

MEMORANDUM

To: Members of the Planning, Land Use & Zoning Committee
From: Aly Pennucci, Legislative Analyst
Date: September 6, 2016
Subject: Council Bill 118783: Living Building Pilot Program Update

On September 9th the Planning, Land Use and Zoning Committee (PLUZ) will have an initial discussion on Council Bill 118783, which would make changes to the Living Building Pilot Program (the Program) to:

- Link the Program directly to the International Living Futures Institute's (ILFI) Living Building Challenge™ (LBC) Petal certification program;
- Allow Land Use Code incentives/bonuses for additional height and floor area as-of-right;
- Modify the minimum program requirements;
- Reduce the maximum penalty from ten percent to five percent of a project's construction value; and
- Extend the enrollment period until 2025 (or when 20 projects have participated).

Additionally, a new SMC Chapter 23.58D would be created to consolidate green building requirements from various sections of the Land Use Code and give SDCI the authority to develop a Director's rule that establishes requirements for the minimum green building standards required for participation in the incentive zoning program in all zones. This will allow SDCI to update the requirements when, for example, a new version of Leadership in Energy and Environmental Design (LEED) standards is released, without requiring a code amendment.

A public hearing and possible vote is scheduled at the September 20th PLUZ meeting. This memo: (1) provides a brief background on the pilot program and (2) describes potential amendments for the Committee's consideration.

Background

The LBC is a performance based green building rating system created by ILFI to recognize buildings meeting a high level of sustainability. The City's Program was developed to provide flexibility from the Land Use Code for projects seeking LBC certification. On June 6, 2013, the City Council passed [Resolution 31400](#), directing the Department of Planning and Development (now the Seattle Department of Construction and Inspections (SDCI)), to:

- 1) Establish a technical advisory group (TAG) to advise the City on sustainable building practices by August 30, 2013 (TAG met from ~10/2013 – 12/2014);
- 2) Develop recommendations to revise the Program by December 31, 2013 (amendments were adopted in July 2014, [Ordinance 124535](#)); and
- 3) Develop recommendations to revise the Seattle Deep Green Program by December 31, 2014 (note: the Deep Green Program was eliminated in 2014).

Resolution 31400 was adopted in part to address concerns that were raised during the discussions for the amendments to the program adopted in 2012 about allowable departures, including those

concerning floor area ratios and structure height, and the level of staff and consultant review and consultation for permitting these buildings.

Originally adopted in December 2009, the Program was amended in 2012, and again in 2014. Following the amendments made in 2014, the Program was set to expire on December 31, 2015. Council has extended the Program twice in less than a year to give SDCI time to finalize the legislation that is now before the Committee.

Discussion items / potential amendments for consideration:

1. Advisory Group

Resolution 31400 requested that SDCI form a Green Buildings Technical Advisory Group and specified that “it is intended to be a standing body...[to] meet on an as-needed basis to review proposed code amendments or pending projects until the frequency of its meetings and composition are addressed in legislation implementing the Seattle Deep Green pilot program.” SDCI formed a technical advisory group with ten members who were confirmed by Council in 2013; those appointments expired in August 2015. The proposal transmitted to Council does not include a continuation of the advisory group.

Option	Discussion
1a. Amend the proposed bill to direct SDCI to re-establish a standing Green Buildings Technical Advisory Group as called for in Resolution 31400	Staffing a standing committee requires staff resources to recruit membership, facilitate the appointment and confirmation process and staff meetings. Given the limited number of projects that can participate in the Program, a formal committee may not be necessary. If Council made this amendment, appointments could be made for the duration of the Program to minimize the resources needed for the appointment process.
1b. No change	Prior to 2013, SDCI formed ad hoc technical advisory groups for individual projects as needed and could continue to do so for future projects if a standing committee is not continued.

2. Height Incentive

The existing Program provides flexibility from the land use code by allowing additional design review departures when an applicant demonstrates that approval of a departure would either: better meet the goals of the LBC and does not conflict with adopted design guidelines; or result in a development that better meets the intent of the adopted design guidelines. One of the recommendations from the TAG was to provide additional height and floor area as-of-right rather than as a design review departure to provide more certainty to developers that in turn could generate more interest in the Program. This recommendation is included in SDCI’s proposal; however, the height that can be gained for buildings proposed in zones with a height limited greater than 45 feet and less than or equal to 85 feet was reduced from 20 feet to 10 feet. Specifically, the height flexibility/incentive is proposed to be modified as follows:

Existing:

*Height gained through a **departure***

- 10 feet for development in zones with height limits of **45 feet** or less
- 20 feet for development in zones with height limits greater than **45 feet**

Proposed:

*Height gained as an **incentive***

- 10 feet for development in zones with height limits of **85 feet** or less
- 20 feet for development in zones with height limits greater than **85 feet**

Option	Discussion
2a. Amend the proposed bill to continue to allow projects in zones with a height limit over 45 feet to gain up to 20 additional feet	The majority of projects that have considered participating in the Program are in a zone with a height limit between 40 feet and 85 feet. The projects located in a 65-85' zone have expressed interested in gaining 20 additional feet. Decreasing the additional height that can be gained in these zones may be a deterrent for participation in the Program.
2b. Amend the proposed bill to allow projects in zones with a height limit over 55 feet to gain up to 20 additional feet	Given the citywide upzones that are being contemplated to implement the Mandatory Housing Affordability program that could increase the height in areas that currently have a 40 foot height limit to 55 feet, Council could instead only allow the 20 additional feet in zones with a height limit of over 55 feet.
2c. No change	While limiting the additional height available to participating projects may decrease interest in the Program, concerns about increased height may be best addressed by allowing a more modest height increase in zones with a height limit of 85 feet or less.

3. Other Departments

In the Director’s report that accompanied the proposed legislation, SDCI included a brief discussion of recommendations from the TAG that go beyond the Land Use Code to promote the development of more living buildings. This would require that other departments, such as Seattle Public Utilities and Seattle City Light, complete a process to identify barriers to Living Buildings in their current codes and processes and identify opportunities to test new approaches.

Option	Discussion
3a. Amend the bill adding a new section requesting that these departments report back to Council within a specified time with recommendations on ways facilitate the development of more living buildings in Seattle.	Today, other departments work with SDCI and participating project teams on a case by case basis to consider alternative approaches to facilitate development of a pilot project. This change could result in more systemic changes to codes and processes that may help promote the Program and create more living buildings.
3b. No change	Without this change other City departments would continue to work with SDCI and pilot project teams on a case by case basis.

4. Existing Buildings

The existing Program was designed primarily for new development. The proposal forwarded by SDCI would require a project participating in the Program to obtain LBC Petal Certification plus meet specific requirements for reductions in energy and water use. In exchange, a project can gain extra height and floor area and can request departures not available to a non-pilot program project.

The proposed bill would allow existing buildings to participate if the project voluntary goes through design review. Achieving LBC certification is difficult for any building and to a certain degree may be more difficult for existing building, but there are examples of existing buildings achieving one of the LBC certifications. The 2030 District has proposed that rather than achieving LBC Petal Certification, existing buildings should be able to obtain the same height and floor area incentives by meeting a different set of standards designed for an existing building:

LB Pilot Program (as proposed)

- Require LBC Petal Certification
- Energy use is 75% or less of the energy use targets established in the 2012 Seattle Energy Code’s Target Performance Path
- No potable water use for nonpotable uses

2030 Proposal for existing buildings:

- Reduce onsite energy use by 70% below the National median before 2020, 80% between 2020 and 2024, and 90% in 2025.
- Manage the combination of stormwater peak discharge and reduce potable water use by 50% below the Seattle 2030 District baseline.
- Transportation Emissions: no more than 15 percent of trips to and from the development will be made using single-occupant vehicles (SOVs)

The 2030 District has suggested that these requirements would significantly improve the environmental performance and energy efficiency of existing buildings and may prevent some older buildings from being demolished.

Option	Discussion
4a. Amend the proposed bill to include specific requirements for existing buildings as proposed by the 2030 district	<p>These standards may not be as rigorous as those required to achieve LBC Petal certification; without more analysis it is unclear if it is appropriate to provide the same incentives for a project meeting these standards. Additionally, ILFI may not be comfortable with including standards that do not include LBC certification in a program titled the “Living Building Pilot Program.” Council could create a separate title for an existing building program, but that would require introduction of a new bill.</p> <p>Another challenge is that the 2030 District is not currently a certifying agency. The City requires that a third party certify performance for pilot projects and submit a report to the City demonstrating compliance. ILFI facilitates this for projects seeking LBC petal certification. The 2030</p>

	District has prepared a draft proposal for how they could produce a report to demonstrate compliance with the standards they proposed.
4b. Request that SDCI develop a green building pilot program designed specifically for existing buildings and return to Council within a specified time with a proposal.	This would allow time to work with a broader range of stakeholders to develop standards for existing buildings, to determine the appropriate incentives/flexibility and have an agreed upon process of how the verification for compliance process will work.
4c. No change	Existing buildings could participate if the project can meet the requirements that new buildings are held to.

5. Green Building Standards for Incentive Zoning

The proposed bill reorganizes and consolidates green building requirements in a new Land Use Code chapter and updates the green building standards required to participate in the Incentive Zoning program to be consistent in all zones. Currently, projects gaining additional height or floor area through an incentive program have to achieve a green building certification that varies depending on the zone (the range includes LEED Silver, LEED Gold, Built Green 4-Star, Passive House and Evergreen Sustainable Development Standard). The proposal eliminates reference to a specific green building certification program and instead gives the Director of SDCI the authority to determine, by rule, what green building certification programs will be accepted.

Option	Discussion
5a. Amend the proposed bill to include the 2030 District as an option for meeting the green building requirements for the incentive zoning provisions.	The Director will already have the authority to include the 2030 District standards as an option (assuming 2030 develops a certification path) but, if Councilmembers wanted to ensure that the 2030 district standards, or any other specific green building program, are included, Council could amend the proposed definition of “Green building standards” to call those programs out explicitly.
5b. No change	

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