



**ANALYSIS AND DECISION OF THE DIRECTOR
OF THE DEPARTMENT OF CONSTRUCTION AND INSPECTIONS**

**SEPA Threshold Determination
for
Filling Vacant Downtown Storefronts legislation**

Project Proponent: City of Seattle

BACKGROUND AND PROPOSAL

Adoption of Council Bill 120121 as amended by the City Council was a non-project action that updated and amended various provisions of the Land Use Code. The land use legislation, subsequently adopted in Ordinance 126421, added more flexibility for uses allowed to occupy storefronts in the Downtown and South Lake Union Urban Centers on certain streets where the allowed uses are currently limited. Due to the COVID 19 virus outbreak, this area has lost many businesses that relied on office workers, tourists, and convention participants. The result is many vacant storefronts, substantially reduced activity on Downtown area sidewalks, and a general loss in vitality.

The Land Use Code amendments temporarily expand the types of uses that can locate in Downtown and South Lake Union building storefronts to help fill vacancies and promote active streets. While in place, a property or business owner can apply for a permit to establish a type of use that is not normally allowed. The action included the following:

1. **New types of uses at the street level.** Currently, only the most “active” types of uses (e.g., retail and bars/restaurants) and a few types of cultural and community facilities (e.g., libraries and childcare) are allowed at street level Downtown. The action allows more types of uses, including art installations, co-working spaces, community centers, medical offices, and light manufacturing uses among others. The list of uses is drawn largely from what is allowed in pedestrian-oriented neighborhood business districts elsewhere in the city. While the uses may be slightly less active than the uses currently allowed Downtown, they provide more options to fill empty spaces. To help these new uses be visually interesting, the City also requires the tenant’s most visual activities occur in the storefront.
2. **Temporary flexibility to support recovery.** The ordinance is in place for 12 months, the maximum amount of time allowed under state law for temporary/interim land use regulations that are proposed with a work plan. Environmental review of the legislation to fulfill SEPA requirements, in this case, is occurring post-adoption. The ordinance also includes a schedule for the preparation of permanent land use regulations.
3. **Duration of permit.** The action treats these permits like any other and allows the use to remain after the temporary rules expire. The permitted uses will become non-conforming, meaning they could stay in perpetuity but not expand at street-level. This allows a tenant to recuperate over time the costs of obtaining permits and making improvements.

4. **Where the temporary flexibility would apply.** The action applies to areas Downtown and in South Lake Union with street-level use restrictions, including the Retail Core (between Virginia and University Streets) and in Belltown (along 1st/2nd/3rd Avenues). There would be a customized approach for the Special Review District in Pioneer Square to balance preservation, opportunities for recovery in the short term, and lasting economic health:
 - **Pioneer Square.** The action expands the types of uses allowed as a Special Review, once approved by the DON Director or the Pioneer Square Preservation District (PSPD) Board on a case-by-case basis, including office use subject to size limits. It also clarifies which types of spaces located slightly above or below street-grade may be considered "street-level."
 - **Chinatown/International District (CID).** No changes are proposed in the CID. The International Special Review District (ISRSD) Board already has broad discretion to review proposed uses on a case-by-case basis.

Public Comment

The changes to the Land Use Code required City Council approval. Opportunity for public comment occurred during Council meetings and hearings. The ordinance and this environmental review and SEPA Determination will be available online for public comments.

ANALYSIS – OVERVIEW

Environmental review resulting in a Threshold Determination is required pursuant to the State Environmental Policy Act (SEPA), WAC 197-11, and the Seattle SEPA Ordinance (Seattle Municipal Code (SMC) Chapter 25.05).

The following report describes the analysis conducted to determine that the non-project action is not likely to result in *probable significant adverse environmental impacts*. This threshold determination is based on:

- the language of the proposed amendments and related contents as described above;
- the information contained in the *SEPA checklist* (dated September 13, 2021), including annotations made by SDCI staff;
- review of materials prepared as background information about the code amendments, prepared by City staff; and
- the experience of the SDCI analyst in reviewing similar documents and actions.

ELEMENTS OF THE ENVIRONMENT

Short-Term and Long-Term Impacts

A. Natural Environment

Earth, Water, Water Quality, Plants/Animals/Fisheries/Marine Life

The action is not expected to generate significant adverse impacts for these natural environmental elements, at a non-project level or in its potential for cumulative impacts related to future development influenced by the action.

Seattle is mostly urbanized in its development patterns, but it also has retained greenbelts, hillsides, stream, river, bay, and lake environments with diverse kinds of plant, animal, fish and marine habitats. This includes many shoreline edges hosting birds, fish, and other marine life.

- Wildlife on land largely includes those species habituated to urban areas and fragmented vegetated areas in the city, with common types including squirrels, opossum, coyotes, and a variety of bird species including eagles. Threatened, protected, or endangered species that could be present near future development include heron, and salmon in locations downstream via natural drainages.
- Seattle has numerous soil types, including mineral soils dominated by clay, silt, or sand, as well as organic soils such as peats and mucks. No agricultural soils or prime farmland are located within the Seattle corporate limits. As a densely urbanized area, much of Seattle's native soils have been extensively altered by filling, grading, and other activity.
- The Seattle area is known to be in an active seismic area, as is the entire Puget Sound region. The City's geologically hazardous areas are defined by SDCI as environmentally critical areas (ECAs). Unstable soils and surfaces occur primarily in two contexts: 1) steep slopes and landslide-prone areas, where a combination of shallow groundwater and glacial sediments deposited in layers with variable permeability increases the risk of landslides; and 2) areas of fill or alluvial soils where loose, less cohesive soil materials below the water table with potential for liquefaction during earthquakes.
- Most of Seattle is located within the Lake Washington/Cedar/Sammamish Watershed (Watershed Resource Inventory Area [WRIA] 8). The Duwamish Waterway and Elliott Bay are part of the Green/Duwamish and Central Puget Sound Watershed (WRIA 9). Seattle's surface waters include marine areas (Puget Sound), rivers, lakes, and creeks. Rivers and creeks include but are not limited to the Duwamish waterway, Longfellow, Fauntleroy, Taylors, Thornton, and Pipers Creek. Freshwater lakes include the Lake Union/Ship Canal, Green, Haller, and Bitter Lakes and numerous ponds and wetlands.

This non-project action will result in no direct adverse or significant adverse impacts to earth, water, plants, animals, fish, or marine life environmental elements because it does not directly propose development of new buildings. Similarly, this analysis identifies no adverse or significant adverse indirect or cumulative environmental impacts of this kind. This is due to a lack of a probable trigger by which such impacts would occur. All or nearly all new activities generated by the action will consist of tenant improvements within existing buildings along certain streets of Downtown and South Lake Union Urban Centers. In these neighborhoods, almost all outdoor areas are paved or in hardscapes with limited presence of tended landscaping and a few manmade or previously altered sloped areas intermittently located. As such, the action's influence on future uses will not likely lead to disturbance of outdoor areas, nor disturbances of environmentally critical areas, nor increases in development-related runoff or erosion, nor adverse changes in wildlife habitat or fisheries habitat. Therefore, degradation of these elements of the environment are not likely to occur.

Air Quality, Noise, Energy, Natural Resources Depletion, Environmental Health

This non-project action will result in no direct adverse or significant adverse impacts to these environmental elements because it does not directly propose development. Similarly, this

analysis identifies no adverse or significant adverse indirect or cumulative environmental impacts of these kinds.

Air Quality, Toxic/Hazardous Substances, Noise

The action will not directly, indirectly, or cumulatively lead to significant increases in discharges or emissions of toxic or hazardous substances, to the air or natural environment, or significantly increase the production of noise. Rather, it provides more flexibility in code requirements to incentivize the increased or renewed presence of more ground floor uses within existing buildings in Downtown and South Lake Union. The different kinds of allowed ground floor uses, such as light manufacturing uses, conceivably could include those that would generate exhaust emissions to the air, or odors, or generate noise perceivable from outdoors, or use toxic or hazardous substances in on-site activities. In a worst-case, such emissions might be detectible enough to generate annoyances and related complaints from the public. If this occurred, those uses would be subject to enforcement of City codes that address nuisance complaints and require compliance to abate nuisances. Most probably, any new use that would occupy a Downtown or South Lake Union storefront as a result of this proposal would generate no unusual side effects upon air and noise conditions but would instead conduct their activities normally like other existing and permissible street-level land uses. This will include following established rules with respect to venting of exhaust, controlling noise from their activities, and properly storing any toxic substances they would use, if that is relevant to a use at all. Therefore, such impacts are not probable as a result of this non-project action and not likely to be significant adverse impacts.

Energy and Natural Resource Depletion

The non-project action will not likely generate significant direct, indirect, or cumulative adverse impacts of energy consumption or natural resource depletion. New uses encouraged by the action will tend to occupy existing building spaces where energy systems and other utilities are already present and have been predominantly in use except over the last year or two. This means the action will not necessarily lead to greater or lesser energy efficiency in the built environment, or more or less depletion of natural resources than might otherwise occur in the already-built structures. Future occupation of street-level storefronts with new uses will be similar in size with or without the action. Energy expended to remodel spaces within existing buildings will be relatively similar on a site-by-site and cumulative basis with or without the action. Therefore, significant adverse differences in citywide total energy consumption over the long-term are not projected to occur. Seattle's energy codes, which are becoming progressively more energy-efficient, could also apply.

B. Built Environment

Land and Shoreline Use, Height/Bulk/Scale, Housing, Relationship to Plans and Policies

The details of this non-project action are not likely to generate significant adverse impacts on land use and shoreline use patterns, directly, indirectly, or cumulatively. This action is not likely to negatively affect the arrangement and combinations of land uses on the ground that could occur within Downtown or South Lake Union. Rather, overall land use patterns are primarily affected by the existing zoning patterns across the city, and associated factors such as density limits. Therefore, this analysis identifies no probable impacts of incompatibility with land use plans. The additional street-level uses are currently allowed in zoning that applies to both Downtown and South Lake Union in

upper floors and other areas where the more limited use allowances currently apply. The action does not apply within the shoreline area.

The action will not lead to added height/bulk/scale of buildings or related kinds of aesthetic visual impacts, as the action only applies to existing or permitted buildings. Also, no views will be impacted by the action, whether protected designated public viewpoints or otherwise. If visual changes occur, they would consist of tenant improvements that may be visible from the sidewalks within the vicinity of the street-level use.

The action varies from existing zoning allowances to some degree, by allowing less-active uses along designated pedestrian streets. However the ability to site a use newly allowed by the proposal is temporary for one year. This will help mitigate any shades of difference in use-related impacts, which are not anticipated to be significant as the possible uses are otherwise already allowed in these zones and are also allowed for the most part in neighborhood business districts around the city, where they are believed by the City's land use planning staff to be sufficiently active in nature to support a vital street-level urban land use pattern.

Housing

The non-project action will not directly impact existing housing, as it addresses spaces in buildings at ground floor, where residential uses in the affected urban centers tend to be not present. It will, similarly, not be likely to induce displacement of housing or demolition of buildings containing housing in the Downtown and South Lake Union neighborhoods. This determination therefore identifies no probable significant adverse housing impacts.

Relationship to Plans and Policies

The non-project action supports interim land use flexibility measures to help restore healthier activity levels in Downtown and South Lake Union neighborhoods that will contribute to restoration of economic vibrancy, greater public safety, and other aesthetic and social benefits. These are objectives aligning with Comprehensive Plan goals and principles relevant to the core Downtown and South Lake Union Urban Centers, such as:

Goal GS G1 *Keep Seattle as a city of unique, vibrant, and livable urban neighborhoods, with concentrations of development where all residents can have access to employment, transit, and retail services that can meet their daily needs.*

Goal LU G9 *Create and maintain successful commercial/mixed-use areas that provide focus for the surrounding neighborhood and that encourage new businesses, provide stability and expansion opportunities for existing businesses, and promote neighborhood vitality, while also accommodating residential development in livable environments.*

Goal LU G11 (Downtown Areas) *Promote Downtown Seattle as an urban center with the densest mix of residential and commercial development in the region, with a vital and attractive environment that supports employment and residential activities and is inviting to visitors.*

Downtown Neighborhood Plan – Commercial Core, Goal COM-G1 *Maintain the Commercial Core as a major employment center, tourist and convention attraction, shopping magnet, residential neighborhood, and regional hub of cultural and entertainment activities.*

Historic Preservation and Cultural Preservation

Seattle contains a number of landmarks, properties, and districts that are listed on, or proposed for, national, state, and local preservation registers. In addition, while Seattle today comprises a highly urbanized and developed area, it is also an area with potential for the presence of cultural artifacts from indigenous peoples.

The non-project action is not likely to affect whether historic sites or structures might be redeveloped. Existing historic sites or structures are effectively protected by current regulations and so they may only be demolished in rare circumstances that occur with consent of the City. The action analyzed in this environmental checklist does not contain provisions that would increase the possibility of future development of new buildings, but rather the renewed occupation of existing storefront spaces in existing buildings. Thus, there is no net difference in the potential for adverse historic site or cultural resource impacts with or without the action.

Most cultural sites and resources at risk from future development in Seattle are in unknown locations due to their being buried under soils, although certain vicinities such as near-shore areas are known to have greater potential for presence of such resources given past activities of indigenous peoples. The action does not include provisions that alter the likelihood of future development occurring in any given location or type of vicinity such as near-shore areas. And the action does not include provisions that would be likely to increase total site clearing and grading of future development.

Also, implementation of the action will not affect the strength of the City's regulatory protection of cultural sites or resources if they are discovered during future development, which is addressed by other State and local regulations, policies, and practices. With or without the action, such processes are mandated to stop construction, assess the resources, and take appropriate next steps for the cultural resources' protection or preservation.

Transportation, Parking, Public Services and Utilities

The non-project action is not likely to generate significant direct, indirect, or cumulative adverse impacts on transportation, parking, public services, or utilities.

Transportation and Parking

In promoting renewed presence of active and open street-level uses, the action will generate a probable increase in total person trips and vehicle trips to Downtown and South Lake Union neighborhoods. This will represent a gradual, proportional renewal of activity levels and traffic that previously existed in these neighborhoods prior to the pandemic situation. Given that person-trip and vehicle-trip volumes dropped substantially during the pandemic and have only partially returned to prior volume levels, the effects of the action are not likely to lead to excessive or significantly adverse new levels of congestion in affected streets and transit systems in these neighborhoods. Also, many potential customers of the new street-level spaces will come from returning employees in these neighborhoods of which a substantial portion travel by transit and other non-single-occupant vehicle transport modes, which will temper net increases in vehicle traffic congestion impacts. Therefore, the difference in automobile traffic and impacts to the street system attributable to the non-project action are likely to be negligible-to-minor in

magnitude. This analysis therefore identifies no probable significant adverse transportation impacts.

For automobile parking, the action will similarly result in a gradual restoration of prior parking demand levels in these neighborhoods toward their prior levels before the pandemic. And, as mentioned above, a substantial number of customers to these spaces will come from employees returning to these neighborhoods, a substantial portion of whom will travel by non-single-occupant-vehicle transport modes. Therefore, the probable effects of the action will not be likely to generate significant adverse new impacts of parking demand on these neighborhoods.

Public Services

This non-project action will not result in direct impacts relating to public services because it will not result in future development of new buildings at any particular location. Rather, tenant improvements within existing buildings will be the most likely indirect land use activity.

The action may slightly increase total demand and calls for service for police protection and fire/emergency services. However, it should also be noted that the currently vacant spaces in existing buildings were previously occupied and previously generated levels of public service demand. Due to the limited amount of the possible added demand that might be generated by newly reoccupied street-level spaces, and the limited extent of potentially affected properties and spaces in Downtown and South Lake Union neighborhoods, no significant adverse impacts to these public services are probable. It should also be noted that, in their existing closed condition, the existing unused street-level spaces may also generate police and emergency/fire calls to deal with break-ins or other risks of unattended spaces. This means there is a lesser net difference of the action in added call volume potential when compared to the existing situation.

Also, the action may generate slight increases in demand for parks and recreation facilities, transit service, health care, school services and other similar public services. But these would likely have a negligible potential to generate adverse environmental impacts upon these public services, due to the limited magnitude of net change in demand the temporary land uses could generate.

