



Seattle City Council

Central Staff - Memorandum

Date: July 29, 2015
To: Planning, Land Use, and Sustainability (PLUS) Committee Members
From: Ketil Freeman and Eric McConaghy, Council Central Staff
Subject: Council Bill (CB) 118407 -- Land Use Omnibus Legislation

I. Introduction

About every other year, the Department of Planning and Development (DPD) develops an omnibus bill amending the Land Use Code (Code). Generally, the omnibus bill corrects typographical errors, corrects cross-references, clarifies existing regulations, and makes other minor amendments identified by DPD in the course of Code administration. The omnibus bill is not intended to be a vehicle for addressing significant policy issues. Inevitably, some proposed changes, however modest, are substantive and reflect policy choices for the Council.

PLUS Committee received a briefing on the bill ([Council Bill 118407](#)) on July 7 and held a public hearing on the bill and discussed the bill on July 21.

PLUS posed questions related to aspects of the bill on July 21. The questions and answers to them appear below. A description of the substitute bill that incorporates changes to the base Municipal Code into the bill and a summary of proposed amendments to the bill follow.

II. Responses to PLUS' questions

PLUS inquired about DPD's enforcement of standards regarding instances of conversion of an accessory structures to a detached accessory dwelling units. DPD responded with an example of a conversion of an existing garage to a larger structure with a dwelling unit over the replaced garage. DPD provided this example, see Attachment A, to demonstrate that DPD has approved such development using the existing Code language. DPD points to the example to support the characterization of the proposed amendment addressing conversion as only a clarification of what is allowed by current Code.

The example conversion (Project Number 6372980) is located at 5623 Kirkwood Place North. The second page of the attachment shows a schematic of the original garage and rebuilt detached accessory dwelling unit (DADU). There was a nonconformity with the current standards at issue for this project; the lot size was less than 4,000 square feet. The existing garage otherwise met yard standards.

In another instance of DPD approval of a DADU project, on the property at 4926 52nd Avenue South, the existing garage was nonconforming to yard standards and the neighbor disputed the

documentation that the applicant presented to demonstrate the extent of that yard nonconformity. DPD determined that the information provided about nonconformity was sufficient.

DPD reports that disputes with DPD about accuracy of information provided in plan review, and whether a structure was built according to approved plans, comes up in a variety of different contexts and is not limited to issues of nonconformity. DPD does not think that issues of rebuilding accessory structures as DADUs have created more problems than other types of issues relating to plan review, accuracy of applications, and construction according to approved plans.

PLUS also expressed interest in knowing more about the possible unintended consequences of a change to the Code in the omnibus bill that would allow single-family (SF) residences in Lowrise (LR) zones to have a density exemption, if built green. DPD reports only one example of an actual project proposal that would fit this situation. The project was located at 2323 E Denny Way (Project Number 3015294) and would have required a variance from the standard. Permits records show that the applicant ultimately received a building permit for a two-unit rowhouse, allowed under the current standards.

DPD notes that if the change is made to the Code, then there would be a possibility that redevelopment of some small lots in LR zones could be with SF residences instead of multifamily (MF) projects. DPD reports that the number would be small since only existing small lots are eligible.

Both SF and MF uses are permitted in the LR zones. There are no density limits for rowhouses in LR zones and no density limits for townhouses and apartments built to green building performance standards in LR2 and LR3 zones.

DPD proposed, in the omnibus bill, a change to the vesting date for a Master Use Permit (MUP) that includes a design review component for which more than one early design guidance public meeting (EDG) is held (Section 23.76.026.C). The change would make vesting for projects with more than one EDG meeting to be the same as vesting for projects that have only one EDG meeting, that is, effective the date a complete application for the early design guidance process is submitted to the DPD Director. See the table below.

EDG	Current Vesting	Proposed Change in Vesting	Provided...
One meeting	date of EDG application	n/a	Master Use Permit (MUP) application is filed within 90 days of the EDG meeting
More than one meeting	date of first EDG meeting	date of EDG application	MUP application is filed within 150 days of the first EDG meeting

On the topic of vesting, PLUS posed four questions; they follow with answers from DPD:

1. *With regard to vesting, what is common amount of the time between application for EDG and the first EDG meeting (weeks or months)?*

DPD reports that the average time interval between application for EDG and the first EDG meeting is between 6 and 7 weeks.

2. *What are DPD’s goals for the time between application and the first EDG meeting, and average times per design review districts?*

DPD reports that the goal for the time between application and the first EDG meeting is about six weeks. See the table below for average times between application and first EDG meeting per design review district.

Days per from application to first EDG meeting¹

<i>Design Review District</i>	<i>Average days per District</i>
Northwest	42.8
Northeast	49.5
West	51.5
Southeast	46.5
Southwest	43.1
Downtown	44.3
East	48.1

Seattle Design Review Districts²



3. *Can DPD provide a count of instances of developers choosing to follow a different design review track upon getting feedback in design review that they don’t find congenial (switch from voluntary design review to none or to administrative design review)?*

DPD reports that it is very rare that an applicant has a choice regarding what type of design review is required. DPD staff is aware of only two instances in the past few years when significant changes were made to the type of design review for projects.

¹ Source: Seattle DPD, January 1, 2013 to July 24, 2015

² Source: <http://www.seattle.gov/dpd/aboutus/whoweare/designreview/boards/default.htm>

In one case, the change was from voluntary, administrative design review to no design review and in the other case, the change was from full design review to adjustments under streamlined design review. One instance was for property zoned Lowrise 2 (LR2) and Commercial 2 and the other was for property zoned LR2. In both cases, the applicants started by electing to go through design review, but due to controversy, decided to make the change.

4. How many projects go through voluntary design review processes (number and percentage)?

DPD reports that it is very rare for applicants to voluntarily choose to go through design review; perhaps, no more than one project per year.

III. Substitute Bill and proposed amendments to Council Bill 118407

The substitute bill incorporates recent changes to the Municipal Code that resulted from the passing of Ordinances 124770 and 124803. These ordinances made changes to some sections of the code that are also addressed by the omnibus bill. The changes are technical; they are meant to bring the base code of the bill up-to-date.

Central Staff expects that PLUS members will offer some proposals to amend the omnibus bill. Two amendments would remove proposed changes to the Code that would:

- grant greater flexibility for development proposals to meet standards for locating parking behind structures and for locating access along rear lot lines in multifamily zones in return for FAR bonuses and
- remove the requirement for public comment as part of the one-year review of major public project construction variances from noise standards

An additional amendment would modify proposed changes to the Code, already included in the bill, to provide for design review thresholds to address the segmenting of adjacent projects in order to avoid Design Review.

IV. Next Steps

PLUS Committee will continue discussion of the bill on August 4 with a possible vote on a recommendation to Full Council.

Attachment A: Garage Conversion to DADU Example