



City of Seattle

Office of Planning & Community Development

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

**SEPA Threshold Determination
Conversion to Housing Legislation**

- Project Sponsor:** City of Seattle Office of Planning and Community Development
- Location of Proposal:** Land located in any downtown or commercial or zone, and in the Seattle Mixed (SM), Highrise (HR), or Midrise (MR) zones in the City of Seattle
- Scope of Proposal:** The proposal is a legislative action that exempts development that is the conversion from nonresidential use to residential use in an existing structure from certain development standards and Mandatory Housing Affordability (MHA) requirements.

BACKGROUND

Proposal Description and Background

The Office of Planning and Community Development is proposing to make changes to regulations to facilitate the conversion of nonresidential uses to residential uses in existing buildings. The proposal would apply in any downtown or commercial zone, and in the Seattle (SM), Highrise (HR), and Midrise (MR) zones – which are the zones that most commonly include existing nonresidential structures and permit residential uses. The proposal legislation is intended to meet and exceed the requirements on cities to permit the conversion from nonresidential uses to residential uses in existing structures pursuant to the State Bill 1042 that was passed by the Washington State legislature during the 2023 legislative session. The proposed legislation includes the following components:

1. Adds a new Section 23.40.080 “Conversion to residential use in an existing structure” to Chapter 23.40 – the exceptions chapter of the code. The new section provides an exception for eligible conversion projects from most development standards in the land use code.

2. Provides an exemption from the Mandatory Housing Affordability (MHA) residential requirements for eligible conversions from nonresidential to residential use.
3. Clarifies that design review is not required for eligible conversions.

Public Comment

Proposed changes to the Land Use Code require City Council approval. Opportunity for public comment will occur during future Council hearings in the first quarter of 2024. During the first half of 2023 Mayor Harrell convened downtown area stakeholders in a series of meetings and consultations related to formulation of a Downtown Activation Plan.

ANALYSIS - OVERVIEW

The following describes the analysis conducted to determine if the proposal is likely to result in *probable significant adverse environmental impacts*. This threshold determination is based on:

- * the copy of the proposed Ordinance;
- * the information contained in the *SEPA checklist* (dated January, 2024);
- * information in relevant policy and regulatory documents including the Comprehensive Plan, the City's SMC Title 25 and Title 23, and
- * Washington State House Bill 1042 and associated documents.
- * the information contained in the Director's Report; and
- * the experience of OPCD analysts in reviewing similar documents and actions.

ELEMENTS OF THE ENVIRONMENT

Short -Term Impacts

As a non-project action, the proposal will not have any short-term adverse impact on the environment. No project specific action is proposed.

Long-Term Impacts

As a non-project action, the proposal is anticipated to have minor long-term impacts on the environment. Future development affected by this legislation will be reviewed under existing laws. Although the legislation provides exceptions from certain development standards and other requirements, development would continue to be subject to a subset of the regulations and procedures of the current code, as discussed in the Land

Use, Historic Resources, and Public Utilities and Services passages of this determination below.

An important factor in the determination of environmental impact is the fact that the proposed legislation only concerns the conversion of existing structures from nonresidential to residential use. Other types of new development in Seattle are not affected by the proposed legislation. The types of developments that would be affected by this legislation are not major alterations of the built environment because they are limited to changes within existing built structures. The legislation also allows for development proposals with an existing unexpired Master Use Permit to access exemptions if they convert space from nonresidential to residential use, and in these cases the permitted development is considered the baseline condition.

The proposed legislation could incrementally increase the likelihood of existing buildings being converted from nonresidential uses such as offices or retail to housing, compared to under the existing regulations. In some instances a conversion could lead to a different pattern or intensity of activity within the existing structure under residential use compared to the prior nonresidential use, which could theoretically cause a minor impact. The potential for such minor impacts are discussed below in relevant topic areas.

The proposed legislation exempts conversions from nonresidential uses to residential uses from Mandatory Housing Affordability (MHA) requirements. The impacts of this component of the proposal are discussed in the housing section below.

The expected number of conversions is another factor in this determination. The City expects the number of conversions from nonresidential uses to residential uses to be small, due to the cost and complexity of converting existing structures to housing. This assessment is informed by the Call for Ideas process conducted during 2023, which invited building owners to submit their proposals for converting specific buildings. Thirteen submittals were received. Only a handful of those submittals and other proposals outside of the process are known by the City to be interested in converting to housing despite efforts by the City to encourage and solicit conversion proposals. This contextual information informs the City's understanding of the total pace and quantity of conversions that can reasonably be expected.

Natural Environment

The natural environment includes potential impacts to earth, air, water, plants/animals/fisheries, energy, natural resources, environmentally sensitive areas, noise, releases of toxic or hazardous materials. Adoption of the proposed legislation is not anticipated to result in adverse impacts on any of these elements of the natural environment, compared to development that might occur under existing regulations. The proposal could incrementally

increase the likelihood of existing buildings being converted from nonresidential uses such as offices or retail to housing, compared to under the existing regulations. However, it is not expected that such conversions would increase the profile of impacts to earth, air, water, plants/animals/fisheries, energy, natural resources, environmentally sensitive areas, noise, or releases of toxic or hazardous materials. It is more likely that this proposal would improve the natural environment because typically rehabilitation projects that convert existing structures include improvements to the energy performance and stormwater runoff aspects of buildings, or other upgrades that could reduce impacts on the natural environment. Conversions are most likely to occur in older structures that commonly predate current energy codes.

Built Environment

The proposed legislation will have minimal effects on the built environment because the scope of the legislation is limited to eligible conversions within existing structures. The impacts to the built environment include any impacts related to land and shoreline use, height/bulk/scale, housing, and historic preservation. The proposed legislation allows eligible conversions to include the addition of up to 15 feet of building height above the existing roof, and incidental modifications beyond the exterior walls only to the extent they are necessary to accommodate features necessary for residential use. Below is a discussion of the relationship between the proposal and built environment:

Land Use

The proposal would not encourage uses incompatible with the City's Comprehensive Plan or Shoreline Master Program or other adopted plans. The zones affected are the downtown and commercial zones, the Seattle Mixed (SM) zone, the Highrise (HR) zone and the Midrise (MR) zone. All of these zones are located in parts of the city that are planned for dense development with a mix of uses including residential uses. No uses that are not already allowed by zoning would be permitted by the proposed changes, because the legislation maintains the allowable uses provisions for nonresidential uses, and it maintains administrative conditional use provisions concerning nonresidential uses.

Housing

The proposed legislation could have an incremental and minor impact on housing if the legislation encourages the conversion of nonresidential uses to residential uses. This is considered by the City to be a positive impact on housing because increasing housing supply is a policy goal for the city. Additionally, the City understands that because of the nature of potentially affected projects as conversions, there would be a substitution effect of an existing nonresidential use with an associated impact on housing to a new

residential use. Since one use is being converted to another it is plausible that there would be little or no net increase in the degree of impact from development on housing.

The proposed legislation exempts conversions from nonresidential uses to residential uses from Mandatory Housing Affordability (MHA) requirements. Under existing regulations, any time new dwelling units or sleeping rooms are created, MHA requirements apply. The proposed change could theoretically have a minor negative impact on housing by reducing the amount of rent- and income-restricted housing or in-lieu payments towards affordable housing that would be included in conversions. Due to the small number of total conversions that are expected, the City does not consider this potential impact on housing to be more than minor. The potential for minor impact from forgone MHA housing or payments would be offset by the positive supply impacts discussed above, further contributing to an assessment of the impact as minor or less.

Height/Bulk/Scale, Shadows, and Views

Potential impacts on Height/Bulk/Scale, Shadows and Views would not be more than minor primarily because the proposed legislation only pertains to conversions of existing structures. There would be no substantial change to the built environment compared to the existing condition.

The proposed legislation allows eligible conversions to include the addition of up to 15 feet of building height above the existing roof, and incidental modifications beyond the exterior walls only to the extent they are necessary to accommodate features necessary for residential use. These small changes to existing structures would be permitted without design review (although it is most likely that design review also would not be required even in the absence of the proposed legislation). If the legislation incrementally encourages conversions to residential uses there could be an increase in the instances of minor exterior alterations of existing structures or addition of penthouses on top of existing structures. There theoretically could be minor impact if such incidental alterations increase the perception of bulk at the top of buildings, or incrementally increase shadows and views, or make minor aesthetic alteration to the exterior of the structure. Such impacts would not be more than minor however, because in the context of a changing and growing city such minor physical changes to an existing structure are commonplace and would in most cases hardly be perceptible to the average observer in nearby rights of way or on neighboring properties.

Historic Preservation

The proposed legislation does not alter historic review processes for structures in a Seattle historic district, or for any designated historic Landmark. The legislation clarifies that the relevant historic review processes would continue to apply. If the legislation incrementally encourages the conversion of existing structures to residential it is likely that some historic-aged structures and properties in a landmark district or historic landmark structures could be affected. However, since the existing procedures

concerning historic preservation are maintained any potential for impact would not be more than minor.

Noise, Light & Glare, Environmental Health

The proposed legislation does not alter the applicability of several standards concerning noise, light and glare and environmental health. In the proposed legislation conversions are not exempt from categories of development standards including noise standards, light and glare standards and the solid waste and recyclable material storage and access provisions of Section 23.54.040. The application of these standards combined with the fact that the legislation only concerns conversions of existing structures, and that the total number of conversions is expected to be small, allows for a determination that there would be no meaningful impact to noise, light and glare and environmental health due to the proposed legislation.

Transportation and Parking

The proposal is not anticipated to result in any direct adverse impacts on transportation or parking. The proposal exempts conversions of nonresidential uses to residential uses from parking regulations and potentially other standards concerning transportation improvements required of new development. In most instances residential uses in the affected areas have little or no parking required under existing regulations. The proposal could theoretically have a minor adverse impact on transportation or parking if the proposal incrementally increases the likelihood of conversions to residential, and if such conversions exert a different or higher pattern of transportation usage than the nonresidential uses that would be replaced. However, it is equally likely that conversions to residential uses in an existing building could reduce impacts on parking or the transportation system. For instance, a conversion from an office use to a residential use in a center city location would be more likely to have positive impacts on transportation because it would replace a trip demand pattern of employment uses during commute times with a more dispersed trip demand pattern of residents in a center city location. As a result of the factors described above and in other parts of this determination no adverse impact that is more than minor is anticipated from the proposed action on transportation and parking.

Public Services and Utilities

Adoption of the proposal will not directly result in an increased need for public services. The proposal could incrementally increase the intensity or density of residential uses in an area if the proposed legislation incrementally increases

the likelihood of conversions of existing buildings to housing. This could theoretically indirectly lead to an increased need for public services associated with residential use, such as an increased number of residents needing emergency services, or visiting nearby public facilities such as libraries and parks. However, a conversion is characterized by one use replacing another and therefore no substantial net increase in demand for services could be assumed or expected.

The affected area of the proposal in downtown, commercial, Seattle Mixed, Highrise and Midrise zones is well served by the full suite of utility services, including natural gas, electricity, broadband, stormwater and sewer. The degree of change compared to what might occur under existing regulations would not adversely impact the ability of existing utilities to serve anticipated development. Due to the factors discussed in this section and other information above, we determine that there would be no adverse impact that is more than minor as a result of the proposed legislation.

DECISION – SEPA

Adoption of the proposed ordinance would have no short-term impacts on the environment and would not have more than minor adverse long-term impacts on elements of the natural or built environment.

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 requirements of the State Environmental Policy Act (RCW 43.21C), including the requirement to inform the public agency decisions pursuant to SEPA.

- [X] Determination of Non-Significance. This proposal 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 proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(c).

RECOMMENDED CONDITONS--SEPA

None

Signature: __[On File]_____

Geoffrey Wentlandt, Land Use Policy Manager
Office of Planning and Community Development

Date: January 08, 2024