

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

Project Proposal: The adoption of an ordinance amending the Seattle Land Use Code

Project Proponent: Dennis Meier for the Department of Planning and Development

Location of Proposal: The proposal is a non-project action, generally applicable within the Downtown Seattle Urban Center; primarily the DMC 160 zone abutting Alaskan Way

SUMMARY OF PROPOSED ACTION

The proposal is to amend Sections 23.41.012, 23.49.008, 23.49.009, 23.49.011, 23.49.014, 23.49.015, 23.49.019, 23.49.046, 23.49.056, 23.49.058, and Downtown Maps 1A, 1F, 1G, and 1H and Map 1D for 23.66.170 of the current Seattle Land Use Code (SMC, Title 23) of the Seattle Municipal Code. These development regulations will promote development adjacent to the downtown waterfront that will support the City's vision for transforming the waterfront into a major public amenity and to clarify other provisions in these Sections of the Code.

The following approval is required:

SEPA - Environmental Conditions - 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 Department of Planning and Development (DPD) is proposing to amend portions of the City's Land Use Code (SMC, Title 23) to encourage development adjacent to the waterfront that will support the City's vision for transforming that area into a major public amenity and to clarify other provisions in these Sections of the Code. More specifically, the proposal amends development standards applicable generally, though not exclusively, in the DMC 160 zone and also amends 23.42.012, which applies to departures from development standards in downtown and other zones. Attachment A summarizes the proposed amendments to the Land Use Code by section.

Public Comments

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

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 April 26, 2013. 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.

The proposed amendment to the Land Use Code would modify numerous provisions (see Attachment A) of downtown zones. Limited changes are also proposed in some sections to clarify existing provisions.

ELEMENTS OF THE ENVIRONMENT

Adoption of the proposed 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 could affect elements of the environment by a greater intensity or faster rate of development than if the proposal were not implemented.

Natural Environment

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

The proposed amendments would not result in any direct impacts. Any difference in development patterns is 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.

Future developments that might be allowed by this legislation would be evaluated as required by law for their environmental impacts. This evaluation would take place at the project level. The project evaluation would identify any relevant mitigation. As part of the evaluation, the City's regulations would be applied, including the Stormwater, Grading and Drainage Ordinance, the Shoreline Master Program and Shoreline regulations, the Environmentally Critical Areas Ordinance, and other City ordinances such as those governing noise and odor.

The proposed amendments are not anticipated to significantly increase the intensity or density of development likely to be achieved on downtown sites compared to what is possible under current regulations. Absent any significant increase in intensity or density of development, impacts on the natural environment are only speculative. The most marked change in the proposal is to DMC 160 regulations that modify how Floor Area Ratio (FAR) is calculated. The proposal increases the FAR allowance for hotels, reduces the maximum FAR for other commercial uses and exempts several floor areas typically associated with hotels. If these aspects of the proposal

were adopted, then a hotel could be a more attractive development in the DMC 160 zone compared to other non-residential uses such as office. Hotels are already an allowed use in the zone. However, even if a hotel were to be built at the increased FAR, such a development along the waterfront is not likely to change the overall mix or intensity of development in that zone or in downtown zones generally when compared to the development allowed under existing regulations. Adopting the amendment may quicken the pace of hotel development, but with the limited number of lots available for redevelopment in the DMC 160 zone, the overall rate of hotel development should not be increased significantly.

A further ameliorating factor is that other types of development -- residential development, for example -- have been favored by the market in recent years in this zone. Because residential development is not subject to a FAR limit and thus not affected by the proposal, that type of development could still be preferred over any commercial development including hotels, even if this proposal is adopted.

Finally, even if hotels become a more likely commercial use in the small geographical area zoned DMC 160 (less than 10 city blocks and about 11 acres), this would not change the overall mix of commercial uses in downtown zones. Downtown is a favored zone for office uses, for example, and offices are likely to locate in downtown whether or not the amendment is adopted. Because adoption of the proposal is not likely to significantly change the intensity or rate of development, neither is it likely to have any significant impact on the natural environment, either through construction-related impacts or longer-term operational impacts.

Built Environment

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

The proposal is intended to encourage the development of certain uses in the DMC 160 zone and to clarify existing provisions in other downtown zones. The increased likelihood of a specific use is no guarantee that any such use will be developed. Other commercial projects or residential projects may also be developed if the amendment is adopted. The proposal may change the relative regulatory emphasis within a list of allowed uses in downtown zones. However, that shift in emphasis is unlikely to result in a different intensity or rate of development, given the limited number of lots available for redevelopment, the recent primacy given to residential uses, and the general attractions of downtown zones for other commercial uses, such as office. Thus, no significant indirect or cumulative adverse impacts are anticipated on land or , shoreline use, height/bulk/scale, transportation, public services or utilities. Moreover, any increase in the intensity of use or the mix of uses in the built environment would be consistent with adopted plans and policies, as discussed below.

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 as required.

Other aspects of the proposal relating to the built environment clarify existing code language that applies to several downtown zones. A few provisions clarify Code sections adopted in recent years to better achieve the original intent of those amendments.

Land Use Compatibility and Relationship to Plans and Policies:

The proposed amendments to regulations (and accompanying Downtown Maps) are intended to promote the City's vision for the waterfront as an active public place. Examples include encouraging hotel use in the DMC 160 zone and tailoring street-level development standards for waterfront streets. Encouraging such uses and applying complementary development standards will promote an active, vibrant mix of uses and urban environment. This is completely consistent with the intended purpose of the DMC 160 zone, as established in adopted City plans and policies, including the Comprehensive Plan and the Downtown Neighborhood Plan (part of the Neighborhood Planning Element of the Comprehensive Plan (DT-LUP4).)

Future development under these provisions would be subject to project-level evaluation including SEPA review, to the extent required. This evaluation will address any potential adverse impacts of future development with appropriate project-specific mitigation measures. Therefore, no mitigation of this proposal pursuant to SEPA policies is warranted.

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 2c.

[] 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 2c.

DECISION - SEPA

The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030 (2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

RECOMMENDED CONDITIONS – SEPA

None.

Signature: _____ Date: _____

Kristian Kofoed, Senior Urban Planner
Department of Planning and Development

Attachment A:

Ordinance and Code Sections	Description of the proposed change
Chapter 23.41 EARLY PROJECT IMPLEMENTATION	
Ord. Sec. 1 Code Sec. 23.41.012.D	<p>Under the current Code, projects that participate in the Living Building or Deep Green pilot programs can request a departure from various Land Use Code requirements through the design review program. DPD’s proposal would remove four different types of departures from the list of allowed departures. The effect of this change would be that applicants can not modify these standards through design review.</p> <p>The four departures that would no longer be allowed are:</p> <ol style="list-style-type: none"> 1) downtown view corridor requirements, such as upper-level setbacks. 2) FAR limits on either (a) lots within Downtown zones, if those lots are regulated by floor area incentive provisions or (b) lots zoned NC3P within the Pike/Pine Conservation Overlay District 3) Structure height on lots within the Pike/Pine Conservation Overlay District, and 4) location and access to parking in downtown zones.
Chapter 23.49 DOWNTOWN ZONING	
Ord. Sec. 2 Code Sec. 23.49.008 Structure height	This change would allow an additional 5 feet of height above the current 160 foot height limit in the DMC 160 zone if a minimum floor-to-floor height of 18 feet is provided for street-level uses.
Ord. Sec. 3 Code Sec. 23.49.009 Street-level use req’ts	<p>This change would eliminate certain uses that qualify as street-level use requirements, including animal shelters, kennels, and sales and/service for automobiles or marinas. Other uses, such as arts and religious facilities, colleges, and building lobbies would now qualify as street-level uses. Building lobbies would be added as a qualifying use to address constraints on small lots with street-level uses required on multiple frontages.</p> <p>In addition, this section is amended so that the frontage required to be occupied by street-level uses is reduced to 50 percent, while the remaining 50</p>

	<p>percent may contain other permitted uses and/or pedestrian or vehicular entrances. This greater flexibility would only apply if the street frontage is 120 feet in length or less. In addition, one of the following conditions has to be present: either the lot has no alley access, or the lot abuts more than one street requiring street-level uses.</p> <p>For required street level uses in DMC 160, an amendment is proposed that is a cross-reference to an amendment proposed for 23.49.056. This is essentially to ensure consistency in Code interpretation between the two sections. If a project takes the option for a greater setback of the street façade from the lot line that the amendment to 23.49.056 allows – up to 16 feet – then the setback allowed for required street level uses can be more than the typical 10 feet, e.g., the setback of those uses can match the choice of setback distance allowed by 23.49.056.</p>
<p>Ord. Sec. 4 Code Sec 23.49.011, FAR</p>	<p>In the DMC 160 zone, 23.49.011.A would specify new maximum FAR limit for different uses. The existing base (or minimum) of 5 FAR for non-residential uses would be retained. The maximum FAR (that is, the amount that could be gained through incentives) for all non-residential uses, except hotels, would be decreased from 7 to 5. The effect of this change is that only hotels could gain FAR above the base FAR. The maximum FAR that hotels could gain would be increased from 7 to 8.</p> <p>Another FAR-related change in DMC 160 is amending 23.49.011.B to include additional exemptions from the calculation of FAR. The new exemptions are:</p> <ol style="list-style-type: none"> 1) floor area within a partially above-grade story on lots abutting Alaskan Way, 2) parking accessory to hotel use meeting certain standards, and 3) hotel-related floor area that blocks the sight of parking from the street. This FAR exemption only applies to hotel floor area on stories above ground level. <p>A separate proposal in the same Code section would apply throughout downtown. This proposal would exempt from FAR calculations the floor area of a</p>

	<p>City of Seattle facility, except office uses within that floor area, up to a maximum of 50,000 square feet.</p> <p>Another proposal that applies throughout downtown is to amend 23.49.011 (C) so that rooftop mechanical equipment is not included in FAR calculations.</p>
<p>Ord. Sec 5 Code Sec. 23.49.014 TDR</p>	<p>An amendment applying specifically to the DMC 160 zone would prohibit the within-block TDR. The required conditions for this kind of transfer do not exist for any lot zoned DMC 160.</p>
<p>Ord. Sec. 6 Code Sec. 23.49.015 Bonus residential floor area in DOC1, DOC2 and all DMC zones</p>	<p>This amendment to 23.49.015 only corrects citations to other sections amended by this ordinance. It has no additional substantive effect.</p>
<p>Ord. Sec. 7 Code Sec. 23.49.019 Parking quantity, curb cut location and access requirements, and screening and landscaping of parking areas</p>	<p>This amendment only applies to the DMC 160 zone. Section 23.49.019.B.2 regulates the location and screening of parking. Generally, parking should either be provided below-grade, or above the street-level if it is separated from the view of pedestrians by other uses to address impacts on the street environment. Current Code allows for some flexibility in the standards for smaller lots. However, even for these smaller lots, there are limits on the number of stories of parking that can be provided above-grade. The Director of DPD has discretion under the current Code to modify these requirements, but only if the lot on which the development is proposed is either 30,000 square feet <u>or</u> less in area <u>OR</u> less than 150 feet in depth.</p> <p>This amendment responds to the unique conditions along Alaskan Way, where there are key blocks for redevelopment zoned DMC 160 that are exactly 150 feet in depth <u>and</u> greater than 30,000 square feet in area. The Director has no discretion to modify the separation standards for lots with these dimensions. Additional Director discretion would help in encouraging appropriate development and recognizing the unique conditions of these key lots. Because of the area's high water table conditions, parking for development on these lots will likely need to be above grade. Thus DPD is proposing a</p>

	<p>change to the dimensional requirements to include blocks that are <u>exactly</u> 150 feet in depth (or less), not only blocks that are <u>less</u> than 150 feet in depth.</p> <p>The proposal makes changes to several other standards in this section. These changes would only apply to certain lots within the DMC 160 zone. In the rest of downtown, the use that “separates” parking from the street has to occupy at least 30 percent of the street frontage for stories above the third story. In the DMC 160 zone, for lots that abut Alaskan Way, the “separating” uses would be required under the proposal for the entire length of the façade facing Alaskan Way. In addition, these separating uses are defined more specifically. The uses on these lots must be residential, lodging, office, retail sales, entertainment, or a restaurant or bar.</p> <p>For other street frontages in the DMC 160 zone (not facing Alaskan Way, that is), the proposal maintains the existing minimum requirement that 30 percent of each street frontage be occupied by a “separating” use. However, instead of only applying above the third story, the separation would be required for <u>all</u> stories above the first story. In addition, for the shallow blocks along Western Avenue, the Code would allow more flexibility by reducing the number of street frontages requiring separating uses.</p> <p>A further amendment in this section, applicable only to DMC 160 lots, is the nature of the screening that is provided -- where separation by another use is <u>not</u> required. In the rest of downtown, the required screening can be an opaque wall at least 3.5 feet high. In the DMC 160 zone, screening would need to be provided by the façade of the building. This more extensive screening would better integrate the parking levels into the design of the structure, blocking the glare of automobile lights that could affect the pedestrian’s view of the building.</p> <p>Finally, additional considerations are proposed to guide Director decisions for locating curb cuts that</p>
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	<p>allow vehicular access to a lot. Generally, in downtown zones, the Directors of DPD and SDOT can allow curb cuts based on a hierarchy of streets with curb-cuts generally discouraged for streets with an intense pedestrian character. the . Current Code also allows the Directors of DPD and SDOT to grant a curb cut that would not follow this hierarchy if factors such as safety and traffic queuing are of sufficient weight. The proposal would add to that list of factors whether the location of the curb cut would improve the safety of hotel guests loading or would increase the visibility of vehicular access for hotel guests.</p>
<p>Ord. Sec. 8 Code Sec. 23.49.046 DOC 1, DOC 2, and DMC conditional uses</p>	<p>Principal use parking garages are only allowed as “administrative conditional uses” in downtown – since these uses can sometimes deaden an otherwise lively street. The Director of DPD has the discretion to conditionally grant these uses based on factors such as pedestrian circulation and transit access. For developments in DMC 160, a new factor is added for the Director’s discretionary consideration: whether the visual impacts of parking are adequately addressed through screening or separation by other uses.</p>
<p>Ord. Sec. 9 Code Sec. 23.49.056 DOC 1, DOC 2, DMC street facade, landscaping and street setback requirements</p>	<p>SMC 23.49.056 addresses multiple standards that help shape how a building relates to the street and to the people on the street. These standards include minimum facade heights, facade transparency, blank facade limits, street trees and maximum limits on setbacks.</p> <p>A “limit on setbacks” means that buildings on some downtown streets are required to have their front façade within a certain distance from the lot line. If the façade is set back too far, the vacant space next to the street may suffer from a lack of activity.</p> <p>SMC 23.49.056 provides for different maximum setbacks of street facades based on the pedestrian classification of the street. downtown areas with well established street facades are generally required to provide property line facades. These only allow very limited setbacks from the street. Given the established development pattern, the</p>

	<p>amendments propose to include Alaskan Way and Western Avenue within the DMC 160 zone as streets that require property line facades (see Map 1H).</p> <p>The amendment proposed to 23.49.056 creates an exception to the standards for property line setbacks to address a unique condition for the buildings along Alaskan Way in the DMC zone. Alaskan Way was originally called “Railroad Avenue” because the main railway lines ran along the waterfront, with sidings provided to serve the loading docks of warehouses along Alaskan Way. These railroad sidings were eventually abandoned, and, as the railroad right-of-way was vacated, it became part of the property owned along with the adjacent buildings and loading docks.</p> <p>This is the current condition along Alaskan Way that the urban design vision for the waterfront has taken into account. Like some other Northwest cities -- Portland and Vancouver, B.C. -- the historic urban fabric that included loading dock space can be re-purposed to accomplish the urban design vision. The property line façade standards would be modified for lots along Alaskan Way in the DMC 160 zone to allow the street façade of a new structure to set back as much as 16 feet from the Alaskan Way street lot line, to match the setbacks of existing structures. The project must provide specific uses to gain this extra setback area. Examples are outdoor uses – such as street cafés that extend a restaurant in the abutting building – or a widened sidewalk in front of the building, or landscaped open space, or a partially above-grade story with a raised platform, similar to the historic loading docks, that accommodates outdoor uses on the raised setback area.</p> <p>A complementary amendment to 23.49.009 allows the setback of required street level uses from the street façade to match the depth of the setback allowed by this proposed exception. Thus, if (under 23.49.056) a 16 foot setback is chosen by the developer), then 23.49.009 allows a matching setback is allowed for the required street level uses</p>
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	<p>Without this complementary amendment, the two sections could conflict if the developer chooses a 16 foot setback under 23.49.056 but is limited to a 10 foot setback under 23.49.009.</p>
<p>Ord. Sec. 10 Code Sec. 23.49.058 DOC 1, DOC 2, and DMC upper- level development standards</p>	<p>23.49.058.B: amended to require modulation in a DMC 160 zone for facades above 60 feet in height, instead of the current 85 feet, and to reduce the length of unmodulated facades from 155 feet to 125 feet.</p> <p>23.49.058.C: amended to include a maximum width provision for upper-level facades in the DMC 160 zone.</p> <p>23.49.058 E: amended to clarify conditions in DMC zones where tower spacing is not required.</p> <p>23.49.058 F: amended to remove requirements for green street setbacks in DMC zones along streets designated as view corridors with view corridor setback requirements.</p>
<p>Ord. Sec .11 Code Sec. Downtown Maps</p>	<p>Map 1A: amended to show the correct eastern boundary of the DMC 160 zone. Maps 1F, 1G, and 1H: amended to apply development standards to some street frontages to enhance the pedestrian environment and support conditions desired for the waterfront area. These standards include a more intensive Pedestrian street classification, expanded street-level use requirements, and property-line facades.</p>
<p>Ord. Sec. 12 Code Sec. 23.66.170 Parking and access</p>	<p>Map D for 23.66.170: amended to make two changes. Map D shows both pedestrian street designations and also SDOT’s street classifications combined for streets within the Pioneer Square Special Review District. The first change is to be consistent with the proposed changes to Map 1F which will show Alaskan Way and Railroad Way as Class 1 Pedestrian Streets, not Class II Pedestrian Streets. The second change corrects the arterial designation of Alaskan Way as a minor arterial, so that Map D would show the correct designation of “principal arterial.”</p>