

For publication in the LUIB and the Daily Journal of Commerce on January 5, 2012.

Other Land Use Actions

NOTICE OF RESCHEDULING OF A CITY COUNCIL PUBLIC HEARING ON PROPOSED LAND USE CODE AMENDMENTS TO PROVIDE ADDITIONAL DESIGN DEPARTURES UNDER THE DEMONSTRATION PROGRAM FOR LIVING BUILDING DESIGN

The City of Seattle is proposing to amend the Land Use Code, Seattle Municipal Code Sections 23.40.060 and 23.41.012, to provide two additional departures from development standards for projects reviewed under the Demonstration Program for Living Building Design: 1) an increase in maximum building height of up to 20 feet above the zone height limit and; 2) exempt ground floor retail space from maximum floor area ratio (FAR) limits. The two proposed departures from development standards would apply only to sites in Industrial Commercial (IC) zones within a designated Urban Village or Urban Center that have a zone height limit of less than 65 feet and if the proposed development is reasonably compatible with the character and height of development within the Urban Village or Urban Center.

PUBLIC HEARING

The City Council's Planning, Land Use and Sustainability committee originally scheduled a public hearing for Wednesday, February 8, 2012 in the City Council Chambers, 2nd floor, Seattle City Hall, 600 Fourth Avenue. The public hearing has been rescheduled to February 29, 2012. The meeting is scheduled to begin at 9:30 a.m. The entrances to City Hall are located on the west side of Fifth Avenue, and the east side of Fourth Avenue, between James and Cherry Streets. For those who wish to testify, a sign-up sheet will be available outside the Council Chamber at 9:00 am on the day of the hearing.

Questions concerning the public hearing may be directed to Michael Jenkins, Council Central Staff, at 206-615-1674 or via e-mail at michael.jenkins@seattle.gov. The City Council Chamber is accessible. Print and communications access is provided on prior request. Please contact Michael Jenkins at 206-615-1674 as soon as possible to request accommodations for a disability.

WRITTEN COMMENTS

For those unable to attend the public hearing, written comments may be sent to:

**Michael Jenkins – Council Central Staff
Legislative Department
600 Fourth Avenue, Floor 2
PO Box 34025
Seattle, WA 98124-4025
or by email to michael.jenkins@seattle.gov**

Written comments should be received by Tuesday, February 28, 2012, at 5 p.m.

INFORMATION AVAILABLE

Copies of the proposal may be obtained from the City Council's website at <http://www.seattle.gov/council>

The Director of the Department of Planning and Development's report on the proposal is also available on the City Council's website.

Questions regarding the proposal may be directed to Bill Mills, DPD, at 206.684.8738 or william.mills@seattle.gov; or Michael Jenkins, Council Central Staff, at 206.615-1674 or michael.jenkins@seattle.gov.

Director's Report and Recommendation LIVING BUILDING AMENDMENTS

I. Introduction

The Department of Planning and Development (DPD) is proposing amendments to the Living Building Pilot Program to better facilitate the development of buildings that would meet the Living Building Challenge, a standard of the International Living Building Institute for buildings meeting the highest level of sustainable design. This ordinance became effective January 2010. The Pilot Program created by the ordinance has a life of three years, with a maximum of 12 projects allowed to be built. At this point, more than half way through the effective period of this ordinance, only one project has participated in the program and been approved for construction. The current economic climate and its effect on the real estate market has likely had an impact; however, additional flexibility could help encourage more developers to test the Living Building Challenge concept, which is designed to achieve an advanced level of sustainability, and would help inform the City on the regulatory changes that may be necessary to develop such buildings.

This proposal would modify the design review process already in place under Land Use Code Section 23.40.060 for Living Building projects in the Pilot Program. It would allow two additional departures from the regular code standards through design review under subsection 23.41.012.D.2. The first would allow an increase in maximum building height of up to 20 feet above the zone height limit, and the second would exempt ground floor retail space from maximum floor area ratio (FAR) limits. These two new departures would apply only to sites in Industrial Commercial (IC) zones within a designated Urban Village or Urban Center that have a zone height limit of 45 feet or less.

II. Background and Analysis

The Living Building Challenge is a green building rating system created by the International Living Building Institute to recognize buildings meeting the highest level of sustainability. Version 1.3 of the Living Building Challenge requires buildings to meet 16 prerequisites within six performance areas, or Petals: Site Design, Energy, Materials, Water, Indoor Environmental Quality, and Beauty + Inspiration. In general, these prerequisites require buildings to be built on non-environmentally sensitive sites, use recycled materials, generate as much or more electricity as they use through sustainable sources, capture as much rainwater as they use, treat wastewater on site, and meet a number of standards for other elements.

In order to meet the stringent performance standards of the Living Building Challenge, buildings generally rely upon innovative building design techniques and features including natural daylighting and ventilation, use of passive and active solar energy systems, rainwater capture and use, wastewater treatment and reuse, and ultra-efficient heating, ventilation and air conditioning (HVAC) systems. These systems can substantially increase design complexity and necessitate

early integrated design processes to ensure that all systems are compatible and work in an efficient manner, and that each performance goal can be met. These innovative systems may also necessitate alternative building massing, non-traditional exterior and roof top features, or other elements that were not envisioned when existing codes were adopted. Existing codes were designed to provide minimum standards rather than the flexibility to consider radically different building strategies. Additionally, projects may meet the Living Building Challenge through incorporation of uncommon urban accessory uses such as agricultural uses that use treated waste water.

In order to accommodate new design process challenges and alternative building designs, the Living Building Pilot Program expanded the departures allowed through Design Review. These proposed amendments are limited to a modest further expansion of Code departures.

Project Enrollment

In order to participate in the Living Building Pilot Program, an applicant must submit a plan demonstrating how their proposal would meet each of the prerequisites of the Living Building Challenge. Enrollment is limited to a total of 12 qualifying projects over a period of three years. Projects must be eligible for design review to participate in the Pilot Program; this excludes single-family houses and most projects in industrial zones, except in IC zones that are also within an Urban Village or Urban Center. Projects located in the shoreline district are also excluded.

Since the Living Building Pilot Program became effective in January 2010, one project has been approved (the Bullitt Center at 15th Avenue E and E Madison Street, 1501 E Madison Street, DPD Project No. 3011010). No other projects are enrolled in the Pilot Program. The proposed amendments would facilitate an additional project proposed at 3400 Stone Way North.

Design Review

Qualifying projects participate in the design review process provided in Code Section 23.41.014, except that additional departures are allowed. All projects participating in the Living Building Pilot Program are required to go before the Design Review Board (DRB), rather than going through administrative design review or streamlined design review.

Proposed Design Departures

In addition to the criteria governing departures from development standards for all projects subject to design review, additional departures are allowed for living building projects if an applicant demonstrates that such departures would better meet the goals of the Living Building Challenge and would not conflict with adopted design guidelines. In recommending any departure from development standards, the DRB must consider the extent to which the anticipated environmental performance of the building would be substantially compromised without the departures.

In addition to the Land Use Code departures currently allowed through design review plus the additional departures currently allowed for Living Buildings, the proposal would allow departure from two additional standards as follows:

- allow up to 20 feet above the zoned height limit for IC zones with a height limit of 45 feet or less that are within Urban Villages or Urban Centers.
- exempt certain ground floor retail space from FAR limits in IC zones with a height limit of 45 feet or less and within Urban Villages or Urban Centers.

The proposed height increase is intended to promote the inclusion of taller street-level stories to encourage and accommodate retail uses that might otherwise be excluded from building programming, and to encourage appropriate daylighting of interior floor spaces. Street-level retail spaces should be taller than other building stories in order to create an environment conducive for retail activities. In addition, buildings with a floor dimension greater than 100 feet require greater floor-to-floor height for appropriate daylighting of interior floor spaces, an important component of a Living Building. For sites with deep floor plates, additional height per floor may be necessary to ensure adequate daylight introduction into the interior. The proposed amendment will provide the flexibility necessary to accommodate these daylighting needs, which is key to meeting building energy efficiency requirements.

The exemption of ground floor space for retail uses, eating and drinking establishments, or entertainment uses will further one important goal of the Living Building Program, which is to fashion a set of regulations that will incentivize the development of Living Building projects that do not need subsidies from government grants or foundations. Developers may avoid retail uses, since in a neighborhood context they may provide less attractive returns than offices or other non-residential uses.

The Director of DPD would remain the decision-maker on any departures. As is the case for all projects in the Living Building Pilot Program, the Director would not be governed by the provisions that limit the Director's ability to modify or amend the recommendations of the Design Review Board.

Minimum Requirements

An applicant participating in the Living Building Pilot Program for whom departures are approved is required to meet minimum sustainability requirements per the Living Building Pilot Program or face monetary penalties. While the goal of the project is to encourage buildings that meet the Living Building Challenge, the Living Building Pilot Program recognizes that the Living Building Challenge is a difficult standard to meet and that some flexibility is required in setting standards. Consequently, all participating projects that receive departures must strive to meet the Living Building Challenge. The City recognizes that some standards may not currently be achievable due to requirements beyond the City's and the applicants control, such as state requirements; therefore, at a minimum a participating project must meet at least 60% of the Living Building Challenge pre-requisites and all of the following alternative minimum standards:

- energy usage, including all electricity, heating, and cooling requirements and subtracting energy generated on site, must be 25% or less of the average energy usage for a comparable building not in the Living Building Program;
- water usage, subtracting harvested rainwater use, must be 25% or less than the average water usage for a comparable building not in the Living Building Program; and

- 50% of stormwater must be captured and used on site.

In the event a building does not meet these minimum performance goals, the owner would be subject to a maximum penalty of 5% of the construction value and a minimum penalty of 1% of construction value, based on the extent of compliance with standards.

III. Recommendation

The proposed Living Building Pilot Program is intended to promote the public interest by encouraging the development of innovative “living” buildings that can reduce environmental impacts, test new technologies, and serve as a model for development throughout the region and country. The proposed amendments will supplement the original Pilot Program by allowing better development of projects on a limited number of additional sites within IC 45 zones where Living Building Pilot Projects are already allowed. The potential for development of additional living buildings will address growing environmental concerns and encourage new buildings in Seattle to meet the highest sustainable standards. DPD recommends approval of the amendments to the proposed Living Building Pilot Program.

ORDINANCE _____

AN ORDINANCE relating to land use and zoning, amending Sections 23.40.060 and 23.41.012 of the Seattle Municipal Code to provide additional design departures under the Demonstration Program for Living Building Design implemented by Section 23.40.060.

WHEREAS, the *Living Building Challenge* establishes goals for building owners, architects, design professionals, engineers and contractors to build in a way that provides for a sustainable future through buildings informed by their ecoregion's characteristics, that generate all of its own energy with renewable resources, that captures and treats all of its water, and operates efficiently with maximum beauty; and

WHEREAS, the *Living Building Challenge* is attempting to raise the bar and define the most advanced measure of sustainability in the built environment, using a benchmark of what is currently possible and given the best knowledge available today. Projects that achieve this level of performance can claim to be among the 'greenest' anywhere, and will serve as role models to others that follow;

WHEREAS, creating Living Buildings requires a fundamentally different approach to building design, construction, and operations that may necessitate changes to current development codes;

WHEREAS, the City Council adopted Ordinance 123206 in December 2009 to establish the Living Building Pilot Program as part of the Land Use Code, to promote the goals of the *Living Building Challenge* and permit the development of up to 12 projects that meet the prerequisites of the *Living Building Challenge*; and

WHEREAS, allowing additional development standard flexibility recognizes the significant challenges to meeting such high standards, and has been identified as essential to encouraging more participation in the program, furthering the goals of the *Living Building Challenge*; NOW THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Subsection E of Section 23.40.060 of the Seattle Municipal Code, which section was last amended by Ordinance 123392, is amended as follows:

23.40.060 Living Building Pilot Program

* * *

E. Compliance with minimum standards.

1. Minimum standards. While the intent of the Living Building Pilot

Program is to encourage development of buildings that meet or exceed the goals of the Living Building Challenge, qualifying projects that are granted departures (~~shall~~)must meet either all of the prerequisites of the Living Building Challenge or at a minimum 60 percent of the prerequisites of the Living Building Challenge and all of the following alternative standards:

a. total building energy usage, subtracting energy generated on site, is 25 percent or less of the average energy usage for a comparable building not in the Living Building Program, based on the Energy Information Administration's 2003 Commercial Buildings Energy Use Survey, Energy Information Administration's 2005 Residential Energy Consumption Survey, or other baseline approved by the Director that would provide a comparable estimate;

b. total building water usage, subtracting harvested rainwater, is 25 percent or less of the average water usage for a comparable building not in the Living Building Program, based on Seattle Public Utility estimates or other baseline approved by the Director that would provide a comparable estimate; and

c. at least 50 percent of stormwater is captured and used on site.

* * *

Section 23.41.012 of the Seattle Municipal Code, which section was last amended by Ordinance 123392, is amended as follows:

23.41.012 Development standard departures

* * *

D. Departures for the Living Building Pilot Program.

1 1. Criteria for Departures. Departures from Land Use Code requirements for
2 projects participating in the Living Building Pilot Program pursuant to Section 23.40.060 may be
3 allowed if an applicant demonstrates that the departure would result in a development that better
4 meets the intent of adopted design guidelines or that the departure would result in a development
5 that better meets the goals of the Living Building Challenge and would not conflict with adopted
6 design guidelines. In making this recommendation, the Board shall consider the extent to which
7 the anticipated environmental performance of the building would be substantially compromised
8 without the departures.
9

10 2. Scope of Departures. In addition to the departures allowed under
11 ~~((Section))~~ subsection 23.41.012.B, departures for projects participating in the Living Building
12 Pilot Program established under Section 23.40.060 may also be granted for the following:
13

14 a. Permitted, prohibited or conditional use provisions, but only for
15 accessory uses that would directly address a prerequisite of the Living Building Challenge,
16 including but not limited to uses that could re-use existing waste streams or reduce the
17 transportation impacts of people or goods.

18 b. Residential density limits;

19 c. Downtown view corridor requirements;

20 d. Floor Area Ratio(~~(s)~~) limits, as follows:

21 1) ~~U((#))~~ up to 15 percent above the otherwise applicable limit;

22 2) In addition, up to all gross floor area for street level general
23 sales and services, eating and drinking establishments, or entertainment uses, when located in:
24

25 i.) An IC zone with a height limit of 45 feet or less; and

26 ii.) An urban village or urban center.
27
28

e. Maximum size of use;

f. Structure height, subject to the following:

1) Structure height up to 10 feet; or

2) Structure height up to 20 feet for development on sites in IC zones with height limits of 45 feet or less, if the sites are located in an Urban Village or Urban Center and if the project would not conflict with adopted Design Guidelines; (~~except only r~~)

3) Rooftop features may be allowed to extend (~~more than 10 feet above the otherwise applicable limit~~) above the structure height approved pursuant to this subsection 23.41.012.D.2.f;

g. Quantity of parking required, minimum and maximum parking limits, and minimum and maximum number of drive-in lanes;

h. Standards for storage of solid-waste containers;

i. The quantity of open space required for major office projects in Downtown zones in subsection 23.49.016.B;

j. Standards for the location of access to parking in Downtown zones;

k. Provisions of Chapter 23.53, Requirements for Streets, Alleys and Easements.

* * *

Section 2. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the ____ day of _____, 2011, and signed by me in open session in authentication of its passage this

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

_____ day of _____, 2011.

President _____ of the City Council

Approved by me this ____ day of _____, 2011.

Michael McGinn, Mayor

Filed by me this ____ day of _____, 2011.

Monica Martinez Simmons, City Clerk

(Seal)