



Planning Commission

Briefing on State Environmental Policy Act (SEPA) Exemption Recommendations

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Title

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Recommended Action

Committee Recommendation:

One April 20, 2017 the Council's Land Use and Environment Committee guided staff to move forward with a public process to further consider an update to the SEPA ordinance to establish Downtown as a SEPA exemption area, in accordance with the Downtown Strategy.

City Manager Recommendation:

Receive the briefing. Discussion only; No action requested.

Report

Issue:

Briefing and discussion about recommendation to establish Downtown as a SEPA infill exemption area.

Staff Contact:

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Presenter(s):

Leonard Bauer, Deputy Director

Background and Analysis:

During scoping for the Downtown Strategy (DTS), the Council's Land Use and Environment Committee considered options for providing State Environmental Policy Act (SEPA) flexibility in Downtown.

General background about SEPA is attached.
Options for providing SEPA flexibility is attached.

In 2015, the Committee recommended and the City Council adopted a scope for the DTS which included exploring increased SEPA exemption levels for minor construction projects and/or urban infill exemption levels. During 2016, the DTS planning team explored these options in light of

Downtown goals, and recommend within the DTS the City establish Downtown as an SEPA Urban Infill Exemption Area.

The purpose of exempting SEPA is to reduce duplicative process, not to reduce environmental risk assessment or mitigation. Environmental issues must still be addressed, but rather than relying on the SEPA process for this, environmental issues are addressed upfront in the development code. This helps to reduce uncertain development costs and permit review times, and is a way to incentivize development that meets community goals.

During scoping, the City Council decided not to complete a planned action Environment Impact Statement (EIS) for the entire Downtown. The reason was that a similar objective can be achieved by the other options.

SEPA Urban Infill Area

The State's SEPA statute (RCW 43.21C.229) allows for urban infill exemptions in order to encourage residential or mixed use development in urban areas where the density goals of the comprehensive plan are not being met. When an EIS has been prepared to analyze the development goals in the comprehensive plan (which is the case for Olympia), a city can exempt some or all of the following types of development from additional SEPA review:

- Stand-alone residential
- Mixed use residential/commercial
- Stand-alone commercial less than 65,000, excluding retail

The exemption would not apply to:

- Industrial uses
- Lands covered by water (in most cases)
- Projects where part of the proposal requires both exempt and non-exempt actions
- Some other very specific cases outlined under the SEPA statute

Gap Analysis

A first step was to identify any gaps in our environmental regulations where we have had to use SEPA in the past to address an environmental issue in Downtown. Subsequently, the City needs to establish regulations for those environmental issues for which SEPA was the sole method of addressing an issue.

The gap analysis revealed the City has often used SEPA to reiterate regulations that are required regardless of SEPA (e.g., remediating contaminated soil and groundwater, controlling dust at the construction site). The gap analysis also identified three areas that should be addressed by adopting new regulations before establishing a SEPA exemption:

- 1. Flood risk associated with sea level rise:** In the past, the City used SEPA to address flood risk due to sea level rise by requiring higher finished floor elevations in high risk areas of Downtown. To ensure this issue could still be addressed without SEPA, the City adopted increased flood-proofing standards in August of 2016.

2. **Off-site traffic impact mitigation:** There may be areas where it is possible a large traffic generating project could cause off-site traffic impacts needing to be mitigated through infrastructure improvements at the time of development (e.g., a traffic light.) To ensure this issue can still be addressed without SEPA, staff is exploring an appropriate size threshold - downtown projects larger than that threshold would require a traffic study to determine any needed improvements that would then be required.

3. **Cultural resources:** Tribal nations tend to use SEPA notice as their trigger to comment on projects, and Downtown is of particular interest to tribes due to the historical and cultural significance of Downtown lands. Early in 2017, staff met with representatives of the Nisqually Tribe and State Department of Archaeology and Historic Preservation (DAHP) to discuss other available comment opportunities (e.g., at notice of application) and potential code revisions to address how concerns about development in historical or culturally significant areas should be addressed. Staff is currently in conversation with representatives from the Squaxin Tribe.

Public Process

Staff will continue to meet with stakeholders over the next few months to address the issues described above. This will be followed by a public meeting to inform and gather input, a SEPA comment period, briefing to the Planning Commission about a draft ordinance with options and implications, and a Planning Commission public hearing and recommendation to the City Council.

Neighborhood/Community Interests (if known):

The recommended action in the Downtown Strategy was shared with the public at open houses on Oct 29, 2016 and February 7, 2017, and the Planning Commission's public hearing on the DTS on February 27, 2017. The Downtown Strategy was adopted by the City Council on April 25, 2017.

Options:

Discussion only. No action requested.

Financial Impact:

Included in base budget

Attachments:

SEPA Background
Options for SEPA Flexibility