



# Seattle City Council

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## Central Staff - Memorandum

**Date:** August 13, 2014  
**To:** PLUS Committee  
**From:** Aly Pennucci, Council Central Staff  
**Subject:** CB 118429 - Seattle Mixed (SM) Zone Proposed Legislation

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### **Overview**

The Seattle Mixed (SM) zone classification guides development primarily through provisions that address design, size, and shape of a building or a piece of land. This contrasts with other zone classifications that typically focus more on the use of a building. The SM zone has typically been used in: areas that are transitioning from industrial to a mix of residential and commercial uses, areas where the desire is to move from auto-oriented to transit-supportive uses, and where higher densities are desired.

Since the SM zone was first applied in the South Lake Union (SLU) area, the City has amended the zone to accommodate additional growth and promote a greater mix of uses including retail, biotech and a variety of residential uses in SLU. In addition, the zone has been applied in the Interbay-West Dravus and North Rainier-Mt. Baker areas. Currently, the SM zone is being evaluated for use in the University District and the Rainier Beach neighborhoods.

On August 4th, 2015, the Planning, Land Use, and Sustainability (PLUS) Committee discussed CB 118429. On August 18, 2015, the PLUS committee will hold a public hearing and its second discussion of CB 118429, which would make the following amendments to SMC Chapter 23.48 Seattle Mixed (SM) to:

- Create a new structure and zone naming convention, easing implementation and understanding of this code chapter;
- Clarify provisions, correct references, address errors and omissions and update standards - largely from the 2013 rezone for South Lake Union (SLU); and
- Establish a format that allows areas to be rezoned to SM in a more consistent manner.

### **Identified Issues:**

At the PLUS meeting on August 18, staff will ask the Committee to provide direction on amendments they would like to see incorporated into CB 118429 before the legislation is brought to a vote. Central Staff prepared the following decision agenda to help guide that conversation. At the meeting, Committee members may also want to propose additional amendments that are not discussed in this memorandum. Please note that no votes on specific

legislative language will be taken on August 18.

**Issue #1: Floor area limits for residential towers on lots less than 21,000 square feet**

Current floor area limits for residential towers that exceed the base height in the SM zone in SLU range from a maximum of 10,500 square feet to 12,500 square feet (varies based on the maximum height permitted), or 50 percent of the lot area, whichever is less. For smaller lots (under 21,000 square feet) applicants have indicated that this requirement is an obstacle to developing slender residential towers that are planned for and desired in SLU.

CB 118429 would allow residential tower development on lots less than 21,000 square feet to request a Design Review departure to increase the tower’s footprint from 50 percent of the lot area to 75 percent of the lot area. At the PLUS committee briefing on August 4th, a question was raised about how this proposal may impact work that is underway to consider implementing a mandatory inclusionary Housing<sup>1</sup> (MIH) program that was included in the Housing Affordability and Livability Agenda (HALA) recommendations.

Options	Considerations
<p>1. Do not allow for a departure for small lots to increase a residential towers footprint from 50 percent of the lot area to 75 percent of the lot area at this time. Include this with other potential changes when and if a MIH program is proposed.</p>	<ul style="list-style-type: none"> <li>• In order to implement a MIH program a “jurisdiction shall provide increased residential development capacity through zoning changes, bonus densities, height and bulk increases, parking reductions or other regulatory changes or other incentives.”<sup>2</sup> The current thinking is, as part of a MIH program, to allow residential floor plates (in areas where towers are allowed) to be 1000 sf larger in exchange for a yet-to-be-determined percentage of affordable housing on site or via an in lieu payment.</li> <li>• Because of the limit on the size of residential floor plates in towers, only lots that exceed 21,000 square feet would be provided with increased residential development capacity through the contemplated MIH zoning change to increase allowable floor plate size.</li> <li>• If the proposed amendment (increasing allowable tower footprint to 75%) is packaged with a MIH proposal, it could allow more small lots to use the floor plate size increases contemplated as part of the MIH program.</li> <li>• If the departure is not made available now development of residential towers on some sites,</li> </ul>

<sup>1</sup> Mandatory inclusionary housing is a program whereby residential developers are required to set aside some percentage of affordable units in a project or pay a fee in-lieu of providing those units. Such programs are authorized under the Growth Management Act.

<sup>2</sup> [RCW 36.70A.540\(3\)\(b\)](#)

	including participation in the existing Voluntary Incentive Zoning program, would not be able to proceed in the near term.
2. Allow for the departure now, documenting that this change to provide increased residential capacity for smaller sites is a component of the framework for a future MIH program as applied to lots under 21,000 square feet in the SM-SLU zone.	<ul style="list-style-type: none"> <li>• If a departure is made available now, any project that vests between when this change is adopted and when a MIH program is implemented, would not be subject to the MIH requirements.</li> </ul>

***Issue #2: Incentive zoning provisions in South Lake Union – providing a public amenity versus participating in the regional transfer of development rights program***

Council has been asked to consider an amendment to CB 118429 to allow a project to incorporate a public hill climb and overlook as a public benefit rather than obtaining regional development credits. Under the current code, as part of the Voluntary Incentive Zoning program, 40 percent of extra residential floor area would be obtained by acquiring regional development credits and 60 percent would be obtained using bonus residential floor area for affordable housing.

In 2013, the City entered into an interlocal agreement with King County where, in exchange for implementing the Regional TDR program, the City is entitled to receive a percentage of property tax revenue from new development occurring in the Local Infrastructure Project Area (LIPA) for up to 25 years. This funding is contingent on meeting certain thresholds over time.

In consulting with King County Staff, they estimated that approximately 100 credits have been purchased through the program to date. The program is currently on track to meet the specified thresholds outlined in the interlocal agreement; however, fluctuations in the development market could impact this over the potential 25 year time horizon.

<b>Options</b>	<b>Considerations</b>
1. No change	<ul style="list-style-type: none"> <li>• Not allowing a modification to the incentive zoning requirements for this area would prioritize participation in the TDR program.</li> </ul>

<p>2. Amend CB 118429 to allow 20 percent of residential floor area to be obtained through the provision of a public amenity (and continue to require that 20 percent be obtained by participating in the regional TDR program and 60 percent is obtained by using bonus residential floor area for affordable housing).</p> <p>This could include specific development standards that:</p> <ul style="list-style-type: none"> <li>• Specify location or site conditions where this would apply to limit the application to areas identified by the community as appropriate for pedestrian access, a public view point and/or hill climb</li> <li>• Require a pedestrian path through the site that is: accessible from the street connecting to the adjacent streets, open to the sky and accessible 24 hours</li> <li>• Require access for persons with disabilities throughout the entire amenity area</li> <li>• Provide a public viewpoint</li> <li>• Include landscaping and furnishings</li> <li>• Meet the standards outlined in 23.58A.040.C.4 Standards for open space amenities.</li> </ul>	<ul style="list-style-type: none"> <li>• Allowing an exception for a single or limited number of projects may not undermine the City’s ability to achieve the maximum property tax revenue, however, it could compromise the interlocal agreement. King County staff expressed concern about any amendments that might reduce participation in the program. Further, as the HALA recommendations are considered there may be a need to revisit the TDR program; making changes that impact the program at this time may make those later negotiations more challenging.</li> <li>• This may encourage other project teams to pursue similar exemptions.</li> </ul>
<p>3. Amend CB 118429 to allow 40 percent of residential floor area to be obtained through the provision of a public amenity (and continue to require that 60 percent is obtained using bonus residential floor area for affordable housing).</p> <p>This could include the specific development standards outlined above and:</p> <ul style="list-style-type: none"> <li>• Require a publically accessible hill climb assist<sup>3</sup> that includes a continuous and direct route through the site connecting the parallel blocks; accessible from the street,</li> </ul>	<ul style="list-style-type: none"> <li>• Because this would allow a project to opt out completely from the regional TDR program, the potential to compromise the agreement with King County may increase.</li> <li>• This may encourage other project teams to pursue similar exemptions.</li> </ul>

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<sup>3</sup> "Hillclimb assist" means an amenity feature consisting of a pedestrian corridor that incorporates a mechanical device or combination of mechanical and non-mechanical features to connect avenues across lots with slopes of ten (10) percent or more to aid pedestrian movement up and down the slopes.

<p>includes a mechanical conveyance for accessibility<sup>4</sup></p> <ul style="list-style-type: none"> <li>• Require minimum width of hill climb (similar to mid-block corridor requirements) such as the average width of the stairway must be at least 25 feet, and its minimum width must be at least 15 feet; and</li> <li>• Require a minimum size for the “public outlook” area and accessibility standards;</li> </ul>	
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**Issue #3: Parking Maximums in the SLU area**

Maximum parking requirements limit the number of parking spaces a developer can provide. Parking maximums for nonresidential uses were established in 2013 in the SM zoned areas of SLU. Establishing parking maximums was one of the mitigation strategies recommended in the “South Lake Union Height and Density Alternatives – Final Environmental Impact Statement”, to substantially reduce vehicle trip generation. Projects subject to a parking maximum have the option of requesting a special exception to waive the maximum parking requirements.

Central staff reviewed the 19 identified nonresidential projects that have applied for land use approvals since maximum parking standards were established in 2013.

- Six of the 19 projects (32 percent) have requested a special exemption to the parking requirements; all six have been granted the exception. This has resulted in approval of 908 additional parking spaces.
- Three of the 19 projects are in the early design phase but will likely pursue an exemption based on their current proposals (bringing the total projects that have or will use the exception to 47 percent of all nonresidential projects, translating to 1,100 additional parking spaces).
- Projects that have been granted exceptions exceed the maximum by 35-42 percent.
- Staff also reviewed 10 nonresidential projects that were approved prior to implementation of parking maximums in 2013; of those 10 projects, seven would have required a special exception based on the amount of parking that was provided.

Parking maximums are also established in downtown zones where there is also an option to request a special exception to the parking maximums. However, staff could not identify any recent projects in downtown that have pursued a special exception.

Options	Considerations
1. No change	<ul style="list-style-type: none"> <li>• Continuing to allow exemptions to the parking maximums for nonresidential uses is likely to see exceptions granted at a similar rate that we are seeing today. Reducing vehicular trips and shifting modal choices is undermined by continuing to</li> </ul>

<sup>4</sup> See page 12 of this linked document for more details on standards to include:  
[http://www.seattle.gov/dpd/cs/groups/pan/@pan/documents/web\\_informational/dpdp025792.pdf](http://www.seattle.gov/dpd/cs/groups/pan/@pan/documents/web_informational/dpdp025792.pdf)

	<p>provide parking above the maximums.</p> <ul style="list-style-type: none"> <li>The EIS highlighted that there will be short-term parking impacts related to an imbalance between supply and demand. However, the report continued that “while reduced supply will create a short-term shortage in parking spaces, over time prices will adjust and some drivers will switch to other modes.” This shift to other modes is one of the primary goals of the travel demand management mitigation measures.</li> </ul>
2. Eliminate the special exception to waive the parking maximums in SM-SLU zones.	<ul style="list-style-type: none"> <li>As noted above, establishing parking maximums is one of the mitigation strategies. Eliminating the option to increase the amount of parking will ensure that all projects contribute to this strategy.</li> <li>While eliminating the special exception would go further to promote the strategy outlined above, certain uses, like a neighborhood serving grocery store, may be unlikely to locate in the neighborhood if no flexibility is available.</li> </ul>
3. Limit the availability of the special exemption. Special exemptions could continue to be available within limits such as: <ul style="list-style-type: none"> <li>Exclude office uses or allow exceptions for only retail uses.</li> <li>Limit the amount of the exception (i.e. to 20 percent above the maximum)</li> </ul>	<ul style="list-style-type: none"> <li>Placing some restrictions on when a special exception can be granted would continue to allow some flexibility for certain uses while limiting the impact in the area.</li> </ul>

**Issue #4: Transparency Requirements**

Council recently adopted new language in Neighborhood Commercial zones to clarify transparency requirements to assist DPD code compliance in enforcing these standards. This change addresses concerns that have been raised around street-level commercial spaces that are blocking windows with furniture or other fixtures or window treatments that completely block views into or out of the structure. There is an opportunity to make this language consistent in the SM Zone.

<b>Options</b>	<b>Considerations</b>
1. No change	<ul style="list-style-type: none"> <li>The current rules for transparency have not provided sufficient direction in the past to make sure that transparency is maintained in new construction.</li> </ul>
2. Modify transparency requirements in SM	<ul style="list-style-type: none"> <li>Transparency is important to the</li> </ul>

<p>zones so the language is consistent with NC zones that are aimed at ensuring a greater level of compliance with transparency requirements.</p> <p>The change would prohibit installations that will completely block views at eye level but still allow for sales displays and other fixtures, provided that one can still see into and out around such features. This would continue to allow stores flexibility in designing these spaces while also providing better street-level activation and more eyes on the street.</p>	<p>strength and safety of business districts. Customers to a business district are attracted and interested in window-shopping by seeing into businesses and seeing other people in those businesses. Business owners and employees being able to see out of a business contribute to safety on the street outside of the business.</p>
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***Issue #5: Clean up and clarification changes***

In addition to the issues outlined above, staff has identified a few additional typos, referential errors and language that could be clarified. Central Staff will provide a revised version of the bill that incorporates these corrections at the September 15<sup>th</sup> meeting.

**Next Steps**

On September 15, Central Staff will provide a revised version of the Council Bill reflecting the Committee’s intent as expressed on the issues above, as well as any other issues raised in the discussion, for a potential Committee vote.