

## MEMORANDUM

**To:** Councilmember Rob Johnson, Chair  
Councilmembers Mike O'Brien and Lisa Herbold, Members  
Planning, Land Use and Zoning Committee

**From:** Ketil Freeman and Eric McConaghy, Legislative Analysts

**Date:** March 16, 2017

**Subject:** C.B. 118753 – State Environmental Policy Act Infill Legislation

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Council Bill (CB) 118753 would amend Seattle Municipal Code Chapter 25.05, to reestablish higher State Environmental Policy Act (SEPA) review thresholds in certain planning geographies of the City.<sup>1</sup> The higher thresholds would apply to infill residential, mixed-use, and commercial projects.

This memorandum: (1) summarizes the legislative history related to the proposed higher thresholds; (2) analyzes some characteristics of projects that were subject to SEPA review in 2016 that would be exempt from SEPA if they were permitted under the proposed higher thresholds; and (3) sets out a potential amendment to require analyses, reporting, and a proposal by the end of 2017 related to increasing thresholds in Urban Centers and Urban Villages citywide.

### Legislative History

State law authorizes jurisdictions planning under the Growth Management Act to increase thresholds below which projects are exempt from review under SEPA. A jurisdiction can use this authority if the jurisdiction has disclosed the impacts of growth towards Comprehensive Plan employment and residential growth estimates in an Environmental Impact Statement (EIS).<sup>2</sup> After growth estimates are reached for a given area, lower thresholds apply to project review. This is sometimes referred to as the “infill development exemption.”

In 2012 the City invoked this authority to increase thresholds in Urban Centers and Urban Villages with Station Area Overlay Districts (SAODs).<sup>3</sup> In 2015 the City lowered the thresholds while the EIS for the Comprehensive Plan, *Seattle 2035*, was under development and while the Council considered new residential and employment growth estimates.<sup>4</sup> In 2016, when the EIS was complete and Council approved new growth estimates in *Seattle 2035*, the City had satisfied the necessary pre-conditions to consider reestablishing the thresholds.<sup>5</sup>

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<sup>1</sup> These geographies are (1) Urban Centers, which are Northgate, the University Community, First Hill / Capitol Hill, Uptown, and Downtown; and (2) Urban Villages with Station Area Overlay Districts, which are Roosevelt, North Beacon Hill, Mt. Baker, Columbia City, Othello, and Rainier Beach.

<sup>2</sup> [Revised Code of Washington \(RCW\) 43.21C.229](#).

<sup>3</sup> [Ordinance 123939](#).

<sup>4</sup> [Ordinance 124885](#).

<sup>5</sup> [Ordinance 125173](#).

The Housing Affordability and Livability Agenda (HALA) advisory committee has recommended that the City consider increasing SEPA thresholds citywide to facilitate housing development.<sup>6</sup>

### Characteristics of 2016 Projects that Could Have Been Eligible for the Exemption

Staff has reviewed data assembled by the Seattle Department of Construction and Inspections (SDCI) related to projects in Urban Centers and Urban Villages with SAODs that were subject to SEPA review in 2016 that would be exempt from SEPA review if they were permitted under the proposed higher thresholds. In total there are 32 projects, which collectively could be developed to add 2526 units to Seattle’s housing stock.

This analysis:

- Examines the distribution of projects by size and geographic location;
- Sets out information related to decision types of the 32 projects and appeals to the City Hearing Examiner in 2016; and
- Quantifies progress towards meeting residential growth estimates in planning geographies where the proposed higher thresholds would apply.

### Size and Geographic Distribution of Mixed-use Projects

The locations of the 32 projects are shown on Attachment A to this memorandum. To better understand the distribution of projects by size, the projects are divided into quartiles, which break the total number of projects into approximately equal groups. See Table 1 below.

**Table 1. Range of Dwelling Units per Permit, by Quartile 2016**

Quarters	Dwelling Units per Project (actual values)	Range of Dwelling Unit Count	Sum of Dwelling Units per Projects	Units - Percent of Total
Q1	29 -- 40	11	266	11%
Q2	45 -- 59	14	488	19%
Q3	64-- 98	34	542	21%
Q4	100 -- 249	149	1,230	49%
Total	n/a	n/a	2,526	100%

*median = 59*

As indicated in the table, the range within quartiles increases with each quarter. Not surprisingly, from the standpoint of residential unit production, the projects in the fourth quartile, which represent 25% of the total projects, account for approximately 49% of total units.

This indicates that if the Council’s objective is to reduce regulatory barriers to housing production, a relatively high threshold is needed as most unit production occurs in larger projects. Conversely, if the objective is to maintain some regulatory protection and opportunity

<sup>6</sup> [Seattle Housing Affordability and Livability Agenda: Final Advisory Committee Recommendations](#), Page 38, July 13, 2015.

for SEPA-based appeals, the Council could lower the proposed threshold to approximately 100 units and still provide a regulatory relief for 75% of the projects.

Decision Types and Appeals to the Hearing Examiner

In 2016 the Hearing Examiner received approximately 25 MUP appeals and scheduled hearings on 16 of those appeals. Only 12 included SEPA as a component of the decision. And, of those, only five appealed decisions were for projects in Urban Centers or Urban Villages. Two of those five exceeded thresholds for infill development proposed by CB 118753.

With one exception, Master Use Permits (MUPs) for all the 2016 projects analyzed above include at least one additional land use decision that is appealable to the Hearing Examiner, in most cases a Design Review decision. This indicates that increased SEPA thresholds do not, in and of themselves, inoculate projects from delay associated with appeals to the Hearing Examiner. However, appeals associated with projects that are exempt from SEPA would be narrowed to other components of the decision, such as the Design Review decision. This could reduce uncertainty for developers about the nature and length of appeals.

Progress Towards Comprehensive Plan Estimates

Higher thresholds available through the infill development exemption apply only until Comprehensive Plan estimates for residential and employment growth in an area are exceeded or met. Table 2 sets out progress towards achieving 2035 residential growth estimates.

**Table 2. Progress Towards Urban Growth Estimates**

Geography	2016 Units Built	Pipelined Projects	2035 Growth Estimate	Progress Towards Estimate	% of Estimate
<i>Urban Centers</i>					
Downtown	330	4457	12000	4787	40%
South Lake Union	1028	3787	7500	4815	64%
Uptown	66	426	3000	492	16%
First Hill / Capitol Hill	1082	2092	6000	3174	53%
University Community	276	1010	3500	1286	37%
Northgate	0	227	3000	227	8%
<i>Urban Villages w/ SAODs</i>					
Rainier Beach	9	68	500	77	15%
Othello	-2	478	900	476	53%
Columbia City	264	141	800	405	51%
Mount Baker	8	336	1000	344	34%
North Beacon Hill	125	64	400	189	47%
Roosevelt	263	601	800	864	108%

Source: 2016 Urban Center / Urban Village Residential Growth Report

In most geographies where higher thresholds are proposed to apply there is existing development capacity below growth estimates that would allow projects to be permitted under

the infill development exemption. The Roosevelt Urban Village is the one exception. There units in new development, projects under construction, and projects with building permits exceed residential growth estimates.

### **Reporting Amendment**

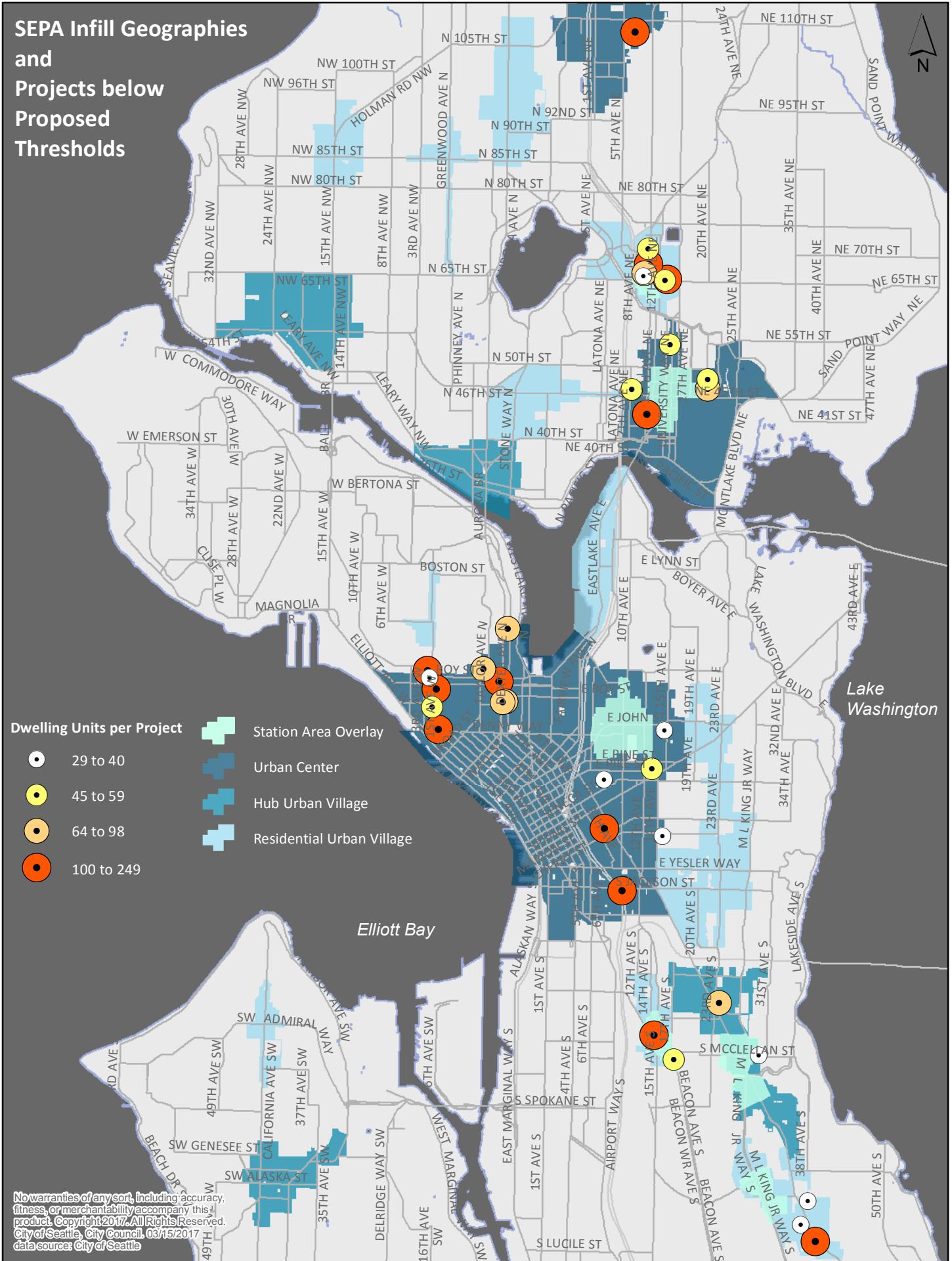
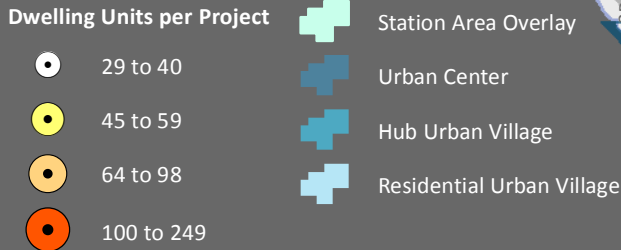
Councilmember Johnson proposes an amendment to CB 118753, which is shown on Attachment B. The proposed amendment requests that SDCI work with other City Departments to analyze how SEPA review operates. The analysis would inform recommendations to the Council on process improvements. The amendment requests a report no later than December 31, 2017. The proposed amendment is consistent with a recommendation from the HALA advisory committee.

### **Attachments:**

- Attachment A – Map of SEPA Infill Geographies and Distribution of 2016 Projects
- Attachment B – Amendment: SEPA Process Improvements Reporting

cc: Kirstan Arestad, Central Staff Executive Director

# SEPA Infill Geographies and Projects below Proposed Thresholds



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**Attachment B**

Amend Council Bill 118753 to include a new section requesting an analysis of the SEPA review process.

Sponsor: Johnson

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Section 4. The City Council requests that the Department of Construction and Inspections work with other city departments to produce a report to Council no later than December 31, 2017 that provides a comprehensive assessment of how the SEPA review process changes the outcomes of development in Seattle. The report should include:

- a) Information on how SEPA review functions in different neighborhoods, including urban centers, urban villages, and other areas or corridors outside of urban villages, and in different zones, including Residential Small Lot, Lowrise, Midrise, Neighborhood Commercial, and Seattle Mixed;
- b) An analysis of projects that have undergone SEPA review to determine the extent to which elements of the environment are protected by other regulations and review processes, and the scale below which it is uncommon for the SEPA review process to result in permit conditions on the development approval;
- c) The number of SEPA appeals of development projects, including location of projects, outcome of appeal decisions, duration of process, and financial impact on City resources to litigate and on cost of housing production;
- d) A discussion of environmental benefits achieved through SEPA mitigation conditions; and
- e) Recommendations on SEPA reforms to reduce redundancies and unnecessary costs to housing production and to harmonize Seattle’s SEPA Ordinance and the procedural requirements of Seattle Municipal Code Chapter 23.76 with Department of Ecology guidance on SEPA implementation.

Section 4.5. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

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