



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

Project Name: Living Building Program code amendments

Applicant Name: City of Seattle - Department of Planning and Development

Address of Proposal: Industrial Commercial zones with height limits of 45 feet or less, and located in Urban Centers or Urban Villages

**SUMMARY OF PROPOSED ACTION**

The Department of Planning and Development is proposing to amend the Land Use Code to support design flexibility in developments participating in the Living Building Program pilot project. The amendments would accommodate building heights 20 feet above zoned height limits in certain Industrial Commercial zones with height limits of 45 feet or less and within Urban Villages or Urban Centers, when the building's designers are attempting to meet objectives of the Living Building Program. The amendments would also exempt ground floor retail space from being counted against density limits (e.g., floor area ratio [FAR] limits).

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 another agency with jurisdiction.

**Background**

The Living Building Challenge is a green building rating system created by the International Living Building Institute to measure buildings with high degrees of sustainable design. The Challenge measures buildings according to six performance areas relating to "Site, Energy, Materials, Water, Indoor Quality, and Beauty + Inspiration."

The principles for design promote use of recycled materials, rainwater and wastewater capture, treatment and reuse, innovative lighting, heating, ventilation and energy use, and avoidance of environmentally sensitive sites. In order to meet stringent performance standards, building designs seek to minimize impacts upon the environment and become as sustainable as possible through use of innovative techniques. These can result in buildings that look different and operate differently than typical buildings, and may involve elements and practices that vary from the norms assumed by the land use or building codes that apply to a given property.

In late 2009, the City enacted rules in Ordinance 123206 relating to a Living Building Pilot Program, which included provisions for design review of related proposals and a listing of the possible types of departures from code requirements that would be possible as part of design review. These included the possibility of departures from a set list of standards such as accessory uses, size-of-use limits, quantity of parking, and open space quantity.

The Pilot Program provides for up to 12 projects to participate over a 3-year period. To participate, project applicants must submit a plan demonstrating how their proposal would meet each of the prerequisites of the Living Building Challenge. Projects are admitted on a first-come, first-serve basis according to when a complete application is submitted. Since its inception in 2009, one project has participated and been completed.

### **The Proposal**

The Department of Planning and Development (DPD) is proposing to amend the Land Use Code to accommodate additional design flexibility in the pilot program and improve the ability of the program to allow builders to test Living Building construction.

The proposed amendments would add the following departures to the Design Review process for buildings participating in the Living Building Pilot Program:

- building height increases up to 20 feet above the zone height limit for Industrial Commercial (IC) zones with a zoned height limit of 45 feet or less that are within Urban Villages or Urban Centers;
- exempt ground floor retail space from Floor Area Ratio (FAR) limits for non-residential buildings in IC zones within Urban Villages or Urban Centers, to accommodate such uses without detracting from building design efficiency potential.

The proposal would affect areas zoned IC 45, the Industrial Commercial zone with a 45-foot height limit, which are present primarily in such areas as the Fremont/Lake Union vicinity near Stone Way N and N 34<sup>th</sup> Street, the Eastlake Ave. E vicinity near E Galer Street, and the N Northlake Way vicinity east of 2<sup>nd</sup> Avenue NE to the University Bridge vicinity.

### **Public Comment**

Proposed changes to the Land Use Code require City Council approval. Public comment will be taken on the proposed amendments at a future City Council Public Hearing.

## **ANALYSIS - SEPA**

This proposal is an adoption of legislation, which is defined as a non-project action. This action is not categorically exempt (SMC 25.05.800). A threshold determination is required for any proposal that meets the definition of “action” and is not categorically exempt.

The disclosure of the potential impacts from this proposal was made in an environmental checklist submitted by the applicant dated September 12, 2011. The information in the checklist, the Director’s Report and Recommendation, other information provided by the applicant, and the experience of the lead agency with review of similar regulations and proposals, form the basis for this analysis and decision.

## **ELEMENTS OF THE ENVIRONMENT**

Adoption of the recommended 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 adverse environmental impacts that might conceivably result from future development relevant to the proposal.

### **Natural Environment**

#### **Earth, Air, Water, Plants & Animals, Environmental Health**

No potentially significant adverse impacts to the natural environment are identified for this proposal. The relevant buildings affected by the proposal already would be seeking to minimize their environmental impact footprint, including avoiding impacts on sensitive areas and natural elements including drainage systems. Similarly, the intent to avoid impacts upon the atmosphere and natural systems that would include soils means the potential for adverse natural environmental impacts is minimal. Their location in the affected industrial-zoned, highly urban vicinities that would exclude shoreline areas means there is little or no direct or indirect potential for adverse effects on natural habitats for plants and animals including marine habitats. Similarly, there is little identified potential for cumulative significant adverse impacts given that the buildings enabled would be developed with probable minimized environmental impact potential, and no specific development proposals are known in the affected areas that would contribute to unusual or significant impacts in any particular location.

In reference to the proposal’s primary topics of increased flexibility for 20 feet additional height and the ability to exempt street-level uses from density limits, the potential for adverse natural environmental impacts due to these additional increments of development would be minimal because the physical effects would be experienced through taller buildings with assumed similar footprints. The added building height and bulk would be unlikely to cause any detrimental effect on the natural environment. This conclusion is reinforced in that there are no known specific high-quality animal or plant habitat characteristics in the affected area, e.g., added height of 20 feet would not be known to affect flyways for birds or similar sorts of potential wildlife impacts in any appreciable manner.

## **Built Environment**

### **Land Use, Height/Bulk/Scale, Aesthetics, Public View Protection, Shadows on Open Spaces, Noise, Light/Glare, Historic Preservation**

The functional effect of the proposal for 20 feet of additional building height would be to accommodate typical floor-to-floor heights that are approximately 1 to 3 feet taller than would otherwise occur, and street-level floors that could be 3 to 8 feet taller than other building stories, both of which would allow for designs believed to be more efficient for lighting purposes. In addition, an additional floor, for a total of 5 floors, may be accommodated under the proposed height rules. This difference of up to 20 feet of additional height, when providing for slightly different floor-to-floor heights, may only be slightly discernible to most viewers; or when an additional floor is accommodated, would be somewhat more noticeable.

This difference in height potential is interpreted as an adverse height/bulk/scale impact but not a significant adverse impact, due to the relatively infrequency of its potential use, and the relatively less sensitive areas in which it would apply (industrial zones in specifically known vicinities).

Another factor that reduces the net magnitude of perceived impacts due to height accommodations is the existing code's permission of rooftop features, already in the IC zone rules and/or design review departures. These rules generally afford up to at least 10 feet of flexibility for rooftop features. Thus, the comparative height differences between nearby buildings and those enabled by this proposal could in some cases appear to be less than 20 feet. Note that this comparison is between heights afforded by the proposed rules and the maximum height limit of other properties – it is acknowledged that building-to-building height comparisons with nearby existing buildings could and likely would be greater than 20 feet in height differences in some situations. However, even if such building-to-building comparisons were made, no significant height/bulk/scale impacts would be anticipated due to the industrial nature of those zones and the building height levels already accommodated by their existing zoning.

Also, it is noted that the current proposal might increase the likelihood that a participating building would be taller than the current zoned height limits, but possibly not all buildings participating in the Living Building Pilot Program would need additional height. Thus, the extent of the potential height-related impact could be infrequent and even less than the limited numbers of opportunities offered by the Pilot Program rules.

Despite the height-impact-mitigating aspects of the proposal discussed above, the proposal to increase the total possible height of living buildings would incrementally increase the potential for adverse visual/aesthetic impacts to occur with future developments related to the proposal. This might be experienced as additional increments of private view blockage and/or the incorporation of unconventional-appearing buildings into the built environment. These are interpreted as having adverse but not significant adverse impact potential because, in part, the potentially affected vicinity is not highly sensitive. There is no identified potential for significant adverse visual impacts upon defined public viewpoints, or impacts in terms of shadows on protected public open spaces.

The proposal would also assist in accommodating the presence of street-level uses such as restaurants or other retail establishments that might otherwise be excluded for building efficiency purposes. Such uses would tend to assist in helping a building fit into the affected surroundings and thus would be a factor that assists in improving compatibility and reducing potential aesthetic/visual and land use-related impacts. However, such uses might also generate slightly more potential for adverse daytime noise generation than a typical use that might otherwise occupy a “living building.” Such uses would be subject to the City’s noise rules, which would help avoid nighttime noisy conditions.

No significant adverse impacts are identified with respect to historic preservation. While the added height and density flexibility could induce additional participants in the Living Building Pilot Program, those elements in themselves would not increase risks to landmarks or potential landmark resources. In any case, rules pertaining to landmarks and potential landmarks would continue to apply in a manner that reasonably avoids potential for significant adverse impacts to such resources.

### **DECISION - SEPA**

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 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).

Signature: \_\_\_\_\_ (signature on file) Date: September 15, 2011  
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Department of Planning and Development