



Land Use & Environment Committee

Briefing on State Environmental Policy Act (SEPA) Urban Infill Area Exemption Recommendations

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Title

Briefing on State Environmental Policy Act (SEPA) Urban Infill Area Exemption Recommendations

Recommended Action

Committee Recommendation:

On April 20, 2017 the Land Use and Environment Committee asked staff to move forward with a public process to further consider an update to the SEPA ordinance to establish Downtown as a SEPA urban infill exemption area, in accordance with the Downtown Strategy.

City Manager Recommendation:

Receive the briefing. Discussion only; No action requested.

Report

Issue:

Whether to receive a briefing on and discuss the recommendation to establish Downtown as a SEPA urban 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 Land Use and Environment Committee (LUEC) 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 recommended 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 at less cost through the SEPA Urban Infill Area Exemption.

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, the 2017 annual update to the Engineering Design and Development Standards (EDDS) includes a proposal to incorporate current policies governing requirements for development applications to perform 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 development applications, and Downtown is of particular interest to tribes due to the historical and cultural significance of Downtown lands. Staff met with representatives of the Nisqually Tribe and State Department of Archaeology and Historic Preservation (DAHP), and has initiated e-mail discussions with the Squaxin Island Tribes, to discuss City code revisions to ensure concerns about development in historical or culturally significant areas will be addressed. Staff will provide more detailed information on alternative approaches to this topic at the LUEC meeting.

Public Process

Each of the above code revisions has or will include a public process. In addition, the process to consider a draft ordinance to implement a SEPA urban infill area exemption for downtown will include:

1. a SEPA review and comment period,
2. briefing the Planning Commission about a draft ordinance with options and implications, and
3. 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 October 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