

February 1, 2023

MEMORANDUM

To: Transportation & Seattle Public Utilities Committee
From: Lish Whitson, Analyst
Subject: CB 120506: Dunn Lumber Term Permit

On February 7, 2023, the Transportation & Seattle Public Utilities Committee (Committee) will receive a briefing on [Council Bill \(CB\) 120506](#). The bill would grant final approval to Dunn Lumber Company to place a private communication conduit under Latona Avenue NE, between NE Northlake Way and NE Pacific Street (Council District 4).

Conditional conceptual approval for the term permit was granted under [Resolution 32053](#) on May 24, 2022. The Seattle Department of Transportation (SDOT) has negotiated the provisions of CB 120506 to provide for a term permit that is consistent with the conditions of Resolution 32053. The proposed bill would approve the permit for an initial 15-year term, which could be renewed once for a total term of up to 30 years.

This memorandum summarizes the term permit approval process and describes the conditions of approval under the proposed bill.

Significant Structure Term Permits

[Seattle Municipal Code Chapter 15.65](#) establishes the procedures and criteria for approval of term permits for significant structures. 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 utility, pedestrian, or vehicular access; privately maintained public plazas located in the right-of-way; and overhead structures attached to buildings.

[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 other 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 Director of SDOT reviews the term permit petition and determines that approval is appropriate, SDOT transmits a recommendation to the City Council for conceptual approval. Council's review of the proposal considers the ten items noted above 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.

Conceptual approval allows the petitioner to proceed with developing final construction plans. If SDOT determines that the construction plans are consistent with the Council's approval or conditional approval, SDOT forwards a bill to the Council for its final decision to grant or deny the application for a proposed new structure permit. Council's decision to grant or deny the application must be grounded in whether the final plans are consistent with the conditional approval.

Dunn Lumber Communication Conduit

Dunn Lumber Company seeks to place a communication conduit under and across Latona Avenue NE. The proposed conduit would allow for private communication between Dunn Lumber Company's facilities, including a new warehouse to be constructed at the at 3800 Latona Avenue NE. The conduit would be wholly underground while within the street right-of-way.

SDOT has determined that Dunn Lumber has met the following conditions from Resolution 32053 and recommends that the Council adopt the bill, granting final approval for a term permit to Dunn Lumber, allowing them to install the communication conduit under Latona:

1. Provide engineering and utility plans for additional review and permitting by the Seattle Department of Transportation ("SDOT"), which the Director of SDOT ("Director") will circulate to other City departments and any public and private utilities affected by the installation of the Communication Conduit;
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 Communication Conduit; and

6. Remove the Communication Conduit and restore the right-of-way to in as good condition for public use as existed prior to construction of the Communication Conduit 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 the provisions of the term permit ordinance.

Dunn Lumber has met conditions 1 through 4. Provisions in the bill would ensure that Dunn Lumber would meet conditions 5 and 6 if the bill is adopted.

Next Steps

The Committee is anticipated to consider and may vote on the proposed bill at its February 7 meeting. The bill could be considered by the City Council as early as February 14.

cc: Esther Handy, Director
Aly Pennucci, Deputy Director
Yolanda Ho, Supervising Analyst