

**DATE:** April 21, 2023

**TO:** Mayor and City Council

**FROM:** Chad Eiken, Director, Community Development Department

**RE:** Staff Communications regarding proposed local implementation of changes to State SEPA threshold exemption for certain housing projects

**CC:** Eric Holmes, City Manager

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This memorandum, in lieu of a workshop, is intended to brief City Council on a proposal from staff to increase the City's SEPA threshold exemptions for residential construction. The State Legislature and Department of Ecology recently raised exemption levels (aka maximum allowable threshold) in order to streamline the processing of residential development applications and thereby help increase housing production.

### **Background Regarding SEPA**

The State Environmental Policy Act, or SEPA, - enacted in 1971 - requires that certain governmental actions be reviewed for environmental impacts prior to approval. Unless specifically exempted by statute or state [SEPA rules](#) (see WAC 197-11-800 through 890), an environmental review is required for all agency actions related to proposed projects, regardless whether the applicant is from the private or public sector. These actions include providing funding, issuing permits and adopting plans, regulations, or ordinances (also called non-project proposals).

In the City of Vancouver, development projects above the adopted exemption threshold are reviewed by Community Development staff for compliance with SEPA prior to issuance of a land use approval. If the scope of a project (e.g., number of units, size of non-residential building, number of parking spaces, etc.) does not exceed the adopted SEPA threshold for review, then it is considered categorically exempt and no further action is required under SEPA.

SEPA is intended as a 'gap filler' to ensure that environmental impacts from projects are addressed if they are not already addressed in some way by a jurisdiction's development regulations. Back in 1971, there were not many development regulations that addressed environmental impacts, but over time regulations have been added that address most environmental issues. For example, the City has development regulations that protect wetlands and sensitive habitat, so SEPA would not be needed as a tool to require mitigation measures where such critical areas exist. Vancouver's regulations have increased in number and

## Proposed SEPA Threshold Changes

### Page 2 of 4

effectiveness over time, and now address archaeological and cultural resources, noise and glare, erosion and dust, historic resources, floodplains, wetlands, steep slopes, shoreline areas, protect significant trees, and require new trees to be planted.

Increases in vehicle trips are regulated through the City's concurrency ordinance, and impacts to schools, parks and streets are mitigated through the application of impact fees. Because Vancouver's residential development standards now address all types of environmental impacts, it is rare for even large residential projects to have any mitigation measures under SEPA.

## Proposed SEPA Threshold Changes

In March of 2022, Governor Inslee signed Substitute Senate Bill [SSB 5818](#), which amended Chapter 43.21 RCW to increase the SEPA threshold exemptions for certain types of residential development within incorporated urban growth areas (UGA's). SSB 5818 further directed the Department of Ecology to adopt amendments to the SEPA Rules, [WAC 197-11-800\(1\)](#), implementing such changes. These changes are intended to allow cities and counties to remove a barrier to construction of residential units, in recognition of the state's ongoing housing crisis.

In February of this year, the Department of Ecology adopted the increased maximum exemption thresholds under SEPA as follows:

Project Types	Current Local Threshold VMC 20.790.840A	New Maximum Allowable State Threshold WAC 197-11-800(1)d
Single family residential	20 units	30 units
Single family residential with the total square footage less than 1,500 square feet	20 units	100 units
Multifamily residential	20 units	200 units
Barn, loafing shed, farm equipment storage, produce storage or packing structure	30,000 square feet	40,000 square feet
Office, school, commercial, recreational, service, storage building, parking facilities	12,000 square feet; 40 parking spaces	30,000 square feet
Fill or excavation	500 cubic yards	1,000 cubic yards

The City of Vancouver's locally adopted SEPA rules reference the state law and are codified at Chapter 20.790 VMC.

At this time staff is proposing that the City adopt the new maximum thresholds for **residential projects only**. In order to apply the new thresholds allowed by SSB 5818, the City Council must

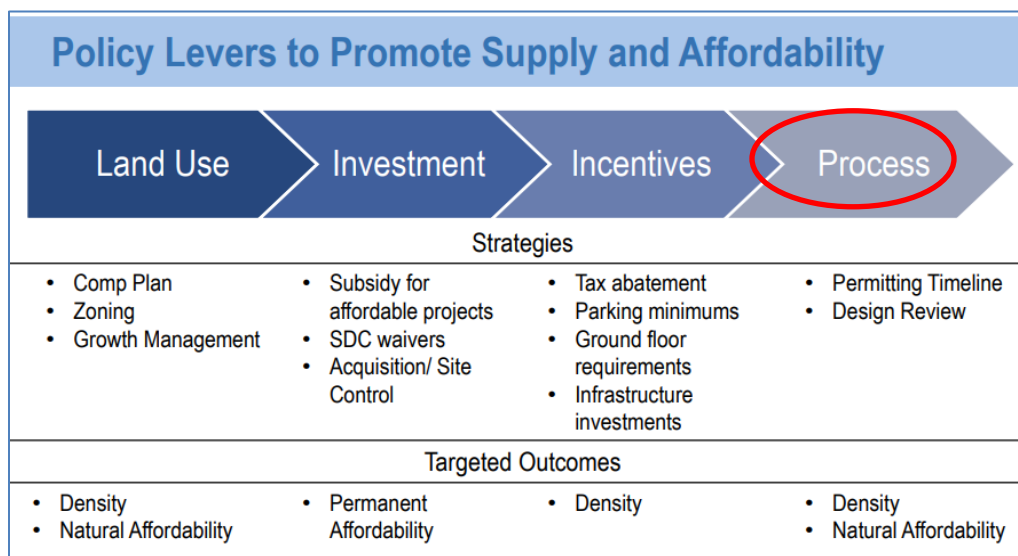
first revise VMC 20.790 by ordinance. As part of the process to change the SEPA thresholds, the City will need to document that the requirements for environmental analysis, protection and mitigation for impacts to the environment have been adequately addressed for the development exempted in the City’s development regulations and applicable state and federal regulations. The proposed text amendment will be a Type IV project and per VMC 20.285 “Text Amendments,” the Planning Commission will forward its recommendation to the City Council following a public hearing.

**Proposal Implements City Housing Strategy**

Since its declaration of an affordable housing crisis in 2015, City Council has actively encouraged higher density residential development in appropriate areas, most recently through a number of changes to the City’s Land Use and Development Code VMC Title 20 to increase housing opportunities.

Last fall, City Council had a workshop about the City’s Housing Action Strategy, which highlighted the ongoing severity of the housing crisis. Mike Wilkerson of EcoNorthwest, the City’s consultant on its Housing Strategy, provided data that emphasized the need to significantly increase local housing production, particularly of lower cost housing, in order to meet demand and exert downward pressure on housing prices by increasing supply.

Mr. Wilkerson described four distinct areas where the City can make the most impact in promoting more residential construction: 1) Land Use Regulations, 2) Direct Investment, 3) Incentives, and 4) Process Improvements. The proposed changes to the SEPA thresholds fit squarely into the last category, Process Improvements.



Recent legislative changes and bills pending in the 2023 session also significantly increase the requirements for local governments to plan for and accommodate housing of various types and income ranges.

Raising the SEPA thresholds for residential construction will have the following positive impacts upon such applications: 1) less cost for applicants (fee and consultant costs to prepare); 2) streamlining/possible shortened timeline to process applications; and 3) greater predictability as there would be no SEPA appeal of projects having 200 or fewer units. As noted above, the City's development regulations have been amended over time to address likely environmental impacts, particularly from typical developments such as residential construction, which lessens the need for a SEPA review.

### **Options and Planning Commission Input**

The maximum SEPA exemption thresholds established by the State are optional. Cities and counties planning under the Growth Management Act may adjust their own SEPA exemption thresholds *up to* the maximum permitted under state law. Council therefore may decide to retain the current SEPA thresholds, adopt the maximum allowed by the state, or adopt a threshold that is in between. At this time, staff's proposal is limited to increasing the thresholds for residential types of development.

On March 14, 2023, staff presented this proposal to the Planning Commission to obtain their input. Following a brief discussion, the Commission indicated that it would support an ordinance that adopts the maximum SEPA exemption thresholds for all types of residential development.

### **Next Steps**

CDD staff is prepared to expedite these process changes and would issue a SEPA determination and prepare an ordinance for the Planning Commission and Council's consideration at public hearings as soon as possible. Greg Turner, Land Use Manager, will act as case manager for this narrowly-scoped change.