



**Legislative Department
Seattle City Council
Memorandum**

Date: May 1, 2014
To: Planning Land Use and Sustainability Committee
From: Ketil Freeman, Council Central Staff
Subject: Council Bill 118052 - Undersized Single Family Lots – Decision Agenda.

Introduction

Three single family zones are established in the Land Use Code (Code): 1) Single Family (SF) 5000, 2) SF 7200 and 3) SF 9600. The suffixes in each zone prescribe a minimum lot area for the zone. For example, the minimum lot area in an SF 5000 zone is 5000 square feet. Collectively, these zones comprise approximately 65% of Seattle’s gross acreage. The Code allows exceptions to minimum lot area requirements. Over time these exceptions have led to the creation of undersized lots. In 2012 the Council passed Ordinance 124269, which established interim development control for houses on undersized lots. Among other things, the interim controls were based on a finding that:

The lack of appropriate development standards applicable to single-family-zoned lots that are significantly less than the minimum lot size allowed has resulted in new single-family dwellings that are, based on their height and lot coverage, out of scale and incompatible with adjacent existing single-family dwelling.

The Council extended the interim controls in September of 2013 and again in February of this year. The interim controls will expire on September 8th or the effective date of Council Bill (CB) 118052, whichever comes first.

At the meeting on April 18th the Planning Land Use and Sustainability asked for summary information on the number of undersized lots. That information is contained in the table below. The generalized location of undersized lots by zone is shown on the map folio that accompanies this memorandum.

Zone	Undersized Lots	% of Total Lots
SF 5000	46,547	45%
SF 7200	7,677	29%
SF 9600	617	22%

This memorandum sets out options for amendments to CB 118052 based on discussion at the Committee meeting on April 18th. Specifically, this memorandum sets out options for amending C.B. 118052 to change proposed regulations related to:

- The maximum allowable height and façade heights for structures on lots less than 3200 square feet;
- Height exceptions for existing structures on small lots;
- The “100% Rule”;
- A limitation on development of contiguous undersized lots held in common ownership;
- Modulation for the sides of homes on undersized lots; and
- Notice to neighbors for lot boundary adjustments to create more buildable, undersized lots.

Issue area	Discussion	Options	Amendatory Language or Action
<p>1. Height on Lots Less Than 3200 Square Feet - Should the Council amend the proposal to allow greater height for development on lots less than 3200 square feet?</p>	<p>C.B. 118052 would establish a height limit for development on undersized lots of 18 feet plus five feet for a pitched roof, or twenty-two feet plus five feet for a pitched roof, if the structure is limited to two floors and a ten foot floor-to-floor height is provided on the main level.</p> <p>This is intended to prevent tall, skinny houses on small lots that are out of character with existing patterns of development, but allow two levels with comfortable ceiling heights.</p> <p>There may be other ways to more flexibly meet this intent. The limit, as currently proposed, would prevent two-story homes over basements.</p> <p>Options listed here for height amendments are not mutually exclusive.</p>	<p>a. Approve the current proposal.</p>	<p>No change.</p>
		<p>b. Amend the legislation to establish a maximum height of 22 feet and remove proposed restrictions on the number of floors and ceiling heights.</p>	<p>Section 6. Subsections A and B of Section 23.44.012 of the Seattle Municipal Code, which Section was last amended by Ordinance 123978, are amended as follows:</p> <p>23.44.012 Height ((Limits))limits</p> <p>A. Maximum ((Height Established))height established((-))</p> <p style="text-align: right;">***</p> <p>3. <u>For a lot or unit lot of any width, if the area of the largest rectangle or other quadrilateral that can be drawn within the lot lines of the lot or unit lot ((The maximum permitted height for any structure on a lot of any width that))is less than ((3,750))3,200 square feet ((that qualifies for separate development according to the provisions in section 23.44.010.B.1.d))the maximum permitted height for any structure on that lot ((is))shall be ((22))18-22 feet((-), unless the structure's height is further restricted by other code provisions, provided that structure height up to 22 feet is permitted for a principal structure with habitable floor area on no more than two partially or fully above ground floors, and top of floor to top of floor height is at least 10 feet at the level of the main entry.</u></p> <p style="text-align: right;">***</p>
		<p>c. Amend the legislation to allow height above the maximum not to exceed the average elevation of the houses on abutting lots.</p> <p>Abutting lots include all lots that share a lot line with a subject site. Thus, elevation averaging would be based on houses to the sides and in back of the</p>	<p>Section 6. Subsections A and B of Section 23.44.012 of the Seattle Municipal Code, which Section was last amended by Ordinance 123978, are amended as follows:</p> <p>23.44.012 Height ((Limits))limits</p> <p>A. Maximum ((Height Established))height established((-))</p> <p>1. Except as permitted in ((S))subsection 23.44.041.B, and except as provided in ((subsection))subsections 23.44.012.A.2 and ((A.3))23.44.012.A.3, the maximum permitted height for any structure not located in a required yard is 30 feet.</p> <p>2. The maximum permitted height for any structure on a lot 30 feet or less in width is 25 feet.</p> <p>3. <u>For a lot or unit lot of any width, if the area of the largest rectangle or other quadrilateral that can be drawn within the lot lines of the lot or unit lot ((The maximum permitted height for any structure on a lot of any width that))is less than ((3,750))3,200 square feet...</u></p> <p><u>Additional height shall be allowed, subject to the limit that would otherwise apply under subsections 23.44.012.A.1 and 23.44.012.A.2, provided that the elevation at the top of the exterior walls of the structure, exclusive of pitched roofs, does not exceed the average of the elevations at the tops of the walls of single-family residences on abutting lots within the same zone.</u></p> <p style="text-align: right;">***</p>

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		<p>subject site.</p> <p>d. Amend the legislation to establish a maximum height for the façade at the front lot line.</p>	<p>Section 6. Subsections A and B of Section 23.44.012 of the Seattle Municipal Code, which Section was last amended by Ordinance 123978, are amended as follows:</p> <p>23.44.012 Height ((Limits))limits</p> <p>A. Maximum ((Height Established))height established((-))</p> <p>1. Except as permitted in ((S))subsection 23.44.041.B, and except as provided in ((subsection))subsections 23.44.012.A.2 and ((A.3))23.44.012.A.3, the maximum permitted height for any structure not located in a required yard is 30 feet.</p> <p>2. The maximum permitted height for any structure on a lot 30 feet or less in width is 25 feet.</p> <p>3. <u>For a lot or unit lot of any width, if the area of the largest rectangle or other quadrilateral that can be drawn within the lot lines of the lot or unit lot ((The maximum permitted height for any structure on a lot of any width that))is less than ((3,750))3,200 square feet...</u></p> <p><u>The portion of the exterior wall of the structure facing the front lot line and visible above finished grade shall not exceed the height limit of this subsection 23.44.012.A.3.</u></p> <p style="text-align: center;">***</p>
<p>2. Exception for Existing Homes on Lots Less than 3200 Square Feet - Should the Council establish an exception that distinguishes between additions to existing structures and construction of wholly new structures?</p>	<p>C.B. 118052 would establish a height limit for development on undersized lots of 18 feet plus five feet for a pitched roof, or twenty-two feet plus five feet for a pitched roof if the structure is limited to two floors, and a ten foot floor-to-floor height is provided on the main level</p> <p>The proposed height limits in C.B. 118052 may disappoint the investment-backed expectations of owners who purchased homes on small lots with the intent to make additions.</p>	<p>a. Approve the current proposal.</p> <p>b. Allow additions above the maximum height limited to the size of the first floor or 1000 s.f., whichever is greater, for houses on undersized lots.</p>	<p>No change.</p> <p>Section 6. Subsections A and B of Section 23.44.012 of the Seattle Municipal Code, which Section was last amended by Ordinance 123978, are amended as follows:</p> <p>23.44.012 Height ((Limits))limits</p> <p>A. Maximum ((Height Established))height established((-))</p> <p>1. Except as permitted in ((S))subsection 23.44.041.B, and except as provided in ((subsection))subsections 23.44.012.A.2 and ((A.3))23.44.012.A.3, the maximum permitted height for any structure not located in a required yard is 30 feet.</p> <p>2. The maximum permitted height for any structure on a lot 30 feet or less in width is 25 feet.</p> <p>3. <u>For a lot or unit lot of any width, if the area of the largest rectangle or other quadrilateral that can be drawn within the lot lines of the lot or unit lot ((The maximum permitted height for any structure on a lot of any width that))is less than ((3,750))3,200 square feet...</u></p> <p><u>The limit of this subsection 23.44.012.A.3 shall not apply to additions to single-family residences existing as of February 1, 2013 that do not exceed the greater of 1,000 square feet of new gross floor area or the amount of gross floor area on any one floor of the existing house.</u></p>

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<p>3. “100% Rule” - Should the Council approve or modify the proposed additional exception to minimum lot area requirements?</p>	<p>C.B. 118052 would create a limited new exception to minimum lot area standards that would allow development on existing or new undersized lots that are at least equal to the mean lot area of lots on the same block front. This would allow limited infill development on blocks with an existing platting pattern of small lots. However, it would also establish a new process for creating lots that do not meet the minimum lot area requirements of single family zones.</p> <p>Advocates for the exception estimate that it could lead to the development of approximately 260 total new sites.</p> <p>As proposed, there would is no minimum lot size associated with this new exception.</p>	<p>a. Approve the current proposal.</p> <p>b. Establish a minimum lot size for the exception of 2500 square feet.</p> <p>c. Remove the proposed exception.</p>	<p>No change.</p> <p>Section 5. Subsections A, B, C, D and E of Section 23.44.010 of the Seattle Municipal Code, which Section was last amended by Ordinance 123978, are amended as follows:</p> <p>23.44.010 Lot requirements</p> <p style="text-align: center;">***</p> <p>B. Exceptions to ((Minimum Lot Area Requirements))<u>minimum lot area requirements</u>. The following exceptions to minimum lot area requirements are allowed, ((subject to the development standards for undersized lots in subsection 23.44.010.C, except as limited under))<u>subject to the requirements in subsection 23.44.010.B.2, and further subject to the requirements in subsection 23.44.010.B.3 for any lot less than 3,200 square feet in area:</u></p> <p style="padding-left: 40px;">1. A lot that does not satisfy the minimum lot area requirements of its zone may be developed or redeveloped ((separately))under one of the following circumstances:</p> <p style="text-align: center;">***</p> <p style="padding-left: 40px;">b. <u>“The 100 Percent Rule.” The 100 Percent Rule exception may be applied to allow separate development of lots already in existence in their current configuration, or new lots resulting from a full subdivision, short subdivision, or lot boundary adjustment. To qualify for this exception, a lot must have an area no less than the mean area of the lots within the same block front, subject to the same provisions provided for under the Seventy-Five Eighty Rule in subsections 23.44.010.B.1.a.1 through 23.44.010.B.1.a.7. The number of lots that newly qualify for separate development as a result of applying this exception shall not exceed the number of existing lots on the block front that provide the basis for the mean lot area calculation. Any lot that qualifies for separate development as a result of applying this exception shall be at least 2,500 square feet in area. Along any one block front, no more than two lots may qualify for separate development under this exception as a result of demolishing a house, houses or portions of houses in existence on or after February 1, 2013.</u></p> <p>Section 5. Subsections A, B, C, D and E of Section 23.44.010 of the Seattle Municipal Code, which Section was last amended by Ordinance 123978, are amended as follows:</p> <p>23.44.010 Lot requirements</p> <p style="text-align: center;">***</p>

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			<p>B. Exceptions to ((Minimum Lot Area Requirements)) <u>minimum lot area requirements</u>. The following exceptions to minimum lot area requirements are allowed, ((subject to the development standards for undersized lots in subsection 23.44.010.C, except as limited under)) <u>subject to the requirements in subsection 23.44.010.B.2, and further subject to the requirements in subsection 23.44.010.B.3 for any lot less than 3,200 square feet in area:</u></p> <p>1. A lot that does not satisfy the minimum lot area requirements of its zone may be developed or redeveloped ((separately)) under one of the following circumstances:</p> <p style="text-align: center;">***</p> <p>b. “The 100 Percent Rule.” The 100 Percent Rule exception may be applied to allow separate development of lots already in existence in their current configuration, or new lots resulting from a full subdivision, short subdivision, or lot boundary adjustment. To qualify for this exception, a lot must have an area no less than the mean area of the lots within the same block front, subject to the same provisions provided for under the Seventy Five Eighty Rule in subsections 23.44.010.B.1.a.1 through 23.44.010.B.1.a.7. The number of lots that newly qualify for separate development as a result of applying this exception shall not exceed the number of existing lots on the block front that provide the basis for the mean lot area calculation. Along any one block front, no more than two lots may qualify for separate development under this exception as a result of demolishing a house, houses or portions of houses in existence on or after February 1, 2013.</p> <p style="text-align: center;">[Reletter the Remainder of the Subsection]</p>
<p>4. Abutting Undersized Lots – Should the Council allow separate development of contiguous undersized lots held in common ownership?</p>	<p>C.B. 118052 would require consolidation of undeveloped, historic undersized lots which are less than 3200 square that have been held in common ownership.</p> <p>This limitation may disappoint the investment-backed expectations of owners who purchased historic lots as investments for future sale or development.</p>	<p>a. Approve the current proposal.</p> <p>b.</p>	<p>No change.</p> <p>Section 5. Subsections A, B, C, D and E of Section 23.44.010 of the Seattle Municipal Code, which Section was last amended by Ordinance 123978, are amended as follows:</p> <p>23.44.010 Lot requirements</p> <p>B. Exceptions to ((Minimum Lot Area Requirements)) <u>minimum lot area requirements</u>. The following exceptions to minimum lot area requirements are allowed, ((subject to the development standards for undersized lots in subsection 23.44.010.C, except as limited under)) <u>subject to the requirements in subsection 23.44.010.B.2, and further subject to the requirements in subsection 23.44.010.B.3 for any lot less than 3,200 square feet in area:</u></p> <p style="text-align: center;">***</p> <p>((d))e. <u>“The Historic Lot Exception.” The historic lot exception may be applied to allow separate development of lots</u></p>

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			<p>already in existence if ((The))the lot has an area ((at least 50 percent of the minimum required under section 23.44.010.A))of at least 2,500 square feet, and was established as a separate building site in the public records of the county or City prior to July 24, 1957, by deed, ((contract of sale, mortgage,))platting, or building permit. ((,and falls into one of the following categories))The qualifying lot shall be subject to the following provisions:</p> <p style="text-align: center;">***</p> <p style="text-align: center;">4) If two or more abutting lots with a mean area less than 3,200 square feet were under common ownership and all of the lots were undeveloped with a principal structure as of February 1, 2013, and a building permit application was not submitted for separate development of any of the lots prior to February 1, 2013, no more than one of the lots may qualify for the lot area exception in this subsection 23.44.010.B.1.e.</p> <p style="text-align: center;">54) If parking for an existing principal structure on one lot has been provided on an abutting lot and parking is required under Chapter 23.54 the required parking for the existing house shall be relocated onto the same lot as the existing principal structure in order for either lot to qualify for the exception.</p> <p style="text-align: center;">***</p>
<p>5. Modulation – Should the Council amend the proposal to remove modulation requirements for side facades of houses on undersized lots.</p>	<p>CB 118052 would establish discretionary review criteria, including design standards for development of houses on undersized lots. These criteria include:</p> <ul style="list-style-type: none"> ▪ A structure depth requirement based on the width of the lot; ▪ A modulation requirement for side facades greater than 25 feet; and ▪ Requirements related to the placement of windows to consider the interior privacy of neighboring houses. <p>Some architects and designers have raised the concern that modulation requirements could be overly burdensome and inhibit good design.</p> <p>Modulation requirements are intended to provide visual relief and architectural interest by breaking up facades. The Code requires modulation in other zones. For example, in Lowrise zones there are design standards that require façade articulation. However, similar design standards do not currently apply in Single Family zones.</p>	<p>a. Approve the current proposal.</p> <p>b. Remove the proposed modulation requirement.</p>	<p>No change.</p> <p style="text-align: center;">Section 5. Subsections A, B, C, D and E of Section 23.44.010 of the Seattle Municipal Code, which Section was last amended by Ordinance 123978, are amended as follows:</p> <p>23.44.010 Lot requirements</p> <p style="text-align: center;">***</p> <p style="text-align: center;">B. Exceptions to ((Minimum Lot Area Requirements))<u>minimum lot area requirements</u>. The following exceptions to minimum lot area requirements are allowed, ((subject to the development standards for undersized lots in subsection 23.44.010.C, except as limited under))<u>subject to the requirements in subsection 23.44.010.B.2, and further subject to the requirements in subsection 23.44.010.B.3 for any lot less than 3,200 square feet in area:</u></p> <p style="text-align: center;">***</p> <p style="text-align: center;">3. <u>Special exception review for lots less than 3,200 square feet in area. A special exception Type II review as provided for in Section 23.76.004 is required for separate development of any lot with an area less than 3,200 square feet that qualifies for any lot area exception in subsection 23.44.010.B.1. The special exception application shall be subject to the following provisions:</u></p>

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			<p>a. <u>The depth of any structure on the lot shall not exceed two times the width of the lot. If a side yard easement is provided according to subsection 23.44.014.D.3, the portion of the easement within 5 feet of the structure on the lot qualifying under this provision may be treated as a part of that lot solely for the purpose of determining the lot width for purposes of complying with this subsection 23.44.010.B.2.c.</u></p> <p>b. If a side of a proposed principal structure is more than 25 feet in length and faces one or more abutting lots that are developed with a house, the sides of the proposed principal structure that face the existing houses shall be modulated to visually break up the side.</p> <p>eb. Windows in a proposed principal structure facing an existing abutting lot that is developed with a house shall be placed in manner that takes into consideration the interior privacy in abutting houses, provided that this provision shall not prohibit placing a window in any room of the proposed house.</p> <p>dc. In approving a special exception review, additional conditions may be imposed that address modulation to address the character of facades of the proposed principal structure that face existing abutting houses, and window placement to address interior privacy of existing abutting houses.</p>
<p>6. Notice to Neighbors - Should the Council consider future legislation to provide notice of application for permits, such as lot boundary adjustments, or other determinations that could lead to construction on undersized lots?</p>	<p>Public notice is generally triggered under the Code for land use decisions that require some exercise of discretion by the DPD Director. These types of decisions also come with an opportunity for appeal to the City Hearing Examiner. The City classifies these as Type II decision for the purposes of the Code.</p> <p>As proposed, applications for new development on lots under 3200 square feet would be a Type II decision.</p> <p>To ensure that owners and buyers have the same information, as a business practice, DPD currently notifies the record owner of a parcel when a formal determination is made about whether an undersized lot is developable. This practice is not required by Code.</p> <p>Some constituents have expressed a desire for additional notice when the City makes determinations that could lead to construction on undersized lots.</p>	<p>a. Approve the current proposal.</p> <p>b. Direct staff to review options for changing notice requirements</p> <p>c. Direct staff to review options for changing notice requirements and memorialize the Council's intent to review options in recitals to CB 118052.</p>	<p>No change.</p> <p>No change to the legislation. Development of a Council / DPD work program item to review and make recommendations on potential future Code amendments related to notice.</p> <p>WHEREAS, in the course of considering permanent regulations for development on undersized-single family zoned lots, the Council received compelling testimony about the surprise to neighbors occasioned by development on undersized lots; and</p> <p>WHEREAS, it is the Council's intent to consider alternative or additional notice requirements for actions, such as lot boundary adjustment applications, to allow near neighbors to apprise themselves of likely future development; NOW THEREFORE,</p>

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	<p>These types of determinations can include actions that require a permit, such as lot boundary adjustments and subdivisions, as well as other determinations, such zoning letters that do not require a permit.</p> <p>Changing notice and other procedural requirements for LBAs could provide near neighbors with early notice should any want to challenge a City lot boundary adjustment decision in Superior Court under the Land Use Petition Act.</p> <p>Notice requirements in the Code are contained in Chapter 23.76. CB 118052 would not amend that chapter and reference to relevant Code sections are not set out in the title to the bill. The Seattle Municipal Code requires that bill titles reference Code sections that would be amended. Consequently, amendments related to notice would require a separate council bill.</p>		