



City of Seattle

Department of Planning and Development
D. M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR
OF THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Project Proposal: The adoption of an ordinance amending City development regulations relating to the regulation of Essential Public Facilities.

Project Sponsor: City of Seattle Department of Planning and Development

Location of Proposal: The proposal is a non-project action, applicable City-wide.

SUMMARY OF PROPOSED ACTION

The proposal is a non-project action, applicable City-wide, which would update the City's existing regulations related to essential public facilities.

The following approval is required:

SEPA - Environmental Determination - Chapter 25.05, Seattle Municipal Code.

SEPA DETERMINATION Exempt DNS MDNS EIS

DNS with conditions

DNS involving non-exempt grading or demolition or involving another agency with jurisdiction.

BACKGROUND

Proposal Description

The proposed Code amendments will accomplish the following:

- Define the term “essential public facilities” to include all the uses identified in RCW 36.70A.200, as well as the uses currently included in the Land Use Code definition in Section 23.84A.010.
- In addition to sewage treatment plants, expand the list of essential public facilities to include “sewage or stormwater treatment, storage or pumping facilities.”

- Amend development regulations to expressly allow modification or waiver of “development regulations” that would preclude the siting of an essential public facility, as required by the Growth Management Act (GMA).
- Consolidate regulations pertaining to essential public facilities, including the process for modification or waiver of development regulations, in Chapter 23.80
- Provide cross-references to Chapter 23.80 in separate amendments to the Shoreline Code (Chapter 23.60), and to other Seattle Municipal Code sections outside of Title 23 that contain development regulations.
- Add a new section 23.80.006 to provide an application process for waiver or modification of development regulations applicable to an essential public facility, expressly allowing the waiver or modification to the extent necessary to site the facility, and authorizing the imposition of mitigation to avoid or modify any adverse effects that may result from the waiver or modification.
- Provide that if an applicant pursues waiver or modification of development regulations under Section 23.80.006, it is not necessary to seek relief from application of development regulations through any other process, such as a variance, exception, exemption, or similar procedure.

Public Comment

Proposed changes to the Land Use Code require City Council approval. Public comment will be taken on the proposed text changes during future Council hearings.

ANALYSIS – SEPA

This proposal is an adoption of legislation and is defined as a non-project action. The disclosure of the potential impacts from this proposal was made in an environmental checklist submitted by the proponent, dated August 11, 2011. The information in the checklist, a copy of the proposed text changes, the Director’s Report and Recommendation, and the experience of the lead agency with review of similar legislative actions form the basis for this analysis and decision.

This is a substantive change to the Land Use Code, to ensure that the regulations for siting essential public facilities do not preclude the siting of an essential public facility. This amendment may result in potential impacts and warrants further discussion.

ELEMENTS OF THE ENVIRONMENT

Adoption of the proposed Land Use Code amendments would result in no immediate adverse short-term impacts because the adoption would be a non-project action. The discussion below evaluates the potential long-term impacts that might conceivably result from differences in future development patterns due to the proposed amendments.

Natural Environment

Earth, Air, Water, Plants and Animals, Energy, Natural Resources, Environmentally Sensitive Areas, Noise, Releases of Toxic or Hazardous Materials

The proposed changes would result in no direct impacts, and are unlikely to result in significant indirect or cumulative adverse impacts related to earth, air, water, plants/animals, fisheries, energy, natural resources, sensitive areas, noise, or releases of toxic/hazardous substances. Because development regulations affecting the elements of the natural environment generally pertain to the construction and operation of facilities rather than the siting of facilities, it is unlikely that the potential waiver or modification of development regulations as required by the GMA would result in adverse impacts to these elements. Additionally, the ordinance authorizes conditioning to mitigate potential impacts that might result from the waiver or modification of a development regulation, were it required. At the non-project stage it is not possible to meaningfully assess the potential impacts from a waiver or modification of a development regulation in the absence of a known, proposed essential public facility. Development of specific projects on individual sites is subject to the City's existing regulations, such as the Stormwater, Grading and Drainage Ordinance, the Environmentally Critical Areas Ordinance, and Noise Ordinance, and will be subject to environmental review (if they meet or exceed thresholds for environmental review).

Built Environment

Land & Shoreline Use, Height/Bulk/Scale, Transportation, Public Services and Utilities

The proposal would amend the Land Use Code, to ensure that the regulations for siting essential public facilities do not preclude the siting of an essential public facility. If a development regulation precluded the siting of an essential public facility and therefore waiver or modification of the regulation is required by the GMA, the waiver or modification might affect elements of the built environment, depending upon the extent to which the potential effects of such waiver or modification are mitigated, as authorized by the ordinance. At the non-project stage it is not possible to meaningfully assess the potential impacts from a waiver or modification of a development regulation in the absence of a known, proposed essential public facility. Additionally, because the GMA and City Comprehensive Plan require the waiver or modification of development regulations that would preclude the siting of an essential public facility, and because the proposed ordinance implements that requirement, the proposed ordinance is compatible with the GMA and the Comprehensive Plan. Future projects developed pursuant to the provisions of the proposal will require permits, review and project approvals as provided for in the Seattle Municipal Code and will be subject to environmental review (if they meet or exceed thresholds for environmental review).

Conclusion

The proposed code amendments to ensure that the regulations for siting essential public facilities do not preclude the siting of an essential public facility are expected to have minimal impacts on both the natural and the built environment. The potential effects of waiver or modification of regulations are authorized to be mitigated under the ordinance. In addition, the existing regulatory framework, i.e., the Land Use Code, The Shoreline Master Program, Environmentally Critical Areas Ordinance, and the City's SEPA ordinance, will address impacts during review of development proposals on a project-specific basis.

DECISION - SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist, code amendment, 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 requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

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 CONDITIONS - SEPA

None.

Signature: (signature on file)
Benjamin S. Perkowski, Senior Land Use Planner
Department of Planning and Development

Date: August 18, 2011