

#1
CF 312273

MEMORANDUM OF UNDERSTANDING

between

**The City of Seattle Office of Housing, The Seattle Department of Neighborhoods,
Plymouth Housing Group, Bellwether Housing, Capitol Hill Housing,
and Catholic Housing Services**

WHEREAS, it is the intent to create a cost effective and efficient process for non-profit low-income housing providers to manage certain buildings in a manner consistent with the guidelines for buildings that could be designated as landmarks;

WHEREAS, the following buildings in the Downtown Seattle Urban Center are owned or operated by low-income housing providers:

- St. Charles Hotel, 619 Third Avenue, owned by Plymouth Housing Group,
- Hotel Scargo, 2205 First Avenue, owned by Plymouth Housing Group.
- Lewiston Hotel, 2201 First Avenue, owned by Plymouth Housing Group,
- Olive Tower, 1626 Boren Avenue, owned by Bellwether Housing,
- Adams Apartments, 304 Bell Street, owned by Bellwether Housing,
- Oregon Hotel, 2301 First Avenue, owned by Bellwether Housing,
- Fleming Apartments, 2321 Fourth Avenue, owned by Capitol Hill Housing,
- Devonshire Apartments, 420 Wall Street, owned by Capitol Hill Housing, and
- Westlake Hotel, 2008 Westlake Avenue, owned by Catholic Housing Services;

WHEREAS, these buildings are currently subject to long-term-property-maintenance requirements as part of regulatory agreements between the City's Office of Housing (OH) and the building owners in connection with city, state, or federal funding for low-income housing;

WHEREAS, these buildings are identified as "Category 2" buildings in the 2007 Downtown Historic Resources Survey and Inventory prepared by the City's Department of Neighborhoods (DON). This survey and inventory includes properties in Downtown Seattle that may be eligible for designation as a City landmark. Inclusion in the survey and inventory does not constitute a formal City landmark designation; and

WHEREAS, the owners of the above-listed buildings wish to identify the building features that should be maintained or would be required to be maintained in a manner that meets the regulatory requirements enforced by OH if the buildings were designated landmarks under SMC 25.12.

THEREFORE, the owners of the above-listed buildings agree to voluntarily comply with the terms of this Memorandum of Understanding (MOU) as applied to buildings that are identified as a Category 2 property in the 2007 Downtown Historic Resources Survey and Inventory, and listed in this MOU:

1. The owners shall give written notice to OH before altering any of the following exterior building features:
 - Windows including the frame, sash, and glazing that face any public right-of-way including alleys;
 - Storefront door and window systems;
 - Historic cladding materials, including brick, terracotta stone, cast stone, or concrete; and
 - Rooftop structural features including elevators or stairs, penthouses, skylights, and water towers.

After OH has been notified by the owners of the proposed alteration, OH shall refer the proposed alteration to the City's Historic Preservation Officer to determine if the alteration would be consistent with applicable landmark regulations if the building was a designated landmark under SMC 25.12.

2. The owners shall not alter any exterior feature identified in paragraph 1 unless DON Historic Preservation Staff determine the alteration is consistent with applicable regulations if the building was a designated landmark under SMC 25.12.

3. The owners shall follow the procedures outlined in the DCLU – DON Interdepartmental Agreement on Review of Historic Buildings During SEPA Review dated July 1995, attached as Exhibit A to this MOU; if a proposed alteration is subject to review under the State Environmental Policy Act.

4. The owners acknowledge this MOU does not preclude OH from making required referrals when proposed alterations to any building owned or operated by a low-income housing provider are subject to Section 106 of the National Historic Preservation Act of 1966 or the Washington State Governor's Executive Order 05-05.

5. The owners further acknowledge this MOU shall have no effect on whether a building is designated as a landmark under SMC 25.12 or on what incentives or controls may be applied if a building is designated as a landmark.

EXECUTED, this 27 day of February, 2012.

Seattle Office of Housing

By: Rick Hooper

Rick Hooper, Director

Seattle Department of Neighborhoods

By: B. Matsuno

Bernie Matsuno, Director

Plymouth Housing Group

By: Paul Lambros

Paul Lambros, Executive Director

Bellwether Housing

By: Sarah Lewontin

Sarah Lewontin, Executive Director

Capitol Hill Housing

By: Chris Persons

Chris Persons, Executive Director

Catholic Housing Services

By: Bill Holloman

~~Bill Holloman~~, Executive Director

Tom McLean

Attachment

Exhibit A: DCLU – DON Interdepartmental Agreement on Review of Historic Buildings During

SEPA Review dated July 1995

**DCLU – DON
INTERDEPARTMENTAL AGREEMENT
ON
REVIEW OF HISTORIC BUILDINGS
DURING SEPA REVIEW**

This interdepartmental agreement is intended to explain the procedural steps that staff from both the Department of Construction and Land Use (DCLU) and the Department of Neighborhoods will employ in the review of demolition, construction and substantial addition projects involving historic sites and/or structures, which are also subject to SEPA. This agreement addresses the two cases contemplated in the SEPA Historic Preservation Policy (SMC 25.05.675.H): A) **projects involving** structures and/or sites which are designated landmarks or may be eligible for landmark status; and B) **projects** located on sites adjacent to or across a right-of-way from designated landmarks.

A. LANDMARKS OR POTENTIAL LANDMARKS

The two processes described below address the following situations related to the DCLU SEPA review of a proposed project: 1) the project includes site(s) and/or structure(s) designated as City landmarks, and 2) the projects involves site(s) and/or structure(s) potentially eligible for designation as City landmarks.

Process 1: Review Process for Designated Landmarks:

1. The Land Use Planner assigned to a MUP with SEPA review makes a preliminary determination as to whether the building(s) and/or site is a landmark, or is in any stage of the Seattle landmarks process. Review of the official Land Use map, the historic building survey or inventory, information on sites which have been nominated, or other information would reveal whether the building is a landmark, or is in any stage of the Seattle landmarks process. If the building is not a landmark, and is not in any stage of the Seattle landmarks process, yet the building is over 50 years old and/or public comment suggests that the building is historic, the Land Use Planner would proceed to the process described in "Process 2," starting on page 2. If there is any doubt, the Land Use Planner should contact the Historic Preservation Office to discuss the site.
2. If the project involves structures or sites which have been designated as historic landmarks, or are in any stage of the City's landmarks process after approval of the nomination, the Land Use Planner shall notify the applicant that compliance with the Seattle Landmarks Preservation Ordinance (SMC 25.12) is required and shall refer the project to the Historic Preservation Officer. This referral shall be in writing and

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shall constitute an application for certificate of approval, as of the date it is received by the Historic Preservation Officer.

3. In addition, the Land Use Planner will indicate to the applicant that demolition, substantial alteration or significant change of a landmark or a structure/site that is in the Seattle landmarks process, may constitute a significant adverse environmental impact, requiring an Environmental Impact Statement (EIS). In such a case, the Planner would prepare the Declaration of Significance and initiate the EIS scoping process, identifying historic preservation as one of the impact elements and requiring project alternatives in response to these impacts.
4. During the preparation of a DEIS, the Planner shall refer draft(s) of the historic preservation element to the Historic Preservation Officer for comment. Once a DEIS is published, a copy shall be sent to the Historic Preservation Officer who may officially comment in writing during the comment period.
5. The Planner shall coordinate, as necessary, with the Historic Preservation Officer regarding the appropriate historic preservation-related responses and corrections required for the Final EIS (FEIS). Once these issues are resolved, the FEIS will be published.
6. After publication of the FEIS the Director shall not issue his/her decision on the proposed application until completion of any pending Landmarks Board proceedings related to the Certificate of Approval. Since Section 25.05.675.H of the SEPA Ordinance provides DCLU no substantive authority to condition or deny based on historic preservation-related impacts, the Landmarks Board's action on the Certificate of Approval will constitute compliance with SEPA for historic preservation purposes and shall be so recognized in the Director's Findings and Decision on the application.
7. The Department shall not issue a permit or approval that would allow demolition, alteration or significant change of that part of a structure or site that is subject to a certificate of approval requirement until the Landmarks Board has issued a Certificate of Approval for the proposed project.

Process 2: Review Process for Non-Landmarks:

A. *Determinations of Non-Significance:*

1. Once the Land Use Planner has determined that a structure or site is not a landmark and not in the landmarks process, he/she shall assess whether the building(s) or site appear(s) to be historic. This determination will be based on the following: the building is over 50 years old, public comment suggests that the building is historic, or the historic building survey or inventory identifies the building. If there is any doubt, the Land Use Planner should discuss the site with his/her supervisor and/or contract the Historic Preservation Office to discuss the site. Once a determination has been made that the building exhibits one of the attributes mentioned above, the Land Use

Exhibit A

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Planner shall gather the following information for referral to the Historic Preservation Officer:

- photos of all elevations and vicinity
- photocopy of Land Use map page
- copies of relevant comment letters
- In addition, the Land Use Planner shall request that the applicant provide information regarding the actual or estimated age of any on-site structures, as well as provide technical information in response to the items in Appendix A (a 2- to 3-page response, often prepared by a historic building researcher or preservationist).

2. The Land Use Planner shall send the above information, together with a memo describing the proposed action, to the Historic Preservation Officer. The memo should also ask whether, based on the information available, the Historic Preservation Officer believes the structure "appears to meet (any) of the criteria for (landmarks) designation," in response to the SEPA Historic Preservation Policy. (See sample transmittal memo at Appendix B.)
3. The Preservation Officer may require additional information in order to make this preliminary determination. If so, within two weeks of receipt of DCLU's transmittal memo, he/she shall indicate in a correction sheet sent directly to the applicant specifically what additional information is necessary. (See sample correction sheet at Appendix C). A copy of such correction sheets shall be transmitted to the Planner. Within two weeks of receipt of all required information, the Preservation Officer transmits in writing to the Planner his/her opinion regarding whether the structure or site appears to meet (any of) the criteria for designation. (This determination is intended to be based upon the professional judgment of the Preservation Officer, who may consult with the Landmarks Board but is not required to do.)
4. If the Preservation Officer's determination states that the structure **does not** appear to meet the designation criteria, the Planner will continue his/her SEPA review with the understanding that impacts related to demolition or alteration of the existing structure will be nonsignificant. In compliance with policy "c" of the above-cited SEPA Historic Preservation Policies, **the project shall not be conditioned or denied for historic preservation purposes pursuant to SEPA authority.**

B. Determinations of Significance and EIS's:

1. The Land Use Planner completes steps A1 through A4 discussed above.
2. If the Preservation Officer's determination in #A4 above states that the structure **does** appear to meet one or more of the designation criteria, the Planner will likely issue a Declaration of Significance (DS), due in part to adverse historic preservation-related

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- impacts. If a DS is already contemplated due to other significant, adverse impacts, historic preservation-related impacts shall be included in the DS analysis and scoping document.
3. The Planner will initiate EIS scoping, identifying historic preservation as one of the impact areas and requiring project alternatives in response to these impacts. In addition, the Planner shall inform the applicant that the EIS shall include information on the historic structure of substantially the same form and content as that which would be required in a landmarks nomination form.
 4. Although preparation of a DEIS is considered the appropriate step in this instance, some project applicants may choose to nominate a site or structure for consideration by the Landmarks Preservation Board in order to resolve the historic preservation issue prior to preparation of a DEIS, especially in the case of EIS's required solely due to historic preservation-related impacts. If the Landmarks Preservation Board decides not to approve designation, the Department may rescind the DS and issue a Mitigated Declaration of Non-Significance (MDNS). However, in those cases where the Landmarks Preservation Board indeed chooses to designate the site or structure, the Department will require the applicant to proceed with preparation of the DEIS.
 5. The Land Use Planner should forward working drafts of the historic preservation portion of the DEIS to the Preservation Officer for comment prior to publication of the DEIS. The nomination-level, historic preservation-related information shall be completed no later than issuance of the DEIS. Once the consultant has prepared this historic-preservation information, and if no other person or organization has formally submitted a City of Seattle Landmark Nomination Form requesting landmarks nomination, the Director shall officially transmit said information to the Landmarks Preservation Board and refer the structure for nomination consideration, pursuant to the SEPA Historic Preservation Policies. (See sample referral letter at Appendix D.) Referral shall not imply that DCLU wishes that the structure be nominated, but simply that the structure be considered.
 6. Within approximately one month of receipt of the referral, the Landmarks Preservation Board will hold a public meeting to consider the nomination.
 7. If the Landmarks Board decides not to approve designation, the Final EIS shall include this information and conclude that no significant adverse historic preservation-related impacts will result from the proposal. (If the EIS was required due solely to probable, significant, adverse historic preservation-related impacts, no FEIS is necessary, and the Department may issue an MDNS.) Subsequently, the Director may issue the decision on the project, with the understanding that **the project shall not be conditioned or denied for historic preservation purposes pursuant to SEPA authority.**
 8. If the Landmarks Board approves the nomination, in whole or part, a public designation hearing is scheduled within 30 to 45 days from the date of nomination approval, as per

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Section 25.12, SMC. DCLU should withhold publication of the FEIS until the outcome of the designation hearing is known.

9. After the Landmarks Board's decision on designation, DCLU may proceed with publication of the FEIS, including full disclosure of the historic preservation issues and nomination process.
10. If the Landmarks Board decides not to approve designation of the structure, after publication of the FEIS, DCLU may proceed with the MUP decision, and **the project shall not be conditioned or denied for historic preservation purposes pursuant to SEPA authority.**
11. Conversely, if the Landmarks Board decides to approve designation of the structure, DCLU shall not issue a MUP decision on the project until the Landmarks Board has issued a Certificate of Approval for the project, or the City Council has decided to deny designation or has otherwise decided not to regulate the structure/site as a Seattle landmark.
12. After the Landmarks Board issues a certificate of approval, or the City Council denies designation or otherwise decides not to regulate the structure/site as a Seattle landmark, the Director may proceed with the MUP decision. The Director's decision shall summarize the landmarks impacts and process, but **shall not include any substantive mitigation of historic preservation impacts.** This mitigation shall have been accomplished through the Landmarks process.

C. **PROJECTS ADJACENT TO LANDMARKS**

The following process responds to the SEPA review requirements when a proposed project is located adjacent to or across a street from a designated City landmark.

Process:

1. The Land Use Planner assigned to a MUP with SEPA review makes a determination as to whether the proposed project is located adjacent to or across a street from a structure and/or site designated as a City landmark, or for which the Landmarks Board has approved designation. Review of the official Land Use map, the historic building survey, information on sites which have been nominated, and other information would reveal whether the adjacent site and/or structure is a landmark, or for which the Landmarks Board has approved designation. If there is any doubt, the Land Use Planner should discuss this with his/her supervisor and/or contact the Historic Preservation Office to discuss the site.
2. If the proposed project is found to be adjacent to or across a street from a City landmark, or a structure/site for which the Landmarks Board has approved designation, the Land Use Planner shall assemble the following information for transmittal to the Historic Preservation Officer.

Exhibit A

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- additional plan set obtained from applicant
- photocopy of Land Use map page, indicating project site
- copies of relevant comment letters

These materials shall be transmitted under cover of a memo to the Historic Preservation Officer indicating the purpose of the referral and requesting specific recommendations regarding mitigating measures which could achieve compatibility between the proposed project and the adjacent landmark. (See sample referral letter at Appendix E.) The Land Use Planner may request a meeting with the Preservation Officer to review the plans and discuss mitigation.

3. The Preservation Officer may require additional information in order to make this preliminary determination. If so, within two weeks of receipt of DCLU's transmittal memo, he/she shall indicate in a correction sheet sent directly to the applicant specifically what additional information is necessary. (See sample correction sheet at Appendix C.) A copy of such correction sheets shall be transmitted to the Planner. Within two weeks after receipt of the above information, the Preservation Officer shall transmit his/her written response with recommendations for mitigating measures to achieve the appropriate level of compatibility with the adjacent historic landmark(s).
4. The Land Use Planner shall discuss historic preservation-related impacts in the "Analysis and Decision" and, to the extent necessary and in compliance with SEPA policy authority, shall condition the project in response to the Historic Preservation Officer's recommendations.

Exhibit A

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AGREEMENT:

THE undersigned hereby agree that staff members in the Department of Construction and Land Use and the Department of Neighborhoods shall employ the above-described process in coordinating the review of project applications subject to SEPA and involving landmarks or potential landmarks:

Diane Sugimura for
Rick Krochalis, Director
Department of Construction & Land Use

7/7/95
Date

Jim Diers
Director
Department of Neighborhoods

7/21/95
Date