

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

Project Proposal: Amendments to the City of Seattle Land Use Code, Title 23, related to land use and zoning, amending Sections 23.24.046, 23.44.010, 23.44.012, 23.84A.024, 23.84A.046, and 23.86.010, to modify and clarify standards for development on lots qualifying for exceptions to minimum lot area standards in Single Family zones.

Project Sponsor: City of Seattle Department of Planning and Development

Location of Proposal: The proposal is a non-project action, applicable to property throughout the City of Seattle. The development standards for undersized lots would apply to all single family zoned property throughout the City of Seattle.

SUMMARY OF PROPOSED ACTION

The proposal is a non-project action that would modify and clarify the minimum lot area standards for Single Family zones, and related provisions, in response to concerns that some homes built on lots qualifying under existing lot area exceptions have been out of scale with their surroundings. The proposed legislation is comprehensive, addressing the lot-area exception provided for historic lots and other exceptions in the code. Some of the proposed language clarifies existing code based on how the code has been applied, rather than changing how the standard is applied.

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

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 May 3, 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.

This is a substantive change to the Land Use Code, to modify and clarify the minimum lot area standards for Single Family zones, and related provisions, in response to concerns that some homes built on lots qualifying under existing lot area exceptions have been out of scale with their surroundings. 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. The proposed amendment is a non-project action that would implement measures addressing minimum lot area standards, the exceptions to the minimum lot area standards, and implement development standards for structure depth, maximum height, and yard definitions and measurements. Since the amendment would apply to a variety of sites throughout the single family zones with the city, it is possible that elements of the natural environment on future sites, where development is allowed in accordance with the proposed standards, could be impacted. 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

The proposal does not involve changes of use and is unlikely to cause a significant shift in development or land use patterns in a given area, so any impacts to land and shoreline use are expected to be minimal. The standards will not affect minimum lot area requirements or specifically limit the number of lots that could be platted. In some circumstances, the proposal will limit approval of lots as new development sites through under exceptions to minimum lot area requirements. Proposed changes to the “75/80 rule” exception, however, may offset some of the limitations of the minimum lot area exceptions by allowing large lots developed with uses other than single family residences, such as institutions or parks, to be disregarded in calculating the number of lots on a block front.

The amendments will also affect height, bulk, or scale of a proposed development by adding proposed new limits to height and structure depth on lots less than 2,500 square feet in area and by limiting lot coverage to portions of lots measuring at least 10 feet in any direction. These changes are not expected to be significant due to the relatively small number of lots in the categories proposed to be regulated. Development of specific projects on individual sites is subject to the City’s existing regulations and will be subject to environmental review (if they meet or exceed thresholds for environmental review).

In analyzing the number of parcels that could be affected by exclusion from the minimum lot area exceptions, there is no ready way to specifically identify all of the parcels that qualify for development as separate lots in Single Family zones. Determining whether a property qualifies as a separate legal building site may require analysis of construction on adjacent land (to see whether the property was used to meet a development standard for another building), historic records (to see whether the property was split off by a deed or building permit prior to the adoption of minimum lot area standards, or reduced by condemnation for street), the size of other lots along the same block front (to see whether the lot qualifies under the 75/80 Rule lot area exception), and other factors. Although imperfect, there is some correlation between parcels that are currently held under separate tax accounts and parcels that qualify for separate development. Data in DPD’s computerized mapping system (Arcview) was used to query the number and sizes of the tax parcels in the Single Family zones.

Approximately 133,000 parcels in Single Family zones were identified. Of those, 103,561 were in the SF 5000 zone. Of those, 57,473, or about 55 percent, are at least 5,000 square feet in area. The remaining 45 percent of the tax parcels in SF 5000 zones are less than 5,000 square feet in area. Of these, only about 7 percent have areas under 3,200 square feet. Parcels under 3,200 square feet, if they qualify for separate development, would be subject to more stringent height limits under the proposal, as would some other slightly larger, irregularly-shaped lots.)

In the SF 7200 zone, of 26,319 tax parcels, approximately 29 percent have areas under 7,200 square feet, and in the SF 9600 zone, of 2,701 tax parcels approximately 21 percent have areas less than 9,600 square feet. In the Single Family zones, only 2,170, or about 1.6 percent of the tax parcels have areas under 2,500 square feet.

In short, the bulk of the parcels in Single Family zones, about 78 percent, are in SF 5000 zones. In all of the zones a significant number of the existing parcels have areas less than the minimum requirement for the zone. In the SF 5000 zone, close to half of the parcels are undersized. Many of these are already developed as separate building sites, and it is likely that most of the remaining ones also qualify for separate development under one of the lot area exceptions provided in the code and would continue to qualify under the proposed legislation.

Recent permitting as an indicator of number of permit applications for houses on small lots. A query of the records in DPD's permit tracking system revealed that 242 permits were issued for single family houses in Single Family zones in 2011, and 310 were issued in 2012. These include houses built on vacant lots and also lots being redeveloped. (The interim measures took effect on September 20, 2012. All but 16 of the 310 permits issued in 2012 reflected permit applications submitted prior to that date.)

One hundred eighteen of the 242 permits issued in 2011 (about 49 percent) and 153 of the 310 permits issued in 2012 (about 49 percent again) were for houses on lots with areas at least slightly less than the general minimum requirement for the zone. This suggests that the lot area exceptions apply to many properties in Single Family zones in Seattle.

Twenty-seven (11 percent) of the permits issued in 2011 and 36 (12 percent) of the permits issued in 2012 were for lots with areas less than 3,200 square feet. Under the proposed standards, houses on lots of this size would be subject to more stringent height limits, as compared to the limits in effect prior to the interim standards. A small number of additional lots would be subject to these lower height limits, if they are irregularly shaped and the largest rectangle within the lot lines has an area less than 3,200 square feet.

Five of the 2011 permits and 11 of the 2012 permits were for houses on lots with areas under 2,500 square feet. The interim measures, and the proposed long-term measures, would preclude lots under 2,500 square feet in area from qualifying for the lot area exception provided for historic lots. Three of the five 2011 permits were for parcels within a Clustered Housing Planned Development (CPHD), which would not be affected by the proposed amendment. At least two of the 2012 permits for these very small lots were for redevelopment of lots within a two-house-on-one-lot short plat. Under the proposal, such lots would continue to qualify as separate building sites. In short, under the proposed amendments, a relatively small number of lots (one to three percent) that previously would have qualified for a lot area exception would no longer qualify based on the fact that their areas are under 2,500 square feet.

Some of these lots would no longer qualify for other reasons, as well: Three of the 2012 permits for lots with areas under 2,500 square feet were issued based on historic tax records (which no longer qualify under the historic lot exception, since the interim measures took effect) and at least one more qualified based on an historic mortgage (which would no longer qualify under the proposed measures).

Legal building site opinion letters as an indicator of number of lots approved based on historic tax records and historic mortgages. An opinion letter is not required for all developments on lots qualifying for lot area exceptions, but a letter is needed in cases where

more complex research or analysis is required. These letters commonly have been requested when a developer was seeking to qualify a proposed lot based on historic tax records, deeds or mortgages. The Department issued approximately 30 legal building site opinion letters per year in 2011-2012. Of these, approximately ten letters, over those two years, reflected the conclusion that lots qualified for separate development based on historic tax or mortgage records. Three of those related to properties with areas under 2,500 square feet. Based on this information, it is estimated that approximately one percent of lots that would otherwise have qualified and received approval for separate development would no longer qualify as a result of elimination of historic tax and mortgage records as a basis for a lot area exception.

Based on this analysis, it is reasonable to estimate that the proposal to modify the lot area exceptions so that lots under 2,500 square feet in area would no longer qualify for a lot area exception would affect one to three percent of applications for single-family homes in Single Family zones. Elimination of tax records and mortgage records as a basis for the historic lot exception could affect another one percent of applications. An additional proposal is to require vacant undersized lots under common ownership to be consolidated rather than separately developed if their average area is less than 3,200 square feet. There does not appear to be a reliable way to identify and count the number of parcels this proposal would affect, but based on the overall estimate of the numbers of small parcels affected by the proposal, it is reasonable to conclude that this number too is small. Thus, at most, the number of lots in Single Family zones qualifying for separate development and receiving permits would be reduced by five percent or less as a result of the interim measures coupled with the proposed long-term measures. The overall potential decrease in potential housing construction is substantially less, as many of the parcels that no longer qualify for development as separate building sites may still be developed with detached accessory dwelling units.

More stringent development standards proposed for houses on very small lots would potentially ameliorate bulk impacts from those developments, but would not significantly affect the quantity of housing available.

The Department analyzed but did not recommend several potential code amendments proposed by citizens. These include replacement of the current 75/80 Rule lot area exception with an “80 Percent Rule” that would allow a lot to qualify for separate development if its area is at least 80 percent of the area of the other lots on the same block front, imposing an FAR (floor area ratio) limit on houses on very small lots, and modifying development standards to allow additional development opportunities on block-ends. Each of these options, if adopted, would have the potential to slightly increase housing density in Single Family areas.

The “80 Percent Rule.” The “75/80 Rule” allows separate development of lots with an area at least 75 percent of the general requirement for the zone (i.e. 3,750 square feet in an SF 5000 zone) and at least 80 percent of the mean area of the lots on the same block face. The suggestion was to eliminate the first prong of the test, and allow separate development of lots with areas at least 80 percent of the mean for the block face, even if they have areas under 3,750 square feet. New lots may currently be created through platting actions applying the 75/80 Rule, and existing structures may be demolished to achieve this, so if it were applied without limit, an 80 Percent Rule could in theory allow any block front with even one undersized lot to be divided or

redivided into smaller lots, which could then serve as a basis for further divisions of remaining properties into even smaller lots. It is not possible to accurately predict how many lots might be created in this way. The potential impacts would be more limited if restrictions were imposed, such as requiring an absolute minimum lot area of 2,500 square feet, limiting demolition of existing houses, limiting the number of new building sites that may be created on a single block front or in a single platting action, and/or prohibiting lots resulting from this exception from being used as a basis for further subdivision. Another alternative would be a “100 Percent Rule,” subject to similar limitations, allowing new lots to be created that are no smaller than the mean area of the other lots on the block front. If a limited version of the 80 Percent Rule or 100 Percent Rule were adopted, the existing 75/80 Rule could also be retained.

Floor Area Ratio (FAR) limits and block-end lots. Some other suggestions, also not in DPD’s proposal, were considered. One was to impose a Floor Area Ratio for small lots in SF zones, either in addition to or instead of current standards intended to regulate bulk. Such a standard would not significantly affect the number of houses that could be built, but could further reduce the bulk of the houses in some circumstances. Another suggestion was to relax development standards for block-ends, allowing additional homes in what are now the street-facing rear yards of corner houses. This could result in a modest increase in density in a way that would preserve a regular streetscape, but would have some bulk impacts affecting rear yards of neighboring homes.

Proposed measures to avoid or reduce shoreline and land use impacts are:

None required for this non-project action. Projects developed pursuant to the proposal are subject to review under the existing regulatory framework, i.e., the Land Use Code, The Shoreline Master Program, Environmentally Critical Areas Ordinance, and the City’s SEPA ordinance. Impacts will be addressed through the review of specific projects for compliance under the provisions of these regulations.

Housing

The indirect effects of this non-project proposal are not expected to result in significant increased housing impacts. Based on research of DPD application records and analysis of the number of sites that may be restricted by the proposed changes to minimum lot area exceptions, a reasonable estimate of the total number of potential lots that would be affected by the proposed standards is approximately five percent or less. The overall potential decrease in housing construction is substantially less, as many of the parcels that no longer qualify for development as separate building sites may still be developed with detached accessory dwelling units. The proposed development standards for certain undersized lots could limit overall size of a house but not its construction. Further, the proposal has no effect on the existing housing stock and will continue to discourage demolition of existing housing. No specific measures to reduce or control housing impacts are proposed.

Transportation, Public Services and Utilities

The proposed Code amendments would result in minimal direct impacts and are unlikely to result in indirect or cumulative significant adverse impacts related to transportation or public services/utilities. The standards would not affect minimum lot area requirements or specifically limit the number of lots that could be platted, so changes to the requirements for transportation, public services, and utilities is expected to be minimal. Development of specific projects on

individual sites is subject to the City's existing regulations and will be subject to environmental review (if they meet or exceed thresholds for environmental review).

Consistency with the Comprehensive Plan

The proposed Code amendments are consistent with the City's Comprehensive Plan. Land Use Goal (LUG)8 is to "preserve and protect low-density, single-family neighborhoods that provide opportunities for home-ownership, that are attractive to households with children and other residents, that provide residents with privacy and open spaces immediately accessible to residents, and where the amount of impervious surface can be limited." LUG9 is to "preserve the character of single-family residential areas and discourage the demolition of single-family residences and displacement of residents, in a way that encourages rehabilitation and provides housing opportunities throughout the city. The character of single-family areas includes use, development, and density characteristics." LUG10 is to "provide for different intensities of single-family areas to reflect differences in the existing and desired character of single-family areas across the city. Allow development that is generally consistent with the levels of infrastructure development and environmental conditions in each area. Include opportunities for low-cost subsidized housing in single-family areas."

The proposal complies with the above goals. By providing additional limitations to minimum lot area exceptions, low-density single family neighborhoods will be preserved, including neighborhood character. However, maintaining a variety of reasonable exceptions to minimum area will be consistent with encouraging different intensities of single family areas and recognize that different neighborhoods have differing character, and in some of these neighborhoods smaller lots may fit in with existing development.

Land Use Policy (LU)66 is to "use minimum lot size requirements to maintain a low-density residential environment while reflecting differences in development conditions and the densities and scale of housing in various single-family residential areas." LU67 is to "permit exceptions to minimum lot size requirements to recognize building sites created in the public records under previous codes, to allow the consolidation of very small lots into larger lots, to adjust lot lines to permit more orderly development patterns, and to provide housing opportunity through the creation of additional buildable sites which are compatible with surrounding lots and do not result in the demolition of existing housing.

The proposed legislation clearly furthers both policies. The legislation does not affect overall minimum lot sizes or platting. Therefore, in general, the existing low density residential environment will continue. However, as noted, continuing to allow exceptions to minimum area with reasonable controls also meets the policy of reflecting differences in development conditions and densities of housing in various residential areas. The legislation specifically continues to address LU67 by continuing reasonable minimum lot area exceptions that will continue to provide creation of additional building sites without resulting in or encouraging any housing demolition.

Conclusion

The proposed code amendments to limit eligibility of certain small lots as development sites and to add development standards on lots qualifying for exceptions to minimum lot area standards in Single Family zones are not expected to result in significant indirect or cumulative adverse impacts on the natural or built environment. They will have no direct impacts on the natural environment and minimal direct impacts to land and shoreline use, height/bulk/scale, housing, or transportation, public services and utilities, due to the small number of properties likely to be affected by the proposal.

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: _____
William K. Mills, Senior Land Use Planner
Department of Planning and Development

Date: _____