

May 31, 2024

MEMORANDUM

To: Land Use Committee
From: Ketil Freeman, Analysts
Subject: Council Bill 120771 – Interim Street Level Uses

On June 5, 2024, the Land Use Committee (Committee) will have an initial briefing and will hold a public hearing on Council Bill (CB) 120771.

CB 120771 would, on an interim basis, allow additional uses to qualify as required street-level uses in parts of the Downtown, South Lake Union, and Uptown urban centers and modify otherwise applicable physical development standards, including density limits, to encourage businesses to locate in unoccupied street-level and second floor commercial spaces.

This memorandum: (1) provides background on street-level use requirements and related City efforts to encourage active street-level uses; (2) describes what CB 120771 would do; and (3) provides a preliminary issue identification.

Background

Street-level Use Regulations

On designated pedestrian streets in parts of Downtown, South Lake Union, and Uptown activating uses, such as restaurant, retail, and entertainment uses are required at the street-level. These uses are intended to generate pedestrian interest and activity and draw foot traffic to and through identified destinations, such as neighborhood nodes, public parks, and shopping districts. Destinations and designated streets are identified through neighborhood planning processes and are reflected in regulations.¹

¹ For examples of planning studies see [Downtown Seattle Public Spaces & Public Life](#) (2009) the [South Lake Union Urban Design Framework](#) (2010), [Uptown Urban Design Framework](#) (2016).

City Response to Vacant Storefronts

In response to the pandemic, in September 2021, the City passed [Ordinance 126421](#) as an interim development control, which similarly allowed additional uses to qualify as street-level uses. Ordinance 126421 expired in September 2022. Also in response to the pandemic, in 2022 the City added a small business permit facilitator position to the Seattle Department of Construction and Inspections (SDCI). The 2022 Adopted Budget describes the position as follows:

The person in this role will act as a single point of contact to help businesses and fill vacant commercial spaces downtown and in South Lake Union as well as other neighborhood business districts impacted by COVID-19. The position will provide early guidance on regulatory issues, the permitting process, application requirements, and the corrections process to help permit applicants advance more quickly through the permit process. This position will also assist in permitting for the arts community, which has been hit particularly hard during COVID-19.²

Status of Downtown Recovery

The Downtown Seattle Association (DSA) maintains an [economic revitalization dashboard](#). That dashboard indicates that the downtown economic recovery is mixed. Monthly visitors to downtown have not yet returned to pre-pandemic levels but the number of visitors is close. In April 2024 the number of visitors was about 87% of pre-pandemic levels. The number of downtown workers is significantly lower than prior to the pandemic. In April, the number of daily downtown workers was about 53% of the April 2019 amount, but the number of occupied downtown apartment units is higher than pre-pandemic levels. In the second quarter of 2023, the number of occupied apartments was 17% greater than the number in the second quarter of 2019.

Current City Work

In 2023 the City will began [reviewing and updating plans for the existing urban centers](#), starting with Downtown Seattle. Council could begin considering legislation implementing those plans in 2026. Those planning processes will likely include a review of locations where street-level uses are required and the types of allowable uses. Additionally, the proposed transportation levy allocates \$15 million for planning for the DSA's [Third Avenue Vision](#). That planning effort may result in improvements to the pedestrian environment on Third Avenue that could fill vacant storefronts.

² [City of Seattle – 2022 Adopted Budget, p.251](#).

What CB 120771 Would Do

CB 120771 would:

- Expand the number of allowable street-level uses in certain locations to include other potentially activating uses, such as institutional uses and art installations, and non-activating uses, such as office and research and development uses;
- Delegate to the SDCI Director as a non-appealable, administrative decision authority to allow other uses not included in the expanded list if, in his determination, they would attract pedestrian activity or increase the variety of available goods and services;
- Exempt floor area for interim uses from otherwise applicable limits on the amount of developable floor area, subject to some limits;
- Modify physical development standards for the depth and frontage of allowable street-level uses; and
- Allow required and interim street-level uses to locate on the mezzanine level of buildings.

Locations where interim uses would be allowed on designated pedestrian streets are shown on page 9-11 of the SDCI Director's Report. CB 120771 would not apply to future development. Only structures that receive a certificate of occupancy from the City prior to CB 120771 becoming effective would qualify.

If passed, the ordinance would expire three years after its effective date. Uses allowed under the bill would remain conforming for the life of the use, meaning that a business could remain at a location for the life of the business and be leased to a similar business in the future.

Preliminary Issue identification

1. *Should the Council modify street-level development standards now or wait to see (a) whether the economic recovery results in fewer vacant storefronts and increased economic activity and/or (b) what recommendations flow from the 2025 – 2026 planning processes for urban centers and Third Avenue?*

The City will soon begin planning processes that may result in ongoing, not interim, changes to street-level development standards, including a review of the locations where street-level uses are required and the types of allowable uses. Additionally, the downtown economic recovery continues, although the pace of the recovery may be slowing. It is unclear how patterns of public life may have shifted because of pandemic- necessitated trends, like remote work and other trends, like increased numbers of downtown residents. Council could defer interim modifications to development standards to future planning processes that would be informed by more information about downtown post-pandemic activity patterns.

2. *Should the Council modify the locations where interim street-level uses would be allowed?*

Some locations proposed by SDCI for allowing additional uses were identified through neighborhood planning processes as key activity nodes and gateways. Those include the Mercer Blocks along Valley Street and Fifth Avenue in Uptown between Thomas and Denny. Those areas were excluded from Ordinance 126421. The Council could continue to exclude those areas. Alternatively, the Council could expand locations where interim uses are allowed. By contrast Ordinance 126421 allowed interim uses for most of the length of Westlake between Mercer and Denny. That area is not included in the proposed bill.

3. *Should the Council modify the types of allowable interim uses proposed by SDCI?*

Some proposed interim uses, like offices, research and development laboratories, and medical services, do not always allow walk-in customers and provide little pedestrian activation. Other proposed uses such as arts facilities and institutions may provide for some pedestrian activation. Council could modify the list of allowable uses to be more or less expansive.

4. *Should the Council delegate to the SDCI Director, as an administrative decision, the authority to allow uses that are not listed in the bill?*

Like Ordinance 126421, the bill would authorize the SDCI Director to administratively allow street-level uses that are not included on the list of allowable interim uses or are not otherwise allowed in a zone based on the criterion that a use would have a, “likelihood of attracting and increasing pedestrian activity...beyond 8 a.m. to 5 p.m...” Similar decisions about allowable uses might otherwise require an appealable administrative conditional use decision, legislative text amendment, rezone, or other regulatory decision process that requires notice, public comment, and other due process protections.

Next Steps

The Committee will hold a public hearing on CB 120771 on June 5, 2024. Committee consideration of the bill will continue in July.

cc: Ben Noble, Director
Aly Pennucci, Deputy Director