



Seattle City Council

Central Staff - Memorandum

Date: September 15, 2015
To: PLUS Committee
From: Aly Pennucci, Council Central Staff
Subject: Seattle Mixed Zone Proposed Bill (CB 118429)

Overview

On August 4th, 2015, the Planning, Land Use, and Sustainability (PLUS) Committee discussed CB 118429, which would make the following changes to SMC Chapter 23.48:

- 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.

On August 18, 2015, the PLUS committee held a public hearing and its second discussion of CB 118429. This memo describes possible amendments to CB 118429 and provides additional information requested by the committee.

Substitute bill:

Staff has identified a few additional typos, referential errors and language that could be clarified. Attachment 1 is a substitute bill that shows the changes in the revised version of the bill.

Option A: Adopt the substitute bill.

Option B: Adopt the Executive's proposal (no change)

Committee direction regarding the substitute bill:

Proposed Amendments

The committee is considering the following amendments:

Amendment 1: Incentive zoning provisions in South Lake Union – providing a public amenity versus participating in the regional transfer of development rights program

The committee expressed interest in an amendment to allow a project to incorporate a public hill climb/mid-block corridor and viewpoint as a public amenity to obtain extra floor area. The

proposed mid-block corridor (that includes stairs and an elevator) will connect a portion of vacated John Street between Terry Ave N and Boren Ave N, and would provide a public viewpoint.

Under the current code, as part of the Voluntary Incentive Zoning (IZ) program, a project may obtain 40 percent of bonus residential floor area by acquiring regional development credits and 60 percent of bonus residential floor area by building or providing for affordable housing.

In 2013, the City entered into an interlocal agreement with King County where, in exchange for implementing the regional development credits 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 (800 credits total over 25 years). 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 25-year time horizon.

This amendment would allow 20 percent of the bonus residential floor area to be obtained through the provision of a public amenity while continuing to require that 20 percent be obtained by participating in the regional development credits program and 60 percent be obtained by building or providing for affordable housing. There are two options for the committee to consider outlined below that would make changes to SMC 23.48.021. Option B would require that a project meets the following requirements:

- be located on a lot with slopes of ten percent or more, and the lot is located in the area bound by Thomas St to the north, Denny Way to the south, Terry Ave N to the west and Boren Ave N to the east.
- be open to the public and accessible to persons with disabilities;
- be consistent with the requirements in the Downtown Amenity Standards;
- provide a continuous direct route across the block connecting parallel Avenues;
- incorporate a mechanical conveyance, such as an elevator, for conveying pedestrians up the vertical distance between the elevations of the two avenues it connects; and
- provide public viewpoint that must be designed to take advantage of public views of significant natural and human-made features

Options	Considerations
<p><u>Option A:</u></p> <p>Adopt the Executive’s proposal (no change)</p>	<p>Not allowing a modification to the incentive zoning requirements for this area would prioritize participation in the TDR program.</p>

<p><u>Option B:</u></p> <p>Amend the Executive’s proposal as shown in Attachment 2 to allow 20 percent of bonus residential floor area to be obtained through the provision of a public amenity to include a mid-block corridor, elevator and a public viewpoint.</p>	<p>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 and may encourage other project teams to pursue similar modifications in the future.</p>
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Committee direction regarding changes to incentive zoning provisions in South Lake Union:

Amendment 2: Special exceptions to parking maximum requirements in the SLU area

The committee expressed interest in an amendment to eliminate the special exception to parking maximums in SM-SLU zones or to limit the availability of the special exemption to parking maximums in SM-SLU zones for general sales and services uses.

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 to substantially reduce vehicle trip generation in the “South Lake Union Height and Density Alternatives – Final Environmental Impact Statement”. Projects subject to a parking maximum have the option of requesting a special exception to waive the maximum parking requirements. There are three options for outlined below for the committee to consider that would make changes to SMC 23.48.280.

Options	Considerations
<p><u>Option A:</u></p> <p>Adopt the Executive’s proposal.</p>	<p>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 provide parking above the maximums.</p>
<p><u>Option B:</u></p> <p>Amend the Executive’s proposal as shown in Attachment 3.1 to eliminate special exceptions for maximum parking requirements.</p>	<p>Eliminating the option to increase the amount of parking will ensure that all projects contribute to this mitigation strategy, but, may make certain uses, like a neighborhood serving grocery store, less likely to locate in the neighborhood if no flexibility is available.</p>
<p><u>Option C:</u></p> <p>Amend the Executive’s proposal as</p>	<p>Placing some restrictions on when a special exception can be granted would continue to allow some</p>

<p>shown in Attachment 3.2 to limit the availability of the special exemption to the requirements for parking maximums to multipurpose retail sales uses (examples of multipurpose retail sales include grocery, hardware, drug, variety stores, and farmers' markets).</p>	<p>flexibility for certain uses while limiting the impact in the area.</p>
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Committee direction regarding changes to special exceptions to parking maximum requirements in the SLU area:

Amendment 3: Transparency requirements

The committee expressed interest in an amendment to modify transparency requirements in SM zones to make the language consistent with Neighborhood Commercial (NC) zones that are aimed at ensuring a greater level of compliance with transparency requirements. Council recently adopted new language in NC zones to clarify transparency requirements to assist DPD code compliance staff in enforcing these standards. There are two options for the committee to consider outlined below that would make changes to SMC 23.48.040.

Options	Considerations
<p><u>Option A:</u> Adopt the Executive’s proposal (no change)</p>	<p>The current rules for transparency have not provided sufficient direction in the past to make sure that transparency is maintained in new construction.</p>
<p><u>Option B:</u> Amend the Executive’s proposal as shown in Attachment 4 to make the transparency requirements in SM zones consistent with NC zones</p>	<p>Transparency is important to the strength and safety of business districts. 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.</p>

Committee direction regarding changes to Transparency requirements in the SLU area:

Amendment 4: Floor area limits for residential towers on lots less than 21,000 square feet

Current floor area maximums for residential towers that exceed the base height in the SM zone in SLU range from 10,500 square feet (sf) to 12,500 sf, varying 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 were planned for in SLU.

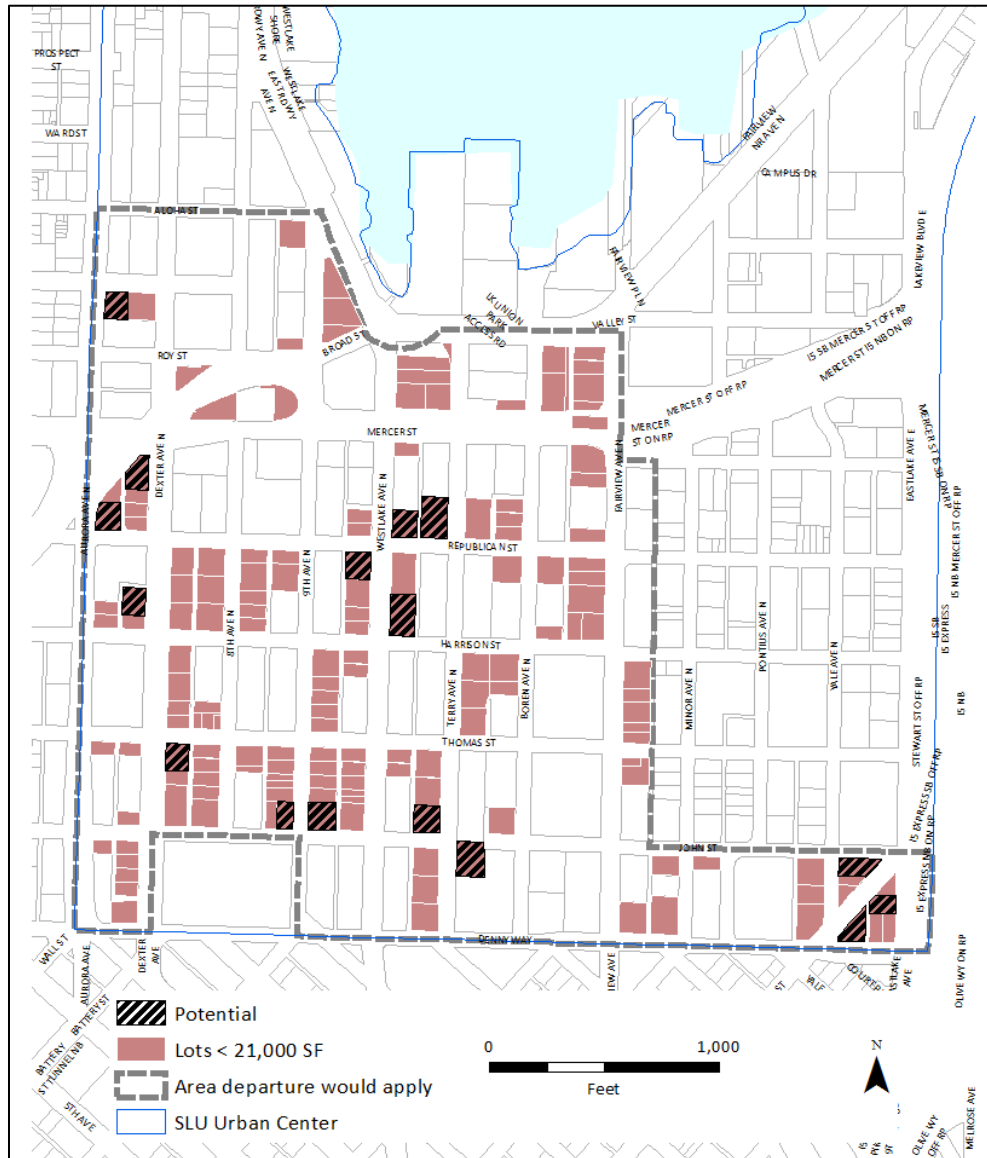
CB 118429 would allow residential tower development on lots less than 21,000 square feet to request a Design Review departure to increase the maximum footprint of a residential tower from 50 percent of the lot area to as much as 75 percent of the lot area. During the PLUS committee discussion on August 18th, the committee asked staff to prepare additional information regarding the number of parcels that would be eligible for the proposed departure; how a development that uses this departure would contribute to affordable housing in Seattle under the current Incentive Zoning (IZ) program; and how the contribution might change if the MIH program is implemented.

Eligible lots

On Map A (below), staff identified all lots with less than 21,000 square feet of lot area in SLU where residential towers are subject to a floor area limit; 162 lots were identified. Of these lots, staff found 16 lots that are most likely to take advantage of the proposed departure. Lots that were eliminated possess one or more of the following characteristics:

- are developed and unlikely to redevelop in the near-term
- have a height limit \leq 85 feet
- are currently under construction
- have a MUP Issued
- are in Design Review, and have not expressed interest in using the proposed departure
- are less than 8,000 square feet (even with a 75% departure lots of this size are unlikely to build a tower)

Map A: Sites eligible for proposed departure



Incentive Zoning (IZ) and Mandatory Inclusionary Housing (MIH) implications

Under the current code, as part of the IZ program, bonus residential floor area above the base height limit may be achieved in exchange for contributing to affordable housing and by purchasing regional development credits (60 percent of the additional floor area would be obtained by providing or contributing to affordable housing, 40 percent would be obtained by purchasing regional development credits). For the affordable housing portion, developers can either build affordable housing as part of their projects or make a contribution of \$22.35 per gross square foot (in downtown and in SLU) to the City to fund new affordable housing.

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.”¹ As described in the HALA recommendations, as part of a MIH program, the additional capacity would be achieved by allowing residential floor plates (in areas where towers are allowed) to be 1,000 square feet larger in exchange for a yet-to-be-determined percentage of affordable housing on site or via an in lieu payment.

Table 1 (below) provides some details about what the potential payments for affordable housing could be under the existing voluntary IZ program compared to the potential MIH program, assuming that the increased residential development capacity is either 1,000 sf per floor above the base height or the additional floor area gained through the departure. This analysis also assume that the payment option for the contribution to affordable housing continues at a rate of \$22.35 per sf. The example project is based on a a 12,000 sf lot with a 240 foot height limit built to the maximum height and floor area.

Table 1*:

IZ Program				
	AH Payment	TDR Credits		
Built to base	\$0	0		
Tower, no departure (90k SF added)	\$1,206,900	22		
Tower, with departure (135k SF added)	\$1,810,350	33		
MIH Program -departure is the added capacity				
	MIH AH Payment	IZ AH Payment	TDR Credits	Total AH Payment
Built to base	\$ 1,005,750	\$0	0	\$1,005,750
Tower, no departure (90k SF added)	\$ 1,005,750	\$1,206,900	22	\$2,212,650
Tower, with departure (135k SF added)	\$ 1,005,750	\$1,206,900	22	\$2,212,650
MIH Program -1,000 sf/floor above base is the added capacity				
	MIH AH Payment	IZ AH Payment	TDR Credits	Total AH Payment
Built to base	\$335,250	\$0	0	\$335,250
Tower, no departure (90k SF added)	\$335,250	\$1,206,900	22	\$1,542,150
Tower, with departure (135k SF added)	\$335,250	\$1,810,350	22	\$2,145,600

Assuming that in the MIH program, the extra floor area added through the proposed departure, or the 1,000 sf per floor above the base height, is obtained only through providing or contributing to affordable housing (no 60/40 split):

- If the departure is made available immediately using the existing Voluntary Incentive Zoning Program, the contribution to affordable housing per project could be increased up to 50% (if the capacity is maximized).

¹ [RCW 36.70A.540\(3\)\(b\)](#)

- If the departure is included as part of the MIH program, then the contribution to affordable housing is 10-20 percent higher than if the departure is granted today.
- If the existing Voluntary Incentive Zoning Program is amended to require that the extra floor area gained through the departure is achieved by building or providing for affordable housing, rather than the 60/40 split between affordable housing and regional development credits, then the payment to affordable housing is the same as what it could be under the MIH program if the rate remains the same; if the MIH program increase the rate the payment today would be lower.
- Under the existing IZ program, buildings do not contribute to affordable housing if the project does not exceed the base height; under MIH there would be a contribution whether the extra capacity is used or not.

Council staff has prepared four options for the PLUS committee to consider:

Options	Considerations
<p><u>Option A:</u> Adopt the Executive’s proposal</p>	<p>If a departure is made available now, any project that vests between when this change is adopted and when/if a MIH program is implemented, would not be subject to the MIH requirements, but, it may make some sites more likely to participate in the existing IZ program.</p>
<p><u>Option B:</u> Amend the Executive’s proposal, as shown in attachment 5.1, to remove the departure that would allow for projects on lots less than 21,000 sf to increase the maximum footprint of a residential tower from 50 percent of the lot area to 75 percent of the lot area at this time. Direct DPD to consider including this option with other potential changes when and if a Mandatory Inclusionary Housing (MIH) program is proposed.</p>	<p>If the proposed departures is not made available now, and instead is packaged with a MIH proposal, it would be clear that this added capacity is linked to the MIH program.</p> <p>If the departure is not made available now some projects may move forward with smaller buildings that would not include participation in the existing IZ program.</p>
<p><u>Option C:</u> Amend the Executive’s proposal, as shown in attachment 5.2, to require that the extra residential floor area gained through the departure is achieved by building or providing for affordable housing rather than the 60/40 split between affordable housing and regional development credits.</p>	<p>This would ensure that any added capacity given today is paid for only through providing or contributing to affordable housing</p> <p>If this capacity is added today, it may require additional capacity is provided if an MIH program is implemented.</p>
<p><u>Option D:</u> Amend the Executive’s proposal to limit</p>	<p>This option would decrease the number of eligible. For example, if the limit was based</p>

<p>where the departure would be available. This could be achieved by:</p> <ul style="list-style-type: none"> • limiting the geographic area where the departure would be available, such as: only lots under 21,000 square feet in the South Lake Union Seaport Flight Corridor or only lots in SLU between Aurora Ave N and Dexter, etc.); • decreasing the 21,000 square foot lot size (i.e. departure would only be available to lots less than 14,000 square feet). 	<p>on the flight corridor, only one lot is likely to be eligible.</p>
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Committee direction regarding floor area limits for residential towers on lots less than 21,000 square feet:

Final Committee Action

If the Committee approves any of these amendments, then I will prepare a new version of the bill incorporating the Committee’s proposed amendments. Any of amendments, if approved by the Committee, were not originally analyzed in the Executive’s proposal, and where therefore not subject to public notice. If the Committee makes any of these amendments, an additional public comment period is required under the Growth Management Act. I will prepare a public comment notice, and the first date that the Full Council would be able to act on the amended bill would be October 5th.

Options for PLUS Committee action on Council Bill 118429.

- Option A:** Recommend adoption of Council Bill 118429, as proposed by the Executive.
- Option B:** Recommend adoption of Council Bill 118429, as amended by the Committee, or adoption of a substitute bill, as appropriate.
- Option C:** Recommend that the Council not pass Council Bill 118429.

Final committee direction on Council Bill 118429: