



MEMORANDUM

DATE: May 4, 2010

TO: Chair Sheffels, Members of the Planning Commission

FROM: Catherine A. Drews, Legal Planner, Development Services Department

SUBJECT: Staff Recommendation-Electric Vehicle Charging Station LUCA, File No. 10-106986 AD

This memorandum presents the report and recommendation of the Development Services Department (DSD) on the proposal to allow electric vehicle infrastructure as a use in all land use districts, except residential land use districts and critical areas. This proposed Land Use Code (LUC) amendment implements provisions passed by the Washington State Legislature, Second Substitute House Bill 1481 (SSHB 1481), adopted in 2009 to facilitate the use of electric vehicles throughout the state. A copy of the proposed Land Use Code amendment ordinance is included with this memorandum as Attachment A.

Following the public hearing scheduled for May 26, 2010, and consideration of public comment, staff requests the Planning Commission to prepare a recommendation to the City Council to adopt the proposed code amendments included in Attachment A.

I. Background

On April 14, 2010, staff sought and received concurrence from the Planning Commission to initiate amendments to the LUC that would allow electric vehicle infrastructure as a use in all land use districts, except those zoned residential and critical areas, as required under Second Substitute House Bill 1481 (SSHB 1481). Electric vehicle infrastructure includes battery charging stations, rapid charging stations, and battery exchange stations. SSHB passed in 2009 and its purpose is "to encourage the transition to electric vehicle use and to expedite the establishment of a convenient, cost-effective, electric vehicle infrastructure" to support the transition. SSHB 1481, Section 1. The Legislature found that development of electric vehicle infrastructure would lead to the creation of jobs, foster economic growth, and reduce greenhouse gas emissions and other pollutants attributable to the operation of petroleum-based vehicles.

The bill supports the Electric Vehicle (EV) Project, the purpose of which is to build and study mature electric vehicle charging infrastructure in five regions, including Bellevue. During this project, Nissan will provide for sale to a selected group of interested parties,

the Nissan Leaf, an all electric vehicle. As part of the project, Leaf owners agree to participate in a study of their use of electric vehicles.

The bill requires jurisdictions bordering regional freeways and meeting a population threshold to amend their development regulations to allow electric vehicle infrastructure as a use in all zones except residential and critical areas. As discussed at the April 19 meeting, this provision does not prevent or prohibit the installation of electric vehicle charging units in individual homes. Instead, they amendments address the commercial use of electric vehicle charging stations. These amendments must be effective by July 1, 2010. The bill also amends corresponding municipal and planning provisions, such as the Growth Management Act, chapter 36.70A, and the Planning Enabling Act, chapter 36.70 RCW, to reflect these requirements.

SSHB 1481 also charges the Washington State Department of Commerce (formerly CTED) to prepare and distribute to local governments model ordinances, model development regulations, and guidance related to siting and installing electric vehicle infrastructure. Commerce has begun developing these documents, but it is unlikely they will be completed and distributed to local jurisdictions in time for jurisdictions to adopt the required codes before the July 1, 2010 deadline. Therefore, staff recommends that the City take action to comply with the July 1, 2010 deadline by amending the use charts and definitions consistent with the SSHB 1481, and seeks Planning Commission recommendation to forward proposed amendments to the City Council.

II. PROPOSAL

The proposed ordinance was prepared after review of SSHB 1481 and relevant provisions of the LUC. Based on this review, staff recommends approval of proposed code amendments allowing electric vehicle infrastructure as a use in all land use districts, except residential land use districts and critical areas. Specifically, staff recommends the following code amendments:

1. Use Charts: LUC 20.10.440 and LUC 20.25D.070 (Bel-Red).

Both the general use charts (LUC 20.10.440) and the Bel-Red Land Use Charts require amendment. Staff has reviewed the use charts, the Standard Land Use Coding Manual, and the North American Industry Classification System to determine the appropriate category for this new use—electric vehicle infrastructure. The most relevant category appears to be automotive services because the charging stations provide a necessary service—charging—while electric vehicles are parked. Staff recommends amending the use charts for Services to include the standard land use classification number 6419, which allows Other Automobile Services, and including a footnote limiting the use to electric vehicle infrastructure and prohibiting the use in critical areas as defined in LUC Part 20.25H and in residential land use districts, including the Downtown-Residential (DNTN-R) land use district.

In the Bel-Red Land Use District, staff recommends including the use in all districts except Bel-Red Residential (BR-R) because the purpose of the EV project is to provide charging stations at common destinations, such as work, services, and retail locations. This position is consistent with the purpose and intent of the Bel-Red district to provide “environmental and community amenities that serve residents and employees in the area...” LUC 20.10.375.

2. Definitions: Chapter 20.50 LUC

SSHB 1481 includes four new definitions¹ that staff recommends the LUC be amended to include:

A. “Battery charging station” means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth in Chapter 19.28 RCW and consistent with the rules adopted by the building code council for electric vehicle infrastructure requirements.

B. “Battery exchange station” means a fully automated facility that will enable an electric vehicle with an interchangeable battery to enter and exchange the depleted battery with a fully charged battery through a fully-automated process, which meet or exceed any standards, codes, and regulations set forth in Chapter 19.28 RCW and consistent with the rules adopted by the building code council for electric vehicle infrastructure requirements.

C. “Electric vehicle infrastructure,” means structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations, rapid charging stations, and battery exchange stations.

D. “Rapid charging station” means an industrial grade electrical outlet that allows for faster recharging of electric vehicle batteries through higher power levels, which meet or exceed any standards, codes, and regulations set forth in Chapter 19.28 RCW and consistent with the rules adopted by the building code council for electric vehicle infrastructure requirements.

III. STATE ENVIRONMENTAL POLICY ACT

It is anticipated that the Environmental Coordinator for the City of Bellevue will determine that this proposal will not result in any probable, significant, adverse environmental impacts. A likely final threshold determination of nonsignificance (DNS) will issue on or before May 13, 2010. The final threshold determination will be attached to this memorandum as Attachment B before the public hearing scheduled for May 26, 2010.

¹ Staff has revised the definitions from the statute where necessary to enhance clarity without altering the substance of the definition.

IV. PUBLIC NOTICE, PARTICIPATION, COMMENT AND RESPONSE

The Electric Vehicle Land Use Code amendment was introduced at a study session with the Planning Commission on April 14, 2010. During that study session, the Planning Commission gave staff direction to proceed to a public hearing on the proposed amendment, scheduled for May 26, 2010. Notice of the Public Hearing before the Planning Commission was published in the Weekly Permit Bulletin on May 6, 2010.

The proposed amendments to the LUC are within the jurisdiction of the East Bellevue Community Council. A courtesy hearing is scheduled with EBCC at their regular meeting on May 4, 2010. Notice of the courtesy hearing was published on April 27, 2010.

Under the requirements of the Growth Management Act, state agencies must be given an opportunity to review and comment on proposed amendments to the LUC. Copies of the draft Electric Vehicle Infrastructure LUC amendment ordinance were provided to the state agencies for review on April 15, 2010. No comment letters were received by DSD before release of this staff report. Comments received after release of the staff report will be forwarded to the Planning Commission before to the public hearing.

V. APPLICABLE DECISION CRITERIA – LAND USE CODE PART 20.30J

The Planning Commission may recommend and the City Council may approve or approve with modifications an amendment to the text of the Land Use Code if:

A. The amendment is in accord with the Comprehensive Plan; and

The proposed amendment is consistent with the Comprehensive Plan. The proposed amendments promote the use of electric vehicle infrastructure while preserving the character of residential neighborhoods, and reducing the amount of carbon associated with motor vehicle use.

Several Comprehensive Plan policies support the proposed amendment:

Policy LU-8. Ensure that commercial land uses are contained within carefully delineated areas

Policy LU-22. Protect residential areas from the impact of non-residential uses of a scale not appropriate for a neighborhood.

The proposed amendment focuses electric vehicle infrastructure away from residential area and into areas of more intense uses.

POLICY EN-3. Minimize, and where practicable, eliminate the release of substances into the air, water, and soil that may degrade the quality of these resources or contribute to global atmospheric changes.

Policy En-78. Support federal, state, and regional policies intended to protect clean air in Bellevue.

Policy EN-79. Work with the private sector to reduce growth in vehicle trips as a key strategy for reducing automobile-related air pollutants.

Policy EN-83. Promote the use of alternative fuels such as electricity and compressed natural gas and investigate the use of such fuels for the city's vehicles.

The proposed amendment, which supports electric vehicles, will initially reduce carbon emissions by only minimal amounts; however, the potential for long-term acceptance and use of electric vehicles should have a corresponding increase in the reduction of carbon emissions and other pollutants associated with petroleum-based vehicles.

B. The amendment bears a substantial relationship to the public health, safety or welfare; and

The proposed amendment serves the public health, safety and welfare by addressing issues related to clean air, alternative fuels, and protecting residential neighborhoods from incompatible uses.

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

As described above, the proposed amendments serve to provide alternative fuels for transportation, while enhancing the environment and protecting residential neighborhoods. The public interest is advanced through this proposal.

VI. RECOMMENDATION

Recommend the Electric Vehicle Land Use Code amendment as drafted in Attachment A and transmit the ordinance on to the City Council for final approval.

ATTACHMENTS

- A. Draft Electric Vehicle Infrastructure Ordinance
- B. Final DNS published on or before May 13, 2010.

ATTACHMENT A

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. _____

AN ORDINANCE amending the Bellevue Land Use Code allowing electric vehicle infrastructure as a use in all land use zones except residential and critical areas, specifically amending sections 20.10.440, 20.25D.020, 20.25D.070, 20.50.012, 20.50.018, 20.50.044 of the Bellevue Land Use Code; providing for severability and establishing an effective date.

WHEREAS, the Washington State Legislature passed, and the Governor subsequently signed, Second Substitute House Bill 1481 (SSHB 1481), which became effective July 26, 2009; and

WHEREAS, SSHB 1481 requires in relevant part that jurisdictions along the major regional freeways and meeting population thresholds to allow electric vehicle infrastructure as a use in all land use zones except residential and critical areas by July 1, 2010; and

WHEREAS, the City of Bellevue's Land Use Code does not allow electric vehicle infrastructure as a use; and

WHEREAS, the Environmental Coordinator for the City of Bellevue determined that this proposal will not result in any probable, significant, adverse impacts and as such a final threshold determination of non-significance (DNS) was issued on May 13, 2010; and

WHEREAS, the Planning Commission held a public hearing on May 26, 2010, about the proposed Land Use Code amendments contained herein; and

WHEREAS, the Planning Commission recommends that the City Council approve such proposed amendments, now, therefore;

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Section 20.10.440 (Land Use Charts, Services) is hereby amended to add a new Standard Land Use Code Reference , 6419 Other Automobile Services (except repair and wash), and a new footnote 26 following the land use charts, as shown below:

Chart 20.10.440 Uses in land use districts

STD LAND USE CODE REF	LAND USE CLASSIFICATION	Services – Residential Districts										
		R-1	R-1.8	R-2.5	R-3.5	R-4	R-5	R-7.5*	R-10	R-15	R-20	R-30
6	Services											
61	Finance, Insurance, Real Estate Services											
62	Personal Services: Laundry, Dry Cleaning, Barber and Beauty, Photography Studio and Shoe Repair											
6241	Funeral and Crematory Services											
6262	Cemeteries	C	C	C	C	C	C	C	C	C	C	C
629	Child Care Services (3,4)											
	Family Child Care Home in Residence	P	P	P	P	P	P	P	P	P	P	P
	Child Day Care Center							C	C	P	P	
63	Business Services, Duplicating and Blue Printing, Steno, Advertising (Except Outdoor), Travel Agencies and Employment											
634	Building Maintenance and Pest Control Services											
637	Warehousing and Storage Services, Excluding Stockyards											
639	Rental and Leasing Services: Cars, Trucks, Trailers, Furniture and Tools											
641	Auto Repair and Washing Services											
<u>6419</u>	<u>Other Automobile Services (except repair and wash) (26)</u>											
649	Repair Services: Watch, TV, Electrical, Upholstery											
	Professional Services: Medical Clinics and Other Health Care Related Services											
	Professional Services: Other											

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Services – Nonresidential Districts

STD LAND USE COD E REF	LAND USE CLASSIFICATION	Professional Office	Office	Office/ Limited Business	Light Industry	General Commercial	Neighbor- hood Business	Community Business	Factoria Land Use District 1	Factoria Land Use District 2	Factoria Land Use District 3
		PO	O	OLB	LI	GC	NB (16)	CB	F1	F2	F3
6	Services										
61	Finance, Insurance, Real Estate Services	P	P	P	P 1	P	P	P	P	P	P
62	Personal Services: Laundry, Dry Cleaning, Barber and Beauty, Photography Studio and Shoe Repair			S	P 2	P	P	P	P	S	S
6241	Funeral and Crematory Services	C	C	C						C	C
6262	Cemeteries	C	C	C	C	C	C	C	C	C	C
629	Child Care Services (3,4)										
	Family Child Care Home in Residence	P	P	P	P	P	P	P	P	P	P
	Child Day Care Center	P	P	P	P	P	P	P	P	P	P
63	Business Services, Duplicating and Blue Printing, Steno, Advertising (Except Outdoor), Travel Agencies and Employment	P	P	P	P 5	P	P 17	P	P	P	P
634	Building Maintenance and Pest				P	P		P	P		

	Control Services										
637	Warehousing and Storage Services, Excluding Stockyards				P	P		S	S		
639	Rental and Leasing Services: Cars, Trucks, Trailers, Furniture and Tools		S	P 6	P	A 18	P 7	P 7	S	S	
641	Auto Repair and Washing Services				P	P	A 19	P	P		
6419	Other Automobile Services (except repair and wash) (26)	P (26)	P (26)	P (26)	P (26)	P (26)	P (26)	P (26)	P (26)	P (26)	P (26)
649	Repair Services: Watch, TV, Electrical, Upholstery				P	P	P	P	P		

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Services – Downtown Districts

STD LAND USE CODE REF	LAND USE CLASSIFICATION	Downtown Office District 1	Downtown Office District 2	Downtown Mixed Use District	Downtown Residential District	Downtown Old Bellevue District	Downtown Office and Limited Business District
		DNTN O-1	DNTN O-2	DNTN MU	DNTN R	DNTN OB	DNTN OLB
6	Services						
61	Finance, Insurance, Real Estate Services	P 13	P 13	P	P 11, 12	P	P
62	Personal Services: Laundry, Dry Cleaning, Barber and Beauty, Photography Studio and Shoe Repair	P	P	P	P 11, 12	P	P 11, 20

6241	Funeral and Crematory Services						
6262	Cemeteries						
629	Child Care Services (3,4)						
	Family Child Care Home in Residence	P	P	P	P	P	P
	Child Day Care Center	P	P	P	P	P	P
63	Business Services, Duplicating and Blue Printing, Steno, Advertising (Except Outdoor), Travel Agencies and Employment	P	P	P	P 11, 12	P	P
634	Building Maintenance and Pest Control Services						
637	Warehousing and Storage Services, Excluding Stockyards						
639	Rental and Leasing Services: Cars, Trucks, Trailers, Furniture and Tools			P			S
641	Auto Repair and Washing Services			P 8			
6419	<u>Other Automobile Services (except repair and wash) (26)</u>	<u>P (26)</u>	<u>P (26)</u>	<u>P (26)</u>		<u>P (26)</u>	<u>P (26)</u>
649	Repair Services: Watch, TV, Electrical, Upholstery	P	P	P		P	

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Notes: Uses in land use districts – Services

(1) Finance, insurance, real estate services are permitted only if commercially or industrially related in LI Districts.

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(26) Other Automotive Services is limited to only electric vehicle infrastructure as defined in LUC 20.25.018. Electric vehicle infrastructure is not allowed in Residential Land Use Districts (R-1, R-1.8, R-2.5, R-3.5, R-4, R-7.5, R-10, R-15, R-20, R-30 and DNTN-R), or critical areas as defined in LUC Part 20.25H. This provision is not intended to preclude charging stations for individual use.

Section 2. Section 20.25D.020.A is hereby amended as follows:

20.25D.020 Definitions Specific to Bel-Red.

A. Bel-Red Definitions.

The following definitions are specific to the Bel-Red land use districts and shall have the following meanings:

Average Finished Grade Along Facade. Proposed grade after development as measured along a building facade from perpendicular wall to perpendicular wall including offsets, bays, and other minor modulating treatments not more than five feet deep.

Battery charging station. An electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standard, codes, and regulations set forth in Chapter 19.28 RCW and consistent with the rules adopted by the building code council for electric vehicle infrastructure requirements.

Battery exchange station. A fully automated facility that will enable an electric vehicle with an interchangeable battery to enter and exchange the depleted battery with a fully charged battery through a fully-automated process, which meet or exceed any standard, codes, and regulations set forth in Chapter 19.28 RCW and consistent with the rules adopted by the building code council for electric vehicle infrastructure requirements.

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Electric vehicle infrastructure, Structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations, rapid charging stations, and battery exchange stations.

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Rapid charging station. An industrial grade electrical outlet that allows for faster recharging of electric vehicle batteries through higher power levels, which meet or exceed any standard, codes, and regulations set forth in Chapter 19.28 RCW and consistent with the rules adopted by the building code council for electric vehicle infrastructure requirements.

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Section 3. Section 20.25D.070 (Service Uses in Bel-Red Land Use Districts) is hereby amended to add a new Standard Land Use Code Reference , 6419 Other Automobile Services (except repair and wash), and a new footnote 13 following the land use charts, as shown below:

20.25D.070 Land Use Charts.

The following charts apply to Bel-Red. The use charts contained in LUC 20.10.440 do not apply within the Bel-Red land use districts.

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Chart 20.25D.070 Services Uses in Bel-Red Land Use Districts.

STD LAND USE CODE REF	LAND USE CLASSIFICATION	Services – Bel-Red Districts						
		Bel-Red Medical Office/Node	Bel-Red Office Residential/Nodes	Bel-Red Residential Commercial Nodes	Bel-Red Residential	Bel-Red General Commercial	Bel-Red Commercial Residential	Bel-Red Office Residential Transition
		BR-MO/ MO-1	BR-OR/ OR-1 OR-2	BR- RC-1 RC-2 RC-3	BR-R	BR-GC	BR-CR	BR-ORT
6	Services							
61	Finance, Insurance, Real Estate Services (10)	P 9/P 9	P/P	P	P 1, 11, 12	P	P	P
62	Personal Services: Laundry, Dry Cleaning, Barber and Beauty, Photography Studio and Shoe Repair	P/P	P/P	P	P1, 11, 12	P	P	P
6241	Funeral and Crematory Services	C/C				C		
6262	Cemeteries							
629	Child Care Services (2, 3)							
	Family Child Care Home in Single- Family Residence	P/			P	P	P	P
	Child Day Care Center	P/P	P/P	P	A 1	P	P	
	Adult Day Care	P/P	P/P	P	A 1	P	P	
63	Business	P/P	P/P	P		P	P	P

	Services, Duplicating and Blue Printing, Steno, Advertising (Except Outdoor), Travel Agencies and Employment (10)							
634	Building Maintenance and Pest Control Services					P	P	
637	Warehousing and Storage Services, Excluding Stockyards		P/			P		
639	Rental and Leasing Services: Cars, Trucks, Trailers, Furniture and Tools (4)					P		
641	Auto Repair and Washing Services		P/P 5	P 5		P	P	
6419	<u>Other Automobile Services (except repair and wash) (13)</u>	<u>P (13)</u>	<u>P(13)</u>	<u>P (13)</u>		<u>P (13)</u>	<u>P (13)</u>	<u>P (13)</u>
649	Repair Services: Watch, TV, Electrical, Computer, Upholstery					P	P 6	

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Notes: Uses in land use districts – Services.

(1) All permitted retail, service, and recreation uses combined shall not exceed 10,000 square feet, except as provided for in Notes (11) and (12) below.

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(13) Other Automotive Services is limited to allowing only electric vehicle infrastructure as defined in LUC 20.25D.020. Electric vehicle infrastructure is not permitted in the Bel-Red Residential Land Use District (BR-R) or critical areas as defined in LUC Part 20.25H. This provision is not intended to preclude charging stations for individual use.

Section 4. Section 20.50.012 is hereby amended as follows:

Basement. That portion of a story partly or totally underground and having at least one-half of its height more than five feet below the adjoining finished grade.

Battery charging station. An electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standard, codes, and regulations set forth in Chapter 19.28 RCW and consistent with the rules adopted by the building code council for electric vehicle infrastructure requirements.

Battery exchange station. A fully automated facility that will enable an electric vehicle with an interchangeable battery to enter and exchange the depleted battery with a fully charged battery through a fully-automated process, which meet or exceed any standard, codes, and regulations set forth in Chapter 19.28 RCW and consistent with the rules adopted by the building code council for electric vehicle infrastructure requirements.

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Section 5. Section 20.50.018 is hereby amended as follows:

Easement. A grant or authorization by a property owner of the use of any designated portion of land by the public generally or by a corporation, or persons for specified purposes. (Ord. 3937, 7-18-88, § 5)

Electric vehicle infrastructure, Structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations, rapid charging stations, and battery exchange stations.

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Section 6. Section 20.50.044 is hereby amended as follows:

Rapid charging station. An industrial grade electrical outlet that allows for faster recharging of electric vehicle batteries through higher power levels, which meet or exceed any standard, codes, and regulations set forth in Chapter 19.28 RCW and consistent with the rules adopted by the building code council for electric vehicle infrastructure requirements.

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Section 7. If any provision of this ordinance or its application to any person or circumstance be held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances shall not be affected.

Section 8. This ordinance shall take effect and be in force five (5) days after passage and legal publication.

-ORD
05/05/10

Passed by the City Council this _____ day of _____, 2010 and signed in authentication of its passage this _____ day of _____, 2010.

(SEAL)

Don Davidson, DDS, Mayor

Approved as to form:

Lori M. Riordan, City Attorney

Lacey Madche, Assistant City Attorney

Attest:

Myrna L. Basich, City Clerk

Published _____

