

BEFORE THE HEARING EXAMINER  
CITY OF SEATTLE

In the Matter of the Appeals of:

NEIGHBORS TO MIRRA HOMES  
DEVELOPMENTS

from Short Plat decisions issued by the  
Director, Seattle Department of  
Construction and Inspections.

Hearing Examiner Files:  
MUP-19-019 (P) & MUP 19-020 (P)

Department References:  
3032834-LU & 3032833-LU

REPLY in SDCI RESPONSE TO  
REVISED REQUEST for SUBPEONAS,  
and MOTION IN SUBLIME

On July 3, the Seattle Department of Construction and Inspections (SDCI or the Department) has asked the Hearing Examiner not to issue our June 27, 2019 requested subpoena for the Fire Chief, the SDCI Director, the SDCI Structural Plans Engineer, and the applicant's geotechnical engineer. Note that the revised request was not only for individuals for testimony, but also for specific documents relative to the testimony subject matter as we have determined through discovery. Pursuant to Hearing Examiner Rules HER 3.12 Subpoenas, the Neighbors to Mirra Homes Developments (Appellants) has met the criteria of including the person's name and address, identifying the relevance of that person's testimony or documents sought, and demonstrates the reasonableness of the scope of the subpoena sought.

1 As submitted in the Appellant's response to the Motion for Dismissal and  
2 Summary Judgement, a compilation of correspondence relative to the Department's  
3 policies used in Short Plat subdivisions has begged for the testimony of the SDCI  
4 Director rather than just the Planner responsible for the project, David Landry, who  
5 will also be asked to testify as a party to the appeal. The Appellant fully recognizes  
6 that Director Torgelson has many duties with the Department, and we are certainly  
7 conflicted taking an hour of his time for this issue. It is important for the Hearing  
8 Examiner to hear from the person responsible for department policies rather than a  
9 staff who is following those policies. Unless Mr. Landry may attest to his knowledge  
10 and full understanding of the correspondence provided by Director Torgelson to  
11 Short Subdivision policies being compiled as evidence, the request for the  
12 subpoena should remain.

13 The Appellant maintains that Director Torgelson's correspondence is quite  
14 relative and does not require a filing of a code interpretation as referenced to SMC  
15 23.88.020. In 2017, the City Council Bill 11895 modified the requirements for Land  
16 Use Code Interpretations. The new conditions have been adopted, including an  
17 update to the Tip #256 – Land Use Interceptions issued by the Department last  
18 month on June 10, 2019. <http://www.seattle.gov/DPD/Publications/CAM/Tip256.pdf>

19 Notable reasons for this modification as stated in the June 13, 2017  
20 memorandum from Council Central Staff:

21 (a) establishing that an interpretation is not a necessary step for exhausting  
22 administrative remedies;<sup>1</sup>

23 (b) amend 23.88 to remove such language from the Code;<sup>2</sup>

24  
25 <sup>1</sup> June 13, 2017 memorandum from Ketil Freeman on CB 118985, page 1 last paragraph.

<sup>2</sup> Ditto, Page 1 first paragraph

1 (c) interpretations may be initiated by the SDCI Director;<sup>3</sup>

2 (d) Interpretations and their fees of \$315 / hour may “have a chilling effect on  
3 those seeking redress through the Hearing examiner and the courts.” This  
4 bill clarified that “failure to seek an interpretation would not be an  
5 affirmative defense for the City in judicial proceedings.”<sup>4</sup>

6 To assist in this determination to proceed with the subpoena, attached to this  
7 is the Central Staff Memo that included the old March 28, 2017 version of Tip #256  
8 as well as the current version of Tip #256.

9 Lastly, although the preliminary request for a subpoena was made without a  
10 completed receipt of the requested public records, the Appellants have not qualified  
11 a need for an additional list but noted only that the Fire Department’s Chief may be  
12 replaced with another staff should a record be identified. Since no record has been  
13 identified of a reviewer from the Fire Department (such information could be  
14 provided by the Department), the request for Fire Chief Scoggins also stands.

15 I declare under penalty of perjury under the laws of the State of  
16 Washington that the foregoing is true and correct.

17 Signed this 5<sup>th</sup> day of July, 2019 in Seattle, Washington

18   
19 David Moehring AIA NCARB  
20  
21  
22  
23

24 <sup>3</sup> June 13, 2017 memorandum from Ketil Freeman on CB 118985, page 2, par 2. Given the correspondence  
25 relative to short plats circumventing density limits and row-house development rules relative to several  
projects, the Department has had ample opportunity to initiate an interpretation before this appeal was  
warranted.

<sup>4</sup> Ditto, subsequent paragraph.

## Certificate of Service

I, David Moehring, certify under penalty of perjury under the laws of the State of Washington that on this date I sent true and correct copies, via e-mail, of the attached the **Appellant's REPLY to SDCI RESPONSE TO REVISED REQEUST FOR SUBPEONAS; MOTION IN SUBLINE** to every person listed below, in the matter of the **Short Plat Subdivision decisions issued for 3410 to 3418 23<sup>rd</sup> Ave West**, Hearing Examiner File No.s MUP-19-019 and MUP-19-020.

**Department:**

David Landry  
Seattle Department of Construction & Inspections  
Phone: (206) 684-5318  
Email: david.landry@seattle.gov

**Owner Applicant:**

Brooke Friedlander  
Mirra Homes  
11624 SE 5th St Suite 210  
Bellevue, WA 98005  
Email: [brooke.friedlander@mirrahomes.com](mailto:brooke.friedlander@mirrahomes.com)

**Applicant Legal Counsel:**

Brandon Gribben  
Hellsell Fetterman LLP  
1001 Fourth Avenue, Ste 4200  
Seattle, WA 98154  
Phone: (206) 292-1144  
Email: bgribben@hellsell.com

**Office of the Hearing Examiner:**

City of Seattle  
Seattle, WA 98124  
[hearing.examiner@Seattle.gov](mailto:hearing.examiner@Seattle.gov)

Dated July 5, 2019



David Moehring  
Appellants' representative, Neighbors to Mirra Homes Developments  
3444 23<sup>rd</sup> Ave West  
Seattle WA 98199



June 13, 2017

## MEMORANDUM

**To:** Planning, Land Use and Zoning Committee  
**From:** Ketil Freeman, Council Central Staff  
**Subject:** Council Bill 118985 – Land Use Code Interpretations

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On June 20, the Planning, Land Use and Zoning (PLUZ) Committee will have an initial briefing and discussion of Council Bill (CB) 118985. CB 118985 amends sections of the Land Use Code, Title 23 of the Seattle Municipal Code (SMC), that govern procedures for Land Use Code interpretations. Interpretations are formal decisions by the Seattle Department of Construction and Inspections (SDCI) about the “meaning, application, or intent” of development regulations in the Land Use Code or regulations for Environmentally Critical Areas, Seattle Municipal Code Chapter 25.09.

This memorandum (1) provides some legislative history related to the bill, (2) describes what the bill would do, and (3) sets out next steps for PLUZ Committee deliberations.

### Legislative History

In November 2016, the Council approved Statement of Legislative Intent (SLI) 142-2-A-1, which requested that SDCI review the process for requesting and issuing legal building site letters and code interpretations and update public information about the process.

Pursuant to SLI 142-2-A-1, in March 2017 SDCI issued an updated Tip on interpretations, which is attached. Tips are plain-language explanations for the public and regulated community of regulations and regulatory procedures administered by SDCI.

SDCI has also begun to evaluate options for changing the interpretation process. Options currently under evaluation include: (1) establishing that an interpretation is not a necessary step for exhausting administrative remedies; (2) decoupling interpretations from any related Master Use Permit decision; (3) making all interpretations Type II decisions, meaning that all interpretations would be appealable to the Hearing Examiner; and (4) limiting interpretations to a single subject. CB 118985 would implement the first option listed above.

## **What CB 118985 Would Do**

The proposed legislation would amend SMC Chapters 23.76 and 23.88 to remove language providing that Land Use Code interpretations are administrative remedies that must be exhausted prior to seeking judicial review.

SMC Section 23.88.020 authorizes the SDCI Director to make interpretations. Interpretations may be sought by any person or they may be initiated by the SDCI Director. Interpretations may be requested in the context of review of a proposed project or separately. Interpretations may be appealed to the Hearing Examiner. Interpretations cost requesters \$3,150, which covers the first 10 hours of review by SDCI. SDCI charges \$315 / hour for any additional review.

SMC Section 23.88.020 provides that for issues subject to interpretation, interpretations are an administrative remedy that must be exhausted for those issues to be subject to judicial review. That provision—and the SDCI fees an interpretation entails— may have a chilling effect on those seeking redress through the Hearing Examiner and courts. Approval of the bill would mean that failure to seek an interpretation would not be an affirmative defense for the City in judicial proceedings.

CB 118985 contains an applicability section, which is intended to allow someone who has requested an interpretation to withdraw that request if SDCI has not issued the interpretation on or before the legislation's effective date.

## **Next Steps**

The PLUZ Committee will hold a public hearing on the legislation at its regularly scheduled meeting on July 18. PLUZ will discuss and make a recommendation on the legislation in late July or August.

## **Attachments:**

1. SDCI Tip #256 – Land Use Interpretations

cc: Kirstan Arestad, Central Staff Director

# Seattle Permits

— part of a multi-departmental City of Seattle series on getting a permit

## Land Use Code Interpretations

March 28, 2017

### What is an interpretation?

A Land Use Code interpretation is SDCI's formal decision about the meaning, application, or intent of a provision in Seattle's Land Use Code (Title 23 of the Seattle Municipal Code (SMC)) or regulations for environmentally critical areas (SMC Chapter 25.09). Under some circumstances, as described below, you may appeal an interpretation to the Seattle Hearing Examiner. SDCI also offers "opinion letters." Opinion letters provide a project applicant or interested party advance guidance about how the code would apply to a particular proposal on a particular lot. You cannot appeal opinion letters.

### What issues does a Land Use Code interpretation address?

Interpretations address development regulations in the Land Use Code or the environmentally critical areas regulations. They do not address procedural provisions, or statements of policy in the code.

Interpretations are site-specific. They do not address how a standard applies in general, but rather how it applies to a specific site or development proposal.

Interpretations fall into the following categories; each with unique timing, notice, and appeal requirements according to SMC 23.88.020.

- Interpretations that do not relate to any pending project application
- Interpretations relating to a pending project application that will not be subject to appeal before the Hearing Examiner (Type I decisions)
- Interpretations relating to a pending project application that has a discretionary component that will

be subject to appeal before the Hearing Examiner (Type II decisions)

### How does the interpretation process relate to an appeal of a Type II project decision?

Your appeal of a Type II decision, such as a variance, conditional use, or SEPA (environmental) review, may challenge only how we applied the criteria for that decision, as provided in the code. This means that you cannot raise questions about how the code was applied, beyond the discretionary criteria, as a part of your appeal of the discretionary decision. In such a case, to challenge the way we applied a code standard, other than a criterion specifically listed for the discretionary decision, you need to request a Land Use Code interpretation in addition to appealing our discretionary decision. For example, compliance with development standards such as height limits or setback requirements generally is not a criterion for discretionary reviews, so questions about whether a proposed project meets standards, in general, cannot be considered by the Hearing Examiner as part of an appeal of a project decision, unless a code interpretation is requested regarding particular standards as they apply to the proposed development. An interpretation may be requested during the public comment period for a Type II project, or as part of an appeal of a Type II project.

Our final land use decisions are subject to court appeals. However, if you don't request a Land Use Code interpretation about the meaning and application of a particular code provision, or don't appeal that interpretation to the Seattle Hearing Examiner, you may not be able to raise that issue in a court appeal.

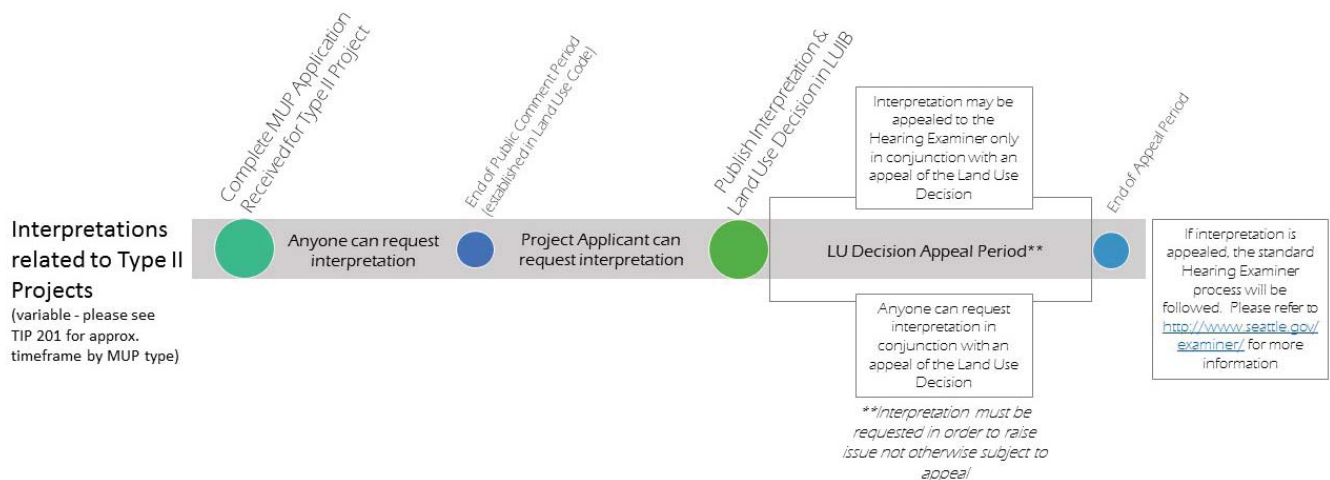
### How does the timing of an interpretation relate to the timing of project review?

The City is required to meet specific turn-around times for project reviews according to State law. The state law does not provide exceptions to these turn-around times in cases where a project interpretation is requested. Our procedures for interpretations, including when they may

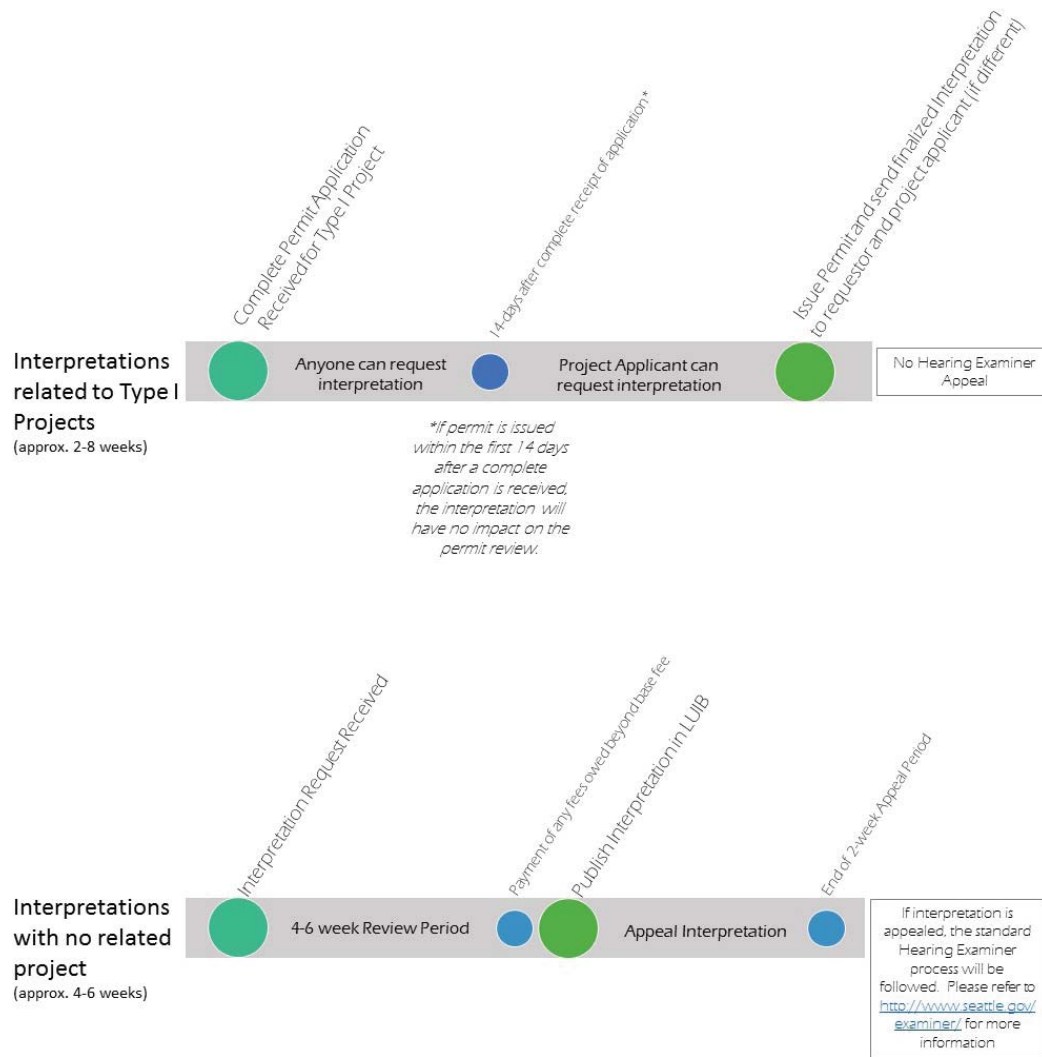


be requested and whether they may be appealed to the Hearing Examiner, are tailored to ensure that interpretation requests do not prevent us from meeting state-imposed review deadlines for related projects. As a result, interpretations relating to different types of project decisions have different procedural provisions as shown in the table and time lines below.

Type of Related Project	Timing of an Interpretation Request
No related project	Interpretation may be requested at any time, by any person
Type I: Project with no discretionary component; project not subject to appeal to the Hearing Examiner	<p>Any person may request an interpretation within 14 days of when SDCI deems the project application is complete. However, if SDCI has already issued the permit for that project, or is ready to issue the permit when you submit the interpretation request, the interpretation won't affect the project.</p> <p>The project applicant may request an interpretation more than 14 days after SDCI deems the project application complete. The applicant must agree to waive the time limits that would otherwise apply to the project review.</p>
Type II: Project with a discretionary component, such as SEPA or conditional use; project is subject to appeal to the Hearing Examiner	<p>Any person may request an interpretation during the project's public comment period.</p> <p>The project applicant may request an interpretation after the public comment period has ended. The applicant must agree to waive the time limits that would otherwise apply to the project review.</p> <p>In addition, your appeal of a Type II project decision may include a request for interpretation related to the project. However, you may not request an interpretation regarding how a proposed use has been categorized at this stage.</p>







## When can an interpretation be appealed to the Seattle Hearing Examiner?

Anybody can appeal an interpretation that is unrelated to a pending project application to the Hearing Examiner. You may not appeal an interpretation to the Hearing Examiner if it is related to a Type I project, i.e. a project that has no other discretionary, appealable component, and requires no public notice. You may appeal an interpretation that is related to a Type II project, such as a project requiring a variance, conditional use approval, or SEPA review, to the Hearing Examiner only if you also appeal the related project decision. The deadline for filing an appeal is 5:00 p.m. on the date 14 days after SDCI publishes the interpretation. Below is a summary of when interpretations can be appealed.

Type of Related Project	Land Use Code Interpretation Appealable to Hearing Examiner?
No related project	Yes
Type I: Project with no discretionary, component; project not subject to appeal to the Hearing Examiner	No
Type II: Project with a discretionary component, such as SEPA or conditional use, subject to appeal to the Hearing Examiner	Yes, but only in conjunction with an appeal of the related Type II project decision

## What public notice is provided when an interpretation is requested or issued?

No public notice is provided when an interpretation is requested. If the interpretation request relates to a pending project application, and is submitted by a party other than the project applicant, then notice is provided to the project applicant.

When an interpretation is published, notice is provided to the person requesting the interpretation, and if the interpretation relates to a pending project application, notice is provided to the project applicant. If the interpretation was requested as a part of an appeal of a project decision, notice is provided to the parties to that appeal. If an interpretation is otherwise subject to appeal, notice of the interpretation is published in the Department's Land Use Information Bulletin.

Type of Related Project	Notice of Interpretation Request?	Notice of Issued Interpretation?
No related project	None	SDCI notifies the person requesting the interpretation and publishes it in SDCI's Land Use Information Bulletin
Type I: Project with no discretionary, component; project not subject to appeal to the Hearing Examiner	Notice provided to project applicant only	SDCI only notifies the person requesting the interpretation and the project applicant
Type II: Project with a discretionary component, such as SEPA or conditional use, subject to appeal to the Hearing Examiner, if interpretation is NOT requested in conjunction with an appeal of the project decision	Notice provided to project applicant only	SDCI notifies the person requesting the interpretation and the project applicant, and publishes it in SDCI's Land Use Information Bulletin
Type II: Project with a discretionary component subject to appeal to the Hearing Examiner, where the interpretation is requested in conjunction with such an appeal	Notice provided to parties to the appeal including project applicant	SDCI notifies parties to the appeal

## How long does it take SDCI to prepare a Land Use Code interpretation?

If the interpretation is related to an appealable project, SDCI publishes the interpretation at the same time as the project decision. If you're requesting the interpretation in conjunction with an appeal of a project decision, we typically negotiate the timing of the interpretation as a part of that process. If your interpretation request does not relate to a pending project application, or relates to an application for a Type I project that is not subject to appeal, we can typically publish an interpretation within six weeks after we receive the request. However, times may vary depending on the complexity of the issues.

## How much does an interpretation cost?

The initial fee for an interpretation is 10 times the hourly rate set for land use review under the fee ordinance. Under the 2017 fee ordinance, that hourly rate is \$315 and the initial fee required for an interpretation is \$3,150. If you appeal an interpretation to the Hearing Examiner, we will also bill for the time we spend defending our

interpretation. We may require separate interpretations, with separate initial fees, in cases where multiple unrelated questions are raised. The amount of staff time required to prepare an interpretation varies depending on the complexity of the issues. In most cases, we do not need additional payments beyond the initial fee. (See the Fee Subtitle at [www.seattle.gov/dpd/codes-rules/codes/fees](http://www.seattle.gov/dpd/codes-rules/codes/fees) for more information.)

## How do I request an interpretation?

1. Complete our Miscellaneous SDCI Services Request form ([www.seattle.gov/dpd/permits/forms](http://www.seattle.gov/dpd/permits/forms)).
2. Complete our Statement of Financial Responsibility form, committing to pay for any fees that may be required in excess of the base fee ([www.seattle.gov/dpd/permits/forms](http://www.seattle.gov/dpd/permits/forms)).
3. Pay the initial fee when you submit your request.

#### 4. Send us forms and payment by:

- Email:  
Public Resource Center  
prc@seattle.gov  
We will notify you when you can pay the fee
- In Person:  
Public Resources Center  
20th Floor of the Seattle Municipal Tower  
700 Fifth Avenue  
M, W, F: 8:00 a.m. – 4:00 p.m.
- Mail:  
SDCI Public Resource Center  
700 Fifth Avenue, Suite 2000  
P.O Box 34019  
Seattle, WA 98124-4019

Your request should clearly identify the related project, the code provision subject to interpretation, and the specific question you want SDCI to address. You should submit the form and payment according to the instructions on the form. Note: If you are requesting an interpretation in conjunction with an appeal of a project decision, the interpretation request must be submitted before the end of the appeal period for that related decision. You can submit your interpretation request at the Applicant Services Center on the 20th floor of the Seattle Municipal Tower, 700 5th Avenue. The Applicant Services Center closes at 4:00 p.m. each day. If you need to submit the request after 4:00 p.m., you may submit it at the reception desk on the 19th floor of the Seattle Municipal Tower.

### How can I get more information?

For additional information, please refer to the Land Use Code, Section SMC 23.88.020

If you have additional questions about the Land Use Code interpretation process after reviewing this Tip, please visit the land use coaching counter in the Applicant Services Center. The ASC is located on the 20th floor of the Seattle Municipal Tower, 700 5th Ave. Our hours are:

- Monday, Wednesday, Friday: 8:00 a.m. – 4:00 p.m.
- Tuesday, Thursday: 10:30 a.m. – 4:00 p.m.

## Access to Information

Links to electronic versions of SDCI **Tips**, **codes**, and **forms** are available on the "Tools & Resources" page of our website at [www.seattle.gov/sdci](http://www.seattle.gov/sdci). Paper copies of these documents are available from our Public Resource Center, located on the 20th floor of Seattle Municipal Tower at 700 Fifth Ave. in downtown Seattle, (206) 684-8467.

[Office of the City Clerk: Home](#)

APPEAL ATTACHMENT 'R2'

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# CITY OF SEATTLE

## OFFICE OF THE CITY CLERK

[Welcome!](#)[Legislation](#)[Meetings](#)[Council Committees](#)[Resources](#)[City Council](#)[Details](#)[Reports](#)Record No: CB 118985 [Version: 1](#)

Council Bill No: CB 118985

Type: Ordinance (Ord)

Status: Passed

Current Controlling  
Legislative Body City Clerk

On agenda: 8/7/2017

Ordinance No: Ord 125387

Title: AN ORDINANCE relating to land use and zoning; amending Sections 23.76.004, 23.76.022, and 23.88.020 of the Seattle Municipal Code to provide that interpretations by the Director of the Seattle Department of Construction and Inspections are not administrative remedies that must be exhausted prior to seeking judicial review.

Sponsors: Lisa Herbold, Rob Johnson

Supporting documents: 1. [Summary and Fiscal Note](#), 2. [Central Staff Memo \(06/20/17\)](#), 3. [Signed Ordinance 125387](#), 4. [Affidavit of Publication](#)[History \(11\)](#)[Text](#)

11 records	Group	Export					
Date ▼	Ver.	Action By	Action	Result	Action Details	Meeting Details	Seattle Channel
8/18/2017	1	City Clerk	attested by City Clerk		<a href="#">Action details</a>	Meeting details	
8/18/2017	1	Mayor	returned		<a href="#">Action details</a>	Meeting details	
8/18/2017	1	Mayor	Signed		<a href="#">Action details</a>	Meeting details	
8/11/2017	1	City Clerk	submitted for Mayor's signature		<a href="#">Action details</a>	Meeting details	
8/7/2017	1	City Council	passed	Pass	<a href="#">Action details</a>	<a href="#">Meeting details</a>	
8/1/2017	1	Planning, Land Use, and Zoning Committee	pass	Pass	<a href="#">Action details</a>	<a href="#">Meeting details</a>	
7/18/2017	1	Planning, Land Use, and Zoning Committee	discussed		<a href="#">Action details</a>	<a href="#">Meeting details</a>	
6/20/2017	1	Planning, Land Use, and Zoning Committee				<a href="#">Meeting details</a>	
5/22/2017	1	City Council	referred		<a href="#">Action details</a>	Meeting details	

Date ▼	Ver.	Action By	Action	Result	Action Details	Meeting Details	Seattle Channel
5/15/2017	1	Council President's Office	sent for review		<a href="#">Action details</a>	Meeting details	
5/10/2017	1	City Clerk	sent for review		<a href="#">Action details</a>	Meeting details	

# Seattle Permits

— part of a multi-departmental City of Seattle series on getting a permit

## Land Use Code Interpretations

Updated June 10, 2019

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### What issues does a Land Use Code interpretation address?

Interpretations address development regulations in the Land Use Code or the environmentally critical areas regulations. They do not address procedural provisions, or statements of policy in the code.

Interpretations are site-specific. They do not address how a standard applies in general, but rather how it applies to a specific site or development proposal.

Interpretations fall into the following categories; each with unique timing, notice, and appeal requirements according to SMC 23.88.020.

- Interpretations that do not relate to any pending project application
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- Interpretations relating to a pending project application that has a discretionary component that will

be subject to appeal before the Hearing Examiner (Type II decisions)

### How does the interpretation process relate to an appeal of a Type II project decision?

Your appeal of a Type II decision, such as a variance, conditional use, or SEPA (environmental) review, may challenge only how we applied the criteria for that decision, as provided in the code. This means that you cannot raise questions about how the code was applied, beyond the discretionary criteria, as a part of your appeal of the discretionary decision. In such a case, to challenge the way we applied a code standard, other than a criterion specifically listed for the discretionary decision, you may request a Land Use Code interpretation in addition to appealing our discretionary decision. For example, compliance with development standards such as height limits or setback requirements generally is not a criterion for discretionary reviews, so questions about whether a proposed project meets standards, in general, cannot be considered by the Hearing Examiner as part of an appeal of a project decision, unless a code interpretation is requested regarding particular standards as they apply to the proposed development. An interpretation may be requested during the public comment period for a Type II project, or as part of an appeal of a Type II project.

Our final land use decisions are subject to court appeals. Even if you don't request a Land Use Code interpretation about the meaning and application of a particular code provision, you may be able to raise that issue in a court appeal.

### How does the timing of an interpretation relate to the timing of project review?

The City is required to meet specific turn-around times for project reviews according to State law. The state law does not provide exceptions to these turn-around times in cases where a project interpretation is requested. Our procedures for interpretations, including when they may be requested and whether they may be appealed to the



Seattle Department of  
Construction & Inspections

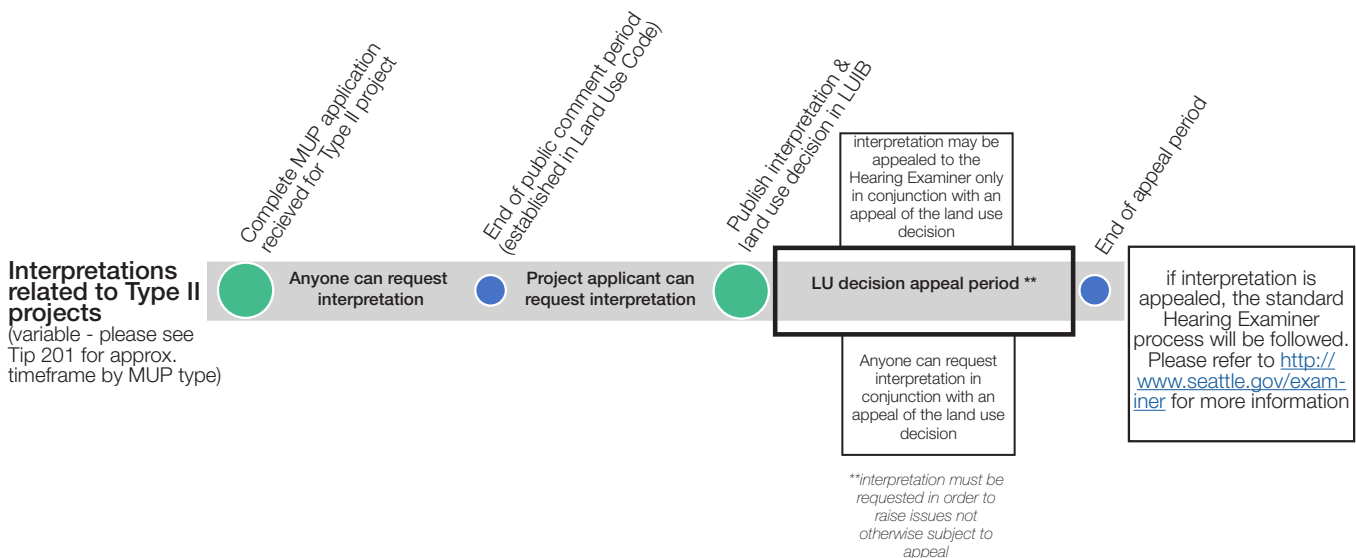
[www.seattle.gov/sdci](http://www.seattle.gov/sdci)

700 5th Avenue, Suite 2000  
P.O. Box 34019  
Seattle, WA 98124-4019  
(206) 684-8600

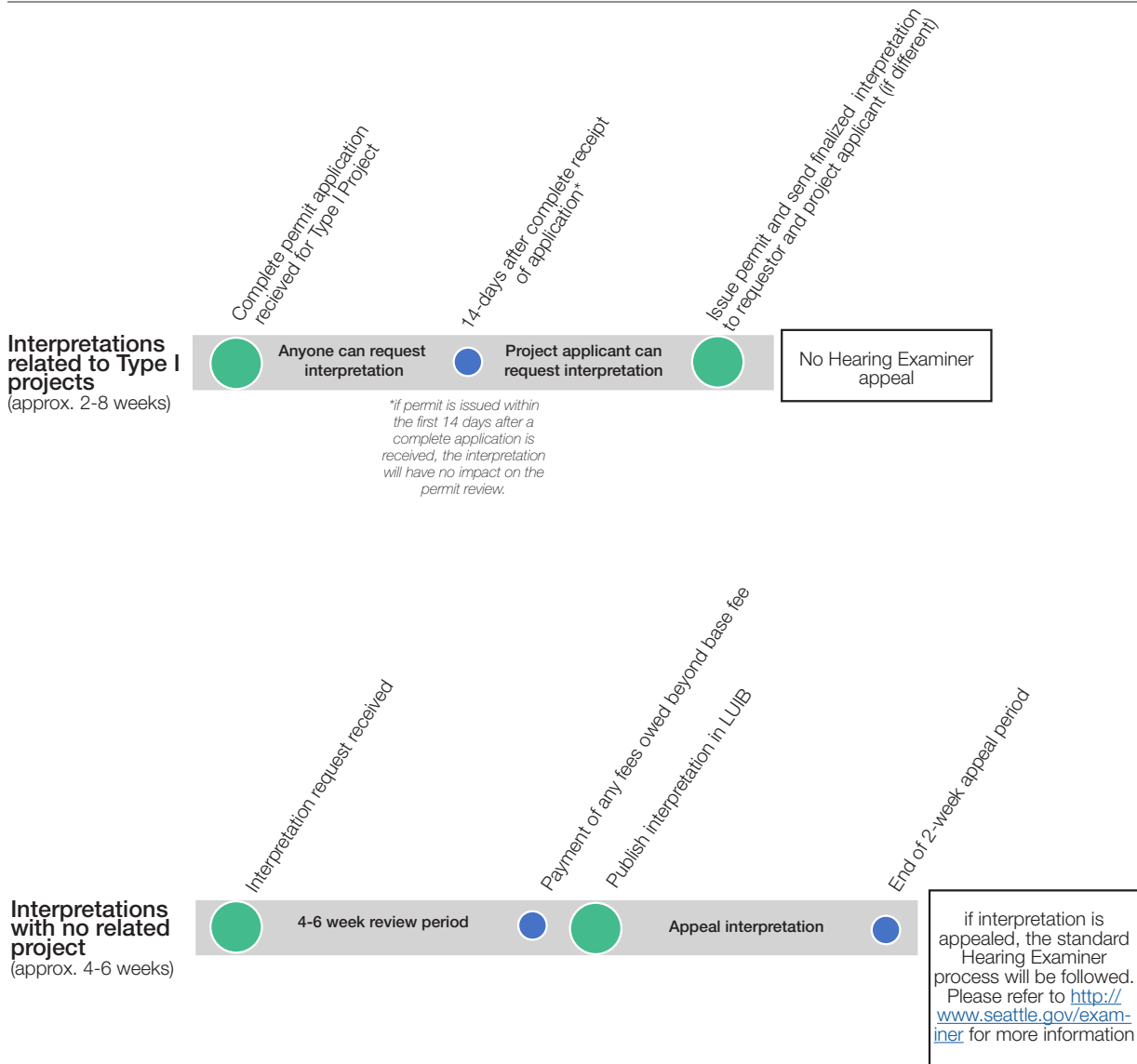
Hearing Examiner, are tailored to ensure that interpretation requests do not prevent us from meeting state-imposed review deadlines for related projects. As a result, interpretations relating to different types of project decisions have different procedural provisions as shown in the table and time lines below.

Type of Related Project	Timing of an Interpretation Request
No related project	Interpretation may be requested at any time, by any person
Type I: Project with no discretionary component; project not subject to appeal to the Hearing Examiner	<p>Any person may request an interpretation within 14 days of when SDCI deems the project application is complete. However, if SDCI has already issued the permit for that project, or is ready to issue the permit when you submit the interpretation request, the interpretation won't affect the project.</p> <p>The project applicant may request an interpretation more than 14 days after SDCI deems the project application complete. The applicant must agree to waive the time limits that would otherwise apply to the project review.</p>
Type II: Project with a discretionary component, such as SEPA or conditional use; project is subject to appeal to the Hearing Examiner	<p>Any person may request an interpretation during the project's public comment period.</p> <p>The project applicant may request an interpretation after the public comment period has ended. The applicant must agree to waive the time limits that would otherwise apply to the project review.</p> <p>In addition, your appeal of a Type II project decision may include a request for interpretation related to the project. However, you may not request an interpretation regarding how a proposed use has been categorized at this stage.</p>

## When can an interpretation be appealed to the Seattle Hearing Examiner?







Anybody can appeal an interpretation that is unrelated to a pending project application to the Hearing Examiner. You may not appeal an interpretation to the Hearing Examiner if it is related to a Type I project, i.e. a project that has no other discretionary, appealable component, and requires no public notice. You may appeal an interpretation that is related to a Type II project, such as a project requiring a variance, conditional use approval, or SEPA review, to the Hearing Examiner only if you also appeal the related project decision. The deadline for filing an appeal is 5:00 p.m. on the date 14 days after SDCI publishes the interpretation. Below is a summary of when interpretations can be appealed.

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## What public notice is provided when an interpretation is requested or issued?

No public notice is provided when an interpretation is requested. If the interpretation request relates to a pending project application, and is submitted by a party other than the project applicant, then notice is provided to the project applicant.

When an interpretation is published, notice is provided to the person requesting the interpretation, and if the interpretation relates to a pending project application, notice is provided to the project applicant. If the interpretation was requested as a part of an appeal of a project decision, notice is provided to the parties to that appeal. If an interpretation is otherwise subject to appeal, notice of the interpretation is published in the Department's Land Use Information Bulletin.

Type of Related Project	Notice of Interpretation Request?	Notice of Issued Interpretation?
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Type II: Project with a discretionary component subject to appeal to the Hearing Examiner, where the interpretation is requested in conjunction with such an appeal	Notice provided to parties to the appeal including project applicant	SDCI notifies parties to the appeal

## How long does it take SDCI to prepare a Land Use Code interpretation?

If the interpretation is related to an appealable project, SDCI publishes the interpretation at the same time as the project decision. If you're requesting the interpretation in conjunction with an appeal of a project decision, we typically negotiate the timing of the interpretation as a part of that process. If your interpretation request does not relate to a pending project application, or relates to an application for a Type I project that is not subject to appeal, we can typically publish an interpretation within six weeks after we receive the request. However, times may vary depending on the complexity of the issues.

## How much does an interpretation cost?

The initial fee for an interpretation is 10 times the hourly rate set for land use review under the fee ordinance. Under the 2017 fee ordinance, that hourly rate is \$386 and the initial fee required for an interpretation is \$3,860. If you appeal an interpretation to the Hearing Examiner, we will also bill for the time we spend defending our interpretation. We may require separate interpretations, with separate initial fees, in cases where multiple unrelated questions are raised. The amount of staff time required to prepare an interpretation varies depending on the complexity of the issues. In most cases, we do not need additional payments beyond the initial fee. (See the Fee Subtitle at [www.seattle.gov/sdci/codes/codes-we-enforce-\(a-z\)/fees](http://www.seattle.gov/sdci/codes/codes-we-enforce-(a-z)/fees) for more information.)

## How do I request an interpretation?

### Application Instructions:

You must complete your application online through the Seattle Services Portal at <https://cosaccela.seattle.gov/portal/>.

1. From the home page click on Permits - Trade, Construction & Land Use. Then choose "Land Use. Code Interpretation Request" in the Land Use Permits drop down list.

For assistance with the process, please email us at [PRC@seattle.gov](mailto:PRC@seattle.gov) or call us at (206) 684-8467 (message line).

2. Upload a completed Statement of Financial Responsibility form. It commits you to pay for any fees that may be required in excess of the base fee. You can find it on our website at [www.seattle.gov/sdci/permits/forms](http://www.seattle.gov/sdci/permits/forms).
3. Pay the initial fee when you submit your request.

Your request should clearly identify the related project, the code provision subject to interpretation, and the specific question you want SDCI to address. You should submit the form and payment according to the instructions on the form. Note: If you are requesting an interpretation in conjunction with an appeal of a project decision, the interpretation request must be submitted before the end of the appeal period for that related decision. You can submit your interpretation request at the Applicant Services Center on the 20th floor of the Seattle Municipal Tower, 700 5th Avenue. The Applicant Services Center closes at 4:00 p.m. each day. If you need to submit the request after 4:00 p.m., you may submit it at the reception desk on the 19th floor of the Seattle Municipal Tower.

## How can I get more information?

For additional information, please refer to the Land Use Code, Section SMC 23.88.020

If you have additional questions about the Land Use Code interpretation process after reviewing this Tip, please visit the land use coaching counter in the Applicant Services Center. The ASC is located on the 20th floor of the Seattle Municipal Tower, 700 5th Ave. Our hours are:

- Monday, Wednesday, Friday: 8:00 a.m. – 4:00 p.m.
- Tuesday, Thursday: 10:30 a.m. – 4:00 p.m.

## Access to Information

Links to electronic versions of SDCI **Tips**, **codes**, and **forms** are available on the "Resources" page of our website at [www.seattle.gov/sdci](http://www.seattle.gov/sdci). Paper copies of these documents are available from our Public Resource Center, located on the 20th floor of Seattle Municipal Tower at 700 Fifth Ave. in downtown Seattle, (206) 684-8467.