



**Legislative Department  
Seattle City Council  
Memorandum**

**Date:** November 20, 2013

**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 and Eric McConaghy, Council Central Staff

**Subject:** Council Bill (C.B.) 117952 – Land Use Omnibus Legislation

**I. Introduction**

About every other year the Department of Planning and Development (DPD) develops an omnibus bill amending the Land Use Code (Code). Generally, the omnibus bill corrects typographical errors, corrects cross-references, clarifies existing regulations, and makes other minor amendments identified by DPD in the course of Code administration. The omnibus bill is not intended to be a vehicle for addressing significant policy issues.

DPD submitted omnibus legislation to the Council in August, 2013. The Council worked with DPD to revise the proposed legislation, and a revised bill (C.B. 117952) was introduced on October 28, 2013. A public hearing on C.B. 117952 is scheduled in the PLUS Committee on December 11, 2013.

The table below highlights the amendments that have either been the subject of public comment or that Council central staff has identified as being of potential interest to Councilmembers.

**II. Public comment on proposed changes**

<i>Issue subject to public comment</i>	<i>Discussion</i>
<p><b><i>1. Requirement for lots to front on an alley (Seattle Municipal Code (SMC) 23.22.100.C, 23.24.040.A, and 23.28.030.A). C.B. pages 5, 6, and 8. (Comments from One Home Per Lot)</i></b></p>	<p>The current standards for platting and lot boundary adjustments in Sections 23.22.100.C, 23.24.040.A, and 23.28.030.A state that if a property proposed for subdivision is adjacent to an alley that is or will be improved, that access should generally be provided from the alley. This standard is intended to minimize new curb cuts that would occur if access were taken from the street.</p> <p>These sections do not specifically require lots to have alley frontage. Instead, the language requires that lots have “sufficient frontage” on an alley to meet access standards of the zone. It is the longstanding practice at DPD to allow this requirement to be met either by direct frontage on an alley or by providing an access easement over an intervening lot. For clarification, the proposed amendment would add a specific reference to the easement option.</p> <p>Use of an easement is also allowed for access from a lot to a <i>street</i> (see subsection 23.53.005.A.1, which explicitly allows access either from a</p>

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	street or an easement). The intent of minimizing curb cuts is still served if access is via an easement from an alley.
<p><b>2. Reduce required street frontage for certain houses (SMC 23.53.005) C.B. page 105. (One Home Per Lot)</b></p>	<p>DPD had proposed an amendment to Section 23.53.005 that would have allowed a buildable lot to have access only from an alley under certain conditions. The Council has removed the proposed amendment from the bill because it was a more substantive amendment that may be considered in separate legislation. Only minor grammatical and style changes are now proposed for Section 23.53.005.</p>
<p><b>3. Extension of structural features into required yards (SMC 23.44.014.C.2, 23.44.014.D and 23.44.014.F) C.B. pages 17-19. (One Home Per Lot)</b></p>	<p>The substance of subsection 23.44.014.C.2, which currently permits a single-family structure to be located in the required side yard if the side yard borders an alley, is not proposed to be changed. DPD is proposing to move this subsection so that it is with all the other exceptions to yard requirements in subsection 23.44.014.D. The meaning and application of the language would remain the same.</p> <p>Subsection 23.44.014.D.6 currently provides an exception for certain architectural features in required yards, and applies to “structures” in general. The proposed legislation would state that this exception applies only to principal structures such as houses, and to accessory structures such as garages, but not to detached accessory dwelling units (DADUs). This change would clarify ambiguous language and is more limiting than the current regulations.</p> <p>The proposed new language in subsection 23.44.014.F adds a cross reference to a setback requirement that might otherwise be overlooked.</p>
<p><b>4. Height calculations for accessory dwelling units (SMC 23.44.041) C.B. pages 28-34. (One Home Per Lot)</b></p>	<p>The proposed change in Table B for Section 23.44.041 clarifies how the height limits for DADUs are applied, and does not change the height limits themselves. The height calculation method would continue to be consistent with the way height is regulated for other types of structures in single family zones.</p>
<p><b>5. Changes to the list of land use decisions (SMC Table A for Section 23.76.004) C.B. pages 159-161. (One Home Per Lot)</b></p>	<p>The proposed change to Table A for Section 23.76.004 clarifies that application of development standards through zoning review is a “Type I” decision not subject to public notice or appeal processes if it relates to a decision that also is not subject to notice and appeal. The intent is not to change the current structure of the Code or what is subject to appeal. However, Central staff may propose changes to further clarify the proposed language.</p>
<p><b>6. Height exceptions in multifamily zones (SMC 23.45.514) C.B. pages 45-50. (Seattle Speaks Up)</b></p>	<p>Subsection 23.45.514.E.1 allows a 3-foot height exception for shed or butterfly roofs, which are roofs that are pitched only on one side or pitched so that the low point of the roof is in the center. The proposed change would state that these exceptions are only available if the height exception in subsection 23.45.514.F that allows 4 feet of additional height for a story that is partially below grade is <u>not</u> used. This limitation on using both exceptions for the same building already applies to the separate height exception for a pitched roof. It was intended to apply to shed and butterfly roofs when those exceptions were added in the 2010 revisions to multifamily zoning, but was inadvertently omitted. An additional change to 23.45.514.E.2 would clarify that only eaves, not gutters, are allowed on the</p>

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	<p>high side of a shed or butterfly roof, as gutters are not useful on the high side of a roof.</p> <p>Subsection 23.45.514.F.4 would be changed to specify that calculation of the four feet of additional height allowed for a partially below-grade story is made using the average height of the floor level of the story above the partially below-grade story. The current language uses the average of exterior facades and has been difficult for DPD to apply. It has also led to unintended consequences, especially on sites that slope enough such that one or more facades would be buried and excluded from the calculation.</p> <p>Central staff may propose amending language that would measure the average height to the ceiling of the partially below-grade story rather than to the floor of the story above. This would provide a consistent method for the measurement of height and FAR for this exception.</p>
<p><b>7. Transition vesting provision for height measurement technique (SMC 23.76.026.F) C.B. page 166. (Ryan Durkan on behalf of Seattle Preparatory School)</b></p>	<p>When the multifamily code chapter was overhauled in 2010, one of the key updates was to change the height measurement technique. In 2011, the Council adopted a “clean-up” bill to fix problems that arose as part of administering the new standards. One part of the clean-up legislation allowed applicants with projects vested as of October 7, 2011 the flexibility to choose either the old or new measurement technique. DPD had proposed to eliminate the provision, believing it was no longer relevant, but at least one applicant has identified a continuing need for the provision. DPD and Councilmember Conlin recommends maintaining the provision and reevaluating it in the next omnibus amendment cycle.</p>

### III. Other amendments

<i>Other amendments</i>	<i>Discussion</i>
<p><b>8. Earning bonus nonresidential floor area for off-site affordable housing in South Lake Union (SMC 23.58A.024) C.B. pages 143-146.</b></p>	<p>Under current requirements, nonresidential developments within the South Lake Union (SLU) Urban Center that achieve additional (bonus) floor area by providing off-site affordable housing through the regulations for “incentive zoning” must provide the off-site housing within the boundaries of the SLU Urban Center. Councilmember Conlin is proposing an amendment would allow limited flexibility to provide the off-site affordable housing outside the Urban Center boundary if the affordable housing site is:</p> <ul style="list-style-type: none"> <li>• within one mile of the development using the bonus nonresidential floor area; and</li> <li>• no more than 0.25 mile from the SLU Urban Center boundary.</li> </ul>
<p><b>9. “Courtyard Townhouse” incentive (SMC 23.45.510.E.5.d) C.B. page 44.</b></p>	<p>The 2010 multifamily code update legislation provided an incentive to promote townhouse developments with usable open space on the roof of a parking structure that sits between two townhouse buildings.</p>

<i>Other amendments</i>	<i>Discussion</i>
	<p>Three projects have been permitted or built since adoption of the provision. The applicant for these projects has had to seek departures through the design review process in order to make the designs work, as the current standards are too restrictive to meet the original intent.</p> <p>The proposed amendment would allow the roof of the parking structure to be as high as one story rather than the current 4 feet above grade on average. An additional limitation prohibiting pedestrian access to be no more than 4 feet above grade is also proposed to be removed. The code would continue to prohibit any stories above the roof of the parking structure, in order to limit overall bulk of buildings on the site. DPD and Central staff may propose additional clarifications to this subsection at the next PLUS Committee meeting.</p>
<p><b>10. Structural Building Overhangs</b>  <i>(SMC Sections 23.41.012 and 23.53.035)</i>  <i>C.B. pages 11-12 and 108-125.</i></p>	<p>Section 23.53.035 regulates structural building overhangs (SBOs), which are parts of a building that are allowed to encroach into the public right-of-way. The regulations in 23.53.035 were moved to the Land Use Code from the Building Code in 1999, and have remained unchanged since then, except to update the name of the Seattle Department of Transportation.</p> <p>The current regulations set specific limits on SBOs, which include architectural features such as cornices and eaves, as well as encroachments such as bay windows that may include floor area. Since 1999, more developers have incorporated SBOs into their designs, and the number of design departures requesting much larger encroachments has increased. In order to protect the public right-of-way, the proposal would add SBO regulations to the list of standards that are not eligible for design departure.</p> <p>In addition, the proposed changes would reorganize this SBO section, improve the exhibits, and clarify the regulations. The current standard that allows exceptions to the standards for “historic or rehabilitated buildings” without providing any review criteria would be replaced by subsection 23.53.035.E. This new subsection would allow exceptions to the standards for landmark structures and provides criteria for evaluating proposed exceptions.</p>
<p><b>11. Unit Lot Subdivisions for apartment buildings</b>  <i>(SMC 23.22.062, 23.24.045, and 23.45.510.E.3 )</i>  <i>C.B. pages 1-2, 7, and 42.</i></p>	<p>The code currently permits unit lot subdivisions for four types of housing (single family, townhouse, rowhouse, and cottage housing), in multifamily zones or under some circumstances in single family zones. Unit lot subdivisions allow the original lot (called the “parent lot”) to be subdivided if as a whole the development meets code standards, even though the “unit lots” that are created contain development that is nonconforming. For example, the individual unit lots may not have required open space or parking located on site, or may not provide required setbacks. The proposed bill would make two changes to the regulations for unit lot subdivisions.</p> <p>The first change would allow unit lot subdivisions for the specified housing types in any zone that permits these housing types, not just residential zones.</p> <p>The second change proposes a narrow expansion of the rules for unit lot subdivisions. It would permit a unit lot subdivision between apartment structures in multifamily zones that were built as single-</p>

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	<p>family homes prior to 1982, and that are using the density or floor area ratio (FAR) exemptions provided in multifamily zones for preserving such structures (SMC 23.45.510.E.3). This change would allow the density and FAR exception to be used by structures that were originally built as single-family homes but that have since been split into two or more dwelling units.</p> <p>In the original legislation that DPD submitted to the Council, DPD recommended language that would permit unit lot subdivisions for all apartment buildings (though not individual apartment units). The Council removed this amendment from the legislation because it was a more substantive amendment that may be considered in a separate bill.</p>
<p><b><i>12. Projecting garages in single family zones (SMC 23.44.016.F) C.B. pages 25-26.</i></b></p>	<p>A proposed change to subsection 23.44.016.F would clarify the regulations for garages that project from single family homes. It would allow such projecting garages if the entire structure is set back at least 35 feet from the street lot line.</p> <p>In addition, the amendments would revise subsection 23.44.016.F.3.c. This subsection provides the criteria used by the DPD Director when determining whether the standards for projecting garages may be modified. The proposal would allow the standards to be waived as well as modified, and adds “saving an exceptional tree” as one of the reasons for granting an exception.</p>

**Next Steps**

After the public hearing on December 11, 2013, a Committee vote is likely to occur in January, 2014.