

**ANALYSIS AND DECISION OF THE DIRECTOR
OF THE OFFICE OF PLANNING AND COMMUNITY DEVELOPMENT**

**SEPA Threshold Determination
for
Design Review Exemption Legislation**

- Project Sponsor:** City of Seattle Department of Construction and Inspections (SDCI)
- Location of Proposal:** The Downtown Urban Center, South Lake Union Urban Center, Uptown Urban Center, and First Hill.
- Scope of Proposal:** The proposal is a legislative action that exempts development including residential uses, hotels, and research & development (R&D) laboratory uses in the target geographic area from the Design Review process for an interim period of three years.

Proposal Description and Background

The proposal is a non-project action that would amend the Land Use Code on an interim basis. City departments including Department of Construction and Inspections (SDCI) and the Office of Planning and Community Development (OPCD) are recommending land use legislation for an interim period of three years that would exempt development proposals that include residential uses, hotels, or R&D laboratory uses within the Downtown, Uptown, South Lake Union Urban Centers and the First Hill portion of the First Hill/Capitol Hill Urban Center, from the Design Review process. The action is intended to expedite approvals of new residential, hotel, and R&D laboratory uses as a measure that can contribute towards increased downtown activation, as a component of Mayor Harrell's Downtown Activation Plan.

Mixed-use development in which at least 50% of the gross floor area is in residential use or hotel use would qualify for the temporary exemption from Design Review. Exempted development proposals would still be reviewed according to all other Land Use Code requirements (and other applicable codes) and be subject to Master Use Permits (MUPs) and/or building permits. Development proposals that consist solely of non-residential uses, except R&D laboratory and hotel uses, would not be eligible for this exemption, and would remain subject to the City's Design Review program. Vesting to the Land Use Code is proposed to occur in advance of the Land Use Code-consistency permit review for a new development proposal.

A range of options with respect to the ability to waive or modify development standards is evaluated.

The proposal reviewed in this SEPA determination includes a range of possibilities with respect to the ability for the City to waive or modify Land Use Code development standards for projects without Design Review. This includes a spectrum ranging from no waivers or modifications, to accommodating waivers and modifications of certain kinds of development standards in a way

that is narrower than the departures that are possible under the existing Design Review program. During the effective period of this proposal, waiver and modification requests would be considered and decided administratively by City staff as part of the City's permit review process. Currently, the range of Land Use Code departures available through the Design Review provisions is informed by Section 23.41.012 of the Land Use Code. As discussed for this proposal, waivers and modifications of development standards would provide flexibility in the application of Land Use Code development standards during a permit review process for Master Use Permits.

Currently, departures in a Design Review process under Chapter 23.41 of the Land Use Code allow for a development proposal to not meet the exact minimum or maximum specifications of development standards, if an alternative building design is proposed, then evaluated on its merits, and either rejected or recommended for approval by a Design Review board. SDCI incorporates Land Use Code departure recommendations in approval decisions for MUPs, usually without changing the outcome of any departure that is recommended by the Design Review board.

Under the proposal, waivers or modifications of certain Land Use Code development standards would accommodate flexibility for different design solutions responding to unique site circumstances or constraints. The list of Land Use Code development standards that could be waived or modified under the proposal consists of development standards that address design and does not include standards that govern the overall allowed height or floor area of development. Types of Land Use Code standards that could be subject to a waiver or modification under the proposal include for example:

- A development may relate better to adjacent existing building patterns on its block if it is allowed a larger or smaller front or side setback than the code standards otherwise require.
- A limited-size property may necessitate a different mix of indoor and outdoor recreational amenity spaces or different preferable locations for landscaping, including ground floor or upper floor locations, than required by code standards.
- A site may have an adjacent feature such as a bus stop zone or an above-ground power pole, that is a constraint on development siting that necessitates a greater setback than otherwise allowed by the code, or alternative layouts of landscaping.
- A requirement for certain categories of retail commercial use to be at ground floor levels may hinder the ability of a development to fully meet its intended purpose such as efficiently providing affordable housing. For example, affordable housing program needs such as space for resident-support services may have a more compelling function and role supporting affordable housing than would commercial retail spaces, due to space limitations and development cost considerations.

Public Comment

The changes to the Land Use Code require City Council approval. Opportunity for public comment will occur during Council meetings and hearings. The ordinance and this environmental review and SEPA Determination will be available online for public comments.

ANALYSIS – OVERVIEW

Environmental review resulting in a Threshold Determination is required pursuant to the State Environmental Policy Act (SEPA), WAC 197-11, and the Seattle SEPA Ordinance (Seattle Municipal Code (SMC) Chapter 25.05).

The following report describes the analysis conducted to determine that the non-project action is not likely to result in *probable significant adverse environmental impacts*. This threshold determination is based on:

- the language of the proposed amendments and related contents as described above;
- the information contained in the *SEPA checklist* (dated March 6, 2024), including annotations made by City staff;
- review of materials prepared as background information about the code amendments, prepared by City staff; and
- the experience of the analyst in reviewing similar documents and actions.

ELEMENTS OF THE ENVIRONMENT

Short-Term and Long-Term Impacts

A. Natural Environment

Earth, Water, Water Quality, Plants/Animals/Fisheries/Marine Life

The action is not expected to generate significant adverse impacts on these natural environmental elements, at a non-project level, directly, indirectly, or in its potential for cumulative impacts related to future development influenced by the action.

The area of the proposal is highly urbanized but it also contains some portions of greenbelts, hillsides, and shores on bay, and lake environments with diverse kinds of plant, animal, fish and marine habitats. This includes shoreline edges hosting birds, fish, and other marine life.

- Wildlife on land largely includes those species habituated to urban areas and fragmented vegetated areas in the city, with common types including squirrels, opossum, coyotes, and a variety of bird species including eagles. Threatened, protected, or endangered species that could be present near future development include heron, and salmon in locations downstream via natural drainages.
- Seattle has numerous soil types, including mineral soils dominated by clay, silt, or sand, as well as organic soils such as peats and mucks. No agricultural soils or prime farmland are located within the focus area. As a densely urbanized area, much of Seattle’s native soils have been extensively altered by filling, grading, and other activity. The affected areas of this proposal may include remnants of native glacial-till-related soils throughout, and other layers composed of silty and clay-influenced soils in Uptown, and Holocene era “lake deposits” with silt, clay, and organic deposits in the vicinity of Lake Union.
- The Seattle area is known to be in an active seismic area, as is the entire Puget Sound region. The City’s geologically hazardous areas are defined by SDCI as environmentally critical areas (ECAs). Unstable soils and surfaces occur primarily in two contexts: 1)

steep slopes and landslide-prone areas, where a combination of shallow groundwater and glacial sediments deposited in layers with variable permeability increases the risk of landslides; and 2) areas of fill or alluvial soils where loose, less cohesive soil materials below the water table with potential for liquefaction during earthquakes.

- Most of Seattle is located within the Lake Washington/Cedar/Sammamish Watershed (Watershed Resource Inventory Area [WRIA] 8). The Duwamish Waterway and Elliott Bay are part of the Green/Duwamish and Central Puget Sound Watershed (WRIA 9). Seattle's surface waters include marine areas (Puget Sound), rivers, lakes, and creeks. Rivers and creeks include but are not limited to the Duwamish waterway, Longfellow, Fauntleroy, Taylors, Thornton, and Pipers Creek. Freshwater lakes include the Lake Union/Ship Canal, Green, Haller, and Bitter Lakes and numerous ponds and wetlands.

Earth, Water, Water Quality

The proposed non-project action would result in no direct adverse or significant adverse impacts to earth or water environmental elements because it does not directly propose development of new buildings.

Some indirect and long-term impacts could occur to the extent that development proposed during the three-year effective period of the legislation could be different than development that would occur in the absence of the proposal. The existing urban environment in the affected urban centers is mostly developed and mostly covered by impervious surfaces such as building roofs, sidewalks, and streets. The range of existing land uses includes very dense existing building patterns as well as intermittent presence of parking lots or similar low-density uses. Various properties remain that are currently undeveloped, or with buildings with varying degrees of obsolescence that could be redeveloped in the next twenty years.

Under the proposal, development could proceed without Design Review for some projects that would otherwise undergo Design Review in the absence of the proposal. In addition, it is possible that the proposal could spur some development to happen sooner than it otherwise would if developers perceive an incentive to permit a project during the three-year effective period of the legislation.

These changes are not expected to have an adverse impact on earth, water or water quality because the proposal does not include changes that would increase the probable future development outcomes related to total development site coverage, or presence of impervious surfaces. Most parts of future redeveloped sites would be covered by buildings, with or without the proposal, and the codes that directly govern stormwater runoff and grading would not be altered by the proposal. Future development outcomes could vary in relatively modest amounts under the proposal, depending on whether code requirements would be strictly followed or whether modification of code standards could be allowed at individual developments. While these might conceivably increase a total amount of building site coverage due to flexibility granted in permitting, there could also be outcomes in some cases that would increase the amount of landscaping or open space on a given development site.

In terms of cumulative adverse impact potential, no substantive total difference in future development outcomes that might affect either earth or water resources is identified. With or

without the proposal, future development would have approximately as much impervious surfaces requiring drainage and water quality control, and would continue to cover most of a site.

In summary, no probable significant adverse impacts are identified for earth or water environmental elements.

Plants/Animals/Fisheries/Marine Life

Under the proposal, developments that could be permitted without Design Review would not likely generate outcomes with adverse impacts on plant, animal, fish or marine life habitats in the affected area. It is difficult to discern whether the amount of outdoor landscaped vegetative treatments would differ with or without Design Review. The code-required quantities of landscaping would be the same with and without Design Review. The outcome of Design Review on the quantity of landscaping or vegetation would likely vary from development to development, depending on individual development site characteristics, the site's neighborhood, and the nature of the exact future building design that would occur. Also, factors like vegetation in street right-of-way improvements (adjacent to but not on the development site) would be relatively similar with or without the legislative proposal.

The proposal would not alter code requirements concerning grading and environmentally critical areas. Therefore, no major difference with or without the proposal is expected in the level of disturbance of outdoor areas, nor disturbances of environmentally critical areas, nor increases in development-related runoff or erosion, nor adverse changes in wildlife habitat or fisheries habitat in future development. No significant adverse impacts concerning plant, animal, and fisheries habitat are expected.

Air Quality, Noise, Energy, Natural Resources Depletion, Environmental Health

This non-project action will result in no direct adverse or significant adverse impacts to these environmental elements because it does not directly propose development. Similarly, this analysis identifies no potentially significant adverse indirect or cumulative environmental impacts of these kinds.

Air Quality, Toxic/Hazardous Substances, Noise

The action will not directly, indirectly, or cumulatively lead to increases in discharges or emissions of toxic or hazardous substances, to the air or natural environment, or significantly increase the production of noise. Regulations concerning noise, air quality or the discharge or remediation of hazardous substances would not be affected by the presence or absence of the Design Review process. Regulation of these subjects is not affected by the Design Review process. Therefore, there would be no difference in future levels of air, noise or toxic substance impacts due to future development under the proposal's regulatory requirements, compared to what would occur under today's regulatory requirements.

Potential new development, of residential uses, hotels, or R&D laboratory spaces and possibly other uses in mixed-use developments, could generate exhaust emissions to the air, or odors, or generate noise or vibration perceivable from outdoors, or use toxic or hazardous substances in on-site activities with or without a Design Review of the development. In a worst-case, such emissions from individual developments might be detectable enough to generate annoyances and

related complaints from the public. If this occurred, those uses would be subject to enforcement of City codes that address nuisance complaints and require compliance to abate nuisances. New development encouraged as a result of this proposal would generate no unusual side effects upon air and noise conditions, because the development would have to follow established code requirements for venting of exhaust, controlling noise from their activities, and properly storing toxic substances. Therefore, no probable significant adverse impacts with respect to air quality, toxic/hazardous substances or noise are expected from this non-project action. If such impacts were to occur from an individual development they would be mitigated or removed by established code enforcement practices.

Energy and Natural Resource Depletion

The non-project action would not generate significant direct, indirect, or cumulative adverse impacts of energy consumption or natural resource depletion. New development would be required to meet obligations of City and State energy-related requirements, which would help avoid or minimize potential impacts on natural resources. Energy code and other construction codes would apply to future developments the same with or without a Design Review.

If Design Review does not apply, departures from rigid code standards are not available. Under the proposal certain more limited waivers or modifications of code standards could still be available even without Design Review. However, if departures are not available, or if only a limited set of waivers and modification from standards are available, it conceivably could lead to constraints on the total availability of space to use solar panels or similar features on any given development. Departures from development standards through the Design Review process are at times used to accommodate unique features like solar panels. In this case, lack of access to departures could result in a minor potential adverse impact by constraining the ability for a development to accommodate such features.

If there are any net differences at all in future development outcomes related to energy usage, such differences would likely occur at negligible-to-minor levels. Therefore, no likelihood of differential localized utility system improvement needs is identified, and no significant adverse impact on energy consumption is projected to occur.

B. Built Environment

Land and Shoreline Use, Height/Bulk/Scale, Housing, Relationship to Plans and Policies

The proposed legislation would affect whether certain development projects undergo Design Review, and whether the review process provides the availability of departures from prescriptive design standards of the Land Use Code (in the case of Design Review), or waivers and modifications from prescriptive Land Use Code standards (in the case of the proposed legislation) without Design Review. This aspect of the legislation has the potential to affect the built environment. The analysis below considers background and contextual information provided by SDCI.

Existing Condition: Departures are available through the Design Review process

Under existing conditions, most large-scale developments in the affected area participate in the Design Review process, including residential, hotel and R&D laboratory projects, and they may ask for and obtain departures from Land Use Code development standards. Departures may be

granted through Design Review if it is demonstrated that the proposal with a departure would improve design outcomes as evaluated against citywide and neighborhood design guidelines. Section 23.41.012 of the Land Use Code describes several kinds of code requirements for which departures are not possible, or are possible only to a limited degree.

According to SDCI's analysis, in most cases, developments approved through Design Review are allowed one or more of the following kinds of departures from Land Use Code standards:

Bulk and siting of development

- Upper level setback and modulation requirements
- Ground-level setbacks requirements
- Minimum building podium façade heights
- Rooftop coverage limits in relation to mechanical or energy features, mechanical penthouses and/or top-of-building form
- Site coverage limits (ground floor or upper)
- Building width limits

Uses and features not related to bulk and siting

- Minimum required percent presence of street-level uses along building façade(s)
- Minimum required depth of street-level uses
- Required street-level use types
- Minimum percent transparency and maximum blank façade requirements, which may address constraining situations such as sloping sites
- Slope, width, location of garage/vehicle entry
- Overhead weather protection
- Minimum amount of open space amenity and/or landscaping, ground level
- Maximum percent of outdoor open space amenity that is covered by overhead building features
- Percent of required amenity/open space area provided indoors vs. outdoors
- Locations for and accessibility to utility spaces such as solid waste storage space.

Data compiled by SDCI indicates that approximately 46 residential- and hotel-related development proposals with residential and/or hotel uses originated in the last 5 years (Fall 2018 – Fall 2023) and underwent or began Design Review in the affected area.¹ In addition, approximately 9 non-residential development proposals included laboratory components. Data from the development proposals yielded the following observations about departures granted.

- 40 code departures were granted for code requirements involving regulation of building bulk and siting (such as increased or reduced setbacks or different sizing and locations allowed for portions of buildings).
- 48 code departures were granted for code requirements not related to building bulk and siting (such as reduced minimum requirements for ground-level uses, provision of landscaping, the amount of wall area with windows or blank spaces, or adjustments in

¹ The recent-projects data included 5 hotel-residential use development proposals among 44 developments tallied with residential uses. Two other stand-alone hotel development proposals are also noted, bringing the total evaluated here to 46 development proposals.

automobile access, parking, or weather protection features).

- The average development with residential or hotel uses sought and received 2 departures, and on average 1 departure concerned building bulk and 1 was not related to building bulk.
- Some development proposals needed no departures, while others received more than one departure among different categories.

For the sake of comparison, non-residential developments such as stand-alone office buildings requested more Land Use Code departures than residential or mixed-use developments. Non-residential developments on average sought and received nearly 4 departures, of which typically involved 3 departures from building bulk-related requirements, and 1 involved changes not related to building bulk requirements.

- Among the 9 non-residential development proposals that included laboratory components, 42 total departures were proposed, which averages out to 4-5 departures per development. Among these, most were for bulk-related departures, in proportions similar to other non-residential developments.

In summary, the departures focused on enhancing the local setting of the project, such as an improved overall sidewalk environment or sidewalk width, or the provision of aesthetic amenities, or materials choices. Numerous departures focused on overcoming a unique constraint to meeting a minimum code requirement. These can be caused by lot size dimensions or access difficulties, which can affect floor layouts of buildings. Departures were also granted to modify ground-level commercial use requirements in cases where uses like cafes would be difficult or impossible due to physical limitations at the site, such as sloping topography.

Proposal: Eligible projects would be exempt from Design Review and a more limited set of waivers and modifications would be available by decision of the department

Under the proposal, residential and hotel development in the affected area would be exempt from Design Review for a roughly 3-year period. The proposal includes a list of subjects for which waivers and modifications from Land Use Code development standards could be granted. The waiver or modification would be granted as a Type I land use decision by SDCI. Most of the standards on the waiver and modification list concern aesthetic aspects, or addressing siting constraints, or concerning functional features of buildings, like alternate locations and characteristics for vehicle access. The list of waiver and modifications topics in the proposal is listed below. It contains some but not all of the development standards available for departures through the Design Review program.

- 1) Upper-level setbacks, modulation, articulation, façade opening requirements, and structure width;
- 2) Street level setbacks and façade setbacks: dimensional and area limits;
- 3) Floor-to-floor height requirements at street level, except as otherwise limited in subsection 23.41.012.B;
- 4) Rooftop screening and coverage limits in relation to mechanical equipment, energy-related features, elevator equipment, and related enclosures;
- 5) Street-level use type, minimum depth, floor-to-floor height, and percent presence on street-level street-facing façade requirements;

- 6) Façade transparency and blank façade requirements;
- 7) Overhead weather protection requirements;
- 8) Requirements for the size and design of common recreational areas, amenity areas, community rooms, and similar indoor amenities, but not including required outdoor open space requirements;
- 9) Open space and open areas: dimensional, area, distribution of types, and amount of overhead coverage requirements;
- 10) Landscaping: dimensional, area, and location requirements;
- 11) Vehicle access to parking, loading, and utility spaces;
- 12) Minimum dimensions and slope of vehicle access;
- 13) Parking space size requirements in subsections 23.54.030.A and 23.54.030.B;
- 14) Bicycle parking minimum quantity requirements in Table D for 23.54.015; and
- 15) Provisions of the MPC-YT zone, except: affordable housing production requirements in Section 23.75.085; limits on floor area for uses in sections 23.75.040, 23.75.085, or 23.75.090; and limits on the number of highrise structures, distribution of highrise structures, and gross floor area per story for highrise structures in Section 23.75.040 or Section 23.75.120.

Proposal Alternate: Eligible projects would be exempt from Design Review and no departures or waivers and modifications of development standards are available

Decisionmakers could opt to adopt a version of the legislation exempting residential, hotel and R&D laboratory developments from Design Review without providing any availability of waivers and modifications from Land Use Code development standards. In this case, developments that do not undergo Design Review under the proposed legislation would be required to meet all the prescriptive code requirements with little or no flexibility.

This SEPA analysis and determination considers the possible environmental impacts of both the proposal as drafted, and the proposal alternate (no departures, or waivers or modifications available) in comparison to the base case of the Design Review requirement that makes departures available.

Estimated number of development projects that would be affected by the legislation

SDCI has projected the number of developments it believes would be affected by the legislation in the future. For the proposed interim period of 3 years, maintaining the recent pace of proposals would translate to an estimated 25 to 35 residential, hotel and R&D laboratory, and mixed-use developments that might occur. This estimate encompasses mixed-use developments that may include a combination of residential and hotel uses as well as stand-alone hotel developments and R&D laboratory developments. Residential and hotel combinations may be most likely in the zones allowing high-rise towers, where these uses may be complementary. Stand-alone hotel developments may be most likely in zones with mid-scaled height and density allowances.

LAND AND SHORELINE USE

The proposal is not likely to affect the overall arrangement of land use or the pattern of land use within Downtown, South Lake Union, Uptown or First Hill urban centers in major ways. The proposal does not alter permitted uses, maximum height limits, density limits or Floor Area Ratio

(FAR) limits. The proposal would not affect the ability of property owners to make development proposals with the types of uses they prefer or affect the overall mix of uses that would be possible in developments. Permitted, prohibited and conditional use provisions are not allowed for departure under the existing Design Review process, nor are they proposed to be available for a waiver or modification under the proposed legislation. As a result, the range of allowed uses in development is not expected to change materially, with or without the proposed legislation.

The absence of Design Review during a roughly 3-year period for residential, hotel and R&D laboratory developments (and certain mixes of uses including these uses) could plausibly incentivize developers to pursue development with the uses sooner than they otherwise would, or it could incrementally encourage them to pursue development of these uses instead of other uses. The proposal to allow a project's Land Use Code vesting date to be prior to a Land Use Code-consistency permit review for new development proposals could similarly act as an incentive for development proposals to proceed, because it may provide greater timeliness to the Land Use Code development permit review process, and greater assurance about the Land Use Code regulations that would pertain to a development proposal. In this way, the proposal could have a small incremental effect of encouraging a greater concentration of residential, hotel or R&D laboratory uses in the affected area urban centers than might otherwise occur. However, this is not deemed an adverse impact because all of those uses are compatible with the planned future land use for the areas. Policies and goals for Seattle's Urban Centers encourage those uses – especially residential uses.

Due to the factors described above, this proposed non-project action is not likely to generate significant adverse impacts on land use patterns or shoreline use patterns, directly, indirectly, or cumulatively.

HEIGHT BULK & SCALE / AESTHETICS

The Design Review program addresses the aesthetic appearance of new buildings and the Design Review process can affect the configuration of mass, bulk and scale of how new buildings are designed on a site. Therefore, this proposal to exempt residential, hotel and R&D laboratory uses from the Design Review process could potentially affect the aesthetic and height/bulk/scale elements of the built environment.

This analysis of impacts first describes the nature of adverse impacts that could potentially occur, and then discusses the degree to which the impacts would be likely to occur under the variants of the proposal compared to the existing state. Differences in future building design and siting outcomes would relate to qualitative variations in external aesthetics, building bulk and shape, and relationships to adjacent streets and properties that could be different than they might be without Design Review. An example of difference could be the aesthetic harmony of exterior materials and colors, or the overall beauty of the architectural composition as viewed from a street, sidewalk or neighboring property, or as a feature of the city's skyline. Another difference could be the degree to which architectural design features of the proposed building relate to or mimic architectural styles in the nearby neighborhood. Differences could also arise concerning how a building's bulk is positioned relative to the activity patterns of neighboring residents, workers, visitors, or passersby on a sidewalk or street.

This SEPA analysis and determination considers the possible environmental impacts of both the

proposal as drafted, and the proposal alternate (no departures, or waivers or modifications available) in comparison to the base case of the Design Review requirement that makes departures available.

Existing Condition: Design Review requirements

Under existing conditions, most large-scale developments in the affected area participate in the Design Review process, including residential, hotel and R&D laboratory projects over a certain size threshold. In the existing condition, proposed designs are evaluated by a Design Review board or staff against citywide and/or neighborhood design guidelines. In the affected area, neighborhood design guidelines have been adopted for Belltown, South Lake Union, and Uptown. Neighborhood-specific design guidelines express priority design preferences and contextual issues for the specific neighborhood that can be taken into consideration in the Design Review. Land Use Code development standard departures may be granted for any issue except the list of non-departable standards per SMC 23.41.012.B.

Proposal: Eligible projects would be exempt from Design Review, and a more limited set of waivers and modifications would be available by decision of the department

Under the proposal, residential, hotel and R&D laboratory development in the affected area would be exempt from Design Review for a roughly three-year period. Some proposals for development would be permitted without a Design Review process. However, the developments would still have access to a limited set of waivers and modifications from certain development standards. (listed above in this document). The waiver or modification would be approved by the SDCI director and would be evaluated according to the following criteria:

- Address siting constraints; or
- Result in increased amounts of housing units or hotel units being constructed.

Typically this assessment would be conducted by permit review staff as a delegate of the SDCI Director.

Under this proposal, future development outcomes that proceed without Design Review would be largely similar to outcomes that undergo Design Review in the absence of the proposal. The overall quantity and magnitude of developed area and uses in development would not change because core standards such as the FAR density limit, and height limit would not be changed. Since these standards are constant between the proposal and the existing condition, any impacts from differences in the types of development that would result would not be more than minor.

Flexibilities typically authorized as departures through Design Review could be similarly granted by the Director as Land Use Code waivers and modifications under the proposal. Under both the proposal and the existing condition, bulk and aesthetic-related deviations from strict application of a code standard could result. Examples of these flexibilities include:

- Allowing taller or shorter building bases, or more slender or bulkier shaped towers than would be accommodated by fully meeting the minimum requirements of the Land Use Code.
- Allowing deviations from Land Use Code requirements to build structures to front and side property lines in places where that is required such as selected portions of Downtown Seattle such as in the Downtown retail core.

The principal difference between the proposal and the existing condition is that under the proposal the assessment of flexibility from Land Use Code standards would be made by the Director according to stated criteria instead of by a Design Review board. Under the proposal, developments would not be evaluated against a set of citywide and neighborhood design guidelines. Minor impacts related to aesthetics and bulk/scale could result, if the review for compliance with the criteria by the Director (or staff) is not as thorough or detailed as would occur by a Design Review board. Minor aesthetic impacts compared to the existing Design Review approach could manifest to the extent that resulting buildings could be slightly less responsive to neighborhood context or less compliant with priority design treatments due to the absence of an evaluation of the development against design guidelines. A mitigating factor is that the list of standards eligible for “waiver and modification” under the proposal is limited only to Land Use Code standards that are concerned with design treatments and does not include the most critical standards governing the overall scale, height, or uses in a building.

The type and nature of the potential aesthetic impacts that would result from the proposal are described at the beginning of this “Height Bulk & Scale / Aesthetics” section. Although some adverse aesthetic or bulk/scale impacts would be present under the proposal for the reasons described above these impacts would not be more than minor because the most critical standards governing the scale of development and allowable uses would not change. The decision to grant flexibilities would still be made according to criteria by the Director, which would mitigate potential adverse effects. Aesthetic features of the built environment such as architectural style and composition are subjective to a degree, and minor differences in aesthetic treatments are not judged by the City to be a significant adverse impact. Therefore, there would be no more than minor impacts on aesthetics or height/bulk and scale directly, indirectly, or cumulatively.

Another difference under the proposal (including the proposal alternate), is that there would be less public process for residential, hotel and R&D laboratory projects that are exempted from Design Review, compared to projects that would undergo the Design Review process. Projects that undergo Design Review are required to be presented at a public meeting, and/or Design Review packets are posted online for public comment. Under the proposal these opportunities for public comment on the design aspects of a project would not be available. The absence of a Design Review comment period under the proposal could be considered an adverse impact by some community members. However, the absence of this particular public comment process on the design is a procedural topic and is not in itself judged to result in an adverse impact on the built or natural environment.

Proposal Alternate: Eligible projects would be exempt from Design Review and no departures or waivers and modifications of development standards are available

Decisionmakers could opt to adopt a version of the legislation exempting residential, hotel and R&D laboratory developments from Design Review without providing any availability of waivers and modifications from Land Use Code development standards. In this case, developments that do not undergo Design Review under the proposed legislation would be required to meet all the prescriptive Land Use Code requirements with no flexibility. In this case, exempted development proposals would be required to exactly conform to all existing Land Use Code development standards. If no code waivers or modifications are available a development proposal with no Design Review would be expected to meet the Land Use Code’s minimum development standards, which by definition would be compliant with the City’s preferences for physical relationships of

building bulk and street-level use features and other amenity qualities. This scenario would reasonably ensure a development outcome consistent with the City's preferences at a micro level (individual site and surroundings) and a macro level (the cumulative effects on the larger neighborhood or urban center context). The City requirements directly influence the character of future development and its overall compatibility with its surroundings.

A small potential for adverse aesthetic impact could result under this scenario if a development does not have access to flexibilities from Land Use Code standards that could allow a project design to better address unique site conditions or circumstances compared to strict adherence to a development standard. Less contextual designs could plausibly result without the availability of some flexibility from code. The potential degree of this adverse impact would be very small. The impacts would not be more than minor because the most critical standards governing the scale of development and allowable uses would not change, and because all of the City's Land Use Code development standards would be adhered to. In a case where some flexibility from the Land Use Code is necessary or highly advisable to enable a development to be configured on a site, a project proponent could still optionally elect to enter the Design Review process to access departures.

Summary

In summary, the potential for aesthetic and height/bulk/scale adverse impacts, under either version of the legislative proposal would be minimal. The level of potential effect on aesthetics or height/bulk/scale would either generate no adverse impact or a minor or limited adverse impact due to differences in development outcomes at any given affected property. No significant adverse impact would occur from the proposal directly, indirectly, or cumulatively.

HOUSING

Mandatory Housing Affordability (MHA)

Future development proposals would continue to be subject to meeting the MHA requirements. Therefore, the proposal does not change the applicability of MHA requirements and would have no impact on MHA funds collection.

Housing

The non-project action would not directly impact existing housing, because it does not directly propose new development. The proposal does not include elements that would cause different patterns of future redevelopment site choices to be made by individual future applicants within the affected urban center areas. In other words, with or without the proposal, real estate factors would continue to determine the relative attractiveness of existing properties for redevelopment. This suggests that to the extent existing housing uses are distributed through these neighborhoods on properties that are attractive, they could be equally susceptible to future development with or without the proposal.

However, the decreased number of permit review processes and probable benefits of faster total permit review time would provide an incentive or stimulus that would likely encourage new development involving housing, hotels, or R&D laboratories to be proposed, or stalled applications to resume reviews. This could increase total new housing, hotel and R&D laboratory-related development in the affected area during the next 3 - 6 year period. A marginal increase in the total

quantity or pace of these kinds of development is judged not to be an adverse impact because the City's policies encourage and support infill housing development in the relevant geographic areas.

RELATIONSHIP TO PLANS AND POLICIES

The non-project action would streamline permit review processes for new development, to facilitate continuing growth in the Downtown, Uptown, South Lake Union and First Hill neighborhoods that is intended to contribute to restoration of economic vibrancy. These are objectives predominantly aligning with Comprehensive Plan goals and principles relevant to the core urban centers, such as:

***Goal H G2** - Help meet current and projected regional housing needs of all economic and demographic groups by increasing Seattle's housing supply.*

***Goal H G5** - Make it possible for households of all income levels to live affordably in Seattle, and reduce over time the unmet housing needs of lower-income households in Seattle.*

***Goal GS G1** Keep Seattle as a city of unique, vibrant, and livable urban neighborhoods, with concentrations of development where all residents can have access to employment, transit, and retail services that can meet their daily needs.*

***Goal LU G9** Create and maintain successful commercial/mixed-use areas that provide focus for the surrounding neighborhood and that encourage new businesses, provide stability and expansion opportunities for existing businesses, and promote neighborhood vitality, while also accommodating residential development in livable environments.*

***Policy LU 9.2** - Encourage the development of compact, concentrated commercial/mixed-use areas, in urban centers and urban villages, where pedestrians can easily access transit and a variety of businesses.*

***Policy LU 9.6** - Encourage housing in mixed-use developments in pedestrian-oriented commercial/mixed-use areas to provide additional opportunities for residents to live in neighborhoods where they can walk to transit, services, and employment.*

***Policy LU 9.15** - Allow limited exceptions to the height limit in order to accommodate ground-floor commercial uses or special rooftop features, encourage development of mixed-use structures, enable structures to function appropriately, accommodate special features consistent with the special character or function of an area, or support innovative design that furthers the goals of this Plan.*

***Policy DT-UDP11 (Downtown) Urban Design** – Regulate uses at street-level in certain areas in order to generate pedestrian interest and activity in conformance with policies for the pedestrian environment. Promote street-level uses to reinforce existing retail concentrations, enhance main pedestrian links between areas, and generate new pedestrian activity where appropriate to meet area objectives without diluting existing concentrations of retail activity. Promote active and accessible uses at the street-level of new development where it is important to maintain the continuity of retail activity. Consider measures to promote street-level space of adequate size and sufficient flexibility to accommodate a variety of retail and service activities. Encourage incorporation, as appropriate, of street-level uses as part of open space public amenity features provided for a floor area bonus to promote activity and increase public use of*

these spaces. To encourage active and accessible street-level uses throughout Downtown, consider appropriate exemptions of these uses from floor area limits.

Policy B-P14 (Belltown) Land Use – Promote pedestrian activity through such methods as eliminating “dead spots” of street-level activity.

Policy QA-P1 (Queen Anne Uptown) Streetscape – Seek to create and maintain attractive pedestrian-oriented streetscapes and enhance Queen Anne’s community character with open space, street trees, and other vegetation.

Goal LU G11 (Downtown Areas) Promote Downtown Seattle as an urban center with the densest mix of residential and commercial development in the region, with a vital and attractive environment that supports employment and residential activities and is inviting to visitors.

Downtown Neighborhood Plan – Commercial Core, Goal COM-G1 Maintain the Commercial Core as a major employment center, tourist and convention attraction, shopping magnet, residential neighborhood, and regional hub of cultural and entertainment activities.

Economic Development Policy ED 1.1 -- Enhance the Downtown core as the economic center of the city and the region and strengthen its appeal as home to many of Seattle’s vital professional service firms, high technology companies, and regional retailers, as well as cultural, historic, entertainment, convention, and tourist facilities.

CUMULATIVE IMPACTS ANALYSIS

Due to the combination of several recent or possible future legislative and regulatory actions, this analysis evaluates the potential implications for cumulative SEPA impacts that could be generated by the following:

- Proposal to exempt from Design Review developments including residential, hotel, and R&D laboratory uses in selected Urban Centers, for an interim period through 2026 (the proposal under review in this SEPA Determination)
- Seattle’s Design Review reforms prompted by State HB 1293;
- SEPA review reforms prompted by State HB 5412 (revised SDCI Director’s Rule 9-2023);
- SEPA review reforms, Downtown residential development threshold for review (Ord. 126843);
- Master Use Permit (MUP) lifespan extension legislation (Ord. 126979);
- Downtown retail core, Third Avenue rezone (Ord. 126917);
- Belltown hotel use amendments (Ord. 126914)
- Proposed legislation addressing conversion of existing buildings to residential use.

Interpretation of land use impact relationships for cumulative impact analysis

	Reduced amount, frequency of reviews	Affects use variety and designs interior to buildings	Affects building size and shaping, exterior design	Affects street-level use requirements
Design Review exemption for development with residential uses, hotel and R&D laboratory uses in selected urban centers (the proposal)	No Design Review process for development with residential uses, through 2026	A range of possible effects, from requiring full compliance to code standards, OR waivers and modifications could allow variations in interior uses and their floor layouts	A range of possible effects, from requiring full code conformance (no departures), OR waivers and modifications could allow shaping of new buildings bulk and shape, although, no differences in total permissible floor area	A range of possible effects, from requiring full code conformance (no departures), OR waivers and modifications could allow shaping of new buildings at street level uses, similar to current practices
Design Review reforms prompted by State HB 1293 (under City review)	Limit D.R. to one public meeting; for the affected area, the proposed D.R. exemption would supersede this	Differences in use, shaping, design still possible via departures or code waivers or modifications	Differences in shaping, design would still be possible via departures or code waivers or modifications	Differences in shaping, design would still be possible via departures or code waivers or modifications
SEPA review interim reforms for residential uses, ESSHB 5412 (see Director’s Rule 9-2023)	No SEPA review for residential uses until 10/1/2025	Foregone Design Review could lead to full compliance with land use codes, or could allow waivers/modifications from code. A lack of SEPA review not likely to add to impacts, because SEPA not very relevant to use variety or interior.	Foregone Design Review could lead to full compliance with land use codes, or could allow waivers/modifications from code. This removes one mitigation tool. However, permit reviews by staff would evaluate compatibility within the site’s setting.	Same as response to the left, with respect to proposed street-level development outcomes
SEPA review reforms, Downtown residential threshold (City), Ord. 126843	Given other SEPA interim reforms, this does not now have additional real effects on what is SEPA-reviewed	--	--	--
MUP lifespan extension (Ord. 126979)	Yes; one fewer review to renew an issued MUP at the 3-year mark. This eliminates a chance	--	For affected topics that could be departed from, there is little or no chance that code	Same as response to the left.

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	to require new conditions to meet newer requirements.		requirements would get more stringent in the next three years. Thus, no cumulative effect is expected.	
Third Avenue rezone (Ord. 126917)	--	Rezone has changed total development potential at affected sites. If future development includes hotel, residential, or R&D lab use, Design Review exemption could apply.	Same as finding to the left.	Same as finding to the left.
Belltown hotel amendments (Ord. 126914)	--	Yes. Foregone Design Review might be relevant to a hotel-related project, with or without residential use, in Belltown. Findings are similar to those for SEPA review reforms re: ESSHB 5412, above.	Yes. Foregone Design Review might be relevant to a hotel-related project that includes residential use, in Belltown. Findings are similar to those for SEPA review reforms re: ESSHB 5412, above.	Similar to findings to the left. If street-level use flexibility matters, flexibility could be available, or potentially hewing closer to minimum code requirements
Possible "office to residential conversion" legislation (under City review)	There is a degree of overlap with the intent of Design Review exemption, for remodels of existing buildings. However, City building permit reviews and land use review if applicable would still occur.	Yes. Most conversion reviews may relate to building code topics, re; interior use layouts, and details such as window and ventilation system building code compliance	Minor potential effect of this conversion legislation on glazing (may or may not lead to window upgrades), facades (may or may not lead to façade renovations). Other observations same as findings to left	Same as findings to the left
Street Activation proposal (under City review)	Waiver or modification of code standards for Design Review exemption overlaps with the ability for use flexibility at street level; for existing buildings.	Same as findings to the left	Similar to findings to the left. Because this activation regulation is mostly for existing buildings, there is relatively limited potential for added value of design flexibility.	Same as findings to the left.

The information in the table suggests the following observations, none of which indicate probable implications for significant adverse cumulative impacts:

- Overall, future new developments' permit reviews will be subject to a lesser amount of review steps (no SEPA review for residential developments, fewer Design Review public meetings citywide, and no required Design Review for residential, hotel, or R&D laboratory developments or mixed-use developments dominated by those uses, in Downtown, Uptown, S. Lake Union, and First Hill).
- Two factors suggest that the cumulative effects of these legislative efforts would not generate significant adverse impacts:
 - 1) If the ability to obtain Land Use Code waivers or modifications or departures are more limited, then development outcomes would hew more closely to meeting existing code minimum requirements. Which itself would lead to compatible, more compliant development outcomes that are consistent with City plans and policies; and
 - 2) Given that City permit reviews would continue to occur, including SDCI's staff assessments about whether or not to grant code waivers or modifications for certain building features, the Land Use Code-related permit process would still evaluate the relative merits of granting a waiver or modification, including the written justifications and proposed design modifications offered by an applicant. This is likely to retain a substantive review value that is comparable to departure evaluations currently provided by a Design Review board, for the sake of accommodating flexibility from strictly meeting code requirements, and seeking improved overall qualities (or at least comparable alternative design qualities) in building designs. This has value especially because any given development site's characteristics may face constraints that affect ability to comply with minimum provisions of the Land Use Code.
- Based on the above, the cumulative effects of the proposals would not create significant adverse City policy conflicts or unintended cumulative adverse consequences related to land use, or aesthetics or height/bulk/scale. This is due to the proposed permit processes' ability to continue evaluating the merits of developments' designs and their relative degree of adherence to City requirements, with a relatively narrow spectrum of difference in development outcomes: either approximately resembling current development design outcomes under Design Review practices or hewing more closely to meeting requirements of land use and building codes.

Historic Preservation and Cultural Resources

Seattle contains a number of landmarks, properties, and districts that are listed on, or proposed for, national, state, and local preservation registers. In addition, while Seattle today comprises a highly urbanized and developed area, it is also an area with potential for the presence of cultural artifacts from indigenous peoples that could be detected during development within a broad cross-section of properties in the city.

The non-project proposal is not likely to affect whether known historic sites or structures might be redeveloped. Existing designated/protected historic sites or structures are effectively protected by current regulations and so they may only be demolished in rare circumstances that occur with consent of the City. Also, the intent of current codes and practices is to have as-yet-undesigned properties with features that may be historic go through a landmark nomination and review process. Such processes can and do lead to designation of new historic sites and structures according to the decisions of the landmark board(s).

With or without the proposal, these practices would continue to occur. These practices are not inherently tied to Design Review processes, and the proposal does not make any changes to such processes and requirements.

This analysis also interprets that the proposal, while it could stimulate additional development due to the attraction of reduced permit processes, would most likely generate future development proposals on properties most attractive for redevelopment based on real estate factors related to size and location and current uses. (The presence of known or possible historic resources on a given site would count as a factor that decreases the likelihood of future development.) This means there is not a significant likelihood of inducing development in places where historic resources or cultural resources are most likely to be present. Thus, there is no probable net difference in the potential for known historic resources to experience demolition-related adverse impacts, comparing scenarios with or without the proposed action.

Most cultural resources at risk from future development in Seattle are in unknown locations due to their being buried under soils, although certain vicinities such as near-shore areas are known to have greater potential for presence of such resources given past activities of indigenous peoples.² The action does not include provisions that alter the likelihood of future development of new buildings occurring in any given location or type of vicinity such as near-shore areas; and there is little or no probability that proposals would lead to additional amounts of building coverage or larger or deeper site excavations on any given site.

Also, implementation of the action would not affect the strength of the City's regulatory protection of cultural sites or resources if they are discovered during future development, which is also addressed by other State and local regulations, policies, and practices. With or without the action, such processes are mandated to stop construction, assess the resources, and take appropriate next steps for the cultural resources' protection or preservation.

Transportation, Public Services and Utilities

The non-project action would not likely directly, indirectly or cumulatively generate adverse demand-related impacts on transportation or public services or public utilities within the City of Seattle. This relates to:

- A lack of a substantial probable difference in total floor area for any given development (because the proposal does not include increases in total floor area density allowances);

² This analysis acknowledges, however, that most of the affected area is categorized as having a "very high risk" of finding archaeological/cultural resources compared to other parts of Seattle based on pre-contact peoples' occupation patterns and the State's probability models for archaeological resources. (Seattle Industrial and Maritime Strategy Final EIS, pages 3-512, 3-514, Berk).

- Comparing the probable effects on future development with or without the proposal, while Design Review can lead to improved arrangements of space on a given site, the potential degree of difference in development outcomes (such as numbers of additional dwelling units achieved) is relatively limited in numerical terms. If departures are granted under today's Design Review for setbacks, for example, it is possible that more dwelling units can be provided by overcoming the effects of awkwardly shaped properties. If such differences continued to be possible under the proposal, more residential or hotel-based vehicle trips could be generated. However, their probable net additional contribution to street networks' vehicle volumes is relatively unlikely to lead to identifiable differences in the development's outcomes or differences in the potential requirement of related mitigation measures. This is based on an interpretation of the degree of such impacts compared to typical levels of vehicle traffic volumes throughout the area affected by this legislative proposal.
- Either a lack of difference in probable outcomes related to location of vehicle access improvements compared to existing practices because code waivers or modifications would be possible (access-impaired sites may receive departures through Design Review processes); or a future development outcome that would be required to fully meet code requirements addressing vehicle access;
- The probable outcomes of future developments' conformance to code requirements and being subject to utility departments approval reviews, including being responsive to utility-specific situations that could be present in a site vicinity.
 - One example of the latter situation is building setbacks that are required as conditions of approval to keep a building's facade a minimum distance away from above-ground power poles if those are present. This could lead to a minimum requirement to set back a facade farther than would otherwise be required by the Land Use Code, to maintain sufficiently safe conditions for building occupants and utility service purposes.
 - Another example is continuing today's permitting process that includes reviews by the City's service providers. Such reviews tend to identify required size and manner of utility service provision, and provide for accommodations or adjustments in service provision to a given site. This tends to ensure that solid waste storage facilities and collection services provided at a new development will be functional, operable for all parties, and effectively serve the development.

DECISION – SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21C), including the requirement to inform the public of agency decisions pursuant to SEPA.

- [X] Determination of Non-Significance. This action has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030(2)(c).
- [] Determination of Significance. This action has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(c).

Signature: _____/s/_____ Date: April 18, 2024
Geoff Wentlandt
Seattle Office of Planning and Community Development