

## **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.