

August 10, 2017

MEMORANDUM

To: Members of the PLUZ Committee
From: Aly Pennucci, Legislative Analyst
Subject: Design Review Program Improvements

Beginning Tuesday, August 15, the Planning, Land Use and Zoning (PLUZ) Committee will start discussing potential amendments to the legislation with proposed changes to the City's [Design Review program](#) (program). The proposed legislation would make the following broad changes to the program:

1. Require early community engagement by applicants with the community;
2. Modify the thresholds above which design review is required. To ensure consistent application, thresholds will be based on the total square footage in a building instead of dwelling unit counts, use and zone;
3. Establish new thresholds to determine the type of design review required based on site and project characteristics;
4. Change the composition of design review boards (DRBs) to replace the general community interest seat with a second local residential/community interest seat and allow more than one Get Engaged members to participate on the boards; and
5. Modify and update other provisions related to design review.

This memo provides (1) a brief overview of the program and improvement project; (2) a high-level discussion of the purpose of the program and whether the proposed changes will advance that purpose; and (3) outlines issues that have been identified to date and sets out options for potential amendments for the committee's consideration. These options may be modified or abandoned based on committee discussion, further public comment and ongoing review.

Background¹

The City launched the program in 1994 ([ORD 116909](#)). The program requires that new commercial and multifamily development exceeding size thresholds in certain land use zones undergo a review of the project's design characteristics, based on a set of [citywide and neighborhood design guidelines](#). The program relies on seven volunteer DRBs, which receive community input and provide direction to developers. Developers receive advice on how to improve the project's design and have the opportunity to seek departures from development standards in order to achieve a better design.

Since the program was implemented the number of appeals for new development projects has declined and more architects and other design professionals are engaged on projects teams, resulting in relatively better design for new development. However, applicants have raised concerns about the length of time involved, lack of predictability, and increasing costs associated with the program. Community member have raised concerns about if or how their feedback is considered by DRBs and frustration that the program does not address broader concerns (e.g. quantity of parking or the overall zoned capacity).

¹ For more background on the Program see the "[Design Review Programs Improvements Background Report](#)"

Over the years, the City has engaged in a number of both formal and informal reviews and evaluations of the program.² In addition, outside organizations have initiated their own reviews and provided feedback to the City. This has resulted in some changes to the Land Use Code related to the program and several business practice improvements, but the basic structure and organization of the program has not changed significantly.

In 2014, Council requested that the Department of Planning and Development (DPD, now the Seattle Department of Construction and Inspections (SDCI)) develop ways to streamline its land use and building permitting systems, including recommendations for improving the program.³ This resulted in a report from the Seattle Metropolitan Chamber of Commerce with recommendations to improve the program. Following that, SDCI proposed a full review of the program with existing staff resources. Council added \$50,000 to DPD's 2015 budget to provide consultant assistance to enhance community outreach for the project.⁴

DPD used those resources over the last two years to: convene a stakeholder advisory group comprised of project applicants, design professionals and community members; interview community members not included in the Chamber's work; conduct online surveys and an online open house; hold two public open houses, and release a report, "Department Recommended Program Improvements" that summarized the outreach process and outlined the Department's initial recommendations. The stakeholder group developed the following goals that informed the recommendations:

1. Cultivate the program's purpose of encouraging better design
2. Improve the level of consistency, efficiency and predictability in how the City administers the program
3. Set clear expectations
4. Support communication and dialogue

In addition, the Housing Affordability and Livability Agenda (HALA) advisory group's recommendations included a recommendation to "Improve predictability and timeliness and thus reduce construction costs by reforming City design review and historic review processes."

Discussion

What is the purpose of design review and do these changes result in furthering that purpose? Should the goal of reducing review timelines be prioritized in determining what changes should be made to the program?

The stated purpose of the program is to encourage better design and site planning, to support communication between applicants, neighborhoods and the City, and to provide flexibility in the application of the Land Use Code. Current and previous efforts that consider changes to the program consistently highlight the inherent conflict between different stakeholder groups who participate – applicants want more efficiency and predictability and the community wants more time to provide input and assurance that their input will inform the project's outcome.

The stakeholder advisory group for this project developed goals (described above) that are generally focused on introducing changes that would make the program more efficient and predictable while furthering the stated purpose of design review. The HALA Advisory Committee recommendation, also described above, focused more on timeliness and thus the potential to reduce construction costs. In their final recommendation report, the HALA Advisory Committee noted that changes to design review

² For more details see SDCI's "[Summary of Previous Feedback and Recommendations](#)" report:

³ See 2014 Seattle City Council Statement of Legislative Intent (SLI) 53-1-A-1

⁴ See 2015 - 2016 Seattle City Council Green Sheet 23-1-A-1

that reduce the review timeline by two months could result in cost savings up to \$4,000 per housing unit.⁵

Reducing review timelines under design review and potentially reducing construction costs may be a worthy policy goal, however, focusing primarily on timelines may come at the cost of reducing the quality of design if the review is rushed and/or diluting the public's trust in the City's ability to promote development that will positively contribute to the built environment over the long term. Reducing permitting costs will not necessarily reduce the price at which a unit is offered for sale or rent as construction costs are not the only factor driving for-sale or rental prices. Developers have a fiduciary duty to deliver an adequate return on investment to their investors. On the other hand, shorter review times may result in getting units to market faster, adding to the supply of housing.

In terms of time in the review process, design is a creative activity, quality in design can be elusive and often requires an iterative process. Part of this process is the time needed to clearly communicate the design intent to those people who will ultimately live in and around the final structure. The added level of review may increase the review time contributing to higher upfront costs, but may also be justified if it improves the long-term viability of the project and its contribution to the built environment. This tension between the time design review takes versus the costs incurred by additional time highlights how, in some ways, the goals of the improvement project articulated by the advisory group and HALA are at odds with each other.

The program, recognizing that it may increase the permit review timeline, builds in benefits for applicants, including allowing departures from the Land Use Code that are not otherwise available, and allowing projects to vest to the code at an earlier date than projects not subject to design review. As the pace of development has increased, however, the number of projects required to participate in design review has increased. This increase has contributed to a longer review timeline.

As articulated in the recitals to the ordinance proposed by the Executive, the primary focus of the proposed changes is on consistency and efficiencies, which generally translates to reducing time in the review process. However, it is unclear, despite the focus on consistency and efficiency, if the proposed changes will result in significant time savings and, with the introduction of a new hybrid decision process and increased responsibility for staff to complete more administrative reviews, it will take some time before any potential improvements could be realized.

Given the tension between furthering the goals of design review and speeding up the process overall, Councilmembers may want to consider modifying the proposal to introduce more incremental changes that could still achieve reductions in the review timeline while reducing the potential for undermining the other goals developed by the stakeholder group and the stated purpose of the program (see discussion on more specific options in Attachment 1).

Attachments:

1. Potential Amendments for PLUZ Committee Consideration

cc: Kirstan Arestad, Central Staff Director
Ketil Freeman, Supervising Analyst

⁵ Note that details on how the savings is calculated was not provided in the report and is unverified.

Attachment 1: Potential Amendments for PLUZ Committee Consideration

Topic / Issue Discussion	Options for the committee's consideration: ¹
<p>Early Community Outreach <i>Proposal:</i> The project applicant would be required to conduct outreach to the community prior to completing the Early Design Guidance phase of design review.</p>	
<p>1. <u>Should the legislation be amended to add details outlining the process for the proposed community outreach requirements?</u></p> <p>The proposed changes would require that project applicants conduct outreach to the community prior to completing the Early Design Guidance phase of design review. The Department of Neighborhood (DON) would coordinate with SDCI on developing a Director's Rule with details on the outreach requirements and process and to implement and oversee implementation. Some applicants may be concerned about the added time and costs associated with requiring independent outreach and engagement; however, both applicants and community members have noted that voluntary early outreach in advance of design review identified neighborhood concerns, including those beyond the scope of design review, to be discussed and often resolved, offsetting the added time and cost by avoiding appeals.</p> <p>Without a draft of the future rule, the details of how this process will work are uncertain. In addition, it is unclear what the expectation is on how the community feedback will be documented and considered in the design review process.</p>	<p>a) Adopt the Executive's proposal (no change)</p> <p>b) Request a review draft of a Director's rule for Council review prior to taking final action on the Executive's proposed changes. The department has indicated that they will provide this prior to final Council action but at the time this memo was prepared those materials were not available.</p> <p>c) Amend the proposal to specify how both the applicant and SDCI staff would document not only what they heard during the outreach process and public comment but also how or if the concerns raised were addressed or considered.</p> <p>d) Amend the Executive's proposal to include specific requirements about the outreach requirement, rather than granting the Director the authority to develop the requirements by rule.</p>
<p>Design Review Thresholds <i>Proposal:</i> (1) Use the size of new development as the threshold to determine if design review is required; (2) Use site and project characteristics to determine the type of design review required;</p>	
<p>2. <u>Should the proposed thresholds that determine if design review is required be modified?</u></p> <p>The changes to the thresholds are intended, at least in part, to reduce the number of projects subject to design review, freeing up staff time and time on board meeting agendas, thus allowing projects going through design review to be reviewed on a shorter and more predictable timeline. However, it is not clear that significant space will be freed up at the DRBs by reducing the number of projects subject to design review or, with increased numbers of administrative reviews, if staff</p>	<p>a) Adopt the Executive's proposal (no change)</p> <p>b) Amend the Executive's proposal to require shorter review periods for administrative reviews; or</p> <p>c) Amend the Executive's proposal by adding a noncodified section, requesting a report from SDCI 18 months after implementation, that would document if the changes have led to reduced review timelines and/or recommend any additional changes;</p>

¹ These amendments may be modified or abandoned based on committee discussion, further public comment and ongoing review. In many cases, the options outlined are not mutually exclusive.

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<p>turnaround time on administrative reviews will significantly outpace the time it takes for a project subject to the board's review.</p> <p>The Executive's analysis suggests that these changes to the thresholds would reduce the number of projects subject to any type of design review by approximately 28 percent. However, most projects that would no longer be subject to design review are primarily small townhouse developments that are currently subject to streamlined design review (SDR). SDR is conducted by staff and only includes early design guidance, there is no final design review recommendation with binding conditions. Therefore, eliminating those projects from the process will not free up space at design review board meetings and staff time for administrative reviews will be more significant than what is required for SDR. In addition, although today administrative reviews are, on average, completed seven weeks faster than full design review, only four percent of projects are currently subject to administrative review. The number of administrative reviews under the proposal will double, and there will be additional staff time required to complete the administrative portion of the new hybrid process.</p> <p>Councilmembers may want to consider changes to the thresholds to either increase or decrease the number of projects subject to this review and/or consider changes to incentivize certain aspects of the development.</p>	<p>d) Amend the Executive's proposal by adjusting the size threshold up or down or based on certain site characteristics. This could include adjustments that incentivize certain aspects of the development.</p> <p>e) Simplify the Executive's proposal to reduce the type of design review to only include Full Design Review and Administrative Design Review and consider additional threshold changes to balance the need to free up space at board meeting and focus on projects that might benefit more from a public review process.</p>
<p>Type of Design Review <i>Proposal:</i> (1) Full Design Review (at least two meetings with the DRB, more complex projects); (2) Introduce a new process - Hybrid Design Review (only one step in the process as a DRB meeting, less complex projects); (3) Administrative Design Review (reviewed administratively by staff for both steps, least complex projects); and (4) eliminate Streamlined Design Review.</p>	
<p>3. <u>Should the proposed changes to introduce additional administrative reviews be modified?</u></p> <p>Shifting more decisions to administrative reviews, either in full or in part, is intended to free up time at the board and focus the limited resource of the board on larger, more complex projects. Relying more on administrative reviews would give the Director of SDCI more authority to make decisions outside of a public meeting. More decisions made exclusively by SDCI rather than by an independent board that makes decisions in an open public forum may result in more appeals, particularly if the Director's decisions are perceived as being influenced by either the applicant or the community. In addition, more projects going through administrative design review may be perceived as limiting the opportunity for public input. A detailed accounting of how input was considered and a justification for the final decision may help minimize these potential outcomes.</p>	<p>a) Adopt the Executive's proposal (no change)</p> <p>b) Amend the Executive's proposal to specify details expected in the decision reports. This could include how and when the public can comment in the administrative process and how those comments will be documented, both in terms of documenting what the comment is as well as how or if it informed the Director's decision.</p> <p>c) Amend the Executive's proposal as described in 3e above reducing the overall number of projects subject to design review and focusing more on</p>

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<p>4. <u>Should the proposed new hybrid design review process be modified or eliminated?</u></p> <p>The intent of the changes to the different design review processes, at least in part, are (1) to focus board reviews on the projects that need the most attention (Full Design Review), (2) to open more available board review times, and (3) to improve consistency and efficiency of reviews by increasing the amount of reviews done administratively. The hybrid process could be described as a compromise to address applicants concerns about review timelines and consistency while also addressing community concerns about reducing the amount of public discussion on development projects. However, the combination of administrative and board review may introduce more confusion in the process.</p> <p>For the hybrid process, the Executive's proposal does not clearly prescribe a policy choice about which phase should be done administratively and which should be conducted by the board. In most cases, the proposal is to have the first phase of design review (early design guidance) conducted administratively by staff, however, the proposal also includes a "pilot" where up to 25 projects can choose to have the recommendation phase completed administratively. Introducing a pilot program as an alternative to a new process risks introducing unnecessary complications and unnecessary confusion at a time when the program is already undergoing a significant number of changes, which themselves require adequate time to evaluate before considering modifications. It is also unclear how the "pilot" will be evaluated.</p>	<p>projects that might benefit more from a public review process.</p> <ul style="list-style-type: none"> a) Adopt the Executive's proposal (no change) b) Amend the Executive's proposal to eliminate the pilot. c) Amend the Executive's proposal to eliminate the pilot and always allow an applicant to choose which phase is administrative. d) Amend the Executive's proposal to reduce the number of projects eligible for the pilot and add criteria to evaluate the pilot program. e) Amend the Executive's proposal to eliminate the pilot and make the recommendation phase, rather than the EDG phase, administrative. f) Amend the Executive's proposal to eliminate the hybrid option.
Miscellaneous	
<p>5. <u>Should the Council amend the proposal to modify the duties of Special Review District Boards and Landmark Preservation Boards by authorizing these boards to make recommendations to SDCI on design review development standard departures?</u></p> <p>Projects that are reviewed by a Special Review District Board (SRDB) or Landmark Preservation Board (LPB) are not typically required to go through design review. However, because DRBs have special authority to grant departures from specified development standards, some projects elect to go through the design review process to request those departures. During the discussions on the recent legislation that changed the zoning in the Chinatown/International District to implement the Mandatory Housing Affordability program in that neighborhood, the issue was raised that having these projects subject to two separate boards focused on design is duplicative and adds confusion</p>	<ul style="list-style-type: none"> a) Adopt the Executive's proposal (no change) b) Amend the Executive's proposal to modify the duties of Special Review District Boards and Landmark Preservation Boards by authorizing these boards to make recommendations to SDCI on design review development standard departures.

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<p>to the process. Councilmembers could modify the proposal to eliminate this duplication and potential for confusion.</p>	
<p>6. <u>Should the Council amend the proposal to limit the number of DRB meetings for certain projects that are required to go through full or hybrid design review?</u></p> <p>In some cases, the board may require that the applicants come back for an additional early design guidance (EDG) or recommendation meeting when the board determines that more information is needed to provide guidance or finalize a recommendation. SDCI proposed limiting the number of board meetings to ensure that projects move through efficiently. For full design review, there would be a limit of two EDG meetings and one recommendation meeting. For hybrid design review, there would be a limit of not more than two recommendation meetings. The limits would only apply if the applicants are not requesting any departures from development standards, the project is not located across from a single-family zone and the project does not require any City Council decisions.</p> <p>Introducing these limits will provide more predictability for project applicants but may constrain the process if projects would benefit from additional review due to the size and complexity of the project and/or due to the nature of concerns raised by the community. In addition, the limit would only be available to approximately 4% of projects (for MUPs issued in 2016, 96% of projects going through full design review requested a departure). On the other hand, applying the limit only to those projects not seeking a departure may incentivize designs that meet current code requirements and reduce the number of departures requested.</p>	<ul style="list-style-type: none"> a) Adopt the Executive's proposal (no change) b) Amend the Executive's proposal to eliminate the proposed meeting caps. c) Amend the Executive's proposal to apply meeting caps for projects requesting departures. This could include increasing the proposed limits when applied to projects seeking departures.
<p>7. <u>Should the determination of what constitutes a major or minor revision to an approved Master Use Permit (MUP) be determined by rule?</u></p> <p>The proposal includes adding authorization to the SDCI Director to determine, by rule, what constitutes a major or minor revision to an approved master use permit (MUP) and what the process is to revise an approved MUP. Minor revisions to an approved MUP would be approved as a Type I decision and major revisions to an approved MUP would be approved as a Type II decision. Type I decisions typically involve less discretion and cannot be appealed. Type II decisions typically involve more discretion and are appealable to the Hearing Examiner. Without a draft of the potential Director's rule, it is unclear if the criteria to determine what constitutes a minor revision will in fact involve little to no discretion. Councilmembers may want to consider including criteria in the legislation or requesting a draft copy of the proposed rule in advance of taking final action on the legislation.</p>	<ul style="list-style-type: none"> a) Adopt the Executive's proposal (no change) b) Amend the Executive's proposal to include criteria for determining if a revision is a major or minor change. c) Request a review draft of a Director's rule for Council review prior to taking final action on the Executive's proposed changes.

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<p>8. <u>Should the recitals to the bill be amended to better reflect the legislative history?</u></p> <p>As previously mentioned, the recitals in the proposed ordinance only reflect the HALA recommendations and do not acknowledge the work completed by the stakeholder advisory group, the Chamber or the work requested by the Council prior to the initiation of the HALA work.</p>	<p>a) Adopt the Executive’s proposal (no change)</p> <p>b) Amend the Executive’s proposal to add recitals to better reflecting the legislative history.</p>
<p>9. <u>Should the list of development standards that cannot be granted a departure through the design review process be modified?</u></p> <p>The program provides regulatory flexibility in the application of development standards to better meet the intent of the Land Use Code as established by City policy, to meet neighborhood objectives, and to provide for effective mitigation of a proposed project's impact and influence on a neighborhood. Departures may be granted from most Land Use Code standards or requirements, with some exceptions, such as: floor area ratios, height or minimum parking requirements. Councilmembers could consider modifying the list of standards that cannot be modified through the design review process.</p>	<p>a) Adopt the Executive’s proposal (no change)</p> <p>b) Amend the Executive’s proposal to modify the list of development standards that cannot be granted a departure through the design review process .</p>