



Legislative Department Seattle City Council Memorandum

Date: May 22, 2012
To: Planning, Land Use and Sustainability (PLUS) Committee Members
From: Sara Belz and Ketil Freeman, Council Central Staff
Subject: **Council Bill (CB) 117430 – Regulatory Reform**

At its May 23, 2012, meeting, the PLUS Committee will continue its review of CB 117430, which would amend several sections of the City's Land Use Code (Seattle Municipal Code Title 23) and Environmental Policies and Procedures (Seattle Municipal Code Chapter 25.05) in order to encourage economic growth and job creation. The Committee's previous deliberations on CB 117430 have occurred as follows:

- February 29, 2012 – Department of Planning and Development (DPD) staff presented an overview of the Executive's proposed regulatory reform package, which was introduced on March 26 as CB 117430.
- March 28, 2012 – the PLUS Committee hosted a public hearing on CB 117430 and heard comments from about 30 constituents.
- March 29, 2012 – the PLUS Committee reviewed the input received at the March 28 public hearing and directed staff to provide additional information and analysis on specific elements of CB 117430.
- April 11, 2012 – the PLUS Committee discussed a decision agenda that covered some of the key issues identified for additional analysis on March 29, including proposals in CB 117430 that would allow ground-floor commercial uses in certain multifamily zones, extend the maximum length of most temporary use permits to 18 months, and convert the issuance of such permits from appealable Type 2 decisions to non-appealable Type 1 decisions.
- May 9, 2012 – the PLUS Committee considered a second decision agenda that provided further information about some of the issues discussed on April 11. The decision agenda also offered analysis of other elements of CB 117430, including proposals to eliminate some of the City's minimum parking requirements and allow increased flexibility for street-level uses in several locations where ground-floor commercial development is currently required.

Continued discussion of the following, remaining proposals included in CB 117430 is scheduled for the May 23 PLUS Committee meeting:

1. Allow small-scale, ground-floor commercial uses in Lowrise 2 and Lowrise 3 (LR2 and LR3) zones located in Urban Centers and Station Area Overlay Districts.

2. Extend no-minimum parking requirements to areas within a quarter-mile of frequently-served transit stops.
3. Change State Environmental Policy Act (SEPA) environmental review thresholds for Urban Centers and Station Area Overlay Districts.
4. Codify DPD's authority to require transportation studies and mitigation for projects that would become exempt from SEPA under CB 117430.

PLUS Committee Recommendations

To date, the PLUS Committee has made the following recommendations related to the content of CB 117430:

Recommendations consistent with the Executive's proposal in CB 117430

- Allow ground-floor commercial uses in the remaining Midrise zones where such uses are not currently permitted.
- Eliminate minimum parking requirements for Major Institutions located in Urban Centers and Station Area Overlay Districts.
- Allow increased flexibility for street-level uses in several areas of the City where ground-floor commercial development is currently required.
- Approve the Executive's proposals regarding home-based businesses and backyard cottage development standards.

Proposed PLUS Committee amendments to CB 117430

- If commercial uses are ultimately allowed in Lowrise 2 and Lowrise 3 (LR2 and LR3) zones in Urban Centers and Station Area Overlay Districts, decrease the maximum permitted floor area of such uses from 2,500 to 2,000 square feet.
- Prohibit any commercial enterprises that locate in eligible LR zones from installing electric signs (non-illuminated signs and externally illuminated signs would be permitted).
- Allow businesses that locate in eligible LR zones to apply for street use permits to place merchandise displays in certain portions of the right-of-way.
- Require DPD staff to provide an annual report to the City Council on the number, type, and location of new commercial uses that may be permitted to operate in LR2 and LR3 zones in Urban Centers and Station Area Overlay Districts.
- Require commercial uses in multifamily zones to meet the same odor standards as apply in commercial zones.

- Clarify that the nightlife disturbance provisions in the Municipal Code apply to nonresidential uses located in any zone (see Item #7 on the agenda for the May 23 PLUS Committee meeting).
- Allow renewals of temporary use permits with terms of up to six months to be processed as Type 1 decisions, except for renewals of permits issued for transitional encampments and facilities for light rail transit construction, which would remain Type 2 decisions. Retain all other existing rules regarding the issuance and duration of temporary use permits.

On May 9, the PLUS Committee also recommended amending CB 117430 to incorporate a proposal by the Planning Commission that would reduce or eliminate parking requirements in several areas of the City where frequent transit service is available. Since then, an interdepartmental staff group comprised of representatives from DPD, Central Staff, the Seattle Department of Transportation (SDOT), and the Planning Commission has developed a slightly revised version of the Planning Commission’s original proposal for Committee members’ review. Staff believes this revised proposal would be easier to codify, implement, and enforce. More information is available on page 6 of this memorandum (Issue #2 in the decision agenda).

Substitute Version of CB 117430

Attached to this memorandum is Version #23 of CB 117430. This version incorporates all of the recommended PLUS Committee amendments described above except those regarding nightlife disturbance rules and street use permits for merchandise displays. Those issues cannot be taken up in CB 117430 because they are addressed in sections of the Municipal Code that are outside the scope of the ordinance’s title. Thus, if the Committee would like to take action on CB 117430 at its May 23 meeting, separate Council Bills will be required for each of those requested amendments. If the Committee does not take action on CB 117430 on May 23, staff could prepare a new, Council-generated version of the legislation with a broader title that would allow more of the Committee’s recommended amendments to be incorporated into a single bill.

Additional Legislation

1. **Nightlife Disturbance Rules – CB 117473**
 CB 117473, which was introduced on Monday, May 21, would amend Section 25.08.501 of the Municipal Code to clarify that the City’s nightlife disturbance provisions apply to nonresidential uses located in any zone. The PLUS Committee requested this legislation after residents of LR zones on Capitol Hill expressed concern that the language currently in the Code could be misinterpreted to exempt commercial uses in residential zones. CB 117473 appears on the May 23 PLUS Committee agenda as Item #7.
2. **Street Use Permits for Merchandise Displays**
 Once PLUS issues a regulatory recommendation regarding outdoor eating areas in LR2 and LR3 zones in Urban Centers and Station Area Overlay Districts, staff will prepare an ordinance that includes all the Committee’s desired amendments to Title 15 of the Municipal Code (Street Use Ordinance). For more information, see page 6 of this memorandum.

3. Historic Preservation

DPD and Department of Neighborhoods (DON) staff are currently developing language for a companion ordinance to CB 117430 that would preserve DON’s existing ability to review and determine the landmark eligibility of historic resources in Urban Centers and Station Area Overlay Areas in the event that the SEPA thresholds for those areas are increased. Addressing this issue will likely require an amendment to Chapter 25.12 of the Municipal Code (Landmarks Preservation Ordinance), which is outside the scope of the title of CB 117430.

Decision Agenda

Staff developed the following decision agenda to help guide the PLUS Committee’s May 23 discussion of CB 117430. At that time, Councilmembers may also propose further amendments to CB 117430 that are not discussed in this memorandum.

Issue #1: Allow small-scale, ground-floor commercial uses in LR2 and LR3 zones located in Urban Centers and Station Area Overlay Districts.

CB 117430 would allow ground-floor commercial uses in LR2 and LR3 zones that are located in Urban Centers and Station Area Overlay Districts. Such uses are not currently permitted in most LR zones. The only exceptions are LR zones with a Residential/Commercial (RC) suffix. Lists of Seattle’s Urban Centers and Station Area Overlay Districts are provided below for Committee members’ reference.

Urban Centers

- Northgate
- University
- Capitol Hill/First Hill
- Uptown
- South Lake Union*
- Downtown*

Station Area Overlay Districts

- Roosevelt
- University**
- Capitol Hill**
- North Beacon Hill
- Mt. Baker
- Columbia City
- Othello
- Rainier Beach

*No LR2 or LR3 zoning is located in these areas.

**These Station Area Overlay Districts fit within the boundaries of their respective Urban Centers.

The PLUS Committee discussed the issue of allowing small-scale commercial uses in LR2 and LR3 zones in Urban Centers and Station Area Overlay Districts at its April 11 and May 9 meetings and narrowed its field of action options to the first two described in the following table. After concerns about neighborhood equity were raised in response to Option 1, Councilmember Conlin requested it be replaced by Option 3.

Options	Considerations
<p>1. Allow small-scale, ground-floor commercial uses in all LR2 and LR3 zones located in Urban Centers and Station Area Overlay Districts but limit restaurant uses in eligible LR2 and LR3 zones in the Capitol Hill Urban Center to lots that are located on arterial streets.</p>	<ul style="list-style-type: none"> • Removed from Committee consideration at the request of Councilmember Conlin and replaced by Option 3, below.
<p>2. Restrict all commercial uses in LR2 and LR3 zones in Urban Centers and Station Area Overlay Districts to lots that are located on arterial streets.</p>	<ul style="list-style-type: none"> • Compared to the Executive’s proposal, this option would allow ground-floor commercial uses on 60% fewer LR-zoned lots. • Overall, the incremental impacts associated with allowing commercial uses on LR-zoned lots located along arterials would likely be less than those associated with permitting such uses on side streets.
<p>3. Allow small-scale, ground-floor commercial uses in all LR2 and LR3 zones located in Urban Centers and Station Area Overlay Districts but limit restaurant uses in eligible LR2 and LR3 zones to lots that are located on arterial streets.</p>	<ul style="list-style-type: none"> • Arterial streets are often louder and more heavily trafficked than side streets, which can make them a more appropriate location for restaurants, which can generate noise, odors, and/or nighttime customers. • LR-zoned lots located on arterials are generally visible to more potential customers than those located on side streets and, thus, may be more viable as potential locations for small restaurants. • Applying varying commercial use standards to different street types in the affected LR zones would add complexity to the Land Use Code. • With the exception of retail shops, many small commercial uses that operate primarily during daytime hours (offices, business and medical services) add limited activity to the streets where they are located, making them more compatible with quieter neighborhood environments.

PLUS Committee Recommendation:

Sub-issue: Outdoor eating areas associated with food service establishments in eligible LR2 and LR3 zones.

CB 117430 would allow a restaurant located in an eligible LR2 or LR3 zone to offer outdoor seating within the lot lines of the property where the restaurant is located. Such outdoor eating areas would be permitted to remain open until 10:00 p.m. In order to reduce potential noise impacts on nearby residents, the PLUS Committee has considered applying further restrictions to outdoor eating areas that would be allowed in eligible LR zones. Possible action options are listed below for the Committee’s consideration.

Options	Considerations
<p>Restrict outdoor eating areas in eligible LR zones via one or more of the following means:</p> <ul style="list-style-type: none"> a. Prohibit outdoor eating areas from being provided in LR zones. b. Further restrict the permitted hours of operation for outdoor eating areas. b. Allow outdoor eating areas on sidewalks and in front setback areas only. 	<ul style="list-style-type: none"> • Placing additional restrictions on outdoor eating areas could help reduce noise impacts on nearby residents. • Limiting opportunities for restaurants to provide outdoor eating areas could ultimately reduce the number of restaurants that choose to locate in eligible LR zones. • Allowing sidewalk cafes to operate in eligible LR zones would require an amendment to Chapter 15.16 of the Seattle Municipal Code. As Chapter 15.16 is not currently listed in the title of CB 117430, staff will need to prepare an additional, stand-alone piece legislation if it is the Committee’s recommendation that sidewalk cafes be permitted in these areas.

PLUS Committee Recommendation:

Issue #2: Eliminate minimum parking requirements in certain areas of the City that are well-served by transit.

Seattle has already eliminated minimum parking requirements for most uses in Urban Centers and Station Area Overlay Districts. Additionally, no minimum parking requirements currently apply to residential uses in Urban Villages that are located in commercial and multifamily zones and within a quarter-mile walk of a frequently served transit stop. Frequent transit service is defined in the Land Use Code as “transit service headways in at least one direction of 15 minutes or less for at least 12 hours per day, 6 days per week, and transit service headways of 30 minutes or less for at least 18 hours every day.”

CB 117430 would eliminate minimum parking requirements for residential uses in commercial and multifamily zones that are located within a quarter-mile walk of a frequently-served transit stop. Minimum parking requirements for non-residential uses in commercial and industrial zones that are located within a quarter-mile walk of a frequently-served transit stop would also be eliminated. Parking requirements in single-family zones would not change. Attached to this

memorandum is a map provided by DPD (Map #1) that illustrates how this proposal would play out across the City.

In response to CB 117430, the Planning Commission recently submitted a letter to the City Council that outlined an alternative and more modest approach to lowering minimum parking requirements in areas of the City that are well-served by transit. The Planning Commission’s proposal would reduce by 50% the minimum parking requirements for multifamily and non-industrial commercial uses that are located within a quarter-mile walk of a frequently-served stop. In the 41 areas of the City that provide higher levels of transit service and meet the Planning Commission’s “Transit Community” criteria, minimum parking requirements for multifamily and non-industrial commercial uses would be eliminated. A map that depicts the Planning Commission’s proposal is appended to this memorandum (Map #2).

At its May 9 meeting, the PLUS Committee expressed interest in amending CB 117430 to incorporate the Planning Commission’s recommendations related to minimum parking requirements. Since then, an interdepartmental staff group comprised of representatives from DPD, Central Staff, SDOT, and the Planning Commission has developed a slightly revised version of the Planning Commission’s proposal for Committee members’ review. The new version includes only one departure from the Planning Commission’s approach: instead of fully eliminating minimum parking requirements for multifamily and non-industrial commercial uses in Transit Communities, it would eliminate the parking requirements for such uses if they are located within an Urban Village and within a quarter-mile of a frequently-served stop. The interdepartmental staff group’s proposal is illustrated on the final map (Map #3) attached to this memorandum.

The Planning Commission first introduced its Transit Communities concept in a November 2010 report and DPD staff are currently working with the Planning Commission to develop policy frameworks that could be used to define, map and guide development in these areas over the next several years. Given the newness of the Transit Communities model and the fact that associated analytical work is ongoing, there is concern at the staff level that it may be too early to link the concept to citywide parking requirements. Urban Villages, in contrast, have been extensively studied and mapped over the past several years and comprise an established geography that is referenced in both the Land Use Code and Comprehensive Plan.

Options	Considerations
<p>1. Reduce minimum parking requirements consistent with the interdepartmental staff group’s recommendations.</p> <p>Note: Version #23 of CB 117430 is consistent with this option.</p>	<ul style="list-style-type: none"> • The locations and total land area that would be affected under this option are similar, although not identical, to those that would be affected by the Planning Commission’s original proposal. • Applying new parking requirements in the City’s Urban Villages, rather than in the Transit Communities identified by the Planning Commission, would be easier for DPD staff to implement and enforce.

<p>2. Reduce minimum parking requirements consistent with the Planning Commission's recommendations.</p>	<ul style="list-style-type: none"> • Transit Communities is not a defined term or geography in either the Land Use Code or Comprehensive Plan. • DPD staff are currently working with the Planning Commission to develop a policy framework for the City's Transit Communities. Committee members may want to consider waiting to codify parking requirements for these areas until after this work is complete and the concept of Transit Communities is more defined. • If this Option 2 is selected, DPD and Central Staff will need additional time to work with the Planning Commission and Law Department to develop appropriate language for an associated Land Use Code amendment.
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PLUS Committee Recommendation:

Issue #3: Change SEPA environmental review thresholds for Urban Centers and Station Area Overlay Districts.

CB 117430 would raise SEPA thresholds in multifamily and commercial zones in Urban Centers and Station Area Overlay Districts to 200 dwelling units and 75,000 square feet of non-residential floor area for residential and mixed-use projects. In downtown zones the threshold would increase to 250 dwelling units. The proposal relies on a SEPA exemption for infill development which is codified in RCW 43.21C.229. The Council last raised SEPA thresholds for residential uses in Urban Centers and Urban Villages with Station Area Overlay Districts in 2008 through Ordinance 122670.

The proposal may have budgetary implications going forward and may present difficulties in Code administration. Code administration problems are addressed in Version #23 of the proposed bill. These and other issues are discussed later in this memo. The Mayor proposes to address transportation impact related new development, which previously addressed through SEPA review, through a new transportation impact evaluation program which described in Issue #4 after this section.

Pursuant to the SEPA exemption for infill development, new residential and mixed-use development may be exempted from SEPA review when current development is below growth targets established in the Comprehensive Plan for the area and the Comprehensive Plan has been subject to environmental analysis in an Environmental Impact Statement (EIS). Seattle's Comprehensive Plan was first adopted in 1994. Impacts related to that Comprehensive Plan

were disclosed in an EIS. New growth targets were adopted into the Comprehensive Plan in 2004. The 2004 Comprehensive Plan update was not accompanied by an EIS.

The proposal establishes that the exemption is in effect until the residential and employment density targets measured in dwelling units per acre and employees per acre, respectively, are met. Many of the neighborhoods where the exemption would apply already exceed residential growth targets. The following table provides more detail.

Progress toward 2004-2024 growth targets in Urban Centers and Urban Villages with Station Area Overlay Districts

Neighborhood	Growth 2005- 2011	2004-2024 Target	% Target Met	Permitted	% of Target with Permitted
Urban Centers					
Downtown	4368	10,000	44%	1077	54%
First Hill / Capitol Hill	2131	3500	61%	1303	98%
University Urban Center	1126	2450	46%	1218	96%
Northgate	741	2500	30%	7	30%
South Lake Union	1739	8000	22%	368	26%
Uptown	1187	1000	119%	581	177%
Urban Villages with Station Area Overlay Districts					
Columbia City	651	800	81%	409	133%
Othello	766	590	130%	36	136%
North Beacon Hill	79	490	16%	12	19%
North Rainier	368	900	41%	49	46%
Rainier Beach	2	600	0%	21	4%
Roosevelt	96	250	38%	64	64%

Source: DPD January 12, 2012 Urban Center / Urban Village Growth Report
Numbers refer to residential units.

Three Urban Centers and two Urban Villages with Station Area Overlay Districts are close to or already exceed their 2024 growth targets. The City will be allocating new growth targets to neighborhoods as part of the seven-year update to the Comprehensive Plan, which will occur over the course of the next several years.

To characterize the likely effect of the proposal, staff reviewed permit information for projects subject to SEPA for which a Master Use Permit decision was published between 2005 and 2010.¹

¹ Methodology for reviewing permit data: DPD provided data for all projects subject to SEPA review between 2000 and 2010. In the interest of time staff utilized only data between 2005 and 2010 and “scrubbed” the data by doing the following:

- Eliminating: 1) all projects located outside of urban centers or villages; 2) all projects that were not residential or mixed use, such as commercial development and telecommunication utilities; and 3) eliminating all mixed use or residential projects that were subject to SEPA for other reasons, such as projects requiring a rezone or projects located in critical areas; and
- Reconciling unit counts and square footage counts with project descriptions.

In that time period, 202 residential and mixed use projects in all Urban Centers and all Urban Villages were subject to SEPA review. Of those projects, 111 – about 55% – were located in Urban Centers or Urban Villages with Station Area Overlay Districts. Summary statistics are set out in the following table. For a better sample size, staff review of summary statistics used project information from all Urban Centers and Urban Villages, not just Urban Villages with Station Area Overlay Districts.

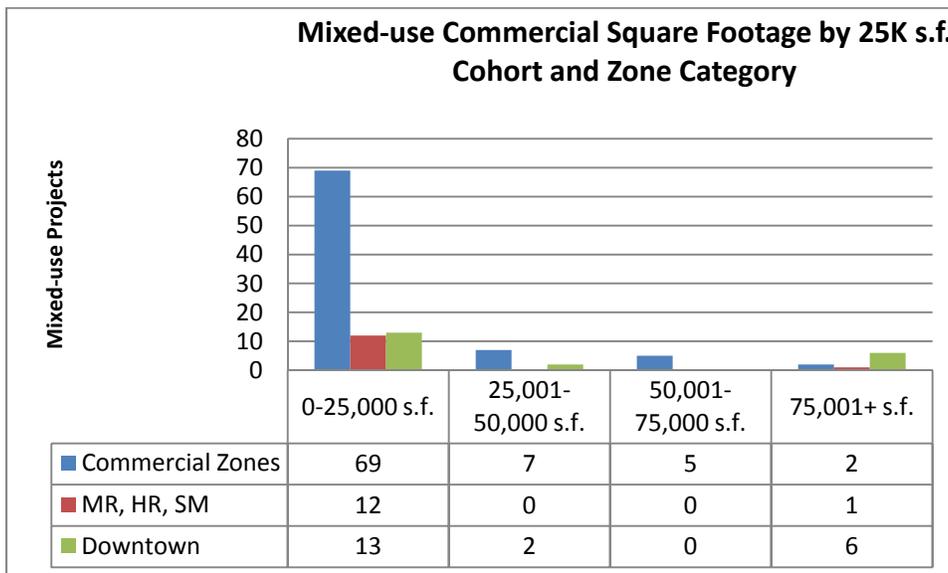
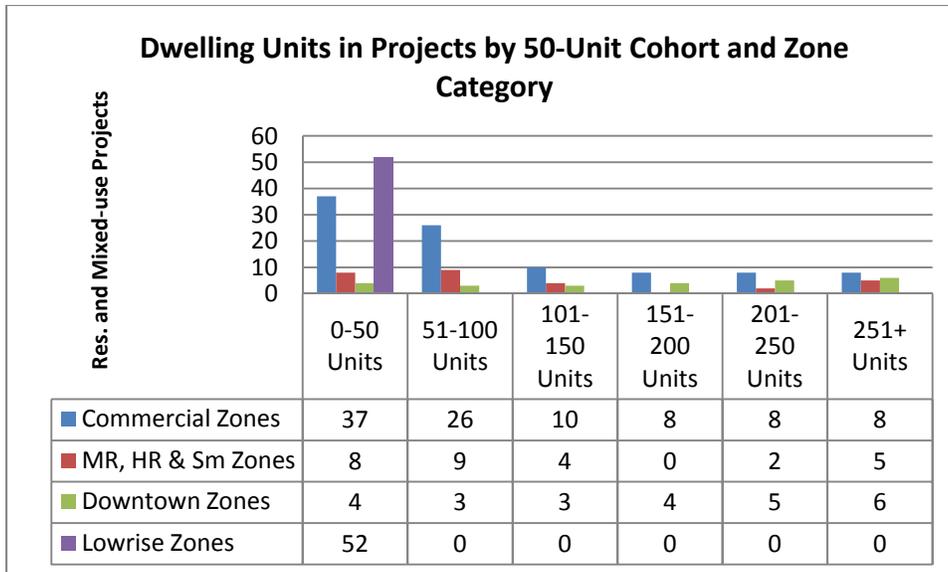
Master Use Permit decisions for projects in all Urban Centers and Urban Villages that were subject to SEPA, 2005-2010

	Proposed Exempt Threshold	Range	Average	Median
Residential Development (dwelling units)				
LR1	200 d.u	5 to 13	7	5
LR2	200 d.u	7 to 41	10	8
LR3	200 d.u	10 to 36	19	14
NC1, NC2, NC3, C1, C2	200 d.u	1 to 471	100	76
MR, HR, and SM	200 d.u	25 to 298	120	82
Downtown Zones *	250 d.u	62 to 668	234	202
Commercial in Mixed Use (square footage)				
LR1	4000 s.f	NA	NA	NA
LR2	75,000 s.f	NA	NA	NA
LR3	75,000 s.f	NA	NA	NA
NC1, NC2, NC3, C1, C2	75,000 s.f	577 to 147,263	15,227	6,395
MR, HR, and SM	75,000 s.f	1,325 to 121,400	13,106	3,039
Downtown Zones	75,000 s.f	2,121 to 120,391	60,012	7,500

* Excludes an outlier project with one dwelling unit.

As indicated in the table, median project sizes, both in terms of residential unit counts and the amount of commercial square footage included in mixed-use projects, is well below the proposed exempt thresholds for all zones. If the proposed exemption were in place during the time period reviewed, and if the exemption applied in all Urban Villages, about 30 projects, or 15% of the total projects, would have exceeded the residential threshold and been subject to SEPA review. The remainder would have been categorically exempt.

Staff also sorted residential and mixed-use projects by zone category and by 50 dwelling unit and 25,000 commercial square footage cohorts. The results are summarized in the following charts.



The majority of residential development projects in all zone categories were less than 100 units. Similarly, the amount of commercial space included in mixed-use projects outside of downtown zones was usually less than 50,000 square feet.

Options for Committee consideration are set out below. Options are not exhaustive or mutually exclusive.

Options	Considerations
1. Raise SEPA thresholds as recommended by DPD.	<ul style="list-style-type: none"> Amending the Code as proposed by DPD may expedite permit review and eliminate some cost and uncertainty associated with the permit process.

	<ul style="list-style-type: none"> • Relief provided by the exemption may not be enduring for many neighborhoods because many neighborhoods where the exemption might apply have already exceeded residential growth targets or are very close to exceeding growth targets. Moreover, where growth targets are modest, a single development could exhaust the exemption. For example, Roosevelt has a modest 2024 growth target of 250 residential units. A project with 90 units would push residential growth in that neighborhood past its target and make all other projects subject to SEPA until new growth targets are established in the Comprehensive Plan. • There may be budget implications to implementing the proposal. The most recent EIS on the Comprehensive Plan is almost 20 years old. The enabling legislation seems to contemplate environmental review through an EIS on growth targets to justify exempting project-level SEPA review. Adopting the proposal presents the possibility that the City would need to prepare an EIS for the current seven-year Comprehensive Plan update. An EIS for the update is not currently budgeted.
<p>2. Raise SEPA thresholds, but not to the extent recommended by DPD.</p> <p>Note: Version #23 of CB 117430 would reduce the commercial threshold in mixed-use buildings.</p>	<ul style="list-style-type: none"> • If the Council wants to consider alternative thresholds, the summary data and cohort breakdown discussed above can serve as a point of departure for that discussion. • The increased commercial threshold, when associated with a mixed-use development, is significant. The proposal would raise the threshold from 12,000 square feet to 75,000 square feet. By way of reference, the Public Safety Block is approximately 58,000 square feet. Council may want to consider lowering the threshold or incorporating other safeguards, such as defining “mixed-use” to ensure that the exemption is not exploited by developers seeking to build a solely commercial product. See discussion below. • Version #23 of CB 117430 contains an amendment to lower the proposed commercial square footage exemption threshold from 75,000 s.f. to 30,000 s.f. With the lowered threshold, the majority of mixed-use projects would continue to be exempt in neighborhoods that have not reached Comprehensive Plan growth targets.

<p>3. Amend the proposed regulations to define “mixed-use” to exclude development with few residential units</p> <p>Note: Version #23 of CB 117430 is consistent with this option.</p>	<ul style="list-style-type: none"> • The infill exemption set out in RCW 43.21C.229 does not define mixed-use. Similarly, neither the Land Use Code nor the SEPA ordinance defines mixed-use. Mixed-use is generally understood to mean two or more principal uses in the same structure one of which is residential. • The significant increase in the commercial exemption described above in combination with the ambiguity about what constitutes mixed-use could create an incentive for a commercial developer to avoid SEPA by building a 75,000 square foot store with a few rooms that meet the minimum criteria for a dwelling unit. Council may wish to consider defining mixed-use for the purposes of the SEPA ordinance to eliminate this loophole. • Version #23 of CB 117430 contains an amendment to address this potential loophole. Specifically, the amendment defines mixed use as development that has at least 50% of the floor area in residential use.
<p>4. Amend the proposed regulations to address code administration issues and clarify when a residential growth target for an urban center has been “achieved.”</p> <p>Note: Version #23 of CB 117430 is consistent with this option.</p>	<ul style="list-style-type: none"> • The proposal, which establishes that the SEPA exemption would no longer be available when residential and employment growth targets are achieved, presents some challenges from a code administration standpoint. Specifically, DPD will have to develop a system for determining at what point in the permitting process an applicant has perfected his or her right to the SEPA exemption. Absent a system, two developers could make separate permit applications for projects at the same time and on the same day that would cause a neighborhood to achieve its growth target, and one of those developers would be exempt from SEPA and one would not. • Version #23 of CB 117430 contains an amendment to address this code administration issue. Specifically, the amendment directs DPD to promulgate by rule a periodic determination of progress towards growth targets that includes a minimum development cushion – expressed as a percentage of a neighborhood’s growth target – that may vary by Urban Center or Urban Village. The cushion and periodic determinations of progress would help ensure that applicants and interested neighbors know whether a project is subject to SEPA review. The proposed

	<p>amendment also establishes that after growth targets have been achieved the threshold for categorical exemptions would default to thresholds established by the Department of Ecology, which are 20 dwelling units for multifamily and mixed-use development and 12,000 s.f. of commercial space in mixed-use development.</p>
<p>5. Do not change SEPA thresholds and direct DPD to explore alternatives for raising SEPA thresholds or establishing exemptions.</p>	<ul style="list-style-type: none"> • Given that the SEPA exemption may not be available in some Urban Centers and Station Area Overlay Districts, Council may wish to consider directing DPD to look at alternatives for expediting SEPA review. Council could defer action on the use of the infill exemption to happen concurrently with growth target allocation as part of the seven-year Comprehensive Plan update. Council would likely need to consider the budgetary implications and potential need for an EIS to accompany the update. • Alternatively or additionally, Council could direct DPD to explore other SEPA tools available through state law for expedited review. For example, RCW 43.21C.420 authorizes a transit infill review whereby jurisdictions can prepare a non-project EIS, which developer can rely on for a period of years to avoid SEPA appeals. Transit infill review applies to all project types, not just mixed-use and residential development and the enabling statute authorizes cost-recovery from developers for the EIS. However, to take advantage of transit infill review provisions, the City would have to issue an EIS by a July 18, 2018 sunset date established in the enabling legislation.

PLUS Committee Recommendation:

Issue #4: Codify DPD’s authority to require transportation studies and mitigation for projects that would become exempt from SEPA under CB 117430.

DPD proposes to create a transportation impact evaluation program that could act as a substitute for SEPA transportation review and mitigation if the Council establishes the SEPA exemption proposed by DPD and discussed above as Issue #3. Under the proposed program, the DPD Director would have the discretion to require a transportation impact evaluation and to condition a project to mitigate transportation impacts. A decision by the Director to impose transportation mitigation would be a Type 1, non-appealable land use decision. The proposal specifies a range

of project sizes that could be subject to a transportation impact evaluation, but it does not establish any criteria for determining whether to require an evaluation.

Mitigation could include participation in a transportation mitigation payment program. The City currently has two such programs, which are grounded in the City’s substantive SEPA authority. Those programs are located in Northgate and South Lake Union and are informed by area-wide transportation studies produced by SDOT. The City has collected approximately \$33,000 and \$5.2 million from Northgate and South Lake Union, respectively, to fund transportation improvements. In addition to the \$5.2 million collected in South Lake Union, the City has also conditioned payment of \$5.3 million. Payments made in South Lake Union have helped fund construction of the streetcar and improvements to West Mercer and Valley Streets.

The proposed program would rely solely on the City’s general police power zoning authority and not on any other statutory authority for transportation impact mitigation, such as SEPA or transportation impact fees authorized by RCW Ch. 82.02.

Central Staff queried the Municipal Research Service Center (MRSC), whose staff has familiarity with a wide range of local government regulatory schemes, as to whether any other jurisdiction in Washington relies on police power, as opposed to statutory authority, for development impact mitigation. MRSC staff is aware of only one other jurisdiction in Washington, Mill Creek, that has a somewhat similar program based on police power. However, Mill Creek’s program is not limited to transportation impacts, mandates that their planning director mitigate identified impacts, and establishes that decisions to impose conditions to mitigate impacts are appealable. See Mill Creek Municipal Code Ch. 17.48.

Options	Considerations
<p>1. Implement the proposed transportation impact mitigation program as proposed by DPD.</p>	<ul style="list-style-type: none"> The proposal from DPD could likely be functionally equivalent to current SEPA authority in terms of transportation impact mitigation. However, as proposed the program leaves considerable discretion to the DPD Director and does not incorporate the check and balance of review by the City Hearing Examiner.
<p>2. Amend the proposed regulation to clarify when transportation impact mitigation evaluation is required and when it’s left to the Director’s discretion.</p> <p>Note: Version #23 of CB 117430 is consistent with this option.</p>	<ul style="list-style-type: none"> As indicated above, the proposal from DPD leaves considerable discretion to the DPD Director. Specifically, the proposed code language is permissive, “[t]he Director <i>may</i> require a transportation impact evaluation.” SMC 23,52,008.B.1 (proposed). Council may want to consider limiting the proposed discretion by establishing criteria for when a transportation impact evaluation is mandatory. Version #23 of CB 117430 contains an amendment to limit the DPD Director’s discretion. Specifically, the amendment would require a transportation impact evaluation for projects with more than 50 dwelling

	units or more than 12,000 square feet of commercial floor area. The DPD Director would retain discretion for smaller projects.
3. Amend the proposed regulations to make conditioning pursuant to a transportation impact evaluation a Type 2 appealable decision.	<ul style="list-style-type: none"> As proposed, a decision to impose a condition on a project requiring mitigation would be a Type 1, non-appealable land use decision. Currently, SEPA decisions, including decisions to require transportation impact mitigation are Type 2 decisions, which may be appealed to the Hearing Examiner. Appeals provide some leverage – real or perceived – for neighbors who oppose a project. However, the opportunity for appeal also provides some protections for developers who may disagree that a costly condition is attributable to impacts from a proposed project. Council may want to consider whether a decision to impose transportation impact mitigation conditions should be a Type 1 or Type 2 decision.

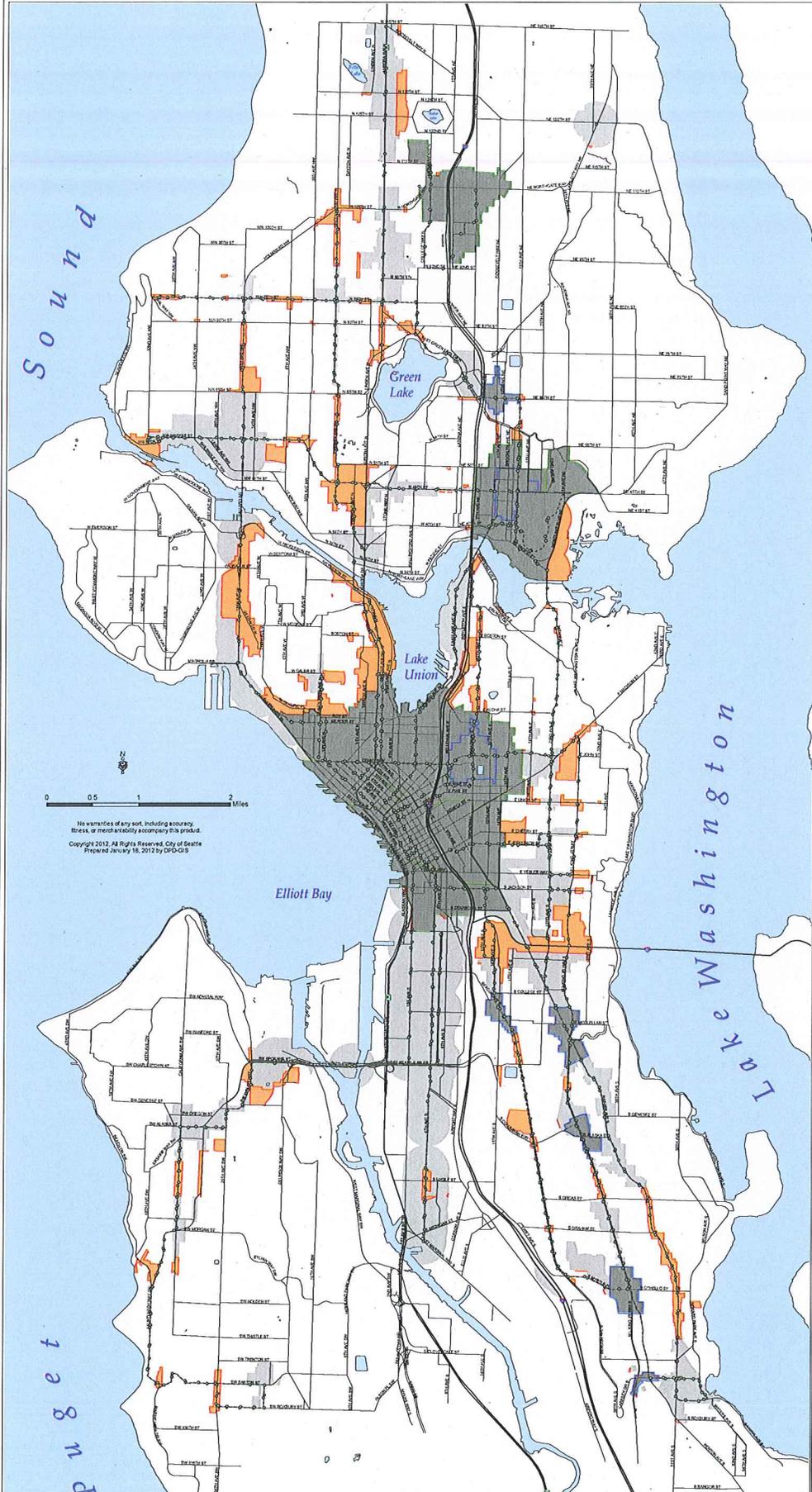
PLUS Committee Recommendation:

Next Steps

The PLUS Committee’s next opportunity to discuss and possibly vote on CB 117430 will be on May 23. Please feel free to contact me at any time if you have questions or concerns about the content of legislation, or would like to offer an amendment for the Committee’s consideration. I can be reached by phone at 684.5382 or via email at sara.belz@seattle.gov.

MAP # 1
(CB 117430)

Areas within 1/4 mile of a stop with frequent transit service



0 0.5 1 2 Miles
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Legend

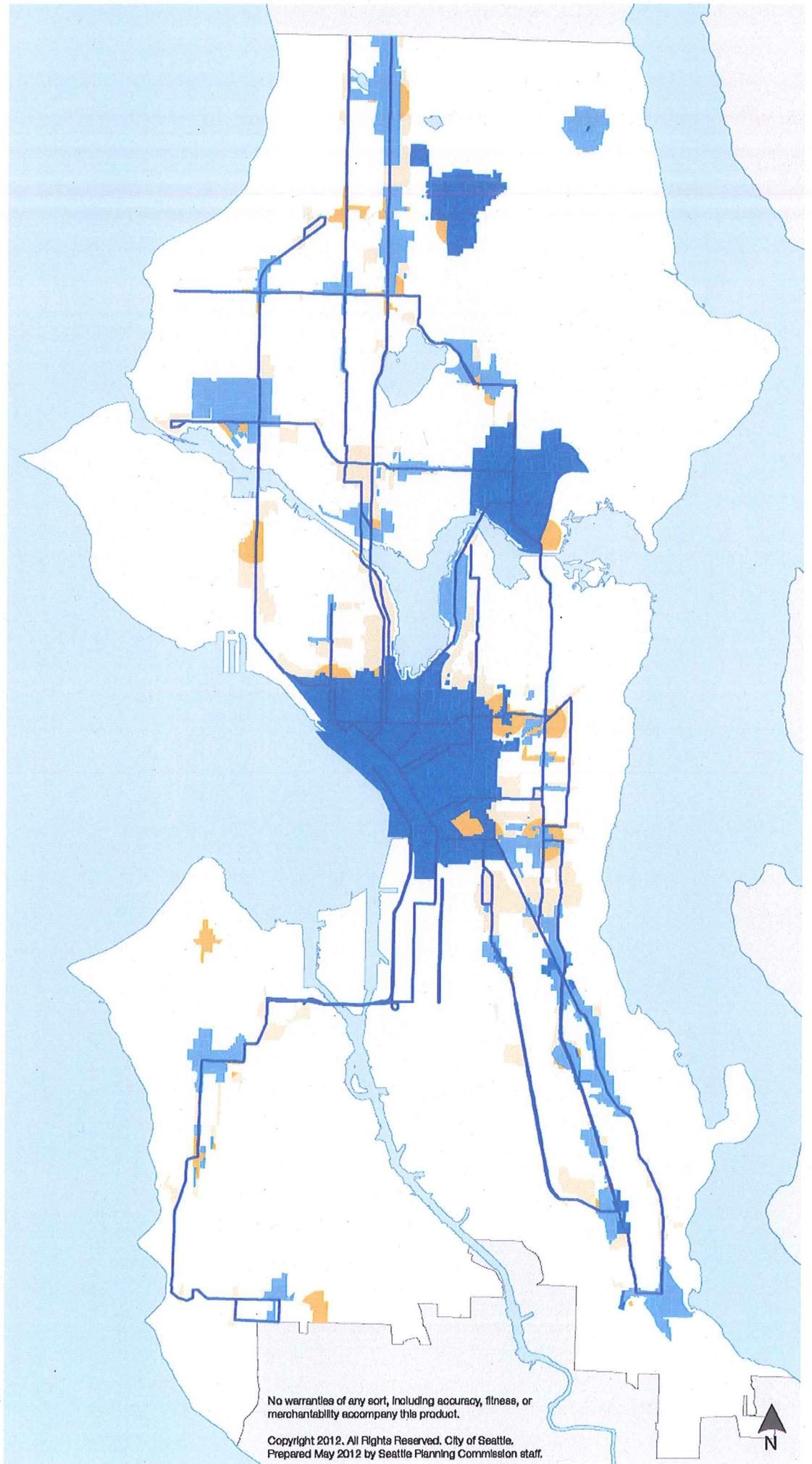
- Places where flexibility will be added, no-minimum parking for all uses
- Existing places with flexibility to provide no-minimum parking (Urban Centers, Station Area Overlays)
- Places where flexibility will be added, no-minimum parking for non-residential uses
- SDOT Frequent Transit Corridor
- Bus Stops Along Frequent Transit Corridor
- Station Area Overlay District

Source: Seattle Department of Transportation Frequent Transit Service Corridor, King County Metro Transit Stop Locations, OPD Urban Center / Urban Village / Link Light Rail Station Overlay Districts

MAP # 2

SPC's alternative proposal to increase flexibility

-  no minimum parking requirements (approximately 3400 parcel acres)
-  no minimum parking requirements for residential uses; places where flexibility will be added, no minimum parking requirements for non-residential uses (approximately 2270 parcel acres)
-  places where flexibility will be added, no minimum requirements for allowed uses (approximately 540 parcel acres)
-  places where flexibility will be added, 50% reduction to minimum requirements for allowed uses (approximately 2590 parcel acres)

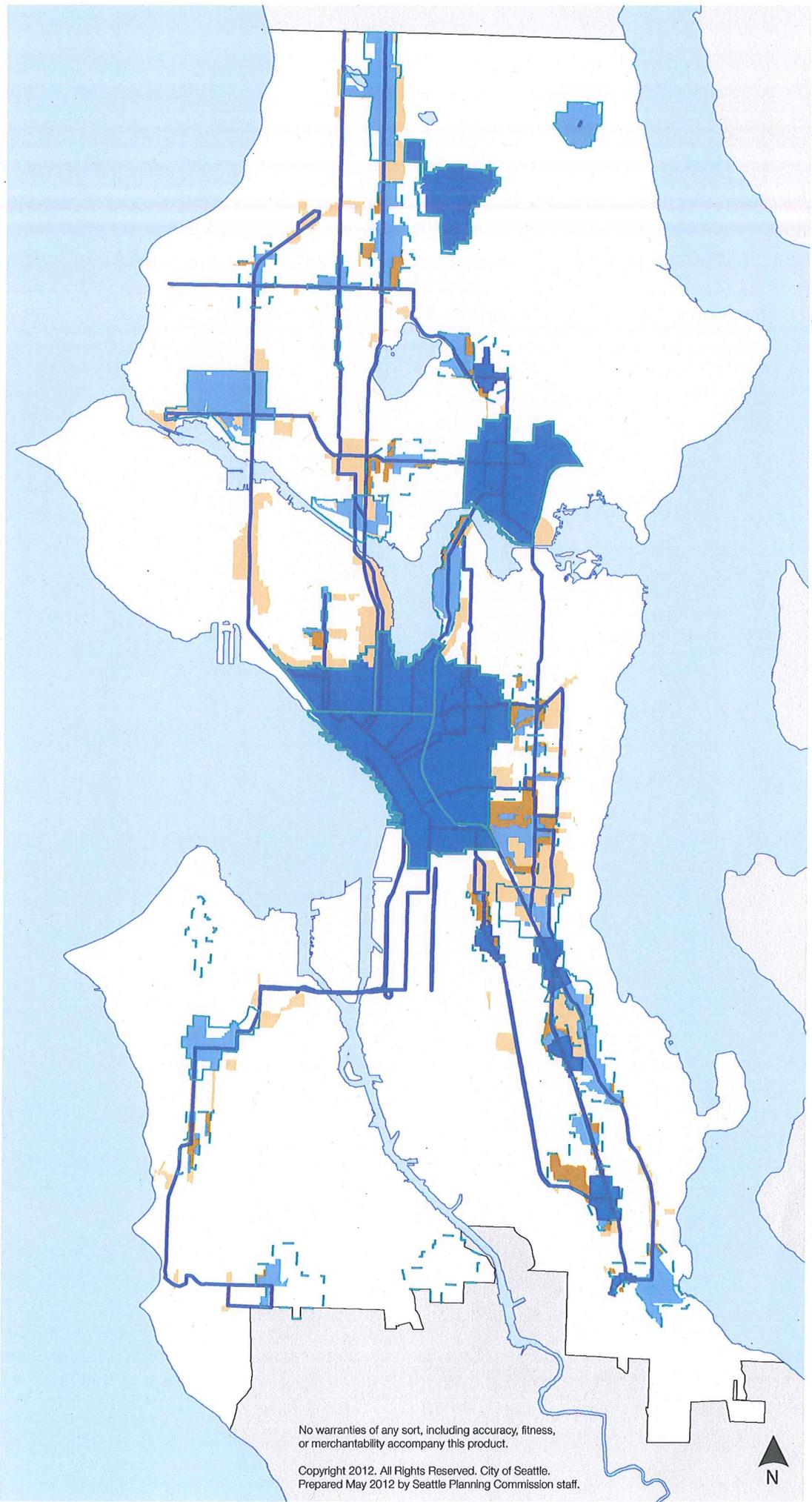


MAP #3

Interdepartmental staff-group recommendation

-  no minimum parking requirements
-  no minimum parking requirements for residential uses; places where flexibility will be added, no minimum parking requirements for non-residential uses
-  places where flexibility will be added, no minimum requirements for allowed uses
-  places where flexibility will be added, 50% reduction to minimum requirements for allowed uses

-  Urban Centers
-  Hub Urban Villages
-  Residential Urban Villages
-  Station Area Overlay Districts
-  Frequent Transit Corridors



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