



**Legislative Department
Seattle City Council
Memorandum**

Date: November 14, 2011

To: Sally Clark, Chair
Tim Burgess, Vice Chair
Sally Bagshaw, Member
Committee on the Built Environment (COBE)

From: Ketil Freeman, Council Central Staff

Subject: Council Bill (CB) 117335 – Incentive Zoning Framework for Lowrise and Multifamily Zones

Introduction and Background

On September 14th COBE heard an initial briefing on Council Bill (CB) 117302. CB 117302 would establish a regulatory framework for implementing the City’s affordable workforce housing incentive program in urban villages. The program currently operates in the downtown core, the Dravus area, Midrise zones, and Highrise zones. This fall the Council will consider extending the program to the Roosevelt Residential Urban Village and portions of the West Seattle Junction Hub Urban Village. See CB 117271 and CB 117294, respectively.

On October 12th COBE held a public hearing and discussed two potential amendments to CB 117302 and directed staff to incorporate them into the proposed legislation. One amendment corrects a drafting error in a section requiring replacement housing in certain circumstances for program participants. The other amendment allows developers of single purpose commercial structures in mixed-use zones to utilize the payment option when participating in the program. Because both amendments are to a code section that CB 117302 would not modify, staff drafted and Council introduced a new bill with the proposed amendments.

In 2008 the Council created Chapter 23.58A in the Land Use Code.¹ Chapter 23.58A codifies the City’s affordable workforce housing incentive program. The Council also concurrently passed Resolution 31104, which provides general policy guidance for implementing the program and establishes “the Council’s and Mayor’s intent to consider the use of workforce housing incentive programs when significantly increasing residential or commercial density through legislative rezones.”²

Attachments:

- CB 117335
- Line-in-line out Comparison to CB 117302
- Department of Planning and Development’s Director’s Report

¹ Ordinance 122882.

² Resolution 31104, Section 1.

Amendments

Replacement Housing Drafting Error (Ordinance 117335 p.8 l. 10-24)

The workforce housing incentive program contains a requirement that where a new development would take advantage of a density bonus allowed by the program, and that development would result in demolition of four or more residential units that are rented to households that qualified or would qualify for relocation assistance under the City's Tenant Relocation Assistance Ordinance; the square footage of the affordable units to be demolished must be replaced in the new development.³

However, a drafting error precludes this replacement housing provision from operating. Specifically, existing language requires that the units to be replaced be rented and demolished within 18 months *prior* to a Master Use Permit (MUP) application. Generally, the City does not allow demolition of a structure without a Master Use Permit that establishes a new use for the site. Consequently, it is almost never the case that units would have already been demolished prior to a MUP application.

The proposed amendment would correct the drafting error. A similar replacement requirement is set out in the City's Multifamily Tax Exemption Program.⁴ A correction to the MFTE language was approved by Council on October 3, 2011 through Ordinance 117298.

Payment Option for Single Purpose Commercial Structures (Ordinance 117335 p.8 l. 6-8 and p.9 l. 16-20)

The workforce housing incentive program establishes that participants in the program can meet affordable housing obligations by either 1) developing affordable units themselves or in partnership with another developer, the "performance option;" or 2) making a payment to the Office of Housing, the "payment option." However, if the maximum height of a zone is 85 feet, a participant in the program must use the "performance option."⁵

This policy choice reflects the Council's desire at the time the program was codified to encourage workforce housing production by developers of mixed use buildings. However, there is the potential in mixed use zones for a single-purpose commercial development, as opposed to a mixed use development. In that scenario a developer would not be able to take advantage of bonus floor area without developing affordable units somewhere nearby. This could act as a deterrent to commercial developers who might otherwise want to develop in an urban village where the workforce housing incentive program operates but lack partners or organizational capacity for residential development.

The proposed amendment would establish that the "payment option" is available for single purpose commercial structures in urban villages where 85 feet is the maximum height.

Next Steps

If COBE recommends approval of CB 117335 on Wednesday, to comply with Growth Management Act public participation requirements the legislation should be held at Council until December 5th to allow an additional opportunity for public comment. Notice of the opportunity to comment would be provided in the Land Use Information Bulletin.

³ Seattle Municipal Code (SMC) § 23.58A.014.D.

⁴ SMC § 5.73.040.

⁵ SMC § 23.58A.012.