



SEATTLE CITY COUNCIL

Legislative Summary

CB 118963

Record No.: CB 118963

Type: Ordinance (Ord)

Status: Passed

Version: 1

Ord. no: Ord 125319

In Control: City Clerk

File Created: 04/17/2017

Final Action: 06/01/2017

Title: AN ORDINANCE relating to land use and zoning; amending Section 23.76.006 of the Seattle Municipal Code to clarify that a land use decision to waive or modify structure width or setbacks for a youth service center, and integrated SEPA decisions, are Type II decisions that may be appealed to the City Hearing Examiner.

Date

Notes:

Filed with City Clerk:

Mayor's Signature:

Sponsors: O'Brien

Vetoed by Mayor:

Veto Overridden:

Veto Sustained:

Attachments:

Drafter: patrick.wigren@seattle.gov

Filing Requirements/Dept Action:

History of Legislative File

Legal Notice Published:

☐ Yes

☐ No

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Clerk	04/18/2017	sent for review	Council President's Office			
	Action Text: The Council Bill (CB) was sent for review. to the Council President's Office						
	Notes:						
1	Council President's Office	04/26/2017	sent for review	Sustainability and Transportation Committee			
	Action Text: The Council Bill (CB) was sent for review. to the Sustainability and Transportation Committee						
	Notes:						
1	Full Council	05/01/2017	referred	Sustainability and Transportation Committee			
1	Sustainability and Transportation Committee	05/16/2017					
1	Full Council	05/22/2017	re-referred	Full Council			

Action Text: The Council Bill (CB) was re-referred. to the Full Council
Notes:

1 Full Council 05/30/2017 passed

Pass

Action Text: The Motion carried, the Council Bill (CB) was passed by the following vote, and the President signed the Bill:

Notes: ACTION 1:

Motion was made and duly seconded to pass Council Bill 118963.

ACTION 2:

Motion was made by Councilmember Bagshaw and duly seconded, to amend Council Bill 118963, by deleting the second recital and Section 2, and by renumbering the remaining section accordingly, as shown in the underlined and strike through language below:

WHEREAS, this ordinance is necessary to ensure that courts and other decisions makers understand the Council intended and continues to intend that youth service center decisions are Type II land use decisions subject to an open record appeal to the Hearing Examiner; and NOW, THEREFORE,

~~WHEREAS, the Council intends that this curative ordinance shall apply retroactively to the effective date of Ordinance 124610, and in particular to any pending appeal of a youth service center decision filed after that effective date; NOW, THEREFORE,~~

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

~~Section 2. Retroactivity. This ordinance applies retroactively to April 1, 2015, the effective date of Ordinance 124610.~~

Section 3: 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

The Motion failed by the following vote:

In favor: 2 - Bagshaw, Burgess

Opposed: 5 - Harrell, Herbold, Johnson, O'Brien, Sawant

ACTION 3:

The Motion in Action 1 was restated.

In Favor: 5 Council President Harrell, Councilmember Herbold, Councilmember Johnson, Councilmember O'Brien, Councilmember Sawant

Opposed: 2 Councilmember Bagshaw, Councilmember Burgess

1	City Clerk	05/31/2017	submitted for Mayor's signature	Mayor
1	Mayor	06/01/2017	Signed	
1	Mayor	06/01/2017	returned	City Clerk
1	City Clerk	06/01/2017	attested by City Clerk	

Action Text: The Ordinance (Ord) was attested by City Clerk.

Notes:

Text of Legislative File CB 118963

CITY OF SEATTLE

ORDINANCE 125319

COUNCIL BILL 118963

AN ORDINANCE relating to land use and zoning; amending Section 23.76.006 of the Seattle Municipal Code to clarify that a land use decision to waive or modify structure width or setbacks for a youth service center, and integrated SEPA decisions, are Type II decisions that may be appealed to the City Hearing Examiner.

WHEREAS, in 2014, the Seattle City Council adopted Ordinance 124610, adding subsection 23.51A.004.B.6 to the Seattle Municipal Code and permitting youth service centers under certain circumstances. That regulation identifies a decision to waive or modify structure width or setbacks for a youth service center ("youth service center decision") as a Type II land use decision; and

WHEREAS, as part of Ordinance 124610, the Council intended that any youth service center decision be subject to an open record administrative appeal to the Hearing Examiner; and

WHEREAS, the fiscal note and supporting letter to Ordinance 124610 suggested that youth service center decisions would be subject to an administrative appeal to the Hearing Examiner; and

WHEREAS, in Seattle Hearing Examiner Cause No. MUP-17-001, the Hearing Examiner found that she lacked jurisdiction to hear an administrative appeal of a youth service center decision because SMC 23.76.006.C.2 does not identify youth service center decisions as a Type II land use decision; and

WHEREAS, to clarify the Council's intent and to correct the oversight when the Council mistakenly failed to make a conforming amendment to SMC 23.76.006.C.2, the Council

1 wants to explicitly add youth service center decisions to the list of Type II decisions so
2 they are clearly appealable to the Hearing Examiner; and

3 WHEREAS, there is a current controversy whether the Hearing Examiner has jurisdiction over
4 an appeal of a youth service center decision; and

5 WHEREAS, this ordinance is necessary to ensure that courts and other decision-makers
6 understand the Council intended and continues to intend that youth service center
7 decisions are Type II land use decisions subject to an open record appeal to the Hearing
8 Examiner; and

9 WHEREAS, the Council intends that this curative ordinance shall apply retroactively to the
10 effective date of Ordinance 124610, and in particular to any pending appeal of a youth
11 service center decision filed after that effective date; NOW, THEREFORE,

12 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

13 Section 1. Subsection 23.76.006.C of the Seattle Municipal Code, which was last
14 amended by the ordinance introduced as Council Bill 118940, is amended as follows:

15 **23.76.006 Master Use Permits required**

16 * * *

17 C. The following are Type II decisions:

18 1. The following procedural environmental decisions for Master Use Permits
19 and for building, demolition, grading, and other construction permits are subject to appeal to
20 the Hearing Examiner and are not subject to further appeal to the City Council
21 (supplemental procedures for environmental review are established in Chapter 25.05,
22 Environmental Policies and Procedures):

- 1 a. Determination of Non-significance (DNS), including mitigated
- 2 DNS;
- 3 b. Determination that a final Environmental Impact Statement (EIS) is
- 4 adequate; and
- 5 c. Determination of Significance based solely on historic and cultural
- 6 preservation.

7 2. The following decisions are subject to appeal to the Hearing Examiner
8 (except shoreline decisions and related environmental determinations that are appealable to
9 the Shorelines Hearings Board):

10 a. Establishment or change of use for temporary uses more than four
11 weeks not otherwise permitted in the zone or not meeting development standards, including
12 the establishment of temporary uses and facilities to construct a light rail transit system for
13 so long as is necessary to construct the system as provided in subsection 23.42.040.F, but
14 excepting temporary relocation of police and fire stations for 24 months or less;

15 b. Short subdivisions;

16 c. Variances, provided that the decision on variances sought as part of
17 a Council land use decision shall be made by the Council pursuant to Section 23.76.036;

18 d. Special exceptions, provided that the decision on special exceptions
19 sought as part of a Council land use decision shall be made by the Council pursuant to
20 Section 23.76.036;

21 e. Design review decisions, except for streamlined design review
22 decisions pursuant to Section 23.41.018 if no development standard departures are requested
23 pursuant to Section 23.41.012, and except for design review decisions in a MPC zone

pursuant to Section 23.41.020 if no development standard departures are requested pursuant to Section 23.41.012;

f. Administrative conditional uses, provided that the decision on administrative conditional uses sought as part of a Council land use decision shall be made by the Council pursuant to Section 23.76.036;

g. The following shoreline decisions, provided that these decisions shall be made by the Council pursuant to Section 23.76.036 when they are sought as part of a Council land use decision (supplemental procedures for shoreline decisions are established in Chapter 23.60A):

1) Shoreline substantial development permits;

2) Shoreline variances; and

3) Shoreline conditional uses;

h. Major Phased Developments;

i. Determination of project consistency with a planned action ordinance, only if the project requires another Type II decision;

j. Establishment of light rail transit facilities necessary to operate and maintain a light rail transit system, in accordance with the provisions of Section 23.80.004;

k. Downtown planned community developments;

l. Establishment of temporary uses for transitional encampments, except transitional encampment interim uses provided for in subsection 23.76.006.B.2;

m. Decision to waive or modify development standards relating to structure width or setbacks for a youth service center pursuant to subsection 23.51A.004.B.6;

n. Determination of requirements according to subsections

23.58B.025.A.4 and 23.58C.030.A.3;

~~((n-))~~ o. Except for projects determined to be consistent with a planned

action ordinance, decisions to approve, condition, or deny based on SEPA policies if such

decisions are integrated with the decisions listed in subsections 23.76.006.C.2.a. through

23.76.006.C.2.~~m~~((l)); provided that, for decisions listed in subsections 23.76.006.C.2.c,

23.76.006.C.2.d, 23.76.006.C.2.f, and 23.76.006.C.2.g that are made by the Council,

integrated decisions to approve, condition, or deny based on SEPA policies are made by the

Council pursuant to Section 23.76.036; and

~~((o-))~~ p. Determination of public benefit for combined lot

development.

Section 2. Retroactivity. This ordinance applies retroactively to April 1, 2015, the effective date of Ordinance 124610.

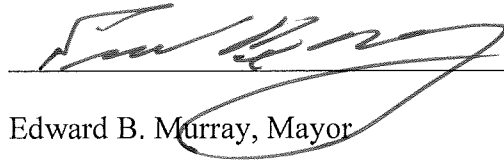
Section 3. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the 30th day of MAY, 2017,
and signed by me in open session in authentication of its passage this 30th day of
MAY, 2017.



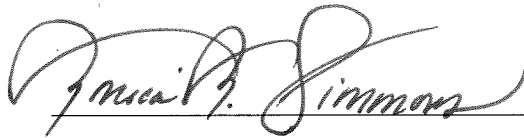
President _____ of the City Council

Approved by me this 1st day of June, 2017.



Edward B. Murray, Mayor

Filed by me this 1st day of June, 2017.



Monica Martinez Simmons, City Clerk

(Seal)

STATE OF WASHINGTON -- KING COUNTY

--SS.

350898

No. 21,22, and 23

CITY OF SEATTLE,CLERKS OFFICE

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

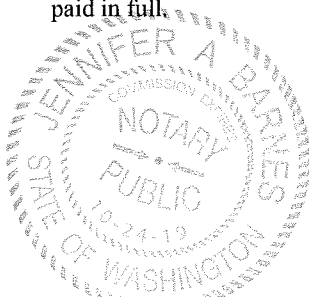
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:TITLE ONLY 125319,20,

was published on

06/15/17

The amount of the fee charged for the foregoing publication is the sum of \$112.35 which amount has been paid in full.



Affidavit of Publication

A handwritten signature in dark ink, appearing to be "M. J. P.", written over a horizontal line.

Subscribed and sworn to before me on

06/15/2017

A large, stylized handwritten signature in dark ink, written over a horizontal line.

Notary public for the State of Washington,
residing in Seattle

State of Washington, King County

City of Seattle

The full text of the following legislation,
passed by the City Council

on May 30, 2017, and published below by
title only, will be mailed

upon request, or can be accessed at <http://seattle.legistar.com>. For

information on upcoming meetings of the
Seattle City Council, please

visit [http://www.seattle.gov/council/](http://www.seattle.gov/council/calendar)
calendar.

Ordinance 125319

Council Bill 118963 PASSED (5-2)
(Bagshaw, Burgess – Opposed)

AN ORDINANCE relating to land use
and zoning; amending Section 23.76.006 of
the Seattle Municipal Code to clarify that a
land use decision to waive or modify struc-
ture width or setbacks for a youth service
center, and integrated SEPA decisions, are
Type II decisions that may be appealed to
the City Hearing Examiner.

Ordinance 125320

Council Bill 118968 PASSED (7-0)

AN ORDINANCE relating to the use
of federal HOME Investment Partnerships
Program funds; amending the 2013
Consolidated Plan annual action plan to
reallocate funds out of homebuyer activities
into rental housing activities.

Ordinance 125321

Council Bill 118973 PASSED (7-0)

AN ORDINANCE relating to historic
preservation; imposing controls upon the
Seattle City Light Power Control Center,
a landmark designated by the Landmarks
Preservation Board under Chapter 25.12 of
the Seattle Municipal Code, and adding it to
the Table of Historical Landmarks contained
in Chapter 25.32 of the Seattle Municipal
Code.

Ordinance 125322

Council Bill 118986

AN ORDINANCE appropriating money
to pay certain audited claims and ordering
the payment thereof.

Ordinance 125323

Council Bill 118976 PASSED (7-0)

AN ORDINANCE relating to the Seattle
Center Department; authorizing the Seattle
Center Director to execute a facility use
agreement with Force 10 Hoops, LLC, for
use and occupancy of KeyArena and adjacent
areas at the Seattle Center; making findings
of fact about the value provided by profes-
sional women's basketball in Seattle; exempt-
ing the agreement from the requirements of
Chapter 20.47 of the Seattle Municipal Code;
and superseding an earlier agreement autho-
rized by Ordinance 122907.

Date of publication in the Seattle Daily
Journal of Commerce, June 15, 2017.

6/15(350898)