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City Council

Approval of an Ordinance Establishing a Downtown Urban Infill Area in Accordance with the Washington State Environmental Policy Act

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Title

Approval of an Ordinance Establishing a Downtown Urban Infill Area in Accordance with the Washington State Environmental Policy Act

Recommended Action

Committee Recommendation:

The Land Use and Environment Committee has received updates and provided direction during the process of developing this proposal following its inclusion in the Downtown Strategy adopted by the City Council.

At its November 6, 2017, meeting, the Olympia Planning Commission unanimously voted to recommend approval of the ordinance.

City Manager Recommendation:

Move to approve on second reading the ordinance adopting an Urban Infill Area in accordance with the State Environmental Policy Act (SEPA).

Report

Issue:

Whether to adopt an ordinance establishing the Olympia downtown as a SEPA Urban Infill Exemption Allowance Area.

Staff Contact:

Leonard Bauer, Deputy Director, Community Planning & Development, 360.753.8206

Presenter(s):

Leonard Bauer, Deputy Director

Background and Analysis:

Background and analysis has not changed from first to second reading.

Background

In 2015, the City Council adopted a scope for the Downtown Strategy (DTS) which included exploring increased State Environmental Policy Act (SEPA) exemption levels for minor construction projects and/or urban infill development that is consistent with the Comprehensive Plan. During 2016, the DTS planning team explored these options in light of Downtown goals. The DTS adopted by the City Council recommends designating a Downtown Urban Infill SEPA Exemption Area. The memo from the DTS explaining this recommendation is attached.

The purpose of designating an urban infill SEPA exemption area is not to reduce environmental risk assessment or mitigation. State law established the urban infill exemption option to reduce duplicative process in areas where a full Environmental Impact Statement (EIS) was previously conducted on potential impacts of a Comprehensive Plan that calls for urban infill development, such as Olympia's downtown.

The urban infill exemption is one of several SEPA options adopted into state law after the Regulatory Reform Act (1995) began requiring a public notice and comment period for all applications for land use review, and a combined public hearing for land use review and SEPA appeals. As the attachment showing Olympia's land use review process demonstrates, public notice and comment, as well as an opportunity to appeal land use decisions, remain in effect for all permit applications. The current SEPA review, comment and appeal process occurs ***within*** the land use review process, for projects that are not already exempt from SEPA due, for example, to their small size.

To be consistent with the Comprehensive Plan goals, the City has adopted mitigation measures for environmental issues directly into the City's codes and development requirements, which all new development proposals must meet. Because environmental issues are addressed upfront in the development code, it is duplicative to conduct an additional review for each development project that is subject to SEPA. Exempting projects from that duplicative SEPA review process helps reduce uncertain development costs, and is a way to incentivize development that meets Comprehensive Plan goals.

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. This would identify issues for which the City would need to establish regulations because SEPA was the sole method of addressing an issue.

The gap analysis examined SEPA determinations for all downtown in the 13 years prior to the DTS. It revealed the City 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 did identify three areas to be addressed by adopting new regulations before establishing a SEPA urban infill area:

- 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 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 requirements for development applications to perform a traffic study to determine any needed improvements that would be required (attached). The urban infill exemption ordinance also clarifies that new development would still need to comply with city code requiring transportation concurrency (i.e., providing necessary transportation facilities concurrent with new development).
- 3. Cultural resources:** Tribal nations have in the past tended to use SEPA notice as their trigger to review development applications, and Downtown is of particular interest to tribes due to the historical and cultural significance of Downtown uplands and shorelines once used by the Tribes. Staff met with representatives of the Nisqually Tribe and State Department of Archaeology and Historic Preservation (DAHP), and corresponded with the Squaxin Island Tribes, regarding City code revisions to ensure concerns about development in historical or culturally significant areas will be addressed by proposed city code revisions. Those proposed revisions have been included in the downtown urban infill area ordinance (attached).

SEPA Ordinance

The attached ordinance would provide for designation of a Downtown Urban Infill SEPA Exemption Allowance Area. It also includes updates to the City's existing Environmental Policy, which establishes the City's SEPA authority in state law. SEPA review of projects in areas of the City outside of the downtown exemption area will continue under this authority. This ordinance updates references for consistency with state laws and rules, and other parts of the Olympia Municipal Code, regarding this authority.

In addition, the proposed ordinance includes the cultural resources provisions described above.

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. The Planning Commission held a hearing on the attached ordinance at its October 16, 2017, meeting. There was testimony with some concern regarding lack of availability of the additional SEPA process downtown (attached), which was discussed by the Planning Commission prior to voting on its recommendation.

Options:

1. Move to approve on first reading and pass on to second reading the ordinance adopting an Urban Infill Area in accordance with the State Environmental Policy Act (SEPA).
2. Direct staff to make specific revisions to the proposed ordinance.
3. Do not approve the ordinance.

Financial Impact:

Staff work on this ordinance has been included in the City's base budget. Adoption of the downtown urban infill SEPA exemption ordinance will likely reduce staff costs in performing duplicative SEPA review on qualifying downtown development projects in the future.

Attachments:

Ordinance
Downtown Strategy SEPA Memo
Land Use Review Process
Draft EDDS Traffic Impact Analysis
Planning Commission Public Comments