

DRAFT

ORDINANCE NO. _____

An Ordinance Establishing a Planned Action for Downtown Everett

WHEREAS, the City of Everett in 1994 adopted the Everett Growth Management Comprehensive Plan, and subsequently has reviewed, amended and updated the plan in compliance with the State Growth Management Act; and

WHEREAS, In July, 2006 the City adopted the Everett Downtown Sub-area Plan consistent with the comprehensive plan, and contemplating the designation of the Downtown as a "Planned Action"; and

WHEREAS, the City has reviewed the environmental impacts of the Downtown Plan pursuant to the State Environmental Policy Act (SEPA), with an Addendum to the Draft and Final Environmental Impact Statement for the Everett Growth Management Comprehensive Plan-1994 and the Supplemental EIS for the 2005 10-Year Update of the comprehensive plan; and

WHEREAS, the State Environmental Policy Act (SEPA) and implementing rules provide for the integration of environmental review and land use planning and project review through the designation of "Planned Actions" by jurisdictions planning under the Growth Management Act (GMA); and

WHEREAS, the designation of a Planned Action expedites the permitting process for subsequent implementing projects whose impacts have been previously addressed in a Planned Action environmental impact statement (EIS) and thereby encourages desired growth and economic development; and

WHEREAS, the Downtown Planned Action EIS identifies impacts and mitigation measures associated with planned development in the Downtown; and

WHEREAS, the City has adopted zoning and development regulations which will help protect the environment and are specific to the Downtown, which will guide the location, form, and quality of desired development;

NOW, THEREFORE, THE CITY OF EVERETT DOES HEREBY ORDAIN:

Section 1: Purpose

The City Council declares that the purpose of this ordinance is to:

A. Combine analysis of environmental impacts with the City's development of plans and regulations;

B. Designate the Everett Downtown as a Planned Action for purposes of environmental review of subsequent implementing projects pursuant to the State Environmental Policy Act (SEPA), RCW 43.21C.031;

C. Establish criteria and procedures, consistent with state law, that will determine whether subsequent projects will qualify as Planned Actions;

D. Provide the public with information about Planned Actions and how the city will process implementing projects;

E. Streamline and expedite the land use review and approval process by relying on the environmental impact statement (EIS) completed for the planned action; and

F. Apply the City's development regulations together with the mitigation measures described in the EIS and this ordinance to address the impacts of future development contemplated by the Planned Action.

Section 2: Findings

The City Council finds that:

A. The Everett Downtown Sub-area Plan and the Downtown Planned Action Environmental Impact Statement have addressed all the significant environmental impacts associated with the land uses allowed by development regulations and described in the plan;

B. The thresholds described in the EIS are adequate to identify significant adverse impacts not analyzed in the Downtown Sub-area Plan and EIS;

C. The mitigation measures contained in the mitigation decision document, Attachment ___ of this ordinance, together with the City's development standards, are adequate to mitigate significant adverse environmental impacts;

D. The expedited permit review procedure set forth in the Planned Action EIS is and will be a benefit to the public, protects the environment and enhances economic development;

E. It is in the public interest to implement this procedure;

F. Public involvement and review of the Downtown Plan and Planned Action EIS have been extensive and adequate to ensure that the plan bears a substantial relationship to the public interest, health, safety and welfare; and

G. The uses permitted by city development regulations in the B-3 zoning classification, in the Downtown Everett Sub-area, will implement the Sub-area Plan.

Section 3: Procedure and Criteria for Evaluating and Determining Projects as Planned Actions

A. Land uses and activities described in the Downtown Sub-area Plan and EIS, subject to the thresholds described therein and the mitigation measures described in the mitigation document, are Planned Actions pursuant to RCW 43.21C.031.

B. A land use permit application for a site-specific project shall be designated as a planned action if it meets the criteria set forth in Sections 3 and 6 of this ordinance and is otherwise consistent with the provisions of this ordinance and applicable laws, codes, and standards of the state and city.

C. Planned action projects will not require a SEPA threshold determination or the preparation of an environmental impact statement, but shall be conditioned on the basis of the Mitigation Decision Document (Attachment "A" to this ordinance) and framework described in Sections 5 and 6 of this ordinance and other applicable City development regulations.

D. The Director of the City of Everett Department of Planning and Community Development (Director), or the Director's designee, is hereby authorized to designate a project described in and proposed by a land use permit application as a planned action pursuant to RCW 43.21C.031(2)(a) if the project application meets the following conditions:

(1) The project is located within the boundaries of the Everett Downtown Sub-area Plan and the B-3 Zone as adopted by the City Council on July 26, 2006, or as thereafter amended;

(2) The use described in and proposed by the project application is among or consistent with the uses and intensities of uses permitted by the development regulations and is listed as a use analyzed in the final EIS, Table _____;

(3) The project's significant environmental impacts have been adequately addressed in the Everett Downtown Planned Action EIS and the Downtown Sub-area Plan, and the project is determined by the Director to be a use that implements the Sub-area Plan and the Comprehensive Plan;

(4) The Director has determined that the project's significant environmental impacts have been mitigated through the application of the Mitigation Decision Document and the framework described in this ordinance, and that mitigation measures as well as other city requirements and conditions constitute sufficient mitigation for the significant environmental impacts associated with the proposed project;

(5) The proposed project is in compliance with all applicable local, state and federal regulations and development standards; and

(6) The proposed project is not an essential public facility.

E. Upon designation by the director that the project qualifies as a planned action, the project shall not be subject to a SEPA threshold determination, an environmental impact statement, or any additional review under SEPA.

F. A determination that a project qualifies as a planned action shall be defined as a Review Process I decision, as per EMC Title 15, Local Project Review Procedures. No appeal of a Director's determination that a project qualifies as planned action is provided.

G. The determinations and notice for land use applications shall be provided as in EMC Title 15 or other applicable land use permit or regulatory requirements under City Ordinances, unless explicitly modified by this ordinance, and state or federal laws. However, projects which qualify as planned actions will not be subject to further procedural review under SEPA.

H. The planned actions authorized and designated by this ordinance shall be limited to those land uses which are within the Downtown Everett Plan and addressed in the EIS.

I. Being designated a planned action means that a proposed project has been reviewed in accordance with this ordinance and procedures and found to be consistent with the plan and environmental analysis. The significant environmental impacts have been analyzed as a part of the plan, and mitigation measures have been identified, including but not limited to compliance with existing City ordinances and codes except as specifically modified for the Downtown Everett Sub-area in this planned action ordinance.

J. Planned actions will not be subject to further procedural review under SEPA. However, projects will be subject to conditions designed to mitigate any environmental impacts which may result from the project proposal, and projects will be subject to whatever permit requirements are deemed appropriate by the City under state and City laws and ordinances. The planned action designation shall not excuse a project from meeting the City's land use permit requirements apart from the SEPA process.

Section 4: Disqualified Projects

Projects which are not consistent with the sub-area plan and the environmental analysis of the Planned Action EIS shall not be considered as planned actions, but may continue through another permit process, and may use or incorporate relevant elements of the environmental review analysis done for the Everett Downtown Sub-area Plan.

Section 5: Environmental Documents

A planned action for a site-specific land use permit application shall be based on the environmental analysis contained in the in the Everett Downtown Planned Action EIS as adopted by the Everett City Council on _____, 2009, or as hereafter amended. This Planned Action EIS, including potential mitigation measures, is hereby incorporated in the ordinance and adopted by reference. The mitigation decision document, Attachment "A" to this ordinance, is based upon the analysis in the EIS. The mitigation decision

document, together with the existing City codes, ordinances, and standards, shall provide the framework for the decision by the City to impose conditions on a planned action project. Other environmental documents and studies listed in the EIS and the Downtown Plan may also be used to assist in analyzing impacts and determining appropriate mitigation measures in accordance with Section 6 of this ordinance.

Section 6: Planned Action Permit Process

Applications for planned actions shall be reviewed pursuant to the following process:

- A. Development applications shall meet the application requirements of the City's planned action review procedure, Sections 15.20.230-250 EMC. Applications shall be made on forms provided by the Department and shall include a SEPA checklist or revised SEPA checklist or such other environmental review forms provided by the Department. The checklist may be incorporated into the form of the application;
- B. The Planning director shall determine whether the application is complete as provided for in Section 15.20.240 EMC.
- C. If the project application is within the area designated for planned actions in this ordinance, the application shall be reviewed to determine whether the proposed development is consistent with and meets all the qualifications specified in Section 3D of this ordinance.
- D. Upon review of a complete application by the City, the Planning Director shall determine whether the project qualifies as a planned action. If the project does qualify, the Director shall notify the applicant, and the project should proceed in accordance with the appropriate permit procedure. No additional SEPA review, threshold determination or EIS shall be required.
- E. Public notice and review for projects that qualify as planned actions shall be tied to the underlying project permit. If notice is required, the notice shall state that the project has qualified as a planned action.
- F. If the project is determined not to be a planned action, the Department shall notify the applicant and prescribe a SEPA review procedure consistent with the City of Everett's SEPA procedures and state laws. The notice shall describe the elements of the application that result in disqualification as a planned action. The Department may choose to limit the scope of the SEPA review to those issues and environmental impacts not previously addressed in the EIS and Sub-area Plan. Furthermore, the Department and the applicant shall have access to the EIS and Plan, as well as other environmental documents, to assist in meeting SEPA requirements.

Section 7: Promulgation of Rules

The Planning director is authorized to promulgate rules and procedures necessary for the implementation of this ordinance.

Section 8: Monitoring and Review

A. The City shall monitor the progress of development in the designated Planned Action area to ensure that it is consistent with the assumptions of this ordinance and the Planned Action EIS regarding the type and amount of development and associated impacts, and with the mitigation measures and improvements planned for the downtown.

B. This Planned Action Chapter and its underlying ordinance shall be reviewed no than December 31, 2019 by the Planning Director to determine continuing relevance of its assumptions and findings with respect to environmental conditions in the Planned Action area, the impacts of development, and required mitigation measures. Based upon this review the City may propose amendments to this ordinance and/or may supplement or revise the Planned Action EIS.

Section 9: Conflict

In the event of a conflict between the ordinance or any mitigation measures imposed pursuant thereto and any ordinance or regulation of the City, the provisions of this Ordinance shall control.

Section 10: Validity

Should any section, subsection, paragraph, sentence, clause or phrase of this ordinance or its application to any person or situation be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance or its application to any other person or situation. The City Council of the City of Everett hereby declares that it would have adopted this ordinance and each section, subsection, paragraph, sentence, clause or phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clause, phrases or portions be declared invalid or unconstitutional.

Section 11: Third Party Liability

This ordinance does not create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of these regulations. No provision or term used in these regulations is intended to impose any duty whatsoever upon the City or any of its officers, employees, or agents.

Notwithstanding any language used in this ordinance, it is not the intent of this ordinance to create a duty and/or cause of action running to any individual or identifiable person, but rather any duty is intended to run only to the general public.

Mayor

Attest:

City Clerk

Passed:

Valid:

Published:

Effective Date: