

Ordinance No. 122582

Council Bill No. 116082

An ordinance related to land use and zoning amending Sections 23.49.008, 23.49.015, and 23.86.006 of the Seattle Municipal Code; allowing an increase in building height in portions of the Downtown Mixed Commercial 340/290-400 zone on certain conditions; and making technical revisions.

CF No. _____

Date Introduced:	<u>Nov. 19, 2007</u>		
Date 1st Referred:		To: (committee)	<u>Urban Development +</u>
Date Re - Referred:		To: (committee)	<u>Planning</u>
Date Re - Referred:		To: (committee)	
Date of Final Passage:	<u>12-10-07</u>	Full Council Vote:	<u>6-0</u>
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Date Vetoes by Mayor:		T.O.	☒
		F.T.	☒
Date Vetoes by Mayor:		Date Veto Published:	
Date Passed Over Veto:		Veto Sustained:	

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: Peter Stamburk

Councilmember

Committee Action: Passed 4-0
PS, JG, RC + TP

12-10-07 Passed 6-0 (Absent: McIver; Disqualified: Godden, Rasmussen)

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

Law Department

Law Dept. Review

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ORDINANCE 122582

AN ORDINANCE related to land use and zoning amending Sections 23.49.008, 23.49.015, and 23.86.006 of the Seattle Municipal Code; allowing an increase in building height in portions of the Downtown Mixed Commercial 340/290-400 zone on certain conditions; and making technical revisions.

WHEREAS, Policy DT-UDP5 of the Downtown Urban Center Plan in the Neighborhood Planning Element of the Seattle Comprehensive Plan specifies that increased heights beyond the limits specified for downtown zones may be considered when the public purpose served by the additional height justifies the higher buildings and is consistent with other height policies; and

WHEREAS, on certain full-block sites Downtown that are adjacent to a zone allowing much greater height, the impacts of height greater than the limits of the zone may be mitigated when a substantial portion of the block is maintained as open space and development is limited to a single tower, sited on the block so as to limit such impacts; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Subsections A and B of Section 23.49.008 of the Seattle Municipal Code, which Section was last amended by Ordinance 122054, are amended as follows:

23.49.008 Structure height.

The following provisions regulating structure height apply to all property in downtown zones except the DH1, PSM, IDM, and IDR zones.

A. Base and Maximum Height Limits.

1. Except as otherwise provided in this Section, m((M))aximum structure heights for downtown zones, except PMM, are fifty-five (55) feet, sixty-five (65) feet, eighty-five (85) feet, one hundred twenty-five (125) feet, one hundred fifty (150) feet, one hundred sixty (160) feet, two hundred forty (240) feet, three hundred forty (340) feet, four hundred (400) feet, five hundred (500) feet, and unlimited, as designated on the Official Land Use Map, Chapter 23.32.



1 In certain zones, as specified in this section, the maximum structure height may
2 be allowed only for particular uses or only on specified conditions, or both.

3 2. Except in the PMM zone, the base height limit for a structure is the lowest of
4 the maximum structure height or the lowest other height limit, if any, that applies pursuant to the
5 provisions of this title based upon the uses in the structure, before giving effect to any bonus for
6 which the structure qualifies under this chapter and to any special exceptions or departures
7 authorized under this chapter. In the PMM zone the base height limit is the maximum height
8 permitted pursuant to urban renewal covenants.
9

10 3. In zones listed below in this subsection A3 there is a base height limit for
11 portions of a structure containing nonresidential and live-work uses, which is shown as the first
12 figure after the zone designation (except that there is no such limit in DOC1), and a base height
13 limit that applies to portions of a structure in residential use, shown as the figure following the
14 "/". The third figure shown is the (~~highest possible applicable~~) height limit for a structure that
15 uses the bonus available under 23.49.015 and has no nonresidential or live-work use above the
16 first height limit shown for that zone:
17

18 DOC1 Unlimited/450 -- Unlimited

19 DOC2 500/300-500

20 DMC 340/290-400

21 DMC 240/290-400.

22 4. A structure in a DMC 340/290-400 zone on a lot comprising a full block that
23 abuts a DOC1 zone along at least one street frontage may gain additional structure height of
24 thirty (30) percent above the maximum residential height limit if the structure uses the bonus
25

1 available under 23.49.015, or thirty-five (35) percent above 340 feet if that bonus is not used, in

2 either case on the following conditions:

3 a. Only one tower is permitted on the lot;

4 b. Any additional floor area above the maximum height limit for
5 nonresidential or live-work use, as increased under this subsection A4, is occupied by residential
6 use;

7 c. The average residential gross floor area and maximum residential floor
8 area of any story in the portion of the tower permitted above the base residential height limit
9 does not exceed the limits prescribed in Section 23.49.058D1;

10 d. Any residential floor area allowed above the base residential height
11 limit under this provision is gained through voluntary agreements to provide low-income or
12 moderate-income housing according to the provisions of 23.49.015;

13 e. At least thirty-five (35) percent of the lot area, or a minimum of 25,000
14 square feet, whichever is greater, is in open space use substantially at street level meeting the
15 standards, and subject to the allowances for coverage, in this subsection e.

16 i. The location and configuration of the space shall enhance
17 solar exposure, allow easy access to entrances to the tower serving all tenants and occupants
18 from streets abutting the open space, and allow convenient pedestrian circulation through all
19 portions of the open space. The open space shall be entirely contiguous and physically
20 accessible. To offset the impact of the taller structure allowed, the open space must have
21 frontage at grade abutting sidewalks, and be visible from sidewalks, on at least two streets. The
22 elevation of the space may vary, especially on sloping lots where terracing the space facilitates

1 connections to abutting streets, provided that grade changes are gradual and do not significantly
2 disrupt the continuity of the space, and no part of the open space is significantly above the grade
3 of the nearest abutting street. The Director may allow greater grade changes, as necessary, to
4 facilitate access to transit tunnel stations.

5 ii. Up to twenty (20) percent of the area used to satisfy the
6 open space condition to allowing additional height may be covered by the following features:
7 permanent, freestanding structures, such as retail kiosks, pavilions, or pedestrian shelters;
8 structural overhangs; overhead arcades or other forms of overhead weather protection; and any
9 other features approved by the Director that contribute to pedestrian comfort and active use of
10 the space. The following features within the open space area may count as open space and are
11 not subject to the percentage coverage limit: temporary kiosks and pavilions, public art,
12 permanent seating that is not reserved for any commercial use, exterior stairs and mechanical
13 assists that provide access to public areas and are available for public use, and any similar
14 features approved by the Director.

15 f. Open space used to satisfy the condition to allowing additional height in
16 this section is not eligible for a bonus under Section 23.49.013.

17 g. Open space used to satisfy the condition to allowing additional height
18 in this section may qualify as common recreation area to the extent permitted by SMC subsection
19 23.49.011B and may be used to satisfy open space requirements in SMC subsection 23.49.016C1
20 if it satisfies the standards of that subsection.

21 h. No increase in height shall be granted to any proposed development
22 that would result in significant alteration to any designated feature of a landmark structure,

1 unless a Certificate of Approval for the alteration is granted by the Landmarks Preservation

2 Board.

3
4 ((4))5. In the DRC zone, the base height limit is eighty-five (85) feet, except that,
5 subject to the conditions in subsection A((5))6 of this section:

6 a. The base height limit is one hundred fifty (150) feet ((when)) if any of
7 the following conditions is satisfied:

8 i. ((When)) all portions of a structure above eighty-five (85) feet
9 contain only residential use; or

10 ii. ((When)) at least twenty-five (25) percent of the gross floor
11 area of all structures on a lot is in residential use; or

12 iii. ((When)) a minimum of 1.5 FAR of retail sales and service or
13 entertainment uses, or any combination thereof, is provided on the lot.

14 b. For residential floor area created by infill of a light well on a Landmark
15 structure, the base height limit is the lesser of one hundred fifty (150) feet or the highest level at
16 which the light well is enclosed by the full length of walls of the structure on at least three (3)
17 sides. For the purpose of this subsection a light well is defined as an inward modulation on a
18 non-street facing facade that is enclosed on at least three (3) sides by walls of the same structure,
19 and infill is defined as an addition to that structure within the light well.

20 ((5))6. Restrictions on Demolition and Alteration of Existing Structures.

21 a. Any structure in a DRC zone that would exceed the eighty-five (85)
22 foot base height limit shall incorporate the existing exterior street front facade(s) of each of the

structures listed below, if any, located on the lot of that project. The City Council finds that these structures are significant to the architecture, history and character of downtown. The Director may permit changes to the exterior facade(s) to the extent that significant features are preserved and the visual integrity of the design is maintained. The degree of exterior preservation required will vary, depending upon the nature of the project and the characteristics of the affected structure(s).

b. The Director shall evaluate whether the manner in which the façade is proposed to be preserved meets the intent to preserve the architecture, character and history of the Retail Core. If a structure on the lot is a Landmark structure, approval by the Landmarks Preservation Board for any proposed modifications to controlled features is required prior to a decision by the Director to allow or condition additional height for the project. The Landmarks Preservation Board's decision shall be incorporated into the Director's decision. Inclusion of a structure on the list below is solely for the purpose of conditioning additional height under this subsection, and shall not be interpreted in any way to prejudge the structure's merit as a

Landmark:

Sixth and Pine Building	523 Pine Street
Decatur	1513-6th Avenue
Coliseum Theater	5th and Pike
Seaboard Building	1506 Westlake Avenue
Fourth and Pike Building	1424-4th Avenue
Pacific First Federal Savings	1400-4th Avenue
Joshua Green Building	1425-4th Avenue



Equitable Building	1415-4th Avenue
Mann Building	1411-3rd Avenue
Olympic Savings Tower	217 Pine Street
Fischer Studio Building	1519-3rd Avenue
Bon Marche (Macy's)	3rd and Pine
Melbourne House	1511 - 3rd Avenue
Former Woolworth's Building	1512 - 3rd Avenue

c. The restrictions in this subsection ((5))6 are in addition to, and not in substitution for, the requirements of the Landmarks Ordinance, SMC Chapter 25.12.

((6))7. The applicable height limit for a structure is the base height limit plus any height allowed as a bonus under this chapter and any additional height allowed by special exception or departure, or by subsection A4 of this section. The height of a structure shall not exceed the applicable height limit, except as provided in subsections B, C and D of this section.

((7))8. The height of rooftop features, as provided in subsection D, is allowed to exceed the applicable height limit.

B. Structures located in DMC 240/290-400 or DMC 340/290-400 zones may exceed the maximum height limit for residential use, or if applicable the maximum height limit for residential use as increased under the provisions of subsection A4 of this section, by ten (10) percent of that limit, as so increased if applicable, if:

1. the facades of the portion of the structure above the limit do not enclose an area greater than nine thousand (9,000) square feet, and

2. the enclosed space is occupied only by those uses or features otherwise permitted in this Section as an exception above the height limit.

This exception shall not be combined with any other height exception for screening or rooftop features to gain additional height.

Section 2. Subsection B of Section 23.49.015 of the Seattle Municipal Code, which Section was last amended by Ordinance 122235, is amended as follows:

23.49.015 Bonus residential floor area for voluntary agreements for low-income housing and moderate-income housing.

B. Voluntary Agreements for Housing.

1. The voluntary agreement shall commit the applicant to provide or contribute to low-income housing or moderate-income housing, or both, in an amount as set forth in this subsection B. The quantities in this subsection are based on findings of an analysis that quantifies the linkages between new market-rate units in high-rise residential structures in DOC1, DOC2, and DMC zones and the demand that residents of such units generate for low-income housing and moderate-income housing. The amount of such housing and income levels served, and the amount of any cash payment, shall be determined as follows:

a. For the performance option, the applicant shall provide, as low-income housing or moderate-income housing, net rentable floor area equal to eleven (11) percent of the net residential floor area sought as bonus development, computed by multiplying the following

sum by an efficiency factor of eighty (80) percent: (i) the total square footage of gross residential floor area to be developed on the lot above the base height limit for residential use under SMC Section 23.49.008, plus (ii) the excess, if any, in each tower to be developed on the lot, of (X) the total number of square feet of gross residential floor area between the height of eighty-five (85) feet and such base height limit, over (Y) the product of the "average residential gross floor area limit of stories above 85 feet if height does not exceed the base height limit for residential use" as provided in Chart 23.49.058D1, column 2, multiplied by the number of stories with residential use in such tower above eighty-five (85) feet and below such base height limit. All low-income housing or moderate-income housing provided under the performance option shall be on the lot where the bonus development is used or an adjacent lot. The adjacent lot must be within the block where the bonus development is used and either abut the lot where bonus development is used, or be separated only by public right-of-way. All rental housing provided under the performance option shall be low-income housing.

b. For the payment option, the applicant shall pay the lesser of the following:

(1) an amount that equals the approximate cost of developing the same number and quality of housing units that would be developed under the performance option, as determined by the Director; or

(2) (i) in DMC zones, Ten Dollars (\$10) per square foot of net residential floor area sought as bonus development between the height of eighty-five (85) feet and the base height limit for residential use under Section 23.49.008, Fifteen Dollars (\$15) per square foot of the net residential floor area of the first four (4) ~~((floors))~~ stories above the base

1 height limit for residential use, Twenty Dollars (\$20) per square foot of net residential floor area
2 of the next three (3) ~~((floors))~~ stories, and Twenty-five Dollars (\$25) per square foot of net
3 residential floor area of the higher stories ~~((remaining floors up to the maximum residential~~
4 ~~height limit))~~, not to exceed an average of Eighteen Dollars and Ninety-four Cents (\$18.94) per
5 square foot of net residential floor area sought as bonus development; and

6
7 (ii) in DOC1 and DOC2 zones, Eighteen Dollars and
8 Ninety-four Cents (\$18.94) per square foot of net residential floor area sought as bonus
9 development above the base height limit for residential use under Section 23.49.008. Net
10 residential floor area shall be computed by multiplying the total gross floor area sought as bonus
11 development by an efficiency factor of eighty (80) percent. The full amount must be paid to the
12 City in cash, except that if the City shall approve by ordinance the acceptance of specific real
13 property in lieu of all or part of the cash payment, the Housing Director may accept such real
14 property.
15

16 2. Each low-income housing unit provided as a condition to the bonus allowed
17 under this section shall serve only households with incomes at or below eighty (80) percent of
18 median income at the time of their initial occupancy. Each moderate-income housing unit
19 provided as a condition to the bonus allowed under this section shall serve only as owner-
20 occupied housing for households with incomes no higher than median income at the time of their
21 initial occupancy. For rental housing, housing costs, including rent and basic utilities, shall not
22 exceed thirty (30) percent of eighty (80) percent of median income, adjusted for the average size
23 of family expected to occupy the unit based on the number of bedrooms, all as determined by the
24 Housing Director, for a minimum period of fifty (50) years. For owner-occupied housing, the
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1 initial sale price shall not exceed an amount determined by the Housing Director to be consistent
2 with affordable housing for a moderate-income household with the average family size expected
3 to occupy the unit based on the number of bedrooms, and the units shall be subject to recorded
4 instruments satisfactory to the Housing Director providing for sales prices on any resale
5 consistent with affordability on the same basis. The Housing Director may promulgate rules
6 specifying the method of determining affordability, including eligible monthly housing costs.
7
8 The Housing Director may also promulgate rules for determining whether units satisfy the
9 requirements of this section and any requirements relating to down-payment amount, design,
10 quality, maintenance and condition of the low-income housing or moderate-income housing.

11 3. For purposes of this section, housing may be considered to be provided by the
12 applicant seeking bonus development under the performance option if the housing satisfies all of
13 the following conditions:
14

15 (i) It is committed to serve an eligible income group, and for a time period,
16 referred to in this section pursuant to an agreement between the housing owner and the City.

17 (ii) The agreement required by subsection (i) is executed and recorded
18 prior to the issuance of the master use permit to establish the use for the project using the bonus
19 development, but except when subsection (iii)(B) below applies, no earlier than one (1) year
20 prior to issuance of that master use permit.
21

22 (iii) Either (A) the Certificate of Occupancy for the new low-income
23 housing or moderate income housing, or both, must be issued within three (3) years of the date
24 the Certificate of Occupancy is issued for the project using the bonus development, unless the
25 Housing Director approves an extension based on delays that the applicant or housing developer
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1 could not reasonably have avoided, or (B) only in the case of low-income housing on a lot
2 adjacent to the project using bonus development, which housing is subject to a regulatory
3 agreement related to long-term City financing of low-income housing and was developed under a
4 master use permit issued pursuant to a decision that considered the housing together with a
5 project then proposed on that adjacent site, a final Certificate of Occupancy for the low-income
6 housing was issued within five (5) years of the building permit issuance for the project proposed
7 for bonus development on the adjacent lot.
8

9 (iv) If the low-income housing or moderate-income housing is not owned
10 by the applicant, then the applicant made a financial contribution to the low-income housing or
11 moderate-income housing, or promised such contribution and has provided to the City an
12 irrevocable, unconditional letter of credit to ensure its payment, in form and content satisfactory
13 to the Housing Director, in either case in an amount determined by the Housing Director to be,
14 when reduced by the value of any expected benefits to be received for such contribution other
15 than the bonus development, approximately equal to the cost of providing units within the
16 project using the bonus development, and the owner of the low-income housing or moderate-
17 income housing has entered into a linkage agreement with the applicant pursuant to which only
18 the applicant has the right to claim such housing for purposes of bonus development under this
19 section or any other bonus under this title.
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22 4. Any applicant seeking to qualify for bonus floor area based on development of
23 new housing shall provide to the City, prior to the date when a contribution would be due for the
24 cash option under subsection C of this section, an irrevocable bank letter of credit or other
25 sufficient security approved by the Director of the Office of Housing, and a related voluntary
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1 agreement, so that at the end of the three (3) year period specified in subsection B3 of this
2 section, if the housing does not qualify or is not provided in a sufficient amount to satisfy the
3 terms of this section, the City shall receive (i) a cash contribution for housing in the amount
4 determined pursuant to this section after credit for any qualifying housing then provided, plus (ii)
5 an amount equal to interest on such contribution, at the rate equal to the prime rate quoted from
6 time to time by Bank of America, or its successor, plus three (3) percent per annum, from the
7 date of issuance of the first building permit for the project using the bonus. If and when the City
8 becomes entitled to realize on any such security, the Director of the Office of Housing shall take
9 appropriate steps to do so, and the amounts realized, net of any costs to the City, shall be used in
10 the same manner as cash contributions for housing made under this section. In the case of any
11 project proposing to use bonus development for which no building permit is required, references
12 to the building permit in this subsection shall mean the master use permit allowing establishment
13 or expansion of the use for which bonus development is sought.
14

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16 5. Nothing in this chapter shall be construed to confer on any owner or developer
17 of housing, any party to a linkage agreement, or any assignee, any development rights or
18 property interests. Because the availability and terms of allowance of bonus development depend
19 upon the regulations in effect at the relevant time for the project proposing to use such bonus
20 development, pursuant to SMC Section 23.76.026, any approvals or agreements by the Director
21 of the Office of Housing regarding the eligibility of actual or proposed housing as to satisfy
22 conditions of a bonus, and any approval of a linkage agreement and/or assignment, do not grant
23 any vested rights, nor guarantee that any bonus development will be permitted based on such
24 housing.
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1 6. The Director of the Office of Housing is authorized to accept and execute
2 agreements and instruments to implement this section. For the performance option, the voluntary
3 agreement by the applicant or, if the applicant is not the housing owner, then a recorded
4 agreement of the housing owner acceptable to the Housing Director, shall provide for an initial
5 monitoring fee payable to the City of Five Hundred Dollars (\$500) per unit of low-income
6 housing or moderate-income housing provided, and in the case of rental housing, an annual
7 monitoring fee payable to the City of Sixty-five Dollars (\$65) for each such unit. For rental
8 housing, such agreement also shall require the housing owner to submit to the City annual
9 reports with such information as the Housing Director shall require for monitoring purposes. In
10 the case of housing for owner-occupancy, the recorded resale restrictions also shall include a
11 provision requiring payment to the City, on any sale or other transfer, of a fee of Five Hundred
12 Dollars (\$500) for the review and processing of transfer documents to determine compliance
13 with income and affordability restrictions.
14

15 7. If the Housing Director shall certify to the Director that the Housing Director
16 has accepted and there have been recorded one or more agreements or instruments satisfactory to
17 the Housing Director providing for occupancy and affordability restrictions on housing provided
18 for purposes of the performance option under this section, and that either all affordable housing
19 has been completed or the applicant has provided the City with an irrevocable, unconditional
20 letter of credit satisfactory to the Housing Director in the amount of the contribution to the
21 affordable housing approved by the Housing Director, if applicable, then any failure of such
22 housing to satisfy the requirements of this subsection B shall not affect the right to maintain or
23 occupy the bonus development. Unless and until the Housing Director shall so certify, it shall be
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1 a continuing permit condition, whether or not expressly stated, for each project obtaining bonus
2 floor area based on the provision of housing under this subsection, that the low-income or
3 moderate-income housing units, or both, as applicable, shall continue to satisfy the requirements
4 of this subsection throughout the term specified in this section and that such compliance shall be
5 documented to the satisfaction of the Director of the Office of Housing. The Director of the
6 Office of Housing may provide by rule for circumstances in which low-income or moderate-
7 income housing units, or both, as applicable, may be replaced if lost due to casualty or other
8 causes, and for terms and conditions upon which a cash contribution may be made in lieu of
9 continuing to provide low-income housing or moderate-income housing, or both, under the terms
10 of this subsection.
11

12 8. Housing units produced with voluntary contributions made under this section,
13 shall include a range of unit sizes, including units suitable for families with children. Housing
14 units provided to qualify for bonus development shall comply with the following: (i) they shall
15 be provided in a range of sizes comparable to those available to other residents; (ii) to the extent
16 practicable, the number of bedrooms in low-income units and moderate-income units must be in
17 the same proportion as the number of bedrooms in units within the entire building; (iii) the low-
18 income units and moderate-income units shall generally be distributed throughout the building,
19 except that they may be provided in an adjacent building; and (iv) the low-income units and
20 moderate-income units shall have substantially the same functionality as the other units in the
21 building or buildings. The Housing Director is authorized to prescribe by rule standards and
22 procedures for determining compliance with the requirements of this subsection 8. The Housing
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1 Director is further authorized to adopt policies for distribution of unit sizes in housing
2 developments funded by contributions received under this section.

3 9. References in this subsection B to a Certificate of Occupancy for a project
4 mean the first Certificate of Occupancy issued by the City for the project, whether temporary or
5 permanent.

6 ***

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8 Section 3. Subsection E of Section 23.86.006 of the Seattle Municipal Code, which
9 Section was last amended by Ordinance 121476, is amended as follows:

10
11 **23.86.006 Structure height.**

12 ***

13 **E. Height Measurement Techniques in Downtown Zones.**

14 1. Determine the major street property line, which shall be the lot's longest street
15 property line. When the lot has two (2) or more street lot lines of equal length, the applicant shall
16 choose the major street property line.

17
18 2. Determine the slope of the lot along the entire length of the major street
19 property line.

20 3. The maximum height shall be measured as follows:

21 a. When the slope of the major street property line is less than or equal to
22 seven and one-half percent (7- 1/2%), the elevation of maximum height shall be determined by
23 adding the maximum permitted height to the existing grade elevation at the midpoint of the
24 major street property line. On a through lot, the elevation of maximum height shall apply only to
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1 the half of the lot nearest the major street property line. On the other half of a through lot, the
2 elevation of maximum height shall be determined by the above method using the street lot line
3 opposite and parallel to the major street property line as depicted in Exhibit 23.86.006 B.

4 b. When the slope of the major street property line exceeds seven and one-
5 half percent (7- 1/2%), the major street property line shall be divided into four (4) or fewer equal
6 segments no longer than one hundred twenty feet (120') in length. The elevation of maximum
7 height shall be determined by adding the maximum permitted height to the existing grade
8 elevation at the midpoint of each segment. On a through lot, the elevation of maximum height
9 shall apply only to the half of the lot nearest the major street property line. On the other half of a
10 through lot, the elevation of maximum height shall be determined by the above method using the
11 street lot line opposite and parallel to the major street property line, as depicted in Exhibit
12 23.86.006 C.
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15 c. For lots with more than one (1) street frontage, where there is no street
16 property line (~~which~~)that is essentially parallel to the major street property line, when a
17 measurement has been made for the portion of the block containing the major street property
18 line, the next measurement shall be taken from the longest remaining street lot line.
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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 23.49.008, 23.49.015, and 23.86.006 of the Seattle Municipal Code; allowing an increase in building height in portions of the Downtown Mixed Commercial 340/290-400 zone on certain conditions; and making technical revisions.

- **Summary of the Legislation:**

The proposed legislation applies only to the Downtown Mixed Commercial 340/290-400 (DMC 340/290-400) zone in Downtown Seattle. The recommended changes would provide an incentive for open space by allowing additional height for structures in the DMC 340/290-400 zone on full-block lots located on blocks that abut the Downtown Office Core 1 (DOC1) zone. (SMC 23.49.008)

- **Background:**

It has long been recognized that parts of Downtown, including the office core, would benefit from additional usable open space to accommodate the large concentration of residents, employees and visitors in the area. Furthermore, the high cost and limited availability of suitable open space sites severely limits opportunities for increasing the supply. In response to these conditions, City policies encourage the collaboration of public and private interests to develop innovative solutions for increasing available open space.

The proposal would allow additional height under specified conditions in the Downtown Mixed Commercial (DMC) 340/290-400 zone as an incentive to provide open space on a development lot. By addressing the height issue, the proposed amendment will provide opportunities to locate a large open space on a lot while also maintaining most of the lot's development potential.

The proposed changes are not expected to change the nature or increase the number of applications for buildings 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.

The proposal could increase the amount of open space in Downtown areas where the City is seeking to increase the supply of open space. However, the City may need to expend funds to design, improve, operate, and maintain any public open space developed on City-owned property.

- *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:
Height Incentive for Open Space in DMC 340/290-400 Zone**

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

October 2007

INTRODUCTION

The Department of Planning and Development is proposing to amend the Downtown Chapter of the Land Use Code, Chapter 23.49 of the Seattle Municipal Code. The proposed amendments would allow additional height on lots meeting specific conditions in the Downtown Mixed Commercial (DMC) 340/290-400 zone as an incentive to provide open space on a development lot. The additional height would be allowed above the applicable height limits for residential and non-residential uses, without any changes to limits on chargeable floor area.

The Comprehensive Plan includes goals for the desired amount and distribution of open space in the Downtown Urban Center, and it has long been recognized that parts of Downtown, including the office core, would benefit from additional usable open space that is easily accessible to the large concentration of residents, employees and visitors in the area. Furthermore, the high cost and limited availability of suitable open space sites severely limits opportunities for increasing the supply. In response to these conditions, City policies encourage the collaboration of public and private interests to develop innovative solutions for achieving open space goals.

The Downtown Code currently provides both requirements for open space and incentives that encourage public amenities, such as public open space, to be provided on a private development site or at another location nearby. These incentives include floor area bonuses for incorporating certain types of open spaces, like plazas or parcel parks, in private developments. The Code also includes provisions that allow a project to increase floor area through the purchase and transfer of development rights (TDR) from another site that is improved as public open space.

The lack of available land, however, limits the effectiveness of these tools. Despite incentives, a development lot may not be large enough for both open space and permitted development. Often, the height limit is identified as the constraining factor. On a large lot, permitted floor area could be accommodated in multiple structures built within the height limit, but the amount of building coverage needed would likely prevent a significant amount of open space from being provided at ground level. To accommodate a sizeable open space would likely require at least one structure to be eliminated or



significantly reduced in size. However, with additional height, at least a portion of the floor area displaced by the open space could be relocated on floors above another structure. Furthermore, maintaining the lot's development potential in this manner can promote mixed use, since the added height may provide more flexibility to stack housing above the commercial portion of a structure. Mixed use development would generate more activity in the area, with the added benefit of increasing the use and security of the open space.

By addressing the height issue, the proposed amendment will provide opportunities to locate a large open space on a lot while maintaining much of the development potential otherwise allowed on the lot. A development providing a sizeable open space would be allowed additional height to accommodate at least a portion of the floor area that might otherwise have been provided in another structure displaced by the open space. Consequently, the project would not gain more floor area than otherwise allowed; it would simply be able to relocate some of the permitted floor area from the portion of the lot occupied by the open space to a taller tower on the remaining portion of the lot.

While the open space is not required to be open to the general public, it must be accessible to all occupants of the development on the lot, and, to offset the impact of the added height, must be approximately at street level and visible to the general public from abutting sidewalks. However, the blocks best able to use the incentive are currently in public ownership. Whether for public or private use, the open space would increase access to light and air in densely developed downtown areas, enhance view opportunities, and provide visual relief for the surrounding population.

BACKGROUND

Creating more opportunities for open space requires land. In the densely developed zones in and around the Downtown core, land is scarce and costly. Policies governing height limits Downtown are intended to accommodate permitted densities while maintaining a transition between areas of different development intensities. The Downtown Mixed Commercial (DMC) 340/290-400 zone allows high density development, but the zone's height and density limits are tailored to provide a transition between the greater heights and densities allowed in abutting office core zones (DOC1 and DOC2) and the less intensive development of adjacent neighborhoods, including Pioneer Square, portions of the Denny Triangle and Capitol Hill-Pike/Pine. To create opportunities for open space in this zone, the proposed amendment would allow increased height on certain lots under specific conditions that respect the intended transition in height and density.

The current proposal is drawn from an earlier provision that addressed similar issues. In 2001, under Ordinance 120443, the City Council amended the Downtown Code to implement recommendations in the Downtown Urban Center Neighborhood Plan. Among these amendments was a provision to allow height increases of up to 20 percent in the DOC1 and DOC2 zones for projects complying with certain conditions, including an option to provide open space on at least 25 percent of the lot. At the time, the height

limits were 450 feet in DOC1 and 300 feet in DOC2. This provision was rescinded in 2006 when, under Ordinance 122054, the height and density limits in these zones were significantly increased. The 2006 amendments also established the DMC 340/290-400 zone. This zone replaced some areas previously zoned DOC2, retaining the original DOC2 density limit of 10 FAR. The height limit in the DMC zone is somewhat higher than the earlier DOC2 limits of 240 and 300 feet, but lower than the current limit of 500 feet. The proposal is to reapply a height incentive similar to the 2001 provision for DOC1 and DOC2, but limited to this new zone, which has characteristics similar to the earlier DOC2 zone, and limited to lots abutting DOC 1, which allows unlimited height.

PROPOSED AMENDMENTS

Under the proposal, the Downtown Chapter (23.49) of the Land Use Code would be amended as follows:

Amend 23.49.008 to allow additional height in the DMC 340/290-400 zone as an incentive to projects that include significant open space on a lot. Land Use Code Section 23.49.008 would be amended to include new provisions regarding maximum structure heights. Special provisions would be added to permit additional height on lots in the DMC 340/290-400 zone that include a significant amount of open space.

- **Amount of height increase permitted.** The maximum height for non-residential use could be increased by 35%, (340 feet to 459 feet, or 119 feet), allowing about nine or ten more stories. The maximum height for residential use could be increased by 30%, (400 feet to 520 feet, or 120 feet), allowing about 12 more residential floors. The differences in the percentage of height increase allows for the added height in feet to be essentially the same for each use. The maximum permitted height of 520 feet for a residential or mixed use structure with housing on the upper floors and 459 feet for a non-residential structure is lower than the heights permitted in the DOC1 zone, which is not subject to a height limit. Examples of the heights of structures in the DOC1 zone along this zoning edge include 967 feet for Columbia Center, 740 feet for Two Union Square, and 574 feet for Wells Fargo Center.
- **Limits on eligible lots.** In addition to restricting the height increase to the DMC 340/290-400 zone, an eligible lot would also need to be a full-block that abuts a DOC1 zone. To ensure that granting the additional height will maintain the desired transition in development scale between zones; this additional restriction will ensure that the height increase will only be allowed on those blocks on the edges of a zone allowing even greater height.
- **Amount of required open space.** The open space is required to be a minimum of 35% of the total area of the lot, or 25,000 square feet, whichever is greater. For reference, a minimum area of 25,000 square feet is a little less than half of the area of a typical square block in the DMC zone south of DOC1. Downtown parks that are roughly in this size range include City Hall Park next to the King County Courthouse,

Occidental Square Park in Pioneer Square, and Victor Steinbrueck Park in the Pike Place Market.

- **Bonus residential floor area.** The amendment does not affect the provisions for gaining additional chargeable floor area above the base FAR¹ limit, and the base and maximum FAR limits are unchanged. However, residential use is exempt from chargeable floor area calculations. Since the floor area bonus for residential structures is based on structure height, the additional floor area allowed for residential use above the current height limit would be gained through the existing provisions for a residential floor area bonus in Section 23.49.015.
- **Additional bulk controls.** To address the bulk of structures gaining added height, only one tower would be permitted on a lot developed with a structure that exceeds the current maximum height limits. Furthermore, additional residential floors above 400 feet would be subject to the limits established in the Code for floor sizes in residential towers. Since non-residential use is subject to an FAR limit, which is not changed under this proposal, a commercial structure gaining additional height would likely be less bulky, given that the same total amount of floor area would be distributed over more, smaller floors.
- **Permitted coverage of open space.** The proposal establishes that a majority of the area of the open space must be open to the sky. However, a portion of the space is allowed to be covered to accommodate features that contribute to pedestrian comfort and active use of the space, such as overhead weather protection, retail kiosks and pedestrian shelters.

ANALYSIS

Relationship to Existing Plans and Policies

Seattle's Comprehensive Plan and Downtown neighborhood plans recognize the public benefit of open space and include goals and policies for increasing open space Downtown. The goals and policies from Downtown neighborhood plans that are most relevant to the proposal (see Appendix A) support measures such as height incentives to increase the supply of open space in Downtown. Policies related to height emphasize the need to maintain a transition in development scale between areas and to conform to the desired urban form with highest heights in the core tapering downward to the water and adjacent neighborhoods.

¹ FAR, or floor area ratio, is the relationship between the size of the lot and the amount of floor area permitted to be on it. For example, on a lot that is 10,000 square feet in area, 10 FAR would allow a building that has 100,000 square feet of non-exempt floor area.

Likely use of Height Incentive for Open Space

Under the proposal, the height incentive would be limited to one Downtown zone, the DMC 340/290-400 zone. There are approximately 26 blocks in this zone. However, the increased height would only be allowed on full-block lots abutting the DOC1 zone. This additional limitation reduces the number of eligible blocks to about seven. Since the DOC1 zone is not subject to a height limit, structures that might gain additional height on the edge in the DMC zone would be lower than those allowed, and in many cases, already existing, in the abutting DOC1 zone.

Out of the estimated seven eligible blocks, three blocks seem to have the greatest potential for using the incentive of increased height by providing open space on the same development lot: 1) the former Public Safety Building site, now proposed to be developed with public open space and a mixed use structure; 2) the King County Administration Building site, where there is interest in redevelopment to consolidate County office space; and 3) County property on the block south of Jefferson Street and the King County Correctional Facility, a portion of which is now occupied by a new parking garage.

Impact on Amount of Permitted Development on a Lot.

The amount of commercial development permitted on a lot is controlled by a floor area ratio (FAR). On a lot that includes a large open space, the amount of permitted floor area is based on the entire area of the lot and could be accommodated in structures on the remaining portion of the lot. Under the proposed incentive, as long as the remaining portion of the lot is large enough for the building footprint, and the height limit is sufficient to allow the building to be tall enough to accommodate all the floor area permitted by the FAR limit, there would be no difference in the amount of commercial floor area allowed. A square block typical of the DMC area south of the office core is roughly 60,000 square feet. The maximum FAR limit of 10 would allow 600,000 square feet of chargeable floor area, which could be accommodated in a 26 story tower with 23,100 square foot floors at a height of about 340 feet, a 30 story tower with 20,000 square foot floors at a height of about 390 feet, or a 34 story tower with 18,000 square foot floors at a height of 442 feet. A commercial structure could also include additional floor area for uses that are exempt from FAR calculations, such as street level retail uses, or space occupied by interior bonusable public amenities, such as a public atrium.

Residential use is not subject to an FAR limit, and is permitted to the extent that it can be accommodated by the height and bulk limits and tower spacing requirements established for the zone. Consequently, any portion of a lot occupied by open space is area that otherwise could have been occupied by residential use or a limited number of other uses that are also exempt from the calculations of FAR.

The chart below compares what could be built under current conditions in the DMC 340/290-400 zone on a 60,000 square foot full block site with what could be built if an open space were located on the lot, with or without the proposed height increase. The calculations of floor area are based on the maximum use of the density limits and/or an

estimate of the floor area permitted by the building envelope for residential use. Other conditions that are not accounted for may further constrain the amount of floor area that could actually be achieved. For example, the placement of towers on the lot to maintain views and ensure marketability of the project may limit the number or height of towers, or dictate smaller floor sizes than the Code allows.

Development scenarios for 60,000 sq. ft. block abutting a DOC1 zone		
Current Zoning (DMC 340/290-400) with no open space on the lot		
Use	Floor area	Building Type
Commercial only	600,000 sq. ft. (10 FAR)	One 26-story office tower (340') with 23,000 sq. ft./ floor average
Residential only	1,222,000 sq. ft. residential	Two 39-story residential towers and base and one 15-story residential structure (160')* with 280,000 sq. ft.
Mixed use	600,000 sq. ft. commercial <u>402,400 sq. ft. residential</u> 1,002,400 sq. ft. total	One 32 story mixed use structure with 26 floors office (600,000 sq. ft.) and two towers above with 6 floors of residential each (122,400 sq. ft.) and one 15-story residential structure (160')* with 280,000 sq. ft.
Current Zoning (DMC 340/290-400) with open space on the lot		
Commercial with 25,000 sq. ft. open space	600,000 sq. ft. (10 FAR)	One 26-story office tower (340') with 23,000 sq. ft./ floor average
Residential with 25,000 sq. ft. open space	833,200 sq. ft. residential	Two 39-story residential towers and base
Mixed use with 25,000 sq. ft. open space	600,000 sq. ft. commercial <u>122,400 sq. ft. residential</u> 722,400 sq. ft. total	One 32 story mixed use structure with 26 floors office (600,000 sq. ft.) and two towers above with 6 floors of residential each (122,400 sq. ft. total)
Proposed Amendment		
30% height increase for residential (520') and 35% of lot area provided as open space		
Commercial with 25,000 sq. ft. open space	600,000 sq. ft. (10 FAR)	One 26 story office tower (340') with 23,000 sq. ft./ floor average
Residential with 25,000 sq. ft. open space	660,000 sq. ft. residential	One 51-story residential tower and base
Mixed use with 25,000 sq. ft. open space	600,000 sq. ft. commercial <u>192,600 sq. ft. residential</u> 792,600 sq. ft. total	One 44 story mixed use structure with 26 floors office (600,000 sq. ft.) and 18 floors of residential above (192,600 sq. ft. total)

*maximum height of structure allowed without tower spacing

Except for a commercial-only development, which remains the same for all scenarios, development potential is reduced when open space is provided on the lot. However, for a mixed use scenario, the height increase allows some of the lost development potential to be recaptured in a taller structure on the remaining portion of the site. Under the proposed amendment, the restriction of one tower per lot reduces development potential for the residential-only scenario compared to existing conditions with or without open space.

Effect of Proposal on Use of Other Bonus and TDR Programs

The amendment does not change the use of current bonus and TDR programs for adding chargeable floor area above the base FAR, as specified in Section 23.49.011. The base FAR of 5 and the maximum 10 FAR is also unchanged. Since the commercial floor area

bonus is tied to FAR increases and not height, the increase in height allowed for a commercial structure will not affect the use of bonuses and TDR for gaining chargeable bonus FAR. However, it may allow for a less bulky tower by distributing the permitted commercial floor area over more floors that would be smaller than otherwise required to accommodate the maximum FAR within the current height limit.

Similarly, all residential floor area above the 290 foot base height limit for residential use would need to be gained through the residential floor area bonus, as specified in Section 23.49.015. To the extent that the added height allows more residential floor area above the 290 foot base height limit for residential use, the amount of floor area gained through the bonus may actually increase. However, because housing is not subject to a density limit, any area of the lot that is occupied by open space is area that could have been occupied by residential use. Therefore, it is possible that a block may include one fewer residential tower than might otherwise be accommodated, and that could reduce the amount of floor area gained through use of the residential floor area bonus. However, any residential floor area added above the height limit under this provision would need to be gained through the affordable housing bonus, which could offset the potential reduction in bonus floor area.

In the mixed use example above, the current amount of floor area that could be added above the maximum commercial portion of a mixed use structure up to the 400 foot height limit is 122,400 square feet in two towers; which could increase to 192,600 sq. ft. in a single tower with the additional height allowed. The amount of square footage of affordable housing required would be based on the total amount of bonus floor area added, including the floor area exceeding the current 400 foot height limit.

Since providing the open space on the lot is a required condition for gaining the additional height allowed, the Code stipulates that this open space cannot be used as an amenity for a floor area bonus to gain additional chargeable floor area above the base FAR. However, as open space accessible to building occupants, the space may be used to meet the open space requirement for office space, since it is desirable to encourage use of the space by those working nearby. It may also be used to meet the common recreation area requirement for residential use.

RECOMMENDATIONS

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

- **Allow additional height in the DMC 340/290-400 zone for structures on full-block lots that provide a large open space. Include standards to ensure that the open space will be visible and usable and will offset the impacts of added height. (23.49.008).**

- **Limit the lots eligible for the bonus to full-blocks abutting DOC1, and limit the amount of the height increase to ensure that a transition in development scale will be maintained between zones of different intensities. (23.49.008).**
- **Specify that under the incentive the added residential floor area above current height limits would be gained as bonus residential floor area. (23.49.015).**
- **Remove current code language in the chapter on measurements to resolve any possible inconsistency regarding the maximum height limits. (23.86.006).**

DPD, in making recommendations, has considered the comments of affected departments, other government agencies, and citizens. Their comments, as well as all environmental documentation that was prepared relevant to the proposed amendments, are available upon request.

DPD recommends approval of the proposed ordinance

APPENDIX A: Relationship to Existing Plans and Policies

Comprehensive Plan

- UV46 Strive to accomplish goals in Urban Village Appendix B for the amount, types, and distribution of open space.
- UV55 Seek to provide public open space in conjunction with major public projects such as utility and transportation projects, with the amount of open space based on the size of the project, open space needs of the adjacent areas, and the opportunities provided by the particular project.
- UV56 Emphasize flexibility in planning, designing, and developing new open space and encourage development of innovative projects.
- CR4 Continue Seattle's long tradition of providing a rich variety of public open spaces, community gardens, and public facilities to provide residents with recreational and cultural opportunities, promote environmental stewardship and attract desirable economic development.
- CRG5 Promote the development or expansion of cultural facilities, including libraries, schools, parks, performing arts and art exhibition facilities, museums, and community centers, in areas designated as urban villages and urban centers.

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:
- ***
6. creating new downtown parks and open spaces at strategic locations;
- DT-LUP4 Downtown Mixed Commercial (DMC)
- ***
- promote development diversity and compatibility with adjacent areas through a range of height limits.
- DT-UDP5 Use the following criteria in determining appropriate height limits and provisions for limited additions and exceptions:
1. Transition. Generally taper height limits from an apex in the office core toward the perimeter of downtown, to provide transitions to the waterfront and neighborhoods adjacent to downtown.
- ***



5. Height Above Specified Limits. Increased heights beyond the limits specified for downtown zones may be considered only when the public purpose served by the additional height justifies the higher buildings, and the height increase is generally consistent with the criteria above.

DT-OSP1 Expand the (downtown) open space system through:

1. development of new parks and/or other open spaces

3. incorporation of open space, as appropriate, in major public projects;
4. a system of incentives to promote development of public open space as part of new downtown projects through bonuses for private development of public open space and/or transfer of development rights from sites providing public open space;

DT-OSP3 Consider major public projects, such as the City Hall and convention center, as opportunities for adding significant public open space downtown. Consider including public open space in these projects when it is consistent with their function and integrate new open space with surrounding parks and public spaces, as appropriate. Any redevelopment of the existing Convention Place transit station site should include a public open space component.

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-P6 Strive to take advantage of opportunities to develop new public open space and encourage development of a system of connected green spaces and open public areas.

**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 allow a height increase in the Downtown Mixed Commercial 340/290-400 (DMC 340/290-400) zone as an incentive for providing public open space on a lot.

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

Address of Proposal: Downtown Mixed Commercial 340/290-400 (DMC 340/290-400) zone

SUMMARY OF PROPOSED ACTION

The proposal is an ordinance amending Sections 23.49.008 of the Seattle Municipal Code, revising regulations for the height of structures in the Downtown Mixed Commercial 340/290-400 zone in Downtown Seattle to allow additional development above the current applicable height limits on lots meeting specific criteria that include a sizeable public open space. To maintain the desired transition in development scale between different zones, the height increase is limited to lots on blocks abutting the most intensive Downtown office core zone, DOC1.

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

The Comprehensive Plan includes goals for the desired amount and distribution of public open space in the Downtown Urban Center, and it has long been recognized that parts of Downtown, including the office core, would benefit from additional usable open space that is easily accessible to the large concentration of residents, employees and visitors in the area. Creating more opportunities for open space requires land. In the densely developed zones in and around the Downtown core, land is scarce and costly. However, in some locations, the potential exists to create room for open space on a lot by providing a height incentive to allow more intensive development on the remaining portion of the lot.

Recognizing that the high cost and limited availability of suitable sites severely limits opportunities for increasing the supply of open space, City policies encourage the collaboration of public and private



interests to develop innovative solutions for achieving open space goals. The Downtown Code currently provides incentives that encourage public amenities, such as open space, to be provided on a private development site or at another location nearby. These incentives include floor area bonuses for projects that incorporate certain types of open spaces, like plazas or parcel parks, in private developments, and provisions that allow a project to increase floor area through the purchase and transfer of development rights (TDR) from another site that is improved as public open space.

The lack of available land, however, limits the effectiveness of these tools. Despite the incentives, a development lot may not be large enough for both the open space and the buildings needed to accommodate permitted development. Often, the height limit is identified as the constraining factor. By addressing the height issue, the proposed amendment will provide opportunities to locate a large open space on a lot while maintaining most of the development potential on the lot. A development providing a sizeable public open space would be allowed additional height to accommodate at least a portion of the floor area that might otherwise have been provided in another structure displaced by the open space. Consequently, the project doesn't gain more floor area than otherwise allowed through the height increase, it is simply able to relocate some of the permitted floor area from the portion of the lot occupied by the open space to a taller tower on the remaining portion of the lot.

Policies for height limits Downtown seek to accommodate permitted densities while maintaining a transition between areas of different development intensities. The Downtown Mixed Commercial (DMC) 340/290-400 zone allows high density development, but the zone's height and density limits are tailored to provide the desired transition between the greater heights and densities allowed in abutting office core zones (DOC1 and DOC2) and the less intensive development of adjacent neighborhoods, including Pioneer Square, portions of the Denny Triangle and Capitol Hill-Pike/Pine. To create opportunities for public open space in this zone, the proposed amendment would allow increased height on certain lots under specific conditions that respect the intended transition in height and density. These limits on eligible lots will ensure that the new development granted the additional height will be below the height permitted in the abutting, more intensive zone.

The proposal draws from an earlier provision addressing similar issues. In 2001, under Ordinance 120443, Council amended the downtown Code to implement recommendations in the Downtown Urban Center Neighborhood Plan. Among the amendments was a provision to allow height increases of up to 20 percent in the DOC1 and DOC2 zones for projects complying with certain conditions, including an option to provide open space on at least 25 percent of the lot. At the time, the height limits were 450 feet in DOC1 and 240 and 300 feet in DOC2. This provision was rescinded in 2006 when, under Ordinance 122054, the height and density limits in these zones were significantly increased. The 2006 amendments also established the DMC 340/290-400 zone. This zone replaced the previous DOC2 zoning in some areas, while retaining the original DOC2 density limit of 10 FAR. The height limit in the DMC zone is somewhat higher than the earlier DOC2 limits of 240 and 300 feet, but below the current 500 foot limit. The proposal is to reapply a height incentive similar to the 2001 provision for DOC1 and DOC2, but limited to this new zone, which has characteristics similar to the earlier DOC2 zone.

Proposed Action

The proposed ordinance will amend Section 23.49.008 regarding Downtown height limits to provide a height incentive for developments that include public open space, defined as civic space, on lots meeting specific criteria in the DMC 340/290-400 zone.



- Lots eligible for the height increase must be located in a DMC 340/290-400 zone on blocks that abut the DOC1 zone.
- The proposed height increase would allow an additional 30% above the 400' maximum residential height limit (520 feet) for lot on a block abutting a DOC1 zone and an additional 35% above the 340 foot height limit (459 feet) for non-residential use for a lot on a block abutting a DOC1 zone.
- The increase in height above the maximum height limit is subject to bulk controls and a limitation that only one tower may be located on the lot with the open space. Additional floor area above the height limit for residential use must also be gained as bonus residential floor area.
- To be eligible for the height increase, a minimum amount of public open space, defined as civic space, must be provided on the lot. The minimum amount of required civic space is 35% of the lot area or 25,000 square feet, whichever is greater.

In addition, Section 23.84.006 is amended to add a definition for civic space, the type of open space that must be provided to gain the additional height.

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 fall 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 analyses included in the Draft and Final Environmental Impact Statements on Downtown Height and Density Changes prepared in 2003 and 2005, respectively; 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 September, 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 in a significant manner.

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 adverse impacts that might result from the proposal. However, it is also noted that increasing the supply of open space is a recognized public benefit that enhances the quality of the Downtown environment by providing a public amenity for residents, workers and visitors, and by increasing access to light and air in densely developed areas.

ELEMENTS OF THE ENVIRONMENT

Adoption of the proposed amendment 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 amendment is unlikely to result in any significant adverse natural environmental impacts. From a development capacity perspective, the proposed amendment 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. Due to their narrow scope of reference, the proposed provisions might only be used for two or three 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. While taller structures could result in extended shadow impacts, the potential reduction in the bulk of structures, fewer towers on a block, and the increase in open space area on the block could offset any potential negative impacts.

Housing

Funding for affordable housing and childcare otherwise provided in commercial development through the use of TDR or bonus programs would not be reduced in projects that gain added height by providing open space, since commercial development built to the maximum FAR allowed could still be accommodated on the portion of the lot not occupied by the open space. Because housing is not subject to a density limit,



any area of the lot that is occupied by open space is area that could have been occupied by residential use. Therefore, it is possible that a block may include one less residential tower than might otherwise be accommodated, and that could reduce the amount of floor area gained through use of the residential floor area bonus. However, any residential floor area added above the height limit under this provision would be gained through the affordable housing bonus, which could offset the potential reduction in bonus floor area.

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.

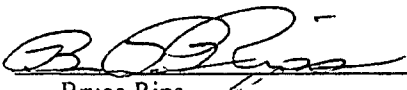
Individual projects may be subject to environmental review if the SEPA thresholds are triggered. Projects subject to SEPA could be conditioned to mitigate any adverse impact on the natural or built environment.

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.

- [X] 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:  Date: 9/12/07
Bruce Rips
Land Use Planner III
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 allow a height increase in the Downtown Mixed Commercial 340/290-400 (DMC 340/290-400) zone as an incentive for development to provide public open space, defined as civic space.

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:

September 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 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 2005 that analyzed separate, but related changes to permitted height and density affecting the applicable area of Downtown, which was zoned DMC 340/290-400 in 2006 under Ordinance 122054.



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 DMC 340/290-400 zone. The proposal could potentially affect properties with development permit applications in process or pending by allowing additional height above the currently applicable height 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 action:

Amending Chapter 23.49 of the Seattle Land Use Code to allow a height increase on lots that satisfy specified conditions in the DMC340/290-400 zone, as an incentive for new projects to provide public open space on the same development lot.

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 lots meeting special criteria in the DMC 340/290-400 zone that are located on blocks abutting the Downtown Office Core (DOC1) zone. These lots are located in portions of the DMC 340/290-400 zone within the Commercial Core neighborhood of the Downtown Urban Center, and include: 1) one block occupied by the Washington State Convention and Trade Center and ACT Theater that is bounded by 7th and 8th Avenues and Pike and Union Streets; and 2) a six block area along the southern edge and a portion of the eastern edge of the DOC1 zone, separating the DOC1 zone from the Pioneer Square and International District Special Review Districts and historic development along the 1st Avenue corridor.

B. ENVIRONMENTAL ELEMENTS:

1. Earth

- a. General description of site (circle one): Flat, rolling, hilly, steep slopes, mountainous, other.
Includes both sloping and flat areas, with sloping areas mostly south of the office core and one flat area north of the office core.
- 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 seven blocks, with mostly high density urban development accommodating a diverse mix of office, retail, government, residential, parking, cultural and entertainment uses. The convention center, One Convention Place office tower, and ACT Theater are located on the block in the northern portion of the area.

- 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 highrise commercial and government buildings. The scale of development ranges from smaller structures on small lots to large, full block developments. Existing development includes structures from a variety of periods 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, although redevelopment is currently underway on several lots and additional lots are expected to be redeveloped in the future.

- e. What is the current zoning classification of the site?
Downtown Mixed Commercial 340/290-400 (DMC 340/290-400).

- 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 limits the lots eligible for a height increase according to criteria specifically intended to maintain the desired transition in development scale in Downtown highrise areas. Providing open space to gain the added height should have a positive impact on aesthetics in the downtown area to the extent that open space will increase access to light and air, add variety to the development pattern, and provide visually interesting spaces for public use and enjoyment.

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.**

Four designated landmark structures and other structures under consideration for designation as landmarks are located in the area.
- 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. Currently, there are four designated Seattle Landmarks located on the affected blocks in the DMC 340/290-400 zone, including a performing arts theater (Eagle Temple Building/ACT Theater); office buildings (Dexter Horton Building and Exchange Building); and a commercial structure (Puget Sound Bank/Bank of California Building).

In addition to structures currently designated as Landmarks, the City is in the process of surveying other Downtown structures potentially eligible for a Landmark designation, including two additional properties located on the affected blocks in the DMC 340/290-400 zone that have a high likelihood of meeting criteria for Landmark designation. These include the Norton Building and the United Way Building.

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

Current incentives are in place Downtown to address impacts on Landmark structures, including provisions for the transfer of development rights (TDR). One of the designated Landmarks in the area has already participated in the TDR program. The blocks on which the landmark structures are located are not likely to be affected by the type of large lot redevelopment addressed by the proposed incentive.

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 in the area south of the DOCI zone.

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.

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.

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?**

The proposed changes would result in no direct impacts and are unlikely to result in indirect or cumulative impacts related to environmentally sensitive areas or areas designated for governmental protection.

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

None proposed. Current incentives are in place Downtown to address impacts on Landmark structures, including provisions for the transfer of development rights (TDR) from Landmark structures.

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 providing additional public open space in a densely developed urban environment. Providing sizeable open space 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.

Allowing additional height could result in additional shadow impacts. For projects gaining additional height for commercial structures, since the commercial FAR limit would remain the same, a taller commercial structure would likely be less bulky, which could reduce shadow impacts. The required open space could also be sited in such a way as to minimize impacts on adjacent areas.

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: 8/31/07

Reviewed by:

[Signature]

Date:

9/12/07



City of Seattle

Gregory J. Nickels, Mayor

Office of the Mayor

October 23, 2007

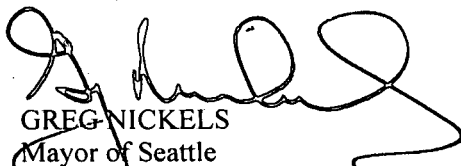
Honorable Nick Licata
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Licata:

I am pleased to transmit the attached proposed Council Bill that would amend the City's Land Use Code to allow additional height on new construction as an incentive to include large open space in the Downtown core. Seattle's Comprehensive Plan and Downtown neighborhood plans emphasize the desire for more open space in the densely developed Downtown core. However, the high cost and limited availability of suitable sites severely limits opportunities for additional open space. The proposed changes established in this legislation encourage collaboration between public and private interests to develop innovative solutions for achieving open space goals.

Your support of this Bill will further enhance our ability to accommodate new development while ensuring that public amenities are available to support the increased density. Thank you for your consideration of this legislation. Should you have questions please contact Dennis Meier at 684-8270.

Sincerely,



GREG NICKELS
Mayor of Seattle

.cc: Honorable Members of the Seattle City Council

600 Fourth Avenue, 7th Floor, P.O. Box 94749, Seattle, WA 98124-4749

Tel: (206) 684-4000, TDD: (206) 615-0476 Fax: (206) 684-5360, Email: mayors.office@seattle.gov

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1 In certain zones, as specified in this section, the maximum structure height may
2 be allowed only for particular uses or only on specified conditions, or both.

3 2. Except in the PMM zone, the base height limit for a structure is the lowest of
4 the maximum structure height or the lowest other height limit, if any, that applies pursuant to the
5 provisions of this title based upon the uses in the structure, before giving effect to any bonus for
6 which the structure qualifies under this chapter and to any special exceptions or departures
7 authorized under this chapter. In the PMM zone the base height limit is the maximum height
8 permitted pursuant to urban renewal covenants.
9

10 3. In zones listed below in this subsection A3 there is a base height limit for
11 portions of a structure containing nonresidential and live-work uses, which is shown as the first
12 figure after the zone designation (except that there is no such limit in DOC1), and a base height
13 limit that applies to portions of a structure in residential use, shown as the figure following the
14 "/". The third figure shown is the ((highest possible applicable)) height limit for a structure that
15 uses the bonus available under 23.49.015 and has no nonresidential or live-work use above the
16 first height limit shown for that zone:
17

18 DOC1 Unlimited/450 -- Unlimited

19 DOC2 500/300-500

20 DMC 340/290-400

21 DMC 240/290-400.

22
23 4. A structure in a DMC 340/290-400 zone on a lot comprising a full block that
24 abuts a DOC1 zone along at least one street frontage may gain additional structure height of
25 thirty (30) percent above the maximum residential height limit if the structure uses the bonus
26

1 available under 23.49.015, or thirty-five (35) percent above 340 feet if that bonus is not used, in

2 either case on the following conditions:

3 a. Only one tower is permitted on the lot;

4 b. Any additional floor area above the maximum height limit for
5 nonresidential or live-work use, as increased under this subsection A4, is occupied by residential
6 use;

7 c. The average residential gross floor area and maximum residential floor
8 area of any story in the portion of the tower permitted above the base residential height limit
9 does not exceed the limits prescribed in Section 23.49.058D1;

10 d. Any residential floor area allowed above the base residential height
11 limit under this provision is gained through voluntary agreements to provide low-income or
12 moderate-income housing according to the provisions of 23.49.015;

13 e. At least thirty-five (35) percent of the lot area, or a minimum of 25,000
14 square feet, whichever is greater, is in open space use substantially at street level meeting the
15 standards, and subject to the allowances for coverage, in this subsection e.

16 i. The location and configuration of the space shall enhance
17 solar exposure, allow easy access to entrances to the tower serving all tenants and occupants
18 from streets abutting the open space, and allow convenient pedestrian circulation through all
19 portions of the open space. The open space shall be entirely contiguous and physically
20 accessible. To offset the impact of the taller structure allowed, the open space must have
21 frontage at grade abutting sidewalks, and be visible from sidewalks, on at least two streets. The
22 elevation of the space may vary, especially on sloping lots where terracing the space facilitates

connections to abutting streets, provided that grade changes are gradual and do not significantly disrupt the continuity of the space, and no part of the open space is significantly above the grade of the nearest abutting street. The Director may allow greater grade changes, as necessary, to facilitate access to transit tunnel stations.

ii. Up to twenty (20) percent of the area used to satisfy the open space condition to allowing additional height may be covered by the following features: permanent, freestanding structures, such as retail kiosks, pavilions, or pedestrian shelters; structural overhangs; overhead arcades or other forms of overhead weather protection; and any other features approved by the Director that contribute to pedestrian comfort and active use of the space. The following features within the open space area may count as open space and are not subject to the percentage coverage limit: temporary kiosks and pavilions, public art, permanent seating that is not reserved for any commercial use, solar collectors, exterior stairs and mechanical assists that provide access to public areas and are available for public use, and any similar features approved by the Director.

f. Open space used to satisfy the condition to allowing additional height in this section is not eligible for a bonus under Section 23.49.013.

g. Open space used to satisfy the condition to allowing additional height in this section may qualify as common recreation area to the extent permitted by SMC subsection 23.49.011B and may be used to satisfy open space requirements in SMC subsection 23.49.016C1 if it satisfies the standards of that subsection.

((4))5. In the DRC zone, the base height limit is eighty-five (85) feet, except that, subject to the conditions in subsection A((5))6 of this section:

1 a. The base height limit is one hundred fifty (150) feet ~~((when))~~ if any of
2 the following conditions is satisfied:

3 i. ~~((When))~~ all portions of a structure above eighty-five (85) feet
4 contain only residential use; or

5 ii. ~~((When))~~ at least twenty-five (25) percent of the gross floor
6 area of all structures on a lot is in residential use; or

7 iii. ~~((When))~~ a minimum of 1.5 FAR of retail sales and service or
8 entertainment uses, or any combination thereof, is provided on the lot.
9

10 b. For residential floor area created by infill of a light well on a Landmark
11 structure, the base height limit is the lesser of one hundred fifty (150) feet or the highest level at
12 which the light well is enclosed by the full length of walls of the structure on at least three (3)
13 sides. For the purpose of this subsection a light well is defined as an inward modulation on a
14 non-street facing facade that is enclosed on at least three (3) sides by walls of the same structure,
15 and infill is defined as an addition to that structure within the light well.
16

17 ~~((5))~~6. Restrictions on Demolition and Alteration of Existing Structures.

18 a. Any structure in a DRC zone that would exceed the eighty-five (85)
19 foot base height limit shall incorporate the existing exterior street front facade(s) of each of the
20 structures listed below, if any, located on the lot of that project. The City Council finds that these
21 structures are significant to the architecture, history and character of downtown. The Director
22 may permit changes to the exterior facade(s) to the extent that significant features are preserved
23 and the visual integrity of the design is maintained. The degree of exterior preservation required
24
25
26
27
28

will vary, depending upon the nature of the project and the characteristics of the affected structure(s).

b. The Director shall evaluate whether the manner in which the façade is proposed to be preserved meets the intent to preserve the architecture, character and history of the Retail Core. If a structure on the lot is a Landmark structure, approval by the Landmarks Preservation Board for any proposed modifications to controlled features is required prior to a decision by the Director to allow or condition additional height for the project. The Landmarks Preservation Board's decision shall be incorporated into the Director's decision. Inclusion of a structure on the list below is solely for the purpose of conditioning additional height under this subsection, and shall not be interpreted in any way to prejudice the structure's merit as a

Landmark:

Sixth and Pine Building	523 Pine Street
Decatur	1513-6th Avenue
Coliseum Theater	5th and Pike
Seaboard Building	1506 Westlake Avenue
Fourth and Pike Building	1424-4th Avenue
Pacific First Federal Savings	1400-4th Avenue
Joshua Green Building	1425-4th Avenue
Equitable Building	1415-4th Avenue
Mann Building	1411-3rd Avenue
Olympic Savings Tower	217 Pine Street
Fischer Studio Building	1519-3rd Avenue

1	Bon Marche (Macy's)	3rd and Pine
2	Melbourne House	1511 - 3rd Avenue
3	Former Woolworth's Building	1512 - 3rd Avenue

4 c. The restrictions in this subsection ((5))6 are in addition to, and not in
5 substitution for, the requirements of the Landmarks Ordinance, SMC Chapter 25.12.

6 ((6))7. The applicable height limit for a structure is the base height limit plus any
7 height allowed as a bonus under this chapter and any additional height allowed by special
8 exception or departure, or by subsection A4 of this section. The height of a structure shall not
9 exceed the applicable height limit, except as provided in subsections B, C and D of this section.
10

11 ((7))8. The height of rooftop features, as provided in subsection D, is allowed to
12 exceed the applicable height limit.
13

14 B. Except on lots that gain additional height under the provisions of subsection A4 of this
15 section, s((S))structures located in DMC 240/290-400 or DMC 340/290-400 zones may exceed
16 the maximum height limit for residential use by ten (10) percent of that limit if:

17 1. the facades of the portion of the structure above the limit do not enclose an area
18 greater than nine thousand (9,000) square feet, and

19 2. the enclosed space is occupied only by those uses or features otherwise
20 permitted in this Section as an exception above the height limit.
21

22 This exception shall not be combined with any other height exception for screening or
23 rooftop features to gain additional height.
24

25 ***
26
27
28

Section 2. Subsection B of Section 23.49.015 of the Seattle Municipal Code, which
Section was last amended by Ordinance 122235, is amended as follows:

**23.49.015 Bonus residential floor area for voluntary agreements for low-income housing
and moderate-income housing.**

B. Voluntary Agreements for Housing.

1. The voluntary agreement shall commit the applicant to provide or contribute to
low-income housing or moderate-income housing, or both, in an amount as set forth in this
subsection B. The quantities in this subsection are based on findings of an analysis that quantifies
the linkages between new market-rate units in high-rise residential structures in DOC1, DOC2,
and DMC zones and the demand that residents of such units generate for low-income housing
and moderate-income housing. The amount of such housing and income levels served, and the
amount of any cash payment, shall be determined as follows:

a. For the performance option, the applicant shall provide, as low-income
housing or moderate-income housing, net rentable floor area equal to eleven (11) percent of the
net residential floor area sought as bonus development, computed by multiplying the following
sum by an efficiency factor of eighty (80) percent: (i) the total square footage of gross residential
floor area to be developed on the lot above the base height limit for residential use under SMC
Section 23.49.008, plus (ii) the excess, if any, in each tower to be developed on the lot, of (X) the
total number of square feet of gross residential floor area between the height of eighty-five (85)
feet and such base height limit, over (Y) the product of the "average residential gross floor

1 area limit of stories above 85 feet if height does not exceed the base height limit for residential
2 use" as provided in Chart 23.49.058D1, column 2, multiplied by the number of stories with
3 residential use in such tower above eighty-five (85) feet and below such base height limit. All
4 low-income housing or moderate-income housing provided under the performance option shall
5 be on the lot where the bonus development is used or an adjacent lot. The adjacent lot must be
6 within the block where the bonus development is used and either abut the lot where bonus
7 development is used, or be separated only by public right-of-way. All rental housing provided
8 under the performance option shall be low-income housing.
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10 b. For the payment option, the applicant shall pay the lesser of the
11 following:

12 (1) an amount that equals the approximate cost of developing the
13 same number and quality of housing units that would be developed under the performance
14 option, as determined by the Director; or

15 (2) (i) in DMC zones, Ten Dollars (\$10) per square foot of net
16 residential floor area sought as bonus development between the height of eighty-five (85) feet
17 and the base height limit for residential use under Section 23.49.008, Fifteen Dollars (\$15) per
18 square foot of the net residential floor area of the first four (4) ~~((floors))~~ stories above the base
19 height limit for residential use, Twenty Dollars (\$20) per square foot of net residential floor area
20 of the next three (3) ~~((floors))~~ stories, and Twenty-five Dollars (\$25) per square foot of net
21 residential floor area of the higher stories ~~((remaining floors up to the maximum residential~~
22 ~~height limit))~~, not to exceed an average of Eighteen Dollars and Ninety-four Cents (\$18.94) per
23 square foot of net residential floor area sought as bonus development; and
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(ii) in DOC1 and DOC2 zones, Eighteen Dollars and
Ninety-four Cents (\$18.94) per square foot of net residential floor area sought as bonus
development above the base height limit for residential use under Section 23.49.008. Net
residential floor area shall be computed by multiplying the total gross floor area sought as bonus
development by an efficiency factor of eighty (80) percent. The full amount must be paid to the
City in cash, except that if the City shall approve by ordinance the acceptance of specific real
property in lieu of all or part of the cash payment, the Housing Director may accept such real
property.

2. Each low-income housing unit provided as a condition to the bonus allowed
under this section shall serve only households with incomes at or below eighty (80) percent of
median income at the time of their initial occupancy. Each moderate-income housing unit
provided as a condition to the bonus allowed under this section shall serve only as owner-
occupied housing for households with incomes no higher than median income at the time of their
initial occupancy. For rental housing, housing costs, including rent and basic utilities, shall not
exceed thirty (30) percent of eighty (80) percent of median income, adjusted for the average size
of family expected to occupy the unit based on the number of bedrooms, all as determined by the
Housing Director, for a minimum period of fifty (50) years. For owner-occupied housing, the
initial sale price shall not exceed an amount determined by the Housing Director to be consistent
with affordable housing for a moderate-income household with the average family size expected
to occupy the unit based on the number of bedrooms, and the units shall be subject to recorded
instruments satisfactory to the Housing Director providing for sales prices on any resale
consistent with affordability on the same basis. The Housing Director may promulgate rules

1 specifying the method of determining affordability, including eligible monthly housing costs.

2 The Housing Director may also promulgate rules for determining whether units satisfy the
3 requirements of this section and any requirements relating to down-payment amount, design,
4 quality, maintenance and condition of the low-income housing or moderate-income housing.

5 3. For purposes of this section, housing may be considered to be provided by the
6 applicant seeking bonus development under the performance option if the housing satisfies all of
7 the following conditions:
8

9 (i) It is committed to serve an eligible income group, and for a time period,
10 referred to in this section pursuant to an agreement between the housing owner and the City.

11 (ii) The agreement required by subsection (i) is executed and recorded
12 prior to the issuance of the master use permit to establish the use for the project using the bonus
13 development, but except when subsection (iii)(B) below applies, no earlier than one (1) year
14 prior to issuance of that master use permit.

15
16 (iii) Either (A) the Certificate of Occupancy for the new low-income
17 housing or moderate income housing, or both, must be issued within three (3) years of the date
18 the Certificate of Occupancy is issued for the project using the bonus development, unless the
19 Housing Director approves an extension based on delays that the applicant or housing developer
20 could not reasonably have avoided, or (B) only in the case of low-income housing on a lot
21 adjacent to the project using bonus development, which housing is subject to a regulatory
22 agreement related to long-term City financing of low-income housing and was developed under a
23 master use permit issued pursuant to a decision that considered the housing together with a
24 project then proposed on that adjacent site, a final Certificate of Occupancy for the low-income
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1 housing was issued within five (5) years of the building permit issuance for the project proposed
2 for bonus development on the adjacent lot.

3 (iv) If the low-income housing or moderate-income housing is not owned
4 by the applicant, then the applicant made a financial contribution to the low-income housing or
5 moderate-income housing, or promised such contribution and has provided to the City an
6 irrevocable, unconditional letter of credit to ensure its payment, in form and content satisfactory
7 to the Housing Director, in either case in an amount determined by the Housing Director to be,
8 when reduced by the value of any expected benefits to be received for such contribution other
9 than the bonus development, approximately equal to the cost of providing units within the
10 project using the bonus development, and the owner of the low-income housing or moderate-
11 income housing has entered into a linkage agreement with the applicant pursuant to which only
12 the applicant has the right to claim such housing for purposes of bonus development under this
13 section or any other bonus under this title.

14 4. Any applicant seeking to qualify for bonus floor area based on development of
15 new housing shall provide to the City, prior to the date when a contribution would be due for the
16 cash option under subsection C of this section, an irrevocable bank letter of credit or other
17 sufficient security approved by the Director of the Office of Housing, and a related voluntary
18 agreement, so that at the end of the three (3) year period specified in subsection B3 of this
19 section, if the housing does not qualify or is not provided in a sufficient amount to satisfy the
20 terms of this section, the City shall receive (i) a cash contribution for housing in the amount
21 determined pursuant to this section after credit for any qualifying housing then provided, plus (ii)
22 an amount equal to interest on such contribution, at the rate equal to the prime rate quoted from
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1 time to time by Bank of America, or its successor, plus three (3) percent per annum, from the
2 date of issuance of the first building permit for the project using the bonus. If and when the City
3 becomes entitled to realize on any such security, the Director of the Office of Housing shall take
4 appropriate steps to do so, and the amounts realized, net of any costs to the City, shall be used in
5 the same manner as cash contributions for housing made under this section. In the case of any
6 project proposing to use bonus development for which no building permit is required, references
7 to the building permit in this subsection shall mean the master use permit allowing establishment
8 or expansion of the use for which bonus development is sought.

10 5. Nothing in this chapter shall be construed to confer on any owner or developer
11 of housing, any party to a linkage agreement, or any assignee, any development rights or
12 property interests. Because the availability and terms of allowance of bonus development depend
13 upon the regulations in effect at the relevant time for the project proposing to use such bonus
14 development, pursuant to SMC Section 23.76.026, any approvals or agreements by the Director
15 of the Office of Housing regarding the eligibility of actual or proposed housing as to satisfy
16 conditions of a bonus, and any approval of a linkage agreement and/or assignment, do not grant
17 any vested rights, nor guarantee that any bonus development will be permitted based on such
18 housing.

21 6. The Director of the Office of Housing is authorized to accept and execute
22 agreements and instruments to implement this section. For the performance option, the voluntary
23 agreement by the applicant or, if the applicant is not the housing owner, then a recorded
24 agreement of the housing owner acceptable to the Housing Director, shall provide for an initial
25 monitoring fee payable to the City of Five Hundred Dollars (\$500) per unit of low-income
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1 housing or moderate-income housing provided, and in the case of rental housing, an annual
2 monitoring fee payable to the City of Sixty-five Dollars (\$65) for each such unit. For rental
3 housing, such agreement also shall require the housing owner to submit to the City annual
4 reports with such information as the Housing Director shall require for monitoring purposes. In
5 the case of housing for owner-occupancy, the recorded resale restrictions also shall include a
6 provision requiring payment to the City, on any sale or other transfer, of a fee of Five Hundred
7 Dollars (\$500) for the review and processing of transfer documents to determine compliance
8 with income and affordability restrictions.
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10 7. If the Housing Director shall certify to the Director that the Housing Director
11 has accepted and there have been recorded one or more agreements or instruments satisfactory to
12 the Housing Director providing for occupancy and affordability restrictions on housing provided
13 for purposes of the performance option under this section, and that either all affordable housing
14 has been completed or the applicant has provided the City with an irrevocable, unconditional
15 letter of credit satisfactory to the Housing Director in the amount of the contribution to the
16 affordable housing approved by the Housing Director, if applicable, then any failure of such
17 housing to satisfy the requirements of this subsection B shall not affect the right to maintain or
18 occupy the bonus development. Unless and until the Housing Director shall so certify, it shall be
19 a continuing permit condition, whether or not expressly stated, for each project obtaining bonus
20 floor area based on the provision of housing under this subsection, that the low-income or
21 moderate-income housing units, or both, as applicable, shall continue to satisfy the requirements
22 of this subsection throughout the term specified in this section and that such compliance shall be
23 documented to the satisfaction of the Director of the Office of Housing. The Director of the
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Office of Housing may provide by rule for circumstances in which low-income or moderate-income housing units, or both, as applicable, may be replaced if lost due to casualty or other causes, and for terms and conditions upon which a cash contribution may be made in lieu of continuing to provide low-income housing or moderate-income housing, or both, under the terms of this subsection.

8. Housing units produced with voluntary contributions made under this section, shall include a range of unit sizes, including units suitable for families with children. Housing units provided to qualify for bonus development shall comply with the following: (i) they shall be provided in a range of sizes comparable to those available to other residents; (ii) to the extent practicable, the number of bedrooms in low-income units and moderate-income units must be in the same proportion as the number of bedrooms in units within the entire building; (iii) the low-income units and moderate-income units shall generally be distributed throughout the building, except that they may be provided in an adjacent building; and (iv) the low-income units and moderate-income units shall have substantially the same functionality as the other units in the building or buildings. The Housing Director is authorized to prescribe by rule standards and procedures for determining compliance with the requirements of this subsection 8. The Housing Director is further authorized to adopt policies for distribution of unit sizes in housing developments funded by contributions received under this section.

9. References in this subsection B to a Certificate of Occupancy for a project mean the first Certificate of Occupancy issued by the City for the project, whether temporary or permanent.

Section 3. Subsection E of Section 23.86.006 of the Seattle Municipal Code, which
Section was last amended by Ordinance 121476, is amended as follows:

23.86.006 Structure height.

E. Height Measurement Techniques in Downtown Zones.

1. Determine the major street property line, which shall be the lot's longest street
property line. When the lot has two (2) or more street lot lines of equal length, the applicant shall
choose the major street property line.

2. Determine the slope of the lot along the entire length of the major street
property line.

3. The maximum height shall be measured as follows:

a. When the slope of the major street property line is less than or equal to
seven and one-half percent (7- 1/2%), the elevation of maximum height shall be determined by
adding the maximum permitted height to the existing grade elevation at the midpoint of the
major street property line. On a through lot, the elevation of maximum height shall apply only to
the half of the lot nearest the major street property line. On the other half of a through lot, the
elevation of maximum height shall be determined by the above method using the street lot line
opposite and parallel to the major street property line as depicted in Exhibit 23.86.006 B.

b. When the slope of the major street property line exceeds seven and one-
half percent (7- 1/2%), the major street property line shall be divided into four (4) or fewer equal
segments no longer than one hundred twenty feet (120') in length. The elevation of maximum

1 height shall be determined by adding the maximum permitted height to the existing grade
2 elevation at the midpoint of each segment. On a through lot, the elevation of maximum height
3 shall apply only to the half of the lot nearest the major street property line. On the other half of a
4 through lot, the elevation of maximum height shall be determined by the above method using the
5 street lot line opposite and parallel to the major street property line, as depicted in Exhibit

6 23.86.006 C.

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8 c. For lots with more than one (1) street frontage, where there is no street
9 property line ~~((which))~~ that is essentially parallel to the major street property line, when a
10 measurement has been made for the portion of the block containing the major street property
11 line, the next measurement shall be taken from the longest remaining street lot line.
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1 ((4. No parts of the structure, other than those specifically exempted or excepted
2 under the provisions of the zone, shall extend beyond the elevation of maximum height.

3 5. Underground portions of structures are not included in height calculations. The
4 height of structures shall be calculated from the point at which the sides meet the surface of the
5 ground.))

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

10 Passed by the City Council the ____ day of _____, 2007, and signed by me in
11 open session in authentication of its passage this ____ day of _____, 2007.

12
13
14 _____
15 President _____ of the City Council

16 Approved by me this ____ day of _____, 2007.

17
18 _____
19 Gregory J. Nickels, Mayor

20
21 Filed by me this ____ day of _____, 2007.

22
23 _____
24 City Clerk

25 (Seal)

STATE OF WASHINGTON – KING COUNTY

--SS.

218554
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.

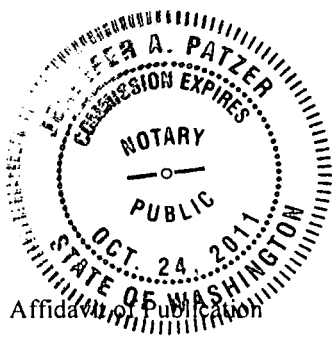
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:122582 ORDINANCE

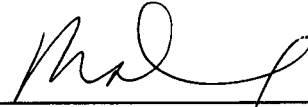
was published on

12/18/07

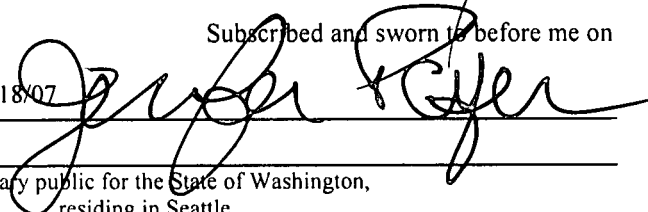
The amount of the fee charged for the foregoing publication is the sum of \$ 962.55, which amount has been paid in full.



Affidavit of Publication


Subscribed and sworn to before me on

12/18/07


Notary public for the State of Washington,
residing in Seattle

City of Seattle

ORDINANCE 122582

AN ORDINANCE related to land use and zoning amending Sections 23.49.008, 23.49.015, and 23.86.006 of the Seattle Municipal Code; allowing an increase in building height in portions of the Downtown Mixed Commercial 340/290-400 zone on certain conditions; and making technical revisions.

WHEREAS, Policy DT-UDP5 of the Downtown Urban Center Plan in the Neighborhood Planning Element of the Seattle Comprehensive Plan specifies that increased heights beyond the limits specified for downtown zones may be considered when the public purpose served by the additional height justifies the higher buildings and is consistent with other height policies; and

WHEREAS, on certain full-block sites Downtown that are adjacent to a zone allowing much greater height, the impacts of height greater than the limits of the zone may be mitigated when a substantial portion of the block is maintained as open space and development is limited to a single tower, sited on the block so as to limit such impacts; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section Subsections A and B of Section 23.49.008 of the Seattle Municipal Code, which Section was last amended by Ordinance 122054, are amended as follows:

23.49.008 Structure height.

The following provisions regulating structure height apply to all property in downtown zones except the DH1, PSM, IDM, and IDR zones.

A. Base and Maximum Height Limits.

1. Except as otherwise provided in this Section, the maximum structure height for downtown zones, except PMM, are fifty-five (55) feet, sixty-five (65) feet, eighty-five (85) feet, one hundred twenty-five (125) feet, one hundred fifty (150) feet, one hundred sixty (160) feet, two hundred forty (240) feet, three hundred forty (340) feet, four hundred (400) feet, five hundred (500) feet, and unlimited, as designated on the Official Land Use Map, Chapter 23.32.

In certain zones, as specified in this section, the maximum structure height may be allowed only for particular uses or only on specified conditions, or both.

2. Except in the PMM zone, the base height limit for a structure is the lowest of the maximum structure height or the lowest other height limit, if any, that applies pursuant to the provisions of this title based upon the uses in the structure, before giving effect to any bonus for which the structure qualifies under this chapter and to any special exceptions or departures authorized under this chapter. In the PMM zone the base height limit is the maximum height permitted pursuant to urban renewal covenants.

3. In zones listed below in this subsection A3 there is a base height limit for portions of a structure containing nonresidential and live-work uses, which is shown as the first figure after the zone designation (except that there is no such limit in DOC1), and a base height limit that applies to portions of a structure in residential use, shown as the figure following the "/". The third figure shown is the (highest possible applicable) height limit for a structure that uses the bonus available under 23.49.015 and has no non-residential or live-work use above the first height limit shown for that zone:

DOC1 Unlimited/450 -- Unlimited

DOC2 500/300-500

DMC 340/290-400

DMC 240/290-400.

4. A structure in a DMC 340/290-400 zone on a lot comprising a full block that abuts a DOC1 zone along at least one street frontage may gain additional structure height of thirty (30) percent above the maximum residential height limit if the structure uses the bonus available under 23.49.015, or thirty-five (35) percent above 340 feet if that bonus is not used, in either case on the following conditions:

a. Only one tower is permitted on the lot;

b. Any additional floor area above the maximum height limit for nonresidential or live-work use, as increased under this subsection A4, is occupied by residential use;

c. The average residential gross floor area and maximum residential floor area of any story in the portion of the tower permitted above the base residential height limit does not exceed the limits prescribed in Section 23.49.058D1;

d. Any residential floor area allowed above the base residential height limit under this provision is gained through voluntary agreements to provide low-income or moderate-income housing according to the provisions of 23.49.015;

e. At least thirty-five (35) percent of the lot area, or a minimum of 25,000 square feet, whichever is greater, is in open space use substantially at street level meeting the standards, and subject to the allowances for coverage, in this subsection e.

i. The location and configuration of the space shall enhance solar exposure, allow easy access to entrances to the tower serving all tenants and occupants from streets abutting the open space, and allow convenient pedestrian circulation through all portions of the open space. The open space shall be entirely contiguous and physically accessible. To offset the impact of the taller structure allowed, the open space must have frontage at grade abutting sidewalks, and be visible from sidewalks on at least two streets. The elevation of the space may vary, especially on sloping lots where terracing the space facilitates connections to abutting streets, provided that grade changes are gradual and do not significantly disrupt the continuity of the space, and no part of the open space is significantly above the grade of the nearest abutting street. The Director may allow greater grade changes, as necessary, to facilitate access to transit tunnel stations.

ii. Up to twenty (20) percent of the area used to satisfy the open space condition to allowing additional height may be covered by the following features: permanent, free-standing structures, such as retail kiosks, pavilions, or pedestrian shelters; structural overhangs; overhead arcades or other forms of overhead weather protection; and any other features approved by the Director that contribute to pedestrian comfort and active use of the space. The following features within the open space area may count as open space and are not subject to the percentage coverage limit: temporary kiosks and pavilions, public art, permanent seating that is not reserved for any commercial use, exterior stairs and mechanical enclosures that provide access to public areas and are available for public use, and any similar features approved by the Director.

f. Open space used to satisfy the condition to allowing additional height in this section is not eligible for a bonus under Section 23.49.013.

g. Open space used to satisfy the condition to allowing additional height in this section may qualify as common recreation area to the extent permitted by SMC subsection 23.49.011B and may be used to satisfy open space requirements in SMC subsection 23.49.016C1 if it satisfies the standards of that subsection.

h. No increase in height 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.

State of Washington, King County

((4))5. In the DRC zone, the base height limit is eighty-five (85) feet, except that, subject to the conditions in subsection A((6))9 of this section:

a. The base height limit is one hundred fifty (150) feet ((when)) if any of the following conditions is satisfied:

i. ((When)) all portions of a structure above eighty-five (85) feet contain only residential use; or

ii. ((When)) at least twenty-five (25) percent of the gross floor area of all structures on a lot is in residential use; or

iii. ((When)) a minimum of 1.5 FAR of retail sales and service or entertainment uses, or any combination thereof, is provided on the lot.

b. For residential floor area created by infill of a light well on a Landmark structure, the base height limit is the lesser of one hundred fifty (150) feet or the highest level at which the light well is enclosed by the full length of walls of the structure on at least three (3) sides. For the purpose of this subsection a light well is defined as an inward modulation on a non-street facing facade that is enclosed on at least three (3) sides by walls of the same structure, and infill is defined

as an addition to that structure within the light well.

((6))9. Restrictions on Demolition and Alteration of Existing Structures.

a. Any structure in a DRC zone that would exceed the eighty-five (85) foot base height limit shall incorporate the existing exterior street front facade(s) of each of the structures listed below, if any, located on the lot of that project. The City Council finds that these structures are significant to the architecture, history and character of downtown. The Director may permit changes to the exterior facade(s) to the extent that significant features are preserved and the visual integrity of the design is maintained. The degree of exterior preservation required will vary, depending upon the nature of the project and the characteristics of the affected structure(s).

b. The Director shall evaluate whether the manner in which the facade is proposed to be preserved meets the intent to preserve the architecture, character and history of the Retail Core. If a structure on the lot is a Landmark structure, approval by the Landmarks Preservation Board for any proposed modifications to controlled features is required prior to a decision by the Director to allow or condition additional height for the project. The Landmarks Preservation Board's decision shall be incorporated into the Director's decision. Inclusion of a structure on the list below is solely for the purpose of conditioning additional height under this subsection, and shall not be interpreted in any way to prejudice the structure's merit as a Landmark:

Sixth and Pine Building -- 523 Pine Street
Decatur -- 1513 6th Avenue
Coliseum Theater -- 5th and Pike
Seaboard Building -- 1506 Westlake Avenue
Fourth and Pike Building -- 1424 4th Avenue
Pacific First Federal Savings -- 1400 4th Avenue
Joshua Green Building -- 1425 4th Avenue
Equitable Building -- 1415 4th Avenue
Mann Building -- 1411 3rd Avenue
Olympic Savings Tower -- 217 Pine Street
Fischer Studio Building -- 1519 3rd Avenue

Bon Marche (Macy's) -- 3rd and Pine
Melbourne House -- 1511 3rd Avenue
Former Woolworth's Building -- 1512 3rd Avenue

c. The restrictions in this subsection ((6))9 are in addition to, and not in substitution for, the requirements of the Landmarks Ordinance, SMC Chapter 25.12.

((6))7. The applicable height limit for a structure is the base height limit plus any height allowed as a bonus under this chapter and any additional height allowed by special exception or departure, or by subsection A4 of this section. The height of a structure shall not exceed the applicable height limit, except as provided in subsections B, C and D of this section.

((7))8. The height of rooftop features, as provided in subsection D, is allowed to exceed the applicable height limit.

B. Structures located in DMC 240/290-400 or DMC 340/290-400 zones may exceed the maximum height limit for residential use, or if applicable the maximum height limit for residential use as increased under the provisions of subsection A4 of this section, by ten (10) percent of that limit, as so increased if applicable, if:

1. the facades of the portion of the structure above the limit do not enclose an area greater than nine thousand (9,000) square feet, and

2. the enclosed space is occupied only by those uses or features otherwise permitted in this Section as an exception above the height limit.

This exception shall not be combined with any other height exception for screening or rooftop features to gain additional height.

Section Subsection B of Section 23.49.015 of the Seattle Municipal Code, which Section was last amended by Ordinance 122235, is amended as follows:

23.49.015 Bonus residential floor area for voluntary agreements for low-income housing and moderate-income housing.

B. Voluntary Agreements for Housing.

1. The voluntary agreement shall commit the applicant to provide or contribute to low-income housing or moderate-income housing, or both, in an amount as set forth in this subsection B. The quantities in this subsection are based on findings of an analysis that quantifies the linkages between new market-rate units and high-rise residential structures in DOC1, DOC2, and DMC zones and the demand that residents of such units generate for low-income housing and moderate-income housing. The amount of such housing and income levels served, and the amount of any cash payment, shall be determined as follows:

a. For the performance option, the applicant shall provide, for low-income housing or moderate-income housing, net rentable floor area equal to eleven (11) percent of the net residential floor area sought as bonus development, computed by multiplying the following sum by an efficiency factor of eighty (80) percent: (i) the total square footage of gross residential floor area to be developed on the lot above the base height limit for residential use under SMC Section 23.49.008, plus (ii) the excess, if any, in each tower to be developed on the lot, of (X) the total number of square feet of gross residential floor area between the height of eighty-five (85) feet and such base height limit, over (Y) the product of the "average residential gross floor

area limit of stories above 85 feet if height does not exceed the base height limit for residential use" as provided in Chart 23.49.058D1, column 2, multiplied by the number of stories with residential use in such tower above eighty-five (85) feet and below such base height limit. All low-income housing or moderate-income housing provided under the performance option shall be on the lot where the bonus development is used or an adjacent lot. The adjacent lot must be within the block where the bonus development is used and either abut the lot where bonus development is used, or be separated only by public right-of-way. All rental housing provided under the performance option shall be low-income housing.

b. For the payment option, the applicant shall pay the lesser of the following:

(1) an amount that equals the approximate cost of developing the same number and quality of housing units that would be developed under the performance option, as determined by the Director; or

(2) (i) in DMC zones, Ten Dollars (\$10) per square foot of net residential floor area sought as bonus development between the height of eighty-five (85) feet and the base height limit for residential use under Section 23.49.008, Fifteen Dollars (\$15) per square foot of the net residential floor area of the first four (4) (floors) stories above the base height limit for residential use, Twenty Dollars (\$20) per square foot of net residential floor area of the next three (3) (floors) stories, and Twenty-five Dollars (\$25) per square foot of net residential floor area of the higher stories (remaining floors up to the maximum residential height limit), not to exceed an average of Eighteen Dollars and Ninety-four Cents (\$18.94) per square foot of net residential floor area sought as bonus development; and

(ii) in DOC1 and DOC2 zones, Eighteen Dollars and Ninety-four Cents (\$18.94) per square foot of net residential floor area sought as bonus development above the base height limit for residential use under Section 23.49.008. Net residential floor area shall be computed by multiplying the total gross floor area sought as bonus development by an efficiency factor of eighty (80) percent. The full amount must be paid to the City in cash, except that if the City shall approve by ordinance the acceptance of specific real property in lieu of all or part of the cash payment, the Housing Director may accept such real property.

2. Each low-income housing unit provided as a condition to the bonus allowed under this section shall serve only households with incomes at or below eighty (80) percent of median income at the time of their initial occupancy. Each moderate-income housing unit provided as a condition to the bonus allowed under this section shall serve only as owner-occupied housing for households with incomes no higher than median income at the time of their initial occupancy. For rental housing, housing costs, including rent and basic utilities, shall not exceed thirty (30) percent of eighty (80) percent of median income, adjusted for the average size of family expected to occupy the unit based on the number of bedrooms, all as determined by the Housing Director, for a minimum period of fifty (50) years. For owner-occupied housing, the initial sale price shall not exceed an amount determined by the Housing Director to be consistent with affordable housing for a moderate-income household with the average family size expected to occupy the unit based on the number of bedrooms, and the units shall be subject to recorded instruments satisfactory to the Housing Director providing for sales prices on any resale consistent with affordability on the same basis. The Housing Director may promulgate rules

specifying the method of determining affordability, including eligible monthly housing costs. The Housing Director may also promulgate rules for determining whether units satisfy the requirements of this section and any requirements relating to down-payment amount, design, quality, maintenance and condition of the low-income housing or moderate-income housing.

3. For purposes of this section, housing may be considered to be provided by the applicant seeking bonus development under the performance option if the housing satisfies all of the following conditions:

(i) It is committed to serve an eligible income group, and for a time period, referred to in this section pursuant to an agreement between the housing owner and the City.

(ii) The agreement required by subsection (i) is executed and recorded prior to the issuance of the master use permit to establish the use for the project using the bonus development, but except when subsection (iii)(B) below applies, no earlier than one (1) year prior to issuance of that master use permit.

(iii) Either (A) the Certificate of Occupancy for the new low-income housing or moderate income housing, or both, must be issued within three (3) years of the date the Certificate of Occupancy is issued for the project using the bonus development, unless the Housing Director approves an extension based on delays that the applicant or housing developer could not reasonably have avoided, or (B) only in the case of low-income housing on a lot adjacent to the project using bonus development, which housing is subject to a regulatory agreement related to long-term City financing of low-income housing and was developed under a master use permit issued pursuant to a decision that considered the housing together with a project then proposed on that adjacent site, a final Certificate of Occupancy for the low-income housing was issued within five (5) years of the building permit issuance for the project proposed for bonus development on the adjacent lot.

(iv) If the low-income housing or moderate-income housing is not owned by the applicant, then the applicant made a financial contribution to the low-income housing or moderate-income housing, or promised such contribution and has provided to the City an irrevocable, unconditional letter of credit to ensure its payment, in form and content satisfactory to the Housing Director, in either case in an amount determined by the Housing Director to be, when reduced by the value of any expected benefits to be received for such contribution other than the bonus development, approximately equal to the cost of providing units within the project using the bonus development, and the owner of the low-income housing or moderate-income housing has entered into a linkage agreement with the applicant pursuant to which only the applicant has the right to claim such housing for purposes of bonus development under this section or any other bonus under this title.

4. Any applicant seeking to qualify for bonus floor area based on development of new housing shall provide to the City, prior to the date when a contribution would be due for the cash option under subsection C of this section, an irrevocable bank letter of credit or other sufficient security approved by the Director of the Office of Housing, and a related voluntary agreement, so that at the end of the three (3) year period specified in subsection B3 of this section, if the housing does not qualify or is not provided in a sufficient amount to satisfy the terms of this section, the City shall receive (i) a cash contribution for housing in the amount determined pursuant to this section after credit for any qualifying housing then provided, plus (ii) an amount equal to interest on such contribution, at the rate equal to the prime rate quoted from time to time by Bank of America, or its successor, plus three (3) percent per annum, from the date of issuance of the first building permit for the project using the bonus. If and when the City becomes entitled to realize on any such security, the Director of the Office of Housing shall take appropriate steps to do so, and the amounts realized, net of any costs to the City, shall be used in the same manner as cash contributions for housing made under this section. In the case of any project proposing to use bonus development for which no building permit is required, references to the building permit in this subsection shall mean the master use permit allowing establishment or expansion of the use for which bonus development is sought.

5. Nothing in this chapter shall be construed to confer on any owner or developer of housing, any party to a linkage agreement, or any assignee, any development rights or property interests. Because the availability and terms of allowance of bonus development depend upon the regulations in effect at the relevant time for the project proposing to use such bonus development, pursuant to SMC Section 23.76.026, any approvals or agreements by the Director of the Office of Housing regarding the eligibility of actual or proposed housing as to satisfy conditions of a bonus, and any approval of a linkage agreement and/or assignment, do not grant any vested rights, nor guarantee that any bonus development will be permitted based on such housing.

6. The Director of the Office of Housing is authorized to accept and execute agreements and instruments to implement this section. For the performance option, the voluntary agreement by the applicant or, if the applicant is not the housing owner, then a recordable agreement of the housing owner acceptable to the Housing Director, shall provide for an initial monitoring fee payable to the City of Five Hundred Dollars (\$500) per unit of low-income housing or moderate-income housing provided, and in the case of rental housing, an annual monitoring fee payable to the City of Sixty-five Dollars (\$65) for each such unit. For rental housing, such agreement also shall require the housing owner to submit to the City annual reports with such information as the Housing Director shall require for monitoring purposes. In the case of housing for owner-occupancy, the recorded resale restrictions also shall include a provision requiring payment to the City, on any sale or other transfer, of a fee of Five Hundred Dollars (\$500) for the review and processing of transfer documents to determine compliance with income and affordability restrictions.

7. If the Housing Director shall certify to the Director that the Housing Director has accepted and there have been recorded one or more agreements or instruments satisfactory to the Housing Director providing for occupancy and affordability restrictions on housing provided for purposes of the performance option under this section, and that either all affordable housing has been completed or the applicant has provided the City with an irrevocable, unconditional letter of credit satisfactory to the Housing Director in the amount of the contribution to the affordable housing approved by the Housing Director, if applicable, then any failure of such housing to satisfy the requirements of this subsection B shall not affect the right to maintain or occupy the bonus development. Unless and until the Housing Director shall so certify, it shall be a continuing permit condition, whether or not expressly stated, for each project obtaining bonus floor area based on the provision of housing under this subsection, that the low-income or moderate-income housing units, or both, as applicable, shall continue to satisfy the requirements of this subsection throughout the term specified in this section and that such compliance shall be documented to the satisfaction of the Director of the Office of Housing. The Director of the Office of Housing may provide by rule for circumstances in which low-income or moderate-income housing units, or both, as applicable, may be replaced if lost due to casualty or other causes, and for terms and conditions upon which a cash contribution may be made in lieu of continuing to provide low-income housing or moderate-income housing, or both, under the terms of this subsection.

8. Housing units produced with voluntary contributions made under this section, shall include a range of unit sizes, including units suitable for families with children. Housing units provided to qualify for bonus development shall comply with the following: (i) they shall be provided in a range of sizes comparable to those available to other residents; (ii) to the extent practicable, the number of bedrooms in low-income units and moderate-income units must be in the same proportion as the number of bedrooms in units within the entire building; (iii) the low-income units and moderate-income units shall generally be distributed throughout the building, except that they may be provided in an adjacent building; and (iv) the low-income units and moderate-income units shall have substantially the same functionality as the other units in the building or buildings. The Housing Director is authorized to prescribe by rule standards and procedures for determining compliance with the requirements of this subsection 8. The Housing Director is further authorized to adopt policies for distribution of unit sizes in housing developments funded by contributions received under this section.

9. References in this subsection B to a Certificate of Occupancy for a project mean the first Certificate of Occupancy issued by the City for the project, whether temporary or permanent.

Section 3. Subsection E of Section 23.86.006 of the Seattle Municipal Code, which Section was last amended by Ordinance 121476, is amended as follows:

23.86.006 Structure height.

E. Height Measurement Techniques in Downtown Zones.

1. Determine the major street property line, which shall be the lot's longest street property line. When the lot has two (2) or more street lot lines of equal length, the applicant shall choose the major street property line.

2. Determine the slope of the lot along the entire length of the major street property line.

3. The maximum height shall be measured as follows:

a. When the slope of the major street property line is less than or equal to

seven and one-half percent (7- 1/2%), the elevation of maximum height shall be determined by adding the maximum permitted height to the existing grade elevation at the midpoint of the major street property line. On a through lot, the elevation of maximum height shall apply only to the half of the lot nearest the major street property line. On the other half of a through lot, the elevation of maximum height shall be determined by the above method using the street lot line opposite and parallel to the major street property line as depicted in Exhibit 23.86.006 B.

b. When the slope of the major street property line exceeds seven and one-

half percent (7- 1/2%), the major street property line shall be divided into four (4) or fewer equal segments no longer than one hundred twenty feet (120') in length. The elevation of maximum height shall be determined by adding the maximum permitted height to the existing grade elevation at the midpoint of each segment. On a through lot, the elevation of maximum height shall apply only to the half of the lot nearest the major street property line. On the other half of a through lot, the elevation of maximum height shall be determined by the above method using the street lot line opposite and parallel to the major street property line, as depicted in Exhibit 23.86.006 C.

c. For lots with more than one (1) street frontage, where there is no street property line (which) that is essentially parallel to the major street property line, when a measurement has been made for the portion of the block containing the major street property line, the next measurement shall be taken from the longest remaining street lot line.

(d) No parts of the structure, other than those specifically exempted or excepted under the provisions of the zone, shall extend beyond the elevation of maximum height.

6. Underground portions of structures are not included in height calculations. The height of structures shall be calculated from the point at which the sides meet the surface of the ground.)

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.

Passed by the City Council the 10th day of December, 2007, and signed by me in open session in authentication of its passage this 10th day of December, 2007.

NICK LICATA,

President of the City Council

Approved by me this 13th day of December, 2007.

GREGORY J. NICKELS,

Mayor.

Filed by me this 14th day of December, 2007,

(Seal) JUDITH PIPPIN,

City Clerk.

Publication ordered by Judith Pippin, City Clerk.

Date of publication in the Seattle Daily Journal of Commerce, December 18, 2007.

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