

July 7, 2017

Via Email

City of Seattle, SDCI
Attn: William Mills, Christina Ghan, and
Lisa Rutzick
P.O. Box 94788
Seattle, WA 98124

Re: *Public Comment on Proposed Design Review Program Amendments*

Dear Bill, Christina and Lisa:

Thank you for this opportunity to comment on SDCI's proposed changes to the Design Review Program. As land use practitioners, we are very familiar with the current Program, and its strengths and weaknesses. Overall, we applaud your work to improve design review to make it better for all participants. However, we have some serious concerns with aspects of the proposed Program changes, which are addressed below. Please do not hesitate to contact us if you would like to discuss our concerns further.

1. Director's Rules

There are a number of sections where the ordinance proposes new procedures or requirements for projects undergoing design review, but only in very general terms, then delegates authority to the Director to establish the applicable criteria by rule. Yet, despite the reliance on new Director's Rules to carry out the intent of the ordinance, no draft Director's Rules have been provided along with the proposal. Without draft Director's Rules, your customers and the public cannot meaningfully assess or comment on the ordinance's potential impacts, whether positive and negative. As a global comment, we strongly urge SDCI to modify the ordinance to provide more specific criteria with respect to the proposed changes, or in the alternative, provide drafts of the Director's Rules for feedback prior to moving forward with the proposed ordinance.

One clear example of the information vacuum created by not providing draft Director's Rules is with regard to major and minor Master Use Permit (MUP) revisions. The ordinance proposes to amend SMC 23.41.008 by adding a new section (F), which states that minor revisions to an approved MUP that was subject to design review may be approved by the Director as a Type I decision, and major revisions may be approved as a Type II decision. The criteria for which of these very different permit processes applies is left to be developed in a Director's Rule, with no indication of what those criteria might be. Will the criteria in existing CAM 224B still apply? (If so, we would like to talk to you about the practical challenges posed by the criteria in that CAM.) Or, will new criteria be established? SDCI should not move forward with the ordinance, until this information, and other basic

information pertinent to the functioning of the ordinance, is supplied to the public and your customers.

2. Increased Role of Administrative Approval and Changes to Required Meetings

The proposed ordinance is designed to streamline the Design Review process for some applicants by reducing the required number of meetings before the Design Review Board. We appreciate and are generally supportive of this goal. However, we are concerned that the increased focus on administrative approvals and a less formalized review process will actually result in more unpredictability unless improvements are made in SDCI's internal procedures. There are existing problems with current practices that need to be corrected before more administrative review can be supported. We would be happy to discuss our observations with you.

Also, in the proposed "hybrid" review process, the early design guidance process is facilitated by administrative staff, followed by a recommendation meeting before the Design Review Board. We are concerned that under this process, project applicants may expend considerable time and resources responding to design guidelines prior to any feedback or input by the Board, and the Board may have a differing view from administrative staff. We believe that it would be more efficient and constructive for this process to be reversed. The Design Review Board is better situated to identify the design guidelines and concerns of highest priority at the outset. After the Board has identified and evaluated these priorities, staff can work with project applicants in an administrative recommendation process with reference to the Board's guidelines and prior feedback.

3. Institutions

The ordinance would require that certain institutional uses participate in Design Review, excluding religious facilities and elementary and secondary schools. We are not supportive of this proposed change. Design review is a costly and lengthy process that is ill-suited to the limited resources of most institutions, many of which are nonprofits with limited resources. Most institutions are already connected to local communities and engage community members throughout the development process as a matter of course. We urge SDCI to modify the proposed ordinance to continue to exempt all institutional uses from Design Review thresholds, or at the very least impose reduced requirements for non-exempt institutions.

4. Community Engagement Process

The ordinance proposes a new community engagement process in which applicants are required to prepare a community outreach plan and establish a dialogue with community members prior to the early design guidance meeting. While we are supportive of the overall goal, we are concerned that the ordinance does not specify the required contents of a plan, what members of the community shall be consulted, or applicable approval criteria. It states

only that “the Director will establish, by rule, what constitutes the plan and how compliance with the plan will be documented.”

As noted in Comment No. 1, without information about the required contents and approval criteria for community outreach plans, informed comments about the merits of this proposal cannot be provided. Given the considerable difficulty in determining who “speaks for a neighborhood,” not to mention the vast differences between various neighborhoods, the workability of this proposal is doubtful. Again, we urge SDCI to provide a draft of the applicable Director’s Rule prior to finalizing the ordinance so that this proposal can be fully evaluated.

Additionally, significantly increasing community engagement requirements in this manner improperly places the responsibility of public notification on project applicants. We do not believe this should be the applicant’s role. If SDCI feels that its current public notice procedures are inadequate, it should amend the applicable sections of the Land Use Code to improve its procedures, rather than shifting this burden to applicants.

5. Recording Meetings

Lastly, as part of the changes proposed in this ordinance, we urge SDCI to require audio recordings of Design Review Recommendation meetings. Not infrequently, there are inconsistencies between notes taken by staff and the applicant, and there is no way to verify what the Board said or concluded. An audio recording can serve as an aid to resolving disagreements. In our experience, on more than one occasion, the Director has imposed or attempted to impose a design recommendation not actually discussed or voted upon by the Design Review Board. For these reasons, requiring audio recordings of Board meetings would increase transparency, reliability, and efficiency for applicants and the Design Review Program.

Thank you for considering our comments and let us know if you would like to follow up with us.

Very truly yours,

HILLIS CLARK MARTIN & PETERSON P.S.



Melody B. McCutcheon