

MEMORANDUM

To: Councilmembers
From: Ketil Freeman, Council Central Staff
Date: April 28, 2017
Subject: Council Bill 118963 - King County Youth Services Center, Appealability of Required Land Use Decisions

On May 1, 2017, Councilmember O'Brien will introduce Council Bill 118963, which would clarify that land use decisions to waive or modify certain physical development standards for youth services centers and any integrated State Environmental Policy Act (SEPA) decision are Type II decisions that may be appealed to the City Hearing Examiner.

This memorandum (1) sets out the legislative history that prompted introduction of the bill and (2) describes what CB 118963 would do.

Legislative History

In October 2014 the Council passed and the Mayor signed [Ordinance 124610](#), which made substantive and procedural changes applicable to redevelopment of King County's youth services center located at 1211 East Alder Street. Ordinance 124610:

1. Defined "youth service centers" as a Land Use Code use;¹
2. Established that youth service centers existing as of January 1, 2013, which are also operated by King County and located in Neighborhood Commercial 3 or Lowrise 3 zones in an urban center, are uses allowed outright;² and
3. Authorized the Director of the Seattle Department of Construction and Inspections (SDCI), as a Type II land use decision, to waive or modify structure width and setback development standards, if certain urban design objectives are met.³

The Council deferred the effective date of CB 118963 to April 1, 2015, to encourage King County to perform additional outreach and an analysis of race and social justice impacts related to redevelopment of the youth service center.

On September 1, 2015, King County applied for a Master Use Permit (MUP) for redevelopment of the youth services center, [MUP 3020845](#).⁴ The application included a request to modify

¹ "Youth Service Centers: See "Jails." A youth service center means youth detention facility, holding cells, courtrooms, classroom space, a gymnasium for detained youth, and related uses, including but not limited to administrative offices and meeting rooms." [Seattle Municipal Code \(SMC\) Section 23.84A.046](#).

² [SMC Section 23.47.A.004.D.7](#) and [SMC Section 23.51A.004.B.6](#).

³ SMC Section 23.51A.004.B.6.

⁴ King County has also submitted building permit applications.

structure width and setback requirements. On December 22, 2016, SDCI published a decision on the application, which stated at the end of the decision, “[t]he appealable land use decision on your Master Use Permit (MUP) application has now been published.”

On January 4, 2017, Ending the Prison Industrial Complex (EPIC) and others appealed the SDCI decision to the City Hearing Examiner. On March 1, 2017, the City Hearing Examiner dismissed the appeal after determining that she lacked jurisdiction over the modification decision and associated decision to impose SEPA conditions.⁵ That determination was made, in part, because Ordinance 124610 did not amend [Seattle Municipal Code \(SMC\) Section 23.76.006](#) to include waiver and modification decisions for youth service centers, as a Type II decision that is subject to an administrative appeal to the Hearing Examiner. On March 13, 2017, EPIC and others filed a motion for reconsideration. On March 28, 2017, the Hearing Examiner denied the motion. On April 14, 2017, EPIC and others filed a Land Use Petition Act petition and complaint in Superior Court.

What would CB 118963 do?

CB 118963 would add decisions to waive or modify structure width and setback development standards for youth service centers to the list of Type II decisions in SMC 23.76.006 that are subject to appeal to the Hearing Examiner. This amendment would clarify that MUP decisions to waive or modify structure width or setback development standards and any associated SEPA decisions are Type II decisions that are subject to an administrative appeal to the Hearing Examiner. The bill would also make that change retroactive to April 1, 2015, the effective date of Ordinance 124610.

Next Steps

The Sustainability and Transportation Committee has scheduled an evening public hearing on the CB 118963. That hearing will occur on May 16, 2017, at 6:00 pm in Room 210 of the Seattle University Student Center, located at 901 12th Avenue on the Seattle University Campus.

cc: Kirstan Arestad, Central Staff Director

⁵ The SDCI Director’s decision, motions, and Hearing Examiner’s orders are contained in Hearing Examiner File Number MUP-17-001 available at: <https://web6.seattle.gov/Examiner/case/MUP-17-001>.