



SEATTLE CITY COUNCIL

Land Use Committee

Agenda

Wednesday, December 4, 2024

2:00 PM

Council Chamber, City Hall
600 4th Avenue
Seattle, WA 98104

Tammy J. Morales, Chair
Dan Strauss, Vice-Chair
Cathy Moore, Member
Alexis Mercedes Rinck, Member
Maritza Rivera, Member

Chair Info: 206-684-8802; Tammy.Morales@seattle.gov

[Watch Council Meetings Live](#) [View Past Council Meetings](#)

Council Chamber Listen Line: 206-684-8566

The City of Seattle encourages everyone to participate in its programs and activities. For disability accommodations, materials in alternate formats, accessibility information, or language interpretation or translation needs, please contact the Office of the City Clerk at 206-684-8888 (TTY Relay 7-1-1), CityClerk@Seattle.gov, or visit <https://seattle.gov/cityclerk/accommodations> at your earliest opportunity. Providing at least 72-hour notice will help ensure availability; sign language interpreting requests may take longer.



SEATTLE CITY COUNCIL

Land Use Committee

Agenda

December 4, 2024 - 2:00 PM

Meeting Location:

Council Chamber, City Hall, 600 4th Avenue, Seattle, WA 98104

Committee Website:

<https://www.seattle.gov/council/committees/land-use>

This meeting also constitutes a meeting of the City Council, provided that the meeting shall be conducted as a committee meeting under the Council Rules and Procedures, and Council action shall be limited to committee business.

Members of the public may register for remote or in-person Public Comment to address the Council. Details on how to provide Public Comment are listed below:

Remote Public Comment - Register online to speak during the Public Comment period at the meeting at

<https://www.seattle.gov/council/committees/public-comment>

Online registration to speak will begin one hour before the meeting start time, and registration will end at the conclusion of the Public Comment period during the meeting. Speakers must be registered in order to be recognized by the Chair.

In-Person Public Comment - Register to speak on the Public Comment sign-up sheet located inside Council Chambers at least 15 minutes prior to the meeting start time. Registration will end at the conclusion of the Public Comment period during the meeting. Speakers must be registered in order to be recognized by the Chair.

Pursuant to Council Rule VI.C.10, members of the public providing public comment in Chambers will be broadcast via Seattle Channel.

Please submit written comments to all Councilmembers four hours prior to the meeting at Council@seattle.gov or at Seattle City Hall, Attn: Council Public Comment, 600 4th Ave., Floor 2, Seattle, WA 98104.

Please Note: Times listed are estimated

A. Call To Order

B. Approval of the Agenda

C. Public Comment

D. Items of Business

1. [Res 32156](#) **A RESOLUTION** declaring intention to establish a new sales and use tax deferral for the conversion of underutilized commercial property to housing.

Attachments: [Att 1 - Draft Ordinance](#)
[Att 2 - Draft Application Form](#)
[Att 3 - Draft Conditional Approval Letter](#)
[Att 4 - Draft Final Approval Letter](#)

Supporting Documents: [Summary and Fiscal Note](#)
[Director's Report](#)
[Presentation \(12/4/24\)](#)

Briefing, Discussion, and Possible Vote (40 minutes)

Presenter: Geoff Wentlandt, Office of Planning and Community Development (OPCD)

2. [CB 120833](#) **AN ORDINANCE** relating to land use and zoning; amending subsection 23.49.156.A of the Seattle Municipal Code to clarify bonus allowances in the Living Building Pilot Program.

Supporting Documents:

[Summary and Fiscal Note](#)

[Director's Report](#)

[Central Staff Memo](#)

Briefing, Discussion, and Possible Vote (20 minutes)

Presenter: David VanSike, Seattle Department of Construction and Inspections (SDCI)

E. Adjournment



Legislation Text

File #: Res 32156, **Version:** 1

CITY OF SEATTLE

RESOLUTION _____

A RESOLUTION declaring intention to establish a new sales and use tax deferral for the conversion of underutilized commercial property to housing.

WHEREAS, during the 2024 Washington State legislative session the legislature passed and Governor Inslee signed Engrossed Second Substitute Senate Bill 6175 (E2SSB 6175) codified in chapter 82.59 RCW, which authorizes The City of Seattle to take legislative action to establish a sales and use tax deferral program to promote the redevelopment of underutilized commercial property in urban areas; and

WHEREAS, E2SSB 6175 promotes the redevelopment of underutilized commercial property into housing and affordable housing by allowing deferral of sales and use tax for would-be developers of such housing; and

WHEREAS, there are significant areas of underutilized commercial properties in Seattle's urban centers, especially in the Downtown Urban Center; and

WHEREAS, there is a lack of affordable housing in Seattle, including within or proximate to areas with underutilized commercial properties, as documented in the housing cost burden section of the housing appendix to the draft One Seattle Plan Comprehensive Plan Update; and

WHEREAS, The City of Seattle desires to create a program pursuant to E2SSB 6175 to encourage the redevelopment of underutilized commercial property into additional housing and affordable housing to help meet strong demand for housing in the region and for economic development and downtown activation purposes; and

WHEREAS, in June 2023, Mayor Bruce Harrell released a Downtown Activation Plan that identified numerous

strategies and actions to support downtown recovery, including actions that increase residential uses in downtown; and

WHEREAS, additional housing in downtown Seattle and other locations where underutilized commercial space may be converted to housing would further City objectives for economic development, revitalization and activation; NOW, THEREFORE,

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEATTLE, THE MAYOR
CONCURRING, THAT:**

Section 1. Pursuant to Engrossed Second Substitute Senate Bill 6175, the City Council declares its intention to establish a sales and use tax deferral program to encourage redevelopment of underutilized commercial property into housing and affordable housing in Seattle by deferring the entire sales and use tax on construction of conversions of underutilized commercial property into housing. Information relevant to the program may be found in Attachments 1 through 4 to this resolution.

Section 2. A public hearing before the City Council to take public testimony and to consider the proposed program shall be held on January 30, 2025, beginning at 2 p.m. in the City Council Chambers in City Hall, located at 600 4th Avenue.

Adopted by the City Council the _____ day of _____, 2024, and signed by
me in open session in authentication of its adoption this _____ day of _____, 2024.

President _____ of the City Council

The Mayor concurred the _____ day of _____, 2024.

Bruce A. Harrell, Mayor

Filed by me this _____ day of _____, 2024.

Scheereen Dedman, City Clerk

(Seal)

Attachments:

- Attachment 1 - Draft Ordinance
- Attachment 2 - Draft Application Form
- Attachment 3 - Draft Conditional Approval Letter
- Attachment 4 - Draft Final Approval Letter

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

..title

AN ORDINANCE creating a new sales and use tax deferral for the conversion of underutilized commercial property to housing, adding a new Chapter 5.75 to the Seattle Municipal Code.

..body

WHEREAS, during the 2024 Washington State legislative session, the legislature passed and

Governor Inslee signed Engrossed Second Substitute Senate Bill 6175 (E2SSB 6175),

codified in chapter 82.59 RCW, which authorizes The City of Seattle to take legislative

action to establish a sales and use tax deferral program to promote the redevelopment of

underutilized commercial property in urban areas; and

WHEREAS, E2SSB 6175 promotes the redevelopment of underutilized commercial property

into housing and affordable housing by allowing deferral of sales and use tax for would-

be developers of such housing; and

WHEREAS, there are significant areas of underutilized commercial properties in Seattle’s urban

centers, especially in downtown; and

WHEREAS, there is a lack of affordable housing in Seattle, including within or proximate to

areas with underutilized commercial properties, as documented in the housing cost

burden section of the housing appendix to the One Seattle Plan Comprehensive Plan; and

WHEREAS, The City of Seattle desires to create a program pursuant to E2SSB 6175 to

encourage the redevelopment of underutilized commercial property into additional

housing and affordable housing to help meet strong demand for housing in the region and

for economic development and downtown activation purposes; and

1 WHEREAS, in June 2023, Mayor Bruce Harrell released a Downtown Activation Plan that
2 identified numerous strategies and actions to support downtown recovery, including
3 actions that increase residential uses in downtown; and

4 WHEREAS, additional housing in downtown Seattle and other locations where underutilized
5 commercial space may be converted to housing would further City objectives for
6 economic development, revitalization and activation; NOW, THEREFORE,

7 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

8 Section 1. A new Chapter 5.75, which includes new Sections 5.75.010, 5.75.020,
9 5.75.030, 5.75.40, 5.75.050, 5.75.060, 5.75.070, 5.75.080, 5.75.090, 5.75.100, and 5.75.110 is
10 added to Title 5 of the Seattle Municipal Code as follows:

11 **Chapter 5.75 Sales and Use Tax Deferral for Conversion to Housing**

12 **Section 5.75.010 Definitions**

13 The definitions in this Chapter 5.75 and the definitions contained in Title 23 apply throughout
14 this Chapter 5.75. If the same term is defined in this section and in Title 23 the definitions of this
15 Section 5.75.020 shall prevail.

16 A. “Affordable housing” means:

17 1. Homeownership housing intended for owner occupancy to low-income
18 households whose monthly housing costs, including utilities other than telephone, do not exceed
19 30 percent of the household's monthly income;

20 2. Rental housing for low-income households whose monthly housing costs,
21 including utilities other than telephone, do not exceed 30 percent of the household's monthly
22 income.

23 B. “Applicant” means an owner of commercial property.

1 C. “Conditional recipient” means an owner of commercial property granted a conditional
2 certificate of program approval under this Chapter 5.75, which includes any successor owner of
3 the property.

4 D. “Director” means the Director of the City of Seattle Office of Planning and
5 Community Development or their designee.

6 E. “Eligible investment project” means an investment project that is located within
7 Seattle and receiving a conditional certificate of program approval.

8 F. “Investment project” means an investment in multifamily housing, including labor,
9 services, and materials incorporated in the planning, installation, and construction of the project,
10 and includes investment in related facilities such as playgrounds and sidewalks as well as
11 facilities used for business use for mixed-use development.

12 G. “Low-income household” means a single person, family, or unrelated persons living
13 together whose adjusted income is at or below 80 percent of the median family income adjusted
14 for family size, for the county, city, or metropolitan statistical area, where the project is located,
15 as reported by the United States department of housing and urban development.

16 H. “Underutilized commercial property” means an entire property, or portion thereof,
17 currently used or intended to be used by a business for retailing or office-related or
18 administrative activities.

19 **Section 5.75.020 Application process**

20 An owner of underutilized commercial property seeking a sales and use tax deferral for
21 conversion of a commercial building to provide housing and affordable housing under this
22 Chapter 5.75 on an investment project must complete the following procedures:

1 A. The owner must apply to the Director in writing, on forms provided by the Office of
2 Planning and Community Development. The application must contain the following:

3 1. Information setting forth the grounds supporting the requested deferral;
4 2. A description of the investment project and site plan;
5 3. A statement of the expected number of affordable housing units to be created
6 and the total number of dwelling units created due to the conversion of underutilized commercial
7 property;

8 4. A statement that the applicant is aware of the potential tax liability involved if
9 the investment project ceases to be used for eligible uses under this Chapter 5.75;

10 5. A statement that the applicant is aware that the investment project must be
11 completed within three years from the date of issuance of a conditional certificate of program
12 approval;

13 6. A statement that the applicant is aware that the Director may extend the
14 deadline for completion of construction or rehabilitation for a period not to exceed 24
15 consecutive months;

16 7. A statement that the applicant would not have built in this location but for the
17 availability of the tax deferral under this Chapter 5.75; and

18 8. Documentation of submittal of a construction or land use permit pre-application
19 with the Seattle Department of Construction and Inspections.

20 B. The applicant must verify the application by oath or affirmation.

21 **Section 5.75.030 Approval process**

22 A. The Director may approve the application and grant a conditional certificate of
23 program approval if it finds that:

1 1. The investment project consists primarily of multifamily residential use and the
2 applicant commits to renting or selling at least 10 percent of the dwelling units as affordable
3 housing. In a mixed-use project, only the ground floor of a building may be used for commercial
4 purposes with the remainder dedicated to multifamily residential use; and

5 2. The investment project is, or will be at the time of completion, in conformance
6 with all local plans and regulations that apply at the time of the conditional certificate of program
7 approval;

8 3. The investment project will occur on land that constitutes, at the time of the
9 conditional certificate of program approval, underutilized commercial property;

10 4. The area where the investment project will occur is located within an area
11 zoned for residential or mixed uses;

12 5. The terms and conditions of the implementation of the development meets the
13 requirements of this Chapter 5.75; and

14 6. The land where the investment project will occur was not acquired through a
15 condemnation proceeding under Title 8 RCW; and

16 7. All other requirements this Chapter 5.75 appear to be satisfied in the best
17 estimation of the Director.

18 **Section 5.75.040 Appeals process**

19 A. The Director must approve or deny an application filed under this Chapter 5.75 within
20 90 days after receipt of the application.

21 B. If the application is approved, the Director must issue the applicant a conditional
22 certificate of program approval. The conditional certificate of program approval shall be in a

1 letter, and the letter must contain a statement that the investment project as described in the
2 application will comply with the required criteria of this Chapter 5.75.

3 C. If the application is denied the Director must state in writing in a letter the reasons for
4 denial and send the notice to the applicant at the applicant’s last known address within 10 days of
5 the denial.

6 D. Upon denial of an application, an applicant may appeal the denial to the City’s
7 Hearing Examiner within 30 days after receipt of the denial. The appeal before the Hearing
8 Examiner must be based upon the record made before the City with the burden of proof on the
9 applicant to show that there was no substantial evidence to support the City’s decision. The
10 decision of the Hearing Examiner on appeal is final.

11 **Section 5.75.050 Additional requirements, conditions, and obligations**

12 A. Within 30 days of the issuance of a certificate of occupancy by the City for an eligible
13 investment project, the conditional recipient must file with the Director the following:

14 1. A description of the work that has been completed and a statement that the
15 eligible investment project qualifies the property for a sales and use tax deferral under this
16 Chapter 5.75;

17 2. A statement of the new affordable housing to be offered as a result of the
18 conversion of underutilized commercial property to multifamily residential use including
19 identification of the specific dwelling units to be offered as affordable housing and the monthly
20 rent charged for each, and a statement of the total number of dwelling units to be offered as a
21 result of the conversion of underutilized commercial property to multifamily residential use; and

22 3. A statement that the work has been completed within three years of the
23 issuance of the conditional certificate of program approval.

1 B. Within 30 days after receipt of the statements required under subsection 5.75.050.A,
2 the Director must determine and notify the conditional recipient in a letter as to whether the work
3 completed and the affordable housing to be offered are consistent with the application and the
4 conditional certificate of approval, and the investment project continues to qualify for a tax
5 deferral under this Chapter 5.75. The conditional recipient must notify the Washington State
6 Department of Revenue within 30 days from receiving the determination from the Director that
7 the investment project continues to qualify for a tax deferral under this Chapter 5.75.

8 C. The Director must notify the conditional recipient within 30 days after receipt of the
9 statements required under subsection 5.75.050.A that a tax deferral under this Chapter 5.75 is
10 denied if the Director determines that:

11 1. The work was not completed within three years of the conditional certificate of
12 program approval; or

13 2. The work was not constructed consistent with the application or other
14 applicable requirements; or

15 3. The affordable housing units to be offered are not consistent with the
16 application and criteria of this Chapter 5.75; or

17 4. The owner’s property is otherwise not qualified for a sales and use tax deferral
18 under this Chapter 5.75.

19 D. If the Director finds that the work was not completed within the required time period
20 due to circumstances beyond the control of the conditional recipient and that the conditional
21 recipient has been acting and could reasonably be expected to act in good faith and with due
22 diligence, the Director may extend the deadline for completion of the work for a period not to

1 exceed 24 consecutive months, and must notify the Washington State Department of Revenue of
2 the extension.

3 E. If the Director determines the conditional recipient is not entitled to a sales and use tax
4 deferral under subsection 5.75.050.C, the conditional recipient may appeal the decision to the
5 City’s Hearing Examiner within 30 days after receipt of the denial. The appeal before the
6 Hearing Examiner must be based upon the record made before the City with the burden of proof
7 on the applicant to show that there was no substantial evidence to support the City’s decision.

8 F. Upon denial of the sales and use tax deferral under subsection 5.75.050.C the Director
9 shall notify the Washington State Department of Revenue, upon which taxes deferred under this
10 chapter are immediately due and payable, subject to any appeal by the conditional recipient.

11 **Section 5.75.060 Annual report**

12 A. Thirty days after the anniversary of the date of issuance of the certificate of occupancy
13 and each year thereafter for ten years, the conditional recipient must file with the Director an
14 annual report indicating the following:

15 1. A statement of the affordable housing offered as a result of the conversion of
16 underutilized commercial property to multifamily residential use including identification of the
17 specific dwelling units offered as affordable housing and the rent charged for each, and a
18 statement of the total number of dwelling units offered as a result of the conversion of
19 underutilized commercial property to multifamily residential use; and

20 2. A certification by the conditional recipient that the property has not changed
21 use;

22 3. A description of changes or improvements constructed after issuance of the
23 certificate of occupancy.

1 B. The conditional recipient of a deferral of taxes under this Chapter 5.75 must file a
2 complete annual tax performance report with the Washington State Department of Revenue
3 pursuant to RCW 82.32.534 beginning the year the certificate of occupancy is issued and each
4 year thereafter for 10 years.

5 C. If the City issues a certificate of program approval under this Chapter 5.75, it shall
6 report annually by December 31st of each year, beginning in 2025, to the Washington State
7 Department of Commerce the following information:

- 8 1. The number of program approval certificates granted;
- 9 2. The total number and type of buildings converted;
- 10 3. The number of affordable housing units resulting from the conversion of
11 underutilized commercial property to multifamily residential use; and
- 12 4. The estimated value of the sales and use tax deferral for each investment
13 project receiving a certificate of program approval and the total estimated value of sales and use
14 tax deferrals granted.

15 **Section 5.75.070 Voluntary discontinuance**

16 A. If a conditional recipient voluntarily opts to discontinue compliance with the
17 requirements of this Chapter 5.75, the recipient must notify the Director and the Washington
18 State Department of Revenue within 60 days of the change in use or intended discontinuance.

19 B. If, after the Washington State Department of Revenue has issued a sales and use tax
20 deferral certificate and the conditional recipient has received a certificate of occupancy, the City
21 finds that a portion of an investment project is changed or will be changed to disqualify the
22 recipient for sales and use tax deferral eligibility under this Chapter 5.75, the City of Seattle’s

1 Office of Planning and Community Development must notify the Washington State Department
2 of Revenue and all deferred sales and use taxes are immediately due and payable.

3 C. This Section 5.75.070 does not apply after 10 years from the date of the certificate of
4 occupancy.

5 **Section 5.75.080 Transfer of ownership**

6 Transfer of investment project ownership does not terminate the deferral. The deferral is
7 transferred subject to the successor meeting the eligibility requirements of this Chapter 5.75. The
8 transferor of an eligible project must notify the Director and the Washington State Department of
9 Revenue of such transfer, in writing and whereupon the Director will certify to the Washington
10 State Department of Revenue whether the successor meets the requirements of the deferral. The
11 transferor must provide the information necessary for the Washington State Department of
12 Revenue to transfer the deferral. If the transferor fails to notify the Director and the Washington
13 State Department of Revenue, all deferred sales and use taxes are immediately due and payable.

14 **Section 5.75.090 Combination with multi-family tax exemption**

15 An owner of underutilized commercial property claiming a sales and use tax deferral
16 under this Chapter 5.75 may also apply for the Multifamily Housing Property Tax Exemption
17 under Chapter 5.72 or Chapter 5.73 and Chapter 84.14 RCW. For applicants receiving a property
18 tax exemption under Chapter 5.72 or Chapter 5.73 and Chapter 84.14 RCW, the amount of
19 affordable housing units required for eligibility under this Chapter 5.75 is in addition to the
20 affordability conditions in Chapter 5.72 or Chapter 5.73 and Chapter 84.14 RCW.

21 **Section 5.75.110 Sunset**

22 This sales and use tax deferral program shall expire such that new applications for the
23 sales and use tax deferral shall not be accepted beginning 10 years from the effective date of this

1 ordinance. Investment projects that receive a conditional certificate of approval based on an
2 application submitted before the sunset date shall remain eligible for the sales and use tax
3 deferral subject to the terms and conditions in this Chapter 5.75.

4 Section 2. Severability. If any section, subsection, sentence, clause, phrase or word of this
5 ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such
6 invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any
7 other section, subsection, sentence, clause, phrase or words of this ordinance.

8



Application for Conditional Certificate of Program Approval Sales and Use Tax Deferral for Conversion of Underutilized Commercial Property to Housing

Overview

During the 2024 Washington State legislative session the legislature passed and Governor Inslee signed Engrossed Second Substitute Senate Bill 6175 (E2SSB 6175) authorizing a limited sales and use tax deferral program intended to stimulate the redevelopment of underutilized commercial property in targeted urban areas and provide housing supply and affordable housing. In [insert month] of 2025 the Seattle City Council passed ordinance [insert] establishing Chapter 5.75 of the Seattle Municipal Code (SMC) enabling the limited sales and use tax deferral in Seattle. The owner of an investment project that is a conversion of underutilized commercial space to multifamily residential may apply to the City and the Washington State Department of Revenue for a deferral of the sales and use taxes on the construction of the conversion. To be eligible for the tax deferral the investment project must meet all the requirements and conditions of SMC Chapter 5.75 and RCW 82.59, including the requirement that at least ten percent of the dwelling units that are created in the conversion be provided as affordable housing.

This application form is the first step in the approval process for the sales and use tax deferral. It contains guiding information in addition to SMC Chapter 5.75. The owner of an investment project seeking the sales and use tax deferral must submit this application form with complete information to the Director of the Office of Planning and Community Development. Based on the information provided in this form the Director will approve or deny a conditional certificate of program approval.

Application Process and Submission Instructions

- Review the requirements and the process described in SMC Chapter 5.75 and RCW 82.59. It is the applicant's responsibility to understand the program steps and requirements in both the City and State laws.
- Prepare your application by entering information in this document under each of the topics listed below. Complete information must be provided under all topics.
- Prepare additional exhibits, drawings and site information as needed to support your responses.

- Submit materials to the Director of the Office of Planning and Community Development by e-mail to Rico.Quirindongo@Seattle.gov. We advise you to contact the Director’s executive assistant at Jane.Klein@Seattle.gov to communicate with the department shortly before submitting your documents to ensure smooth transmittal of materials and to facilitate the fastest possible review.
- After submittal of the application materials the Director or their staff designee will contact you should the need arise to discuss your application or clarify any information.
- The Director will issue a letter of either an approval or denial of a conditional certificate of program approval within 90 days of receipt of your application.

Applicant Contact Information

Investment Project Owner

Provide contact information for the investment project owner. This is the person or entity who is an authorized owner of the commercial property being converted to housing.

Name: _____

Company (if applicable): _____

E-mail: _____

Telephone: _____

Mailing Address: _____

Investment Project Representative

If different from above provide contact information for a project representative who will be the main point of contact with our office for communications regarding this application.

Name: _____

Company (if applicable): _____

E-mail: _____

Telephone: _____

Mailing Address: _____

Required Application Information

You must provide complete information for every one of the seven topic areas listed below. For topics that require a statement provide a complete affirmative statement in text inserted by you.

1. Describe the investment project and provide a site plan

Provide enough information for the Director to understand the full extent of the conversion proposal including all proposed uses and the extent of construction or renovation activities. Attach drawings or exhibits as necessary.

2. Statement of affordable housing and total housing quantities

Provide a statement of the number of affordable housing units you will create and the total number of dwelling units that will be created due to the conversion of underutilized commercial property. For income and rent limits on the affordable housing units, refer to the Seattle Office of Housing's Income and Rent Limits for rental housing programs, and use the table for "Other developer agreements; for example IZ, MFTE (P3, P4, P5 only), MHA, MPC-YT" ([link](#)).

3. Statement of potential tax liability

Provide a statement that you are aware of the potential sales and use tax liability involved if the investment project ceases to be used for eligible uses or otherwise ceases to meet the program requirements and conditions under SMC Chapter 5.75 and RCW 82.59.

Be aware that if after you receive a tax deferral certificate your project changes or otherwise ceases to be eligible for the deferral, such as for failure to maintain compliance with the affordable housing requirement, then all of the sales and use taxes plus interest will be immediately due and payable. A debt for deferred taxes will not be extinguished by insolvency or other failure of the recipient.

4. Statement regarding timeline for project completion

Provide a statement that you are aware that the investment project must be completed within three years from the date of issuance of a conditional certificate of program approval.

5. Statement regarding limited opportunity for extension

Provide a statement that you are aware that the Director may extend the deadline for completion of construction or rehabilitation for a period not to exceed 24 consecutive months, and only if the Director finds that the work was not completed within the required time period due to circumstances beyond the control of the conditional recipient and that the conditional recipient has been acting and could reasonably be expected to act in good faith and with due diligence.

6. Statement regarding construction in the proposed location

Provide a statement that you would not have built in this location but for the availability of the tax deferral under SMC Chapter 5.75 and RCW 82.59.

7. Documentation of construction or land use permit activity

Provide documentation that you have at least submitted pre-application materials with the Seattle Department of Construction and Inspections (SDCI) for the proposed investment project. If you have received a project number for a construction or land use permit application from SDCI please provide it here.

Oath or Affirmation

This application must be certified by oath or affirmation. The investment project owner must provide the oath or affirmation by signing the statement below before a Notary.

I do solemnly affirm that all the statements and information provided by me in this application are true to the best of my knowledge and belief, and this I do under the penalties of perjury.

Signature: _____ Date: _____

Washington Notary Acknowledgement

State of Washington

County of [COUNTY]

On this ____ day of _____ 20__, before me a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who appeared before me, and said person acknowledged that (she/he/they) signed this instrument and acknowledged it to be (her/his/their) free and voluntary act for the uses and purposes mentioned in the instrument.

(Seal or Stamp)

Signature

NOTARY PUBLIC in and for the State of Washington,
Residing at: _____

My Commission Expires:



Seattle
Office of Planning &
Community Development
Bruce Harrell, Mayor | Rico Quirindongo, Director

600 4th Ave, Floor 5
P.O. Box 94788
Seattle, WA 98124-7088

Month, Date, ####

Applicant Address
Applicant Address
Applicant Address

Re: Application for conditional certificate of program approval for the investment project at [site address]

Dear [owner name],

The Director of the Office of Planning and Community Development received your application for a conditional certificate of program approval for the limited sales and use tax exemption for conversion of the underutilized commercial property at [address] to multifamily residential pursuant to SMC Chapter 5.75 and RCW 82.59 on [month, day, year]. The Director has reviewed the information provided in the application and makes the following decision and findings.

Decision

The application for conditional certificate of program approval is [**approved/denied**]. This letter constitutes your [conditional certificate of program approval /notice of denial of conditional certificate of program approval].

Findings

The following findings are made by the OPCD Director in support of the decision. [This section would be revised if the decision is deny, to document the reason for the denial].

1. The investment project consists primarily of multifamily residential use and the applicant commits to renting or selling at least 10 percent of the dwelling units as affordable housing. # total dwelling units will be created by the investment project and # of the dwelling units will be offered as affordable housing. Only the ground floor of the building will be used for commercial purposes and the remainder will be dedicated to multifamily residential use.
2. The investment project is, or will be at the time of completion, in conformance with all local plans and regulations that apply at the time of this conditional certificate of program approval. Receipt of all required construction and land use permits issued by the Seattle Department of Construction and Inspections must be obtained and shall evidence the conformance.

3. The investment project will occur on land that constitutes, at the time of this conditional certificate of program approval, underutilized commercial property.
4. The area where the investment project will occur is located within an area zoned for residential or mixed uses. The investment project is in the [insert zone name].
5. According to the information provided in the application, the terms and conditions of the implementation of the investment project meet the requirements of Seattle Municipal Code Chapter 5.75.
6. The land where the investment project will occur was not acquired through a condemnation proceeding under Title 8 RCW.
7. All other requirements of RCW 82.59 appear to be satisfied in the best estimation of the Director of the Office of Planning and Community Development.

Next Steps

[This section would be revised to identify the appeal opportunity if the decision is deny]. This conditional certificate of program approval may be presented by you to the Washington State Department of Revenue. It is your responsibility to comply with the requirements and conditions of Chapter 5.75 and RCW 82.59 to successfully obtain and maintain the limited sales and use tax deferral.

Be aware that if after you receive a tax deferral certificate your project changes or otherwise ceases to be eligible for the deferral, such as for failure to maintain compliance with the affordable housing requirement, then all of the sales and use taxes plus interest will be immediately due and payable. A debt for deferred taxes will not be extinguished by insolvency or other failure of the recipient.

The City of Seattle will not be directly involved in your process with the Washington State Department of Revenue. Within 30 days of the issuance of a certificate of occupancy by SDCI for your eligible investment project you must file with the Director of the Office of Planning and Community Development the documentation as described in SMC 5.75.060.

Should you have any questions please do not hesitate to contact my staff member [name] at [e-mail].

Sincerely,

Rico Quirindongo,
Director



Seattle
Office of Planning &
Community Development
Bruce Harrell, Mayor | Rico Quirindongo, Director

600 4th Ave, Floor 5
P.O. Box 94788
Seattle, WA 98124-7088

Month, Date, ####

Applicant Address
Applicant Address
Applicant Address

Re: Project completion certificate of approval for the investment project at [site address]

Dear [owner name],

The Director of the Office of Planning and Community Development received the documentation you provided following the issuance of a certificate of occupancy for the eligible investment project at [insert address] on [month, day, year]. The Director previously issued a conditional certificate of program approval to you for the limited sales and use tax exemption for conversion of the underutilized commercial property at [address] to multifamily residential pursuant to Seattle Municipal Code (SMC) Chapter 5.75 and RCW 82.59 on [month, day, year]. The Director has reviewed the documentation that you provided about the complete investment project and makes the following determination.

Determination

The work completed and the affordable housing to be offered are consistent with the conditional certificate of approval. The investment project continues to qualify for a tax deferral under SMC Chapter 5.75 and RCW 82.59.

Findings

[This section would be revised if the decision is deny, to document the reason for the denial]. The following findings are made by the OPCD Director in support of the determination. [This section would be revised if the decision is deny, to document the reason for the denial].

1. The work was completed within three years of the conditional certificate of program approval.
2. The work was constructed consistent with the application for conditional certificate of approval other applicable program requirements.
3. The affordable housing units to be offered are consistent with the application and criteria of the program requirements. ## total dwelling units will be created by the investment project and ## of the dwelling units will be offered as affordable housing.

Next Steps

[This section would be revised to identify the appeal opportunity if the decision is deny]. This determination that the investment project continues to be eligible for the sales and use tax deferral may be presented by you to the Washington State Department of Revenue. It is your responsibility to comply with the requirements and conditions of SMC Chapter 5.75 and RCW 82.59 to successfully maintain the limited sales and use tax deferral. The City of Seattle will not be directly involved in your process with the Washington State Department of Revenue.

Be aware that if after you receive a tax deferral certificate your project changes or otherwise ceases to be eligible for the deferral, such as for failure to maintain compliance with the affordable housing requirement, then all of the sales and use taxes plus interest will be immediately due and payable. A debt for deferred taxes will not be extinguished by insolvency or other failure of the recipient.

Thirty days after the anniversary of the date of issuance of the certificate of occupancy and each year thereafter for ten years, you must file with the Director of the Office of Planning and Community Development an annual report containing the information specified in SMC 5.75.070.

Should you have any questions please do not hesitate to contact my staff member [name] at [e-mail].

Sincerely,

Rico Quirindongo,
Director

SUMMARY and FISCAL NOTE

Department:	Dept. Contact:	CBO Contact:
OPCD	Geoff Wentlandt	Christie Parker

1. BILL SUMMARY

Legislation Title:

A RESOLUTION declaring intention to establish a new sales and use tax deferral for the conversion of underutilized commercial property to housing.

Summary and Background of the Legislation:

The proposed resolution states the City’s intention to authorize a sales and use tax deferral program for owners of underutilized commercial properties seeking to convert their buildings into housing and affordable housing. The resolution is a required step in the process to adopt legislation that would enact the authority granted to the City by the State of Washington through Engrossed Second Substitute Senate Bill 6175 (E2SSB 6175), which became effective June 1, 2024. To activate the tax deferral locally, a City must pass a resolution of intention, provide draft program documents for public review, and announce the date of a future public hearing. Following this resolution, the executive expects to forward an Ordinance for City Council consideration, and hold a public hearing on January 30, 2025.

The intent of the tax deferral is to encourage the production of affordable housing and employment opportunities in targeted urban areas. Seattle has an acute shortage of affordable housing. Moreover, many commercial buildings downtown continue to experience high vacancy due to the shift in pandemic era work patterns. This in turn creates a drag on the City’s economic recovery. Conversion of these buildings into residential units would both further the City’s goals to increase the housing supply and support economic development, revitalization, and downtown activation. These goals align closely with the priorities outlined in Seattle’s Downtown Activation Plan and draft Comprehensive Plan Update.

2. CAPITAL IMPROVEMENT PROGRAM

Does this legislation create, fund, or amend a CIP Project? Yes No

3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation have financial impacts to the City? Yes No

3.d. Other Impacts

Does the legislation have other financial impacts to The City of Seattle, including direct or indirect, one-time or ongoing costs, that are not included in Sections 3.a through 3.c? If so, please describe these financial impacts.

The Resolution of intention is a preliminary step that does not effectuate any change. Following this resolution, the executive expects to forward an Ordinance for City Council consideration, and hold a public hearing on January 30, 2025. Information regarding potential impacts of future program adoption is provided for reference.

The financial impacts of the proposed tax deferral to the City are negligible because the non-collection of sales tax on construction costs applies to projects that would not occur without this policy. Owners seeking to use this program must attest to a “but for” clause indicating that they would not do the conversion project in the absence of the proposed tax deferral. That said, it is possible that developers will choose to construct projects that qualify for the proposed tax deferral rather than pursuing a different project that does not qualify for the deferral; if that occurs, the City would lose sales tax revenue that would have been collected absent this proposal.

Office-to-residential conversions have received much attention since the pandemic, but there have been no conversions in Seattle to date. This is possibly because most of these projects are not financially feasible without public support given current economic conditions and development costs. The Office of Planning and Community Development (OPCD) has conferred with several developers who are strongly interested in conversion projects but unlikely to pursue them without this proposed legislation.

Although we anticipate little to no direct negative fiscal impact to the City as a result of the future ordinance enacting the sales and use tax deferral, we provide the following contextual information about sales and use tax collection for construction projects. The total sales and use tax rate in Seattle is 10.35%. The City receives only a fraction of the sales and uses taxes, while the majority is paid to the County, the Sound Transit District, and the State according to the rates in Figure 1. All of the sales and use tax is collected at the point of sale by the vendor business and remitted to the State Department of Revenue (DOR). The portion of the sales tax due to the City or County is provided back to that jurisdiction by DOR.

	City	County	Transit District	State	Total:
Tax Amount	1 %	1.45%	1.4%	6.5%	10.35%

Figure 1: Seattle Sales Tax Rate & Components (Source: [MRSC](#))

The City’s 1% share is made up of a 0.85% unrestricted sales and use tax that can be used for any governmental purpose and 0.15% for the local transportation benefit district.

Figure 2 illustrates how sales and use taxes would be collected on a \$140 million construction project. Sales and use taxes would be charged on the project’s total hard costs, including services of the contractor, but not on soft costs such as design and permitting fees or financing. This approximates the construction budget of a conversion project for a 200-unit residential development with ground floor retail in a historic-aged structure. If the project received the

sales and use tax deferral its total project costs would be reduced by approximately \$10 million, leading to a 7% reduction in total development costs.

Project Costs	With Sales Tax	Sales Tax Exempt
Land Acquisition	\$9,000,000	\$9,000,000
Hard Costs	\$100,000,000	\$100,000,000
WA Sales Tax	\$10,000,000	Waived
Tenant Improvements	\$2,000,000	\$2,000,000
Soft Costs	\$14,000,000	\$14,000,000
Financing	\$5,000,000	\$5,000,000
Project total:	\$140,000,000	\$130,000,000

Figure 2: Illustrative pro forma for \$140 million conversion project with, and without sales tax

In the Figure 2 example the City’s share of the sales and use taxes would be about \$1 million.

The City may experience positive indirect fiscal impacts by helping property owners initiate conversion development projects. Providing new housing options, especially in downtown buildings, will add residents that support the revitalization of the downtown economy including spending by those residents on other goods and services in downtown, which can support the survival of downtown businesses which pay business and operation taxes. The production of affordable housing units is a direct benefit to low- and moderate-income households who would occupy the housing. The proposal would address the current shift in taxable consumption away from Seattle’s city center, a pandemic-induced phenomena that has lowered commercial and residential property values in city centers. Downtown real estate is currently experiencing a decrease in sales values of properties which is causing a reduction in the assessed values for property tax purposes. ([source](#)) Conversions of underutilized commercial buildings have the potential to stabilize property values in the center city. Moreover, new construction activity (so long as the conversion project is additive and not a shift of development projects) would lead to an increase in property tax revenue over time. The indirect positive fiscal impacts are difficult to project and quantify to specific dollar amounts.

If the legislation has costs, but they can be absorbed within existing operations, please describe how those costs can be absorbed. The description should clearly describe if the absorbed costs are achievable because the department had excess resources within their existing budget or if by absorbing these costs the department is deprioritizing other work that would have used these resources.

The cost of administering the proposed tax deferral can be absorbed within OPCD’s existing budget and staff. The resources required to manage the program would be small and can be assigned to existing staff – particularly the Downtown Activation Coordinator position during 2025-2027 – and other staff within the Land Use Policy division of the department thereafter. We estimate a total of approximately one dozen or less conversion projects within a 7-year time horizon.

Please describe any financial costs or other impacts of *not* implementing the legislation.

There is a likelihood that not implementing this legislation would deter office-to-residential conversions from moving forward, hindering the City’s Downtown Activation Plan and affordable housing goals. The indirect positive fiscal impacts described above would be less likely to occur in the absence of this legislation.

4. OTHER IMPLICATIONS

Please describe how this legislation may affect any departments besides the originating department.

The tax deferral program would be managed entirely by OPCD in partnership with the State Department of Revenue (DOR) with the exception of any appeals filed by property owners in the event of application or certificate denial. In such cases, the Office of the Hearing Examiner would hold a closed record hearing and issue a determination. Office of Housing (OH) and Seattle Department of Construction Inspections (SDCI) staff participated in formulating the proposed administrative approach and concur.

Does this legislation affect a piece of property? If yes, please attach a map and explain any impacts on the property. Please attach any Environmental Impact Statements, Determinations of Non-Significance, or other reports generated for this property.

The legislation is expected to spur construction on several commercial buildings located primarily downtown.

Please describe any perceived implication for the principles of the Race and Social Justice Initiative.

The legislation has the potential to make Seattle’s downtown a more inclusive space for communities at risk of displacement by increasing the availability of affordable housing.

- i. How does this legislation impact vulnerable or historically disadvantaged communities? How did you arrive at this conclusion? In your response please consider impacts within City government (employees, internal programs) as well as in the broader community.**

This legislation does not impact vulnerable or historically disadvantaged communities. Conversions are expected to occur in downtown in census tracts with high to moderate risk of displacement. However, construction is unlikely to displace anyone since it will occur within commercial buildings.

- ii. Please attach any Racial Equity Toolkits or other racial equity analyses in the development and/or assessment of the legislation.**

None.

- iii. What is the Language Access Plan for any communications to the public?**

OPCD will provide the application for tax deferral in the languages specified in our office's language access plan, including Spanish, Chinese, Vietnamese, Somali, and Togalog. ([source](#)) Initial rollout of program materials will be in English. It will take approximately 6 – 8 months for OPCD to identify resources and make translations into the other languages.

a. Climate Change Implications

- iv. Emissions: How is this legislation likely to increase or decrease carbon emissions in a material way? Please attach any studies or other materials that were used to inform this response.**

The short-term emissions from construction activities will be offset through a combination of improved energy efficiency in refurbished buildings, the reduced per capita energy consumption of multi-family buildings, and increasing the number of residents located within walking distance to transit which will reduce vehicle trips. ([source](#))

- v. Resiliency: Will the action(s) proposed by this legislation increase or decrease Seattle's resiliency (or ability to adapt) to climate change in a material way? If so, explain. If it is likely to decrease resiliency in a material way, describe what will or could be done to mitigate the effects.**

The legislation will improve Seattle's climate resiliency by increasing the number of residents located in areas that can rely on transit over personal vehicles, and by creating new homes outside of areas that will be impacted by sea level rise. Any conversions downtown are likely to occur in areas outside the projected Sea Level Rise (SLR) zone for 2100. ([source](#))

If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program's desired goal(s)? What mechanisms will be used to measure progress towards meeting those goals?

The legislation does not establish a major new program for monitoring. However, property owners are required to report the number of housing units and affordable housing units that are created within their projects over a 10-year period, which should provide the city with a useful performance measure to evaluate this policy in the long run.

5. CHECKLIST

Is a public hearing required?

No. A public hearing is not required for passage of this Resolution

A City Council public hearing must be conducted before a subsequent Ordinance is adopted. The public hearing and consideration of the ordinance is expected to take place on January 30, 2025, beginning at 2 p.m. in Seattle City Hall, located at 600 4th Avenue.

Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required?

No. Publication is not required for the passage of the proposed Resolution. Publication will be required prior to action by city council on the subsequent Ordinance.

If this legislation changes spending and/or revenues for a fund, have you reviewed the relevant fund policies and determined that this legislation complies?

Does this legislation create a non-utility CIP project that involves a shared financial commitment with a non-City partner agency or organization?

6. ATTACHMENTS

Summary Attachments: None.



Seattle Office of Planning & Community Development

Rico Quirindongo, Director

Date: November 20, 2024

To: City Council Land Use Committee

From: Rico Quirindongo, OPCD
Geoff Wentlandt, OPCD

Subject: Approach for implementing a sales tax deferral for conversions of underutilized commercial space to residential authorized under E2SSB 6175

Summary:

The City wants to support conversions of commercial space to residential, especially in greater downtown, and is seeking to enact a sales and use tax deferral that was authorized under state legislation E2SSB 6175 during the 2024 legislative session. Cities must take local action to put a program in place. This memo summarizes how OPCD proposes to enact the program, including the process to establish it and the method to administer it.

Adoption of the Tax Deferral Program Locally

- **City Council Resolution**

The City must adopt a Resolution of intention to create a sales and use tax deferral program. The Resolution must generally describe the proposed program. It must state the time and place of a public hearing to be held to consider the program. The resolution must provide general information about the application process, the approval process, and the appeals process. OPCD has prepared the Resolution and is striving to transmit it on November 20, 2024. We are providing a Draft Ordinance, draft application form, and draft letters for public review as attachments to the Resolution.

- **Public Hearing and Ordinance Adoption**

A public hearing must be held. Notice must be published once each week for two consecutive weeks, not less than seven days, nor more than 30 days before the date of the hearing. OPCD proposes an Ordinance that would make changes to codify the program in the SMC. We expect that the public hearing will take place on January 30, 2025, and Ordinance adoption would occur in February/March of 2025, following Council's usual process to adopt legislation.

Administration of the Tax Deferral Program

Steps and requirements to administer a program are prescribed by E2SSB 6175, but there are several choices for how the City will perform administration. The purpose of this section is to provide a summary of how the program would work to affected parties. After dialogue with partner departments and other stakeholders, OPCD is proposing to take direct oversight for most aspects of program administration. We are in close contact with the development community and have a high degree of confidence that the volume of conversions to housing will be small. We estimate 12 total projects or

fewer within a 7-year time horizon. This volume is manageable for OPCD to administer with existing staffing levels.

- ***Owner applies for the tax deferral.***
 - The owner applies to the City by completing and submitting a form provided by OPCD (see draft application form). OPCD proposes that the application for tax deferral be submitted to the OPCD Director. The application requirements closely track with the process laid out in E2SSB 6175.
 - OPCD proposes that the owner shall have at least completed a construction or land use permit pre-application with SDCI.
 - OPCD proposes that the tax deferral application is separate from the land use permitting process and is not subject to the State's Land Use Petition Act (LUPA) processes and requirements.
 - Cities have the option of requiring an application fee. However, to streamline the process and avoid complications of receiving funds and compliance with the City's fee subtitle, OPCD proposes to charge no application fee.
 - The application must contain an oath or affirmation regarding the following information:
 - Project description and site plan
 - Statement describing the number of expected affordable housing units
 - Statement of awareness of tax liability if the project ceases to qualify
 - Statement acknowledging the deadline for construction
 - Statement that the owner would not have built here "but for" the tax deferral
 - Documentation of submittal of a construction or land use permit pre-application with SDCI. (Include SDCI construction or land use permit record number.)
- ***The City (OPCD) Reviews the Application and Decides Whether to Grant a "Conditional Certificate of Approval" to the Owner.***
 - An assigned OPCD planner on behalf of the Director reviews the application and determines whether the proposal meets conditions stipulated in E2SSB 6175:
 - The project is multifamily and the applicant has attested to commit to renting/selling at least 10% of the units as affordable
 - The project would be in conformance with plans and regulations when approved
 - The project will occur on underused commercial land (is an existing commercial structure)
 - The project is in an area zoned for commercial or mixed use
 - The project meets the requirements of the RCW
 - The land was not acquired through a condemnation proceeding
 - The City must approve or deny the application within 90 days. If the review finds that the conditions are met the OPCD Director issues a Conditional Certificate of Approval letter to the owner. (Draft attached).
 - If the application is denied, the City must state in writing the reasons for the denial in a letter to the owner.
 - OPCD proposes that the owner may appeal a denial decision to the City's Hearing Examiner (see separate section below).
- ***The Conditional recipient (aka owner) submits an application to the State Department of Revenue (DOR) for the tax deferral. (The City has no direct involvement in this portion of the process).***

- The owner is responsible for submitting its application to DOR. The owner provides a copy of the Conditional Certificate of Approval that was issued to them by the OPCD Director.
 - The owner provides its estimated construction costs and time schedule for construction to DOR.
 - The DOR must rule on the applications within 60 days.
 - The DOR provides information to the owner documenting the approval of the sales tax deferral and determines the total amount of sales taxes up to which the owner is eligible to defer.
 - DOR issues a sales and use tax deferral certificate to the owner that is valid during construction of the project until certificate of occupancy.
- ***The owner proceeds with construction after receiving all other required permits and approvals. (This portion of the process proceeds like any other project.)***
 - The owner procures all other required permits and approvals from the City (SDCI) like any normal development project.
 - The owner undertakes and completes construction of the renovation/conversion.
 - Like any normal project, the City (SDCI) issues a certificate of occupancy upon project completion.
- ***Owner/developer files documentation with the City after project completion***
 - Within 30 days of receiving a Certificate of Occupancy for the building the owner must submit the following documentation to the OPCD Director:
 - i. Description that the work is complete
 - ii. A statement describing the new affordable housing that is offered
 - iii. Statement that the work was completed within 3 years of the conditional certificate of approval letter provided by the City.
 - Within 30 days after receiving the owner's documentation the OPCD Director must determine and notify the owner, in a letter, whether the work completed and the affordable housing to be offered are consistent with the application and the conditional certificate of approval that was provided by the city, and the investment project continues to qualify for a tax deferral. (See draft letter attached.)
 - See separate appeals and denials section below for discussion of denials.
- ***Owner notifies DOR, and DOR certifies the project. (The City is not involved in this step.)***
 - Within 30 days of receiving the City's determination letter, the owner must notify DOR that the project is operationally complete.
 - The DOR proceeds to perform its certification of the project and determine the final qualifying amount of deferred sales taxes.
 - The DOR conducts a site visit to verify the project completion in accord with the conditional approvals.
- ***Owner is responsible for filing annual tax performance documentation to DOR. (The City is not involved in this step.)***
 - The owner of a project receiving the deferral of taxes must file a complete annual tax performance report with DOR pursuant to RCW 82.32.534 beginning the year the certificate of occupancy is issued and each year thereafter for 10 years.

- This annual tax performance documentation is the State's ongoing monitoring process for administering the tax deferral.
- ***The owner files annual reports to the City (OPCD) for a period of ten years.***
 - Thirty days after the anniversary of the date of issuance of the certificate of occupancy and each year thereafter for 10 years, the conditional recipient must file an annual report to the OPCD Director indicating the following:
 - i. A statement describing the affordable housing units on the property fulfilling the requirements for eligibility of the tax deferral
 - ii. A certification that the property has not changed use
 - iii. A description of any changes or improvements constructed after the certificate of occupancy
- ***The City (OPCD) files one annual report to the State Department of Commerce by December 31st starting in 2025 including the following:***
 - The number of program approval certificates granted
 - The total number and type of buildings converted
 - The number of affordable housing units resulting from the conversion
 - The estimated value of the sales and use tax deferral for each investment project receiving a program approval and the total estimated value of sales and use tax deferrals granted
- ***Appeal process if the City denies the application for conditional approval***
 - If the City issues a denial of the initial application by the owner for conditional approval an appeal can be filed with "the city's governing authority or a city official designated by the city to hear such appeals within 30 days after receipt of the denial", according to E2SSB 6175. The appeal "must be based upon the record made before the city".
 - OPCD proposes that the Ordinance establishing the local program identify that a closed record hearing before the City Hearing examiner would be the venue for an appeal of a denial of a Conditional Certificate of Approval letter. We propose that specific text be added to establish this procedure without identifying the conditional approval decision as a Type II decision.
 - We propose that the City also offer a municipal appeal process if the conditional recipient is denied a letter of approval by the City at the conclusion of construction. E2SSB 6175 gives local governments the option of providing an appeal process at this stage. We propose that the Ordinance establishing the local program identify that a closed record hearing before the City Hearing examiner would be the venue for an appeal of a denial of the final determination letter. We propose that specific text be added to establish this procedure without identifying the final determination as a Type II decision.

Next Steps:

OPCD suggest the following next steps:

- Consider the proposed Resolution at Land Use Committee on December 4th, 2024.
- Hold public hearing on the proposed Ordinance on January 30th, 2025, and consider passing the proposed Ordinance out of Land Use Committee on February 20th, 2025.

Sales and Use Tax Deferral for Office to Residential Conversions

Office of Planning and Community Development (OPCD)
Land Use Committee Briefing
December 4, 2024

Overview of the Proposal

- Incentivize the conversion of office space to housing and affordable housing
- A component of Mayor Harrell's Downtown Activation Plan
- Establish a deferral of sales & use taxes on the construction costs of conversions to housing



Background

Washington State legislature passed ESSB 6175 during the 2023/24 session

- Authorizes deferral of construction sales and use taxes on conversions of underutilized commercial space to housing.
- Requires 10% of the housing units to be affordable at the 80% AMI level.
 - If affordability is maintained for 10 years, the sales and use taxes are permanently waived.
- Cities must take local action to implement.
- ➔ • Step 1: Resolution stating intent to adopt. (Today)
 - Step 2: Public hearing and Ordinance adopting regulations into the City's code. (Q1 2025)
- Seattle would be the second city to implement, after Spokane.



Policy Goals of Implementing ESSB 6175 in Seattle

- **Addresses Affordable Housing Shortage**

- Increases supply of housing and affordable housing
- OPCD estimates that 1,000 – 2,000 housing units would be produced in a 7-year timeframe (100 - 200 affordable units). If combined with the popular Multi-family Tax Exemption (requiring 20% affordability), the policy would encourage 3,000 – 6,000 units (300 – 600 affordable units)*

- **Supports Downtown Recovery**

- Improves the balance of housing and commercial spaces to solidify downtown as a 24-hour neighborhood
- Complements Mayor Harrell's Downtown Activation Plan and other recent legislation to spur investment and livability downtown
- Seattle is among the US cities with the highest potential to benefit from office to residential conversion based on office distress and housing supply needs

- **Promotes Environmental Sustainability**

- Reduces vehicle miles traveled, encourages transit use, and promotes energy efficiency

* MFTE affordable housing units must be in addition to the ESSB 6175 affordable units.



Affordable Housing Requirement

- Requirement**

- 10% of the housing units must be rent- and income-restricted to serve householders at 80% of Area Median Income (AMI).
- Market rate rent for a 2-bedroom apartment in Downtown ranges from \$3,357- \$4,004 whereas an equivalent affordable unit under this program would be rented for a maximum of \$2,712.

MAXIMUM RENT, INCLUDING FEES AND BASIC UTILITIES (30% OF MONTHLY INCOME)

Unit Size	Percent of Area Median Income									
	30%	40%	50%	60%	65%	70%	75%	80%	85%	90%
0-BEDROOM	\$790	\$1,054	\$1,317	\$1,581	\$1,712	\$1,844	\$1,976	\$2,108	\$2,239	\$2,371
1-BEDROOM	\$847	\$1,129	\$1,411	\$1,694	\$1,835	\$1,976	\$2,117	\$2,259	\$2,400	\$2,541
2-BEDROOM	\$1,017	\$1,356	\$1,695	\$2,034	\$2,203	\$2,373	\$2,542	\$2,712	\$2,881	\$3,051
3-BEDROOM	\$1,175	\$1,567	\$1,959	\$2,351	\$2,547	\$2,743	\$2,939	\$3,135	\$3,330	\$3,526
4-BEDROOM	\$1,311	\$1,749	\$2,186	\$2,623	\$2,842	\$3,060	\$3,279	\$3,498	\$3,716	\$3,935

Seattle Office of Housing 2024 Rent Limits for Affordable Housing

Sales and Use Tax Amounts

- Of the total 10.35% sales and use tax rate, 1% goes to the City of Seattle.

Jurisdiction / Purpose of Sales Tax Revenue	Amount
State of Washington	6.5%
King County	1.45%
Transit District (Sound Transit)	1.4%
City, Unrestricted	0.85%
City, Transportation Benefit District	0.15%
TOTAL	10.35%

Conversions are expensive. Public support is necessary to make them feasible.

- Conversion development costs are equal or greater than for new construction of comparably sized buildings.
- Developers must attest that "but for" the sales tax deferral they would not build the conversion to qualify for the deferral.

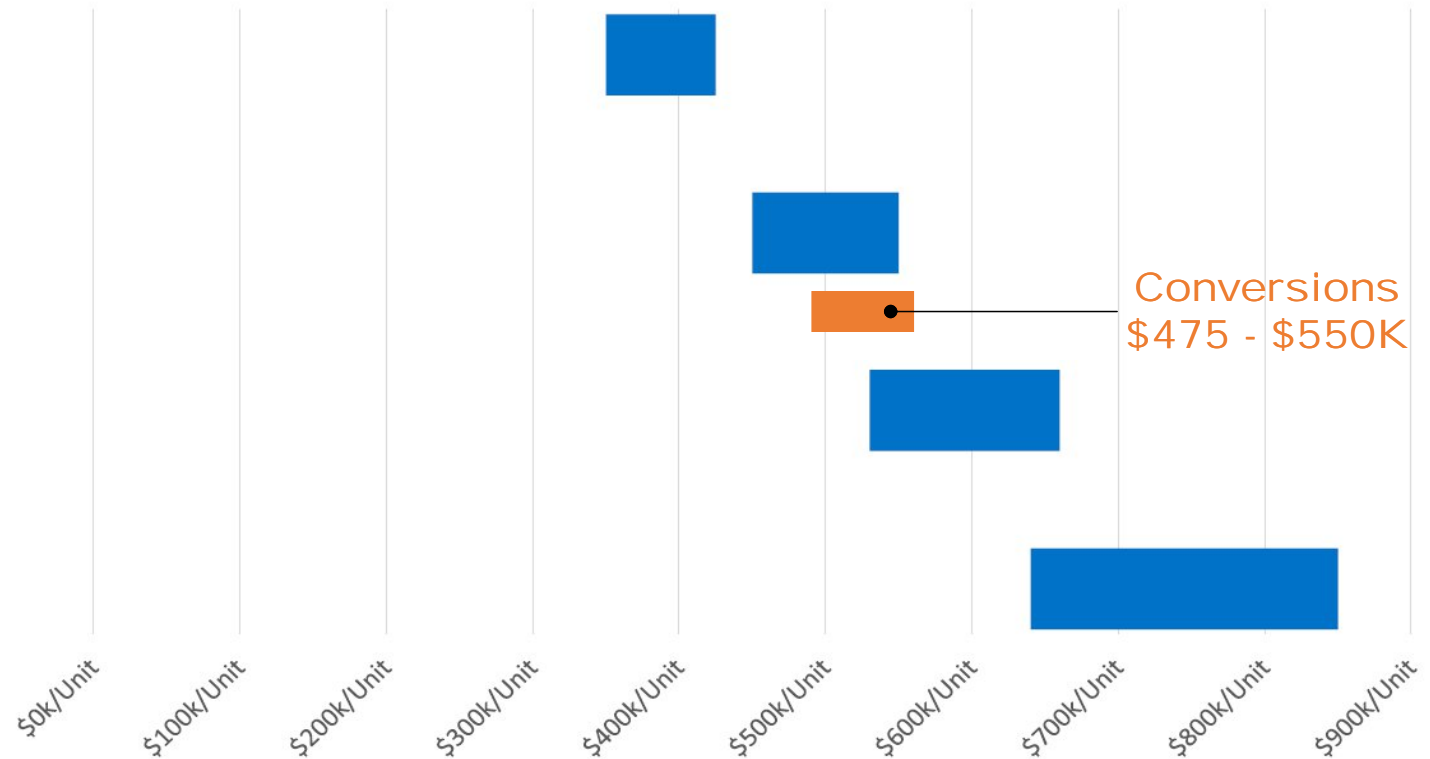


<=85' (or 75')

=<160'

240' (ish)

400' +



Conversion Incentive Example

- Example based on a 200-housing unit conversion of a 1920's era office building.
- Deferral would reduce overall project costs by about 7.1%, or \$10M.

Project Costs	With Sales Tax	Sales Tax Deferred
Land Acquisition	\$9,000,000	\$9,000,000
Hard Costs	\$100,000,000	\$100,000,000
Sales & Use Tax	\$10,000,000	Waived
Tenant Improvements	\$2,000,000	\$2,000,000
Soft Costs	\$14,000,000	\$14,000,000
Financing	\$5,000,000	\$5,000,000
Project total:	\$140,000,000	\$130,000,000

Illustrative cost side of a forma for a \$140 million conversion project with and without a sales and use tax exemption.

Financial Impacts

- **Administered by OPCD**

- OPCD will manage the application process with existing staff, in partnership with the Washington State Department of Revenue. No administrative impacts on Office of Housing or SDCI.
- Program sunsets after 10 years.
- If a conversion ceases to qualify, all back sales & use taxes plus interest are immediately due.

- **Positive Financial Impacts**

- Adds residents that support downtown businesses and recovery
- Stabilizes rapidly-declining property valuations in downtown
- Increases revenue from property, and business and operation (B&O) taxes compared to if buildings are vacant
- Decreases public safety and code enforcement costs often associated with vacant structures

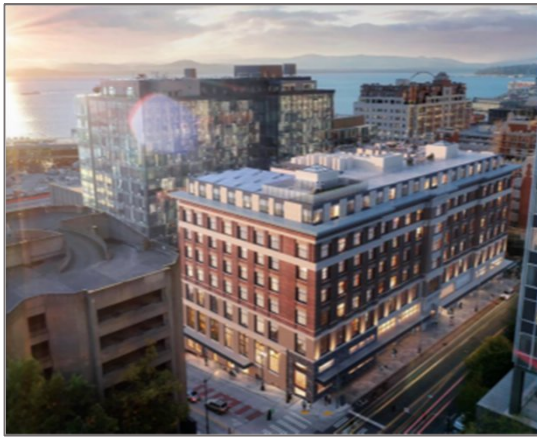
- **Costs**

- Little to no loss of revenue because the deferral applies to projects that would not occur without the tax deferral. Owners must attest that the project would not proceed "but for" the tax deferral; however, it is possible that developers will choose to build a tax deferred project rather than a different project that would have generated tax revenue.
- Very small number of overall conversions anticipated. (6 – 12 within 7-years are projected). No conversions have submitted complete permit applications since the pandemic.



Potential Conversion Examples

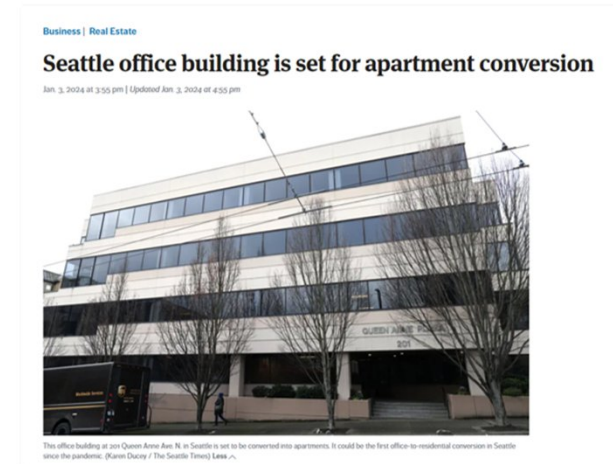
- OPCD received a series of creative proposals during the 2023 call for ideas competition.
- Several conversion proposals are in the pre-submittal, feasibility analysis phase.



Colman Building



Vance Building with Conversion Concept



201 Queen Anne Ave. N.

Thank you.

Office of Planning and Community Development (OPCD)
Geoffrey.Wentlandt@Seattle.gov



Legislation Text

File #: CB 120833, **Version:** 1

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to land use and zoning; amending subsection 23.49.156.A of the Seattle Municipal Code to clarify bonus allowances in the Living Building Pilot Program.

WHEREAS, on December 14, 2009, the Seattle City Council adopted Ordinance 123206, establishing a Living Building Pilot program; and

WHEREAS, the Council intended for the Living Building Pilot Program (LBPP) to be one of the City's

Climate Strategies to fundamentally reshape Seattle's building and transportation systems for a fossil-free future; and

WHEREAS, Seattle's buildings produce over one-third of the city's greenhouse gases and, reducing these building emissions is critical in becoming a carbon-neutral community by 2050; and

WHEREAS, as part of the LBPP, projects explore fundamentally different approaches to building design, construction, and operations, and LBPP applicants are eligible for additional height and/or floor area ratio bonuses as well as departures from the Land Use Code; and

WHEREAS, early design guidance for project 3036043-LU was applied for under 3034374-EG. The Master Use Permit for the project was reviewed by the Design Review Board and approved by the Director of the Department of Construction and Inspections granting certain departures under the LBPP including additional height; and

WHEREAS, the Master Use Permit decision 3036043-LU, was appealed by Belltown Livability Coalition to the Seattle Hearing Examiner along with a request for code interpretation alleging that the subject lot

was not eligible for additional height under the LBPP because the height limitation was constrained by a lot size restriction codified in subsection 23.49.156.A of the Seattle Municipal Code (SMC); and

WHEREAS, as part of the appeal, Seattle Department of Construction and Inspections (SDCI) interpreted SMC 23.49.156.A.1 in light of the LBPP code provisions including SMC 23.40.060 and SMC 23.49.008.F and concluded that the subject development project could take advantage of height bonuses to 175 feet without a minimum lot size of 19,000 square feet under the LBPP; and

WHEREAS, the Hearing Examiner disagreed with SDCI's interpretation, stating that "The legislative body set the minimum lot size at 19,000 square feet for buildings over 145 feet. Regardless of policy reasonableness, only the City Council has authority to enact code. The Examiner only interprets that code. The legislative body could provide set criteria so the Department could determine appropriate lot sizes when specified criteria are met or waive the lot size requirement entirely for living buildings. It has not done so"; and

WHEREAS, the Examiner's determination would limit the intent of the LBPP and constrain the City's goal of providing more housing, especially family-sized housing; and

WHEREAS, SDCI proposes this code amendment to explicitly authorize building height in excess of 145 feet in the Downtown Mixed Residential zone on lots smaller than 19,000 square feet in size to enable the City to allow the proposed 182 units of housing in the Downtown Urban Center, including ten three-bedroom units as proposed in Master Use Permit 3036043-LU and to encourage additional lots in the Downtown Urban Center to apply for the LBPP; and

WHEREAS, this ordinance is necessary to make clear that the City Council intends that the LBPP may allow height bonuses for buildings in the LBPP located in the downtown mixed residential/commercial zone regardless of lot size and incentivize additional properties in this zone to join the LBPP; and

WHEREAS, SDCI evaluated the environmental impact of the proposed ordinance, prepared a threshold determination under the State Environmental Policy Act (SEPA) and sought public comment on the

ordinance; however, the ordinance is exempt from administrative or judicial appeal under RCW 36.70A.070(2) for certain development regulations and non-project actions that “increase housing capacity, increase housing affordability, and mitigate displacement”; and

WHEREAS, this ordinance is exempt from administrative or judicial appeal because the ordinance will increase housing capacity, including at least 182 units, ten of which are family-sized units as well as anticipated additional units in the zone; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Subsection 23.49.156.A of the Seattle Municipal Code, which section was last amended by Ordinance 125371, is amended as follows:

23.49.156 Downtown Mixed Residential, minimum lot size

A. This subsection 23.49.156.A applies to DMR zones outside of South Downtown.

1. The minimum lot size is 19,000 square feet for any structure over 145 feet high, except that a project in a DMR zone that is part of the Living Building Pilot Program pursuant to Section 23.40.060 and uses a height bonus pursuant to subsections 23.40.060.C.5, 23.40.070.C.5, or 23.49.008.F, is exempt from this requirement. Pursuant to subsection 23.76.026.E, an applicant may elect to use this exemption even if the applicant’s application vested before the effective date of this ordinance.

2. To meet the minimum lot size requirement, a lot may be combined with one or more abutting lots, whether occupied by existing structures or not, provided that:

- a. The total area of the combined lots meets the minimum lot size requirement;
- b. All lots have frontage on the same avenue;
- c. Any existing structure does not exceed a height of 145 feet;
- d. The lot coverage of both the proposed and any existing structures does not exceed applicable lot coverage limits in Section 23.49.158; and
- e. The fee owners of the abutting lot(s) execute a deed or other agreement, recorded with

the King County Recorder's Office as an encumbrance on the abutting lot(s), that restricts future development of the abutting lot(s) to a maximum height of 145 feet for the life of the proposed structure, and that precludes the use of the abutting lot(s) in combination with any other abutting lots for purposes of meeting the minimum lot size requirements for any other lot.

* * *

Section 2. This ordinance shall take effect as provided by Seattle Municipal Code Sections 1.04.020 and 1.04.070.

Passed by the City Council the _____ day of _____, 2024, and signed by me in open session in authentication of its passage this _____ day of _____, 2024.

President _____ of the City Council

Approved / returned unsigned / vetoed this ____ day of _____, 2024.

Bruce A. Harrell, Mayor

Filed by me this _____ day of _____, 2024.

Scheereen Dedman, City Clerk

(Seal)

SUMMARY and FISCAL NOTE

Department:	Dept. Contact:	CBO Contact:
SDCI	David VanSike	Christie Parker

1. BILL SUMMARY

Legislation Title: AN ORDINANCE relating to land use and zoning; amending subsection 23.49.156.A of the Seattle Municipal Code to clarify bonus allowances in the Living Building Pilot Program.

Summary and Background of the Legislation: This legislation amends the Land Use Code (Title 23) in subsection 23.49.156.A to clarify and improve the function of the Living Building Pilot Program. The legislation clarifies that projects in the pilot program can use height bonuses to exceed 145 feet in height regardless of lot size under SMC 23.49.156.A in the Downtown Mixed Residential zone.

The Living Building Pilot Program is intended to promote the public interest by encouraging the development of innovative “living” buildings that can reduce environmental impacts, test new technologies, and serve as a model for development throughout the region and country. The ordinance establishing the Living Building Pilot Program became effective in January 2010 and has been revised since. SMC 23.40.060.A establishes an end date of the Program, December 31, 2030, or a maximum of 20 enrollments, whichever comes first. To date, 15 projects have enrolled with only five opportunities remaining. The amendment would allow an important case study for a living building and provide needed housing in the Belltown Neighborhood.

2. CAPITAL IMPROVEMENT PROGRAM

Does this legislation create, fund, or amend a CIP Project? Yes No

3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation have financial impacts to the City? Yes No

4. OTHER IMPLICATIONS

- a. **Please describe how this legislation may affect any departments besides the originating department.** This legislation is not anticipated to affect any other department.
- b. **Does this legislation affect a piece of property? If yes, please attach a map and explain any impacts on the property. Please attach any Environmental Impact Statements, Determinations of Non-Significance, or other reports generated for this property.**
While there is one known project that would benefit from the legislation, it would affect any property in the Downtown Mixed Residential zone that is less than 19,000 square feet and

that is enrolled in the Living Building Pilot Program. Since the Living Building Pilot Program has only five more available opportunities, the number of affected properties would not exceed five.

- c. **Please describe any perceived implication for the principles of the Race and Social Justice Initiative.**
- i. **How does this legislation impact vulnerable or historically disadvantaged communities? How did you arrive at this conclusion? In your response please consider impacts within City government (employees, internal programs) as well as in the broader community.** The proposed amendment was reviewed by SDCI staff and is not anticipated to impact vulnerable or disadvantaged communities.
 - ii. **Please attach any Racial Equity Toolkits or other racial equity analyses in the development and/or assessment of the legislation.** Not applicable for this ordinance.
 - iii. **What is the Language Access Plan for any communications to the public?** SDCI would provide translation or other services, if requested.
- d. **Climate Change Implications**
- i. **Emissions: How is this legislation likely to increase or decrease carbon emissions in a material way? Please attach any studies or other materials that were used to inform this response.** Since this legislation involves use of the Living Building Pilot Program, any new structures built under these provisions would have the likely effect of reducing carbon emissions over those built using conventional practices.
 - ii. **Resiliency: Will the action(s) proposed by this legislation increase or decrease Seattle’s resiliency (or ability to adapt) to climate change in a material way? If so, explain. If it is likely to decrease resiliency in a material way, describe what will or could be done to mitigate the effects.** Since this legislation involves the Living Building Pilot Program, it would help to increase Seattle’s resiliency to climate change. The Living Building Pilot Program requires buildings to be built on non-environmentally sensitive sites, use recycled materials, generate as much or more energy as they use through sustainable sources, capture as much rainwater as they use, treat wastewater on site, and meet a number of other standards.
- e. **If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program’s desired goal(s)? What mechanisms will be used to measure progress towards meeting those goals?** While the legislation is not a new initiative, it serves to clarify that the existing Living Building Pilot Program may utilize bonuses in code, which will further help the Program to meet its goals.

5. CHECKLIST

- Is a public hearing required?** Yes, The City Council must hold a public hearing, to be scheduled before the Land Use Committee.
- Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required?** Yes. Publication of notice of the Council public hearing will be made in The Daily Journal of Commerce and in the City’s Land Use Information Bulletin (LUIB). Environmental review under the State Environmental Policy Act (SEPA) is also required for this legislation, and publication of notice of the environmental determination was made in The Daily Journal of Commerce and in the Land Use Information Bulletin in July 2024.
- If this legislation changes spending and/or revenues for a fund, have you reviewed the relevant fund policies and determined that this legislation complies?**
- Does this legislation create a non-utility CIP project that involves a shared financial commitment with a non-City partner agency or organization?**

6. ATTACHMENTS

Summary Attachments: None.

Director's Report and Recommendation LIVING BUILDING AMENDMENT

I. Introduction

The Seattle Department of Construction and Inspections (SDCI) proposes to amend the Land Use Code (Seattle Municipal Code (SMC), Title 23) to implement RCW 36.70A.070(2) regarding application of certain height bonuses available through the Living Building Pilot Program as it applies to Section 23.49.156.A of the Downtown Mixed Residential zone. The proposed legislation clarifies that projects using the Living Building Pilot Program height bonuses are allowed to exceed 145 feet in height regardless of lot size under SMC 23.49.156.A.

II. Background and Analysis

The Living Building Challenge is a green building rating system created by the International Living Future Institute (ILFI) to recognize buildings meeting the highest level of sustainability. The current version, 4.1 of the Living Building Challenge, requires buildings to meet 20 prerequisites within seven performance areas, or “Petals”: Place, Water, Energy, Health and Happiness, Materials, Equity, and Beauty. In general, these prerequisites require buildings to be built on non-environmentally sensitive sites, use recycled materials, generate as much or more energy as they use through sustainable sources, capture as much rainwater as they use, treat wastewater on site, and meet a number of standards for other elements.

Projects reviewed under the Living Building Pilot Program explore fundamentally different approaches to building design, construction, and operations. In order to meet the stringent performance standards of the Living Building Challenge, buildings generally rely upon innovative building design techniques and features including natural daylighting and ventilation, use of passive and active solar energy systems, rainwater capture and use, wastewater treatment and reuse, and ultra-efficient heating, ventilation and air conditioning (HVAC) systems. These systems can substantially increase design complexity and necessitate early integrated design processes to ensure that all systems are compatible and work in an efficient manner, and that each performance goal can be met.

The innovative systems used in the program may also necessitate alternative building massing, non-traditional exterior and roof top features, or other elements that were not envisioned when existing codes were adopted; existing codes were designed to provide minimum standards rather than the flexibility to consider radically different building strategies. To accommodate these innovative designs, and to provide incentives for such buildings, program applicants are eligible for additional height and/or floor area, as well as departures from the Land Use Code. All projects participating in the Living Building Pilot Program are subject to design review and are required to go before the Design Review Board.

The ordinance establishing the Living Building Pilot Program became effective in January 2010 and has been revised since. SMC 23.40.060.A establishes an end date of the Program, December

31,2030, or a maximum of 20 enrollments, whichever comes first. To date, 15 projects have enrolled with only five opportunities remaining.

A particular project, 3036043-LU was applied for, and was reviewed by the Design Review Board and approved by the Director of SDCI, which granted the Living Building Pilot program project additional height.

The Master Use Permit decision for 3036043-LU was appealed to the Seattle Hearing Examiner along with a request for code interpretation. The subject of the hearing was whether the lot was eligible for additional height under the Living Building Pilot Program because of a height limitation that constrains building height by a lot size restriction codified in SMC subsection 23.49.156.A. SDCI interprets SMC 23.49.156.A.1 in light of the Living Building Pilot Program code provisions including SMC 23.40.060 and SMC 23.49.008.F, and concluded that the subject development project could take advantage of height bonuses to 175 feet even though the lot size was less than 19,000 square feet.

The Hearing Examiner disagreed with SDCI's interpretation, stating that "The legislative body set the minimum lot size at 19,000 square feet for buildings over 145 feet." The purpose of the Living Building Pilot program is specifically to modify development standards, including height. The proposed amendment would make it clear that additional height should be allowed under the Living Building Pilot Program regardless of lot size in the DMR zone. Without this correction, the Examiner's determination would limit the intent of the Living Building Pilot Program and constrain the City's goal of providing more housing, especially family-sized housing in this downtown neighborhood characterized by dense housing development that is well served by transit and other urban amenities.

III. Recommendation

The Living Building Pilot Program is intended to promote the public interest by encouraging the development of innovative "living" buildings that can reduce environmental impacts, test new technologies, and serve as a model for development throughout the region and country. The proposed code amendment will clarify that projects utilizing the Living Building Pilot Program are eligible for bonuses that might not otherwise be allowed due to minimum lot size restrictions. The potential for development of additional living buildings will address growing environmental concerns and encourage new buildings in Seattle to meet the highest sustainable standards. To that end, the Director recommends approval of the proposed code amendment.

August 30, 2024

MEMORANDUM

To: Land Use Committee
From: Asha Venkataraman, Analyst
Subject: Council Bill 120833: Living Building Amendment

On September 4, 2024, the Land Use Committee will discuss [Council Bill \(CB\) 120833](#), legislation that would clarify the applicability of height bonus allowances for projects in the [Living Building Pilot Program \(LBPP\)](#). This memo will provide background, describe the legislation, and outline next steps.

Background

The [Living Building Challenge](#) is a rating system administered by the International Living Future Institute (ILFI) to recognize buildings that are constructed and designed to minimize carbon emissions and meet high levels of sustainability. To encourage projects to participate in the Living Building Challenge, the City adopted the LBPP, effective in 2010, in [SMC 23.40.060](#), which provides a variety of land use incentives for buildings that meet program standards. The LBPP is set to expire on December 31, 2030, or when a maximum of 20 projects have enrolled, whichever comes first. The Seattle Department of Construction and Inspections (SDCI) indicates that 15 projects have enrolled thus far, leaving room for five more projects to enroll.

A specific project (3036043-LU) located in the Downtown Urban Center in Belltown proposed to build 182 housing units in a Downtown Mixed Residential zone. Under [SMC 23.49.156.A.1](#), any structure in that zone over 145 feet high must have a minimum lot size of 19,000 square feet. SDCI issued a Master Use permit for the project that allowed the project to exceed the 145-foot height limitation even though the lot was smaller than 19,000 square feet; SDCI interpreted the code to allow such an allowance because of the project's participation in the LBPP. The Master Use permit and SDCI's interpretation of the code to allow height up to 175 feet was appealed, and the Hearing Examiner's decision limited the building's height to 145 feet.

SDCI issued a [Determination of Non-Significance](#) (DNS) under the State Environmental Protection Act (SEPA) for CB 120833 on July 8, 2024. An appeal of the DNS has been filed with the Hearing Examiner and is currently pending.

CB 120833

This legislation is intended to address the result of the Hearing Examiner's decision. CB 120833 would amend the Land Use Code to explicitly authorize building heights exceeding 145 feet in the Downtown Mixed Residential zones on lots smaller than 19,000 square feet for projects that are part of the LBPP.

Next Steps

The Land Use Committee will hold a public hearing on CB 120833 on September 18, 2024.

cc: Ben Noble, Director
Yolanda Ho, Deputy Director
Lish Whitson, Supervising Analyst