

Director’s Report and Recommendation Affordable Housing Design Review Amendments – MHA performance and ADR choice February 15, 2023

Proposal Summary

The City last enacted major reform of the Design Review program in 2018 with legislation (Ordinance 125429) that instituted organizational, structural, and procedural changes to the City’s Design Review program. The changes were intended to improve the overall function of the program by enhancing the efficiency and predictability of project reviews, improving dialogue amongst project stakeholders, and making the program more transparent and accessible to the public and project applicants.

Since then, the Seattle City Council adopted, and the Mayor signed, interim Ordinances 126072, 126188, and 120464 that included provisions to assist in the production of certain low-income housing projects by providing an exemption from Design Review and allowing waiver or modification of certain development standards. In light of the continuing homelessness and affordable housing crisis, the need for provisions to address housing solutions remains.

Since the 2018 reforms and subsequent legislation, the population of people experiencing homelessness and challenged by the supply and cost of housing has increased, so have shelters, encampments and tents. The supply of housing has not kept pace with the City’s growing demand and cost pressures.

This legislation would:

1. Provide a design review exemption for development projects that elect to meet the City’s Mandatory Housing Affordability (MHA) requirement with on-site performance;
2. Provide an option for any housing development proposal to be reviewed under Administrative Design Review (ADR) rather than by the Design Review Board under Full Design Review (FDR);
3. Allow the SDCI Director to waive or modify certain development standards for the MHA performance projects;
4. Allow applicants who opt for the ADR process to return to FDR also at their option; and
5. Be effective for an interim period of twelve months while the City studies permanent proposals to update the Design Review process.

Adopting this legislation will allow more efficient and/or flexible permit review of development to address urgent housing needs, including for low-income people, while the City’s study is underway. The legislation continues the trend of efforts to assist in the production of housing by exempting certain projects from Design Review and allowing, at the applicant’s option, different review processes.

The legislation should accelerate the permitting of housing projects throughout the City, thereby reducing costs and decreasing the time needed for new housing to be available for occupancy.

Background and Analysis

MHA

Mandatory Housing Affordability (MHA) ensures that new commercial and multifamily residential development contributes to affordable housing. This is done by requiring new developments to include affordable housing (performance option) or contribute to the Seattle Office of Housing fund to support the development of affordable housing (payment option). When developers and owners apply for permits for new buildings, the Seattle Department of Construction and Inspections reviews each proposal to determine what MHA requirements the new development is subject to. Once these requirements are confirmed, the Office of Housing will review projects to coordinate with developers to comply with the MHA Program via the payment or performance option.

The MHA requirements are in the land use code:

- Chapter 23.58B—Affordable Housing Impact Mitigation Program for Commercial Development (MHA-C)
- Chapter 23.58C—MHA for Residential Development (MHA-R; this chapter also applies to development that includes live-work units).

Permit applicants can choose to comply with the MHA requirements through the payment option or the performance option.

- The payment option allows you to make a payment to the City as part of the permitting process which will be used for future affordable housing development.
- The performance option allows you to incorporate affordable units into the proposed development. When you choose the performance option, you must follow the design and locational standards in the code and document compliance in the plans and housing agreement. Affordable units provided through the performance option must comply with the standards of land use code Sections 23.58B.050 and 23.58C.050.

Design Review

In 2022 the City Council adopted a Statement of Legislative Intent (SLI) that directs SDCI to examine the Design Review process from a racial equity lens to make recommendations for improvements to the process. This work and subsequent assessment is ongoing and is anticipated to provide information that can be used to inform any permanent legislative updates to be prepared by SDCI, including to help inform recommendations for racial equity improvements to the SDCI design review process. That assessment and likely recommendations are anticipated to occur after adoption of the proposed legislation addressed in this report.

Currently, Full Design Review is required for mid- and large-sized commercial and residential development projects such as:

- An office building or apartment building

- Commercial or multifamily development; not a single-family home
- Large projects that meet the size thresholds in certain zones

For Full Design Review projects, SDCI holds public meetings where the Design Review Boards review projects during the early design guidance and recommendation phases. The review process includes an opportunity for public comment and involvement before SDCI approves the design. Permit applicants may request "departures" from the Land Use Code as part of Design Review.

Three paths for design review currently in the City of Seattle:

- Streamlined Design Review (SDR): Type I Decision (not appealable to the Seattle Hearing Examiner) reviewed by SDCI staff. Includes Early Design Guidance (EDG) only and then straight to Construction permit. Includes public comment but not a design review public meeting. (*SDR is not affected by the proposed legislation*).
- Administrative Design Review (ADR): Type II Decision (appealable to the Seattle Hearing Examiner) reviewed by SDCI staff. Includes Early Design Guidance, Master Use Permit (MUP) / Recommendation, Construction permit. Reviews completed by city staff. Includes public comment but not a design review public meeting.
- Full Design Review (FDR): Type II Decision (appealable to the Seattle Hearing Examiner) reviewed by Design Review Boards. Includes Early Design Guidance, Master Use Permit / Recommendation, Construction permit. Reviews completed by city staff using recommendations from the Design Review Board. Includes public comment and public meeting(s).

Design Review – Process Time

SDCI recently produced a report that summarizes permit turnaround times for Design Review projects. This report is dated January 2023 and prepared to respond to a City Council Statement of Legislative Intent (SLI) dated November 16, 2021, related to Design Review.

Overall, the data showed that for projects (includes commercial and multi-family development) going through ADR or FDR from July 2018 to December 2022, ADR had shorter review times compared to FDR times. Measuring overall calendar time of all steps from EDG through MUP issuance (ADR and FDR) showed:

- FDR: 739 days (24.3 months)
- ADR: 641 days (21.1 months)

In addition to the Design Review Board public meetings which may add time to FDR projects, there are other possible reasons for this difference in time:

- ADR projects are smaller in size and usually less complex
- FDR projects are larger in size and tend to be more complex with additional coordination between different departments and agencies and more complex code requirements

The report shows that Administrative Design Review projects generally are reviewed more quickly than Full Design Review projects. The report finds that this may be due to factors such as the relatively less complex nature of projects required to go through Administrative Design

Review, not having to wait for an open design review board meeting, and other factors that may not be related to Design Review. One of the intents of this legislation is to test the ability of Administrative Design Review to be conducted more quickly for consideration as part of evaluations of ways to help make Design Review more efficient for housing development.

Number of Projects

The legislation would apply to development projects that include housing and would exempt those that include MHA performance with at least one qualifying housing unit and allow any housing project required to go through Full Design Review to opt into Administrative Design Review.

MHA Exemption Proposal. Based on the number of performance projects with a recorded MHA housing agreement and issued building permit since 2020, provided by the Seattle Office of Housing, the first full year of city-wide MHA implementation, there could be an estimated 10-15 MHA performance projects during the 12-month effective period of this legislation that may be eligible for this exemption. Since this change is designed to provide an additional incentive for performance, the number of performance projects could be on the higher end of that range of 15 projects or up to 30 projects if the number of projects doubled with passage of this legislation.

ADR Option Proposal. The number of ADR and FDR projects with issued Master Use Permits (MUPs) with housing for the period full year periods since the July 2018 Design Review code major update are as follows:

Design Review Projects with housing (Issued MUPs)			
Year	FDR	ADR	Total
2019	75	17	92
2020	70	45	115
2021	37	50	87
2022	32	53	85
Average over 4 years	53	41	94

During the COVID pandemic while the City was under a Mayoral emergency declaration, the City allowed development projects subject to FDR to elect ADR (interim Ordinances 126072 and 126188) from April 2020 until August of 2022 if they were ready to be scheduled for a Design Review Board meeting. During this period, permit applicants for 68 out of 198 FDR projects elected to go through ADR (this includes both residential and commercial projects). Assuming that same percentage applied to the 4-year average for FDR projects with housing from the table above, applicants for approximately 34 percent of the total FDR housing projects, 18 housing projects, might make the same election during the 12-month effective period of the proposed legislation. If the election is as high as 50 percent of FDR housing projects, the number would be 27 housing projects. Some applicants will still prefer to go through FDR to get instant feedback from the Design Review Board.

Comprehensive Plan Goals and Policies

The proposal is consistent with relevant goals and policies in the *Seattle 2035* Comprehensive Plan including:

- Goal H G2 - Help meet current and projected regional housing needs of all economic and demographic groups by increasing Seattle’s housing supply.
- Goal H G5 - Make it possible for households of all income levels to live affordably in Seattle, and reduce over time the unmet housing needs of lower-income households in Seattle.

Recommendation

The Director of SDCI recommends that the City Council adopt the proposed legislation to help facilitate the development of badly needed housing.