BEFORE THE HEARING EXAMINER
CITY OF SEATTLE

In the Matter of the Appeal of MBAKS, LEGACY GROUP, BLUEPRINT CAPITAL, *ET AL*. From a Determination of Non-Significance issued by the Director, Seattle Department of Construction and Inspections	Hearing Examiner File: W-22-003 DECLARATION OF SCOTT D. JOHNSON IN SUPPORT OF APPELLANTS' RESPONSE TO MOTION TO DISMISS

I, Scott D. Johnson, declare and state as follows:

1. I am an attorney at the law firm of Helsell Fetterman LLP, attorneys of record for Appellant Master Builders Association of King and Snohomish County, Legacy Group Capital, LLC, Blueprint Capital Services, LLC, AA Ashworth Development LLC, Blackwood Builders Group LLC, and Build Sound, LLC, ("Appellants").

2. I am over the age of 18, am familiar with the issues in this case, and make this declaration based on personal knowledge and my review of the file maintained by my law firm in connection with this matter. That file is maintained in the ordinary course of business and is timely and accurately updated.

3. Attached as Exhibit A to this declaration is a true and correct copy of the SEPA Environmental Checklist dated February 10, 2022 for the Tree Protection Update.

HELSELL FETTERMAN
Helsell Fetterman LLP
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Seattle, WA 98154-1154
206.292.1144 **WWW.HELSELL.COM**

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

SIGNED this 18th day of May 2022, at Seattle, Washington.

Scott D. Johnson

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on May 18, 2022, the foregoing document was sent for delivery on the following party in the manner indicated:

Attorney for City Daniel Mitchell City Attorney's Office	☐ Via first class U. S. Mail ☐ Via Legal Messenger ☐ Via Facsimile ☒ Via Email to Daniel.mitchell@seattle.gov
SDCI: Gordon Clowers Chanda Emery	☐ Via first class U. S. Mail ☐ Via Legal Messenger ☐ Via Facsimile ☒ Via Email to Gordon.clowers@seattle.gov Chanda.emery@seattle.gov
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s/Kyna Gonzalez
Kyna Gonzalez, Legal Assistant

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EXHIBIT A

SEPA ENVIRONMENTAL CHECKLIST

Purpose of checklist:

Governmental agencies use this checklist to help determine whether the environmental impacts of your proposal are significant. This information is also helpful to determine if available avoidance, minimization or compensatory mitigation measures will address the probable significant impacts or if an environmental impact statement will be prepared to further analyze the proposal.

Instructions for applicants:

This environmental checklist asks you to describe some basic information about your proposal. Please answer each question accurately and carefully, to the best of your knowledge. You may need to consult with an agency specialist or private consultant for some questions. You may use "not applicable" or "does not apply" only when you can explain why it does not apply and not when the answer is unknown. You may also attach or incorporate by reference additional studies reports. Complete and accurate answers to these questions often avoid delays with the SEPA process as well as later in the decision-making process.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

Instructions for Lead Agencies:

Please adjust the format of this template as needed. Additional information may be necessary to evaluate the existing environment, all interrelated aspects of the proposal and an analysis of adverse impacts. The checklist is considered the first but not necessarily the only source of information needed to make an adequate threshold determination. Once a threshold determination is made, the lead agency is responsible for the completeness and accuracy of the checklist and other supporting documents.

Use of checklist for nonproject proposals:

For nonproject proposals (such as ordinances, regulations, plans and programs), complete the applicable parts of sections A and B plus the SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS (part D). Please completely answer all questions that apply and note that the words "project," "applicant," and "property or site" should be read as "proposal," "proponent," and "affected geographic area," respectively. The lead agency may exclude (for non-projects) questions in Part B - Environmental Elements –that do not contribute meaningfully to the analysis of the proposal.

A. Background

1. Name of proposed project, if applicable:

Tree Protections Update

2. Name of applicant:

City of Seattle Department of Construction and Inspections

3. Address and phone number of applicant and contact person:

Chanda Emery, Senior Planner

Seattle Department of Construction and Inspections (SDCI)

chanda.emery@seattle.gov

206-233-2527

4. Date checklist prepared:

February 10, 2022

5. Agency requesting checklist:

City of Seattle Department of Construction and Inspections

6. Proposed timing or schedule (including phasing, if applicable):

First quarter of 2022

7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.

No.

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.

Information included in this report references the City of Seattle's 2020 Urban Forest Management Plan, as well as a 2016 tree canopy cover assessment by the University of Vermont Spatial Lab.

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.

This is a non-project citywide proposal, without a particular defined site.

10. List any government approvals or permits that will be needed for your proposal, if known.

The Draft Director's Rule associated with this proposal will need to follow standard legislative rules and procedures.

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.)

This is a non-project legislative action proposing amendments to Titles 23 (Land Use Code) and 25 (Tree Protection Code). The purpose of the code amendments is to update tree protections. In addition, the proposal would correct errors and improve the clarity and readability of the code. There is no specific site or development proposal.

Summary Description of the Proposal

A. Expand the types and sizes of trees that are regulated, including a new definition of significant trees;
B. Apply replacement requirements to include significant trees 12 inches in diameter and larger;
C. Simplify provisions, including allowing development standards to be modified to aid in tree

preservation as an administrative process without requiring Design Review, while maintaining Design Review as an option in multifamily and commercial zones;

D. Establish a payment option for tree replacement (payment in lieu);
E. Support tracking of tree preservation, removal, and replacement; and
F. Increase penalties for violations of tree regulations

Outline of the Proposal's Contents

Titles 23 (Land Use Code) and 25 (Tree Protection Code) would be updated by this proposal. The following summarizes the proposed amendments to these codes.

1. Expand the definition of an exceptional tree by lowering the minimum size threshold for certain tree species from 30 inches to 24 inches as measured by diameter at standard height (DSH) and adding tree groves and heritage trees to the definition of exceptional trees (and certain existing exceptional tree species with thresholds smaller than 24 inches would continue to be defined as exceptional).
    a. The key part of the proposed revisions indicate, "Exceptional trees include all heritage trees, individual trees that comprise tree groves, and all trees identified by Director's Rule."
    b. The proposal reviewed here includes the draft Director's Rule written to fulfill the purpose indicated above.
2. Newly define "significant tree" as any tree that has a DSH of six inches or greater and is not defined as an exceptional tree, and require mitigation for removal of significant trees that are 12 inches or greater. Limit removal of significant trees outside of development to trees smaller than 12 inches.
    a. When no development is proposed, limit to three the number of significant trees less than 12 inches DSH that may be removed in any one-year period on lots in Lowrise, Midrise, commercial, and Neighborhood Residential (formerly "single-family") zones.
    b. The proposal declares the protection of exceptional trees and trees 12 inches or greater as follows: "Significant trees 12 inches or greater in diameter at standard height and exceptional trees that are not allowed to be removed pursuant to Section 25.11.060 or 25.11.085 and that do not preclude access to development or provision of utility services shall be protected."
    c. Include demolition permits in the range of permits relevant to tree protection.
3. Add a new section that establishes a payment option (voluntary payment-in-lieu) when tree replacement is required.
    a. The proposal under review here includes a Director's Rule that defines a method for calculating in-lieu payments, and draft payment amounts for exceptional trees, and significant trees 12 inches and greater.
    b. The proposed code section also indicates that off-site planting is allowed for planting of replacement trees.
4. Proposed adjustments to development standards that may be made:
    a. For development not subject to design review:
        1) Setbacks and separation requirements may be reduced by a maximum of 50 percent;
        2) Amenity areas may be reduced by a maximum of 10 percent;
        3) Landscaping and screening may be reduced by a maximum of 25 percent; and
        4) Structure width, structure depth, and facade length limits may be increased by a maximum of 10 percent.

    b. For development subject to design review, the departures permitted in Section 23.41.012.

    c. Parking reduction. A reduction in the parking quantity required by Section 23.54.015 and the modification of standards for safe access of any required parking of Section 23.54.030 may be

permitted in order to protect an exceptional tree if the reduction would result in a project that would avoid the tree protection area.

d. In Lowrise zones, an increase in base height limit of 40 feet to 50 feet; for a building that is subject to the pitched roof provisions of subsection 23.45.514.D, for the ridge of a pitched roof with a minimum slope of 6:12 to extend up to a height of 50 feet if the increase is needed to accommodate, on an additional story, the amount of floor area lost by avoiding development within the tree protection area.

5. Simplify processes and update enforcement provisions for tree regulations, including increasing penalties for violations.
6. Add "Application of tree provisions pursuant to Chapter 25.11" as a Type I decision.
7. Add new definitions of terms, including but not limited to: canopy cover, diameter at standard height (DSH), emergency action, excessive pruning, invasive tree, responsible party, and tree grove.
8. Adding tree removals, off-site replanting outside the boundaries of the MPC-YT zone, and voluntary payment in lieu of replanting undertaken as part of redevelopment that meets the planned action ordinance within the MPC-YT zone for Yesler Terrace, as actions exempt from Chapter 25.11.
9. Add tree replanting and voluntary payment in-lieu of replanting undertaken as part of development by permanent supportive housing providers as regulated by Title 23, as actions exempt from Chapter 25.11.
10. Add a new section addressing emergency actions that may be undertaken without obtaining a permit in advance from the City.
11. Add a new section addressing provisions related to hazardous tree removal.
12. A new section addressing tree protection on sites in Major Institution Overlay Districts, moving existing provisions to a new code Section.
13. Delete the requirement for streamlined design review to occur if an exceptional tree is present on a site proposed for development.

Included with this proposal are two draft Director's Rules addressing: 1) Payment in lieu of tree replacement pursuant to Tree Protection Code and 2) Designation of Exceptional Trees that are 24" DSH and smaller.

- The purpose of the Draft Director's Rule on the voluntary payment in-lieu option is to provide further guidance for payments in lieu of tree replacement pursuant to Seattle Municipal Code (SMC) Chapter 25.11, Tree Protection.
- For the Draft Director's Rule related to exceptional trees, the purpose is to provide additional guidance for exceptional trees that are 24" DSH and smaller pursuant to SMC Chapter 25.11. Table 1 of the Rule provides a list of size thresholds for selected specimen exceptional trees that are 6" DSH or greater up to 24" DSH. All trees that are not on this list are exceptional at 24" DSH. In addition, any named cultivars or subspecies of species listed in Table 1 have the same diameter threshold as the species specifically named in Table 1 of the Rule. For example, a Japanese maple cultivar (Acer palmatum "Burgundy Lace") has the same threshold diameter as Japanese maple (Acer palmatum).

The reader should also note that SMC Chapter 25.11 does not apply to tree removal approved as part of an Environmentally Critical Area tree and vegetation plan as provided for in SMC 25.09.070. Tree removal in Environmentally Critical Areas must comply with the provisions of SMC 25.09.070. In addition, the Draft Director's Rule titled "Designation of Exceptional Trees that are 24" DSH and smaller" does not apply to trees located within the right-of-way, as those trees are regulated under Title 15.

Trees under 6” DSH are not regulated or protected unless located in an environmentally critical area.

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

This proposal is a non-project action, applicable to single family, multifamily and commercial zones citywide. : "Zone, commercial" means a zone with a classification that includes one of the following: NC1, NC2, NC3, C1, C2, SM-SLU, SM-D, SM-NR, SM-U, SM-UP, and SM-NG, any of which classifications also may include one or more suffixes as identified on the City of Seattle’s Official Zoning Map.

B. Environmental Elements

1. Earth

a. General description of the site:

(circle one): Flat, rolling, hilly, steep slopes, mountainous, other _____

b. What is the steepest slope on the site (approximate percent slope)?

This is a non-project action that does not pertain to a specific site. Properties affected by the proposal are found throughout Seattle, including areas with identified steep slopes that exceed 40%. Slopes in Seattle range from 0% to greater than 40%. The steepest slopes occur primarily on the sides of of the major hills in the City of Seattle, including Queen Anne Hill, Capitol Hill, West Seattle and Magnolia.

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils.

This is a non-project action that does not pertain to a specific site. Properties affected by the proposal could potentially include a range of soil types such as mineral soils dominated by clay, or sand, as well as organic soils such as peats and mucks. Soil in Seattle varies and is mostly glacial in nature. There is no prime farmland within the city limits.

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.

This non-project proposal applies citywide and is not associated with a specific development site. The Seattle area is known to be in an active seismic area, as is the entire Puget Sound region. For reference, the extent of the City’s geologically hazardous areas are defined by SDCI as environmentally critical areas (ECA) (http://gisrevprxy.seattle.gov/wab_ext/DSOResearch_Ext/), and any future project actions that require a soil analysis with regard to designated critical areas would also require a SEPA review at the time of initial plan review.

e. Describe the purpose, type, total area, and approximate quantities and total affected area of any filling, excavation, and grading proposed. Indicate source of fill.

This is a non-project proposal, and does not include any construction or development that would require filling or grading. Future specific project actions requiring filling or grading would require SEPA review at the time they are proposed.

f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.

This is a non-project proposal, and does not include any construction or development that would trigger erosion as a result of clearing or construction. Any future specific project actions with the potential for erosion impacts would be addressed through regulations and/or project-specific environmental review as appropriate. See the responses in Section D of this checklist for more discussion.

g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

This non-project proposal does not include any construction or development that would convert pervious surface to impervious surfaces or create new impervious surfaces. Seattle as a city is already urbanized, with a high relative percentage of impervious area. Enhancing tree protection could bring benefits to the city by retaining tree canopy cover that contributes to stormwater mitigation.

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:

None proposed. Any potential impacts of future, specific development proposals would be addressed through regulations and/or project specific environmental review as appropriate.

2. Air

a. What types of emissions to the air would result from the proposal during construction, operation, and maintenance when the project is completed? If any, generally describe and give approximate quantities if known.

This is a non-project action. Any increase in Seattle's tree canopy cover could serve to improve air quality.

b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.

No. See responses in Section D of this checklist for further discussion of potential impacts on the natural environment.

c. Proposed measures to reduce or control emissions or other impacts to air, if any:

None proposed.

3. Water

a. Surface Water:

1) **Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.**

This is a non-project action that does not pertain to a specific site. No construction or site alteration is proposed. The proposal could include future development on sites throughout Seattle, including sites near water bodies, including Lake Washington, Puget Sound, Green Lake, Lake Union, and the Duwamish River. Watersheds and surface water bodies in Seattle include the following:

Marine: Seattle's west side is situated adjacent to Puget Sound, a major marine embayment.

Rivers: Portions of south Seattle drain into the lower reaches of the Duwamish River, that is connected to the South Park basin, Norfolk basin, Longfellow Creek and other smaller urban creeks. The Duwamish River drains to Elliott Bay in south Puget Sound.

Lakes: Freshwater lakes and ponds, within or adjacent to the City, includes Lake Union and the Ship Canal, Green, Haller and Bitter Lakes in north Seattle, as well as numerous smaller ponds and associated wetlands.

Creeks: Runoff from portions of Seattle's development drains to creek systems of varying sizes. These include Pipers and Fauntleroy creeks that drain into Puget Sound. Longfellow Creek empties into the Duwamish River. Thornton and Taylors Creek, and other smaller creeks drain runoff from the east side of the City into Lake Washington.

Any future development in these areas would be subject to regulations in Seattle's Shoreline Master Program. See also responses in Section D of this checklist for further discussion of potential impacts on the natural environment.

2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.

The proposed non-project action does not include any construction or development that would require work over, in, or adjacent to the surface waters. Any potential impacts of future, specific development proposals would be addressed through regulations and/or project-specific environmental review as appropriate.

3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.

This non-project action does not define any particular development site, and no such work is identified.

4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.

No. This non-project action does not require surface water withdrawals or diversions.

5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.

While parts of the City are located within a 100-year floodplain, this non-project action is not site specific. Individual projects that may be subject to provisions of this proposal may be located over, in, or adjacent to these waters and their associated floodplains, to the extent allowed by City regulations. Potential impacts of future, specific development proposals would be addressed through regulations and/or project-specific environmental review as appropriate.

6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.

No, this proposal does not involve any discharge of waste material to surface waters.

b. Ground Water:

1) Will groundwater be withdrawn from a well for drinking water or other purposes? If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well. Will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known.

No.

2) **Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals. . . ; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.**

This is a non-project action that does pertain to a specific site. This non-project proposal does not include any construction or development that would generate runoff. Potential impacts of future, specific development proposals would be addressed through regulations and/or project-specific environmental review. See also responses in Section D of this checklist for further discussion of potential impacts on the natural environment.

c. Water runoff (including stormwater):

1) **Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.**

This is a non-project action that does not pertain to a specific site. No construction or site alteration is proposed. Stormwater runoff from future development related to this proposal would be regulated by and controlled consistent with City codes, which could involve drainage either to City sewer utility facilities or to natural surface drainages where present as part of a stormwater drainage pathways. These pathways and facilities would vary throughout the city according to the location of future development.

2) **Could waste materials enter ground or surface waters? If so, generally describe.**

No. There is no development proposed as part of this non-project action.

3) **Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site? If so, describe.**

No. This is a non-project action that does pertain to a specific site.

d. Proposed measures to reduce or control surface, ground, and runoff water, and drainage pattern impacts, if any:

None proposed. Enhanced tree protection through this proposal could increase tree canopy cover in the city which would tend to reduce and control surface, ground, and runoff water impacts as trees slow, filter, and detain stormwater.

4. Plants

Check the types of vegetation found on the site:

__x__deciduous tree: alder, maple, aspen, other: cottonwoods, willow, etc.
__x__evergreen tree: fir, cedar, pine, other: spruce, hemlock, etc.
__x__shrubs
__x__grass
_____pasture
_____crop or grain
_____orchards, vineyards or other permanent crops.
__x__ wet soil plants: cattail, buttercup, bullrush, skunk cabbage
__x__water plants: water lily, eelgrass, milfoil
__x__other types of vegetation: various other vascular, avascular, native, and non-native plant species

A wide variety of trees, shrubs, and other types of vegetation suited to Seattle's urban environment is present throughout the City including a wide variety of native and non-native species. The Puget Sound basin has a diversity of plant species that depend on marine, estuarine, freshwater, and terrestrial environments. Vegetation in Seattle includes upland forest (deciduous, coniferous, and evergreen), shrublands, riparian forests, and wetlands. Flora include species both native to the region as well as many ornamental non-native species. As a densely developed urban area, Seattle has few remaining areas of native vegetation and high-quality habitat. Remaining fragments of high-quality native vegetation are found primarily in parks and open space. Plant species that grow in Seattle's urban environment include native and non-native species that have adapted, tolerated or benefited from habitat degradation and disturbance.

b. What kind and amount of vegetation will be removed or altered?

No vegetation will be removed as part of this non-project proposal. Increased tree protection is intended to help increase the number of trees maintained in the City including native and naturalized species. Trees that are removed as part of development/permitting processes will require mitigation to replace the loss of canopy cover. See Section D of this checklist for more discussion.

c. List threatened and endangered species known to be on or near the site.

None known. No federally designated endangered or threatened or State-listed sensitive plant species are known to occur within Seattle. Most of the City has experienced substantial development and redevelopment over the last 100 years. Original vegetation in the area has been extensively cleared, excavated, filled, paved, or occupied by streets and built structures.

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

No landscaping or use of native plants are proposed at this time because the proposal is a non-project action that would affect the uses and types of development allowed on parcels throughout Seattle. Potential impacts of future development projects related to this proposal would be addressed throughout regulation and/or project-specific environmental review. Future development related to this proposal would continue to be subject to existing landscaping requirements. In many zones where the proposed provisions would apply, future development would be required to fulfill Green Factor landscaping requirements that increase the amount and improve the quality of landscaping in new development. In certain cases, the proposal could result in a type or amount of development that triggers Green Factor requirements that would not otherwise apply, which could at least partially offset impacts on landscaping and vegetation. See Section D of this checklist for more discussion.

e. List all noxious weeds and invasive species known to be on or near the site.

The proposed non-project action would affect the uses and development allowed on parcels throughout Seattle and does not pertain to a specific site. Many species of noxious and invasive species are present in the Seattle. For example, see the noxious weed lists of the King County Noxious Weed Board at https://www.kingcounty.gov/services/environment/animals-and-plants/noxious-weeds/laws/list.aspx.

5. Animals

a. List any birds and other animals which have been observed on or near the site or are known to be on or near the site.

Examples include:

birds: hawk, heron, eagle, songbirds, other: osprey, bald eagle, peregrine falcon, purple martin, various species of owl, pileated woodpecker, belted kingfisher, waterfowl species, Canada goose, starling, and pigeon

mammals: deer, bear, elk, beaver, other: miscellaneous and diverse species, such as squirrel, opossum, sea lion, river otter, muskrat, raccoon, and rat
fish: bass, salmon, trout, herring, shellfish, other: perch, rockfish, etc.

A wide variety of animal species adapted to Seattle's urban environment are present citywide. Generally, the Puget Sound basin is home to diverse animal species that depend on marine, estuarine, freshwater, and terrestrial environments. Fauna include species native to the region and many non-native species. As a densely developed urban area, Seattle has relatively few remaining areas of native vegetation and high-quality habitat. Remaining fragments of high-quality native vegetation are found primarily in parks and open space. Wildlife found in Seattle's urban environment are native and non-native species that tolerate or benefit from habitat degradation and close association with human activities.

b. List any threatened and endangered species known to be on or near the site.

This is a non-project action that does not pertain to a specific site and affects the uses and development allowed on parcels throughout Seattle. Five species found in King County are listed as endangered or threatened under the Endangered Species Act (ESA), but they are unlikely to be found in Seattle: Canada lynx (Lynx Canadensis; threatened), gray wolf (Canis lupus; endangered), grizzly bear (Ursus arctos; endangered), marbled murrelet (Brachyramphus marmoratus; threatened), and northern spotted owl (Strix occidentalis caurina; threatened).

King County has federally designated critical habitat for marbled murrelet and northern spotted owl, but this habitat is located outside Seattle. Bald eagle (Haliaeetus leucocephalus), which are known to reside in Seattle, was removed from the federal list under ESA on August 8, 2007, but remains federally protected under the Bald and Golden Eagle Protection Act.

Fish species listed as endangered or threatened under the ESA and found in freshwater tributaries of Puget Sound include Chinook salmon (Oncorhynchus tshawytscha, threatened), steelhead (O. mykiss, threatened), and bull trout (Salvelinus confluentus, threatened). Coho salmon (O. kisutch) is a candidate species for listing as threatened. These species all reside in or near the geographic area affected by the proposed non-project action. Lake Washington contains federally designated critical habitat for bull trout and Chinook salmon. Because much of Seattle has been previously developed and the original habitats significantly altered or eliminated, the potential for threatened or endangered animal species to be present in Seattle is low.

c. Is the site part of a migration route? If so, explain.

This is a non-project action that does not pertain to a specific site and affects the uses and development allowed on parcels throughout the city. The Puget Sound region is an important migratory route for many animal species. Portions of the geographic area affected by the proposed non-project action could provide migratory corridors for bald eagles travelling to and from foraging areas in Puget Sound and Lake Washington. The Pacific Flyway encompasses Seattle and the Puget Sound region extending from Alaska to Mexico and South America. It is known to be an important migratory route for many bird species, including waterfowl, seabirds, and songbirds. Marbled murrelet and bald eagles are known to travel through the Pacific Flyway between marine waters and their nests in late succession/old growth forests located in the Cascade Mountains outside of Seattle.

Bull trout, steelhead, and salmon (Chinook, chum, pink, coho) use the Puget Sound nearshore. Chinook, coho, and sockeye salmon use Lake Washington and Lake Union as migration corridors. Anadromous trout and salmon migrate through the Seattle area river and stream systems, including urban streams in Seattle.

d. Proposed measures to preserve or enhance wildlife, if any:

None proposed.

e. List any invasive animal species known to be on or near the site.

This is a non-project action that does not pertain to a specific site but would affect the uses and type of development allowed on parcels throughout Seattle. Many invasive animal species are found in the greater Seattle area. Invasive species known to be present in Seattle and King County include European starlings, house sparrows, Eastern gray squirrels, nutria, rat, pigeon, New Zealand mud snail, and Asian gypsy moth.

6. Energy and Natural Resources

a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.

The proposal is a non-project action. The proposal does not involve heating, manufacturing, etc. because it does not directly propose construction or development that would require energy to operate. Development in Seattle typically relies on electricity, natural gas, oil, and solar energy for heating and other resource needs. Potential impacts from future development projects related to this proposal would be addressed through regulation and/or project-specific environmental review.

b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.

As a non-project action, it does not include any construction or development that would affect potential use of solar energy by adjacent properties. Potential impacts on solar energy use of future development projects related to this proposal would be addressed through regulation and/or project-specific environmental review.

c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:

The non-project action does not include any energy conservation features or other measures to reduce or control energy impacts.

7. Environmental Health

a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of this proposal? If so, describe.

No. This non-project action does not include construction or development that could result in environmental health hazards, exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste.

1) **Describe any known or possible contamination at the site from present or past uses.**

This non-project action is not site specific, and therefore there is no contamination associated with this proposal. Potential impacts of future development projects related to this proposal would be addressed through regulation and/or project-specific environmental review.

2) **Describe existing hazardous chemicals/conditions that might affect project development and design. This includes underground hazardous liquid and gas transmission pipelines located within the project area and in the vicinity.**

There are no existing hazardous chemicals or conditions associated with this non-project proposal.

3) **Describe any toxic or hazardous chemicals that might be stored, used, or produced during the project's development or construction, or at any time during the operating life of the project.**

No toxic or hazardous chemicals are used, stored, or produced, as part of this non-project action.

4) Describe special emergency services that might be required.

No special emergency services are required.

5) Proposed measures to reduce or control environmental health hazards, if any:

None proposed. The non-project action has no associated impacts identified nor measures to reduce environmental health hazards.

b. Noise

2) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?

The non-project proposal would not be affected by noise. Potential impacts of future, specific development proposals would be addressed through regulations and/or separate project-specific environmental review.

What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.

This is a non-project proposal, with no associated noise impacts likely to be created.

Proposed measures to reduce or control noise impacts, if any:

None proposed.

8. Land and Shoreline Use

a. What is the current use of the site and adjacent properties? Will the proposal affect current land uses on nearby or adjacent properties? If so, describe.

This is a non-project proposal with no associated development site. Project-specific impacts on land and shoreline use would be determined during permitting of individual projects. See Section D of this checklist for more discussion.

b. Has the project site been used as working farmlands or working forest lands? If so, describe. How much agricultural or forest land of long-term commercial significance will be converted to other uses as a result of the proposal, if any? If resource lands have not been designated, how many acres in farmland or forest land tax status will be converted to nonfarm or non-forest use?

This non-project proposal would not convert agricultural or forest land to other uses. There are no designated agricultural or forest lands in Seattle, but there are P-Patch community gardens, administered by the City of Seattle's Department of Neighborhoods that include "market gardens" where produce is grown for commercial use by low-income gardeners.

1) Will the proposal affect or be affected by surrounding working farm or forest land normal business operations, such as oversize equipment access, the application of pesticides, tilling, and harvesting? If so, how:

No.

c. Describe any structures on the site.

This is a non-project action with no development sites and/or associated structures.

d. Will any structures be demolished? If so, what?

No.

e. What is the current zoning classification of the site?

This is a non-project action and it is not site-specific. Zoning applicable includes Neighborhood Residential (formerly "Single Family"), Multifamily, and Commercial per Chapter 25.11 Tree Protections.

f. What is the current comprehensive plan designation of the site?

This proposal is not site-specific. The City of Seattle is designated Urban, with a mix of areas designated as urban centers, urban villages, manufacturing and industrial center, and other areas outside of those more specific designations.

g. If applicable, what is the current shoreline master program designation of the site?

This non-project action would apply citywide, including both freshwater and marine shorelines, resources that are regulated by the City's Shoreline Master Program (SMP). Shoreline environments regulated include all marine waters, larger streams and lakes, associated wetlands and floodplains, and shorelands that extend 200 feet landward from the edges of protected water bodies. Individual future projects that could be subject to the provisions of this proposal may be in areas subject to the SMP. Project-specific information on land and shoreline uses would be determined during plan review of individual projects.

h. Has any part of the site been classified as a critical area by the city or county? If so, specify.

This is a non-project action and is not site specific. Project-specific information on site classification would be determined during permitting of individual projects. Yes, the affected area would include lands classified as environmentally critical areas (ECAs). All existing ECA regulations would continue to apply and would regulate any future development on sites that intersect ECAs. No changes are proposed to current ECA regulations.

i. Approximately how many people would reside or work in the completed project?

The proposal is a non-project action that affects the uses and types of development allowed on parcels throughout Seattle. Future development related to this proposal could include residential uses in zones that allow for residential use. It would be overly speculative to estimate the number of people who could come to reside in such development over time.

j. Approximately how many people would the completed project displace?

This is a non-project action that affects the uses and types of development allowed on parcels throughout Seattle. See above – this question is site-specific and therefore is not answerable for this non-project action.

k. Proposed measures to avoid or reduce displacement impacts, if any:

The proposed non-project action does not include any proposed measures to avoid or reduce displacement impacts. Potential impacts of future, specific development proposals would be addressed through regulations and/or separate project-specific environmental review.

l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:

None are proposed.

m. Proposed measures to reduce or control impacts to agricultural and forest lands of long-term commercial significance, if any:

None proposed.

9. Housing

a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.

The proposal is a non-project action that does not include construction or development of housing.

b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.

No housing units would be eliminated as part of this non-project action.

c. Proposed measures to reduce or control housing impacts, if any:

This is a non-project action without identified significant housing impacts, and as such no mitigation measures are proposed.

10. Aesthetics

a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?

The proposal is a non-project action that does not include construction or development of any structures.

b. What views in the immediate vicinity would be altered or obstructed?

The proposed non-project action does not include construction or development at this time that would alter or obstruct views. However, as trees grow and mature, views may be affected by both existing and future-planted trees. See Section D of this checklist for more discussion.

Proposed measures to reduce or control aesthetic impacts, if any:

There are no proposed measures to reduce or control aesthetic impacts.

11. Light and Glare

a. What type of light or glare will the proposal produce? What time of day would it mainly occur?

This non-project action does not include site-specific construction or development that would produce light or glare. Potential impacts of future, specific development proposals would be addressed through regulations and/or separate project-specific environmental review.

b. Could light or glare from the finished project be a safety hazard or interfere with views?

No.

c. What existing off-site sources of light or glare may affect your proposal?

None.

d. Proposed measures to reduce or control light and glare impacts, if any:

There are no proposed measures to reduce or control light and glare impacts.

12. Recreation

a. What designated and informal recreational opportunities are in the immediate vicinity?

The proposal is a non-project action that would not affect the uses and types of development allowed on certain parcels throughout zones where residential uses are already allowed. It does not pertain to a specific site. Parks, open spaces, community centers, and other recreational opportunities are located throughout the affected area.

b. Would the proposed project displace any existing recreational uses? If so, describe.

The proposed non-project action does not include construction or development at this time that would displace existing recreational uses.

c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:

None proposed.

13. Historic and cultural preservation

a. Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state, or local preservation registers? If so, specifically describe.

There are no specific development sites associated with this non-project action therefore no particular buildings, structures, or sites, historic or otherwise, are identified with this proposal.

b. Are there any landmarks, features, or other evidence of Indian or historic use or occupation? This may include human burials or old cemeteries. Are there any material evidence, artifacts, or areas of cultural importance on or near the site? Please list any professional studies conducted at the site to identify such resources.

See the response to question 13.a above. There are no specific sites associated with this non-project action. Seattle has several landmarks and evidence of historic, archaeological, scientific, and cultural importance within its boundaries. No professional studies were conducted as part of this proposal.

c. Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples include consultation with tribes and the department of archeology and historic preservation, archaeological surveys, historic maps, GIS data, etc.

The proposal is a non-project action. Potential impacts to cultural and historic resources from future development projects related to this proposal would be addressed through future permit reviews and in relation to the City's existing historic preservation regulations and policies. Information regarding historic structures is available through the Seattle Department of Neighborhood's Historic Resources Survey Database and Context Statements.

d. Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required.

There are no proposed measures for this non-project action.

14. Transportation

a. Identify public streets and highways serving the site or affected geographic area and describe proposed access to the existing street system. Show on site plans, if any.

The proposed non-project action does not pertain to a specific site or discrete geographic area. Seattle is an urbanized area with a dense grid of residential and arterial streets that connect to major transportation routes,

including Interstate 5 and State Route 99, which run north–south through the City, and Interstate 90 and State Route 520, which connect Seattle to points east across Lake Washington.

The geographic area affected by the proposal includes some of Seattle's least densely populated areas served primarily by low-capacity residential streets and the densest and most urbanized areas of Seattle served by arterial streets and major routes. Most sites affected by the proposal are likely to have access to the existing street system; some large, undeveloped sites may require a connection to the existing street system as part of future project development. More specific information concerning site-specific public streets and highways would be addressed during future permitting of individual development projects.

b. Is the site or affected geographic area currently served by public transit? If so, generally describe. If not, what is the approximate distance to the nearest transit stop?

Seattle is served by multiple modes of public transit including bus, trolley, and light rail. Site-specific information would be determined during future plan review of individual projects.

c. How many additional parking spaces would the completed project or non-project proposal have? How many would the project or proposal eliminate?

The proposed non-project action would not construct or eliminate any parking spaces. Potential impacts on parking availability and demand from future development (indirectly related to the proposal) would be addressed through regulation and/or project-specific environmental review.

d. Will the proposal require any new or improvements to existing roads, streets, pedestrian, bicycle or state transportation facilities, not including driveways? If so, generally describe (indicate whether public or private).

No. The proposed non-project action does not require construction of new or improvements to existing roads; streets; pedestrian, bicycle, or state transportation facilities. Potential impacts to roads and other transportation infrastructure from future development projects (indirectly related to the proposal) would be addressed through regulation and/or project-specific environmental review.

e. Will the project or proposal use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.

No. This is a non-project action. Seattle is served by railroads, seaports, and airports. No particular relationship of potential development sites to air, water, rail, or air transportation facilities is known. Project-specific information on proximity to and use of water, rail, and/or air transportation, where relevant, would be addressed during future permitting of individual development projects.

f. How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and non-passenger vehicles). What data or transportation models were used to make these estimates?

No vehicular trips would be generated as part of this non-project action.

g. Will the proposal interfere with, affect, or be affected by the movement of agricultural and forest products on roads or streets in the area? If so, generally describe.

No. The proposal is a non-project action that does not include any construction or development that would interfere with, affect, or be affected by the movement of agricultural and forest products. Potential impacts on the movement of agricultural or forest products from future development projects indirectly related to this proposal, if any, would be addressed through regulation and/or project-specific environmental review.

h. Proposed measures to reduce or control transportation impacts, if any:

No measures to reduce or control transportation impacts are proposed.

15. Public Services

a. Would the project result in an increased need for public services (for example: fire protection, police protection, public transit, health care, schools, other)? If so, generally describe.

No. The proposed non-project action would not result in an increased need for public services. Potential impacts of future, site-specific development proposals would be addressed through regulations and/or separate environmental review.

b. Proposed measures to reduce or control direct impacts on public services, if any.

None proposed.

16. Utilities

a. Circle utilities currently available at the site:
electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other _____

b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

The proposed non-project action would be in effect citywide. Nearly all areas in Seattle have electricity, telephone, water and refuse services. Most (but not all) areas have cable/fiber optics, sanitary sewers, and/or natural gas. The proposal does not pertain to a specific site, and no construction or development is proposed at this time. Most properties affected by the proposal have access to and would use existing utilities provided throughout the city. Future development indirectly related to this proposal would require water and sewer services at similar but potentially slightly higher levels than development otherwise allowed under existing regulations. Potential impacts on public utilities of future development projects would be addressed through City permit review, and localized improvements could be identified and required by Seattle Public Utilities on a project-by-project basis.

C. Signature

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature: On File

Name of signee: Chanda Emery

Position and Agency/Organization: Senior Planner, SDCI

Date Submitted: February 10, 2022

D. Supplemental sheet for non-project actions

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?

This proposal would not result in probable increase in discharge to water, air emissions, nor the additional production, storage, or release of toxic substances or noise. Increased tree protections could result in positive impacts by increasing the number of trees that are protected by lowering the threshold for exceptional trees from 30" to 24" (see question 2 projections). To the extent that increased tree protections could lead to more outcomes where existing exceptional trees, significant trees, heritage trees and groves are preserved and not removed, the proposal would likely lead to fewer instances of tree removals and soil disturbances. This would reduce the probability of adverse pollutant emissions to water and air at the relevant properties caused by such disturbances. The contents of the proposal have no particular adverse impact potential with respect to noise generation or release of toxic substances.

At a minimum, the proposal is not expected to increase the likelihood of exceptional or significant tree removals on any given typical future development site, compared to the application of existing development regulations and related practices. Therefore, the degree and direction of probable cumulative impacts to plant and animal habitats and resources citywide is expected to be at least neutral and more likely positive.

Potential impacts of future, specific development proposals would be addressed through regulations and/or separate project-specific environmental review.

Proposed measures to avoid or reduce such increases are:

No measures are proposed. Potential impacts of future, specific development proposals would be addressed through regulations and/or separate project-specific environmental review.

2. How would the proposal be likely to affect plants, animals, fish, or marine life?

Amounts of Trees and Properties Affected by Proposed Regulation

SDCI worked with Seattle IT to estimate the number of lots that the change from a 30" to a 24" DSH threshold for most exceptional trees would affect. The analysis also looked at the effect of using a threshold of significant trees at a 12" DSH. The GIS analysis employed the City's 2016 tree canopy layer,

SDCI's lot and zoning layers, statistics from a U.S. Forest Service study of tree canopy DSH distribution in 30 US cities[1], and an Accela query of SDCI tree reviews in 2020 and 2021.

The following table estimates what proportion of additional development sites (e.g., properties) in the affected environment would be newly affected, and how many additional trees would be protected as a result of the proposal. This relates to two different components of the proposal, either or both of which could be approved.

Existing tree regulation compared to proposal	**Percentage of lots* to be regulated during development**	**Number of trees** to be regulated during development**
Regulating using existing definition of exceptional trees (varies by trunk size and species)	4% of lots in applicable zones	17,700 trees
Regulating with an expanded definition of exceptional trees (most at 24" or larger); groves and heritage trees	5% of lots in applicable zones	22,400 trees
Regulating trees 12" and larger plus exceptional trees***	16% of lots in applicable zones	70,400 trees

* The total number of approximately 162,000 applicable lots are in single family, multifamily and commercial zones.
** Estimated total number of trees 6" and larger on private property in the applicable zones: 175,013.
***The proposal defines the size range of significant trees to be 6" and larger, but replacement/ mitigation would only be required for significant trees 12" and larger, along with trees designated as exceptional trees, heritage trees, and trees in groves.

The proposal to expand the definition of an exceptional tree by lowering the threshold from 30" to 24" as measured by diameter at standard height (DSH) and add tree groves and heritage trees would result in the regulation of about 22,400 trees. Residential and commercial zoned lots containing exceptional trees would rise from 4% to 5%.

[1] Morgenroth, Justin, David J. Nowak, and Andrew K. Koeser 2020. "DBH Distributions in America's Urban Forests—An Overview of Structural Diversity" *Forests* 11, no. 2: 135. https://doi.org/10.3390/f11020135

The proposal to expand the range of regulated trees for newly defined significant trees with 12" diameter or larger and exceptional trees, would result in the regulation of about 70,400 trees. The proportion of residential and commercial lots containing regulated trees would rise from 5% to 16%.

Ecological Function

In addition to creating new and updating existing definitions of tree categories, the proposal would give SDCI arborist staff discretion to evaluate the ecological function of significant trees over 12 inches in diameter and all exceptional trees and potential exceptional trees and determine the likelihood that the trees will live to maturity due to factors including but not limited to:

1. Health and physical condition;
2. Development site constraints such as proximity to existing or proposed development, access and utilities, soil conditions, and solar access;
3. Environmental conditions external to the development site such as the likely occurrence of disease or insect infestation, landslide, or high water table.

Ecological function would be used to further determine whether trees in these two categories would be required to be protected or if allowed to be removed, or replaced according to the provisions of the tree code.

Fee-in-lieu option for replacement

The proposed amendments would require trees 12 inches or greater in diameter removed as part of development to be either replaced on-site or mitigated by payment in-lieu of replacement, unless hazardous. These changes would primarily impact builders and property owners seeking to remove trees as part of development activity beyond the existing tree removal limit, which currently allows up to three non-exceptional trees to be removed per year.

Exceptional trees and trees over 12" in diameter are proposed to be protected from removal (e.g., in required yards or property line setbacks) unless they are authorized to be removed for a new building.

On-site replacement is preferable; however as an alternative, under the proposal, a builder could opt to make a payment in-lieu to replant trees. The payment amounts would be based on the Guide for Plant Appraisal, 10th edition, authored by the Council of Tree and Landscape Appraisers which is based on the size and species of the tree, ranging from several hundred to several thousand dollars for a regulated tree. Payment amounts could be adjusted in the future and may include City costs related to establishing the trees for a period, likely three to five years. Revenues would be used for City programs that would result in planting of new trees on public property with an emphasis on low-canopy neighborhoods, many of which are BIPOC communities.

Overall Conclusions on Plants and Animals Impacts

This proposal would not generate direct impacts on animals, fish, or marine life, and would likely generate positive impacts on trees by expanding the size range and definition of protected tree designations (exceptional and significant trees).

It's likely that by lowering threshold for exceptional trees from 30" to 24" as measured by diameter at standard height (DSH) and adding tree groves and heritage trees to the definition, more trees could be preserved. There would also be an increase in the number of development sites subject to mitigation requirements if exceptional and/or significant trees are removed, which would be of net benefit to Seattle's urban forest.

This proposal would likely confer a greater degree of protection to trees under the new definition of exceptional trees, because there would be a new definition of exceptional trees, and an increase in the number of development sites with exceptional trees. Also, there would be stricter limits on removal of exceptional trees, and significant trees over 12 inches in diameter. This means more trees would meet the definition of exceptional and would often be retained without disturbance from development, due to a regulatory preference for exceptional trees to be preserved whenever possible. At a minimum, the proposal is not expected to increase the likelihood of exceptional or significant tree removals on any given typical development site, compared to the application of existing development regulations and related practices. Therefore, the degree and direction of probable cumulative impacts to plant and animal habitats and resources citywide is expected to be at least neutral and more likely positive. Significant adverse impacts to plant and animal habitats would not be probable.

And if an exceptional tree would be authorized for removal through permitting as part of a future development, tree replacement requirements would likely contribute to a net plant and animal habitat benefit by increasing tree canopy cover and enhancing the ecological quality of Seattle's urban forest at a citywide or city sector level. This would likely occur if trees were replaced on-site, or off-site through in-lieu fee implementation or other off-site tree replacement regimen.

Proposed measures to protect or conserve plants, animals, fish, or marine life are:
This legislation proposes mitigation for removing exceptional and significant trees, at a ratio that provides long-term ecological benefits to Seattle's urban forest, and contributes to maintain the city's tree canopy.

3. How would the proposal be likely to deplete energy or natural resources?

The proposal is not likely to have significant impacts on energy or natural resource depletion; none of its provisions or concepts are likely to adversely affect rates of energy usage or consumption of natural resources, because they have administrative, procedural, or resource-designating purposes. It is possible that solar access of properties adjacent to existing or future trees could experience minor impacts in the form of gradually diminishing solar access as trees grow to maturity.

Proposed measures to protect or conserve energy and natural resources are:
None proposed.

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?

This proposal would not likely adversely impact any sensitive areas or these kinds of areas designated for government protection, as the primary purpose of this legislation is to increase protection for trees on private property. And this proposal does not include any provisions that would be likely to specifically generate substantial adverse impacts on parks, wetlands, floodplains, threatened or endangered species habitats, or known historic or cultural sites. In addition, the City already has other policies and regulations that address protection of environmentally critical areas that include wetlands, riparian areas, and geologically sensitive slopes and soils.

While the City of Seattle is primarily an urban, built environment, with a relative scarcity of these kinds of resource lands and species requiring governmental protection, encouraging tree preservation through regulations and policies would not likely create adverse outcomes on these resources, given the emphasis on tree protection. And, the directions toward preservation could discourage ground disturbance and reduce the likelihood of incompatible development on many properties. To the extent that unknown numbers of properties may include buried cultural resources from indigenous peoples, the proposal would thereby tend to preserve existing vegetation in ways that would avoid potential for unearthing of cultural resources.

Any project-related impacts would be subject to review and approval under the city's critical areas regulations and subject to SEPA review.

Proposed measures to protect such resources or to avoid or reduce impacts are:
None proposed.

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

This section discusses the proposal's relationship to plans and policies first, followed by land use impacts.

<u>Seattle 2035: Comprehensive Plan</u>
This overarching plan prepared by the Office of Planning and Community Development (OPCD) in consultation with all city departments is a comprehensive collection of City-adopted goals and policies about how the City will accommodate growth over the next twenty years.
Generally, the goals stated in the Comprehensive Plan define a future outcome that the City is aiming for, and the policies in the Plan provide guidance for more specific decisions that will be made over time. Washington's Growth Management Act (GMA) requires most counties and cities to prepare comprehensive plans that show how they will manage the population growth that the state has projected for each county. The GMA defines a set of goals for managing growth and lays out the basic contents of comprehensive plans: The GMA goals include reducing urban sprawl, encouraging future development to occur in urbanized areas where public facilities and services already exist, maintaining transportation, housing, and open space opportunities, protecting property rights, and protecting the natural environment.

This proposal supports the City's Urban Forest Management Plan and the Seattle Comprehensive Plan's environmental-related goals, as well as several Environment, Growth Strategy, and Land Use policies, detailed below:

Comprehensive Plan GOAL

- Environment G1 Foster healthy trees, vegetation, and soils to improve human health, provide wildlife habitats, improve drainage, give residents across the city access to nature, provide fresh food, and increase the quality of life for all Seattleites.

Comprehensive Plan POLICIES

- *Environment 1.1 Seek to achieve an urban forest that contains a thriving and sustainable mix of tree species and ages, and that creates a contiguous and healthy ecosystem that is valued and cared for by the City and all Seattleites as an essential environmental, economic, and community asset.*
- *Environment 1.2 Strive to increase citywide tree canopy coverage to 30 percent by 2037 and to 40 percent over time.*
- *Environment 1.3 Use trees, vegetation, green stormwater infrastructure, amended soil, green roofs, and other low-impact development features to meet drainage needs and reduce the impacts of development.*
- *Environment 1.5 Promote sustainable management of public and private open spaces, trees, and vegetation by preserving or planting native and naturalized vegetation, removing invasive plants, improving soil health, using integrated pest management, and engaging the community in long-term stewardship activities.*
- *Environment 1.7 Promote the care and retention of trees and groups of trees that enhance Seattle's historical, cultural, recreational, environmental, and aesthetic character.*
- *Growth Strategy 3.8 Encourage the preservation and expansion of the tree canopy throughout the city for the aesthetic, health and environmental benefits trees provide, considering first the residential and mixed-use areas with the least tree canopy in order to more equitably distribute the benefits to residents.*
- *Land Use 5.8 Establish tree and landscaping requirements that preserve and enhance the City's physical and aesthetic character and recognize the value of trees and landscaping in addressing stormwater management, pollution reduction, heat island mitigation, and other issues.*

Additional discussion

There is a consistent and supportive relationship between the City's Urban Forestry Commission recommendations, the 2020 Urban Forest Management Plan, the 2015-2035 Comprehensive Plan, and the strategies in Resolution 31902. Both the UFMP and the Comprehensive Plan contain wide-ranging goals and policies that are consistent with citywide urban forestry practices and regulations that support other City and community goals. The UFC recommendations provide additional backing and advice to support the shared goals in those guiding documents for increasing tree protections.

Urban Forestry Commission (UFC) 2019 Recommendations

The UFC advises the Mayor and City Council on issues concerning the establishment of policy and regulations governing the protection, management, and conservation of trees and vegetation.

On October 9, 2019, the Commissioners recommended the following actions:

- Expand permit program
- Certify tree service providers
- Replace significant trees
- Track changes in the urban forest
- Protect exceptional trees, groves, and trees on undeveloped lots
- Encourage tree retention on already developed lots
- Fund and enforce

2020 Urban Forest Management Plan (UFMP)

This plan prepared by the City's Urban Forestry Core Team developed a set of overarching outcomes to guide urban forestry work in the next five years. These outcomes were informed by an inclusive engagement process. The UFMP has six outcomes that were prepared to represent a comprehensive approach to mobilizing informed and effective action:

1. ***Racial and social equity***. Urban forestry benefits and responsibilities are shared fairly across communities, community trust is built, and decisions are guided by diverse perspectives, including those of environmental justice priority communities.
2. ***Ecosystems and human health***. The urban forest improves air quality, human well-being, public health, and water quality; provides beauty, environmental and economic benefits, fish and wildlife habitat, food, outdoor fun; and helps store rainwater.
3. ***Human safety and property protection***. In implementing the work, urban forestry teams use up-to-date practices to protect the safety of the public and staff.
4. ***Climate change***. Urban forestry work helps people, and urban trees and vegetation adapt to, recover from, and mitigate the impacts of climate change.
5. ***Community care***. The Seattle community, including all people, organizations, institutions, and businesses, works together to appreciate and care for the urban forest and to understand tree protection regulations.
6. ***Balance competing priorities***. City government will work to grow, maintain, preserve, enhance, and restore Seattle's urban forest as it meets other priorities.

Urban forestry practices and policies work with and support other City and community goals including access to spaces, climate action, culturally appropriate resource provision, economic development, environmental protection, social justice, food and medicine production, housing, balancing tree shade with light, public safety, recreation, transportation, and utility provision.
The UFMP acknowledges that tree benefits and responsibilities should be shared across communities and that the City will work to grow, maintain, preserve, enhance, and restore Seattle's urban forest as it meets other priorities.

The above stated outcomes and associated strategies were used to develop the specific actions included in the action agenda of the plan. The UFMP contains 19 actions to be undertaken within the next five years. These actions are in addition to and build upon the ongoing work of city departments.

Potential Impacts to Development Patterns

The response in Question D.2 summarizes how many properties could be newly affected by lowering the DSH from 30" to 24" for exceptional trees, and with respect to properties with newly regulated significant trees (trees with a DSH 12" to 24"). Depending on the location of an exceptional tree on the development site, such trees could in some cases lead to differences in how future new housing units (including detached accessory dwelling units) could be situated on existing lots.

This could potentially be viewed as creating competing interests between land use regulations and tree protection regulations, but would not fundamentally reshape the typical prevailing land use and development pattern within any given zoning designation or neighborhood. Development would still be possible, and protecting exceptional trees, as proposed, would not prohibit development, but rather would require sensitivity in site design. Property owners may need to factor trees into site plans and design considerations in more future development proposals, to build structures that may accommodate exceptional trees to remain on-site even after development. It should be noted that these aspects of the proposal do not alter the existing nature of the competing interests that are already present by virtue of the City's existing policies, codes, and practices regarding regulated trees. With respect to reasonably accommodating new development, these interests are partly addressed by accommodating flexibility in application of development standards and similar considerations regarding development capacity in individual developments; the proposal would continue to implement these principles in its regulations. And the proposal also includes the removal of a streamlined design review process requirement for sites in Lowrise, Midrise and Commercial zones, with the proposal instead being reviewed per Chapter 25.11. Therefore, the probable impacts of the proposal may be interpreted as relatively neutral with respect to future land use and development-related impacts of tree policies, codes, and practices.

As noted in the response to Question D.2, the nature of the changes would be to increase the number of affected properties and the number of protected trees. This would increase the probability that future development would be more often subject to addressing tree protection requirements in the future design and permitting of development proposals. It could also increase the probability that prospective applicants for new development would evaluate the effect of the tree protection requirements (for example, relative to costs of mitigation) and decide against submitting development proposals. In this fashion, it may be that the proposal leads to a greater likelihood over the long-term that properties with exceptional trees would less often be selected for future development purposes, and thereby the exceptional trees would more likely be preserved over the long-term.

The analysis provided above similarly applies to probable shoreline use impacts. Additionally, other code prescriptions and restrictions applicable to shoreline areas would continue to apply to review of future development proposals. The proposal would not inherently affect these shoreline-related codes, and thus its impact is likely to be relatively neutral on the nature of future development potential for properties in shoreline-designated areas.

The combination of proposed changes to increase development site plan flexibility through reduction in minimum development standards could lead to tangible physical differences in how development could occur, on a site-by-site basis. This would depend on the location of trees that can be preserved and the degree to which new buildings can be designed to fit into the remaining parts of a site. While the trees to be protected could remain, if reductions in development standards would occur on a more frequent basis under the proposal, new development could be:

- Up to twice as close in their setback (a 50% reduction) to adjacent properties and/or separations from other buildings;
- With reduced amounts of landscaped area and on-site amenity areas;
- With reduced amounts of parking and/or space allocated for vehicle access compared to otherwise minimum code requirements; and
- In Lowrise zones, allowed to be 50 feet in height (with pitched roof) rather than 40 feet in height, accommodating recovery of floor area that would otherwise be lost due to the preservation of a tree or trees.

In terms of land-use-related impacts on their surroundings, these differences could adversely alter perceptions about density of development in a given local setting. This might lead to, for example, a new building being located closer to an adjacent property's dwelling or structure, with added possible perception of building bulk depending on how long a building façade is, or in some cases an extra floor added to the new building. Reduced amenity space, landscaping area, and reductions in space for parking and access arrangements could similarly lead to a slightly greater potential for negative perceptions by nearby area residents and users about a denser occupation pattern or unusual arrangement of buildings on a property. These are evaluated in this analysis as representing potentially adverse but not significant adverse impacts, because their incidence would tend to occur intermittently and perhaps rarely in any given geographic vicinity where exceptional or significant trees would be present, and where such properties would be subject to future development and where such development would be adapted in design to retain an existing exceptional tree.

For the purposes of this environmental checklist analysis, City staff are not able to anticipate and analyze all possible locations and arrangements of trees on all potentially affected individual properties and development sites. Similarly, the extent to which an individual property owner may need to or be able to reconfigure a development proposal to accommodate exceptional trees cannot be fully known and described. With the requirement to obtain a permit for removing an exceptional tree, for example, such situations would be evaluated and decided on a case-by case basis. As today, exceptional trees that are deemed hazardous to existing buildings would be removable, with mitigation required; this principle would also be the same for significant trees. The limiting factors discussed in this paragraph limit the depth of analysis on potential land use and natural environmental impacts of this proposal. However, for the sake of programmatic-level analysis, there is sufficient information about the proposal and interpretation of its probable impacts to conclude that significant adverse land use and shoreline use impacts are not probable for this proposal.

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

None proposed.

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

The non-project action to adopt updated tree protections would not be likely to increase demands on transportation or public services and utilities in a significant adverse manner. This is due to a lack of a significant material relationship of the contents of the proposal to these environmental elements. In other words, the effects of proposed changes related to tree protections and practices are unlikely to generate probable adverse or significant adverse impacts upon the functioning of transportation systems, electrical, water or sewer utility systems, police, fire/emergency public services, schools, or other similar public utilities and services.

Proposed measures to reduce or respond to such demand(s) are:

None proposed.

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.

No conflicts with local, state, or federal laws or requirements for protection of the environment are identified.