



**Legislative Department  
Seattle City Council  
Memorandum**

Date: September 17, 2013  
To: Planning, Land Use, and Sustainability Committee  
From: Martha Lester, City Council Central Staff  
Subject: **C.B. 117854 – 200 Occidental Ave. S. and “Portland Loo”-Type Restroom**

The Planning, Land Use, and Sustainability (PLUS) Committee held a public hearing at its September 11, 2013, meeting on C.B. 117854. That C.B. would amend the Land Use Code to revise the development regulations that govern the parcel at 200 Occidental Ave. S. (immediately east of Occidental Park – see map on page 4). The Code currently allows a higher height for inclusion of a streetcar maintenance base. C.B. 117854 would allow the higher height for acquisition and installation of a new free-standing manufactured public restroom in the Pioneer Square Preservation District.

C.B. 117854 will be included on the PLUS Committee’s September 19 agenda for discussion and possible vote. This memo provides background information, describes C.B. 117854 and the Executive’s proposal to implement it, addresses several policy issues, and presents three potential amendments.

If you have questions or would like additional information, please let me know.

### **Brief Background**

Land use regulations: Over the years, Urban Visions (led by Greg Smith, sometimes operating as Center for Pioneer Square LLC) has contemplated various redevelopment scenarios for 200 Occidental. In 2005, Urban Visions worked with King County on a proposal for a mixed-use building that would have incorporated a streetcar maintenance base to replace the streetcar maintenance base that was to be torn down due to development of the Olympic Sculpture Park. (That base was demolished in November 2005.) To facilitate the 200 Occidental project, the City Council and Mayor enacted Ordinance 122330 in January 2007. This ordinance amended the Pioneer Square regulations in the Land Use Code to allow a structure height up to 130 feet (versus a maximum height of 100 feet that was otherwise in effect at the time) if the structure incorporated a streetcar maintenance base and had floor area in residential or hotel use equal to the floor area above 100 feet.

It’s not clear how the maximum height of 130 feet was arrived at – whether Urban Visions requested this height, or Executive staff came up with it, or something else. There were at least some comments to the effect that a residential building could not feasibly use the full floor plate (too large) so the additional 30 feet of height, with articulation of the façade and a setback for upper levels, would allow “the same density.” Some opined that the additional 30 feet was to “compensate for” the space occupied by the streetcar maintenance base, but I have not seen any calculations to support this.

Financial terms: A draft term sheet for an agreement between King County and Urban Visions provided that Urban Visions would construct the project, and King County would lease the streetcar maintenance base for 30 years, or could purchase it for \$9 million. King County appropriated \$7 million toward the purchase, and received pledges from the City and the Port for \$1 million each.

Design: To address concerns about the potential effects of an additional 30 feet of height, the Council considered ways to encourage good design. On the same day in January 2007 that the Council passed Ordinance 122330, the Council adopted Resolution 30946. This resolution:

- stated design goals for the project;
- acknowledged the roles and authority of the Design Commission, the Pioneer Square Preservation Board (PSPB), and staff in the Department of Planning and Development (DPD) and the Department of Neighborhoods (DON) to review the proposed building; and
- stated that before releasing the City’s \$1 million contribution, the Council intended to assess the extent to which the project incorporated the recommendations of the Design Commission and the PSPB.

Outcome: Urban Visions received a master use permit (MUP) in August 2008 for a structure including a streetcar maintenance base. The PSPB approved a Certificate of Approval for Preliminary Design, but the project never reached the stage of seeking a Certificate of Approval for Final Design from the PSPB. No construction was undertaken.

Construction of the Alaskan Way Viaduct replacement moved closer on the horizon, and waterfront streetcar operations, if restarted, would have had to have been suspended during the years of construction. Some of the tracks were removed. More recently, waterfront planning efforts have looked at pursuing a streetcar along First Avenue instead of reviving the waterfront streetcar. There is currently no interest in building a streetcar maintenance base at 200 Occidental.

## **More Recent Activity**

Under its existing MUP (valid through November 2014), Urban Visions could build a structure with space for a streetcar maintenance base – but there is no interest in such a base.

In April 2012, Urban Visions approached PSPB staff in DON and requested to revise its project to reduce the space occupied by the “streetcar maintenance base” use from 13,425 square feet<sup>1</sup> to 3,038 square feet. The revised project would also have increased retail space, and added a one-story basement. Urban Visions asked that the PSPB review this request (effectively applying for a Certificate of Approval from the PSPB).

In May or June 2012, before the PSPB had met to discuss this application, DPD, Urban Visions, and representatives of the Pioneer Square community explored an alternative approach: whether there was a “public benefit” that might appropriately replace the streetcar maintenance base requirement in the code. They decided to pursue the option for Urban Visions to provide a free-standing manufactured public restroom in Pioneer Square. In June 2012, Urban Visions notified PSPB staff that it was withdrawing the application to reduce the “streetcar maintenance base” use to 3,038 square feet.

## **Current Proposal**

Proposed legislation: In July 2013, the Mayor submitted to the council C.B. 117854, which provides:

- project may achieve the additional 30 feet in height;
- space identified in the MUP for the streetcar maintenance base may be changed to another permitted use;
- structure must have, in residential or hotel use, floor area equal to the floor area above 100 feet (this is not new – it is in the code now as a requirement for a structure with a streetcar maintenance base);

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<sup>1</sup> DPD’s permit website indicates that for the 2008 MUP, the streetcar maintenance base was to occupy 12,600 square feet. Drawings submitted by Urban Visions in April 2012 show that for the 2008 MUP, the streetcar maintenance base was to occupy 13,425 square feet. I don’t know the reason for this discrepancy.

- permit holder must acquire and install a new free-standing manufactured public restroom in the Pioneer Square Preservation District within six months of the effective date of the ordinance, with possible extension to no later than November 1, 2014;
- new free-standing manufactured public restroom must connect to City water and sewer mains, meet ADA requirements, meet City-approved standards, and comply with all permit requirements; and
- new free-standing manufactured public restroom must obtain a Certificate of Approval from the PSPB (a briefing is scheduled for September 18).

Note that in addition to the restroom needing PSPB approval, the 200 Occidental project would also need a Certificate of Approval from the PSPB, which has not yet reviewed the project without the streetcar maintenance base.

Proposed siting, permitting, and installation of restroom: In addition to the proposed code amendments in C.B. 117854, Executive staff have also addressed siting, permitting, and installation of a new free-standing manufactured public restroom in the Pioneer Square Preservation District. This component of the effort would likely not involve the City Council directly. But because the two efforts are closely related, and Councilmembers have expressed interest in both components, Executive staff have provided information about proposed siting, permitting, and installation.

The Executive’s plan is that Urban Visions (the MUP holder) would acquire and install the restroom. Urban Visions would then deed the restroom to the Department of Finance and Administrative Services (FAS) as the long-term owner.

DPD estimates acquisition cost at \$90,000, and transportation cost at \$400. Installation costs were initially estimated at \$10,000 to \$30,000 (reflected in the Attachment to DPD’s Director’s Report for C.B. 117854). However, this estimated range has not been confirmed for a site in Seattle, and the cost will likely be more, particularly given the unpredictability of construction conditions in Pioneer Square. Urban Visions has estimated that installation would cost about \$130,000.

FAS would lease the restroom to the Alliance for Pioneer Square<sup>2</sup>, which would arrange and pay for operations and maintenance (O&M). The initial lease would be for five years. If FAS were not successful in negotiating an extension, O&M costs would become a City responsibility.

DPD staff worked with a community committee convened by the Alliance for Pioneer Square, as well as with staff from the Seattle Department of Transportation (SDOT), Seattle Public Utilities (SPU), Seattle City Light, and FAS, to assess potential sites for the restroom.

The community committee initially selected a site at the intersection of James Street and Yesler Way, at the western tip of the triangular block occupied by the “sinking ship garage” (see map on page 4). However, Executive staff have analyzed that location in more detail and have concluded that installation at the intersection of James and Yesler would trigger a requirement to make the entire intersection ADA-compliant, including constructing four new curb cuts in sidewalks above areaways – a potentially very expensive proposition.

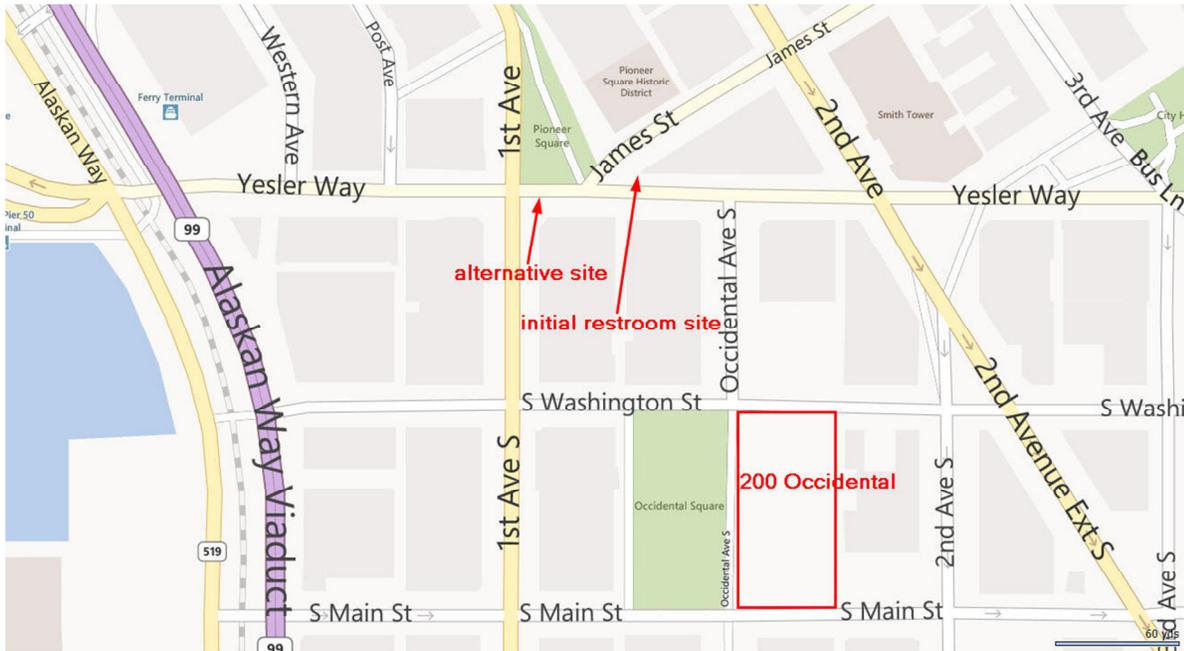
A promising alternative site (feasible and presumably less-costly) is adjacent to the sidewalk on the south side of Yesler Way east of 1<sup>st</sup> Avenue S. (see map on page 4). The restroom would be installed in a curb bulb built out into the street (a bus zone is there now but is slated to be closed this month).

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<sup>2</sup> The Alliance, founded in 2010, is a non-profit entity. It is funded largely by Business Improvement Area (BIA) assessments, which are anticipated to be about \$700,000 per year if the new and expanded Pioneer Square BIA is approved. The Alliance receives some additional revenue from donations and grants.

C.B. 117854 would also require a new free-standing manufactured public restroom to meet “City-approved standards.” Executive staff anticipate that these standards would describe design and materials, ease of maintenance, and public safety features, and would require that the restroom facility be approved by FAS before installation. One option being discussed is that these standards could be adopted by FAS as a Director’s Rule, but that approach has not been finalized.

This map shows the 200 Occidental site, and the initial and alternative sites for the restroom.



## Policy Issues

Councilmembers have asked several questions, which I address below.

What could Urban Visions currently build as-of-right at 200 Occidental (that is, what are the “do nothing” options if the Council does *not* pass C.B. 117854)?

*Current MUP:* With its current MUP, Urban Visions could build the permitted 130-foot structure with 12,600 square feet of space for a streetcar maintenance base – but there is no interest in such a maintenance base. Urban Visions would essentially need to leave that space vacant.

*Build to base height of 100 feet:* Alternatively, under existing zoning (PSM 100/100-120), Urban Visions could build to a height of 100 feet and include any uses permitted in the zone (e.g., office, residential).

*Build to 120 feet under Pioneer Square incentive zoning:* In the PSM 100/100-120 zone, Urban Visions could build to a height of 120 feet. The project would have to include residential floor area at least equal to the floor area above 100 feet. In addition, of the floor area above 100 feet (about 52,700 square feet), 60 percent would be gained by providing low-income housing (or making payment-in-lieu) and 40 percent would be gained by providing bonused amenities, transfer of residential development potential (TDP), or bonus for a “contributing structure” in South Downtown.

Cost for 60 percent component: Based on current plans for 200 Occidental, payment-in-lieu for the 60 percent of additional floor area would cost about \$480,000 (about 31,600 square feet at \$15.15 per square foot).

Cost for 40 percent component: There is not a known “market” for the elements eligible for the 40 percent of additional floor area, in part because they are new, so the cost is unknown. To get an idea of a possible range, if the 40 percent component (about 21,000 square feet) were gained at the low-income housing cost of \$15.15 per square foot, it would cost about \$320,000. If the 40 percent component were gained at the price range of a couple of recent Downtown Transferable Development Rights (Downtown TDR) transactions, which is \$11.25 to \$11.50 per square foot, it would cost about \$240,000.

Total cost: Thus the total cost for the entire 52,700 additional square feet could be in the range of \$720,000 to \$800,000.

What would it cost Urban Visions to achieve the additional 30 feet in height if it were available under an incentive zoning scheme?

The PSM 100/100-120 zone does not have an incentive zoning program that would allow 130 feet (the maximum is 120 feet). But if there were an option to add 79,000 square feet (three floors) above the 100 foot base height limit, then using the same assumptions about the 60 percent – 40 percent split as in the preceding scenario, the cost could be in the range of \$1.1 to \$1.2 million.

What would it cost if Urban Visions were to “earn” the 12,600 square feet currently designated for the streetcar maintenance base through an incentive-zoning-type program?

Urban Visions currently has a MUP for a 130-foot tall structure that includes 12,600 square feet of space for a streetcar maintenance base. Urban Visions wants to change the use of that space to another use. If Urban Visions were required to “earn” that space through an incentive-zoning-type program, with the same assumptions about the 60 percent – 40 percent split as in preceding scenarios, the cost would be about \$170,000.

Who should pay for ongoing O&M costs for the free-standing manufactured public restroom?

O&M costs for a new free-standing manufactured public restroom are estimated by DPD to be about \$17,000 to 18,000 per year, based on the City of Portland’s experience with the “Portland Loo.”<sup>3</sup> The Alliance for Pioneer Square has stepped forward and offered to pay the O&M costs of a new public restroom in Pioneer Square from BIA assessment revenue. One benefit of this community involvement is that the Alliance would in a sense have “ownership” of the restroom and may be more invested in its success.

Note that in Downtown Seattle, if a new building were to include a public restroom on the ground floor, it would be an eligible amenity by which the developer could achieve bonus floor area. If a developer were to provide a public restroom as a bonus feature, the code would require that the owner of the new structure using the bonus floor area maintain the restroom for the life of the structure that contains the restroom. Thus another approach could be that if Urban Visions’ project gains additional floor area by providing a new free-standing manufactured public restroom, then Urban Visions (or the owner of the new project) could be required to pay O&M costs for the life of the new project. Alternatively, Urban Visions could be required to pay O&M costs for 50 years, which is the required time that subsidized housing using downtown housing incentive funds must be

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<sup>3</sup> This amount does not include a set-aside for replacing the restroom at the end of its useful life. There is not yet enough experience to assess how long a “useful life” is anticipated for this type of facility – Portland’s oldest “Loo” was installed just five years ago.

available at below-market rents. Under either of these options, the Alliance or another entity could be charged with overseeing and contracting for O&M, but Urban Visions could pay the O&M costs.

If Urban Visions were required to pay O&M costs for 50 years at \$18,000 per year, the total O&M cost would be \$900,000. The net present value of this amount, using a discount rate of 3 percent, would be approximately \$465,000 today. In other words, the approximate cost of an annuity today that would yield \$18,000 per year for 50 years would be \$465,000. If this O&M cost were combined with the estimated cost to acquire and install the restroom, the total would be about \$585,000. See amendment C for language to require payment of O&M costs.

Should the requirement of “residential or hotel use” be changed to *require* residential (and not allow hotel)?

As described above, if C.B. 117854 were passed, a new structure at 200 Occidental would be required to have, in residential *or* hotel use, floor area equal to the floor area above 100 feet in height. (This would not be new – the same requirement applies now for a structure that includes a streetcar maintenance base.) Many in the Pioneer Square community have emphasized the specific desire for more housing in the neighborhood. The Council could amend the bill to require that this floor area be residential (and not allow hotel) – see amendment A. (Note that this would match the existing code requirement if Urban Visions were to build to 120 feet under Pioneer Square incentive zoning – the project would have to include residential floor area at least equal to the floor area above 100 feet.)

Should the residential (or hotel) use be required to equal at least three stories’ worth of floor area?

The preceding paragraph describes the required *use* in C.B. 117854 of residential or hotel. This paragraph deals with the *amount* of that use. C.B. 117854 requires residential or hotel use equal to the gross floor area above 100 feet. For a 130-foot building, this would generally be interpreted to be three stories’ worth of floor area. But there may be building designs with extra-high ceilings on upper floors so that the “gross floor area in the structure above 100 feet” would equal only two stories’ worth of floor area. The Council could amend the bill to require the greater of the floor area above 100 feet, or three times the average floor area – see amendment B.

The table on page 7 compares the cost options described above.

## Comparison of Options for 200 Occidental Project and Free-Standing Public Restroom

Option	Cost of incentive per square foot*	Number of square feet*	Total cost*
<i>Base height</i> Build to 100 feet (base height)	NA	0	0
<i>120 feet</i> Build to 120 feet under Pioneer Square incentive zoning; requires affordable housing incentive for 60% of additional floor area, other incentives for remaining 40%	\$13.60 - \$15.15 on average	52,700	\$720,000 - \$800,000
<i>130 feet</i> Build to 130 feet under the same 60% - 40% split (hypothetical example – option not currently available)	\$13.60 - \$15.15 on average	79,000	\$1,080,000 - \$1,200,000
<i>C.B. 117854</i> Build to 130 feet under DPD proposed C.B. 117854; pay to acquire (\$90K) and install (\$30K) free-standing public restroom off-site	\$1.50 (derived per-square-foot amount)	79,000	\$120,000
<i>C.B. 117854 plus amendment to “earn” 12,600 s.f.</i> Build to 130 feet under C.B. 117854; pay to acquire (\$90K) and install (\$30K) restroom; and “earn” 12,600 square feet via incentive-zoning-type program with the same 60% - 40% split (\$170K)	\$3.70 (derived per-square-foot amount)	79,000	\$290,000
<i>C.B. 117854 plus amendment to pay O&amp;M</i> Build to 130 feet under C.B. 117854; pay to acquire (\$90K), install (\$30K), operate and maintain (\$465K) free-standing public restroom off-site	\$7.40 (derived per-square-foot amount)	79,000	\$585,000

\* Cost and square footage amounts are estimates. Installation cost is shown as \$30,000, which is the high end of DPD’s estimate, but the actual installation cost is likely to be higher.

### Potential Amendments

Three potential amendments to C.B. 117854 are shown on the following pages.

<b>A</b>	page 8	Require housing (not hotel) equal to floor area above 100 feet
<b>B</b>	page 9	Require housing (or hotel) equal to at least three stories’ worth of floor area
<b>C</b>	page 10	Require property owner to pay O&M costs for free-standing public restroom

**A**

*Potential amendment to C.B. 117854*

***Require housing (not hotel) equal to floor area above 100 feet***

Section 1. Section 23.49.178 of the Seattle Municipal Code, last amended by Ordinance 123589, is amended as follows:

**23.49.178 Pioneer Square Mixed, structure height**

\* \* \*

C. In the PSM 100/100-120 zone, a structure within which a streetcar maintenance base has been established by a Master Use Permit (MUP) decision issued before May 31, 2013, may attain a maximum height of 130 feet ((if the structure has, in residential or hotel use, gross floor area equal to the gross floor area in the structure above 100 feet.))and the space identified for the streetcar maintenance base in the MUP decision may be changed to other uses permitted in the zone if the following conditions are met:

1. The structure has in residential ~~or hotel~~ use, gross floor area equal to the gross floor area in the structure above 100 feet;

2. Within the time period specified in the ordinance introduced as Council Bill 117854, the MUP holder acquires and installs a new free-standing manufactured public restroom in the Pioneer Square Preservation District, as shown on Map A for 23.66.100, that meets ADA requirements and City-approved standards;

3. The public restroom is connected to City water and sewer mains; and

4. The public restroom complies with all applicable permitting requirements including a Certificate of Approval issued by the Pioneer Square Preservation Board.

**B**

*Potential amendment to C.B. 117854*

***Require housing (or hotel) equal to at least three stories' worth of floor area***

Section 1. Section 23.49.178 of the Seattle Municipal Code, last amended by Ordinance 123589, is amended as follows:

**23.49.178 Pioneer Square Mixed, structure height**

\* \* \*

C. In the PSM 100/100-120 zone, a structure within which a streetcar maintenance base has been established by a Master Use Permit (MUP) decision issued before May 31, 2013, may attain a maximum height of 130 feet ((if the structure has, in residential or hotel use, gross floor area equal to the gross floor area in the structure above 100 feet.))and the space identified for the streetcar maintenance base in the MUP decision may be changed to other uses permitted in the zone if the following conditions are met:

1. The structure has in residential or hotel use, gross floor area equal to **the greater of:** the gross floor area in the structure above 100 feet, **or three times the average gross floor area per story of all stories in the structure;**

2. Within the time period specified in the ordinance introduced as Council Bill 117854, the MUP holder acquires and installs a new free-standing manufactured public restroom in the Pioneer Square Preservation District, as shown on Map A for 23.66.100, that meets ADA requirements and City-approved standards;

3. The public restroom is connected to City water and sewer mains; and

4. The public restroom complies with all applicable permitting requirements including a Certificate of Approval issued by the Pioneer Square Preservation Board.

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C

Potential amendment to C.B. 117854

**Require property owner to pay O&M costs for free-standing public restroom**

Section 1. Section 23.49.178 of the Seattle Municipal Code, last amended by Ordinance 123589, is amended as follows:

**23.49.178 Pioneer Square Mixed, structure height**

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1. The structure has in residential or hotel use, gross floor area equal to the gross floor area in the structure above 100 feet;

2. Within the time period specified in the ordinance introduced as Council Bill 117854, the MUP holder acquires and installs a new free-standing manufactured public restroom in the Pioneer Square Preservation District, as shown on Map A for 23.66.100, that meets ADA requirements and City-approved standards **and that, upon installation, will be owned by the City and operated and maintained by the City in a manner and to a standard deemed adequate by the City;**

3. The public restroom is connected to City water and sewer mains; ~~and~~

4. The public restroom complies with all applicable permitting requirements including a Certificate of Approval issued by the Pioneer Square Preservation Board; **and**

5. **The MUP holder provides to the Director, concurrent with installation of the new free-standing manufactured public restroom, a declaration in a form acceptable to the Director, executed by all owners of the property that is the subject of the MUP and recorded with the King County Recorder’s office, obligating the owners of that property, at their sole expense, to pay the City for the cost of the City’s operation and maintenance of the restroom for a period of 50 years after installation of the restroom.**

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