

November 30, 2020

MEMORANDUM

To: Transportation and Utilities Committee
From: Lish Whitson, Analyst
Subject: Resolution 31980: ARE District Energy conceptual approval

On Wednesday, December 2, 2020 the Transportation and Utilities Committee will consider [Resolution 31980](#), which would grant conceptual approval for a new significant structure term permit to McKinstry Company LLC (McKinstry) to build private utility tunnels to create a district energy system in South Lake Union, Council District 7. Because these proposed utility tunnels cross under city streets, approval must be granted by the City Council pursuant to [Seattle Municipal Code \(SMC\) Chapter 15.65 – Significant Structure Term Permits](#). Conditional conceptual approval of the term permit is the first step in approving the district energy system. Resolution 31980 would grant conceptual approval to McKinstry for the construction of the district energy system and would direct the Seattle Department of Transportation (SDOT) to negotiate final approval of the permit.

This memorandum summarizes the term permit approval process and describes the conditions of approval under Resolution 31980.

Significant Structure Term Permits

A significant structure is a structure that has “a long-anticipated duration of encroachment, impede the City's or public's flexibility in the use of the public place, or are necessary for the functioning of other property of the permittee.” Examples include tunnels below streets that provide access to utility, pedestrian or vehicular access; public art placed in right-of-way; and overhead structures attached to buildings. SMC Chapter 15.65 establishes the procedures and criteria for approval of term permits for significant structures.

Generally, the City grants approval for a ten-year term, renewable two times for a total term of thirty years but the Council may approve a different term.

[SMC 15.65.040.C](#) identifies ten issues that are considered when reviewing whether to approve a significant structure:

1. Adequacy of horizontal, vertical, and other clearances.
2. View blockage and impacts due to reduction of natural light.
3. Construction review is at 60 percent conceptual approval.
4. Interruption or interference with existing streetscape or another street amenities.
5. Effect on pedestrian activity;
6. Effect on commerce and enjoyment of neighboring land uses;
7. Availability of reasonable alternatives;
8. Effect on traffic and pedestrian safety;
9. Accessibility for the elderly and handicapped; and
10. The public benefit mitigation elements provided by the proposal, to the extent required based on the nature of the structure.

Once the SDOT Director reviews the term permit petition, they transmit a recommendation to the City Council for conceptual approval. The Council's review of the proposal considers the ten items noted above in order to determine whether the structure is in the public interest and no reasonable alternative to the structure exists. The Council may provide conceptual approval, conditional conceptual approval or deny the term permit through a resolution.

If SDOT determines that the construction plans are consistent with the Council's approval or conditional approval, SDOT forwards a bill to the City Council for its final decision to grant or deny the application for a proposed new structure permit.

ARE District Energy

McKinstry proposes to build private utility lines under Roy Street, west of 8th Avenue N and west of Dexter Avenue N; Dexter Avenue N, north of Mercer Street; and the alley north of Mercer Street between Dexter Avenue N and Aurora Avenue N. The utility lines would be used to extract waste heat from municipal wastewater and distribute it between buildings located at 601 Dexter Avenue N, 701 Dexter Avenue N, and 800 Mercer Street in South Lake Union, District 7. Each of these sites is the location of development proposed by Alexandria Real Estate (ARE), including the Mercer MegaBlock site, which the City is in the process of selling to ARE. The district energy system would reduce energy use and carbon emissions by using heat that would otherwise be lost. A [map](#) showing the proposed locations of the utility tunnels is attached to the fiscal note for Resolution 31980.

Resolution 31980 would grant conditional conceptual approval for a significant structure term permit to the ARE District Energy project. McKinstry would need to meet the following conditions outlined in the resolution before SDOT recommends approval and McKinstry receives a term permit:

- (1) Provide engineering and utility plans for additional review and permitting by the Seattle Department of Transportation (SDOT), which the Director will circulate to other City departments and any public and private utilities affected by the installation of ARE District Energy;
- (2) Provide a surety bond, covenant agreement, and public liability insurance naming the City as an additional insured or self-insurance, as approved by the City's Risk Manager;
- (3) Pay all City permit fees;
- (4) Obtain all necessary permits;
- (5) Maintain and inspect the ARE District Energy system; and
- (6) Commit to removing the ARE District Energy system and restoring the right-of-way to in as good condition for public use as existed prior to construction of the ARE District Energy system and in at least as good condition in all respects as the abutting portions of the public place, as required by SDOT right-of-way restoration standards, upon expiration of the term permit or at the direction of the Director or City Council, in accordance with provisions of the term permit ordinance.

The Resolution directs SDOT to draft a term permit Ordinance that reflects these conditions for Council consideration. If Council approves the bill, McKinstry would have the right to build the ARE District Energy system pursuant to the Ordinance.

Next Steps

If the Committee recommends adoption of the resolution at its meeting on December 2nd, final adoption could occur as early as the City Council meeting on December 7th. Once the resolution is adopted and McKinstry meets the conditions listed above, SDOT would begin to draft a bill to approve the term permit.

cc: Dan Eder, Interim Director
Aly Pennucci, Supervising Analyst