

DIRECTOR'S REPORT AND RECOMMENDATION

2017-2018 Omnibus Ordinance

November 30, 2017

Introduction

The Seattle Department of Construction and Inspections (SDCI) is responsible for routine maintenance of the Land Use and other codes. The proposed amendments are called “omnibus” amendments because SDCI packages a collection of amendments for efficiency that are relatively small scale. Such amendments include correcting typographical errors and incorrect section references, as well as clarifying or correcting existing code language. Following is a section-by-section description of the proposed amendments. Where the only changes are minor grammatical corrections to existing language or corrections of typographical errors, the descriptions are limited or omitted.

22.206.130 Housing Code – Habitable Buildings - Minimum Fire and Safety Standards – Requirements

The reference to “subsection 22.206.130.A” that was added (as part of a format change, or to make it “match” the reference right above it to subsection A) should not have been added; it renders the provision meaningless, since subsection A applies to stairways and has no application to exiting. The provision was meant to ensure that exiting complied with the whole section 22.206.130, not to subsection A only. The provision is meant to require exits to comply with all exit requirements and not only with the requirements for stairways.

23.22.059 Subdivisions – Preliminary Plat Process – Shoreline District

The proposed new Code section would add cross references to the Shoreline regulations for full subdivisions, stating that plats must comply with Section 23.60A.156, standards for environmentally critical areas in the Shoreline District, and Section 23.60A.168, Standards for lot boundary adjustments, short subdivisions and subdivisions. This clarification reminds the reader of the platting regulations to also review the Shoreline Code.

23.24.040 Short Plats – Criteria for approval

The proposed amendments would add cross references to the Shoreline regulations for short subdivisions, similar to the discussion under proposed new Section 23.22.059 for full subdivisions.

23.28.020 Application for approval of lot boundary adjustment

Subsection numbering 1-4 is changed to lettering A-D to follow style convention.

23.28.030 Lot boundary adjustments - Criteria for approval

The proposal would clarify existing cross referencing to the Shoreline Code and add the cross references to the Shoreline regulations for lot boundary adjustments, similar to the discussion under proposed new Section 23.22.059 and existing Section 23.24.040 for approval of full subdivisions and short subdivisions.

23.30.020 Zone boundaries

The proposal changes a cross reference to the Lake Union Construction Limit Line from former Section 23.60.014 to current Shoreline Code Section 23.60A.016.

23.41.004 Design Review – Applicability

The proposed changes fix an unintentional omission and error to the footnotes in Table A for 23.41.004 when two amendments to Council Bill 119057 (which became Ordinance 125429) were adopted. Council's intent was to allow projects that elect the Mandatory Housing Affordability (MHA) performance option to be reviewed through an administrative design review process by adding a footnote to the thresholds table for Design Review in 23.41.004. Adoption of the amendments resulted in errors in the footnote and in one location of the table.

23.41.012 Design Review – Development standard departures

Street-level uses are required in various zones, and subsection 23.41.012.B.2 appears to provide for departures in any of them. However, subsection 23.41.012.B.34 constrains these departures much more specifically, in certain zones. This clarification would cross reference to subsection B.34.

23.42.040 Intermittent, temporary and interim uses

Changes a cross reference to the former Shoreline Code, Section 23.60.023, found in subsection 23.42.040.F, to the analogous current Shoreline Code Section 23.60A.209.E.

23.42.048 Configuration of dwelling units

Existing language for Section 23.42.048 references the building code but uses different language from the building code to describe standards for Small Efficiency Dwelling Units (SEDUs), which is confusing. The building code and Director's Rule 9-2017 require a SEDU to have a minimum living room (one room) exclusive of kitchen and bath of 150 square feet. The Land Use Code requires a SEDU to have a sleeping room of no less than 150 square feet. Additionally, the building code requires an additional 55 cubic feet of storage outside of the living room. This is not excluded from the net area calculation in the code. The proposal is to align the Land Use Code language to match the building code by deleting references to sleeping rooms and replacing with "living" room. Further, a phrase would be added to provide SDCI specific authority to promulgate a rule to make clear that if a unit meets the building code standards, it is treated like a SEDU for Land Use Code purposes as well.

23.44.006 Residential, Single-Family – Principal uses permitted outright

Various provisions in the code address locating child care centers. Most include methods to mitigate noise impacts from outdoor play areas. The provisions for adding child care to existing or former public schools omits noise mitigation. To apply a consistent approach, the proposal would add a requirement that any new children's play area or equipment be located a specified distance from neighboring lots, if associated with a use permitted outright on an existing or former public school site under Section 23.44.006.F. Uses that entail active play areas for children generally are either subject to specific standards or discretionary (administrative conditional use) review, to ensure that active play areas are set back and/or screened to address noise impacts. Existing or former public school sites typically already have play areas that can be made to meet the proposed standards.

23.44.008 Residential, Single-Family – Development standards for uses permitted outright

The proposed change would say that any structure containing a permitted principal use other than single-family residential may be converted to single-family residential use. Currently, the language has a confusing reference excepting detached accessory dwelling units from structures that may be converted but it is otherwise silent on exactly what types of structures may be converted. By specifically excluding detached accessory dwelling units, the section invites the question of whether other non-specified accessory structures may qualify for conversion. However, a reasonable policy would be to allow conversion only of structures containing existing principal uses otherwise permitted in the zone.

23.44.012 Residential, Single-Family – Height limits

Subsection 23.44.012.B allows 5 feet of additional height for pitched roofs, where the roof of a building is taller in the middle but lower where the side walls are exposed. This exception does not apply to buildings with "shed" roofs, where the exposed wall on the high side of the building would exceed the base height limit. The basis for limiting wall height also applied to a building with a "butterfly" roof, which is essentially two back-to-back shed roofs with walls exceeding the base height limit on both sides, and the low point in the middle. The proposed change clarifies that buildings with butterfly roofs, similar to shed roofs, both of which would appear bulkier from one or more sides than those with normal pitched roofs, are not intended to be eligible for the height exception provided for pitched roofs.

23.44.014 Residential, Single-Family – Yards

Three changes are proposed. The first change, to the rear yard standards in subsection 23.44.014.B, simply breaks down the existing paragraph into separate numbered subsections similar to the preceding and following subsections for front and side yards.

The second change is a proposed clarification of the exception to yard requirements in subsection 23.44.014.D.5 that allows uncovered, unenclosed porches and steps to project into required yards if no higher than 4 feet above existing grade, no closer than 3 feet to any lot line, no wider than 6 feet and project no more than 6 feet into required front or rear yards. There is confusion and inconsistent application of this code section regarding when to apply the width requirement and what amount of both porches and steps is reasonable in a required yard. The definition of structure width and length could be misconstrued when applied to these components. The proposed changes specifically allow one porch and associated steps within a required yard per each entry to a structure. Further, to clarify the extent of projection permitted, the references to width would be removed and replaced with language limiting the horizontal distance of each component to a maximum of 6 feet in the required yard.

The third change would clarify the exception in subsection 23.44.014.D.10.d regulating height of bulkheads and retaining walls when permitted in yards and used to protect a cut into existing grade. The current language allows a retaining wall used to protect a cut to be the greater of 6 feet or whatever height is needed to protect the cut. However, there does not need to be a comparison between these two, since the 6-foot maximum height for all types of freestanding structures and bulkheads in yards is otherwise established by subsection 23.44.014.D.10.a. The proposed change would simply allow the minimum height necessary to protect the cut. If

the necessary cut is greater than 6 feet, a retaining wall higher than 6 feet would be allowed. Another clarification to this subsection addresses fence height when added to a wall. Current code requires a fence placed on top of a retaining wall used to protect a cut to be set back 3 feet from the wall. This does not seem necessary in all cases, as the Code allows a guard rail 42 inches high to be placed on top of any wall exceeding 6 feet in height. For a fence, the top of the wall used to protect a cut would presumably be "at grade." It is more reasonable, for a wall no higher than 6 feet, that the fence should be allowed outright, up to a maximum combined height of 9.5 feet for both fence and bulkhead or retaining wall. This is similar to existing requirements in subsection 23.44.014.D.10.c for bulkheads or walls used to raise grade. There would be no room to set back the fence if the wall was protecting a cut at the property line.

23.44.016 Residential, Single-Family – Parking and garages

Subsection 23.44.016.D.8 prohibits trailers, boats, recreational vehicles and similar equipment from parking in front or side yards or the first 10 feet of a rear yard measured from the rear lot line. The proposed change would clarify that the 10-foot setback from the rear lot line could be measured from the center line of an alley where an alley is adjacent to the rear lot line. Also, these types of vehicles and equipment could be parked in the various yard areas if fully enclosed in a structure that would otherwise be allowed in a require yard. These changes would more closely align the requirements for parking of trailers, boats, recreational vehicles and similar equipment to the requirements for parking of other types of vehicles on lots in Single-Family zones.

23.44.022 Residential, Single-Family – Institutions

Subsection 23.44.022.D.2 describes in part the requirements for establishing child care centers in legally established "institutions devoted to the care or instruction of children." The proposed change would clarify that the institutions referenced are elementary or secondary schools, or community centers, and would add a requirement that any new children's play area be located at least 30 feet from any other lot in a single-family zone, and at least 20 feet from any lot in a multifamily zone. These setbacks are typically required for new institutions either in specific development standards or through the conditional use permit process required for many of these institutions. The proposed change would provide a similar mechanism for addressing noise from a new play area allowed in an existing institution under this section.

23.44.041 Residential, Single-Family – Accessory dwelling units

The proposed changes clarify that accessory dwelling units, whether attached or detached, are subject to the requirements of the Shoreline Code, Chapter 23.60A, as well as the provisions of Section 23.44.041.

23.45.510 Multifamily – Floor area ratio (FAR) limits

Section 23.45.510.E.3 provides an exemption from FAR for structures built as single-family residences prior to 1982 "regardless of the number of dwelling units within the existing structure," but one of the conditions is that "the exemption is limited to the gross square footage in the single-family dwelling unit as of January 1, 1982." This language raises the question of whether this exemption may be applied for a structure that was originally built as a single-family residence but was converted to a multifamily structure before 1982. There is no apparent intent or policy basis for regulating the structure differently depending on when it was converted. The

change would therefore say that the exemption applies to “an existing residential structure” built as a single-family residence prior to January 1, 1982.

A second change would exempt floor area of required bicycle parking for small efficiency dwelling units or congregate residence sleeping rooms, if the bicycle parking is located within the structure containing the small efficiency dwelling units or congregate residence sleeping rooms. This exemption already exists under standards for bicycle parking that are in the section on required parking, Section 23.54.015.K, but it makes sense to have this exemption under floor area ratio limits as well. See also 23.47A.013, 23.48.020, and 23.49.011.

23.45.514 Multifamily – Structure height

Section 23.45.514.E.1 allows the high side of a shed or butterfly roof to extend 3 feet above the base height limit for Lowrise zones if the low side is compliant with the base maximum height limit. Subsection 23.45.514.J.2 allows certain architectural features, including open railings, parapets and firewalls to extend up to four feet above the maximum height limits, including the maximum height for shed and butterfly roofs in subsection E. Such an extension, on top of the existing height exception for shed and butterfly roofs, would allow a parapet, for example, to extend up to 7 feet above the base maximum height. The first change would remove the reference to subsection E in subsection J.2, to prevent the use of “cumulative” height exceptions for shed and butterfly roofs.

The second change, to subsection 23.45.514.J.4, would clarify that the height exception for certain rooftop features is limited to the specific features listed in that subsection, including stair penthouses and mechanical equipment, and these features are limited to 15 percent of the roof area or 20 percent of the roof area if the total includes screened mechanical equipment. The existing language could be read to include the architectural projections listed in subsection J.3, which also allows rooftop coverage of up to 30 percent for the items listed in J.3. This higher percentage was intended to apply only to the items in subsection J.3, and the lower limits were intended if the features in J.4 are proposed.

23.45.518 Multifamily – Setbacks and separations

The first change is to footnote 1 of Table A for 23.45.518, which currently allows additions to existing nonconforming structure if the addition complies with the setback standards in the table. The changes would clarify that “existing nonconforming structures” are those structures built prior to April 11, 2011, the effective date of Ordinance 123495, which adopted the current lowrise multifamily zones. The changes further clarify that the average setback requirement would apply only to a new addition built after April 11, 2011, since including the existing nonconforming wall line would generally result in requiring an addition to be set back much further than the 7-foot average or 5-foot minimum typically required in the table. However, for additions to side walls extended vertically, the change would only allow the existing side wall line to be continued by the addition if the average setback of 7 feet or the 5-foot minimum setback is met for that addition.

The second change would add an exception for mechanical equipment to the list of structures allowed in required setbacks under subsection J. The proposed new subsection J.12 would be

similar to the existing exception for mechanical equipment in required yards for single-family zones.

23.45.536 Multifamily – Parking location, access, and screening

The proposed change would limit the standards for screening of parking by garage doors in subsection 23.45.536.D to the lowrise zones only. Section 23.45.536.D.3 limits the size of a garage door used to screen parking to 75 square feet in area. This standard, allowing a door about 9 feet wide by 8 feet high, makes sense in small multifamily development but a larger door in Midrise and Highrise is more appropriate, given the scale of the buildings. The effect of the change is simply to allow outright what is already a common design departure request.

23.45.545 Multifamily – Standards for certain accessory uses

The proposed changes clarify that accessory dwelling units in multifamily zones are subject to the requirements of the Shoreline Code, Chapter 23.60A, as well as the requirements of Sections 23.45.545.I and J. See also the changes to Section 23.44.041.A.

23.45.570 Multifamily - Institutions

The landscaping standards for parking in subsection 23.45.570.G would be changed to clarify that they apply to surface parking areas but not parking structures. The existing standards are not drafted to apply to structures.

23.46.002 Residential-Commercial – Scope of provisions

The RC designation is a zoning suffix that is combined with a residential (typically lowrise) zoning designation. The combination that results is a mixed-use zone using residential development standards. The proposed changes would clarify that the standards of Chapter 23.46 apply only when additional commercial uses allowed under that chapter are provided. A structure containing both commercial space (which is not allowed above ground level) and one or more residential units is subject to the development standards for apartments in the underlying residential zone, but a residential use such as a townhouse or single-family residence, without any commercial space pursuant to Chapter 23.46, is subject to the development standards for that housing type under the underlying residential zone. Current language erroneously suggests that all buildings in an RC zone are subject to the standards for apartments.

23.47A.008 Commercial – Street-level development standards

Section 23.47A.008.E sets forth development standards for live-work units located on a street-level street-facing façade. Under the current standards, live-work units along a street facing facade are not required to have a door out to the street, but are required to have a sign. The concern is that live-work units are increasingly melding into development that more closely resembles townhouse units and losing the flexibility of the commercial space. The proposed change would add a requirement for a pedestrian entry on the street-facing façade that is designed to be visually prominent and provide direct access to the non-residential portions of the live-work unit.

23.47A.013 Commercial – Floor area ratio

The proposed changes fix a cross-reference in Section 23.47A.013.A.3 and add an exemption from maximum floor area ratio limits for the area for required bicycle parking for small

efficiency dwelling units and congregate residence sleeping rooms, if the bicycle parking is located within the structure containing the small efficiency dwelling units or congregate residence sleeping rooms. This exemption already exists under standards for bicycle parking that are in the section on required parking, Section 23.54.015.K, but it makes sense to have this exemption under floor area ratio limits as well. See also 23.45.510, 23.48.020, and 23.49.011.

23.47A.014 Commercial – Setback requirements

The code has previously been amended to require upper-level setbacks for developments in commercial zones abutting split-zoned lots where half or more of the abutting property is in a residential zone. The proposed amendment would apply the same rule to the triangular setback at the street lot line. This setback is presumably intended to provide visibility when people leave the residentially zoned lot. A split-zoned lot that is mostly residential is likely to be developed with a residential use with the same need for visibility.

23.47A.016 Commercial – Landscaping and screening standards

The proposed changes are to refer to the two tables in subsection 23.47A.016.D as Tables A and B rather than C and D, since there are only two tables in all of Section 23.47A.016.

23.48.005 Seattle Mixed – Uses

Chapter 23.48 currently lacks regulations for helistops, heliports and public facilities. New subsections 23.48.005.C.3 and 23.48.005.E are proposed to add these regulations to the section regulating uses in the SM zones. Since the SM zones are classified as commercial zones, the language is borrowed from existing language. In the case of helistops and heliports, the language from Downtown Office Core and Mixed Commercial zones from subsection 23.49.042.F is the basis for the amendment. For public facilities, language from Section 23.47A.004.D of the commercial zoning chapter is the basis for the amendment.

23.48.020 Seattle Mixed – Floor area ratio (FAR)

The current language in subsection 23.48.020.B says that FAR limits for SM zones are shown in Table A for 23.48.020, but several SM zoning classifications are excluded. To simplify this section and avoid the need to amend in the future depending on which zones have FAR limits or have limits applicable to a specific zone, the proposed change would simply say that FAR limits for SM zones are shown in Table A for 23.48.020 except as otherwise provided in Chapter 23.48 for SM zones in specific designated geographic areas.

A second proposed change would add an exemption from maximum floor area ratio limits for the area for required bicycle parking for small efficiency dwelling units and congregate residence sleeping rooms, if the bicycle parking is located within the structure containing the small efficiency dwelling units or congregate residence sleeping rooms. This exemption already exists under standards for bicycle parking that are in the section on required parking, Section 23.54.015.K, but it makes sense to have this exemption under floor area ratio limits as well. See also 23.45.520, 23.47A.013, and 23.49.011.

23.48.220 Seattle Mixed – Floor area ratio (FAR) in South Lake Union Urban Center

A minor change to Section 23.48.220.A.3.b.3 restores language to this subsection that was accidentally deleted by Ordinance 124883, which reorganized the Seattle Mixed regulations. The subsection does not make grammatical sense without the missing language.

A second change arises from Ordinance 125291, which approved rezones in the South Lake Union Urban Center to implement the Mandatory Housing Affordability (MHA) requirements. One of the rezones was from SM-SLU 160/85-240 zone to the SM-SLU 175/85-280 zone. This amendment changed the maximum FAR in that zone from 7 to 8. However, Section 23.48.220.A.7, which addresses FAR standards for research and development laboratory uses and their associated office space still says that the maximum FAR for this use is 7. The proposal is to change the maximum FAR to 8 in line with the intended increase for other uses for purposes of MHA. There is no policy reason to treat research and development laboratories differently from other commercial uses.

23.48.225 Seattle Mixed – Structure height in South Lake Union Urban Center

A very minor change to make the lettering for subsection “F” a capital letter instead of lower case.

23.48.231 Seattle Mixed – Modification of development standards in certain SM-SLU zones

In addition to adopting this Section 23.48.231, Ordinance 125291 modified Section 23.45.225 by adding a new subsection 23.48.225.D and renumbering the old subsection D, which regulated the height of structures in the South Lake Union Urban Center if they were within the South Lake Union Seaport Flight Corridor, to subsection 23.48.225.E. This requires a change to the cross-reference in subsection 23.48.231.A.1, which is clearly intended to point to the structure height limits in the South Lake Union Seaport Flight Corridor.

23.48.245 Seattle Mixed – Upper-level development standards in South Lake Union Urban Center

The first proposed change is to 23.48.245.B. The floor area for residential towers is limited for stories with residential use above the podium height per 23.48.245.B.2.b. Rooftop features are excluded from maximum gross floor area limits. However, rooftop features such as enclosed amenity area and stair penthouses are technically stories with residential use that could be included in the average floor area. This in theory could bring the average down and allow larger tower floor plates for the bulk of the tower. The proposed changes would clarify that both rooftop features and stories with rooftop features are not considered as one of the "stories with residential use above the podium height", and all rooftop features are excluded from the gross floor area calculation.

The second proposed change is to Map A for 23.48.245. In 2013, the City Council adopted updated development standards for the Seattle Mixed zones applicable in South Lake Union. At the time, Broad Street had not been vacated. With the subsequent vacation of Broad Street, a new block results that has three different podium height allowances pursuant to the current Map A for 23.48.245, Podium Heights. The new block has 3 different podium height allowances of 45 feet, 65 feet, and 85 feet. Consistent with Council’s intent to have podium height allowances that are tied to the width of abutting rights-of-way, the proposed amendment to Map A for

23.48.245 would move the 85-foot podium height boundary to the northern boundary of the new block. As a result, the new block would have 2 podium height allowances of 85 feet on Mercer Street and 65 feet on Roy Street.

23.48.620 Seattle Mixed – Floor area ratio in SM-U zones

Ordinance 125267 created a group of new Seattle Mixed zones for the University District, allowing higher density mixed-use development in the core of the University Community Urban Center. One of the new provisions, supported by the community and Councilmembers, was a floor area bonus for developments that provide larger housing units suitable for families with children.

The first highrise residential project to come in for review under the new zoning tried to use this FAR bonus. It became clear that the layers of requirements in the code language are difficult to interpret and are more prescriptive than necessary. Also, a few of the specific provisions appear to conflict with other code sections, such as the general standards for amenity area in 23.48.045. The proposed changes would simplify this section, making it more likely to be used, and avoiding conflicts with other code sections, consistent with Council's original intent.

23.48.640 Seattle Mixed – Street-level development standards in SM-U zones

As written, it is not clear if the required setbacks apply only at the ground level or all the way up affected facades. The proposed changes seek to clarify that the setbacks apply to the entire façade, with exceptions for certain structural projections.

23.48.645 Seattle Mixed – Upper-level development standards in SM-U zones

The code requires a 75-foot separation between highrise structures. It also was intended to require separation within a lot between a highrise structure (one that is taller than 85 feet), and anything else on the same lot that is taller than 45 feet. The exhibit is accurate, but the existing wording is unclear and potentially contradictory. The proposed revised language more accurately captures the intent of the standard.

23.48.722 Seattle Mixed – Floor area in the SM-UP 160 zone

The proposed amendment corrects a drafting error made as a result of changes from earlier drafts of Ordinance 125432, the Uptown Rezone legislation. Initially, residential floor area subject to incentive zoning provisions was proposed to be regulated by height, similar to the way it is regulated in South Lake Union. Later revisions changed this to FAR. The clause in Section 23.48.722.B requiring development containing any extra floor area "above 95 feet in height" to meet the minimum requirements for extra floor area in subsection 23.48.021.D is thus no longer relevant and is proposed to be deleted. Any extra floor area in the SM-UP 160 zone, regardless of height, was intended to meet the minimum requirements in subsection 23.48.021.D.

23.48.735 Seattle Mixed – Upper-level setback requirements in SM-UP zones

In the legislation that was proposed for the Uptown Rezone, recently adopted by Council as Ordinance 125432, the original recommendation to Council for Section 23.48.735 was for a height of 65 feet north of Republican Street and a 45-foot upper level setback. Council amended the proposal to increase the height to 85 feet and at the time of adoption believed they had also amended the ordinance to raise the upper level setback to 65 feet, but the change to the text of

the proposed legislation was not made. The proposed amendment implements the 85-foot height and 65-foot upper level setback consistent with Council intent when the ordinance was adopted. The setbacks were included as mitigation for impacts to view corridors.

23.49.008 Downtown Zoning – Structure height

Ordinance 125291 was adopted in May of 2017 to implement Mandatory Housing Affordability (MHA) provisions in Downtown and South Lake Union. As part of the legislation, height limits were raised in several zones including the DOC2 500/350-500 zone, which was changed to DOC2 500/350-550. In downtown zones, the first number indicates the maximum height at which a non-residential use may be located, the second number is the maximum height for residential use, and the last number is the maximum height for structures overall. When the maximum height for structures overall was changed to add 50 feet, a change to match the maximum height for non-residential uses to the overall structure height was omitted. It was never the intent to prohibit non-residential uses in the top 50 feet of structures, which was also the case for the zone prior to adoption of the MHA provisions.

The proposed amendment to change the zone designation to DOC2 550/350-550 would allow non-residential uses to be located up to the maximum height allowed for structures. This would have no effect on the overall height allowed for structures, and no effect on anticipated MHA participation. The DOC2 zone is limited to an area bounded on the northwest by Blanchard Street, on the northeast by 9th Avenue, on the southwest by 3rd Avenue, on the south by Olive Way and 6th Avenue, and on the southeast by Union Street. There are 23 blocks within the DOC2 zone.

23.49.011 Downtown Zoning – Floor area ratio

The proposed change would add an exemption from floor area ratio calculations as subsection 23.49.011.B.1.y for the area for required bicycle parking for small efficiency dwelling units and congregate residence sleeping rooms, if the bicycle parking is located within the structure containing the small efficiency dwelling units or congregate residence sleeping rooms. This exemption already exists under standards for bicycle parking that are in the section on required parking, Section 23.54.015.K, but it makes sense to have this exemption under floor area ratio limits as well. See also 23.45.520, 23.47A.013, and 23.48.020.

23.49.023 Downtown Zoning – 23.49.023 Extra residential floor area and hotel floor area in South Downtown; transferable development potential (TDP); limits on TDP sending sites

Subsections 23.49.023.D and 23.49.023.E both incorrectly cross reference Section 23.58A.040, which addresses bonus floor area for open space amenities. Instead, the references should be to Section 23.58A.042, which addresses transferable development potential (TDP) and transferable development rights (TDR).

23.49.032 Downtown Zoning – Additions of chargeable floor area to lots with existing structures

For sites that are developed with existing structures that already have chargeable floor area exceeding the existing base floor area ratio (FAR) limits, the current language in Section 23.42.032 allows new development on these sites to gain additional FAR up to the maximum permitted, if the existing structures are retained, by qualifying for bonuses, using transferable

development rights (TDR), or using rural development credits. The proposal is to allow the additional FAR, up to the maximum permitted, if no new development is proposed but the lot area of the existing development is decreased, resulting in an increase of the amount of chargeable floor area in excess of the applicable base FAR. This situation occurred on property where part of the original development site was leased from the State of Washington instead of purchased outright, and the lease was proposed to be terminated. To prevent the creation of nonconformity to FAR limits, it makes sense to allow the same mechanism for earning additional FAR that is already available for new development added to the original development on a site.

23.49.106 Downtown Zoning – Downtown Retail Core, street facade requirements

The proposed changes would update the title of Exhibit A to current Code format and remove old Exhibit A, Exhibits B, and Exhibit C for 23.49.106 from the Code, as they are no longer referenced in the text of the Code section.

23.49.108 Downtown Zoning – Downtown Retail Core, upper-level development standards

Ordinance 122054, effective in 2006, removed subsection B entirely from Section 23.49.108 and left subsection “A” without removing the letter “A” from the Code. That amendment removed references to Exhibit 23.49.108.B, too, but did not remove the exhibit itself. The proposed changes would remove the exhibit, update the format of this Code section, and remove the letter “A” from the remaining existing text.

23.49.164 Downtown Zoning – Downtown Mixed Residential, maximum width, depth and separation requirements

The existing language in subsection 23.49.164.A is drafted in a way that makes it difficult to understand what portion of a structure is subject to the width and depth requirements and when to separate one portion of a structure from another. The change simply divides the explanation of width and depth standards from the horizontal separation standard without changing the meaning of the section.

23.50.012 – Industrial – Permitted and prohibited uses

The proposal is to correct Footnote 9 of Table A for 23.50.012, describing the uses allowed in Industrial zones, to an incorrect reference to the former Shoreline Code and update it to current Chapter 23.60A.

23.50.016 Industrial – Landscaping standards on designated streets

Section 23.50.016.B provides various exceptions to street tree requirements for industrial uses designated on the Industrial Streets Landscaping Plan Map that allow trees to be planted on the development site at least 2 feet from the street lot line instead of in a planting strip. The proposal is to add a new exception for existing railroad tracks and/or a railroad easement if they are within 10 feet of the paved portion of a street designated on the Industrial Streets Landscaping Plan Map. The presence of railroad tracks or an easement, where they occur, make planting trees in the right-of-way impossible, but the Code currently lacks a specific exception for them.

23.50.029 Industrial – General Industrial 1 and 2—Setback requirements

23.50.030 Industrial – Industrial Buffer—Setback requirements

23.50.032 Industrial – Industrial Commercial—Setback requirements

Sections 23.50.029, 23.50.030.H, and 23.50.032.D all establish setbacks in various industrial zones, but in each case the language simply cross references the setback requirements triggered when certain street or alley improvements are required by Sections 23.53.015 and 23.53.030. Since these setbacks are established in Chapter 23.53, there is no need to cross reference them in Chapter 23.50.

23.51A.002 Public facilities in single family zones

Minor style changes and correction of a cross reference to the Shoreline Code are proposed.

23.53.015 Requirement for Street, Alleys and Easements – Improvement requirements for existing streets in residential and commercial zones

In instances where a right of way has a substandard width, common practice is to require dedication or setback of half the required width when the Code says that a dedication or setback is required. This is explicitly stated for non-arterial streets in SMC 23.53.015.C.2.a and 23.53.015.D.1.b.1, but is not stated for arterials that have less than the required right of way width. This could mean that the full deficit must be set back or dedicated on a lot undergoing development and not split with the lot across the right of way. The proposal would add language to 23.53.015.B.2 to explicitly require only half of the deficit if dedication is required for an arterial street.

23.53.030 Requirement for Street, Alleys and Easements – Alley improvements in all zones

In some cases, the Code requires additional right of way to be dedicated to widen an existing alley, while in other situations a setback is required, in lieu of dedication, in case the alley is required to be widened in the future. The loading berth standards, in Section 23.54.035, provide standards for length and width and allow the length standards to be reduced if that will not result in vehicles extending beyond the property line. This exception, however, does not address what happens if a loading berth extends into a required setback. It makes sense to require loading berths to be located outside of setbacks, too, since there is a possibility that the setbacks may one day be dedicated for alley widening. The proposed change, to alley improvement standards in Section 23.53.030.F.2, would say that loading berths may not be located in required setbacks, similar to the existing prohibition on locating parking spaces in the setbacks.

23.54.030 Quantity and Design Standards for Access and Off-Street Parking – Parking space standards

Subsection 23.54.030.F.1, regulating curb cut width and numbers for residential uses, refers to streets as designated on an “Arterial street map” in Section 11.18.010 that no longer exists. The proposal is to change the references to streets “as designated by the Seattle Department of Transportation.” This will allow information for applicants both on paper and on-line to refer for now to the “Street Arterial Classification map” on the Seattle Department of Transportation website and in the future, avoid further amendments to the Land Use Code to reference a specific map that may change.

23.61.014 Station Area Overlay District – Nonconforming uses

The proposal corrects the name of the Rainier Beach station area, incorrectly listed in Section 23.61A.014.A.1 as “Henderson.”

23.66.332 Special Review Districts – International Special Review District – Height and rooftop features

The proposal would allow an elevator penthouse in the International District to have the same height exception that applies to these rooftop features in Commercial zones and similar to the exceptions in Downtown and Seattle Mixed zones. The current exception of 15 feet above the height limit is insufficient for some elevators. As in commercial zones, the exception would only apply if the zone height limit is 125 feet or greater. Existing rooftop coverage limits of 15 percent of the roof area would continue to apply.

23.72.004 Sand Point Overlay District established

The proposed amendments make minor style changes, clarify that the Naval Station Puget Sound Sand Point Historic District, which is part of the Sand Point Overlay District, is now listed on the National Register of Historic Places, and provides a cross reference to new regulations added in Seattle Municipal Code Chapter 25.30, which established the Sand Point Naval Air Station Landmark District.

23.73.024 Pike/Pine Conservation Overlay District – Transfer of development potential

A minor change to a cross reference is proposed, to show the correct subsection for a departure through the design review process to allow the removal of a character structure.

23.75.085 Master Planned Communities – Yesler Terrace – Residential floor area limits; affordable housing incentive program

City Council recently amended the Cooperative Agreement for Yesler Terrace (Ordinance 125342, effective August 2017). Among the changes was a revision to the number of Replacement Housing units that can be located east of Boren Avenue (as opposed to on the main Yesler Terrace site) from 140 to 190. The Land Use Code refers to no more than 140 Replacement Housing units east of Boren in Section 23.75.085.C.2.d. The proposal is to revise the code to specify 190 units to be consistent with the Cooperative Agreement (section 3.1.3, Second Amendment to the Cooperative Agreement).

23.75.160 Master Planned Communities – Yesler Terrace – Landscaping, street trees, and tree protection

Chapter 25.11 regulating tree protection, does not currently apply to MPC-YT zones (Yesler Terrace). When this new zoning was adopted in 2012, no changes were made to update Chapter 25.11. As a result, the MPC-YT zone is not listed in 25.11 and is not specifically included in any of the zoning categories described in Chapter 25.11. However, there is no policy rationale for excluding sites in Yesler Terrace from tree protection. Many projects opt to use the Planned Action Ordinance with defined environmental mitigation and a tree protection plan. Projects that do not meet the Planned Action Ordinance are required to go through SEPA review or do an Addendum to the Yesler Terrace EIS. The proposed change would apply the standards for restrictions on tree removal, exceptional tree determination and tree protection area delineation, and tree protection on sites undergoing development, on the same basis as these regulations apply in Midrise zones, where the development is similar in scale to the development authorized in the MPC-YT zones.

23.76.012 Procedures for Master Use Permits and Council Land Use Decisions – Notice of application

Under the current language of Section 23.76.012.B.4, unit lot short subdivisions require more notice (due to mailed notice to neighbors within 300 feet) than does a development project that only has SEPA. Generally, unit lot subdivisions occur after a permit to build the development itself has been issued and may occur after the development is constructed. The current notice process can thus be confusing and frustrating for the public, while the unit lot subdivision process is for purposes of ownership only and had no impact on the physical development. Further, the scale of development is usually minor in unit lot subdivisions, which occur mainly for various types of small multifamily development such as rowhouse and townhouse development. The proposed change would remove the code requirement for mailed notice on unit lot short subdivisions. Land use notice signs and Land Use Information Bulletin (LUIB) publishing would still occur on the same basis as projects that only have SEPA.

23.76.028 Procedures for Master Use Permits and Council Land Use Decisions – Type I and Type II Master Use Permit issuance

23.76.034 Procedures for Master Use Permits and Council Land Use Decisions – Suspension and revocation of Master Use Permits

The first proposed change is to Section 23.76.028.C.1. The current language does not address instances where an appeal is dismissed or when a Hearing Examiner decision is to grant a portion and deny a portion of the original SDCI decision. The proposed change clarifies that if a decision is appealed to the Hearing Examiner, it is the Examiner's final decision, no matter what it is, that is considered the point at which the project is approved for issuance (the ready to issue date).

The other minor changes to Sections 23.76.028 and 23.76.034 fix incorrect cross references to the former Shoreline Code, Chapter 23.60 and update them to the current Chapter 23.60A.

23.79.002 Initiation of development standard departure procedure

23.79.004 Establishment of Development Standard Departure for Public Schools – Application for development standard departure

Charter schools are regulated as public schools, because they receive public money to operate. However, the School Departure process in Chapter 23.79 currently does not mention charter schools as eligible to apply for development standard departures for public schools and says the Development Standard Advisory Committee shall include a representative of the Seattle School District. (Sections 23.79.002 and 23.79.004.B). These provisions do not make sense for a charter school, as they are not run by the School District. The proposed changes would clarify that charter schools may apply for development standard departures and require either a representative of the Seattle School District or, if the structure is to be used for a charter school, a representative of the owner or operator of the charter school, to serve on the Development Standard Advisory Committee.

23.84A.002 Definitions - “A”

The change would clarify the definition of “abut” to say that lots do not border upon each other if they touch only on a single corner.

23.84A.004 - “B”

The current definition for "block" excludes the possibility that a block could be bound by another lot's (or other lots') side lot lines. The proposed change would clarify this omission and give SDCI more discretion to determine blocks where the street pattern is irregular.

23.84A.024 – “L”

The proposal is to clarify the definition of “lot” by adding that the definition includes a “development site” as that term is sometimes used elsewhere in the Code if the development site is the unit of land that development standards are applied to.

23.84A.032 – “R”

In the last omnibus, Ord. 125272, a change was proposed to make live-work units eligible for the unit lot subdivision process. The proposed change was not adopted. However, a change to the definition of “townhouse” to allow them to be attached to live-work units, was adopted. This definition change does not make sense if live-work units are not eligible for unit lot subdivision, and it is therefore proposed to be removed from the Code.

23.84A.046 Definitions - “Y”

The definition of “front yard” includes a sentence allowing a front yard to be determined according to subsection 23.86.010.B, which addresses front yard measurement, if the lot is irregularly shaped. The intent is to allow some discretion to determine a front yard, but subsection 23.86.010.A, addressing measurement of required yards in general, also addresses yard determination. Rather than reference specific subsections, the proposal is to reference all of 23.86.010.

23.86.002 Measurements – General provisions

In some cases, SDCI allows partial vacations over right of way. For example, if an alley is partially vacated, the underground portion may be in private ownership and the portion at grade may be held as a right-of-way. In such cases there may be confusion about how to apply development standards such as FAR limits that depend on the location of lot lines. The proposed language, to be added to the general measurements regulations in Section 23.86.002 as a new subsection 23.86.002.C, clarifies SDCI existing practice of applying development standards based on the lot lines as they exist at grade.

23.86.006 Measurements – Structure height measurement

Section 23.86.006.E describes height measurement techniques to be used in downtown zones and the South Lake Union Urban Center. The measurements involve determining the “major street lot line” and the slope along it, and then taking the measurement from the existing grade elevation at the midpoint of the major street lot line. Then subsection E.3 explains further how to measure the maximum height in various scenarios based on slope and whether the lot is a through lot, with frontage on a lot line fronting on another street opposite and parallel to the major street lot line. In that case, a second measurement is to be taken from the line opposite and parallel to the major street lot line. Subsection E.3.c then specifically addresses how to measure height if there is no line essentially parallel to the major street lot line. It currently requires the measurement to be taken from the longest remaining street lot line. It makes more sense, in line with the regulations for through lots, to clarify that the measurement should be taken from the

remaining street lot line that is opposite and most distant from the major street lot line. This is not expected to have any measurable effect on building heights in the context of the scale of Downtown and South Lake Union development. It is intended to have a neutral effect on height.

23.86.007 Measurements – Gross floor area and floor area ratio (FAR) measurement

In general, if a lot is split-zoned, the development capacity for the portion in each zone must be applied in that zone, rather than shifting excess floor area permitted by FAR standards in one zone to the portion of the lot in another zone. This prevents development to an unintended level in the less-intensive zone as a result of shifting development from the more intensive zone. However, in a case where the sole difference between the zones is the incentive zoning suffix, the maximum FAR limit for each portion of the lot is the same, eliminating the concern about shifting development potential. The proposed change would make clear that where the only difference between zoning designations for portions of a lot is the base FAR, allowable floor area based on the calculations for the separate portions of the lot may be provided anywhere on the lot.

23.86.032 Measurements – Gross floor area in residential, commercial, or other non-residential use

SDCI practice has been to exclude accessory parking (above and below grade) from "area of residential use" when calculating residential amenity areas for apartments in multifamily and commercial zones. An addition was added under the U-District rezones that clarifies this approach in Seattle Mixed zones, but leaves the other zones out. Without clarification, areas could be included that were not included before since they are specifically exempt in one area, but not another. The proposal is to add language to measurement of gross floor area in residential use to exclude from calculation of amenity area and open space requirements accessory parking areas, storage areas, and mechanical rooms that have previously been excluded in practice.

The existing language requires residential floor area to include the prorated portion share of a structure's common areas in the same proportion as the residential use to "other" uses occupying the structure. The proposed changes would clarify the meaning of this clause by changing "other" to more specific "commercial or other non-residential uses." As an example, if a structure has 7,500 square feet of floor area for dwelling units and 2,500 square feet of office floor area, plus an additional 1,200 square feet of common area, this section requires 900 square feet of the common area to be counted in the calculation of residential floor area, for a total of 8,400 square feet, and the remaining 300 square feet of common area to be added to the office space, for 2,800 square feet of total floor area. New language is also proposed to clarify that the same prorating formula applies for non-residential floor area to include the prorated portion share of a structure's common areas in the same proportion of a structure's gross floor area in non-residential or commercial use to residential uses occupying the structure.

23.91.002 Citation-Hearings-Penalties – Scope of Chapter 23.91

A change to a cross reference in Section 23.91.002.A.6.c is proposed to update from the former Shoreline Code, Chapter 23.60, to the current Chapter 23.60A.

25.05 State Environmental Policy Act (SEPA) Amendments

The State Department of Ecology has updated its rules for the State Environmental Policy Act (SEPA) found in Washington Administrative Code (WAC) 197-11. Since the state WAC controls over local SEPA ordinances, the changes to Chapter 197-11 require updating and amendment of Seattle's local SEPA regulations, to the extent that those regulations use the same language found in the WAC. Various changes, mostly minor clarifications, are proposed as explained below:

25.05.030 Environmental Policies and Procedures – Policy

Minor grammatical changes proposed.

25.05.610 Environmental Policies and Procedures – Use of NEPA documents

This section explains when an agency may use environmental analyses prepared under the National Environmental Policy Act (NEPA) instead of preparing new documents under SEPA. The change clarifies that an agency may adopt a NEPA Environmental Impact Statement if, among other criteria, it is not found inadequate, but this criterion no longer includes a NEPA environmental assessment (EA).

25.05.800 Environmental Policies and Procedures – Categorical exemptions

Exemptions for minor new construction in Section 25.05.800.B.2 currently include exemptions for various transportation projects such as bus stops, shelters, and pull-out lanes for transit vehicles. The proposal would add designation of transit only lanes to these exemptions.

An exemption for traffic control and wayfinding signs would be added to the exemptions for public signs and signals in Section 25.05.800.B.3.

Exemptions for minor road and street improvements would include: Safety structures and equipment would now specifically include adding or removing turn restrictions, speed limit designation, physical measures to reduce motor vehicle traffic or volume; Exemptions for pedestrian walks and paths would include sidewalk extensions; and street or road vacations would include converting public right of way, and other changes in motor vehicle access.

A new exemption Section 25.05.800.CC is proposed for repair, reconstruction, restoration, retrofitting, or replacement of structurally deficient city, town or county bridges and a definition of the term “structurally deficient” would be added.

25.08.940 Noise Control – Contested case hearing

The proposed changes are minor style fixes and deletion of a reference to state law on the timing period for a court appeal of the hearing examiner decision in a contested case.

25.09.090 Regulations for Environmentally Critical Areas – Development standards for steep slope erosion hazard areas

Prior to amendment of the Regulations for Environmentally Critical Areas in Ordinances 125292 and 125248, the definition for steep slope areas excluded steep slope areas in Downtown and Highrise zones from regulation as steep slopes. This exclusion was intended to be moved out of the definition section to the development standards for steep slope erosion hazard areas but was

inadvertently left out of the Code in the drafting process. The proposal restores the language in Section 25.09.090.B.1

25.11.070, 25.11.080 Tree Protection – Tree protection on sites undergoing development in Lowrise, Midrise, and Commercial zones

Ordinance 125429, amending the Design Review procedures, struck language from the Tree Protection chapter in Sections 25.11.070 and 25.11.080) that referenced Streamlined Design Review (SDR), which was proposed to be eliminated. However, Council decided to keep SDR but in restoring all the references in the legislation, the references in Sections 25.11.070 and 25.11.080 were not added back in. The proposed changes will restore the references as they were before Ordinance 125429 was adopted.

Recommendation

Adoption of these Land Use Code amendments will help to facilitate easier understanding and improved administration and application of the Land Use and other codes. SDCI recommends approval of the proposed legislation.