



Legislative Department
Seattle City Council
Memorandum

Date: November 29, 2012

To: Councilmember Richard Conlin, Chair
Councilmember Tim Burgess, Vice Chair
Councilmember Mike O'Brien, Member
Planning, Land Use and Sustainability (PLUS) Committee

From: Rebecca Herzfeld, Council Central Staff

Subject: December 3, 2012 PLUS Meeting: Discussion and possible vote on Council Bill (C. B.) 117601, amending downtown zoning regulations

The Department of Planning and Development (DPD) is proposing C.B. 117601, which would amend Sections 23.49.011, 23.49.013, 23.49.014, and 23.49.181 of the Downtown Chapter of the City's Land Use Code to correct omissions and make it easier to use incentive provisions in two downtown zones, the Downtown Harborfront 2 (DH2) zone and the Pioneer Square Mixed (PSM) 85-120 zone. The PLUS Committee held public hearing on the bill on November 14, 2012, at which one person testified in favor of the legislation.

Amendment A: Substitute bill (version #10) adding technical amendments to C.B. 117601

After the submittal and introduction of the DPD legislation, the Office of Housing (OH) and the Law Department proposed seven technical changes and corrections to the bill. All but two of these would amend the bonus provisions of Section 23.49.181. The changes correct typos and cross-references, allow the City's Director of Finance to establish a fund to hold developer payments, and clarify details of the agreement that will result in the provision of off-site affordable housing to meet the incentive zoning requirements in the PSM zone. The specific changes are described in a table in Attachment A to this memo, and are included in an updated of the bill (version #10).

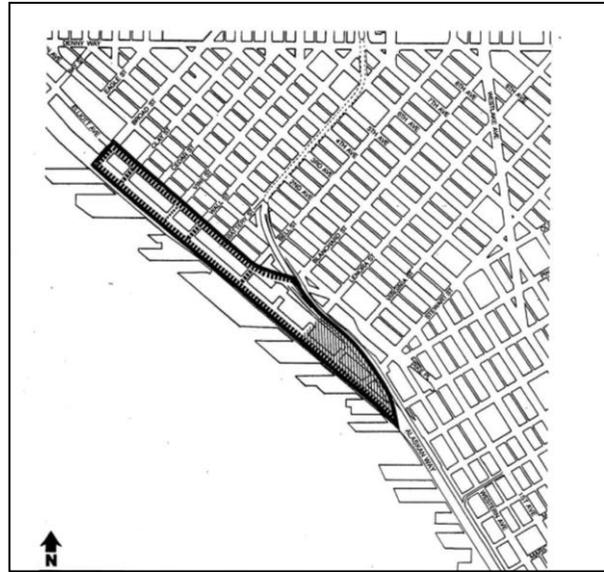
OH has also proposed adding a "ratify and confirm" clause to the bill, which is included in version 10. This clause would allow negotiations for the provision of affordable housing linked to development in the PSM zone to move forward more quickly.

PLUS Committee vote on substitute version #10 of C.B. 117601:

Sections B and C of this memo summarize the proposed amendments to the DH2 and PSM 85-120 zone for Committee review and vote.

B. Downtown Harborfront 2 Zone

The Downtown Harborfront 2 (DH2) zone applies to an area abutting the waterfront that is one-block deep between Alaskan Way and Elliott Avenue, and extends from Pike Street to Broad Street (See Map 1, in which the DH2 zone is the area bounded by the thick black line).



Map 1: Downtown Harborfront 2 zone

The DH2 zone is intended to accommodate a mix of uses at a scale that complements shoreline development and enhances public access to the waterfront. The zone height limits range from 55 feet to 85 feet. The base Floor Area Ratio (FAR) in the zone is 2.5 FAR and the maximum limit on floor area is established by the height and bulk regulations. The remaining redevelopment opportunities in the DH2 zone are limited. Of the 13.2 acres of land within the zone, the combined area of parcels that DPD has identified as potential redevelopment sites is about one acre.

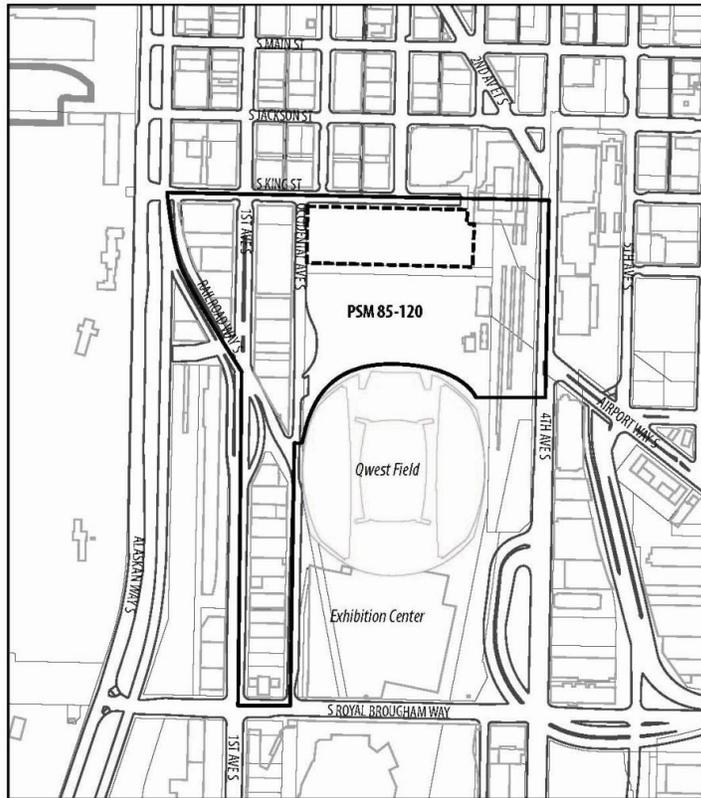
The proposed changes to the DH2 zone are as follows:

1. Reestablish incentive provisions for nonresidential uses to enable projects to gain bonus floor area above the current base FAR limit, and allow the use of transfer of development rights (TDR) as one of the incentives. Code amendments adopted in 2001 inadvertently eliminated the incentives for gaining extra floor area above the base FAR.
2. Add the DH2 zone to the list of downtown zones that exempt residential use from FAR calculations. This would make it unnecessary for residential development to use incentives to gain bonus floor area and would encourage residential use.

C. Pioneer Square Mixed 85-120 zone changes

The proposed amendments to Section 23.49.181 address development within a mapped area of about 3.85 acres that includes the former North Lot of the Kingdome, now zoned Pioneer Square Mixed (PSM) 85-120. This is one of the Downtown zones established in the Land Use Code for the Pioneer Square Preservation District (see Map 2 below, in which the PSM 85-120 zone is bounded by the solid black line, and the North Lot area where the proposed changes would apply is bounded by a dotted line).

Map for 23.49.180



Area where additional height is permitted according to the provisions of Section 23.49.180 of the Seattle Municipal Code

Map 2: Pioneer Square Mixed 85-120 Zone

In 2009, the Council adopted Ordinance 123034, which allowed a large mixed-use development and associated bonus floor area on the North Lot (now called Stadium Place (201 S. King Street)). King County (County) provided the land for this development via a purchase-and-sale agreement that, after a number of amendments, currently requires the developer to provide 115 units of affordable housing, at least 30 of which must be built on-site. Ordinance 123034 added a new Section 23.49.180 to the Code that included provisions for achieving additional height on the project site, including an affordable housing bonus that could be used to gain floor area above the base FAR. The regulations for this affordable housing bonus were included in a new Section 23.49.181, which required that all the affordable housing provided for the bonus be located on the project site and be retained for a minimum of 50 years. The housing bonus regulations in Section 23.49.181 are unique to the PSM 85-120 zone and do not apply anywhere else.

The first phase of Stadium Place is now under construction. Because the amount of floor area in Phase 1 of the project is below the base FAR, the project has not yet needed to use bonus floor area. However, the project developer is working on providing the affordable housing now so that future phases of the project can move forward.

In 2011, the applicant for Stadium Place and the County discussed amendments to the purchase-and-sale agreement that would permit up to 70 of the County's required affordable housing units to be constructed off-site in a project being planned by InterIm, a community development association that works in the Chinatown/International District. To facilitate these negotiations, the City Council amended Section 23.49.181 in April 2011 (Ordinance 123589) to allow the affordable housing provided to earn a bonus to be located off-site within South Downtown. Ordinance 123589 limited the number of off-site units to a maximum of 70, reflecting the anticipated unit count in InterIm's planned affordable housing project.

Since then, InterIm's plans for the off-site affordable housing development were altered to increase the estimated number of units from 70 to 85, and in June, 2012 the County approved this increase in a revised purchase-and-sale agreement with the developer (County Ordinance 17364). The County agreement still requires that 30 units of affordable housing be included on-site at Stadium Place.

In addition, because the off-site affordable housing and the phases of Stadium Place will be completed at different times, City staff realized that the 50-year required term of affordability should attach to the completion date of the off-site affordable housing itself, rather than to the Stadium Place development.

The two amendments to Section 23.49.181 proposed by DPD would therefore:

1. Clarify that the 50-year affordability term required for the affordable housing provided to earn the floor area bonus starts on the date the structure containing the affordable housing is complete, rather than on the completion date of the structure proposing to use the bonus floor area; and
2. Remove the existing cap on the number of off-site units that can satisfy the affordable housing requirements for bonus floor area. The requirement that the off-site units be built in South Downtown would continue to apply.

PLUS Committee vote on C.B. 117601:

D. Next Steps

If the Committee votes on the bill on December 3, 2012, a full Council vote could take place on December 10th or 17th.

Attachment A: Proposed technical changes to C.B. 117601

	Code Subsection	Description of proposed technical changes
1.	23.49.011.A.2.a	This subsection of the Code, which required that buildings in certain downtown zones meet a LEED Silver sustainability standard in order to earn further bonus square footage, expired on May 12, 2011. Therefore, there is no need to add the DH2 zone to the list of zones to which this section applied, as was proposed in the version of C.B. 117601 that was introduced.
2.	23.49.013.A.5.e	Because this section, which describes the different types of downtown amenity bonuses, is being amended by the bill, there is an opportunity to correct a longstanding typo in the subsection about historic theaters, clarifying that the theater must have, “or will have upon completion of a proposed plan ((of) <u>of</u> rehabilitation” a minimum size of 20,000 square feet.
3.	23.49.181.B.1 and B.2	The existing code permits the owner of a future affordable housing site to sign a linkage agreement with an applicant for bonus floor area. The proposed change would allow a party with <i>control over</i> (as distinct from <i>ownership of</i>) a future affordable housing site to sign a linkage agreement. The change is necessary because the linkage agreement may itself be the means by which an affordable housing developer can obtain the funding necessary to close on a piece of property it has under contract. The proposed amendments to this section also correct an erroneous cross-reference.
4.	23.49.181.B.2.b	Because future agreements may call for developer payments to be held in a City account, a proposed addition to 23.49.181.B.2.b would authorize the City’s Director of Finance to establish a standalone fund or account for this purpose.
5.	23.49.181.B.3	The existing regulations permit the Director of Housing to certify that an applicant for bonus floor area has satisfied his or her affordable housing obligation upon receipt of the full linkage payment or an irrevocable letter of credit, among other conditions. The proposed change would allow the Director to place certification in an escrow account prior to receipt of the payment or letter of credit. The certification would take effect only upon the escrow agent’s receipt of the applicant’s payment. The change solves a “who goes first” problem by allowing one action (payment) to immediately trigger a second action (release of the certification).
6.	23.49.181.E.1	Existing regulations express the amount of required affordable housing in terms of “net rentable floor area,” a phrase that is open to interpretation. The proposed change would clarify that “net rentable” is defined, for the purposes of this subsection only, as 80 percent of gross floor area. This is consistent with the efficiency factor applied to the gross square footage of the requested bonus floor area.
7.	23.49.181.E.7	Correct an omission by adding a requirement that the applicant for bonus floor area in the PSM 85-120 zone pay a review fee to OH. This fee is already specified in Chapter 22.900G of the Municipal Code.

