

No. 94232-3

WASHINGTON STATE SUPREME COURT

University of Washington,	)	
	)	
Respondent,	)	CITY OF SEATTLE'S MOTION
	)	TO TAKE ADDITIONAL
v.	)	EVIDENCE OR STRIKE TWO
	)	OF THE UNIVERSITY OF
City of Seattle, et al.,	)	WASHINGTON'S NEW
	)	CLAIMS
Appellants.	)	

**I. IDENTITY OF MOVING PARTY  
AND STATEMENT OF RELIEF SOUGHT**

For the first time on appeal, Respondent University of Washington (“UW”) asserted claims about an alleged lack of public notice and public participation opportunities supporting the enactment of an ordinance by the Seattle City Council in 1994. The parties are addressing those claims in supplemental briefing.

Appellant City of Seattle (“City”) asks the Court to take additional evidence to fairly address these new claims. The evidence comprises excerpts, attached to this motion, from three public documents on file with the City Municipal Archives. In the alternative, the City asks the Court to strike the

portions of UW’s briefing raising those untimely claims, which cannot be resolved fairly without additional evidence.

## **II. FACTS RELEVANT TO THE MOTION**

Through this action, UW seeks a declaration that the City may not apply its Landmarks Preservation Ordinance (“LPO”) within UW’s campus. Among UW’s claims is that City Ord. 117430—enacted in 1994—failed to “adopt” the LPO “pursuant to” the Growth Management Act (“GMA”).

In the trial court, UW offered two legal arguments to support that claim. Its main argument was that the LPO, which was initially enacted in 1977, could not have been “adopted” by a 1994 ordinance.<sup>1</sup> UW also argued in a reply brief that the ordinance could not have amended the LPO without referencing it in the ordinance’s title.<sup>2</sup> UW dedicated just two paragraphs, spanning under 20 lines of text, to whether Ord. 117430 “adopted” the LPO pursuant to the GMA.<sup>3</sup> The trial court resolved this case on cross motions for summary judgment.<sup>4</sup>

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<sup>1</sup> CP 213 (UW’s Motion for Summary Judgment); CP 581 (UW’s Reply).

<sup>2</sup> CP 581.

<sup>3</sup> CP 213, 581.

<sup>4</sup> CP 604.

In its appellate response brief, UW devoted over five pages to whether the ordinance failed to “adopt” the LPO “pursuant to” the GMA.<sup>5</sup> For the first time, UW added two factual claims against the validity of Ord. 117430: (1) the City did not comply with the GMA’s public participation requirements when adopting the ordinance; and (2) UW had no way to know the ordinance would have the effect of “adopting” the LPO pursuant to the GMA.<sup>6</sup>

This Court requested supplemental briefing from the parties on the sufficiency of Ord. 117430 as it relates to the UW’s discussion of whether the ordinance “adopted” the LPO as mandated by the GMA.

### **III. GROUNDS FOR RELIEF AND ARGUMENT**

This Court should either take additional evidence—excerpts from three public documents on file with the City Municipal Archives—to fairly address UW’s new factual claims about the 1994 ordinance or strike the portions of UW’s briefing raising those claims for the first time on appeal.

#### **A. To fairly consider UW’s new factual claims, the Court should take evidence in the form of excerpts of three public documents from 1994.**

UW put the City in a difficult situation. The City could have offered responsive evidence had UW asserted in the trial court that the City did not

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<sup>5</sup> UW Response at 31-36.

<sup>6</sup> UW Response at 32-34.

comply with the GMA’s public participation requirements when enacting the ordinance in 1994, or that UW had no notice or opportunity to comment on the City’s process for using the ordinance to meet the GMA’s command to timely “adopt” development regulations, including the LPO, to implement the City’s then-new comprehensive plan.<sup>7</sup> But UW waited until its appellate response brief to declare, without factual support, that the City “did not provide the public with *any* notice of what the City now claims the process was about.”<sup>8</sup>

The only way to respond to these claims is through documentation from 1994 regarding how the City used Ord. 177430—and involved the public—to meet the GMA’s command to “adopt” development regulations. The City asks the Court to take additional evidence in the form of excerpts from three documents on file with the City Municipal Archives. The City is attaching the excerpts to this motion, numbering the pages consecutively with the prefix AE (for “additional evidence”):

1. City Planning Department, *Final Environmental Impact Statement for the City of Seattle’s Comprehensive Plan* (March 3, 1994), AE 1-8 (cover, table of contents, and pages 153-54 and 213-14). This

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<sup>7</sup> Laws of 1993, 1st Spec. Sess., ch. 6, § 1 (amending the GMA’s command, then codified in RCW 36.70A.040(3)).

<sup>8</sup> UW Response at 33.

document explains that nothing in the then-proposed comprehensive plan would require amending the LPO. This document is available from the Seattle Municipal Archives, Item No. 1399, Location D-95.

2. City Department of Construction and Land Use, *Implementing Seattle's Comprehensive Plan: Proposed Development Regulations* (March 1994), AE 9-13 (cover, table of contents, and pages 5-7). This document states: "Most of Seattle's existing development regulations essential to achieving the Plan are already consistent with the proposals in the Plan. However, a limited number of changes are proposed." This document also mentions the public participation process. This document is available from the Seattle Municipal Archives, Item No. 2815, Location D-187.
3. City of Seattle, *Implementing Seattle's Comprehensive Plan: REVISED Development Regulations; Reader's Guide* (Oct. 1994), AE 14-22 (cover for all reports and the following from the *Reader's Guide* report: cover, acknowledgements, introductory letter, and pages 1-5). This document states: "Most of Seattle's existing development regulations are already consistent with the Plan; however, some amendments to the Land Use Code are needed. These amendments must be adopted by the end of 1994, as mandated by the GMA." This

document also details past and future public participation opportunities. This document comprises several reports, including the *Reader's Guide*. The complete document is available from the Seattle Municipal Archives, Item No. 10165, Location D-710.

Taking this additional evidence would follow the factors enumerated in RAP 9.11. First, additional documentation is needed to fairly resolve UW's factual claims about what occurred in 1994. Second, although the evidence would not change the trial court's decision (because UW did not raise these claims in the trial court), the additional evidence would probably prevent the Court from rendering an incorrect decision in UW's favor based on its new claims. Third, it would be equitable to excuse the City for not having offered this evidence in the trial court because UW did not assert these claims there. Fourth, because UW did not raise the claims in the trial court, remedies available to the City through postjudgment motions in the trial court would be inadequate or unnecessarily expensive. Fifth, the appellate court remedy of granting a new trial would be unnecessarily expensive. Finally, it would be inequitable to decide these claims based on no evidence.

Even if the Court were to decide RAP 9.11 does not favor taking this additional evidence, the Court should waive RAP 9.11 and take the additional evidence to serve the ends of justice. RAP 18.8(a). It would be unjust for UW to

make unsupported and unanswered factual assertions for the first time on appeal about events that occurred over two decades ago.

**B. In the alternative, this Court should strike UW’s new factual claims about the public notice and public participation opportunities provided for Ord. 117430.**

If the Court decides not to take the additional evidence the City offers, the Court should strike the portions of UW’s Response—and any portion of its forthcoming supplemental brief—asserting claims that the City did not comply with the GMA’s public participation requirements when adopting Ord. 117430, or that UW had no way to know that the ordinance would have the effect of adopting the LPO pursuant to the GMA.

A party may present a new ground for affirming the trial court, but only “if the record has been sufficiently developed to fairly consider the ground.” RAP 2.5(a). When reviewing an order granting or denying summary judgment, “the appellate court will consider only evidence and issues called to the attention of the trial court.” RAP 9.12. Affirming the trial court on an alternative ground is appropriate only where the parties had a full and fair opportunity to develop the facts. *Bernal v. American Honda Motor Co.*, 87 Wn.2d 406, 414, 553 P.2d 107 (1976).

UW did not raise these claims in the trial court and has yet to offer any evidence to support them. The City had no opportunity in the trial court to

develop facts to rebut these claims. If the City cannot offer those facts now, the Court should not consider UW's new claims.

#### **IV. CONCLUSION**

UW should not have raised new factual claims for the first time on appeal. The fairest and most efficient remedy would be to take the evidence the City offers in response to those claims. In the alternative, the Court should strike those claims.

Respectfully submitted May 4, 2017.

PETER S. HOLMES  
Seattle City Attorney

By: \_\_\_\_\_ /s/

Roger D. Wynne, WSBA # 23399  
Patrick Downs, WSBA # 25276  
Assistant City Attorneys for Appellant  
City of Seattle

Seattle City Attorney's Office  
701 Fifth Ave., Suite 2050  
Seattle, WA 98104-7097  
(206) 233-2177

**FINAL  
ENVIRONMENTAL IMPACT STATEMENT**  
**for**  
**The City of Seattle's  
Comprehensive Plan**

Ta  
6  
(ii)

March 3, 1994



**City of Seattle**

**PLANNING DEPARTMENT**  
600 Fourth Avenue, Room 200, Seattle, Washington 98104-1826  
(206)684-8056 FAX: (206)233-0047

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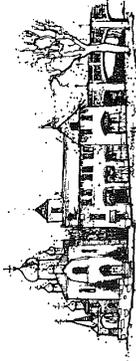
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The City of Seattle  
**Landmarks Preservation Board**  
700 Third Avenue - 4th floor - Seattle, Washington 98104 (206) 684-0288

**RECEIVED**  
JUN 29 1993  
PLANNING DEPARTMENT

LPB 84/93

June 25, 1993

Gary Lawrence, Director  
Planning Department  
200 Municipal Building  
Seattle, Washington 98104

Re: Draft Environmental Impact Statement  
Seattle Comprehensive Plan

Dear Mr. Lawrence:

The City's Landmarks Preservation Board would like to provide the following comments on the Draft Environmental Impact Statement released in conjunction with the City's Draft Comprehensive Plan.

The Landmarks Preservation Board has consistently supported the City's efforts to develop a comprehensive planning program. It is through the development of a new comprehensive plan that Seattle has the opportunity to fully integrate efforts that enhance the quality of its business areas and neighborhoods. One critical aspect of building strong communities is to identify and preserve important historic and cultural resources. Based on this commitment to an integrated planning approach, the Landmarks Preservation Board was very surprised and concerned that the protection and acknowledgement of historic resources was not included in the Draft Comprehensive Plan nor was it adequately addressed by the Draft Environmental Impact Statement.

It is very unusual that an environmental document of this magnitude and importance excludes the consideration of historic preservation impacts. Why does the Draft EIS fail to include a component that specifically addresses historic preservation impacts?

Administered by The Office of Urban Conservation, The Seattle Department of Neighborhoods  
Printed on Recycled Paper

Gary Lawrence  
May 28, 1993  
Page four

Whether appropriate or not the International District is used as a parking area for Downtown workers and Kingdom event attendees. Also several major government projects, the multi-modal transit center, rapid transit project, and new exhibition hall at the Kingdom will create tremendous traffic and parking problems for the International District. Analysis is needed of how these major projects, which will create more automobile traffic and parking problems, "fit" with the pedestrian oriented urban center designation.

8.

Housing

As development pressures are created by incentives for growth and greater density, there is a real danger that the historic residents of the District, namely, limited income elderly and new immigrants, will be displaced. Providing development incentives and keeping a mix of housing, particularly affordable housing, will be a challenge and much greater analysis of how this will be achieved needs to be developed.

8

Analysis of how to develop housing in new areas, such as east of I-5 in the District is lacking. Also, development of the infrastructure to support affordable housing in new areas is not discussed.

Again, the discussion on what types of structures, heights, densities, and building materials, fails to recognize the International District is a historic district which is expressed in the built environment. Landmark and special review district guidelines already address exterior building facades for both new construction and renovations.

Thank you for this opportunity to comment on the plan.

Very truly yours,

*Cliff Lodge*  
Cliff Lodge  
Chair

Gary Lawrence  
June 25, 1993  
Page two

Failure to address the role of historic preservation and cultural resources is inconsistent with the City's objectives for the Comprehensive Plan and the goals of the Framework Policies, which include (Page IX):

*Foster respect for the City's history, and for the physical character and social spirit of its neighborhoods.*

The Draft EIS does not acknowledge the concern expressed in the Framework Policy U.C.8:

*Seattle's heritage, both built and natural, gives the city a special identity and civic pride. The City's revitalization strategies and decisions on community growth shall capitalize on the existing value of historic properties and places and on the vitality of our diverse ethnic cultures. The City shall maintain regulations and strengthen incentives to identify and preserve landmark structures and sites.*

If this policy is to be given serious consideration, it must not be ignored in the environmental impact analysis of the Plan.

The Summary of Mitigating Measures (page 3) fails to recognize the existence of the Landmarks Preservation Ordinance and any of the special review district and landmark district ordinances, such as those for the Columbia City Landmark District, and the Harvard-Beaumont Landmark District. It also fails to recognize the City's SEPA ordinance in regards to protection of historic resources. The historic district and special review district ordinances already established design criteria for new construction and renovation, and individual controls for designated landmarks also ensure that additions or new structures on a designated site are sympathetic to their surroundings. How will these existing controls be addressed with the establishment of other mitigating controls?

The summary of unavoidable adverse impacts (p.6) states that demolition of some existing structures is unavoidable. How will this be addressed in the context of current protections for historic properties and districts? How will this be addressed in the context of potential designations of historic properties?

In addition to our concerns with the lack of a historic preservation component and our comments regarding the Summary section, the Board has comments and concerns regarding the following sections:

Gary Lawrence  
June 25, 1993  
Page three

**Land Use**  
(P. 21): Existing landmark district ordinances and special review district ordinances should be acknowledged.

**Land Use**  
(P.35): Unavoidable Adverse Impacts: There should be an acknowledgment that the demolition of existing structures could threaten Seattle's historic fabric and the special character of its neighborhoods.

**Housing/Mitigating Measures**  
(P.65): The Board supports the mitigating measures included in housing redevelopment using TDR to encourage housing preservation, encouraging renovation and conversion of existing buildings to residential uses, and using reasonable discretion when enforcing master building code requirements on renovation of older residential structures.

**Housing/Unavoidable Adverse Impacts**  
(P.66): We are concerned with the statement that, "the urban development process is expected to slowly replace older housing with new units." Again, if this is unavoidable, our City is at risk of losing the character of its neighborhoods and historic urban centers.

**Earth/Seismic Hazards**  
(P.71): We question why the EIS includes a blanket statement that "renovation of older structures to meet seismic standards can be particularly difficult and costly, and may make rehabilitation economically infeasible." What is the source for this information, and the justification for this broad conclusion?

**Seattle Public Schools**  
(P.99): We question the statement in paragraph five, "In 20 years most schools will have outlived their economic and useful lives." On what data is that statement based?

2. Comment noted.

3. The Draft EIS description of unavoidable impacts referred to the fact that in a completely built city, such as Seattle, it is common for new building construction to require removal of an existing structure. That statement was not intended to imply any changed status for structures that are designated historic or that are within historic districts.

4. The Plan does not propose any zoning changes in the International District. However, current zoning in and around the area already allows greater densities than are found on some sites there. To the extent that the Plan makes the District more attractive to new development, it could increase the pressure for redevelopment of existing property there. As comment 2 in this letter notes, the International District has developed criteria to guide new construction and renovation in the District to maintain its historic character.

5. The proposed Plan addresses broadly the distribution of future growth and establishes the mechanisms for distributing public services, but it does not include the level of detail about those services that will ultimately be developed for each urban village and center.

The comment about the cultural attraction afforded by the District is noted. Through future neighborhood plans, the City intends to address the unique constraints and opportunities offered by each of the City's diverse neighborhoods.

6. See response to comment 4 above.

7. The discussion of parking restrictions in the proposed Plan indicates that such restrictions would occur as alternatives to automobile travel become more available. Unique conditions, such as the one described in the comment regarding parking in the International District, will need to be addressed in future neighborhood plans.

8. Comment Noted.

## LANDMARKS PRESERVATION BOARD

1. Nothing in the Plan would change the current status afforded the City's landmark structures. Because the Plan does not propose policy changes that would increase the types or intensities of development allowed in historic districts and because the Plan does not specifically promote redevelopment of property containing designated landmarks, there is no certain, direct impact from the Comprehensive Plan on historic resources. However, to the extent that these resources are located in designated urban centers and urban villages, the redirection of future growth to these areas could increase the potential for redevelopment on some of these sites.

At this time, any attempt either to determine whether proponents would seek redevelopment of historic sites or to estimate the number and precise locations of potentially affected sites would be based solely on speculation. Future neighborhood plans and the environmental analysis that accompanies them will provide better opportunities to identify specifically the potential nature and extent of impacts on historic resources.

2. The proposed Comprehensive Plan does not include any changes to existing policies governing landmarks and landmark districts.

3. The unavoidable adverse impact cited in the comment refers to the fact that because Seattle is a completely built city, most new development can be accomplished only as a replacement of existing structures. Current protections for historic properties and districts will continue with adoption of the Comprehensive Plan.

4. Comment noted.

5. It would be an overstatement to suggest that all demolition threatens the historic fabric and character of the city and its neighborhoods, although some could. The City of Seattle has adopted ordinances and programs intended to protect historic properties and districts, and these will continue to exist under any of the alterna-

tives. However, for the City to accommodate the changing needs of its residents, the proposed Plan and this EIS assume that new buildings will continue to replace older ones.

6. Comment noted.

7. See response to comment 5, above.

8. The EIS text has been changed to reflect the fact that retrofit of buildings for seismic protection can be economically infeasible. While new construction can usually meet modern seismic engineering standards relatively economically, the same is often not true for the upgrade of existing buildings. In contrast to Building Code standards for new construction, there are no widely accepted standards for seismic retrofit. Buildings are rarely retrofitted in a way that would meet the current code requirements for new construction. The amount of retrofit performed is usually determined on a case-by-case basis, often taking into account the ability of the applicant to afford various types of engineering solutions. In many cases, applying very strict and complete seismic retrofit standards to buildings that are prone to seismic hazard, such as unreinforced masonry structures, would not be economically feasible.

9. The State of Washington Superintendent of Public Instruction recognizes the need to modernize school buildings built prior to 1993 about every 20 years. (Schools built in 1993 and after will be expected to have a 30-year minimum life.) According to the Seattle School District, more than a third of Seattle's public school buildings are over 60 years old. Most of those buildings have not undergone major rehabilitation. The School District's experience and observation shows that these buildings have worn-out systems which need to be replaced, have major seismic deficiencies which need correction and are inadequate to meet modern educational needs. By 2010, if no major capital improvements are made, all schools except the 15 schools built or rehabilitated through the District's CIP I will be over 45 years old. The statement "outlived their economic and useful lives" reflects the need to modernize, rehabilitate or replace many worn-out school facilities.

## **LEAGUE OF WOMEN VOTERS**

1. Most of the mitigating measures cited in the Draft and Final EIS could be employed with any of the alternatives. For those that work uniquely with only one or some of the alternatives, the text of the Final EIS has labeled them accordingly.

2. See the description and analysis of Alternative G in this document.

3. Thank you for your comment.

## **METRO**

Comments noted, and appropriate updates made to the text.

## **MONTLAKE COMMUNITY CLUB**

1. The ability to anticipate specific impacts related to land use, air quality, housing, earth, plants and animals, noise, hazardous materials, parks and police services depends on a wide variety of variables, the details of which are not known at this time. The timing, size, proposed uses, sites and designs of individual development projects are among the factors that will affect the nature and extent of the impacts to these elements of the environment. The Comprehensive Plan does not address such details, and the analysis for this EIS cannot determine the precise location and nature of detailed impacts. This EIS is not intended to substitute for more detailed environmental review that will occur in the future, as more specific neighborhood plans are developed and as applications for individual development projects are filed.

The Rules implementing the State Environmental Policies Act acknowledge the difference between an EIS prepared for a specific project on a known site, with identifiable physical characteristics and an EIS for a nonproject proposal, such as one for a comprehensive plan. See the Preface of this Final EIS for a citation from the SEPA Rules on this issue.

CITY OF SEATTLE • DEPARTMENT OF CONSTRUCTION AND LAND USE • MARCH 1994

**IMPLEMENTING**

SEATTLE'S COMPREHENSIVE

**PLAN**

PROPOSED DEVELOPMENT REGULATIONS

AE00009

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## Introduction

Once Seattle's new Comprehensive Plan is in place, its role will be to provide a blueprint for the city's future. Transforming that blueprint into the urban environment in which our citizens will choose to live and work is the next task for government, business and residents.

Making the vision a reality, or Implementing the Comprehensive Plan, is the subject of this publication.

This document is a companion to *Toward a Sustainable Seattle*, the City of Seattle's Proposed Comprehensive Plan. It describes the concepts for each of the development regulations proposed to implement the Plan. The proposed changes are preliminary and will be further developed and adjusted as the Council reviews the proposed Plan and as additional analysis is completed. After the public has reviewed the proposed changes, final legislation will be submitted to City Council for review, further public comment, and adoption. A preliminary schedule of the review process is presented below.

### THE COMPREHENSIVE PLAN

The ideas in the Comprehensive Plan were developed over the past four years through discussion, debate and the creative thinking of Seattle citizens working with City officials and staff. The Plan anticipates that Seattle will grow moderately, and that most future growth in Seattle as well as the region will occur in areas already served by urban services. The Plan calls for Seattle to add, over twenty years, 60,000 more households and 146,600 more jobs. These growth targets reflect Seattle's regional growth management responsibilities in a range that can be accommodated comfortably.

### The Urban Village Strategy

The Comprehensive Plan strategy is to direct growth to areas designated as Urban Villages, so that in spite of inevitable change, Seattle may sustain the basic needs of its people, build and enhance its communities and maintain the cherished qualities and character of the city. Designated Urban Villages are for the most part, neighborhoods that already have the characteristics or contain many of the basic elements needed to become one. Villages are envisioned as places that contain:

- A diverse mix of people of varied ages, incomes, cultures, employment, and interests;
- A vibrant, pedestrian-oriented commercial area with stores, services and, in certain Villages, employment opportunities;
- A variety of housing types and densities, as appropriate for the Village scale, from single family houses to high density apartments to meet the needs and preferences of the diverse community;
- A strong relationship between residential and commercial areas, characterized by mutual support;
- The presence of community facilities, including schools, community and recreation centers, libraries, parks, and human services in the Village core or nearby;
- The availability of transit, bicycle and pedestrian facilities with connections to neighboring Villages, good circulation within the Village and between the Village and surrounding neighborhoods;
- A well-integrated public open space network, providing recreational opportunities for Village residents and workers;

- A unique identity reflecting local history, natural features, and the varied culture and other characteristics that have become a source of community pride.

#### Elements Of The Plan:

The Comprehensive Plan is organized by "Element". Most of the elements are dictated by the State Growth Management Act which mandates elements on Land Use, Transportation, Housing, Capital Facilities and Utilities. The Countywide Planning Policies for King County required the addition of an Economic Development Element, and Seattle's Framework Policies inspired the inclusion of a Neighborhood Planning Element.

**The Land Use Element** establishes the distribution and density characteristics for the major land use categories. It identifies the city's capacity for growth and allocates residential and job growth on the basis of the Urban Village strategy by designating Urban Centers, Manufacturing/Industrial Centers and Urban Villages. Under these policies, growth is directed to build upon the strengths of existing neighborhoods and industrial areas; promote greater pedestrian and transit use; protect natural amenities; and encourage a diversity of people and activities throughout the city. It provides guidance for changing existing land use policies to support the Urban Villages strategy. The Future Land Use Map designates the general land use categories and identifies the Centers and Villages.

**The Transportation Element** describes the ways in which transit would serve people in their travels to jobs, services and activities. It establishes incentives to encourage travel choices other than single occupant vehicles, describes pedestrian-oriented environments in Urban Villages and sets a framework for improved intra-city transit. Goods movement through the city and region is addressed. Level-of-service standards are established to help assure that adequate transportation facilities are provided for new development. Environmental and economic development goals are achieved by the coordinated policies of the Land Use, Transportation and Economic Development elements.

**The Housing Element** describes directions the City will take to influence the type, location and affordability of housing throughout Seattle.

**The Capital Facilities and Utilities Elements** describe City investments in public infrastructure in support of the Land Use, Housing and Transportation elements and establish a new strategic planning process to closely relate public investment with the Plan's goals.

**The Economic Development Element** summarizes directions for ensuring desirable matches of types of jobs, the economy, and workers available in the local economy. It guides the City's infrastructure investments in support of job creation, economic competitiveness, and the Urban Village strategy.

**The Neighborhood Planning Element** describes a new, collaborative process between the community and the City for planning for all Seattle neighborhoods within the context created by the Plan, and proposes a process to do so in a two to four year timeframe. Neighborhood plans will identify special characteristics of each Village, how individual areas will grow according to their own scale and localized conditions, while contributing to the overall growth and development of Seattle.

Neighborhood planning is a central focus of the City's Plan and interacts with most other implementing strategies. The NP symbol in the margin will appear whenever an implementing measure cited in this document may be applied through the neighborhood planning process.



#### Other Implementing Actions

In addition to the regulatory provisions and administrative mechanisms described in this document, there are other areas of implementation proposed in the Plan that will help to translate the Plan's policies into City actions. The following summarizes other implementation programs in the Plan:

**Phasing Strategy:** A phasing strategy is a framework for making resource allocation decisions in an environment where wants and needs always exceed the finite funds and

energy available. Tradeoffs among many possible investment choices will be made to achieve the Plan's goals. This framework adds another dimension to the Plan's goals by enabling them to be addressed over time. One part of the phasing strategy is the Strategic Capital Investment Plan (SCIP). The SCIP is a framework and process for developing both short and long term capital and finance plans which balance the competing needs facing the City. SCIP will identify linkages between capital investments across City departments and provide opportunities for public and private partnerships.



**Neighborhood Planning for Urban Villages:** Neighborhood planning for Villages will follow the adoption of the Plan and will tailor the Plan's citywide perspective to individual Centers and Villages. Urban Village plans are expected to continue to aid in adjusting and fine-tuning the Plan over time. Please see page 20 for a discussion of the City's "toolbox" mechanisms available to neighborhoods to use in developing their plans.

**Coordination with Adjacent Jurisdictions:** Coordination with other jurisdictions has begun through the regional planning processes with King County, suburban cities and the Puget Sound Regional Council representatives. Many regional issues have been addressed, but many others have been identified for future discussion. Undoubtedly, regional planning forums will be needed to meet the Growth Management Act's challenge for regional action toward creating, implementing and funding a shared vision.

## PROCESS AND SCHEDULE FOR REVIEW AND ADOPTION OF THE PLAN AND PROPOSED DEVELOPMENT REGULATIONS

Most of Seattle's existing development regulations essential to achieving the Plan are already consistent with the proposals in the Plan. However, a limited number of changes are proposed. In the Plan itself, each element includes a summary of proposed implementing actions. As a companion to the Plan, this document describes all the recommendations dealing with changes to development regulations in one place. These proposals are to:

- Encourage development in Urban Villages;
- Develop tools for neighborhood planning;
- Establish transportation standards to account for new development's demands on the street and transit systems;
- Facilitate mixed use development in pedestrian-oriented areas;
- Eliminate barriers for the development of ground-related housing;
- Establish an incentive system in Urban Villages;
- Continue improving the permit process.

The Growth Management Act establishes a June 30, 1994 deadline for the adoption of the Plan and development regulations; however, a six month extension may be allowed for adoption of implementing regulations. The City of Seattle has requested such extension, so anticipates that consistent development regulations will be in place December 31, 1994. These first phase actions are the minimum necessary to implement the Plan. Other implementing actions, such as the adoption of neighborhood plans, will occur in later phases.

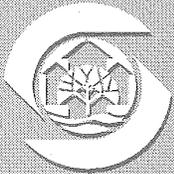
Since the Plan will be adopted six months before the development regulations are revised, the question has been raised about the application of the Plan and development regulations during that period. The purpose of the Comprehensive Plan is to guide the drafting of the development regulations, and in general, will not apply to individual permit decisions. However, the City may establish a transition rule clarifying how the Plan may be applied to specific projects.

# IMPLEMENTING SEATTLE'S COMPREHENSIVE PLAN

OCTOBER 1994

**REVISED**

## Development Regulations



City of Seattle

These reports and proposed ordinances will be considered by the Seattle City Council during November and December, 1994. In accordance with the Washington State Growth Management Act, development regulations must be revised to be consistent with the City's Comprehensive Plan by December 31, 1994.

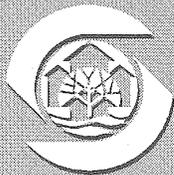
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IMPLEMENTING SEATTLE'S  
COMPREHENSIVE PLAN

OCTOBER 1994

**REVISED**

**Development  
Regulations**



City of Seattle

**Reader's Guide**

# Acknowledgements

**Norman B. Rice, Mayor**

**Seattle City Council**

Jim Street, *President*  
Martha Choe  
Cheryl Chow  
Sue Donaldson  
Jan Drago  
Sherry Harris  
Jane Noland  
Margaret Pageler  
Tom Weeks

**Council Central Staff**

Mary Denzel  
Geri Hendrickson  
Martha Lester  
Bob Morgan  
Norm Schwab

**Rick Krochalis, Director, Department of Construction & Land Use**

**IMPLEMENTATION TEAM**

**Project Management**

Elsie G. Crossman  
John Skelton  
Diane Sugimura

**DCLU Staff**

Diane Althaus  
Roberta Baker  
Elma A. Borbe  
Ken Davis  
D. Gregg Doyle  
Carolyn Dunford  
Tom Hauger  
Sandy Howard  
Molly Hurley  
Kate Johnston  
Andy McKim  
Alan Oiyee  
Mike Podowski  
Nathan Torgelson  
Teresa Trujillo  
Cristina Van Valkenburgh

**Law Department**

Margaret Klockars  
Pat Schneider  
Bob Tobin  
Hugh Tobin

**Planning Department**

Rebecca Barnes  
Jeff Bender  
Eric Chipps  
Ellen Kissman  
Ron Lewis  
Dennis Meier  
Joan Rosenstock  
Eric Tweit

**Engineering Department**

Mike Odom  
Jim Robertson  
Noel Schoneman

**IMPLEMENTATION TASK FORCE**

Joyce Kling, *Co-chair*  
Darla Morton, *Co-chair*

Steve Arai  
Virginia Binns  
Charlie Chong  
Noelle Congdon  
Terry Danysh  
Karla Forsbeck  
Joann Francis  
Mark Frankel  
Bryan Friend  
George Frost  
Andy Gay  
Barry Hawley  
Yoshiko Ii  
Kent Kammerer  
Bill Longbrake  
John Phillips  
Scott Rutherford  
Paul Sikora  
Sue Taoka  
Val Thomas  
Jackie Walker

**Production and Graphics  
Presentation**

Susan Dehlendorf  
Bronwyn Edwards  
Vince Lyons, *Illustrations*  
Mary Ellen Perko  
Dennis Sellin, *Illustrations*  
David Takeuchi, *Maps*

Office of the Mayor  
City of Seattle

Norman B. Rice, Mayor



October 10, 1994

Dear Citizens of Seattle:

We are approaching the final steps towards meeting Washington State requirements for implementation of the City of Seattle's Comprehensive Plan. As you know, adoption of the Comprehensive Plan by the City Council was only the first step. Over the next several years, individual neighborhoods will have the opportunity to shape their own destinies through an unprecedented neighborhood planning effort.

Although the implementation process will continue to evolve in the future, particularly through neighborhood planning, we must make some changes to our Land Use Code by December 31, 1994 to meet the minimum consistency requirements of the State Growth Management Act.

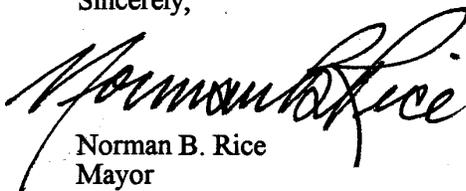
The process of developing and refining these proposed regulations for the largest city in the state has been a challenging one. It could not have been accomplished without the perseverance of the many Seattle citizens who discussed, reviewed, and provided comments on essential documents and who attended meetings, advisory committee sessions, and hearings.

This package includes the minimum changes we believe are necessary to make Seattle's Land Use Code consistent with new policies in the Comprehensive Plan. The Plan was adopted July 25, 1994, and an initial set of proposed regulation changes was published by the Department of Construction and Land Use in August 1994. The Executive, together with the City Council's Housing, Community Development, and Urban Environment Committee subsequently reviewed public comments received at three informational meetings, a public hearing, and through many calls and letters. This package reflects our response to the comments received.

On most of these recommendations we are in general agreement. However, a few of the proposals include alternative recommendations. You are encouraged to consider these and comment on which option you feel is most appropriate, workable, and consistent with the vision of the Plan.

We would like to thank all of you who have been involved in the implementation process and whose vision and commitment have helped shape the Plan and implementation proposals. We hope that you will continue to participate in the Council's final review of proposed changes to development regulations.

Sincerely,



Norman B. Rice  
Mayor



Sherry Harris, Chair  
Housing Community Development,  
and Urban Environment Committee,  
Seattle City Council

## Organization of the Reports

This package includes a separate report for each topic, which includes a summary of the changes since the August draft, as well as a description of recommended options. Accompanying each report is a revised ordinance which provides specific wording changes for the related sections of the Land Use Code. The ordinance has been prepared so that the reader can easily see where changes are proposed: underlining indicates where words have been added, while strike-through in parentheses (~~strike through~~) indicates deletion of wording. In addition, in some cases entire new sections have been added; these are identified as new sections and may not be underlined.

---

### How to Comment to the City Council on the Revised Recommendations

**Attend City Council Public Hearing: Wednesday, November 2, 1994 at 6:00 p.m.**

City Council Chambers, 11th Floor Municipal Building  
600 4th Avenue (enter from 5th Avenue after 6:00 p.m.)

Sign-up sheet to testify will be available at the door to the Council Chambers at 5:30 p.m.

The City Council Committee's discussions on the implementation legislation will resume late in November, with a full Council vote in December.

**Send Written Comments by November 10, 1994 to:**

Councilmember Sherry Harris

Housing, Community Development and Urban Environment Committee

600 4th Avenue, #1100

Seattle, Washington 98104-1826

**Send Written Comments on Transportation Concurrency by November 10, 1994 to:**

Councilmember Martha Choe

Transportation and Economic Development Committee

600 4th Avenue, #1100

Seattle, Washington 98104-1826

**Send Written Comments on Amendment Procedures by November 10, 1994 to:**

Councilmember Jim Street

Planning and Regional Affairs Committee

600 4th Avenue, #1100

Seattle, Washington 98104-1826

**Or Call the DCLU Implementation Voice Mail Line:**

To comment on a specific proposal by phone or to request information on a specific implementation proposal, please call the DCLU Implementation Voice Mail Line, 233-2628.

## **Introduction to the Revised Comprehensive Plan Implementation Proposal**

In August, the Department of Construction and Land Use published a draft proposal to implement the Comprehensive Plan. That publication was followed by three public informational meetings around the city, numerous calls and letters from citizens, as well as a joint Executive/City Council public hearing on September 13, 1994.

This is a joint recommendation from the Mayor and the City Council's Housing, Community Development and Urban Environment Committee. The recommendations are the result of further staff analysis based on public comment on the August draft, and extensive discussion by the Housing, Community Development and Urban Environment Committee. Some proposals include two or three options, indicating specific areas where discussion and debate continue.

The Transportation Concurrency Project Review System is a recommendation from the Executive. Following the public hearing, the City Council's Transportation and Economic Development Committee will consider the revised proposal included in this package. The package does not include a revised Amendment Procedure proposal. The report will be available after the Planning and Regional Affairs Committee reviews it, and prior to the November 2 hearing.

The August draft included a discussion paper on Programmatic Environmental Impact Statements (PEISs). A PEIS is an environmental analysis of non-project or plan level activities such as a subarea or neighborhood plan. Since no regulatory changes are needed at this time, the PEIS paper is not included in this revised package. If you would like a copy of the paper, please call the DCLU Implementation Voice Mail Line (233-2628) to request a copy.

These revised proposals are intended to implement the vision established in Seattle's Comprehensive Plan, adopted July 25, 1994. The Plan provides guidance for meeting the city's changing needs over the next twenty years -- preserving the best qualities of Seattle's distinct neighborhoods while responding positively and creatively to the State Growth Management Act (GMA), regional policies, and local challenges presented by growth and change.

Most of Seattle's existing development regulations are already consistent with the Plan; however, some amendments to the Land Use Code are needed. These amendments must be adopted by the end of 1994, as mandated by the GMA. Changes are limited to the following five general areas:

- Options for "tools" to assist neighborhoods in tailoring regulations to local needs through neighborhood planning;
- Minor changes to development standards in some Multifamily and Downtown zones; some more extensive revisions in Commercial and Industrial zones;
- Review criteria for future rezones;
- Specific GMA requirements for transportation concurrency, essential public facilities, and procedures to amend the Comprehensive Plan; and
- Rezoning of four multifamily areas.

## Summary of Joint Recommendation

The following is a summary of the possible changes that would be made to the Land Use Code as a result of the joint recommendations. For more detail on a specific change, please refer to the corresponding report that is attached. Please note that the possible changes summarized below may be revised prior to final Council adoption of the implementation package.

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### URBAN CENTERS AND VILLAGES

- Five Urban Centers have been designated and boundaries adopted. The Urban Villages within the Centers have preliminary boundaries, which are to be adopted as each new or revised neighborhood plan is adopted by City Council or, if at the end of the neighborhood planning cycle, a village boundary has not been established, the boundary shown in Land Use Appendix A of the Comprehensive Plan shall become the boundary for the village.
  - Hub and Residential Urban Villages have been preliminarily designated; boundaries are to be adopted according to a neighborhood plan or as described above.
  - Commercially zoned land has been identified as inside or outside of Urban Centers and Villages according to the adopted Future Land Use Map. New density limits may apply upon effective date of the implementation ordinance.
- 

### PROPOSED CHANGES IN ZONING DESIGNATION

1. Four multifamily remapping cases citywide (3 on Queen Anne, 1 on Lake City) -- all four cases involve downzones from Lowrise 3 (L3) to Lowrise 2 (L2).

### PROPOSED CHANGES IN DEVELOPMENT STANDARDS

1. Single Family Zones: No changes
2. Townhouses in Multifamily Zones: Increase lot coverage, allow averaging of front setback, allow shared garage when underground, clarify platting.
3. Commercial Zones Inside of Urban Villages:
  - No change for mixed use development.
  - Option: Increase in density allowed for single purpose residential development; conditional use approval would still be required. [Example: NC2/40'; 15,000 sq. ft. lot; maximum of 30 units compared with 12 units today].
  - Option: Wait until neighborhood planning before making any changes.

4. Commercial Zones Outside of Urban Villages:
  - Option: Potential decrease in density for mixed use development, compared with current. [Example: NC2/40'; 15,000 sq. ft. lot; maximum of 25 units compared with no density limit today (typical project = 25-30 units)].  
Option: Wait until neighborhood planning before making any changes.
  - Option: Increase in density allowed for single purpose residential development; conditional use approval would still be required. [Example: NC2/40'; 15,000 sq. ft. lot; maximum of 25 units compared with 12 units today].  
Option: Wait until neighborhood planning before making any changes.
  - Add a maximum size limit of 1 FAR or 35,000 square feet, whichever is greater, for office use in NC3 zones outside of villages and in all C1 and C2 zones. Office use in C1 and C2 zones inside of villages may be exempt if the structure meets the development standards for NC3 zones.
5. Other Development Standard Changes in Commercial Zones:
  - Minimum Ground Level Height: Add a floor-to-floor height requirement (minimum 13') for ground level of mixed use and single purpose residential development.
  - Additional Height Allowance: For mixed use development in 30' and 40' commercial zones -- allow up to four additional feet if meet specified floor-to-floor height requirements for both commercial and residential floors, both in mixed use and single purpose residential development; no additional stories allowed.
  - Extend Design Review to new development in C1 and C2 zones inside urban villages.  
Option: This would apply to non-residential development that is more than 4,000 square feet (current NC1, NC2, and NC3 SEPA thresholds) or to 4 residential units. Option: This would apply to non-residential development that is more than 12,000 square feet (current C1 and C2 SEPA thresholds) or to 4 residential units
  - In NC2 zones, increase the maximum size limits for multipurpose convenience (e.g., grocery) stores.  
Option: Increase from 25,000 to 50,000 square feet.  
Option: Up to 50,000 square feet allowed inside village when part of mixed use development; remain at 25,000 square feet for single purpose inside village, and mixed or single purpose outside of village, with possibility of increasing to 35,000 through special exception process.
6. Downtown Zones: Add an open space requirement for new office development.

7. **Industrial Zones:** Add maximum size limits for office and retail in General Industrial 1 and 2 (IG1 and IG2), and Industrial Buffer (IB) zones; add maximum size limit for retail development in Industrial Commercial (IC) zones.
8. **Rezones:** Rezoning (up or down) allowed when consistent with criteria: general rezone criteria, locational criteria for zone categories as amended to reflect Comprehensive Plan policies, and capacity for an area to meet planning estimates and required densities.

## **POTENTIAL CHANGES THROUGH NEIGHBORHOOD PLANNING PROCESS**

NOTE: Land use regulations are only a part of neighborhood planning.

1. **New Zone Categories:** Residential Small Lot (RSL) zone and Neighborhood Commercial Residential (NC/R) zone; only applied through Council adopted neighborhood plan.
2. **Neighborhood Planning "Tools":** Additional "tools," which could include new zones or changes to development standards, may be developed through the neighborhood planning process.
3. **Rezones:** Limits placed on the amount of rezoning from single family zoned land. While the locational criteria for zone classifications continue to apply, greater flexibility is allowed through neighborhood planning for some zones.

## **OTHER PROPOSALS**

1. **Essential Public Facilities:** A new definition of essential public facilities and review criteria are added to the Land Use Code as required by GMA. The list is consistent with the current list of permitted uses for public facilities in the Land Use Code, and the siting criteria are incorporated into the existing Master Use Permit provisions.
2. **Comprehensive Plan Amendments:** A resolution adopting a procedure to amend the Comprehensive Plan will be considered by the City Council concurrently with the changes to the development regulations. A proposed process is being drafted by staff that will allow for the public or City officials to propose amendments to the Plan, and sets a timeline for yearly amendments.