

Ordinance No. 122524

Council Bill No. 116009

AN ORDINANCE related to land use and zoning; amending Sections 23.49.011, 23.49.013, and 23.49.035 of the Seattle Municipal Code, revising regulations for Downtown Seattle; amending provisions for allowing chargeable floor area to exceed the base floor area ratio; adding floor area exemptions; providing incentives for maintaining designated Landmark structures and existing small scale structures on a development lot; amending regulations regarding development standards for lots where such incentives are used; and making technical corrections.

CF No. _____

Date Introduced:	<u>9-4-07</u>	
Date 1st Referred:	<u>9-4-07</u>	To: (committee) <u>URBAN Development and Planning</u>
Date Re - Referred:		To: (committee)
Date Re - Referred:		To: (committee)
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Date Passed Over Veto:		Veto Sustained:

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: Steinboeck
Councilmember
Peter Steinboeck

Committee Action: Pass 4-0
PS, TR, R, G, S

10-1-07 Passed 8-0 (Excused: McIver)

This file is complete and ready for presentation to Full Council. Committee: _____ (Initial/Date)

Law Department

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ORDINANCE 122524

AN ORDINANCE related to land use and zoning; amending Sections 23.49.011, 23.49.013, and 23.49.035 of the Seattle Municipal Code, revising regulations for Downtown Seattle; amending provisions for allowing chargeable floor area to exceed the base floor area ratio; adding floor area exemptions; providing incentives for maintaining designated Landmark structures and existing small scale structures on a development lot; amending regulations regarding development standards for lots where such incentives are used; and making technical corrections.

WHEREAS, designated Landmark structures and small structures that add interest and diversity to the scale of Downtown development are recognized as providing a significant public benefit, and Seattle's Comprehensive Plan includes goals and policies to protect them, including CR11 in the Cultural Resources Element and DT-G4, DT-UDP1, DT-LUP11, COM-P1, COM-P2, and COM-P3 in the Neighborhood Planning Element; and

WHEREAS, Ordinance 122054 enacted density increases for several Downtown zones, which could increase redevelopment pressure for lots occupied by Landmark structures and smaller structures, making it increasingly important to provide incentives to retain such structures as redevelopment occurs; and

WHEREAS, the City has conducted analysis of locations with potential for redevelopment that could have an impact on Landmark structures and small structures, and determined that the need and potential use of such incentives to retain these structures as proposed is greatest in the Downtown Office Core 1 (DOC1) zone; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 23.49.011 of the Seattle Municipal Code, which Section was last amended by Ordinance 122054, is amended as follows:

23.49.011 Floor area ratio.

A. General Standards.

1. The base and maximum floor area ratio (FAR) for each zone is provided in Chart 23.49.011 A1.



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Seattle Municipal Code Chart 23.49.011 A1		
Base and Maximum Floor Area Ratios (FARs)		
Zone Designation	Base FAR	Maximum FAR
Downtown Office Core 1 (DOC1)	6	20
Downtown Office Core 2 (DOC2)	5	14
Downtown Retail Core (DRC)	3	5
Downtown Mixed Commercial (DMC)	4 in 65' height district 4.5 in 85' height district 5 in 125', 160', 240'/290'-400' and 340'/290'-400' height districts	4 in 65' height district 4.5 in 85' height district 7 in 125', 160' and 240'/290'-400' height districts 10 in 340'/290'-400' height districts
Downtown Mixed Residential/Residential (DMR/R)	1 in 85'/65' height district 1 in 125'/65' height district 1 in 240'/65' height district	1 in 85'/65' height district 2 in 125'/65' height district 2 in 240'/65' height district
Downtown Mixed Residential/Commercial (DMR/C)	1 in 85'/65' height district 1 in 125'/65' height district 2 in 240'/125' height district	4 in 85'/65' height district 4 in 125'/65' height district 5 in 240'/125' height district
Pioneer Square Mixed (PSM)	N.A.	N.A.
International District Mixed (IDM)	3, except hotels 6 for hotels	3, except hotels 6 for hotels
International District Residential (IDR)	1	2 when 50% or more of the total gross floor area on the lot is in residential use
Downtown Harborfront 1 (DH1)	N.A.	N.A.
Downtown Harborfront 2 (DH2)	2.5	Development standards regulate maximum FAR.
Pike Market Mixed (PMM)	7	7

N.A. = Not Applicable.

2. Chargeable floor area shall not exceed the applicable base FAR except as expressly authorized pursuant to the provisions of this chapter.

a. For new structures in DOC1, DOC2 and DMC zones allowing chargeable floor area above the base FAR, the first increment of chargeable floor area above the base FAR, shown for each zone on Chart 23.49.011 A.2, shall be gained by making a commitment satisfactory to the Director that the proposed development will earn a LEED Silver rating or ((a)) meet a substantially equivalent standard approved by the Director as a Type I decision. In these zones, no chargeable floor area above the base FAR is allowed for a project



1 that includes chargeable floor area in a new structure unless the applicant makes such a
2 commitment. When such a commitment is made, the provisions of SMC Section 23.49.020 shall
3 apply. The Director may establish by rule procedures for determining whether an applicant has
4 demonstrated that a new structure has earned a LEED Silver rating or met any such substantially
5 equivalent standard, provided that no rule shall assign authority for making a final determination
6 to any person other than an officer of the Department of Planning and Development or another
7 City agency with regulatory authority and expertise in green building practices. This subsection
8 A2a shall expire on May 12, 2011.

Seattle Municipal Code Chart 23.49.011 A2	
ZONE	First increment of FAR above the base FAR achieved through LEED Silver Rating
DOC1	1.0
DOC2	0.75
DMC 340/290-400	0.50
DMC 125, 160, 240/290-400	0.25

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17 b. In DOC1, DOC2, and DMC zones, additional chargeable floor area
18 above the first increment of FAR that exceeds the base FAR may be obtained only by qualifying
19 for floor area bonuses pursuant to Section 23.49.012 or 23.49.013, or by the transfer of
20 development rights pursuant to Section 23.49.014, or both, except as provided in subsections
21 A2c through A2i, A2k and A2l of this section. After the expiration of subsection A2a of this
22 section, the first increment of floor area above the base FAR shall be zero (0).

24 c. In the DOC1 zone, additional chargeable floor area over seventeen (17)
25 FAR may be obtained only through the transfer of rural development credits, except as provided
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1 below in this subsection A2c. No chargeable floor area shall be allowed under this subsection
2 A2c unless, at the time of the Master Use Permit application for the project proposing such floor
3 area, an agreement is in effect between the City and King County, duly authorized by City
4 ordinance, for the implementation of a Rural Development Credits Program. If no such
5 agreement is in effect, the chargeable floor area above the seventeenth FAR may be obtained
6 according to the provisions of Section 23.49.011 A2f.
7

8 d. In no event shall the use of bonuses, TDR, or rural development credits,
9 or any combination of them, be allowed to result in chargeable floor area in excess of the
10 maximum as set forth in Chart 23.49.011 A.1, except that a structure on a lot in a planned
11 community development pursuant to Section 23.49.036 or a combined lot development pursuant
12 to Section 23.49.041, may exceed the floor area ratio otherwise permitted on that lot, provided
13 the chargeable floor area on all lots included in the planned community development or
14 combined lot development as a whole does not exceed the combined total permitted chargeable
15 floor area.
16

17 e. Except as otherwise provided in this subsection A2e or subsections A2g
18 or A2i of this section, not less than five (5) percent of all floor area above the base FAR to be
19 gained on any lot, excluding any floor area gained under subsections A2a, A2k, and A2l of this
20 ~~((S))~~section, shall be gained through the transfer of Landmark TDR, to the extent that Landmark
21 TDR is available. Landmark TDR shall be considered "available" only to the extent that, at the
22 time of the Master Use Permit application to gain the additional floor area, the City of Seattle is
23 offering Landmark TDR for sale, at a price per square foot no greater than the total bonus
24 contribution under Section 23.49.012 for a project using the cash option for both housing and
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1 childcare facilities. An applicant may satisfy the minimum Landmark TDR requirement in this
2 section by purchases from private parties, by transfer from an eligible sending lot owned by the
3 applicant, by purchase from the City, or by any combination of the foregoing. This subsection
4 A2e does not apply to any lot in a DMR zone.

5 f. Except as otherwise permitted under subsection A2h or A2i of this
6 section, on any lot except a lot in a DMR zone, the total amount of chargeable floor area gained
7 through bonuses under Section 23.49.012, together with any housing TDR and Landmark
8 housing TDR used for the same project, shall equal seventy-five (75) percent of the amount, if
9 any, by which the total chargeable floor area to be permitted on the lot exceeds the sum of
10 (i) the base FAR, as determined under this section and Section 23.49.032 if applicable, plus (ii)
11 any chargeable floor area gained on the lot pursuant to subsections A2a, A2c, A2h, ~~((e))~~A2i,
12 A2k, and A2l of this section. At least half of the remaining twenty-five (25) percent shall be
13 gained by using TDR from a sending lot with a major performing arts facility, to the extent
14 available. The balance of such twenty-five (25) percent shall be gained through bonuses under
15 Section 23.49.013 or through TDR other than housing TDR, or both, consistent with this chapter.
16 TDR from a sending lot with a major performing arts facility shall be considered "available" only
17 to the extent that, at the time of the Master Use Permit application to gain the additional floor
18 area, the City of Seattle is offering such TDR for sale, at a price per square foot not exceeding
19 the prevailing market price for TDR other than housing TDR, as determined by the Director.

20 g. In order to gain chargeable floor area on any lot in a DMR zone, an
21 applicant may (i) use any types of TDR eligible under this chapter in any proportions, or (ii) use
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1 bonuses under Section 23.49.012 or 23.49.013, or both, subject to the limits for particular types
2 of bonus under Section 23.49.013, or (iii) combine such TDR and bonuses in any proportions.

3 h. On any lot in a DMC zone allowing a maximum FAR of seven (7), in
4 addition to the provisions of subsection A2f above, an applicant may gain chargeable floor area
5 above the first increment of FAR above the base FAR through use of DMC housing TDR, or any
6 combination of DMC housing TDR with floor area gained through other TDR and bonuses as
7 prescribed in subsection A2f.

8
9 i. When the amount of bonus development sought in any permit
10 application does not exceed five thousand (5,000) square feet of chargeable floor area, the
11 Director may permit such floor area to be achieved solely through the bonus for housing and
12 child care.

13
14 ~~((j. Subsection A2a of this section shall expire five (5) years from the
15 effective date of Ordinance 122054, and thereafter that first increment of floor area above the
16 base FAR shall be zero (0).))~~

17 ~~j.((k.))~~ No chargeable floor area above the base FAR shall be granted to
18 any proposed development that would result in significant alteration to any designated feature of
19 a Landmark structure, unless a Certificate of Approval for the alteration is granted by the
20 Landmarks Preservation Board.

21
22 k. On a lot entirely in a DOC1 zone, additional chargeable floor area
23 equal to 1.0 FAR may be permitted above the increment achieved through a commitment as
24 prescribed in subsection 23.49.011A2a, or above the base FAR after expiration of that
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1 subsection, on a lot that includes one or more qualifying Landmarks, subject to the following
2 conditions:

3 (1) the structure is rehabilitated to the extent necessary so that all
4 features and characteristics controlled or designated by ordinance pursuant to SMC Chapter
5 25.12 or Ordinance 102229 are in good condition and consistent with the applicable ordinances
6 and with any certificates of approval issued by the Landmarks Preservation Board, all as
7 determined by the Director of Neighborhoods; and

8 (2) a notice shall be recorded in the King County real estate
9 records, in form satisfactory to the Director, regarding the bonus allowed and the effect thereof
10 under the terms of this chapter.

11 For purposes of this section, a “qualifying Landmark” is a structure that (i) has a gross floor area
12 above grade of at least five thousand (5,000) square feet; (ii) is separate from the principal
13 structure or structures existing or to be developed on the lot, except that it may abut and connect
14 with one such structure along one exterior wall; (iii) is subject, in whole or in part, to a
15 designating ordinance pursuant to SMC Chapter 25.12, or was designated pursuant to Ordinance
16 102229; and (iv) is on a lot on which no improvement, object, feature or characteristic has been
17 altered or removed contrary to any provision of Chapter 25.12 or any designating ordinance. A
18 qualifying Landmark for which a bonus is allowed under this subsection shall be considered a
19 public benefit feature, but shall not be considered an amenity for purposes of Section 23.49.013.

20 For so long as any of the chargeable floor area allowed under this subsection A2k remains on the
21 lot, each qualifying Landmark for which such bonus was granted shall remain designated as a
22 Landmark under Chapter 25.12 and the owner shall maintain the exterior and interior of each



1 qualifying Landmark in good condition and repair and in a manner that preserves the features
2 and characteristics that are subject to designation or controls by ordinance, and that maintains
3 compliance with all applicable requirements of federal, state and local laws, ordinances,
4 regulations, and restrictions.

5 1. On a lot entirely in a DOC1 zone, as an incentive to maintain diversity
6 in the scale of downtown development, additional floor area equal to 0.5 FAR may be granted
7 above the increment achieved through a commitment as prescribed in subsection 23.49.011A2a,
8 or above the base FAR after expiration of that subsection, on a lot that includes one or more
9 qualifying small structures, subject to the conditions in this subsection A21.

10
11 (1) A “qualifying small structure” is one that satisfies all of the
12 following standards:

13
14 (i) the gross floor area of the structure above grade is a
15 minimum of five thousand (5,000) square feet and does not exceed fifty thousand (50,000)
16 square feet;

17 (ii) the height of the structure is one hundred and twenty-
18 five (125) feet or less, not including rooftop features as specified in subsection 23.49.008.d;

19 (iii) the structure was not constructed or substantially
20 structurally modified since July 13, 1982; and

21 (iv) the structure is not occupied by parking above the
22 ground floor.

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24 (2) If the structure is removed from the lot or ceases to be a
25 qualifying small structure, then any development on the portion of the lot previously occupied by
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1 the structure, defined by a rectangle enclosing the exterior walls of the structure as they exist at
2 the time the bonus is granted and extended to the nearest street frontage, shall be limited to a
3 maximum floor area of fifty thousand (50,000) square feet for all uses and a maximum height of
4 one hundred and twenty-five (125) feet, excluding any rooftop features as specified in subsection
5 23.49.008.d.

6
7 (3) A notice shall be recorded in the King County real estate
8 records, in form satisfactory to the Director, regarding the bonus allowed and the effect thereof
9 under the terms of this chapter.

10 (4) Bonus floor area under this subsection A2l may not be granted
11 on the basis of a Landmark structure for which bonus floor area is allowed under subsection A2k
12 of this section, but may be allowed on the basis of a different structure or structures that are on
13 the same lot as a Landmark structure for which such bonus floor area is allowed.
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15 3. The Master Use Permit application to establish any bonus development under
16 this section shall include a calculation of the amount of bonus development sought and shall
17 identify the manner in which the conditions to such bonus development shall be satisfied. The
18 Director shall, at the time of issuance of any Master Use Permit decision approving any such
19 bonus development, issue a Type I decision as to the amount of bonus development to be
20 allowed and the conditions to such bonus development, which decision may include alternative
21 means to achieve bonus development, at the applicant's option, if each alternative would be
22 consistent with the provisions of this section and ((conditions of)) any other conditions of the
23 permit, including Design Review if applicable.
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26 B. Exemptions and Deductions from FAR Calculations.



1 1. The following are not included in chargeable floor area, except as specified
2 below in this section:

3 a. Retail sales and service uses and entertainment uses in the DRC zone,
4 up to a maximum FAR of two (2) for all such uses combined;

5 b. Street-level uses meeting the requirements of Section 23.49.009, Street-
6 level use requirements, whether or not street-level use is required pursuant to Map 1G, if the uses
7 and structure also satisfy the following standards:

8 (1) The street level of the structure containing the exempt space
9 must have a minimum floor to floor height of thirteen (13) feet;

10 (2) The street level of the structure containing the exempt space
11 must have a minimum depth of fifteen (15) feet;

12 (3) Overhead weather protection is provided satisfying the
13 provisions of Section 23.49.018.

14 c. Shopping atria in the DRC zone and adjacent areas shown on Map 1J,
15 provided that:

16 (1) The minimum area of the shopping atria shall be four thousand
17 (4,000) square feet;

18 (2) The eligibility conditions of the Downtown Amenity Standards
19 are met; and

20 (3) The maximum area eligible for a floor area exemption shall be
21 twenty thousand (20,000) square feet;

22 d. Child care;



1 e. Human service use;

2 f. Residential use, except in the PMM and DH2 zones;

3 g. Live-work units, except in the PMM and DH2 zones;

4 h. Museums, provided that the eligibility conditions of the Downtown

5 Amenity Standards are met;

6 i. The floor area identified as expansion space for a museum, where such
7 expansion space satisfies the following:

8 (1) The floor area that will contain the museum expansion space is
9 owned by the museum or a museum development authority; and
10

11 (2) The museum expansion space will be occupied by a museum,
12 existing as of October 31, 2002, on a downtown zoned lot; and
13

14 (3) The museum expansion space is physically designed in
15 conformance with the Seattle Building Code standards for museum use either at the time of
16 original configuration or at such time as museum expansion is proposed;

17 j. Performing arts theaters;

18 k. Floor area below grade;

19 l. Floor area that is used only for short-term parking or parking accessory
20 to residential uses, or both, subject to a limit on floor area used wholly or in part as parking
21 accessory to residential uses of one (1) parking space for each dwelling unit on the lot with the
22 residential use served by the parking;
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24 m. Floor area of a public benefit feature that would be eligible for a bonus
25 on the lot where the feature is located, other than a Landmark structure eligible pursuant to
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1 subsection A2k or a small structure eligible pursuant to subsection A2l. The exemption applies
2 regardless of whether a floor area bonus is obtained, and regardless of maximum bonusable area
3 limitations;

4 n. Public restrooms;

5 o. Major retail stores in the DRC zone and adjacent areas shown on Map
6

7 IJ, provided that:

8 (1) The minimum lot area for a major retail store development
9 shall be twenty thousand (20,000) square feet;

10 (2) The minimum area of the major retail store shall be eighty
11 thousand (80,000) square feet;

12 (3) The eligibility conditions of the Downtown Amenity Standards
13 are met;

14 (4) The maximum area eligible for a floor area exemption shall be
15 two hundred thousand (200,000) square feet;

16 (5) The floor area exemption applies to storage areas, store offices,
17 and other support spaces necessary for the store's operation; ~~((and))~~

18 p. Shower facilities for bicycle commuters~~((-))~~; and

19 q. Floor area, excluding floor area otherwise exempt, up to a maximum of
20 twenty-five thousand (25,000) square feet on any lot, within one or more Landmark structures
21 for which a floor area bonus has been granted pursuant to subsection A2k, or within one or more
22 small structures for which a floor area bonus has been granted pursuant to subsection A2l, or
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1 within any combination of such Landmark structures and such small structures, in each case only
2 to the extent that the floor area satisfies the following criteria as determined by the Director:

3 (1) The floor area is interior space of historic or architectural
4 interest designed to accommodate the original function of the structure, and maintaining the
5 integrity of this space prevents it from being fully utilized as commercial floor area;

6 (2) The floor area is occupied by such uses as public assembly or
7 performance space, human services, or indoor public amenities, including atrium or lobby area
8 available for passive indoor recreation use or for the display of art or other objects of scientific,
9 social, historic, cultural, educational or aesthetic interest; and

10 (3) The floor area is open and accessible to the public without
11 charge, on reasonable terms and conditions consistent with the nature of the space, during normal
12 operating hours of the building.

13
14 2. As an allowance for mechanical equipment, three and one-half (3 1/2) percent
15 shall be deducted in computing chargeable gross floor area. The allowance shall be calculated on
16 the gross floor area after all exempt space permitted under subsection B1 has been deducted.

17 Mechanical equipment located on the roof of a structure, whether enclosed or not, shall be
18 calculated as part of the total gross floor area of the structure, except that for structures existing
19 prior to June 1, 1989, new or replacement mechanical equipment may be placed on the roof and
20 will not be counted in gross floor area calculations.

21
22 Section 2. Subsection B and **Chart 23.49.013A** of Section 23.49.013 of the Seattle
23 Municipal Code, which Section was last amended by Ordinance 122054, are amended as
24 follows:

25
26 **23.49.013 Bonus floor area for amenities.**



* * *

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2 B. Standards for Amenities.

3 1. Location of Amenities. Amenities shall be located on the lot using the bonus,
4 except as follows:

5 a. Green street improvements may be located within an abutting right-of-
6 way subject to applicable Director's rules.

7
8 b. An open space amenity, other than green street improvements, may be
9 on a lot other than the lot using the bonus, provided that it is within a Downtown zone and all of
10 the following conditions are satisfied:

11 (1) The open space must be open to the general public without
12 charge, must meet the eligibility conditions of the Downtown Amenity Standards, and must be
13 one of the open space features cited in subsection A1 of this section.

14 (2) The open space must be within one-quarter (1/4) mile of the
15 lot using the bonus, except as may be permitted pursuant to subsection B1b(4).

16 (3) The open space must have a minimum contiguous area of five
17 thousand (5,000) square feet, except as may be permitted pursuant to subsection B1b(4).

18 (4) Departures from standards for the minimum size of off-site
19 open space and maximum distance from the project may be allowed by the Director as a Type I
20 decision if the Director determines that if such departures are approved, the proposed open space
21 will meet the additional need for open space caused by the project, and improve public access to
22 the open space compared to provision of the open space on-site.
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1 (5) The owner of any lot on which off-site open space is provided
2 to meet the requirements of this section shall execute and record an easement or other instrument
3 in a form acceptable to the Director assuring compliance with the requirements of this section,
4 including applicable conditions of the Downtown Amenity Standards.

5 c. Public restrooms shall be on a ground floor; shall satisfy all codes and
6 accessibility standards; shall be open to the general public during hours that the structure is open
7 to the public, although access may be monitored by a person located at the restroom facility;
8 shall be maintained by the owner of the structure for the life of the structure that includes the
9 bonused space; and shall be designated by signs sufficient so that they are readily located by
10 pedestrians on an abutting street or public open space. The Director is authorized to establish
11 standards for the design, construction, operation and maintenance of public restrooms qualifying
12 for a bonus, consistent with the intent of this subsection to encourage the provision of accessible,
13 clean, safe and environmentally sound facilities.
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16 2. Options for Provision of Amenities.

17 a. Amenities must be provided by performance except as expressly
18 permitted in this Section. The Director may accept a cash payment for green street improvements
19 subject to the provisions of this section, the Downtown Amenity Standards and the Green Street
20 Director's Rule, DR 11-2007((93)), if the Director determines that improvement of a green street
21 abutting or in the vicinity of the lot within a reasonable time is feasible. The cash payment must
22 be in an amount sufficient to improve fully one (1) square foot of green street space for each five
23 (5) square feet of bonus floor area allowed for such payment.
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Chart 23.49.013A Downtown Amenities

Amenity	Zone Location of Lots Eligible to Use Bonus						Bonus Ratio	Maximum square feet (SF) of floor area eligible for a bonus
	DOC1	DOC2	DMC 340/290-400	DMC 125, DMC 160, and DMC 240/290-400	DRC	DMR		
Hillside Terrace	Only eligible for bonus at locations specified on Map 1J of Chapter 23.49((the Land-Use-Code))						5:1	6,000 SF
Urban Plaza	X	X	X				5:1	15,000 SF
Commercial Parcel Park	X	X	X	X			5:1	7,000 SF
Residential Parcel Park			X	X		X	5:1	12,000 SF
Green Street Parcel Park	Eligible for bonus only on 1((L))ots abutting a designated green street						5:1	7,000 SF
Public Atrium	X	X	X				5:1	5,500 SF
Green Street Improvement	Eligible for bonus only on 1((L))ots abutting a designated green street						5:1	No limit
Green Street Setback	Lots abutting designated green street not subject to property line street wall requirement						1:1	10 times the length of lot's green street frontage
Hillclimb Assist	Only eligible for bonus at locations specified on Map 1J of Chapter 23.49((the Land-Use-Code))						Not applicable	Maximum gain of 0.5 FAR
Shopping Corridor	Only eligible for bonus at locations specified on Map 1J of Chapter 23.49((the Land-Use-Code))						5:1	7,200 SF
Transit Station Access	X	X	X	X	X	X	Not applicable	Maximum gain of 1.0 FAR
Public Restroom	X	X	X	X	X	X	7:1	No limit
Human Services	X	X	X	X	X	X	7:1	10,000 SF
Preservation of Landmark Theater	X	X	X				Variable; maximum of 12:1	Maximum gain of 1.0 FAR

"X" indicates that bonus is potentially available



1 b. Any bonus for restoration and preservation of a Landmark performing
2 arts theater shall not exceed a maximum of one (1) FAR. Such bonus maybe allowed at a
3 variable ratio, as described in the Downtown Amenity Standards, of up to twelve (12) square feet
4 of floor area granted per one (1) square foot (12:1) of performing arts theater space rehabilitated
5 by the applicant, or previously rehabilitated so as to have a useful life at the time the bonus is
6 allowed of no less than twenty (20) years, in each case consistent with any controls applicable to
7 the Landmark performing arts theater and any certificates of approval issued by the Landmarks
8 Preservation Board. For purposes of this subsection, performing arts theater space shall consist
9 only of the following: stage; audience seating; theater lobby; backstage areas such as dressing
10 and rehearsal space; the restrooms for audience, performers and staff; and areas reserved
11 exclusively for theater storage. For any Landmark performing arts theater from which TDR has
12 been transferred, or that has received any public funding or subsidy for rehabilitation or
13 improvements, the bonus ratio shall be limited, pursuant to a subsidy review, to the lowest ratio,
14 as determined by the Housing Director, such that the benefits of the bonus, together with the
15 value of any TDR and any public f((+))unding or subsidy, are no more than the amounts
16 reasonably necessary to make economically feasible:
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19 (1) The rehabilitation and preservation of the Landmark
20 performing arts theater; and
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22 (2) Any replacement by the owner of such theater of low-income
23 housing that is reasonably required to be eliminated from the lot of the Landmark performing
24 arts theater to make rehabilitation, preservation and operation of the performing arts theater
25 economically feasible.
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1 4. Downtown Amenity Standards.

2 a. The Director shall approve a feature for a bonus if the Director
3 determines that the feature satisfies the eligibility conditions of the Downtown Amenity
4 Standards, and that the feature carries out the intent of this section and the guidelines in the
5 Downtown Amenity Standards.

6 b. The Director may allow departures from the eligibility conditions in the
7 Downtown Amenity Standards as a Type I decision, if the applicant can demonstrate that the
8 amenity better achieves the intent of the amenity as described in this chapter and the Downtown
9 Amenity Standards, and that the departure is consistent with any applicable criteria for allowing
10 the particular type of departure in the Downtown Amenity Standards.

11 c. The Director may allow departures from the eligibility conditions in the
12 Downtown Amenity Standards as a Type I decision, to allow floor area in a Landmark structure
13 satisfying the standards of Section 23.49.011A2k or in a small structure satisfying the standards
14 of Section 23.49.011A2l to qualify as floor area eligible for a bonus when adapted to serve as a
15 hillclimb assist, museum, shopping corridor, or public atrium amenity.

16 ((e))d. The Director may condition the approval of a feature for a bonus as
17 provided in the Downtown Amenity Standards.

18 5. Open Space Amenities. Open space amenities must be newly constructed on a
19 lot in a Downtown zone in compliance with the applicable provisions of this chapter and the
20 Downtown Amenity Standards.

21 6. Declaration. When amenities are to be provided on-site for purposes of
22 obtaining bonus floor area, the owner shall execute and record a declaration in a form acceptable
23



1 to the Director identifying the features and the fact that the right((;)) to develop and occupy a
2 portion of the gross floor area on the site is based upon the long-term provision and maintenance
3 of those amenities.

4 7. Duration; Alteration. All bonused amenities shall be provided and maintained
5 in accordance with the applicable provisions of this section and the Downtown Amenity
6 Standards for as long as the portion of the chargeable floor area gained by the amenities exists. A
7 permit is required to alter or remove any bonused amenity.
8

9 Section 3. Section 23.49.035 of the Seattle Municipal Code, which Section was last
10 amended by Ordinance 122054, is amended as follows:

11 **23.49.035 ((~~Replacement of~~))Modified or discontinued public benefit features.**

12 A. All public benefit features, except (1) housing and (2) landmark performing arts
13 theaters, shall remain for the life of the structure that includes the additional gross floor area
14 except as otherwise specifically permitted pursuant to this section.
15

16 B. Unless the specified period for which a feature is to be maintained has expired in
17 accordance with the terms of this chapter, or another provision of this chapter specifically
18 otherwise provides, a public benefit feature may be diminished or discontinued only if:
19

20 1. the feature is not housing or child care; and

21 2. a. the additional gross floor area permitted in return for the specific feature
22 is ((permanently)) removed or converted to a use that is not counted as chargeable floor area; or

23 b. an amount of chargeable floor area equal to that obtained by the public
24 benefit feature to be replaced is provided pursuant to provisions for granting floor area above the
25 base FAR in this chapter.
26



1 C. The terms under which use as a ((†))Landmark performing arts theater maybe
2 discontinued or diminished, and the sanctions for failure to continue such use, shall be governed
3 by the agreements and instruments executed by the City and owners of the properties on which
4 such theaters are located. Any such change in use shall not affect any other structure for which
5 additional FAR was granted in return for the provision of such public benefit features.
6

7 D. In addition to the provisions of subsections A and B, this subsection applies in
8 Downtown zones when additional gross floor area or a floor area exemption is granted for any of
9 the following public benefit features: Human service uses, child care centers, retail shopping,
10 cinemas, performing arts theaters other than landmark performing arts theaters, major retail
11 stores, and museums.
12

13 1. In the event that the occupant or operator of one (1) of the public benefit
14 features listed in this subsection moves out of a structure, or notifies the owner of intent to move,
15 the owner or owner's agent shall notify the Director within five (5) days of the date that notice of
16 intent to move is given or that the occupant or operator moves out, whichever is earlier.
17

18 2. Starting from the fifth day after notice is given or that the occupant or operator
19 moves out, whichever is first, the owner or owner's agent shall have a maximum of six (6)
20 months to replace the use with another use that meets the provisions of Section 23.49.011 and the
21 Downtown Amenity Standards.

22 3. When the public benefit feature is replaced, any portion of the gross floor area
23 formerly occupied by that feature and not reoccupied by a replacement feature, may be either:

24 a. Changed to other uses that are exempt from FAR calculations in the
25 zone in which the structure is located; or
26



1 b. Changed to uses that are not exempt from FAR calculations, provided
2 that this would not cause the structure to exceed the maximum FAR limit for the zone in which it
3 is located, and that gross floor area in an amount equivalent to the gross floor area proposed to be
4 changed shall be achieved through provision of public benefit features, or transfer of
5 development rights, according to the provisions of SMC Section 23.49.011.
6

7 4. As a condition to allowing the substitution of a feature, rather than an
8 application to establish floor area de novo under the terms of this chapter, during the time that
9 the space formerly constituting the amenity feature is vacant, it shall be made available to
10 nonprofit community and charitable organizations for events at no charge.

11 E. Modifications of amenity features that do not result in the diminishment or
12 discontinuation of the feature may be permitted by the Director as a Type I decision, provided
13 that the Director finds that the feature as modified meets the eligibility conditions in the
14 Downtown Amenity Standards.
15

16 F. A qualifying small structure for which a bonus is allowed pursuant to Section
17 23.49.011 shall be considered discontinued if it is removed or altered so that it is no longer a
18 qualifying small structure within the meaning of that Section.
19

20 G. A qualifying Landmark for which a bonus is allowed pursuant to Section 23.49.011
21 shall be considered discontinued if it is demolished or removed, or it is altered so that it is no
22 longer a qualifying Landmark within the meaning in that Section; or if any feature or
23 characteristic that is controlled or designated by ordinance is removed or altered contrary to any
24 provision of Chapter 25.12; or if the owner fails to maintain in good condition and repair any
25 feature or characteristic of the structure that is designated or subject to controls under any
26



1 ordinance; or if there is any revision or revocation of controls pursuant to Section 25.12.860 or
2 successor provision.

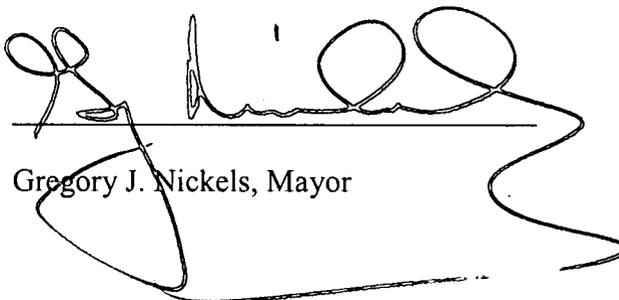
3 * * *

4 Section 4. This ordinance shall take effect and be in force thirty (30) days from and after
5 its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days
6 after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

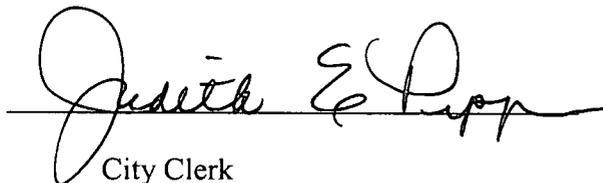
7 Passed by the City Council the 13th day of October, 2007, and signed by me in
8 open session in authentication of its passage this 13th day of October, 2007.

9
10
11 
12 _____
13 President _____ of the City Council

14 Approved by me this 11th day of October 2007.

15
16
17 
18 _____
19 Gregory J. Nickels, Mayor

20 Filed by me this 11th day of October, 2007.

21
22
23 
24 _____
25 City Clerk

26 (Seal)

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	DOF Analyst/Phone:
Planning and Development	Dennis Meier (684-8270)	Karen Grove (684-5805)

Legislation Title: An ordinance related to land use and zoning; amending Sections 23.49.011, 23.49.013, and 23.49.035 of the Seattle Municipal Code, revising regulations for Downtown Seattle; amending provisions for allowing chargeable floor area to exceed the base floor area ratio; adding floor area exemptions; providing incentives for maintaining designated Landmark structures and existing small scale structures on a development lot; amending regulations regarding development standards for lots where such incentives are used; and making technical corrections.

• **Summary of the Legislation:**

The proposed legislation applies only to the Downtown Office Core 1 (DOC1) zone in Downtown Seattle. The recommended changes would:

1. Create a new bonus for lots that include either a qualifying Landmark structure or a qualifying small structure, or both. (SMC 23.49.011)
2. Provide an exemption from calculations of chargeable floor for space of architectural or historic interest that is available for public access in qualifying Landmark or small structures. (SMC 23.49.011)
3. Allow the Director more flexibility in applying standards for public amenity bonuses to space in qualifying Landmark structures. (23.49.013)
4. Require replacement of floor area gained by proposed bonuses if the qualifying structures are removed or modified. (SMC 23.49.035)

• **Background:**

The preservation of Landmark structures and small structures in the intensely developed Downtown Office Core is recognized as a public benefit in the City's Comprehensive Plan and Downtown neighborhood plans. Currently, the transfer of development rights (TDR) is the principal incentive available for preserving existing structures. However, because only up to the base FAR may be transferred, it is often more advantageous for a developer in the Downtown Office Core to combine a lot containing a Landmark or other structure with other lots on the block. In that case, the chargeable floor area within these structures counts against the base floor area (base FAR) and maximum FAR permitted for new development on the lot, and the developer therefore has an incentive to remove the existing structure. The proposal would counteract this problem by extending incentives for landmark and small structure preservation when these structures are retained on the same lot with new development. The proposed changes are not expected to change the nature or increase the number of applications for building in Downtown, because the pace of building Downtown largely depends on economic cycles and the regional real estate market. Therefore, the proposal is not expected to result in the need for additional City staffing or other associated costs.

- *Please check one of the following:*

This legislation does not have any financial implications.

Attachment A: Director's Report and Recommendation



**Proposed Downtown Land Use Code Amendment:
Landmark and Small Structure Incentive**

Director's Report and Recommendation
Department of Planning and Development (DPD)

July 2007

INTRODUCTION

The Department of Planning and Development is proposing to amend the Downtown Land Use Code, Chapter 23.49 of the Seattle Municipal Code, to strengthen incentives for retaining designated Landmark structures and smaller scale structures located in the Downtown Office Core 1 (DOC1) zone, the zone allowing the greatest density for commercial development.

Landmark structures are recognized as providing a significant public benefit, and Seattle's Comprehensive Plan and Downtown neighborhood plans include goals calling for their protection. Small structures are also recognized as providing a public benefit because they give variety to the scale of downtown development, contribute activity and interest to the streetscape, and enrich the mix of uses in an area.

As more intensive redevelopment occurs in zones permitting the greatest commercial densities, and the number of available sites for redevelopment diminishes, structures that are significantly smaller than what could replace them are increasingly at risk. While a Landmark designation provides certain protections, the permitted density of development and level of demand in these areas will continue to increase pressure for redevelopment. Consequently, providing incentives to keep Landmark structures and small buildings economically viable is increasingly important.

The Downtown Chapter of the Land Use Code currently provides a variety of incentives for encouraging new projects to include features or participate in programs that provide a public benefit to offset impacts associated with increased development density. Among these are:

- 1) floor area bonuses for incorporating certain features, such as public open space, affordable housing or childcare, in a project or contributing to funds used to provide the features at another location;
- 2) provisions to preserve certain features, such as low-income housing structures, landmark structures, or small scale structures, by allowing the development rights of these properties to be sold and transferred to add floor area on another lot—a mechanism known as the transfer of development rights or TDR; and
- 3) exemptions for certain uses, such as housing or street level retail uses, from limits on the amount of floor area permitted.



The proposal would amend the Downtown Chapter of the Land Use Code to add further incentives for retaining designated Landmark structures and small scale structures located on a redevelopment lot in the zone that allows the greatest density for commercial development and where these structures are most at risk.

BACKGROUND

In Downtown's high density commercial zones, developers typically seek to assemble larger sites to gain a sufficient amount of floor area and size for a project responds to the prevailing market. The size of a development is regulated by a floor area ratio (FAR¹) that limits the amount of chargeable floor area (generally, commercial space) in a new structure as a ratio to the size of a site. Since permitted project floor area is determined by the size of the lot, lots occupied by smaller structures may be absorbed into larger redevelopment sites. In order to achieve the highest density in a given zone, in addition to what a developer may be able to build under the base FAR allowed, a developer may choose to incorporate public benefit features or development rights purchased from other qualifying sites. Floor area of existing structures on the site counts against the amount of floor area permitted in the new development, so there may be no advantage to retaining existing structures, even though coverage of the entire lot with the new structure is often unnecessary. Consequently, it might be possible both to accommodate new development and to retain an existing structure on the same lot if there were sufficient incentive to do so, or if the floor area in the existing structures did not all count against the amount of new floor area allowed without the use of bonuses.

Currently, incentives in the Land Use Code for landmark preservation and for maintaining small structures are primarily limited to provisions that allow TDR from lots occupied by these structures to be sold and transferred to another lot seeking to add floor area to a new project.

Landmark structures in most Downtown zones can sell and transfer base FAR on their lots to another receiving lot in specified zones throughout Downtown. To further encourage the use of TDR to maintain landmark structures, the amount of floor area available to transfer is increased by exempting up to the entire floor area in the structure from the calculations of floor area available to transfer. In addition to lots with Landmark structures, other lots may transfer unused base FAR. However, unless the lot qualifies as a housing TDR site, the transfer is only allowed to another lot located on the same block. This type of TDR is referred to as within-block TDR. Limits on the amount of floor area that a project can gain through various types of TDR are specified in the Code, and all floor area increases above the base FAR are ultimately limited by the maximum FAR limit established for each zone.

¹ FAR, or floor area ratio, is the ratio of gross floor area in a building to the total area of the land on which it is built. If a one story building takes up the entire lot, the floor area ratio is 1:1 or 1.0 FAR. A two story building that occupies half of the lot also has a floor area ratio of 1:1 or 1.0 FAR



TDR only works when the lot sending TDR and the lot receiving TDR are separate lots. When a landmark and/or small structure is located on the same lot as the new project, there is no incentive for the owner to sell TDR because it would require sending floor area that may be desired for the new project to another lot. Instead, the chargeable floor area in these structures must be subtracted from the amount of floor area permitted for the new development, which reduces the amount of new floor area allowed in the project. Unless the existing structures can generate a bonus that equals or exceeds their chargeable floor area, retaining them while building a new structure that exceeds the base FAR means that that more floor area must be gained through the use of bonuses or TDR from other lots.

The proposed amendments would make it more attractive to retain landmark structures and small structures by granting a floor area increase above the base FAR if the structures are retained; thus providing a floor area bonus. Through a floor area bonus, additional floor area is permitted above the base FAR.

Further incentives are proposed for retaining landmark or small structures that may be difficult to adapt to new uses. In addition to the bonus floor area that can be gained above the base FAR, a limited amount of the floor area meeting specified criteria within these structures could also be exempt from the FAR calculations. To encourage these structures to be adapted to new uses as public amenities, more flexibility would be allowed in applying the standards for these features when they are accommodated in a qualifying landmark or small structure so that the space can be eligible for a floor area bonus.

PROPOSED AMENDMENTS

Under the proposal, the following amendments would be made to the Downtown Chapter (23.49) of the Land Use Code.

Create a new bonus for lots that include a qualifying Landmark structure. Land Use Code Section 23.49.011 would be amended to include a new provision to allow additional floor area above the base FAR if a qualifying Landmark structure is retained on a lot with new development. This new bonus would be allowed only in the DOC1 zone, the zone allowing the greatest density for commercial development, which was recently increased to 20 FAR. Projects would still be required to gain the first increment of floor area above the base FAR through a commitment to earn a LEED (Leadership in Energy and Environmental Design)² Silver rating or equivalent. However, before gaining further floor area through bonuses and TDR according to a split between the amount of added floor area that must be gained through housing and childcare bonus and TDR options (75%) and the amount of added floor area that must be gained through the other bonus and TDR options (25%), an additional 1.0 FAR would be allowed for retaining the Landmark structure on the lot. The Landmark structure must comply with applicable

² LEED Silver rating means a level of performance for a new structure that earns at least the minimum number of credits specified to achieve a "Silver" certification according to the criteria in the U.S. Green Building Council's LEED Green Building Rating System.



ordinances and any certificates of approval issued by the Landmarks Board. Regardless of the number of Landmark structures that may be located on a lot, the maximum amount of floor area that may be gained through this bonus is 1.0 FAR.

Create a new bonus for lots that include a qualifying small structure. In addition to establishing a 1.0 FAR bonus for retaining a Landmark structure, Section 23.49.011 would be further amended to add a provision allowing additional floor area equivalent to 0.5 FAR on the lot to be added above the base FAR if a qualifying small structure is retained on the same lot. Lots eligible for this bonus would also be limited to the DOC1 zone. A qualifying small structure is further defined as a structure that is no taller than 125 feet in height and has at least 5,000 square feet, but no more than 50,000 square feet of gross floor area above grade. The structure is not required to be a designated Landmark.

This bonus recognizes that small structures Downtown contribute positively to the public environment by maintaining a human scale where the tallest and bulkiest structures are allowed. In areas undergoing significant redevelopment, these structures not only contribute to diversity in development scale and character, but they also provide a link with the past, even though they may not possess the same historic or architectural merit as a designated Landmark structure. In areas becoming more homogeneous in use, small structures also provide an opportunity to accommodate a greater mix of uses.

Projects taking advantage of the small structure bonus would still be required to gain the first increment of floor area above the base FAR through a commitment to earn a LEED silver rating or equivalent. However, before gaining further chargeable floor area through the required 75% - 25% split in the type of bonuses and TDR options used, an additional 0.5 FAR would be allowed for retaining the small structure on the lot. Regardless of the number of small structures that may be located on a lot, the maximum amount of floor area that may be gained through this bonus is 0.5 FAR. However, the 1.0 FAR landmark bonus and 0.5 FAR small lot bonus (for different structures) could be combined on a lot for a total gain of 1.5 FAR.

Additional conditions will ensure that the small structure contributes positively to the Downtown environment. To ensure that the structure is an established element of the streetscape, it is required to be at least 25 years old, and a structure that is occupied by parking above the ground floor is not eligible for the bonus. The provision also specifies that if the small structure is removed, the area it occupied can only be redeveloped with a structure or use that does not exceed the limits defining the small structure.

Allow a limited amount of the floor area in Landmark structures and small structures that meet specified criteria to be exempt from calculations of chargeable floor area. In conjunction with the proposed bonus provisions described above, this provision amends Section 23.49.011B, which addresses exemptions and deductions from FAR calculations. Under the proposal, on lots where a bonus is used for maintaining a small structure or a landmark structure, a limited amount of the floor area would be exempt from calculations of chargeable FAR. This exemption would only apply to floor



area of interior space designed to accommodate the original function of the structure, with unique characteristics of historic or architectural interest. Public access to the space would be a condition of the bonus.

This provision is intended to strengthen the incentive to retain small structures by recognizing that some of the older, small structures surviving in the office core were not designed to serve the type and intensity of use now encouraged in the area and that additional public benefit can be derived by retaining such structures if they are creatively adapted to serve a more public purpose. The added incentive also may help offset the substantial costs that may be associated with rehabilitating structures to bring them up to current code standards.

Allow the Director more flexibility in applying standards to Landmark structures that may be used as a public amenity feature. The Downtown Chapter of the Land Use Code allows floor area bonuses for specified public amenity features provided on a development lot. The Downtown Amenity Standards are used to guide the design of these features and determine if they are eligible for a floor area bonus. These standards generally apply to features that are provided in new development, and potentially pose constraints on adapting an existing Landmark structure for use as a public amenity feature. To further encourage the preservation of Landmark structures, under the proposed amendment to Section 23.49.013, the Director could modify these standards to better enable a Landmark structure to be adapted for use as a public amenity feature and qualify for a floor area bonus.

Require replacement of floor area gained by proposed bonuses if they are removed or modified. Section 23.49.035 would be amended to require replacement of floor area gained through the small structure or Landmark structure bonus with other public benefits consistent with the provisions of the Code if the structures are removed or modified.

ANALYSIS

Relationship to Existing Plans and Policies

The public benefit of landmark structures and other structures that provide variety and interest to the urban landscape is recognized in Seattle's Comprehensive Plan and several Downtown neighborhood plans. Comprehensive Plan goals and policies related to the Downtown area that the proposal addresses are included below.

- **Cultural Resource Element:**

CR11 Identify and protect landmarks and historic districts that define Seattle's identity and represent its history, and strive to reduce barriers to preservation. As appropriate, offer incentives for rehabilitating and adapting historic buildings for new uses.



- **Neighborhood Plan Element:**

- **Downtown Urban Center Plan**

- DT-G4 Use regulations in the Land Use Code and other measures to encourage public and private development that contributes positively to the downtown physical environment by:

- * * *

- 7. preserving downtown's important historic buildings to provide a tangible link to the past;

- DT-UDP1 Encourage the preservation, restoration and reuse of individual historic buildings threatened by development pressures through development regulations and incentives.

- DT-LUP11 Provide incentives to maintain variations in building scale, create public open space, and preserve building uses that are scarce public benefit resources through a transfer of development rights program. Consistent with the priorities for use of development incentives, limit the sites that may transfer development rights. Among sites eligible to transfer development rights consider including:

- Seattle landmarks in downtown areas not subject to special review district or historic district provisions;

- * * *

- 4. sites on the same block as the receiving site in high density areas where it is desirable to retain varied building scale.

- **Commercial Core Neighborhood Plan**

- COM-P1 Explore revising public benefit bonuses and incentive programs regulated by the Land Use Code to stimulate desirable development and support neighborhood goals.

- COM-P2 Encourage variety in architectural character and building scale.

- COM-P3 Strive to maintain the neighborhood's historic, cultural and visual resources.

Potential use of FAR Incentives for Retaining Landmark and/or Small Structures

While several landmark structures and small structures are located throughout the DOC1 zone, the proposed incentives are anticipated to only have limited applicability. The most significant constraining factor is the potential for creating development lots on blocks where these structures are located that would be large enough to accommodate a new project while also retaining an existing structure. The following is an assessment of the

opportunity for using the proposed landmark and small structure bonus and the locations and buildings that might be involved.

Landmark Structures. It is estimated that there may be two or three development lots that exist or could be created that are best able to take advantage of this incentive. Altogether, there are 6 designated Landmark structures located in the DOC1 zone. Two of these, the YMCA and the Brooklyn Building, have already been incorporated in the redevelopment of larger lots, and another one, the Leamington Hotel and Apartments, has already transferred development rights from the lot. An assessment of the other landmarks is provided in the chart below:

Existing Landmark Structures in DOC1

Landmarks	Conditions on block	Likely use of incentive
YMCA	Fully developed block (IDX Tower)	no
Brooklyn Building	Fully developed block (WAMU Tower)	no
Leamington Hotel and Apartments	TDR already transferred	unlikely
Rainier Club	Potential use of incentive if full block lot is created to allow new development on half-block abutting 5th Ave.	possible
Artic Building	Potential use of incentive if ¾ block lot is created to allow new development on half-block abutting 4 th Ave., but amount of chargeable floor area in structure limits value of incentive.	limited
Seattle Tower	No incentive given the large amount of chargeable floor area in structure.	unlikely

In addition to current designated Landmarks, the City has identified other Downtown structures that are now potentially eligible for a Landmark designation. The 13 properties in the DOC1 zone listed below have a high likelihood of meeting criteria for landmark designation. Landmark nominations are expected to be prepared for these structures and submitted to the Landmarks Preservation Board for consideration over the next several years. Two of the potential landmark candidates are located on blocks with the greatest potential for creating a large lot development that could include the existing structure to gain the proposed floor area bonus.



Potential Landmarks

Potential Landmark Candidates in DOC1	Conditions	Likely use of provisions
First United Methodist Church 801 5 th Ave. 41,536 sq. ft.	Currently not being nominated for designation, but previous assessment by City identifies structure as potential candidate for nomination.	Possible
Washington Athletic Club* 1325 6 th Ave. 305,548 sq. ft.	Significant amount of chargeable floor area in structure reduces incentive value of bonus. Skinner Building and Hilton Hotel occupy remaining lots on block.	Unlikely
Women's University Club* 1105 6 th Ave 39,320 sq. ft.***	Alley vacation and YWCA and/or Vintage Park Hotel demolition required to create large development site	Unlikely
YWCA* 1118 5 th Ave. 107,572 sq. ft.	Alley vacation and Women's University Club and/or Vintage Park Hotel demolition required to create large development site. Significant amount of chargeable floor area in structure eliminates incentive value of bonus.	Unlikely
Central Building* 810 3 rd Ave. 201,480 sq. ft.	Amount of chargeable floor area reduces incentive to use bonus. Could be combined into ¾ block development lot, but alley vacation required. Incentive may be more attractive if structure were occupied by uses exempt from floor area calculations.	Possible, but limited
Chamber of Commerce Building* 215 Columbia Street 63,150 sq. ft.***	Dexter Horton Building and United Way Building occupy remaining lots on block.	Unlikely
United Way Building** 720 2 nd Ave. 52,298 sq. ft.***	Dexter Horton Building and United Way Building occupy remaining lots on block.	Unlikely
Seattle Trust and Savings (Pure Fitness)** 804 2 nd Ave. 26,000 sq. ft.***	Redevelopment of remaining block possible	Possible
J. A. Baillargeon Bldg. 1100 2 nd Ave.** 81,168 sq. ft.	1111 Avenue office tower occupies eastern half of block. TDR (within block) from both structures on west half already transferred to 1111 3 rd Ave.	Unlikely
Seneca Building** 1209 2 nd Ave 30,456 sq. ft.***	Split zone block (DOC1 and DMC 240/290-400). Demolition of Galland Building on abutting lot to the north and/or structures on half-block to the west in DMC zone required to create development site	Unlikely, if Galland Bldg. designated a Landmark
Galland Building** 1215 2 nd Ave. 98,370 sq. ft.	Split zone block (DOC1 and DMC 240/290-400). Demolition of Seneca Building on abutting lot to the north and/or structures on half-block to the west in DMC zone required to create development site	Unlikely, if Seneca Bldg. designated a Landmark
U.S. Courthouse** 1010 5 th Ave.	Structure occupies full block site	No
Dover Apartments** 901 6 th Ave. 41,452 sq. ft.***	Permit application in process for office tower on remaining half-block to the west; current use (residential) is already exempt from FAR, alley vacation would be required.	Possible, but limited

*to be considered for nomination in 2007-2008

**to be considered for nomination in 2008-2009

***also meets criteria as small structure



Additional buildings in the DOC1 zone, including the Federal Reserve Bank (1015 2nd Ave.), the Security Pacific Bank (1100 2nd Ave.), Budget Parking Garage (807 4th Ave.), 719 4th Avenue, 1200 3rd Avenue Building, Old National Bank (1119 4th Ave.), 910 5th Avenue, Vintage Park Hotel (1100 5th Ave.), Pacific Plaza Hotel (400 Spring St.), Hotel Seattle (315 Seneca St.), McCormick's (722 4th Ave.), and the Downtown Post Office (301 Union St.), have also been identified as being worthy of including in the inventory of historic resources, but DPD is not aware of any plans at this time to submit landmark nomination applications to the Landmarks Preservation Board.

Small Buildings. Appendix A identifies 18 buildings in the DOC1 zone that may meet the criteria for this bonus. It should be noted that seven of these are also identified as structures being considered for designation as a landmark. Another four structures are considered to be worthy of being included in the inventory of historic resources, but the City has no plans at this time to prepare and submit landmark nomination applications.

County Assessor data was used as the source for the amount of gross floor area in these buildings, usually resulting in a greater amount of floor area. For example, basement floor area is often included in the Assessor's calculations. Under the City's Land Use Code below grade floor area would be excluded from floor area calculations. To address the potential discrepancy in this analysis, if the County data was close to but exceeded the 50,000 square foot threshold, the structure was included in the inventory of small structures. Consequently, there may be fewer structures than the 18 identified that actually meet the criteria.

To estimate the number of situations where the incentive might be used to maintain a small structure on a larger development lot, two major factors were considered: 1) conditions on the remaining lots on the block that indicate potential for creating a large lot for redevelopment, and 2) characteristics of the existing structure that would influence the likelihood that it would be retained, such as its location on the development lot and how that affects the ability to site a new structure. The chart below shows the relative potential for small structures to be retained through incorporation into a larger lot development on the same block.

Factors influencing potential use of incentive to maintain small structure on a large development lot	Number of structures in DOC1
Structure is on lot w/permit application already in process for redevelopment	2
New construction or permit application for development on most remaining lots on block limits potential for creating large lot site	1
Sole structure on block	0
Special circumstances (previous sale of TDR from lot, large amount of chargeable floor area in structure, etc.) make use of incentive less attractive	1
Size, condition of structure and position on lot make retaining unlikely	2
Lot on block where large lot redevelopment possible but unlikely in near future because of existing development conditions (substantial structures, potential landmark designation of structures on remaining lots, viable active uses, etc.) on other lots	5
Structure on block with potential for large lot redevelopment	7*
TOTAL	18



*in some cases, more than one structure is located on the same block, so demolition of some structures would be required to accommodate new development on a larger site, and/or the bonus would apply to all small structures remaining.

Accounting for situations where multiple buildings are located on the same block, it is estimated that in the DOC1 zone, the number of opportunities for large development lots that might use the small structure incentive ranges between two and five. At the low end are two blocks that currently appear to have potential for creating a large lot that includes at least one small structure, with the possibility that additional opportunities may arise over time—up to a total of perhaps five cases. The United First Methodist Church and the Seattle Trust and Savings Building (Explore Fitness—804 2nd Ave.) both are small structures (and potential landmarks) located on blocks that appear to provide the best opportunity to be incorporated into a large lot development.

Effect of Proposal on Use of Existing Bonus and TDR Programs

To demonstrate the effect of the proposed incentives on the use of existing bonuses and TDR, the charts included in Appendix B compare the differences between the current provisions and the proposed amendments. These differences are reflected in terms of how chargeable floor area above the base FAR is gained through various bonus and TDR options up to the maximum FAR in each of the affected zones. Since the proposed bonuses are intended for large site developments, a 60,000 square foot lot is used for the analysis, which is roughly a full block in the DOC1 zone. Three scenarios are examined: 1) a project using the landmark incentive only, 2) a project using the small structure incentive only, and 3) a project using both the landmark and small lot incentive.

The assumption is that projects will develop to the maximum FAR allowed. As noted previously, the number of future projects likely to be able to use these incentives is limited. The conditions shown on the charts would not apply to all projects built in the DOC1 zone, but only to those qualifying to take advantage of the proposed incentives.

One of the measures for how the proposed amendments would affect the current bonus and TDR programs is how the percentages for the required split between the use of housing/childcare bonuses and TDR and other bonuses and TDR for non-housing public amenities could change. The current requirement is that, once a project has achieved the base FAR and complied with LEED Silver certification standards, 75% of all additional chargeable floor area must be gained through the use of some form of housing TDR or participation in the housing and childcare bonus program, which may include payment into an affordable housing/childcare fund, while the remaining 25% can be gained through non-housing public benefit bonuses and TDR, including Landmark TDR, on-site public amenity features, within-block TDR and public open space TDR. Because the proposed incentives are a non-housing public benefit, the additional floor area gained would increase the percentage of floor area added through non-housing bonus and TDR options.

As indicated in Appendix B, the changes in percentage vary depending on the zone the project is located in and which of the proposed bonus, or combination of bonuses, is used. The following table summarizes how the percentages change by zone and type of bonus, or combination of bonuses, used:

Proposed Bonus Options in DOC1	Percentage of bonus floor area gained through housing bonus and TDR options versus Percentage of bonus floor area gained through non-housing bonus and TDR options
Small structure bonus (0.5 FAR)	72% housing bonus and TDR options/ 28% other bonus and TDR options
Landmark bonus only (1.0 FAR)	70% housing bonus and TDR options / 30% other bonus and TDR options
Landmark and small structure bonus (1.5 FAR)	66% housing bonus and TDR options / 34% other bonus and TDR options

A related implication of the proposed amendment on the use of bonuses and TDR concerns the potential reduction in the funding for affordable housing. Under current conditions, a project developed to the maximum FAR limit of 20 on a 60,000 square foot lot would be expected to add about 585,000 square feet of chargeable floor area through the use of the housing/child care bonus or Housing TDR, or both. Assuming that this floor area is gained through cash contributions for affordable housing and childcare, the \$18.75 per square foot housing payment would generate an estimated \$11 million for housing and, at \$3.25 per square foot, \$1.9 million for childcare. The housing payment would fund approximately 158 units affordable to various income levels, as prescribed in the Land Use Code. Based on an estimate of the bonus dollars that would be generated by development using the new incentives and comparing to current conditions, the reduction in the number of affordable housing units funded through dollars generated by the housing bonus program would be in the neighborhood of seven units for a project using only the small structure bonus, 13 units for a project using only the Landmark bonus, and up to 19 units for projects using both the small structure and Landmark structure bonuses.

Since the proposed incentives can be used to gain floor area before other bonuses and TDR are used, the overall percentage of floor area gained from these other incentives would be less than indicated above for projects not built to the maximum FAR. While less funding would be generated for housing in projects not built to the maximum FAR, with the lower commercial density, the impacts of those projects on housing resources would also be reduced. Furthermore, landmark properties and small structures are location-specific. Opportunities for using the incentives to retain these structures are limited to the few locations where they exist and other conditions obtain that allow consolidation of properties into large redevelopment sites.

RECOMMENDATIONS

The following amendments to Chapter 23.49 of the Land Use Code are proposed:



- 1. Create a new bonus for lots that include a qualifying Landmark structure in DOC1. An additional 1.0 FAR of chargeable floor area would be allowed above the increment earned through LEED certification on lots in DOC1 that retain a Landmark structure. (23.49.011)**
- 2. Create a new bonus for lots that include a small structure in DOC1. An additional 0.5 FAR of chargeable floor area would be allowed above the increment earned through LEED certification on lots that retain a small structure (a structure 125 feet in height or less with a total gross floor area of between 5,000 and 50,000 square feet above grade). (23.49.011)**
- 3. Provide an exemption from calculations of chargeable floor area up to a maximum of 25,000 square feet for space of architectural or historic interest that is available for public use in Landmark or small structures used for a bonus. (23.49.011)**
- 4. Allow the Director more flexibility in applying standards to Landmark structures that may be used as a public amenity feature. (23.49.013)**
- 5. Require replacement of floor area gained by proposed bonuses if they are removed or modified. (23.49.035)**

The preservation of Landmark structures and small structures in the intensely developed Downtown Office Core is a recognized public benefit in policies in the City's Comprehensive Plan and Downtown neighborhood plans.

DPD recognizes that providing any new incentives for increasing floor area above the base FAR competes with existing options. Recent legislation passed by the City Council has sought to focus bonus programs on a limited number of key public benefits, including preservation. The proposed changes would not substantially alter the current emphasis of the incentive programs. The proposed preservation bonuses would not be available to every project, so most future developments would gain bonus floor area as currently prescribed. Use of the new bonuses would be largely limited by the availability of large development sites located on the same block as a landmark or qualifying small structure, which also must be positioned on the block in such a way that allows it to be incorporated into the new project. These conditions have been shown to occur infrequently in the Downtown office core.

In summary, the proposed Land Use Code amendments strengthen current incentives for preserving Landmarks and small structures and DPD recommends approval of the proposed amendments.

**Appendix A
Small Structures**

Small Structures in DOC1	Landmark Candidate	Gross floor area*	Height (stories and feet)	Date built	Current use	Potential for incorporation into large lot development
1. First United Methodist Church sanctuary 801 5 th Ave+	yes	41,536	5 78'	1908	church	Yes, demolition of church auxiliary structure required to create development site. Landmark structure (Rainier Club) on remainder of block
2. FUM church auxiliary bldg. 801 5 th Ave+	no	31,140	3 45'	1950	Church support uses	Demolition of church required to create development site. Landmark structure (Rainier Club) on remainder of block
3. 807 4 th Avenue	no**	33,359	2 26'	1923	Parking garage	Possible, if Central Bldg redevelops
4. City Credit Union 801 3 rd Ave+	no	63,990/ 36,131	3 48'	1979	Customer service/ office	Yes; redevelopment of remaining block possible
5. Marion Court 823 3 rd Ave+	no	38,539	2 28'	1978	retail	Yes, redevelopment of remaining block possible
6. Marion Building 818 2 nd Ave+	no	19,533	3 25'	1903	Retail/ office	Yes, redevelopment of remaining block possible
7. 814 2 nd Ave Bldg. +	no	26,840	5 67'	1906	Retail/ office	Yes, redevelopment of remaining block possible
8. Seattle Trust and Savings (Pure Fitness) 804 2 nd Ave+	yes	26,000	2 34'	1906	gym	Yes, redevelopment of remaining block possible
9. Dover Apts. 901 6 th Ave	yes	41,452	5 60'	1907	55 units housing	Unlikely, permit application for remaining developable lots on block; residential use is already exempt
10. Sherwood Bldg. 910 5 th Ave+	no**	22,680	3 40'	1955	office	Unlikely; permit application for redevelopment on lot
11. College Club 505 Madison St+	no	69,080/ 38,343	3 54'	1967	Private club	Unlikely; permit application for redevelopment on lot
12. Women's University Club 1105 6 th Ave	yes	39,320	3 46'	1922	Private club	Unlikely; demolition of YWCA and/or Vintage Park Hotel required to create large development site
13. Old National Bank Building+ 1119 4 th Ave	no**	8,640	2 35'	1922	retail	Unlikely; demolition of Hotel Seattle on lot to the west and/or substantial structures on remainder of block and alley vacation required to create large development site. Lot above train tunnel.
14. Hotel Seattle+ 315 Seneca St	no**	36,240	11 130'	1926	hotel	Unlikely; demolition of Old National Bank to the east and/or structures on remainder of block and alley vacation required to create large development site. Lot above train tunnel.



Building	Potential Landmark Candidate	Gross floor area*	height	Date built	Current use	Potential for incorporation into large lot development
15. Seneca Building 1215 2 nd Ave	yes	30,456	2 36'	1900	Office/ retail	Unlikely; demolition of Galland Building (potential landmark structure) on abutting north lot and/or structures on half-block to the west in DMC zone required to create development site
16. United Way Building+ 720 2 nd Ave.	yes	52,298	3 46'	1921	office	Unlikely; Dexter Horton Building and United Way Building occupy remaining lots on block.
17. Chamber of Commerce Building+ 215 Columbia St.	yes	63,150	4 58'	1924	Office/ retail	Unlikely; Dexter Horton Building and United Way Building occupy remaining lots on block.
18. Downtown Post Office	no**	56,550	3 46'	1959	Post office	Unlikely

*when two numbers are shown, the first is gross floor area and the second is net floor area

**identified as being worthy of including in the inventory or historic resources, but no application for landmark nomination to be pursued at this time.

+ structures located on the same block



Appendix B

The charts below compare how floor area would be gained above the base FAR under current provisions and under the proposed amendments for a landmark and small structure bonus. Scenario 1 assumes only the landmark bonus is used; Scenario 2 assumes only the small structure bonus is used, and Scenario 3 assumes both bonuses are used in a project. In all three scenarios, it is assumed that the project is built to the maximum permitted 20 FAR.

Scenario 1: 1.0 FAR bonus for maintaining landmark structure on large 60,000 sq. ft. lot in DOC1

	Base FAR (6.0 FAR)	LEED Increment (1.0 FAR)	Landmark Incentive (1.0 FAR)	25% floor area gained above base FAR through non- housing bonuses/TDR	75% floor area gained above base FAR through housing/ child care bonuses/TDR	Dollar value of housing/ childcare bonus at \$22/sq. ft.
Existing	360,000 SF	60,000 SF	NA	195,000 SF (3.25 FAR)	585,000 SF (9.75 FAR)	\$12,870,000 158 units
Proposal	360,000 SF	60,000 SF	60,000 SF	180,000 SF (3.0 FAR)	540,000 SF (9.0 FAR)	\$11,880,000 145 units
Difference			+ 60,000 SF Non-housing bonus floor area	- 15,000 SF Non-housing bonus floor area	- 45,000 SF Housing/ Childcare bonus floor area	-\$990,000 Housing/ Childcare bonus (-13 units)

Under the proposed amendments, for a project on a 60,000 square foot lot built to the maximum 20 FAR, the amount of chargeable floor area gained through the use of bonuses and/or TDR above the LEED increment would be split roughly 30% for non-housing public benefits and 70% for housing/childcare, as opposed to the current 25% - 75% split.

An additional 45,000 square feet of bonus floor area would be generated by public benefits other than housing and/or child care, which includes the bonus for maintaining the Landmark structure on site. The amount of housing/childcare bonus dollars generated would be reduced by \$990,000, assuming payment of \$22/square foot. Since \$18.75 of this amount goes to housing, the portion of this amount for housing would be \$843,000, which translates roughly into providing funding for 13 fewer affordable units. The number of units is based on an allocation of bonus funds for housing affordable to various income levels, with the assumption that there will be a leveraging of City, State, Federal, and private funds in addition to the housing bonus contributions. If the additional funds are not available, the funding required would equal \$120,000 for units affordable at less than 30% of median income (MI), \$110,000 for units affordable to households with incomes between 30% and 50% MI, and \$50,000 for units affordable between 50% and 80% of MI.



Scenario 2: 0.5 FAR Bonus for maintaining small structure on large 60,000 sq. ft. lot in DOC1

	Base FAR (6.0 FAR)	LEED Increment (1.0 FAR)	Small structure Incentive (0.5 FAR)	25% floor area gained above base FAR through non-housing bonuses/TDR	75% floor area gained above base FAR through housing/child care bonuses/TDR	Dollar value of housing/childcare bonus at \$22/sq. ft.
Existing	360,000 SF	60,000 SF	NA	195,000 SF (3.25 FAR)	585,000 SF (9.75 FAR)	\$12,870,000 158 units
Proposal	360,000 SF	60,000 SF	30,000 SF	187,500 SF (3.1 FAR)	562,500 SF (9.4 FAR)	\$12,375,000 151 units
Difference			+ 30,000 SF Non-housing bonus floor area	- 7,500 SF Non-housing bonus floor area	- 22,500 SF Housing/Childcare bonus floor area	-\$495,000 Housing/Childcare bonus Payment (-7 units)

For a DOC1 project on a 60,000 square foot lot using the small structure incentive, the amount of chargeable floor area gained through bonuses and/or TDR above the LEED increment up to the maximum FAR of 20 would be split roughly 28% for non-housing public benefits and 72% for housing/childcare, as opposed to the current 25% - 75% split.

An additional 22,500 square feet of bonus floor area would be generated by public benefits other than housing and/or child care, which includes the bonus for maintaining the small structure on site. The amount of housing/childcare bonus dollars generated would be reduced by \$495,000, assuming payment of \$22/square foot. Since \$18.75 of this amount goes to housing, the portion of this amount for housing would be \$421,875, which, under the assumptions described in Scenario 1 above, translates roughly into providing funding for 7 fewer affordable units.

Scenario 3: 1.5 FAR Bonus for maintaining a landmark structure and small structure on a large 60,000 sq. ft. lot in DOC1

	Base FAR (6.0 FAR)	LEED Increment (1.0 FAR)	Landmark Incentive (1.0 FAR maximum)	Small structure incentive (0.5 FAR)	25% floor area gained above base FAR through other non-housing bonuses/TDR	75% floor area gained above base FAR through housing/child care bonuses/TDR
Existing	360,000 SF	60,000 SF	NA	NA	195,000 SF (3.25 FAR)	585,000 SF (9.75 FAR) \$12,870,000 (158 units)
Proposal	360,000 SF	60,000 SF	60,000 SF	30,000 SF	171,500 SF (2.9 FAR)	517,500 SF (8.6 FAR) \$11,385,000 (139 units)
Difference			+60,000 SF non-housing public benefit	+30,000 SF non-housing public benefit	-23,500 SF Non-housing public benefit	-\$1,485,000 Housing/childcare bonus payment (-19 units)



In DOC1, using a combination of the proposed landmark and small building incentives, for a project on a 60,000 square foot site built to the maximum permitted 20 FAR, the split in the amount of chargeable floor area gained through the use of bonuses and/or TDR above the LEED increment would be roughly 34% for non-housing public benefits and 66% for housing/childcare, as opposed to the current 25% - 75% split.

An additional 66,500 square feet of bonus floor area would be generated by public benefits other than housing and/or child care, including the bonuses for maintaining both a Landmark structure and a small structure on a site. The amount of housing/childcare bonus dollars generated would be reduced by \$1,485,000, assuming payment of \$22/square foot. At \$18.75/square feet, the housing share alone would be reduced by \$1,265,625, which, under the assumptions described in Scenario 1 above, translates roughly into providing funding for 19 fewer affordable units.



**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR
OF THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Project Name: Amendments to the Downtown Chapter of the Land Use Code to establish floor area incentives for maintaining a qualifying Landmark structure and/or a qualifying small structure on a development lot.

Applicant Name: City of Seattle Department of Planning and Development.

Address of Proposal: Downtown Office Core 1 (DOC1) zone

SUMMARY OF PROPOSED ACTION

The proposal is an ordinance amending Sections 23.49.011, 23.49.013, and 23.49.035 of the Seattle Municipal Code, revising regulations for the Downtown Office Core 1 (DOC1) zone in Downtown Seattle to allow chargeable floor area to exceed the base floor area ratio (FAR) to permit: 1) an additional 1.0 FAR above the increment achieved by a LEED Silver rating to provide an incentive for maintaining a qualifying Landmark structure on a development lot and/or 2) an additional 0.5 FAR above the increment achieved by a LEED Silver rating to provide an incentive for maintaining a qualifying small scale structure on a development lot. There are further amendments for incentives to maintain existing Landmark and small structures on a development lot, including provisions for departures from Downtown Amenity Standards to allow additional flexibility for space within these structures to qualify as specified amenity features for a floor area bonus, and a floor area exemption of up to 25,000 square feet for interior space of architectural or historic interest that is accessible to the public in qualifying Landmark or small structures. The ordinance also amends regulations regarding development standards for lots where such incentives are used and makes technical corrections.

The following approval is required:

SEPA - Environmental Determination - Chapter 25.05, Seattle Municipal Code.

- SEPA DETERMINATION** Exempt DNS MDNS EIS
- DNS with conditions
- DNS involving non-exempt grading or demolition or involving another agency with jurisdiction.

BACKGROUND DATA

Background Information

Downtown Seattle zoning regulates permitted density with a system called floor area ratios (FARs). FAR is a ratio that compares the amount of building floor area permitted relative to the area of the lot. A base FAR is permitted outright. Floor area above the base is permitted, up to the maximum permitted FAR, through participation in an incentive system or bonus and transfer of development rights (TDR) programs.



In August, 2001, in Ordinance 120443, the City modified development regulations in downtown zones to provide, among other things, that in the principal Downtown commercial zones, for a project to achieve chargeable floor area exceeding the base Floor Area Ratio (FAR) by more than one FAR, a developer would use transferable development rights from housing, and/or bonuses for voluntary agreements to provide housing and child care, for 75 percent of such additional chargeable floor area (with certain exceptions). The remaining 25 percent is reserved for other TDR and bonus features, including historic preservation through Landmark TDR, within-block TDR to encourage a variable scale of development on a block, and open space bonuses and TDR.

In April, 2006, the City Council adopted Ordinance 122054 to increase height and density limits in several Downtown zones and to include additional incentives for increasing chargeable floor area above the base FAR, including, in DOC1, a requirement that the first 1.0 FAR increment of floor area gained above the base FAR be gained through a commitment that the project achieve a LEED Silver rating. In the Downtown Office Core 1 (DOC1) zone, the maximum FAR for chargeable floor area was increased from 14 FAR to 20 FAR, and the 450 foot height limit was eliminated.

The substantial increase in development potential has raised interest in providing additional incentives to further promote Comprehensive Plan goals of preserving Landmark structures and structures that contribute to a variable scale development in Downtown. An inventory by DPD of structures in DOC1 identifies six structures currently designated as Seattle Landmarks, and an additional 13 properties with a high likelihood of meeting criteria for landmark designation. There are also 18 structures that appear to meet the criteria as a small structure, of which seven are also among those listed as potential candidates for a Landmark designation.

In Downtown's high density commercial zones, developers typically seek to assemble large sites to gain a sufficient amount of floor area and to permit a large enough floor size for a project to meet current market requirements. Since permitted project floor area is determined by the size of the lot, lots occupied by smaller structures may be absorbed into larger redevelopment sites. Given that the chargeable floor area of existing structures counts against the amount of floor area permitted in the new development, there is no advantage to retaining these existing structures, even though the permitted height allows a new structure to extend vertically, often making full coverage of the lot unnecessary. Consequently, it may be possible to both accommodate new development and retain an existing structure on the same lot if there was sufficient incentive to do so, or if the developer was at least not penalized by having the floor area in the existing structures count as chargeable floor area for the new project.

Currently, incentives for landmark preservation and for maintaining small structures are primarily limited to provisions that allow the unused development rights from lots occupied by these structures to be sold and transferred to another lot seeking to add floor area to a new project. This mechanism is known as the transfer of development rights (TDR). Basically, the floor area of the existing structure is subtracted from the amount of floor area the zoning allows to be built on the lot (sending lot), and the difference can be sold and transferred to another location (receiving lot).

Landmark structures in most Downtown zones can sell and transfer unused development rights on their lots to another receiving lot in specified zones throughout Downtown. To further encourage the use of TDR for landmark preservation, the amount of floor area available to transfer is increased by exempting the actual floor area in the structure from the calculations of floor area on the lot. In addition to landmark structures, other structures may transfer unused development rights. However, unless the structure qualifies as a housing TDR site, the transfer is only allowed to another lot located on the same



block. This type of TDR is referred to as within-block TDR. Limits on the amount of floor area that a project can gain through TDR are specified in the Code, and all floor area increases above the base FAR are ultimately limited by the maximum FAR limit established for each zone.

Under existing provisions, TDR only works when the lot sending TDR and the lot receiving TDR are separate lots. When a landmark and/or small structure is located on the same lot as the new project, there is no incentive to use TDR because it would require sending floor area that may be desired for the new project to another lot. Instead, the chargeable floor area in these structures must be subtracted from the amount of floor area permitted for the new development, which reduces the amount of new floor area allowed in the project. Since the existing structures cannot generate a bonus, retaining them actually penalizes the development by requiring more floor area to be gained through the use of other bonuses or TDR from other lots.

The proposal seeks to address these conditions to strengthen incentives for maintaining Landmarks structures and small structures on a development lot. Through a floor area bonus, additional floor area is permitted above the base FAR to offset the amount of chargeable floor area in these structures that may be counted against the base FAR.

Proposed Action

The proposed ordinance will amend the relevant provisions for the DOC1 zone to make it more attractive to retain landmark structures and small structures that may be incorporated into a larger redevelopment lot by granting a floor area increase above the base FAR if the structures are retained; thus providing a floor area bonus. The proposed increase would be an additional 1.0 FAR for maintaining one or more Landmark structures on a lot and 0.5 FAR for maintaining one or more qualifying small structures on a lot. Further incentives are proposed for retaining landmark or small structures that may be difficult to adapt to new uses. In addition to the bonus floor area that can be gained above the base FAR, a limited amount of the floor area within these structures meeting specific criteria could also be exempt from the FAR calculations. Also, the Director would be allowed additional flexibility to determine if these structures could be adapted for use as public amenity feature and qualify for an additional floor area bonus under current provisions for amenity features.

The specific sections of the Land Use Code affected by the amendments are as follows:

1. Create a new bonus for lots that include a qualifying Landmark structure in DOC1. An additional 1.0 FAR of chargeable floor area would be allowed above the increment earned through LEED certification on lots in DOC1 that retain a qualifying Landmark structure. (SMC 23.49.011)
2. Create a new bonus for lots that include a small structure in DOC1. An additional 0.5 FAR of chargeable floor area would be allowed above the increment earned through LEED certification on lots that retain a qualifying small structure (a structure 125 feet in height or less with a total gross floor area of between 5,000 and 50,000 square feet above grade). (SMC 23.49.011)
3. Provide an exemption from calculations of chargeable floor area up to a maximum of 25,000 square feet for space of architectural or historic interest that is available for public use in Landmark or small structures used for a bonus. (SMC 23.49.011)



4. Allow the Director more flexibility in applying standards to Landmark structures that may be used as a public amenity feature. (23.49.013)
5. Require replacement of floor area gained by proposed bonuses if they are removed or modified. (SMC 23.49.035)

Public Comment

The City Council will hold a public hearing to take comments as part of their consideration of the proposed legislation. The hearing will likely occur in the summer of 2007.

ANALYSIS - SEPA

OVERVIEW

The following describes the analysis conducted to determine whether or not the proposal would have a *probable significant adverse environmental impact*. This threshold determination is based on:

- *the proposal*, as described above and other documents;
- the information contained in the *SEPA checklist*;
- additional information, such as analyses prepared by City staff; and
- the experience of DPD staff in reviewing similar documents and actions.

This proposal is the adoption of legislation and is defined as a non-project action. This action is not specifically addressed as a Categorical Exemption (SMC 25.05.800); therefore it must be analyzed for probable significant adverse environmental impacts. A threshold determination is required for any proposal that meets the definition of "action" and is not categorically exempt.

The disclosure of the potential impacts from this proposal was made in an environmental checklist dated July, 2007. The information in the checklist and the experience of the lead agency with review of similar projects forms the basis for this analysis and decision.

This proposal is not expected to adversely impact the natural environment or built environment.

Short-term Impacts

As a non-project action the proposal will not have any short-term impact on the environment in that construction is not a direct result of this action.

Long-term Impacts

There are some potential long term negative impacts that might result from the proposal. The preservation of Landmark structures and small structures is a recognized public benefit that enhances the scale and character of Downtown development and enriches the mix of uses in high density commercial areas.

ELEMENTS OF THE ENVIRONMENT



Adoption of the proposed amendments would result in no immediate adverse short-term environmental impacts because the adoption would be a non-project action. The discussion below generally evaluates the potential long-term impacts that might conceivably result from differences in future development patterns due to the proposed amendments.

Natural Environment

Earth, Air, Water, Plants and Animals, Energy, Natural Resources, Noise, Releases of Toxic or Hazardous Materials

The proposed amendments are unlikely to result in any significant adverse natural environmental impacts. From a development capacity perspective, the proposed amendments would not result in additional development capacity within the affected Downtown zones.

Built Environment

Land Use, Height/Bulk/Scale

The proposed changes are narrowly drawn to relate only to limited circumstances, including: the presence of a Landmark or small structure on blocks in the DOC1 zone where the potential exists to create a large redevelopment site. Due to their narrow scopes of reference, these proposed provisions might only be used for three or four future development proposals. Therefore, the potential extent of land use impacts from these changes is limited. Further, the potential impacts related to physical consequences such as height and bulk are interpreted not to be significant adverse impacts in the context of Downtown Seattle. In fact, their intent is to promote maintaining existing structures that are recognized by City policy as contributing positively to the scale and character of Downtown development. The fact that these structures will be incorporated into the redevelopment of a large lot also enhances the opportunity for a better integration of Landmark structures with new development.

Housing

Funding for affordable housing and childcare otherwise provided by the use of TDR or bonus programs could be reduced in those projects that use the bonus for maintaining a Landmark and/or a small structure on a lot as an alternative to the bonuses or TDR otherwise required to be used for these public benefits. For a project developed to the maximum limit of 20 FAR on a large lot and using both the Landmark and small structure bonus, the difference in the amount of funding for housing and childcare relative to current conditions is estimated to be a reduction of about 12 percent. The reduction would be eight percent if only the Landmark bonus were used, and four percent if only the small structure bonus were used. The percentage of the reduction would be higher for projects that did not build to the maximum FAR, but the impact of these less dense projects on affordable housing resources would also be less.

Transportation, Public Services and Utilities

The proposed changes would result in no direct adverse impacts on transportation, public services or utilities, because the changes are non-project actions and would not result in any additional floor area in office use than currently permitted.

Individual projects may be subject to environmental review if the SEPA thresholds are triggered. Projects subject to SEPA could be conditioned to mitigate any adverse impact on the natural or built environment.



No significant adverse impacts are expected from this amendment.

DECISION - SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

- Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030 (2) (C).
- Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030 (2) (C).

Signature: Cliff Portman Date: 7/26/07
Cliff Portman
Principal Planner
Department of Planning and Development



City of Seattle

ENVIRONMENTAL CHECKLIST

A. BACKGROUND:

1. Name of proposed project, if applicable:

Amendments to the Downtown Land Use Code to provide incentives for retaining Landmark structures and small structures on development lots.

2. Name of Applicant:

City of Seattle

3. Address and phone number of applicant and contact person:

City of Seattle Department of Planning and Development
700 Fifth Avenue, Suite 2000
P.O. Box 3019
Seattle, Washington 98124-4019

Contact: Dennis Meier, 684-8270.

4. Date checklist prepared:

July 2007

5. Agency requesting checklist:

City of Seattle Department of Planning and Development

6. Proposed timing or schedule (include phasing if applicable):

The proposed code amendments will be reviewed by City Council and discussed in public hearings in late summer/early fall 2007.

7. Do you have any plans for future additions, expansions, or further activities related to or connected with this proposal? If yes, explain:

The proposal is a non-project action that is not dependent upon any further action.

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal:

None. A SEPA environmental determination will be prepared for this proposal.

An EIS was issued in 2006 that analyzed separate, but related changes to permitted height and density affecting the applicable DOC1 zoned area of downtown.



9. **Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain:**

The proposal affects regulations in the downtown zone permitting the greatest density for commercial development: Downtown Office Core 1 (DOC1). The proposal could potentially affect properties with development permit applications in process or pending by providing alternative ways to gain bonus floor area above the base FAR within the currently established density limits of the zone.

10. **List any governmental approvals or permits that will be needed for your proposal, if known:**

The possible amendments will require approval by the City Council prior to their adoption.

11. **Give a brief, complete description of your proposal, including the proposed uses and the size of the project and site.**

Proposal Description

The proposal consists of the following actions:

- Amending Chapter 23.49 of the Seattle Land Use Code to provide an incentive for new projects in the Downtown Office Core1 (DOC1) zone for maintaining designated landmarks structures and/or small structures (structures with gross floor area less than 50,000 square feet) on the same development lot, including a floor area bonus and, under certain conditions, an exemption of floor area from calculations of permitted FAR; and
- Amending Chapter 23.84 of the Seattle Land Use Code to reintroduce a definition for Landmark structure.

12. **Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.**

The amendments would affect the DOC1 zone currently mapped within the Downtown Urban Center. The zone is located in an area roughly bounded by Interstate 5 on the east, Union Street on the north, 2nd Avenue and the alley between 1st and 2nd Avenues on the west, and an irregular southern boundary starting at Columbia Street at 2nd Avenue, and jogging east and southward on Cherry, James, and Jefferson Streets.

B. ENVIRONMENTAL ELEMENTS:

1. **Earth**

- a. **General description of site (circle one): Flat, rolling, hilly, steep slopes, mountainous, other.**

Mostly sloping, with some flat areas.



- b. **What is the steepest slope on the site (approximate percent slope)?**
Not applicable.
- c. **What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any prime farmland.**
Not applicable.
- d. **Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.**
Not applicable.
- e. **Describe the purpose, type and approximate quantities of any filling or grading proposed. Indicate source of fill.**
Not applicable.
- f. **Could erosion occur as a result of clearing, construction or use? If so, generally describe.**
No.
- g. **About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?**
Not applicable.
- h. **Proposed measures to reduce or control erosion or other impacts to the earth, if any:**
None.

2. **Air**

- a. **What type of emissions to the air would result from the proposal (i.e., dust, automobile, odors, industrial, wood smoke) during construction and when the project is completed? If any, generally describe and give approximate quantities if known.**
None.
- b. **Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.**
None.
- c. **Proposed measures to reduce or control emissions or other impacts to air, if any:**
None.

3. **Water**

a. **Surface Water:**

- 1) **Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.**
Not applicable.

2) Will the project require any work over, in or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.

No.

3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.

Not applicable.

4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.

No.

5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.

No.

6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.

None.

b. Ground Water:

1) Will groundwater be withdrawn or will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known.

None.

2) Describe waste material that will be discharged into the ground for septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals...; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.

None.

c. Water Runoff (including storm water):

1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.

None.

2) Could waste materials enter ground or surface waters? If so, generally describe.

None.

d. Proposed measures to reduce or control surface, ground or runoff water impacts, if any:

None.

4. Plants

a. Check the types of vegetation found on the site:

___ Deciduous tree: alder, maple, aspen, other

___ Evergreen tree: fir, cedar, pine, other

___ Shrubs

___ Grass

___ Pasture

- ____ Crop or grain
____ Wet soil plants: cattail, buttercup, bulrush, skunk cabbage, other
____ Water plants: water lily, eelgrass, milfoil, other
____ Other types of vegetation

Not applicable

b. What kind and amount of vegetation will be removed or altered?

None.

c. List threatened or endangered species known to be on or near the site:

None.

d. Proposed landscaping, use of native plants or other measures to preserve or enhance vegetation on the site, if any:

None.

5. Animals

a. Circle any birds and animals that have been observed on or near the site or are known to be on or near the site:

Birds: hawk, heron, eagle, songbirds, other: _____

Mammals: deer, bear, elk, beaver, other: _____

Fish: bass, salmon, trout, herring, shellfish, other: _____

Other: _____

Not applicable

b. List any threatened or endangered species known to be on or near the site.

None relevant.

c. Is the site part of a migration route? If so, explain.

Not applicable.

d. Proposed measures to preserve or enhance wildlife, if any:

Not applicable.

6. Energy and Natural Resources

a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing etc.

Not applicable.

b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.

No.

c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:

None.

7. Environmental Health

- a. **Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill or hazardous waste, that could occur as a result of this proposal? If so, describe.**

No.

- 1) **Describe special emergency services that might be required.**

Not applicable.

- 2) **Proposed measures to reduce or control environmental health hazards, if any:**

None.

b. **Noise**

- 1) **What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?**

None.

- 2) **What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.**

None.

- 3) **Proposed measures to reduce or control noise impacts, if any:**

None.

8. Land and Shoreline Use

- a. **What is the current use of the site and adjacent properties?**

The affected area includes approximately 35 blocks of high density urban development. In addition to a predominant concentration of commercial office use, there is a diverse mix of residential, open space, retail, government, hotel, parking, cultural and entertainment uses.

- b. **Has the site been used for agriculture? If so, describe.**

Not applicable.

- c. **Describe any structures on the site.**

Structures in the area range from a limited number of one to two story buildings to the city's largest concentration of skyscraper development. The scale of development ranges from smaller structures on individual lots to large, full block developments. Existing development includes structures from almost every period of the city's development history, from the early 1900s to the present.

- d. **Will any structures be demolished? If so, what?**

Not as a result of this action.

- e. **What is the current zoning classification of the site?**

Downtown Office Core 1.



f. What is current comprehensive plan designation of the site?

The affected area is within the Commercial Core Urban Center Village of the Downtown Seattle Urban Center.

g. If applicable, what is the current shoreline master program designation of the site?

Not applicable.

h. Has any part of the site been classified as an "environmentally sensitive" area? If so, specify.

As mapped in the city's critical areas mapping.

i. Approximately how many people would reside or work in the completed project?

Not applicable.

j. Approximately how many people would the completed project displace?

Not applicable.

k. Proposed measures to avoid or reduce displacement impacts, if any:

None.

l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:

Review and approval by decisionmakers.

9. Housing

a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.

Not applicable.

b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.

Not applicable.

c. Proposed measures to reduce or control housing impacts, if any:

None.

10. Aesthetics

a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?

Not applicable.

b. What views in the immediate vicinity would be altered or obstructed?

Not applicable.

c. Proposed measures to reduce or control aesthetic impacts, if any:

The proposal should have a positive impact on aesthetics in the downtown area to the extent that designated Landmark structures and small structures that add interest and variety to the Downtown cityscape would be retained.



11. Light and Glare

- a. **What type of light or glare will the proposal produce? What time of day would it mainly occur?**
Not applicable.
- b. **Could light or glare from the finished project be a safety hazard or interfere with views?**
Not applicable.
- c. **What existing off-site sources of light or glare may affect your proposal?**
Not applicable.
- d. **Proposed measures to reduce or control light and glare impacts, if any:**
None.

12. Recreation

- a. **What designated and informal recreational opportunities are in the immediate vicinity?**
Not applicable.
- b. **Would the proposed project displace any existing recreational uses? If so, describe.**
No.
- c. **Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:**
None.

13. Historical and Cultural Preservation

- a. **Are there any places or objects listed on, or proposed for national, state, or local preservation registers known to be on or next to the site? If so, generally describe.**

Several designated landmark structures and structures under consideration for designation as landmarks are located in the area. The intent of the proposed action is to provide additional incentives to retain these structures.

- b. **Generally describe any landmarks or evidence of historic, archaeological, scientific, or cultural importance known to be on or next to the site?**

Landmarks include structures representative of various periods of downtown's development history and are currently occupied by a variety of uses including residential and commercial uses. Currently, there are 6 designated Seattle Landmarks in the area. In addition to structures currently designated as Landmarks, the City is in the process of conducting a survey of other Downtown structures potentially eligible for a Landmark designation, including 13 additional properties in the DOC1 zone that have a high likelihood of meeting criteria for landmark designation.

- c. **Proposed measures to reduce or control impacts, if any:**

The intent of the proposed action is to provide incentives for retaining designated Landmark structures.

14. Transportation

- a. **Identify public streets and highways serving the site, and describe the proposed access to the existing street system. Show on site plans, if any.**

The affected area is fully served by an extensively developed street network, including a fully developed arterial street grid, with direct access to regional facilities, including Interstate 5 and State Route 99.

- b. **Is the site currently served by public transit? If not, what is the approximate distance to the nearest transit stop?**

Yes, including direct access to the transit tunnel.

- c. **How many parking spaces would the completed project have? How many would the project eliminate?**

Not applicable.

- d. **Will the proposal require any new roads or streets, or improvements to existing roads or streets, not including driveways? If so, generally describe (indicate whether public or private).**

No.

- e. **Will the project use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.**

No.

- f. **How many vehicular trips per day would be generated by the completed project? If known, indicate when peak volumes would occur.**

Not applicable.

- g. **Proposed measures to reduce or control transportation impacts, if any:**

None.

15. Public Services

- a. **Would the project result in an increased need for public services (for example: fire protection, police protection, health care, schools, other)? If so, generally describe.**

No.

- b. **Proposed measures to reduce or control direct impacts on public services, if any.**

None.

16. Utilities

- a. **Utilities currently available at the site: electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other.**

All utilities within Downtown Seattle.

- b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed:

None.

C. SIGNATURE

Signature provided following section D below.

D. SUPPLEMENTAL SHEET FOR NON-PROJECT ACTIONS

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering the questions, be aware of the extent of the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. **How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?**

The proposed changes would result in no direct impacts, and are unlikely to result in indirect or cumulative impacts related to water, air, noise, or toxic/hazardous substances. By encouraging retention of historic structures, the avoidance of demolition activities and subsequent new development would mean an avoidance of land disturbance, polluted runoff releases to sewer, air emissions and noise associated with construction and release of potentially hazardous materials embodied in current structures.

Proposed measures to avoid or reduce such increases are:

None proposed.

2. **How would the proposal be likely to affect plants, animals, fish or marine life?**

The proposed changes would result in no direct impacts and are unlikely to result in indirect or cumulative impacts related to plant, animal, fish or marine life. Avoiding impacts listed in response to the question #1 above would incrementally reduce the potential for adverse impacts on plant, animal, fish and marine life.

Proposed measures to protect or conserve plants, animals, fish, or marine life are:

None proposed.

3. **How would the proposal be likely to deplete energy or natural resources?**

The proposed changes would result in no direct impacts and are unlikely to result in indirect or cumulative impacts related to energy or natural resources.

Proposed measures to protect or conserve energy and natural resources are:

None proposed.

4. **How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened, or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?**

With respect to "areas designated (or eligible or under study) for governmental protection;" the proposed changes would provide incentives to encourage the retention of existing designated landmark structures on a development lot, as well as small structures that may qualify for designation in the future.

Proposed measures to protect such resources or to avoid or reduce impacts are:

The intent of the proposed action is to protect historic resources.

5. **How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land and shoreline uses incompatible with existing plans?**

The proposed changes would continue to allow and encourage land uses compatible with the existing Comprehensive Plan and neighborhood plans.

The proposed changes would result in no direct, immediate impacts on the built environment. The indirect, long-term cumulative impacts on land uses are intended to be positive, by maintaining structures recognized for their historic value or regarded as positive elements in the urban environment because they contribute interest and variety to the character of Downtown development and help promote an active, attractive pedestrian environment in the Downtown Urban Center. Retaining existing structures on a development lot may result in a slight reduction in the amount of new uses allowed on a lot, but should not have a significant impact on the overall achievable density, and would not create an under-capacity condition with respect to long-term growth planning.

Proposed measures to avoid or reduce shoreline and land use impacts are:

None proposed.

6. **How would the proposal be likely to increase demands on transportation or public services and utilities?**

The proposed changes would result in no direct impacts and are unlikely to result in indirect or cumulative impacts related to transportation or public services/utilities.

Proposed measures to reduce or respond to such demands are:

None proposed.

7. **Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.**

It is believed that the proposal would not result in conflicts with local, state, or federal laws or requirements for protection of the environment.

SIGNATURE:

I, the undersigned, state that to the best of my knowledge the above information is true and complete. It is understood that the lead agency may withdraw any declaration of non-significance that it might issue in reliance upon this checklist should there be any willful misrepresentation or willful lack of full disclosure on my part.

Signature: *Dennis Meier*
Dennis Meier
Senior Urban Designer

Date Submitted: 7/26/07

Reviewed by: *Cliff Portman* Date: 7/26/07





City of Seattle

Gregory J. Nickels, Mayor

Office of the Mayor

August 21, 2007

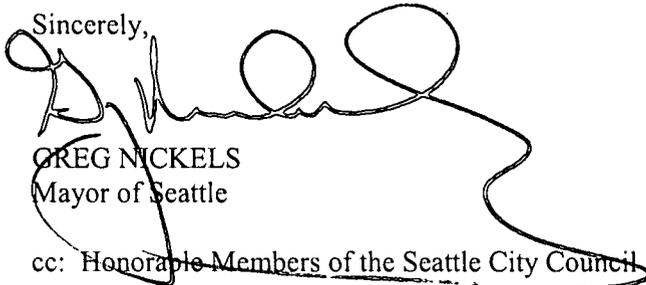
Honorable Nick Licata
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Licata:

I am pleased to transmit the attached proposed Council Bill that would amend the City's Land Use Code to provide incentives for retaining landmark structures and small structures in the Downtown office core. Seattle's Comprehensive Plan and Downtown Neighborhood Plans recognize landmark structures and small structures as public benefits because they add variety to the scale of downtown development, increase activity on the streetscape, and enrich the mix of uses in an area.

Continuing pressure for redevelopment in Seattle's Downtown office core has resulted in the need to find creative ways to preserve community assets such as the First United Methodist Church, which was recently threatened with demolition. For some time now, I have been working jointly with the County, developers, and preservationists to find creative solutions that will allow new development needed to accommodate growth, while protecting downtown Seattle's unique flavor and history. These amendments will facilitate the achievement of those goals. Thank you for your consideration of this legislation. Should you have questions please contact Dennis Meier at 684-8270.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Nickels", with a long, sweeping underline that extends across the text below.

GREG NICKELS
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

600 Fourth Avenue, 12th Floor, Seattle, WA 98104-1873

Tel: (206) 684-4000, TDD: (206) 684-8811 Fax: (206) 684-5360, E:mail: mayors.office@ci.seattle.wa.us

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STATE OF WASHINGTON – KING COUNTY

--SS.

216501
CITY OF SEATTLE, CLERKS OFFICE

No.

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: 122524 ORDINANCE

was published on

10/17/07

The amount of the fee charged for the foregoing publication is the sum of \$2,766.28, which amount has been paid in full.



Affidavit of Publication

McDivanez

Subscribed and sworn to before me on
10/17/07 *Angela Payer*

Notary public for the State of Washington,
residing in Seattle

A. General Standards.

1. The base and maximum floor area ratio (FAR) for each zone is provided in

Chart 23.49.011 A1.

Seattle Municipal Code Chart 23.49.011 A1		
Base and Maximum Floor Area Ratios (FARs)		
Zone Designation	Base FAR	Maximum FAR
Downtown Office Core 1 (DOC1)	6	20
Downtown Office Core 2 (DOC2)	5	14
Downtown Retail Core (DRC)	3	5
Downtown Mixed Commercial (DMC)	4 in 65' height district 4.5 in 85' height district 5 in 125', 160', 240/290-400' and 340/290-400' height districts	4 in 65' height district 4.5 in 85' height district 7 in 125', 160' and 240/290-400' height districts 10 in 340/290-400' height districts
Downtown Mixed Residential/Residential (DMR/R)	1 in 85/85' height district 1 in 125/85' height district 1 in 240/85' height district	1 in 85/85' height district 2 in 125/85' height district 2 in 240/85' height district
Downtown Mixed Residential/Commercial (DMR/C)	1 in 85/85' height district 1 in 125/85' height district 2 in 240/125' height district	4 in 85/85' height district 4 in 125/85' height district 5 in 240/125' height district
Pioneer Square Mixed (PSM)	N.A.	3, except hotels 6 for hotels
International District Mixed (IDM)	3, except hotels 6 for hotels	6 for hotels
International District Residential (IDR)	1	2 when 50% or more of the total gross floor area on the lot is in residential use N.A.
Downtown Harborfront 1 (DH1)	N.A.	Development standards regulate maximum FAR.
Downtown Harborfront 2 (DH2)	2.5	7
Pike Market Mixed (PMM)	7	7

N.A. = Not Applicable.

2. Chargeable floor area shall not exceed the applicable base FAR except as expressly authorized pursuant to the provisions of this chapter.

a. For new structures in DOC1, DOC2 and DMC zones allowing chargeable floor area above the base FAR, the first increment of chargeable floor area above the base FAR, shown for each zone on Chart 23.49.011 A.2, shall be gained by making a commitment satisfactory to the Director that the proposed development will earn a LEED Silver rating or ((a)) meet a substantially equivalent standard approved by the Director as a Type 1 decision. In these zones, no chargeable floor area above the base FAR is allowed for a project that includes chargeable floor area in a new structure unless the applicant makes such a commitment. When such a commitment is made, the provisions of SMC Section 23.49.020 shall apply. The Director may establish by rule procedures for determining whether an applicant has demonstrated that a new structure has earned a LEED Silver rating or met any such substantially equivalent standard, provided that no rule shall assign authority for making a final determination to any person other than an officer of the Department of Planning and Development or another City agency with regulatory authority and expertise in green building practices. This subsection A2a shall expire on May 12, 2011.

Seattle Municipal Code Chart 23.49.011 A2	
ZONE	First increment of FAR above the base FAR achieved through LEED Silver Rating
DOC1	1.0
DOC2	0.75
DMC 340/290-400	0.50
DMC 125, 160, 240/290-400	0.25

b. In DOC1, DOC2, and DMC zones, additional chargeable floor area above the first increment of FAR that exceeds the base FAR may be obtained only by qualifying for floor area bonuses pursuant to Section 23.49.012 or 23.49.013, or by the transfer of development rights pursuant to Section 23.49.014, or both, except as provided in subsections A2c through A2i, A2k and A2l of this section. After the expiration of subsection A2a of this section, the first increment of floor area above the base FAR shall be zero (0).

c. In the DOC1 zone, additional chargeable floor area over seventeen (17) FAR may be obtained only through the transfer of rural development credits, except as provided below in this subsection A2c. No chargeable floor area shall be allowed under this subsection A2c unless, at the time of the Master Use Permit application for the project proposing such floor area, an agreement is in effect between the City and King County, duly authorized by City ordinance, for the implementation of a Rural Development Credits Program. If no such agreement is in effect, the chargeable floor area above the seventeenth FAR may be obtained according to the provisions of Section 23.49.011A2f.

d. In no event shall the use of bonuses, TDR, or rural development credits, or any combination of them, be allowed to result in chargeable floor area in excess of the maximum as set forth in Chart 23.49.011 A.1, except that a structure on a lot in a planned community development pursuant to Section 23.49.036 or a combined lot development pursuant to Section 23.49.041, may exceed the floor area ratio otherwise permitted on that lot, provided the chargeable floor area on all lots included in the planned community development or combined lot development as a whole does not exceed the combined total permitted chargeable floor area.

e. Except as otherwise provided in this subsection A2e or subsections A2g or A2i of this section, not less than five (5) percent of all floor area above the base FAR to be gained on any lot, excluding any floor area gained under subsections A2a, A2k, and A2l of this section, shall be gained through the transfer of Landmark TDR, to the extent that Landmark TDR is available. Landmark TDR shall be considered "available" only to the extent that, at the time of the Master Use Permit application to gain the additional floor area, the City of Seattle is offering Landmark TDR for sale, at a price per square foot no greater than the total bonus contribution under Section 23.49.012 for a project using the cash option for both housing and childcare facilities. An applicant may satisfy the minimum Landmark TDR requirement in this section by purchases from private parties, by transfer from an eligible sending lot owned by the applicant, by purchase from the City, or by any combination of the foregoing. This subsection A2e does not apply to any lot in a DMR zone.

f. Except as otherwise permitted under subsection A2h or A2i of this section, on any lot except a lot in a DMR zone, the total amount of chargeable floor area gained through bonuses under Section 23.49.012, together with any housing TDR and Landmark housing TDR used for the same project, shall equal seventy-five (75) percent of the amount, if any, by which the total chargeable floor area to be permitted on the lot exceeds the sum of (i) the base FAR, as determined under this section and Section 23.49.032 if applicable, plus (ii) any chargeable floor area gained on the lot pursuant to subsections A2a, A2c, A2h, ((or))A2i, A2k, and A2l of this section. At least half of the remaining twenty-five (25) percent shall be gained by using TDR from a sending lot with a major performing arts facility, to the extent available. The balance of such twenty-five (25) percent shall be gained through bonuses under Section 23.49.013 or through TDR other than housing TDR, or both, consistent with this chapter. TDR from a sending lot with a major performing arts facility shall be considered "available" only to the extent that, at the time of the Master Use Permit application to gain the additional floor area, the City of Seattle is offering such TDR for sale, at a price per square foot not exceeding the prevailing market price for TDR other than housing TDR, as determined by the Director.

City of Seattle

ORDINANCE 122824

AN ORDINANCE related to land use and zoning; amending Sections 23.49.011, 23.49.013, and 23.49.035 of the Seattle Municipal Code; revising regulations for Downtown Seattle; amending provisions for allowing chargeable floor area to exceed the base floor area ratio; adding floor area exemptions; providing incentives for maintaining designated Landmark structures and existing small scale structures on a development lot; amending regulations regarding development standards for lots where such incentives are used; and making technical corrections.

WHEREAS, designated Landmark structures and small structures that add interest and diversity to the scale of Downtown development are recognized as providing a significant public benefit, and Seattle's Comprehensive Plan includes goals and policies to protect them, including CR11 in the Cultural Resources Element and DT-G4, DT-UDP1, DT-LUP11, COM-P1, COM-P2, and COM-P3 in the Neighborhood Planning Element; and

WHEREAS, Ordinance 122054 enacted density increases for several Downtown zones, which could increase redevelopment pressure for lots occupied by Landmark structures and smaller structures, making it increasingly important to provide incentives to retain such structures as redevelopment occurs; and

WHEREAS, the City has conducted analysis of locations with potential for redevelopment that could have an impact on Landmark structures and small structures, and determined that the need and potential use of such incentives to retain these structures as proposed is greatest in the Downtown Office Core 1 (DOC1) zone; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 23.49.011 of the Seattle Municipal Code, which Section was last amended by Ordinance 122054, is amended as follows:

23.49.011 Floor area ratio.

g. In order to gain chargeable floor area on any lot in a DMR zone, an applicant may (i) use any types of TDR eligible under this chapter in any proportions, or (ii) use bonuses under Section 23.49.012 or 23.49.013, or both, subject to the limits for particular types of bonus under Section 23.49.013, or (iii) combine such TDR and bonuses in any proportions.

h. On any lot in a DMC zone allowing a maximum FAR of seven (7), in addition to the provisions of subsection A2f above, an applicant may gain chargeable floor area above the first increment of FAR above the base FAR through use of DMC housing TDR, or any combination of DMC housing TDR with floor area gained through other TDR and bonuses as prescribed in subsection A2f.

i. When the amount of bonus development sought in any permit application does not exceed five thousand (5,000) square feet of chargeable floor area, the Director may permit such floor area to be achieved solely through the bonus for housing and child care.

(j-Subsection A2a of this section shall expire five (5) years from the effective date of Ordinance 122054, and thereafter that first increment of floor area above the base FAR shall be zero (0).)

j. (ke) No chargeable floor area above the base FAR shall be granted to any proposed development that would result in significant alteration to any designated feature of a Landmark structure, unless a Certificate of Approval for the alteration is granted by the Landmarks Preservation Board.

k. On a lot entirely in a DOC1 zone, additional chargeable floor area equal to 1.0 FAR may be permitted above the increment achieved through a commitment as prescribed in subsection 23.49.011A2a, or above the base FAR after expiration of that subsection, on a lot that includes one or more qualifying Landmarks, subject to the following conditions:

(1) the structure is rehabilitated to the extent necessary so that all features and characteristics controlled or designated by ordinance pursuant to SMC Chapter 25.12 or Ordinance 102229 are in good condition and consistent with the applicable ordinances and with any certificates of approval issued by the Landmarks Preservation Board, all as determined by the Director of Neighborhoods; and

(2) a notice shall be recorded in the King County real estate records, in form satisfactory to the Director, regarding the bonus allowed and the effect thereof under the terms of this chapter.

For purposes of this section, a "qualifying Landmark" is a structure that (i) has a gross floor area above grade of at least five thousand (5,000) square feet; (ii) is separate from the principal structure or structures existing or to be developed on the lot, except that it may abut and connect with one such structure along one exterior wall; (iii) is subject, in whole or in part, to a designating ordinance pursuant to SMC Chapter 25.12, or was designated pursuant to Ordinance 102229; and (iv) is on a lot on which no improvement, object, feature or characteristic has been altered or removed contrary to any provision of Chapter 25.12 or any designating ordinance. A qualifying Landmark for which a bonus is allowed under this subsection shall be considered a public benefit feature, but shall not be considered an amenity for purposes of Section 23.49.013. For so long as any of the chargeable floor area allowed under this subsection A2k remains on the lot, each qualifying Landmark for which such bonus was granted shall remain designated as a Landmark under Chapter 25.12 and the owner shall maintain the exterior and interior of each qualifying Landmark in good condition and repair and in a manner that preserves the features and characteristics that are subject to designation or controls by ordinance, and that maintains compliance with all applicable requirements of federal, state and local laws, ordinances, regulations, and restrictions.

l. On a lot entirely in a DOC1 zone, as an incentive to maintain diversity in the scale of downtown development, additional floor area equal to 0.5 FAR may be granted above the increment achieved through a commitment as prescribed in subsection 23.49.011A2a, or above the base FAR after expiration of that subsection, on a lot that includes one or more qualifying small structures, subject to the conditions in this subsection A2l.

(1) A "qualifying small structure" is one that satisfies all of the following standards:

(i) the gross floor area of the structure above grade is a minimum of five thousand (5,000) square feet and does not exceed fifty thousand (50,000) square feet;

(ii) the height of the structure is one hundred and twenty-five (125) feet or less, not including rooftop features as specified in subsection 23.49.008.d;

(iii) the structure was not constructed or substantially structurally modified since July 13, 1982; and

(iv) the structure is not occupied by parking above the ground floor.

(2) If the structure is removed from the lot or ceases to be a qualifying small structure, then any development on the portion of the lot previously occupied by the structure, defined by a rectangle enclosing the exterior walls of the structure as they exist at the time the bonus is granted and extended to the nearest street frontage, shall be limited to a maximum floor area of fifty thousand (50,000) square feet for all uses and a maximum height of one hundred and twenty-five (125) feet, excluding any rooftop features as specified in subsection 23.49.008.d.

(3) A notice shall be recorded in the King County real estate records, in form satisfactory to the Director, regarding the bonus allowed and the effect thereof under the terms of this chapter.

(4) Bonus floor area under this subsection A2l may not be granted on the basis of a Landmark structure for which bonus floor area is allowed under subsection A2k of this section, but may be allowed on the basis of a different structure or structures that are on the same lot as a Landmark structure for which such bonus floor area is allowed.

3. The Master Use Permit application to establish any bonus development under this section shall include a calculation of the amount of bonus development sought and shall identify the manner in which the conditions to such bonus development shall be satisfied. The Director shall, at the time of issuance of any Master Use Permit decision approving any such bonus development, issue a Type I decision as to the amount of bonus development to be allowed and the conditions to such bonus development, which decision may include alternative means to achieve bonus development, at the applicant's option, if each alternative would be consistent with the provisions of this section and (conditions of) any other conditions of the

permit, including Design Review if applicable.

B. Exemptions and Deductions from FAR Calculations.

1. The following are not included in chargeable floor area, except as specified below in this section:

a. Retail sales and service uses and entertainment uses in the DRC zone, up to a maximum FAR of two (2) for all such uses combined;

b. Street-level uses meeting the requirements of Section 23.49.009, Street-level use requirements, whether or not street-level use is required pursuant to Map 1G, if the uses and structure also satisfy the following standards:

- (1) The street level of the structure containing the exempt space must have a minimum floor to floor height of thirteen (13) feet;
- (2) The street level of the structure containing the exempt space must have a minimum depth of fifteen (15) feet;
- (3) Overhead weather protection is provided satisfying the provisions of Section 23.49.018.

c. Shopping atria in the DRC zone and adjacent areas shown on Map 1J, provided that:

- (1) The minimum area of the shopping atria shall be four thousand (4,000) square feet;
- (2) The eligibility conditions of the Downtown Amenity Standards are met; and
- (3) The maximum area eligible for a floor area exemption shall be twenty thousand (20,000) square feet;

d. Child care;

e. Human service use;

f. Residential use, except in the PMM and DH2 zones;

g. Live-work units, except in the PMM and DH2 zones;

h. Museums, provided that the eligibility conditions of the Downtown Amenity Standards are met;

i. The floor area identified as expansion space for a museum, where such expansion space satisfies the following:

- (1) The floor area that will contain the museum expansion space is owned by the museum or a museum development authority; and
- (2) The museum expansion space will be occupied by a museum, existing as of October 31, 2002, on a downtown zoned lot; and
- (3) The museum expansion space is physically designed in conformance with the Seattle Building Code standards for museum use either at the time of original configuration or at such time as museum expansion is proposed;

j. Performing arts theaters;

k. Floor area below grade;

l. Floor area that is used only for short-term parking or parking accessory to residential uses, or both, subject to a limit on floor area used wholly or in part as parking accessory to residential uses of one (1) parking space for each dwelling unit on the lot with the residential use served by the parking;

m. Floor area of a public benefit feature that would be eligible for a bonus on the lot where the feature is located, other than a Landmark structure eligible pursuant to subsection A2k or a small structure eligible pursuant to subsection A2l. The exemption applies regardless of whether a floor area bonus is obtained, and regardless of maximum bonusable area limitations;

n. Public restrooms;

o. Major retail stores in the DRC zone and adjacent areas shown on Map 1J, provided that:

- (1) The minimum lot area for a major retail store development shall be twenty thousand (20,000) square feet;
- (2) The minimum area of the major retail store shall be eighty thousand (80,000) square feet;
- (3) The eligibility conditions of the Downtown Amenity Standards are met;
- (4) The maximum area eligible for a floor area exemption shall be two hundred thousand (200,000) square feet;
- (5) The floor area exemption applies to storage areas, store offices, and other support spaces necessary for the store's operation; (and)

p. Shower facilities for bicycle commuters; (and)

q. Floor area, excluding floor area otherwise exempt, up to a maximum of twenty-five thousand (25,000) square feet on any lot, within one or more Landmark structures for which a floor area bonus has been granted pursuant to subsection A2k, or within one or more small structures for which a floor area bonus has been granted pursuant to subsection A2l, or within any combination of such Landmark structures and such small structures, in each case only to the extent that the floor area satisfies the following criteria as determined by the Director:

- (1) The floor area is interior space of historic or architectural interest designed to accommodate the original function of the structure, and maintaining the integrity of this space prevents it from being fully utilized as commercial floor area;
- (2) The floor area is occupied by such uses as public assembly or performance space, human services, or indoor public amenities, including atrium or lobby area available for passive indoor recreation use or for the display of art or other objects of scientific, social, historic, cultural, educational or aesthetic interest; and
- (3) The floor area is open and accessible to the public without charge, on reasonable terms and conditions consistent with the nature of the space, during normal operating hours of the building.

2. As an allowance for mechanical equipment, three and one-half (3 1/2) percent shall be deducted in computing chargeable gross floor area. The allowance shall be calculated on the gross floor area after all exempt space permitted under subsection B1 has been deducted. Mechanical equipment located on the roof of a structure, whether enclosed or not, shall be calculated as part of the total gross floor area of the structure, except that for structures existing prior to June 1, 1989, new or replacement mechanical equipment may be placed on the roof and will not be counted in gross floor area calculations.

Section 2. Subsection B and Chart 23.49.013A of Section 23.49.013 of the Seattle Municipal Code, which Section B was last amended by Ordinance 122054, are amended as follows:

B. Standards for Amenities.

1. Location of Amenities. Amenities shall be located on the lot using the bonus, except as follows:

a. Green street improvements may be located within an abutting right-of-way subject to applicable Director's rules.

b. An open space amenity, other than green street improvements, may be on a lot other than the lot using the bonus, provided that it is within a Downtown zone and all of the following conditions are satisfied:

- (1) The open space must be open to the general public without charge, must meet the eligibility conditions of the Downtown Amenity Standards, and must be one of the open space features cited in subsection A1 of this section.
- (2) The open space must be within one-quarter (1/4) mile of the lot using the bonus, except as may be permitted pursuant to subsection B1b(4).
- (3) The open space must have a minimum contiguous area of five thousand (5,000) square feet, except as may be permitted pursuant to subsection B1b(4).
- (4) Departures from standards for the minimum size of off-site open space and maximum distance from the project may be allowed by the Director as a Type I decision if the Director determines that if such departures are approved, the proposed open space will meet the additional need for open space caused by the project, and improve public access to the open space compared to provision of the open space on-site.
- (5) The owner of any lot on which off-site open space is provided to meet the requirements of this section shall execute and record an easement or other instrument in a form acceptable to the Director assuring compliance with the requirements of this section, including applicable conditions of the Downtown Amenity Standards.

c. Public restrooms shall be on a ground floor; shall satisfy all codes and accessibility standards; shall be open to the general public during hours that the structure is open to the public, although access may be monitored by a person located at the restroom facility; shall be maintained by the owner of the structure for the life of the structure that includes the bonused space; and shall be designated by signs sufficient so that they are readily located by pedestrians on an abutting street or public open space. The Director is authorized to establish standards for the design, construction, operation and maintenance of public restrooms qualifying for a bonus, consistent with the intent of this subsection to encourage the provision of accessible, clean, safe and environmentally sound facilities.

2. Options for Provision of Amenities.

a. Amenities must be provided by performance except as expressly permitted in this Section. The Director may accept a cash payment for green street improvements subject to the provisions of this section, the Downtown Amenity Standards and the Green Street Director's Rule, DR 11-2007(93), if the Director determines that improvement of a green street abutting or in the vicinity of the lot within a reasonable time is feasible. The cash payment must be in an amount sufficient to improve fully one (1) square foot of green street space for each five (5) square feet of bonus floor area allowed for such payment.

b. Restoration and preservation of a Landmark performing arts theater may consist of financial assistance provided by the applicant for rehabilitation work on a Landmark performing arts theater, or for retirement of the cost of improvements made after February 5, 1993, if:

- (1) The assistance is provided pursuant to a linkage agreement between the applicant and the owner of the Landmark performing arts theater satisfactory to the Director, in which such owner agrees to use such financial assistance to complete such rehabilitation and agrees that the applicant is entitled to all or a portion of the bonus floor area that may be allowed therefore;
- (2) The owner of the Landmark performing arts theater executes and records covenants enforceable by the City, agreeing to maintain the structure and the performing arts theater use, consistent with the Downtown Amenity Standards; and
- (3) Prior to the issuance of any building permit after the first building permit for the project using the bonus, and in any event before any permit for any construction activity other than excavation and shoring is issued for that project, unless the rehabilitation work has then been completed, the applicant posts security for completion of that work, consistent with the Downtown Amenity Standards.

3. Ratios and limits.

a. Amenities may be used to gain floor area according to the applicable ratios, and subject to the limits, in Section 23.49.011 and in Chart 23.49.013A.

Amenity	Zone Location of Lots Eligible to Use Bonus						Bonus Ratio	Maximum square feet (SF) of floor area eligible for a bonus
	DOC1	DOC2	DMC 340290-400	DMC 126, DMC 160, and DMC 240290-400	DRC	DMR		
Hillside Terrace							5:1	6,000 SF
Urban Plaza	X	X	X				5:1	15,000 SF
Commercial Parcel Park	X	X	X	X			5:1	7,000 SF
Residential Parcel Park			X	X		X	5:1	12,000 SF
Green Street Parcel Park							5:1	7,000 SF
Public Atrium	X	X	X				5:1	5,500 SF
Green Street Improvement							5:1	No limit
Green Street Setback							1:1	10 times the length of lot's green street frontage
Hillclimb Assist							Not applicable	Maximum gain of 0.5 FAR
Shopping Corridor							5:1	7,200 SF
Transit Station Access	X	X	X	X	X	X	Not applicable	Maximum gain of 1.0 FAR
Public Restroom	X	X	X	X	X	X	7:1	No limit
Human Services	X	X	X	X	X	X	7:1	10,000 SF
Preservation of Landmark Theater	X	X	X				Variable; maximum of 12:1	Maximum gain of 1.0 FAR

"X" indicates that bonus is potentially available

b. Any bonus for restoration and preservation of a Landmark performing arts theater shall not exceed a maximum of one (1) FAR. Such bonus may be allowed at a variable ratio, as described in the Downtown Amenity Standards, of up to twelve (12) square feet

of floor area granted per one (1) square foot (12:1) of performing arts theater space rehabilitated by the applicant, or previously rehabilitated so as to have a useful life at the time the bonus is allowed of no less than twenty (20) years, in each case consistent with any controls applicable to the Landmark performing arts theater and any certificates of approval issued by the Landmarks Preservation Board. For purposes of this subsection, performing arts theater space shall consist only of the following: stage; audience seating; theater lobby; backstage areas such as dressing and rehearsal space; the restrooms for audience, performers and staff; and areas reserved exclusively for theater storage. For any Landmark performing arts theater from which TDR has been transferred, or that has received any public funding or subsidy for rehabilitation or improvements, the bonus ratio shall be limited, pursuant to a subsidy review, to the lowest ratio, as determined by the Housing Director, such that the benefits of the bonus, together with the value of any TDR and any public funding or subsidy, are no more than the amounts reasonably necessary to make economically feasible:

(1) The rehabilitation and preservation of the Landmark performing arts theater; and

(2) Any replacement by the owner of such theater of low-income housing that is reasonably required to be eliminated from the lot of the Landmark performing arts theater to make rehabilitation, preservation and operation of the performing arts theater economically feasible.

4. Downtown Amenity Standards.

a. The Director shall approve a feature for a bonus if the Director determines that the feature satisfies the eligibility conditions of the Downtown Amenity Standards, and that the feature carries out the intent of this section and the guidelines in the Downtown Amenity Standards.

b. The Director may allow departures from the eligibility conditions in the Downtown Amenity Standards as a Type I decision, if the applicant can demonstrate that the amenity better achieves the intent of the amenity as described in this chapter and the Downtown Amenity Standards, and that the departure is consistent with any applicable criteria for allowing the particular type of departure in the Downtown Amenity Standards.

c. The Director may allow departures from the eligibility conditions in the Downtown Amenity Standards as a Type I decision, to allow floor area in a Landmark structure satisfying the standards of Section 23.49.011A2k or in a small structure satisfying the standards of Section 23.49.011A2l to qualify as floor area eligible for a bonus when adapted to serve as a hillclimb assist, museum, shopping corridor, or public atrium amenity.

(e)d. The Director may condition the approval of a feature for a bonus as provided in the Downtown Amenity Standards.

5. Open Space Amenities. Open space amenities must be newly constructed on a lot in a Downtown zone in compliance with the applicable provisions of this chapter and the Downtown Amenity Standards.

6. Declaration. When amenities are to be provided on-site for purposes of obtaining bonus floor area, the owner shall execute and record a declaration in a form acceptable to the Director identifying the features and the fact that the right(s) to develop and occupy a portion of the gross floor area on the site is based upon the long-term provision and maintenance of those amenities.

7. Duration, Alteration. All bonused amenities shall be provided and maintained in accordance with the applicable provisions of this section and the Downtown Amenity Standards for as long as the portion of the chargeable floor area gained by the amenities exists. A permit is required to alter or remove any bonused amenity.

Section 3. Section 23.49.035 of the Seattle Municipal Code, which Section was last amended by Ordinance 122054, is amended as follows:

23.49.035 ((Replacement of)) Modified or discontinued public benefit features.

A. All public benefit features, except (1) housing and (2) landmark performing arts theaters, shall remain for the life of the structure that includes the additional gross floor area except as otherwise specifically permitted pursuant to this section.

B. Unless the specified period for which a feature is to be maintained has expired in accordance with the terms of this chapter, or another provision of this chapter specifically otherwise provides, a public benefit feature may be diminished or discontinued only if:

1. the feature is not housing or child care; and

2. a. the additional gross floor area permitted in return for the specific feature is ((permanently)) removed or converted to a use that is not counted as chargeable floor area; or
b. an amount of chargeable floor area equal to that obtained by the public benefit feature to be replaced is provided pursuant to provisions for granting floor area above the base FAR in this chapter.

C. The terms under which use as a ((i)) Landmark performing arts theater may be discontinued or diminished, and the sanctions for failure to continue such use, shall be governed by the agreements and instruments executed by the City and owners of the properties on which such theaters are located. Any such change in use shall not affect any other structure for which additional FAR was granted in return for the provision of such public benefit features.

D. In addition to the provisions of subsections A and B, this subsection applies in Downtown zones when additional gross floor area or a floor area exemption is granted for any of the following public benefit features: Human service uses, child care centers, retail shopping, cinemas, performing arts theaters other than landmark performing arts theaters, major retail stores, and museums.

1. In the event that the occupant or operator of one (1) of the public benefit features listed in this subsection moves out of a structure, or notifies the owner of intent to move, the owner or owner's agent shall notify the Director within five (5) days of the date that notice of intent to move is given or that the occupant or operator moves out, whichever is earlier.

2. Starting from the fifth day after notice is given or that the occupant or operator moves out, whichever is first, the owner or owner's agent shall have a maximum of six (6) months to replace the use with another use that meets the provisions of Section 23.49.011 and the Downtown Amenity Standards.

3. When the public benefit feature is replaced, any portion of the gross floor area formerly occupied by that feature and not reoccupied by a replacement feature, may be either:

a. Changed to other uses that are exempt from FAR calculations in the zone in which the structure is located; or

b. Changed to uses that are not exempt from FAR calculations, provided that this would not cause the structure to exceed the maximum FAR limit for the zone in which it

is located, and that gross floor area in an amount equivalent to the gross floor area proposed to be changed shall be achieved through provision of public benefit features, or transfer of development rights, according to the provisions of SMC Section 23.49.011.

4. As a condition to allowing the substitution of a feature, rather than an application to establish floor area de novo under the terms of this chapter, during the time that the space formerly constituting the amenity feature is vacant, it shall be made available to nonprofit community and charitable organizations for events at no charge.

E. Modifications of amenity features that do not result in the diminishment or discontinuation of the feature may be permitted by the Director as a Type I decision, provided that the Director finds that the feature as modified meets the eligibility conditions in the Downtown Amenity Standards.

F. A qualifying small structure for which a bonus is allowed pursuant to Section 23.49.011 shall be considered discontinued if it is removed or altered so that it is no longer a qualifying small structure within the meaning of that Section.

G. A qualifying Landmark for which a bonus is allowed pursuant to Section 23.49.011 shall be considered discontinued if it is demolished or removed, or it is altered so that it is no longer a qualifying Landmark within the meaning in that Section; or if any feature or characteristic that is controlled or designated by ordinance is removed or altered contrary to any provision of Chapter 25.12; or if the owner fails to maintain in good condition and repair any feature or characteristic of the structure that is designated or subject to controls under any ordinance; or if there is any revision or revocation of controls pursuant to Section 25.12.860 or successor provision.

Section 4. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Form Last Revised on December 16, 2006

Passed by the City Council the 1st day of October, 2007, and signed by me in open session in authentication of its passage this 1st day of October, 2007.

NICK LICATA,

President of the City Council.

Approved by me this 11th day of October, 2007.

GREGORY J. NICKELS,

Mayor

Filed by me this 11th day of October, 2007.

(Seal) JUDITH E. PIPPIN,

City Clerk.

Publication order by JUDITH PIPPIN, City Clerk.

Date of publication in the Seattle Daily Journal of Commerce, October 17, 2007.

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