

April 8, 2020

MEMORANDUM

To: Seattle City Council
From: Ketil Freeman, Analyst
Subject: Council Bill 119769 – Interim Standards to Address Development Approval Processes that Require Public Meetings

On Monday, April 13, 2020 the Council will consider and may vote on [Council Bill \(CB\) 119769](#), which addresses land use, historic preservation, and other regulatory processes that require public meetings. CB 119769 is proposed, in part, to allow those processes to continue while the City develops alternatives to in-person meetings during the COVID-19 civil emergency.

This memo: (1) provides background on public meeting requirements, (2) describes what CB 119769 would do, and (3) discusses next steps.

Public Meeting - Background

The Seattle Municipal Code requires public meetings for boards, committees, and commissions to solicit input on recommendations and decisions for a variety of regulatory processes that effect the built environment. These processes include design review, certificates of approval for modifications of historic landmarks, departures from development standards for public schools, and review of Major Institution Master Plans, among others. Under normal circumstances, public meetings associated with these processes are conducted in-person and subject to the requirements of the Open Public Meetings Act (OPMA).¹

On March 24, Governor Inslee issued [Proclamation 20-28](#), which prohibits in-person meetings subject to the OPMA and requires local governments to provide options for the public to attend meetings telephonically or through other virtual means.

What CB 119769 Would Do

Generally, CB 119769 would temporarily allow the Seattle Department of Construction and Inspections (SDCI) and the Department of Neighborhoods (DON) to administratively make some decisions that would otherwise be made or informed by an in-person board or committee meeting. For some regulatory processes, like design review, the authority to make administrative decisions would expire when SDCI has established a means to conduct virtual meetings. The bill would also suspend meetings of some boards and committees for 60 days and extend associated review timelines for 60 days.

¹ [Revised Code of Washington Chapter 42.30](#).

Unrelated to OPMA requirements, the bill would also temporarily exempt affordable housing projects that will soon submit building permit applications from design review and authorize the SDCI Director to administratively waive certain development standards, including standards for the quantity of bicycle parking, that could not normally be waived through design review.² Affordable housing projects are normally subject to administrative design review, which does not require public meetings.

The proposed bill would be enacted on an emergency basis pursuant to [RCW 36.70A.390](#). The provisions of the bill would expire, unless extended by Council, in 180 days. SDCI estimates that approximately 28 projects are in a stage of the design review process that requires a public meeting. DON estimates that approximately 35 projects subject to DON review requiring a public meeting are either under review or will soon apply.

Changes proposed in the bill are summarized in the table below. Unless otherwise indicated, the proposed modification to the review process would extend for 180 days.

Regulatory Process	Changes in Bill
SDCI – Administered	
Design Review*	<ul style="list-style-type: none"> • Allow projects subject to full design review to opt into administrative design review until the earlier of (1) 180 days, (2) the date SDCI begin to conduct virtual meetings, or (3) the date Design Review Boards resume meeting. • Exempt affordable housing projects that will file building permit applications while CB 119769 is in effect from design review and authorize the SDCI Director to waive some development standards as a decision not subject to appeal to the Hearing Examiner, if the bulk of the project is not increased and the project provides additional affordable units.³ • Allow required pre-application community outreach to be conducted virtually. • Authorize design review for high-rise projects in Yesler Terrace to be reviewed through an existing administrative process that does not require public meetings.
Planned Community Developments	<ul style="list-style-type: none"> • Allow public benefits for downtown planned community developments to be prioritized based on written comments instead of through written comments and comments provided at a public meeting.

² For design review, affordable housing projects are defined as projects subject to an affordable housing covenant or regulatory agreement with at least 40% of units affordable to households with incomes at 60% of median income or below for a period of at least 40 years. See [Seattle Municipal Code \(SMC\) Section 23.41.004.A.5](#).

³ Both full design review and administrative design review are Type II decisions that can be appealed to the Hearing Examiner. See [SMC Section 23.76.004](#).

Regulatory Process	Changes in Bill
DON-Administered	
Special Review District Certificates of Approval	<ul style="list-style-type: none"> • Authorize the DON Director, rather than the Special Review District Board, to make certificate of approval decisions for specified modifications to the built environment in the Pioneer Square Preservation District and the International Special Review District.
Public School Development Standard Departures	<ul style="list-style-type: none"> • Authorize the DON Director, rather than the Development Standard Advisory Committee, to recommend departures from development standards for public schools.
Landmark Controls and Incentives	<ul style="list-style-type: none"> • Authorize the City’s Historic Preservation Officer (HPO) to act on landmarks controls and incentives agreements about which the HPO and the applicant agree without action by the Landmarks Board.
Landmark Certificates of Approval	<ul style="list-style-type: none"> • Authorize the HPO, rather than the Landmarks Board, to make certificate of approval decisions for specified modifications to historic landmarks.
Landmark District Development Standard Departures for New Development	<ul style="list-style-type: none"> • Authorize the HPO, rather than Landmark District Board, to make recommendations to the SDCI Director on development standard departures for new development in historic districts.
Landmark District Certificates of Approval	<ul style="list-style-type: none"> • Authorize the HPO, rather than the applicable landmarks board to make certificate of approval decisions for specified modifications to structures in the Ballard Avenue, Columbia City, Fort Lawton, Harvard Belmont, Pike Place Market, and Sand Point Naval Air Station Historic Districts.

* See Attachment A for full and administrative design review flow charts.

** See Attachment B for the specified modifications for which the HPO could make decisions.

Next Steps

Amendments

Some Council offices may offer amendments to the bill. Please contact me about proposed amendments no later than 3 pm on Thursday. This memo will be updated with a description of proposed amendments and proposed amendment language and redistributed on Friday.

Public Hearing

Interim development standards enacted pursuant to RCW 36.70A.390 require a public hearing within 60 days after the bill becomes effective. Notice for the public hearing will be provided

prior to the hearing date. If the limitations in Proclamation 20-28 apply on the hearing date, the notice will provide instructions to the public on remote participation.

Future Legislation

It is likely that the Council may need to consider future interim or permanent legislation related to permitting procedures. That legislation will likely be informed by a future assessment of the economic impact of the pandemic on Seattle's economy. In 2009 and 2010, the City enacted specific regulations to address the impact of an economic downturn on construction. Those actions included [Ordinance 123072](#), which extended the life of Master Use Permit to six years, and [Ordinance 123566](#), which established a pilot program to allow street-level activating uses on dormant construction sites.

Attachments:

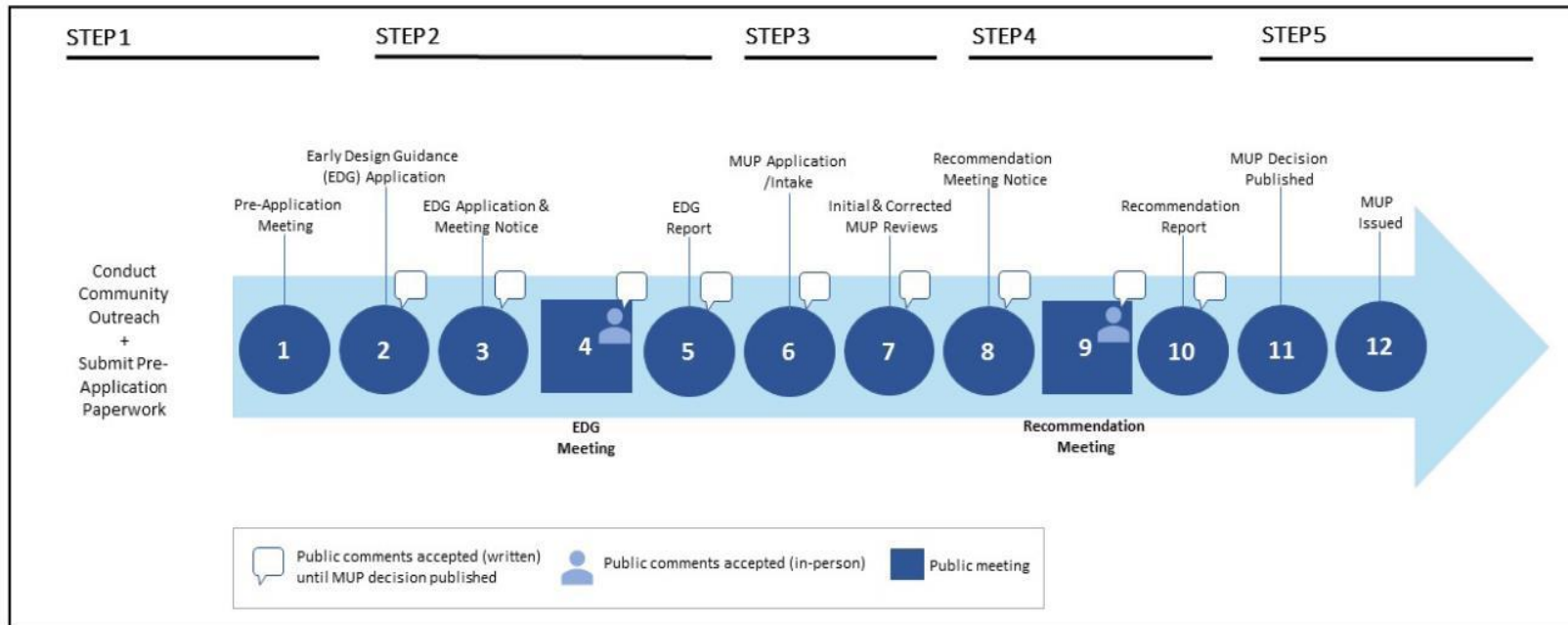
- A. Full and Administrative Design Review Flow Charts
- B. HPO Certificate of Approval Authority

cc: Kirstan Arestad, Executive Director
Aly Pennucci, Supervising Analyst

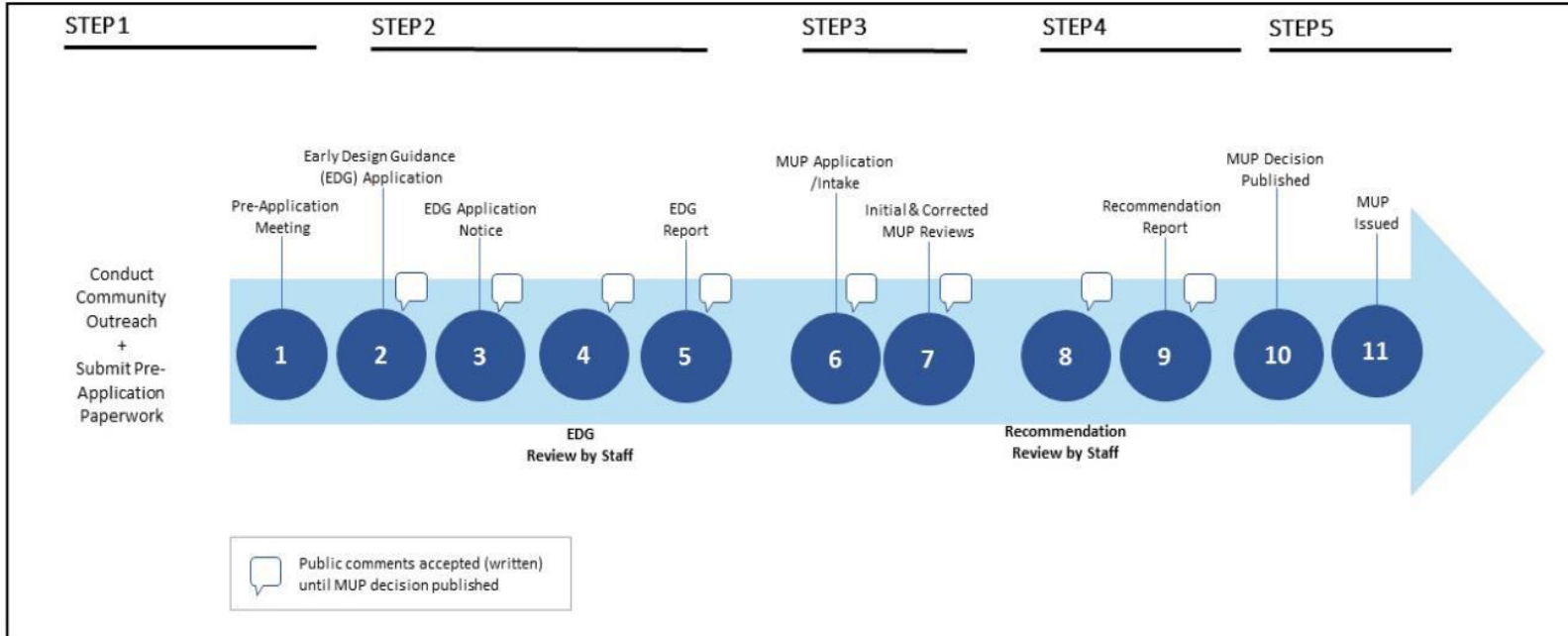
Attachment A – Full and Administrative Design Review Processes

Source: [SDCI TIP 238](#)

Full Design Review Process



Administrative Design Review Process



Attachment B – Specified Modifications Requiring a Certificate of Approval – Allowed Review by Historic Preservation Officer

1. The installation, removal, or alteration of: fire escapes, ducts, conduits, HVAC vents, grilles, pipes, panels, weatherheads, wiring, meters, utility connections, downspouts and gutters, or other similar mechanical, electrical or telecommunication elements necessary for the normal operation of the site, building or structure.
2. Installation, removal, or alteration of exterior light fixtures, exterior security lighting, and security system equipment.
3. Installation, removal, or alteration of exterior or interior signage.
4. Installation, removal, or alteration of awnings or canopies.
5. Alterations to storefront systems, if the proposed alterations are sympathetic to and do not destroy historic building materials.
6. Alteration to interior or exterior paint colors and other finishes when painting a previously painted or otherwise finished material.
7. Installation, removal, or alteration of the following landscape elements: shrubs; perennials; annuals; and similar low-lying plantings.
8. Installation, removal, or alteration of the following site furnishings: benches; movable tables and seating; movable planters; movable water features; trash/recycling receptacles; and bike racks.
9. Rights-of-way alterations, including but not limited to alterations to sidewalks, curbs, and the roadway.
10. Installation of improvements for accessibility compliance.
11. Removal of trees more than 6 inches in diameter measured 4 ½ feet above the ground, identified as a hazard by an International Society of Arboriculture (ISA) Certified Arborist.
12. Installation, removal, or alteration of fire and life safety equipment.
13. Emergency repairs that are not already considered in-kind repair, if the proposed replacement material used for the repair is compatible with the historic building fabric.
14. Revisions to a previously approved Certificate of Approval, where the design revisions are sympathetic to and do not destroy historic building materials.