double sidewalk project funding, double neighborhood safety programs, and implement the Bicycle Rapid Implementation Program.

Mr. Kessack said the first two congestion management projects selected by the City Council are on the 148th/150th Avenue corridor.

Mr. Kessack said the funding per category may change over time based on project needs and community input. He noted that the property tax dollar amount per property is set in the first year of the levy, and it will not increase over time. He highlighted the 2017-2018 Biennial Project List provided in the meeting packet, which includes projects prioritized for safety and maintenance, sidewalk and bike projects previously prioritized by the Transportation Commission, and congestion management projects prioritized by staff based upon current land use discussions. He said the selection of projects considers the coordination of certain projects for optimal efficiency, geographic equity, and other factors.

Mr. Kessack said staff's recommended project list will be studied and discussed by the Transportation Commission before going to the City Council. He said staff will provide annual updates to the Transportation Commission and to the City Council regarding expenditures, funding carry-forwards, project status, and related issues. There will be a web page for public information and project requests and comments.

Mr. Kessack highlighted the 2017-2018 projects that fall within the EBCC area, which all will be under construction in 2018:

- Two traffic signals on the 148th Avenue corridor (SE 16th Street and SE 22nd Street).
- Protected permissive signal phasing for left turns.
- Flashing-enhanced pedestrian crossings and radar speed signs indicating a vehicle's actual travel speed on Lake Hills Boulevard, Main Street, and 156th Avenue.
- SE 16th Street (between 156th and 164th Avenues) project to install a pedestrian pathway and crossings. Mr. Kessack noted this is outside of, but adjacent to, the EBCC boundary.

The total cost of levy projects within the EBCC area is approximately \$1,060,000. Mr. Kessack noted that the City's web site is in the process of being redesigned and updated. However, the levy project information will be posted upon the completion of that work.

Councilmember Hummer thanked Mr. Kessack for the presentation. She said she attended the Transportation Commission meeting in which the 148th/150th corridor projects were discussed. She noted Michelle Wannamaker's role in advocating for those projects. Responding to Ms. Hummer, Mr. Kessack confirmed that those projects were studied in the past as part of the broader effort to update the Eastgate/I-90 transportation and land use plan.

Councilmember Hummer noted that projects in the Eastgate and Crossroads areas affect East Bellevue neighborhood cut-through traffic. She questioned whether the City of Bellevue works with other cities that contribute to traffic in the Eastgate area. Mr. Kessack said Bellevue cannot influence land use planning in other jurisdictions. He acknowledged the impacts of regional growth and suggested that freeway and transit improvements will likely have the greatest positive impact on reducing congestion within Bellevue.

Ms. Hummer said a constituent shared her difficulty in getting out of her neighborhood onto 164th Avenue at times. Ms. Hummer noted the need for improvements to 164th and 156th Avenues, which are used as arterial routes.

Responding to Ms. Hummer regarding transit, Mr. Kessack said the City works on an ongoing basis for bus service enhancements. Ms. Hummer questioned the status of the Bellevue College Connector project. Mr. Kessack said there is currently no funding but the City is interested in a partnership with the college.

Councilmember Hughes asked why the project at Main Street and 148th Avenue has taken so long. Mr. Kessack said the weather and contractor problems were factors in the delays. In addition, with the high volume of construction activity in the region, there is intense competition for concrete during periods of dry weather. He said there are only a couple of concrete suppliers and three asphalt suppliers in the area.

Sandra Hughes asked the City or contractor to remove the pile of orange pylons in the bushes at SE 8th Street and 145th Place SE.

Responding to Irene Fernandes, Mr. Kessack confirmed that the levy property tax assessment went into effect at the beginning of this year. The levy extends over a 20-year term.

Councilmember Kasner recalled that a traffic signal project at NE 8th Street was initially included with two similar projects. However, there are design issues with the location. Mr. Kessack said modeling is underway for that location and staff continues to work toward a solution.

Mr. Kasner questioned the project elements of the planned signals on 148th Avenue at SE 16th and SE 22nd Streets. Mr. Kessack said the sidewalks referenced in the project description have been completed.

Councilmember Kasner concurred with Councilmember Hummer's concern about traffic from adjacent cities causing negative impacts in Bellevue. Mr. Kasner said he looks forward to improved travel times on 148th/150th in the Eastgate area.

Responding to Mr. Kasner, Mr. Kessack said the LED street lighting project results in significant energy savings. He said LED lights are more white than yellow.

Councilmember Kasner complimented the City on its timely pothole repairs. Mr. Kessack said roadways in the region suffered more damage than usual this winter due to the record rainfall. He said Bellevue has the most robust street overlay program he has known, and potholes are repaired within 24 hours. The frequency of street overlays varies depending on the road and traffic volumes. Responding to Mr. Kasner, Mr. Kessack said the City typically repairs sidewalk or related problems as part of the overlay program.

Responding to Mr. Kasner, Mr. Kessack said the Transportation Facilities Plan (TFP) is a 12-year list of unfunded projects. The seven-year Capital Investment Program (CIP) Plan is comprised of funded programs. Mr. Kessack said that, while the levy focuses on CIP projects, it is possible that certain TFP projects will be funded as well.

Councilmember Hummer encouraged the Lake Hills Neighborhood Association to become involved in advocating for improvements to 156th and 164th Avenues.

Chair Capron noted that the levy provides approximately \$7.4 million annually. He questioned the existing budget for sidewalk projects prior to the levy. Mr. Kessack said sidewalks were already funded at approximately \$1.3 million annually. Mr. Capron said he hopes the City Council will not divert the \$1.3 million to other projects.

Chair Capron thanked Mr. Kessack for his thorough presentation and answers to questions.

Councilmember Hummer asked staff to forward transportation project information to the EBCC on a regular basis.

(b) Bellevue School District Update

Chair Capron provided an update on Bellevue School District projects. He said the construction of Sammamish High School is a four-year project that is on schedule and expected to be completed this fall. The Odle Middle School project ran into problems due to bankruptcies of

several suppliers and contractors. The problems have been resolved for the most part, however. Stevenson Elementary School is the next project for the school district.

Mr. Capron said the field at Lake Hills Elementary School has not been completed due to weather issues.

(c) Discussion regarding the Process for Selecting Agenda Items

- Eastgate Land Use Code Amendment
- Kelsey Creek Culvert Replacement
- Proposed Verizon Wireless Small Cell Projects Presentation

Deputy City Clerk Roberts said the Eastgate Land Use Code Amendment (LUCA) was last reviewed by the City Council on March 20. The Council anticipates formal action on the LUCA following upcoming reports on the Affordable Housing Strategy and the men's homeless shelter. Presentations on the Kelsey Creek culvert project and the Verizon project are anticipated for the EBCC's June meeting. Ms. Roberts said she was contacted by Verizon who offered to provide a presentation to the EBCC.

Responding to Councilmember Kasner, Chair Capron said two individuals applied to be on the Pro statement committee for the continuation of the EBCC. There were no applicants to write the Con statement. Mr. Capron said Catherine Drews suggested that the EBCC reopen the application period through mid-May.

Councilmember Hummer said the meeting minutes regarding previous elections indicate May 31 as the application deadline.

Mr. Kasner said Pro statements were written in both 2009 and 2013, but no one wrote Con statements. He noted his preference to not reopen the application period. However, Mr. Kasner said he was curious about Ms. Drews' rationale for extending the deadline.

Ms. Roberts said King County requests that the City do all it can to advertise to recruit statement committees. If a Con committee/individual is not identified, the City must notify King County and document the City's efforts to recruit a committee. She said the County's rules indicate that the King County Elections Office may appoint committee members if none are submitted by jurisdictions. As a result, Ms. Drews advised extending the application deadline.

Ms. Roberts said the press release was sent to subscribers of other City department news, which is approximately 1,100 recipients. She sent the notice to all 500 residents who subscribe to EBCC agendas, and the recruitment effort is posted on the City's web site. She said the notice could be posted on social media.

Chair Capron moved to extend the application deadline to May 31 for the elections Pro and Con statement committees. Councilmember Hummer seconded the motion.

Councilmember Kasner said he would be okay with extending the deadline. However, he observed that the City advertised more extensively this year than it has in the past. He is not sure why the EBCC should do more than that this time.

Chair Capron suggested following the attorney's recommendation to extend the deadline.

Councilmember Kasner moved to amend the motion to extend the deadline to May 15, and Mr. Capron seconded the motion. The motion carried by a vote of 5-0.

Councilmember Kasner requested a report regarding the Arts Commission's action for the neighborhood art project. Responding to Mr. Capron, Ms. Roberts said she will follow up to request a staff memo.

Mr. Kasner said that Tom Campbell, Code Compliance, offered at the Lake Hills Neighborhood Association meeting to provide a map of locations with violations of the single-family room rentals ordinance. He would like a follow-up presentation by September.

Mr. Kasner would like a future agenda item for an update from the developer/owner of Kelsey Creek Center regarding their ongoing development.

Councilmember Hughes said he wanted to add this agenda item about developing a procedure for selecting future agenda items to avoid this type of conversation. He requested moving to Item 13 before continuing the discussion and the remainder of the agenda.

Vice Chair Kasner moved to amend the agenda to address Item 13 before continuing with the rest of the agenda. Councilmember Hughes seconded the motion, which carried by a vote of 5-0.

13. CONTINUED COMMUNICATIONS

Saghar Rasoulamini announced that Bellevue College is hosting a forum regarding the Eastgate men's homeless shelter on Tuesday, May 30 at 6:00 p.m. She said Mayor Stokes, and potentially other City Councilmembers and Police Chief Mylett, will be in attendance. She invited EBCC members to attend as well. She said the college plans to increase its public safety staff and is working closely with the Bellevue Police Department.

Jakari Aujla-Singh said representatives of Congregations for the Homeless and others will attend the forum. The meeting is anticipated to last for two hours and light refreshments will be served.

Councilmember Kasner said the Bellevue College administrative services manager will hold meetings in May and June on the third Wednesdays, 6:00-8:00 p.m., to provide updates on the college's construction plans.

Abner Pagunuran said he works in Bellevue College student government and he has heard support, concerns, and questions regarding the homeless shelter. He offered to assist the EBCC with student outreach if desired.

Sam Akeyo introduced himself as the student body president at Bellevue College.

Connor Sinnott, Associated Student Government (ASG) emerging technology and entrepreneurial representative at Bellevue College, said he has heard concerns from Running Start students regarding the proximity of the homeless shelter.

12. **NEW BUSINESS**

- (c) Continued discussion regarding the Selection of Future Agenda Items

Chair Capron noted that it is his job to work with staff to develop the agenda. He would prefer to not amend the agenda during a meeting.

Councilmember Hughes suggested that proposals for future agenda items be approved by a majority of the Council. He suggested the following process:

- A member sends a proposed item to the Chair by the third Tuesday of the month.
- At the meeting, a vote is taken on whether or not that item should be placed on a future agenda.
- If the item is added, the proposing member then works with the Deputy City Clerk to place it on the agenda.

Chair Capron said the top priorities are action items that fall within the EBCC jurisdiction as well as projects outside of the EBCC area that will have an impact (e.g., traffic impacts). He said the EBCC can request, but not compel, third parties to provide updates and presentations on projects and development in the neighborhood.

Mr. Hughes said he would like the EBCC to vote whether to add suggested agenda items. If the request involves an outside party (e.g., Kelsey Creek Center developer) and the Council approves of the agenda item, the Councilmember who proposed the item can work on inviting the outside party.

Mr. Capron said he does not receive agenda item requests between meetings because EBCC members wait until meetings to request amendments to the agenda. He expressed support for Mr. Hughes' proposal.

Mr. Hughes suggested trying the procedure for three months. Ms. Hummer concurred and noted it is each Councilmember's responsibility to submit agenda item requests to the Chair.

Mr. Capron confirmed that members should submit suggested agenda items to the Chair in advance of discussing whether to add them as future agenda items.

Councilmember Kasner said the historic practice has been that the Chair can suggest postponing items if there is a full agenda.

Councilmember Hughes moved to approve implementing the proposed procedure for adding items to future EBCC meeting agendas. Councilmember Hummer seconded the motion, which carried by a vote of 5-0.

Chair Capron noted that July's meeting falls on Independence Day and there are currently no agenda items. He said the bylaws state that, in those cases, meetings should be moved to the next day. Mr. Capron suggested making a decision during the June meeting. However, tentatively the July meeting could be cancelled or moved to the following Tuesday (July 11) instead of the next day (July 5).

5. REPORTS OF CITY COUNCIL, BOARDS AND COMMISSIONS

(a) Community Council Business and New Initiatives

Councilmember Hummer reported that she attended a few meetings related to the men's homeless shelter. She has posted on www.NextDoor.com to encourage residents to take input and concerns directly to the City Council and to contact City staff.

Vice Chair Kasner commented on the cross-cultural communications presentation regarding American conversational styles and about being more proactive in enhancing communications between the City and the EBCC. He encouraged interested citizens to apply for the next Bellevue Essentials class that will begin in September.

Councilmember Hughes said he attended the Lake Hills Neighborhood Association meeting, and he periodically contacts members of the mosque. He noted that, as a group leader for a national program, he holds a meeting every Monday night for people suffering from anxiety, depression, or PTSD. The meetings are held at 7:00 p.m. at Campus Office Park on 116th Avenue NE, everyone is welcome and there is no charge for attending.

Councilmember Gooding said he has a new dog so he is spending time walking on the Lake Hills Greenbelt. He noted some trees were damaged by recent weather events.

Chair Capron said he reached out to Brian Franklin for an update on the Kelsey Creek Center project, but has not heard back from him yet.

14. EXECUTIVE SESSION: None.

15. APPROVAL OF MINUTES

(a) Summary Regular Meeting Minutes of April 4, 2017

Councilmember Hummer moved to approve the minutes of the April 4, 2017 Regular Meeting. Vice Chair Kasner seconded the motion, which carried by a vote of 5-0.

16. **ADJOURNMENT**

Councilmember Hummer moved to adjourn, and Councilmember Gooding seconded the motion. The motion carried by a vote of 5-0 and the meeting was adjourned at 8:51 p.m.

Karin Roberts
Deputy City Clerk

/kaw

