

Ordinance No. 122611

Council Bill No. 116091

An ordinance related to land use and zoning, amending Chapters 23.48, 23.49, 23.50, 23.76, 23.84A and 23.90 of the Seattle Municipal Code; allowing additional height and density within a defined area of Industrial Commercial zones in the South Lake Union Urban Center; providing bonus floor area for affordable housing and child care in that area; allowing transfer of development rights to lots in that area from Landmarks and certain other properties; modifying exemptions from floor area limits for projects in the South Lake Union Urban Center; and making technical revisions.

CF No. _____

| | |
|------------------------------|---|
| Date Introduced: | <u>Nov 26, 2007</u> |
| Date 1st Referred: | To: (committee) <u>Urban Development and Planning</u> |
| Date Re - Referred: | To: (committee) <u>Planning</u> |
| Date Re - Referred: | To: (committee) |
| Date of Final Passage: | Full Council Vote: <u>8-1</u> |
| Date Presented to Mayor: | Date Approved: <u>12-21-07</u> |
| Date Returned to City Clerk: | Date Published: <u>47</u> T.O. <input checked="" type="checkbox"/> F.T. <input type="checkbox"/> |
| Date Vetoed by Mayor: | Date Veto Published: |
| Date Passed Over Veto: | Veto Sustained: |

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: Peter Stanbrum
Councilmember

Committee Action: Pass as Amended

5-1

PS, JD, NL
SC, RC, JG

(C)
(Y)

12-17-07 Passed As Amended 8-1 (No Licata)

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

Law Dept. Review

OMP Review

City Clerk Review

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ORDINANCE 122611

1
2 AN ORDINANCE related to land use and zoning, amending Chapters 23.48, 23.49, 23.50,
3 23.76, 23.84A and 23.90 of the Seattle Municipal Code; allowing additional height and
4 density within a defined area of Industrial Commercial zones in the South Lake Union
5 Urban Center; providing bonus floor area for affordable housing and child care in that
6 area; allowing transfer of development rights to lots in that area from Landmarks and
7 certain other properties; modifying exemptions from floor area limits for projects in the
8 South Lake Union Urban Center; and making technical revisions.

9 WHEREAS, the City adopted South Lake Union Urban Center goals and policies into the
10 Comprehensive Plan in December 2006, supporting the growth of innovative industries
11 in South Lake Union, incentives for housing, arts and historic preservation, and a
12 diversity of building styles; and

13 WHEREAS, opportunities to implement these goals and policies exist within a portion of the
14 Industrial Commercial zone in South Lake Union; NOW, THEREFORE,

15 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

16 Section 1. The Council finds that that the provisions of this Ordinance will implement
17 the Comprehensive Plan and protect and promote public health, safety and welfare.

18 Section 2. Subsection B of Section 23.48.016 of the Seattle Municipal Code, which
19 Section was last amended by Ordinance 122311, is amended as follows:

20 **23.48.016 Standards applicable to specific areas.**

21 * * *

22 B. Floor Area Ratios. In SM/85 and SM/125 zones, the following floor area ratios
23 (FARs) apply:

24 1. In SM/85 zones, a FAR of four and one half (4.5) is the maximum ((gross))
25 chargeable floor area permitted((~~for all nonresidential uses~~)).

26 2. In SM/125 zones, a FAR of five (5) is the maximum ((gross)) chargeable floor
27 area permitted ((~~for all nonresidential uses~~)) in structures greater than seventy-five (75) feet in
28 height.



1 3. (~~Exemptions from FAR Calculations.~~) The following areas are (~~shall be~~)
2 exempt from FAR calculations:

- 3 a. All gross floor area below grade;
4 b. All gross floor area used for accessory parking located above grade;

5 and

- 6 c. All gross floor area in residential use.

7
8 4. Up to three and one-half (3 1/2) percent of the gross floor area of a structure
9 shall not be counted in (~~gross~~) floor area calculations, as an allowance for mechanical
10 equipment. The allowance shall be calculated on the gross floor area after all exempt space
11 permitted under subsection(~~s~~) B3(~~a and B3b~~) has been deducted.

12
13 5. Within the South Lake Union Urban Center, gross floor area occupied by
14 mechanical equipment, up to a maximum of fifteen (15) percent, is exempt from (~~FAR~~) floor
15 area calculations. The allowance is calculated on the gross floor area of the structure after all
16 exempt space permitted under subsection(~~s~~) B3(~~a and B3b~~) has been deducted. Subsection
17 B4 (~~shall~~) does not apply. Mechanical equipment located on the roof of a structure is not
18 calculated as part of the total gross floor area of a structure.

19
20 6. To the extent provided in Section 23.50.053, the transfer of TDR from a lot
21 reduces the limits on chargeable floor area set forth in this Section. On a lot in an SM/125 zone
22 from which TDR is transferred, the FAR limit in this Section, as so reduced, applies regardless
23 of the height of any structure.

24
25 Section 3. Subsection G of Section 23.49.014 of the Seattle Municipal Code, which
26 Section was last amended by Ordinance 122054, is amended as follows:

27 **23.49.014 Transfer of development rights (TDR).**



* * *

1
2 G. TDR Satisfying Conditions to Transfer Under Prior Code.

3 1. If the conditions to transfer Landmark TDR, as in effect immediately prior to
4 the effective date of Ordinance 120443, (~~the following~~) are satisfied on or before December
5 31, 2001, such TDR may be transferred from the sending lot in the amounts eligible for transfer
6 as determined under the provisions of this title in effect immediately prior to the effective date
7 of Ordinance 120443. If the conditions to transfer housing TDR are satisfied prior to the
8 effective date of Ordinance 120443 under the provisions of this title then in effect, such TDR
9 may be transferred from the sending lot in the amounts eligible for transfer immediately prior to
10 that effective date. If the conditions to transfer TDR from a major performing arts facility are
11 satisfied prior to the effective date of Ordinance 120443 under the provisions of this Title then in
12 effect, TDR may be transferred from the sending lot after that effective date, for use on any
13 receiving lots in zones where housing TDR may be used according to Chart 23.49.014 A or as
14 provided in Section 23.50.053, in an amount as determined under subsection B of this section,
15 provided that the cumulative amount of TDR that may be transferred after June 1, 2005 from
16 any sending lot based on the presence of a major performing arts facility is limited to one
17 hundred fifty thousand (150,000) square feet.

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21 2. For purposes of this subsection, conditions to transfer include, without
22 limitations, the execution by the owner of the sending lot, and recording in the King County real
23 property records, of any agreement required by the provisions of this title or the Public Benefit
24 Features Rule in effect immediately prior to the effective date of Ordinance 120443, but such
25 conditions do not include any requirement for a master use permit application for a project
26 intending to use TDR, or any action connected with a receiving lot. TDR transferable under this
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1 subsection G are eligible either for use consistent with the terms of Section 23.49.011 or
2 Section 23.50.051 or for use by projects developed pursuant to permits issued under the
3 provisions of this title in effect prior to the effective date of Ordinance 120443. The use of TDR
4 transferred under this subsection G on the receiving lot shall be subject only to those conditions
5 and limits that apply for purposes of the master use permit decision for the project using the
6 TDR.

7 * * *

8
9 Section 4. Subsection A of Section 23.49.020 of the Seattle Municipal Code, which
10 Section was enacted by Ordinance 122054, is amended as follows:

11 **23.49.020 Demonstration of LEED Silver rating.**

12 A. Applicability. This section applies whenever a commitment to earn a LEED Silver
13 rating or substantially equivalent standard is a condition of a permit(~~pursuant to SMC Section~~
14 ~~23.49.011 or 23.49.015~~)).

15 * * *

16
17 Section 5. Section 23.50.020 of the Seattle Municipal Code, which Section was last
18 amended by Ordinance 121359, is amended as follows:

19 **23.50.020 All Industrial zones -- Structure height exceptions and additional restrictions.**

20 A. Rooftop Features. Where a height limit(~~s are otherwise applicable~~) applies to a
21 structure, (~~and~~) except as provided in subsections C4, D4, E4 and F3 of Section 23.50.024, the
22 (~~following conditions~~) provisions in this subsection A apply to rooftop features:

23
24 1. Smokestacks(~~;~~), chimneys, and flagpoles, and religious symbols for religious
25 institutions are exempt from height limits(~~controls~~), except as regulated in Chapter 23.64,
26
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28



1 Airport Height Overlay District, provided they are a minimum of ten (10) feet from any side or
2 rear lot line.

3 2. Open railings, planters, skylights, clerestories, greenhouses, parapets and
4 firewalls may extend four (4) feet above the applicable (~~maximum~~) height limit with unlimited
5 rooftop coverage.

6 3. Solar collectors may extend up to seven (7) feet above the
7 applicable (~~maximum~~) height limit, with unlimited rooftop coverage.

8 4. The following rooftop features may extend up to fifteen (15) feet above the
9 (~~maximum~~) applicable height limit, as long as the combined total coverage of all features listed
10 in this subsection A4 does not exceed twenty (20) percent of the roof area, or twenty-five (25)
11 percent of the roof area if the total includes screened mechanical equipment:
12

- 13 a. Solar collectors;
- 14 b. Stair and elevator penthouses;
- 15 c. Mechanical equipment; and
- 16 d. Minor communication utilities and accessory communication devices,
- 17

18 except that height is regulated according to the provisions of Section 23.57.015.

19 5. Within the South Lake Union (~~Hub Urban Village~~) Urban Center, at the
20 applicant's option, the combined total coverage of all features listed in subsection A4 above may
21 be increased to sixty-five (65) percent of the roof area, provided that all of the following are
22 satisfied:
23

- 24 a. All mechanical equipment is screened; and
- 25 b. No rooftop features are located closer than ten (10) feet to the roof
26 edge.
27



1 B. Forty-five (45) Foot Height Limit Areas-Additional Height Restrictions for Certain
2 Structures.

3 ~~((1. Within those industrial areas designated as having))~~ In zones with a forty-five
4 (45) foot height limit, except as provided for IC zones in Section 23.50.028, ((forty-five (45)
5 foot structure height is permitted only when a structure contains at least one (1) story at least
6 fifteen (15) feet in height.

7
8 ~~2.S))~~ structures with no story at least fifteen (15) feet in height ~~((shall be))~~ are
9 limited to a maximum height of forty (40) feet.

10 C. Structures existing prior to October 8, 1987 ~~((which))~~ that exceed the height limit of
11 the zone may add the rooftop features listed as conditioned in subsection A of this section above.
12 The existing roof elevation of the structure shall be considered the ~~((maximum))~~ applicable
13 height limit for the purpose of adding rooftop features.

14
15 Section 6. Section 23.50.026 of the Seattle Municipal Code, which Section was last
16 amended by Ordinance 121359, is amended as follows:

17 **23.50.026 Structure height in IC zones.**

18 A. Except ~~((for the provisions of Section 23.50.020, and except-))~~ as may be otherwise
19 provided in this title ~~((for any overlay district, and except that monorail transit facilities may~~
20 ~~exceed the height limit of the zone according to the provisions of Section 23.80.004 or Section~~
21 ~~15.54.020)),~~ the maximum structure height in IC zones for all uses ~~((shall be))~~ is thirty (30)
22 feet, forty-five (45) feet, sixty-five (65) feet, eighty-five (85) feet or one hundred twenty-five
23 (125) feet, as designated on the Official Land Use Map, Chapter 23.32. Only areas in the
24 Stadium Transition Area Overlay District abutting the PSM 85/120 zone may be designated for
25 a height limit of one hundred twenty-five (125) feet. Maximum structure height may be
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1 increased or reduced as provided in this section or Section 23.50.020. An overlay district may
2 increase or reduce the maximum structure height.

3 B. Water-dependent uses within the Shoreline District shall only be subject to the height
4 limits of the applicable shoreline environment, Chapter 23.60.

5 C. Within the area shown on Exhibit 23.50.026 A, areas zoned IC/45 (~~shall be~~) are
6 subject to the following height regulations (See Exhibit 23.50.026 A):

7 1. (~~A forty five (45) foot structure height is permitted only when a structure~~
8 ~~contains at least one (1) story at least fifteen (15) feet in height.~~

9 2.) Except as provided in subsection (~~3e~~) 2c below, structures with no story at
10 least fifteen (15) feet in height are(~~shall be~~) limited to a maximum height of forty (40) feet.

11 (~~3~~)2. A sixty-five (65) foot structure height is permitted as a special exception
12 provided that:

13 a. Provision is made for view corridors(s) looking from Elliott Avenue
14 towards Puget Sound;

15 (1) The location of the view corridor(s) shall be determined by the
16 Director upon consideration of such factors as existing view corridors, the location of street
17 rights-of-way, and the configuration of the lot,

18 (2) The view corridor(s) shall have a width not less than thirty-five
19 (35) percent of the width of the lot,

20 (3) The minimum width of each required view corridor shall be
21 thirty (30) feet measured at Elliott Avenue West,

22 (4) Measurement, modification or waiver of the view corridor(s)
23 shall be according to the Seattle Shoreline Master Program measurement regulations, Chapter
24

1 23.60. Where a waiver under these provisions is granted, the sixty-five (65) foot structure height
2 shall still be permitted,

3 (5) Parking for motor vehicles shall not be located in the view
4 corridor unless the area of the lot where the parking would be located is four (4) or more feet
5 below the level of Elliott Avenue West;

6 b. Development shall be located so as to maximize opportunities for
7 views of Puget Sound for residents and the general public; and

8 c. The structure contains at least two (2) stories at least fifteen (15) feet in
9 height; with the exception that no story in an accessory parking structure is required to be at
10 least fifteen (15) feet in height.

11 D. Within the South Lake Union (~~(Hub-))~~Urban Center(~~(Village, t))~~;

12 1. The maximum structure height in IC zones with sixty-five (65) foot and
13 eighty-five (85) foot height limits may be increased to eighty-five (85) feet and one-hundred and
14 five (105) feet, respectively, provided that:

15 ~~((1-))~~a. A minimum of two (2) (~~(floors))~~ stories in the structure have a
16 floor to floor height of at least fourteen (14) feet; and

17 ~~((2-))~~b. The additional height is used to accommodate mechanical
18 equipment; and

19 ~~((3-))~~c. The additional height permitted does not allow more than six (6)
20 (~~(floors))~~stories in IC zones with a sixty-five (65) foot height limit, or more than seven (7)
21 (~~(floors))~~ stories in IC zones with an eighty-five (85) foot height limit.

22 2. The maximum structure height of structures qualifying for additional floor area
23 under the provisions of section 23.50.051 is one hundred and sixty (160) feet.
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1 Section 7. Subsection A of Section 23.50.027 of the Seattle Municipal Code, which
2 Section was last amended by Ordinance 121281, is amended as follows:

3 **23.50.027 Maximum size of nonindustrial use.**

4 A. Applicability.

5 1. Except as otherwise provided in (~~subsections B, C, D and E of~~) this section
6 (~~below~~), the maximum size of use limits on gross floor area specified in Chart A or, for lots
7 located in the Duwamish Manufacturing/Industrial Center, Chart B of this section (~~shall~~) apply
8 to uses on a lot. The maximum size of use limits apply to both principal and accessory uses on a
9 lot. The limits (~~shall be~~) apply(~~ied~~) separately to the categories of uses listed in the respective
10 charts of this section. The total gross floor area occupied by uses limited under the respective
11 charts of this section shall not exceed an area equal to the area of the lot in an IG1 zone, or two
12 and one-half (2.5) times the area of the lot in an IG2, IB or IC zone, or three (3) times the lot
13 area in IC zones with sixty-five (65) foot or eighty-five (85) foot height limits in the South Lake
14 Union Urban Center(~~Planning Area, as identified in Exhibit 23.50A~~)).

17 2. The maximum size of use limits in Chart A do (~~shall~~) not apply to the area
18 identified in Exhibit 23.50.027A. In that area (~~provided that~~) no single retail establishment
19 (~~shall~~) may exceed fifty thousand (50,000) square feet in size.

21 3. There is no limit under this Section on the size of uses in projects that qualify
22 for additional floor area under section 23.50.051.



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3 **Chart A**

4 **INDUSTRIAL ZONES**

5

| 6 Categories of Uses Subject to Size of Use Limits | IG1 | IG2 and IB | IC |
|--|----------------|-------------------|----------------|
| 7 Retail sales and service or entertainment except spectator 8 sports facilities | 30,000 sq. ft. | 75,000 sq. ft. | 75,000 sq. ft. |
| 9 Office | 50,000 sq. ft. | 100,000 sq. ft. | N.M.S.L. |

10 N.M.S.L. = No Maximum Size Limits

11 **Chart B**

12 **GENERAL INDUSTRIAL ZONES WITHIN DUWAMISH M/I CENTER**

13

| 14 Categories of Uses Subject to Size of Use Limits | IG1 | IG2 |
|---|----------------|----------------|
| 15 Office uses | 50,000 sq. ft. | 75,000 sq. ft. |
| 16 Retail sales and service (except for restaurants and drinking 17 establishments) | 25,000 sq. ft. | 50,000 sq. ft. |
| 18 Restaurants | 5,000 sq. ft. | 5,000 sq. ft. |
| 19 Drinking establishments* | 3,000 sq. ft. | 3,000 sq. ft. |
| 20 Meeting halls | N.M.S.L. | 5,000 sq. ft. |

21 N.M.S.L. = No Maximum Size Limits

22 * The maximum size limit for brew pubs applies to that portion of the pub that is not used for
23 brewing purposes.

24 * * *

25
26 Section 8. Section 23.50.028 of the Seattle Municipal Code, which Section was last
27 amended by Ordinance 121828, is amended as follows:



1 **23.50.028 Floor area ratio.**

2 The floor area ratio (FAR), as provided below, ~~((shall))~~ determines the permitted ~~((gross~~
3 ~~square footage))~~ chargeable floor area on a lot~~((permitted))~~.

4 A. General Industrial 1, Floor Area Ratio. The ~~((total))~~ maximum FAR in IG1
5 zones~~((shall be))~~ is two and one-half (2.5).

6 B. General Industrial 2 and Industrial Buffer, Floor Area Ratio. The maximum FAR for
7 all General Industrial 2 (IG2) and Industrial Buffer (IB) uses ~~((shall be))~~ is two and one half
8 (2.5).

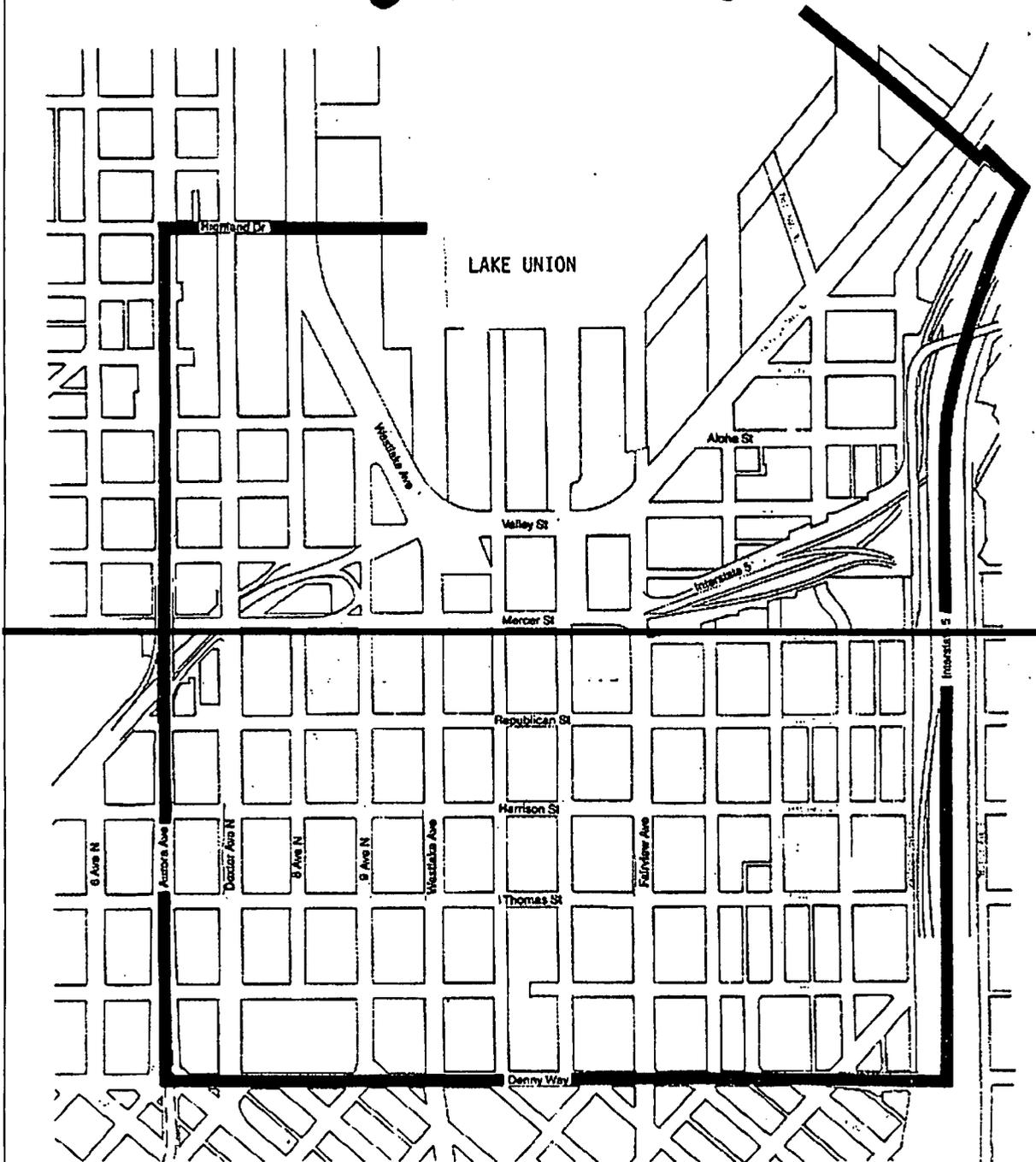
9 C. Industrial Commercial, Floor Area Ratio. Except within the South Lake Union Urban
10 Center, ~~((for the area shown in Exhibit 23.50.028 A-))~~ the maximum FAR ~~((for))~~ in all Industrial
11 Commercial (IC) ~~((uses shall be))~~ zones is two and one-half (2.5). ~~((See Exhibit 23.50.028 A))~~
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((Exhibit 23.50.028A

South Lake Union Planning Area

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1))D. Industrial Commercial/South Lake Union, Floor Area Ratio. Within the South Lake
2 Union Urban Center, (~~area shown on Exhibit 23.50.028 A and described as the South Lake~~
3 ~~Union Planning Area;~~) the maximum FAR in Industrial Commercial zones (~~shall be as~~
4 ~~follows:~~

5 1. ~~In areas with a thirty (30) foot or forty five (45) foot height limit, the FAR~~
6 ~~shall be two and one half (2.5); and~~

7 2. ~~In areas with a sixty five (65) foot or eighty five (85) foot height limit, the~~
8 ~~FAR shall be))is three (3), except as provided in Section 23.50.051.~~

9 E. All Industrial Zones, Exemptions from FAR Calculations. The following areas (~~shall~~
10 ~~be)) are exempt from FAR calculations:~~

11 1. All gross floor area below grade;

12 2. All gross floor area used for accessory parking, except as provided in
13 subsection F;

14 3. All gross floor area located on the rooftop of a structure and used for any of the
15 following: mechanical equipment, stair and elevator penthouses, and communication equipment
16 and antennas(~~located on the rooftop of structures));~~

17 4. All gross floor area uses for covered rooftop recreational space of a building
18 existing as of December 31, 1998, when complying with the provisions of Section 23.50.012 D;
19 and

20 5. (~~All gross floor area of a monorail station, including all floor area open to the~~
21 ~~general public during normal hours of station operation (but excluding retail or service~~
22 ~~establishments to which public access is limited to customers or clients, even where such~~
23 ~~establishments are primarily intended to serve monorail riders); and))~~



1 ((6-)) Within the South Lake Union ((Hub-))Urban Center ((Village)):((;))

2 a. ~~((g))~~Gross floor area occupied by mechanical equipment, up to a
3 maximum of fifteen (15) percent of the floor area on the lot~~((, is exempt from FAR~~
4 ~~calculations))~~. The allowance is calculated on the gross floor area of the structure after all other
5 exempt space permitted under this subsection E is deducted. ~~Mechanical equipment located on~~
6 ~~the roof of a structure is not calculated as part of the total gross floor area of a structure.~~

7
8 b. The following uses located at street level:

9 i. General sales and service uses;

10 ii. Eating and drinking establishments;

11 iii. Entertainment uses; and

12 iv. Public libraries.

13
14 F. Within the South Lake Union Urban Center, gross floor area used for accessory
15 parking within stories that are completely above finished grade is not exempt.

16 G. Anything in Section 23.76.026 notwithstanding, the applicant for a Master Use Permit
17 for a project in the South Lake Union Urban Center to which the Land Use Code in effect prior
18 to the effective date of the ordinance enacting this subsection G applies may, by written election,
19 use the exemptions in subsection E5b of this section, provided that subsection F of this section
20 also shall apply.

21
22 Section 9. A new Section 23.50.051 of the Seattle Municipal Code is adopted to read as
23 follows:

24 **23.50.051 Additional floor area in certain IC-zoned areas in the South Lake Union Urban**
25 **Center.**



1 A. Applicability; General Rules. This Section applies only to IC zones in the area shown
2 on Exhibit 23.50.051 A. In IC zones in that area, floor area in addition to the FAR limit in
3 Section 23.50.028 is permitted for projects that satisfy all the conditions in this section. For
4 purposes of applying any section of Chapter 23.48 referred to in this section, Class 2 Pedestrian
5 Streets are as designated on Exhibit 23.50.051A. For the purposes of this section, the applicable
6 FAR limit in subsection 23.50.028D is called the "base FAR." As a condition to any floor area
7 above the base FAR, a project must conform to all the provisions of subsections C through M of
8 this section, inclusive. As a further condition, any floor area above four and a half (4.5) FAR is
9 allowed only to the extent gained in accordance with the bonus and TDR provisions of
10 subsection N of this section.
11

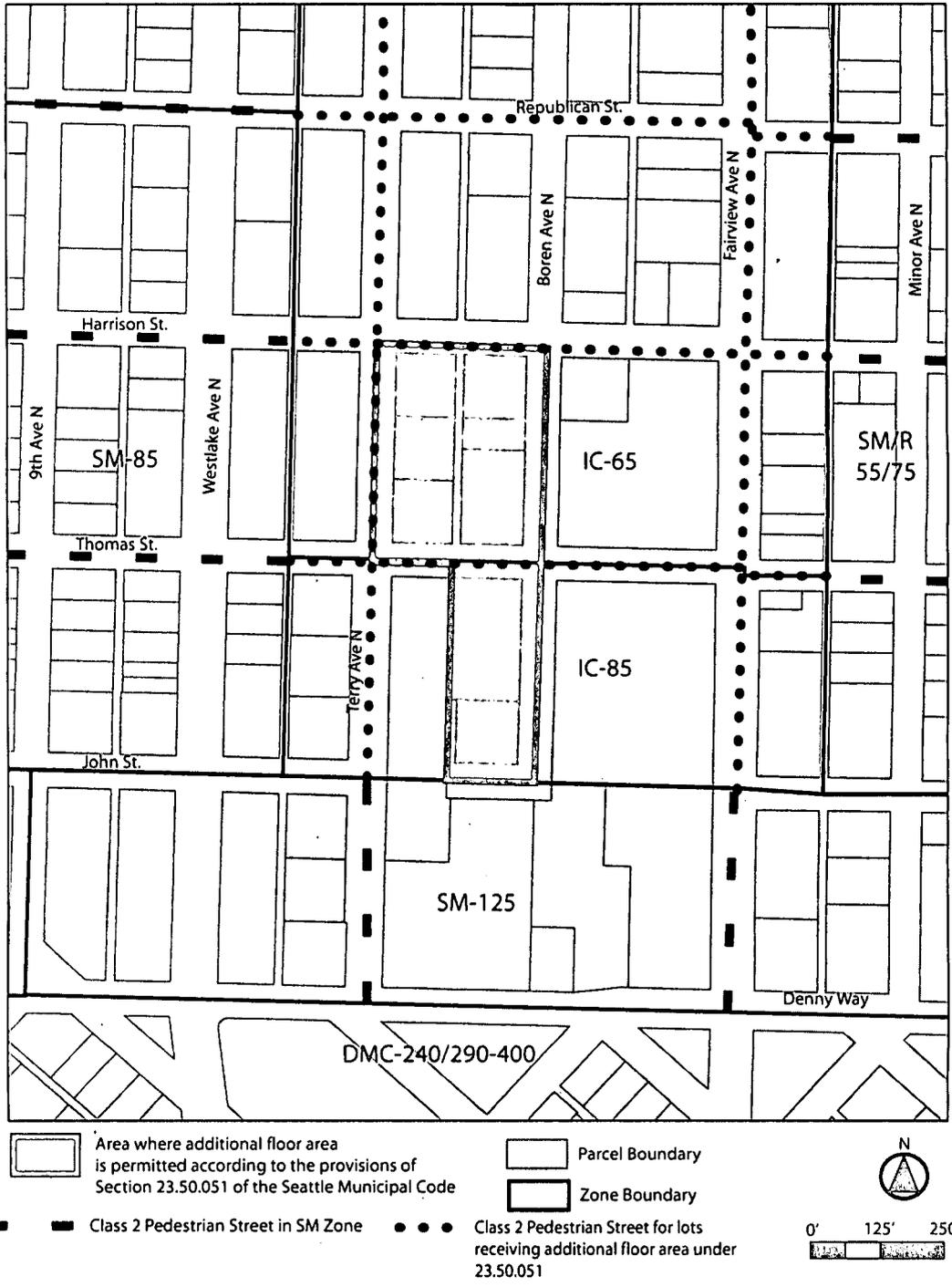
12 B. Maximum FAR. The maximum chargeable floor area permitted on a lot pursuant to
13 this section is seven (7) FAR.
14

15 C. Alteration of Landmark. No floor area above the base FAR shall be granted to any
16 proposed development that would result in a significant alteration to any designated feature of a
17 Landmark structure, unless a Certificate of Approval for the alteration is granted by the
18 Landmarks Preservation Board.
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Exhibit 23.50.051 A

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D. LEED requirement. The applicant will strive to achieve a LEED Gold rating or better and make a commitment acceptable to the Director that the proposed development will earn at



1 least a LEED Silver rating or meet a substantially equivalent standard, and shall demonstrate
2 compliance with that commitment, all in accordance with the provisions of Section 23.49.020.

3 E. Upper Level Setback. An upper level setback consistent with subsections B and C of
4 Section 23.48.012 is provided along Thomas Street and Harrison Street for any portion of the
5 structure above forty-five (45) feet in height.

6 F. Facades. Each structure satisfies the general facade requirements of Section
7 23.48.014.

8 G. Transparency. Each structure satisfies the transparency and blank facade
9 requirements of Section 23.48.018.

10 H. Solid Waste and Recycling. Each structure satisfies the solid waste and recyclable
11 materials storage space requirements of Section 23.48.031.

12 I. Parking and access. Each structure satisfies the parking and loading access
13 requirements of Section 23.48.034. Parking for each structure is subject to the following
14 limitations and requirements:

15 (1) Parking is not permitted in stories that are completely above street level
16 unless the parking is separated from the street by other uses:

17 (2) Due to physical site conditions such as topographic or geologic conditions,
18 parking is permitted in stories that are partially below street level and partially above
19 street level without being separated from the street by other uses, if:

20 a. the street front portion of the parking (excluding garage and loading
21 doors and permitted access to parking) that is at or above street level is screened
22 from view at the street level; and
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1 b. the street façade is enhanced by architectural detailing, artwork,
2 landscaping, or similar visual interest features.

3 J. Screening and Landscaping. Each structure satisfies the NC3 zone screening and
4 landscaping requirements of Section 23.47A.016.

5 K. Transportation Management Program. The Master Use Permit application shall
6 include a Transportation Management Program (TMP) consistent with requirements for TMPs in
7 Director's Rule 14-2002. The TMP shall be approved by the Director only if, after consulting
8 with Seattle Department of Transportation, the Director determines that no more than forty (40)
9 percent of trips to and from the project will be made using single-occupant vehicles (SOV).
10 percent of trips to and from the project will be made using single-occupant vehicles (SOV).

11 1. For purposes of measuring attainment of single-occupant vehicle (SOV) goals
12 contained in the TMP, the number of SOV trips shall be calculated for the p.m. hour in which an
13 applicant expects the largest number of vehicle trips to be made by employees at the site (the
14 p.m. peak hour of the generator).

15 2. Compliance with this section does not affect the responsibility of any employer
16 to comply with Seattle's Commute Trip Reduction (CTR) Ordinance.
17

18 L. Energy Management Plan. The Master Use Permit application shall include an energy
19 management plan, approved by the Director of Seattle City Light, containing specific energy
20 conservation or alternative energy generation methods or on-site electrical systems that together
21 can ensure that the existing electrical system can accommodate the projected loads from the
22 project. The Director, after consulting with the Director of Seattle City Light, may condition the
23 approval of the Master Use Permit on the implementation of the energy management plan.
24

25 M. Parking Quantity. For development permitted according to Sec. 23.50.051, the
26 Director shall set a maximum number of parking spaces based on the expected number of
27



1 employees in the project and the TMP goals for single-occupant vehicle use, with an allowance
2 for additional short-term parking spaces to serve retail uses and visitors.

3 N. Bonus floor area and TDR. A minimum of seventy-five (75) percent of floor area
4 above five (5) FAR may be gained only through bonuses under Section 23.50.052. The
5 remaining twenty-five (25) percent may be gained either through TDR consistent with Section
6 23.50.053 or bonuses under Section 23.50.052, provided that the condition in Subsection N is
7 satisfied if applicable. The Master Use Permit application to establish any floor area above five
8 (5) FAR under this section shall include a calculation of the amount of floor area and shall
9 identify the manner in which the conditions to added floor area will be satisfied.
10

11 O. Landmark TDR. If Landmark TDR is available, not less than five (5) percent of floor
12 area on a lot above five (5) FAR shall be gained through the transfer of Landmark TDR.
13 Landmark TDR shall be considered "available" if, at the time of the Master Use Permit
14 application to gain the additional floor area, the City of Seattle is offering Landmark TDR
15 eligible for use on the lot for sale at a price per square foot no greater than the total bonus
16 contribution under Section 23.50.052 for a project using the cash option for both housing and
17 childcare facilities. An applicant may satisfy the condition in this section by purchases of
18 Landmark TDR from private parties, by transfer of Landmark TDR from an eligible sending lot
19 owned by the applicant, by purchase of Landmark TDR from the City, or by any combination of
20 the foregoing.
21
22

23 Section 10. A new Section 23.50.052 of the Seattle Municipal Code is adopted to read as
24 follows:
25

26 **23.50.052 Bonus floor area for housing and child care.**

27 A. General Provisions



1 1. This Section applies only to projects seeking floor area above four and a half
2 (4.5) FAR pursuant to Section 23.50.051. The purpose of this section is to encourage
3 development in addition to that authorized by basic zoning regulations, provided that portions of
4 certain adverse impacts from the additional development are mitigated. Two (2) impacts from
5 such development are an increased need for housing in the South Lake Union Urban Center to
6 house the families of workers having lower-paid jobs, and an increased need for child care for
7 workers in the South Lake Union Urban Center.
8

9 2. The mitigation may be provided by building the requisite housing or child care
10 facilities (the "performance option"), by making a contribution to be used by the City to build or
11 provide the housing and child care facilities (the "payment option"), or by a combination of the
12 performance and payment options.
13

14 3. For the purposes of this section, chargeable floor area that is earned under the
15 provisions of this section is called "bonus floor area."

16 B. Housing and Child Care Bonus. For each square foot of bonus floor area, the
17 applicant shall provide or make payments for both housing and child care in amounts
18 determined as follows:
19

20 1. Housing.

21 a. For each square foot of bonus floor area, either 0.15575807 square feet
22 of housing affordable to and serving households with incomes up to 80% of median King
23 County household income based on household size (referred to as the "income limit" in this
24 section), or an alternative voluntary cash contribution of \$18.75 for such housing. The Housing
25 Director may adjust the cash contribution alternative, no more frequently than annually,
26 approximately in proportion to the change in the Consumer Price Index, All Urban Consumers,
27
28

1 Seattle-Tacoma metropolitan area, All Items (1982 - 84 = 100), as determined by the U.S.
2 Department of Labor, Bureau of Labor Statistics, or successor index, or any other cost index that
3 such Director may deem appropriate. The base year for the first such adjustment shall be 2007.
4 Any such adjustment to the cash contribution amounts may be implemented through a rule-
5 making process.

6
7 b. For purposes of this subsection, a housing unit serves households with
8 incomes up to 80% of median King County household income only if all of the following are
9 satisfied for a period of fifty (50) years beginning upon the issuance of a final certificate of
10 occupancy for the housing unit by the Department of Planning and Development:

11 (1) For rental units:

12 i. The housing unit is used as rental housing solely for
13 households with incomes, at the time of each household's initial occupancy, not exceeding the
14 income limit; and

15
16 ii. The monthly rent charged for the housing unit, together
17 with a reasonable allowance for any basic utilities that are not included in the rent, does not
18 exceed one-twelfth (1/12) of thirty (30) percent of the income limit for the estimated average
19 size of household corresponding to the size of unit, as determined by the Housing Director;

20
21 iii. There are no charges for occupancy other than rent;
22 and

23
24 iv. The housing unit and the structure in which it is
25 located are maintained in decent and habitable condition, including adequate basic appliances,
26 for such fifty (50) year period.

27 (2) For homeownership units:



1 i. The housing unit is used as homeownership housing
2 solely for households with incomes at the time of each household's initial occupancy, not
3 exceeding the income limit;

4 ii. The sales price is restricted so that estimated monthly
5 housing costs, according to a method prescribed or approved by the Housing Director, including
6 mortgage payment, taxes, insurance, and condominium dues, do not exceed 40% of household
7 monthly income at the income limit for the estimated average size of household corresponding
8 to the size of unit as determined by the Housing Director; and

9 iii. The housing unit is subject to recorded instruments
10 satisfactory to the Housing Director providing for sales prices on any resale consistent with
11 affordability on the same basis, for such fifty (50) year period.

12 c. If housing provided under the performance option is not yet
13 constructed, or is not ready for occupancy, at the time when a cash contribution would be due
14 pursuant to subsection C of this Section if the applicant had elected the cash option, the
15 applicant may commit to complete such housing on terms acceptable to the Housing Director,
16 which terms shall require that within three (3) years of the issuance of the first building permit
17 for the project using the bonus floor area, the applicant shall obtain a final certificate of
18 occupancy for such housing. Any applicant seeking to qualify for bonus floor area based on such
19 housing shall provide to the City, prior to the date when a contribution would be due for the cash
20 option under subsection C of this section, an irrevocable bank letter of credit or other sufficient
21 security approved by the Housing Director, and a related voluntary agreement, so that at the end
22 of the three (3) year period, if the housing does not qualify or is not provided in a sufficient
23 amount to satisfy the terms of this section, the City shall receive (i) a cash contribution for
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1 time during such period. The Housing Director may provide by rule for circumstances in which
2 housing units maybe replaced if lost due to casualty or other causes, and for terms and
3 conditions upon which a cash contribution may be made in lieu of continuing to provide
4 housing units under the terms of this subsection.

5 g. Housing units provided to qualify for a bonus should include a range of
6 unit sizes, including units suitable for families with children. The Housing Director is authorized
7 to prescribe by rule minimum requirements for the range of unit sizes, by numbers of bedrooms,
8 in housing provided to qualify for a bonus. The Housing Director shall take into account, in any
9 such rule, estimated distributions of household sizes among households with incomes up to 80%
10 of median King County household income.
11

12 h. Housing units provided to qualify for a bonus shall be located within
13 the South Lake Union Urban Center, except that if the Director, after consultation with the
14 Housing Director, finds that it would be impracticable to provide the housing in the South Lake
15 Union Urban Center within the time specified in this Section, the Director may allow the
16 housing to be provided at one or more other locations within the City from which workers can
17 easily commute by public transit to and from the lot using the bonus floor area.
18

19 i. Housing units provided to qualify for a bonus shall be newly
20 constructed, converted from nonresidential use, or renovated in a residential building that was
21 vacant as of December 1, 2007.
22

23 j. For purposes of this section, "median King County household income"
24 for any household size means the estimated median income among households of that size in
25 King County as most recently published or reported by a source considered reliable by the
26 Housing Director. If such data are not published or reported for a household size, the Housing
27

1 Director may estimate the median King County household income for that household size by
2 adjusting available data in such manner as the Housing Director shall determine. For purposes
3 of maximum rents or sale prices, if the estimated average household size corresponding to a unit
4 size includes a fraction, the Housing Director shall estimate the median King County household
5 income for that household size by interpolation using the next higher and lower integral
6 household sizes.

8 2. Child Care.

9 a. For each square foot of bonus floor area allowed under this section, in
10 addition to providing housing or an alternative cash contribution pursuant to subsection B1, the
11 applicant shall provide fully improved child care facility space sufficient for 0.000127 of a child
12 care slot, or a cash contribution to the City of Three Dollars and Twenty-five Cents (\$3.25), to
13 be administered by the Human Services Department. The Director of the Human Services
14 Department may adjust the alternative cash contribution, no more frequently than annually,
15 approximately in proportion to the change in the Consumer Price Index, All Urban Consumers,
16 Seattle-Tacoma metropolitan area, All Items (1982-84=100), as determined by the U.S.
17 Department of Labor, Bureau of Labor Statistics, or successor index, or any other cost index that
18 such Director may deem appropriate. The base year for the first such adjustment is 2007. The
19 minimum interior space in the child care facility for each child care slot shall comply with all
20 applicable state and local regulations governing the operation of licensed childcare providers.
21 Child care facility space shall be deemed provided only if the applicant causes the space to be
22 newly constructed or newly placed in child care use after the submission of a permit application
23 for the project intended to use the bonus floor area, except as provided in subsection B2b(6). If
24 any contribution or subsidy in any form is made by any public entity to the acquisition,
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1 family do not exceed the amount it would be charged, exclusive of subsidy, if the family were
2 enrolled in the City of Seattle Child Care Subsidy Program.

3 (3) Child care space provided to satisfy bonus conditions shall be
4 dedicated to child care use, consistent with the terms of this section, for twenty (20) years. The
5 dedication shall be established by a recorded covenant, running with the land, and enforceable
6 by the City, signed by the owner of the lot where the child care facility is located and by the
7 owner of the lot where the bonus floor area is used, if different from the lot of the child care
8 facility. The child care facility shall be maintained in operation, with adequate staffing, at least
9 eleven (11) hours per day, five (5) days per week, fifty (50) weeks per year.
10

11 (4) Exterior space for which a bonus is or has been allowed under
12 any other section of this title or under former Title 24 shall not be eligible to satisfy the
13 conditions of this section.
14

15 (5) Unless the applicant is the owner of the child care space and is
16 a duly licensed and experienced child care provider approved by the Director of the Human
17 Services Department, the applicant shall provide to the Director a signed agreement, acceptable
18 to such Director, with a duly licensed child care provider, under which the child care provider
19 agrees to operate the child care facility consistent with the terms of this section and of the
20 recorded covenant, and to provide reports and documentation to the City to demonstrate such
21 compliance.
22

23 (6) One (1) child care facility may fulfill the conditions for a
24 bonus for more than one (1) project if it includes sufficient space, and provides sufficient slots
25 affordable to limited income families, to satisfy the conditions for each such project without any
26 space or child care slot being counted toward the conditions for more than one (1) project. If the
27
28



1 child care facility is located on the same lot as one of the projects using the bonus, then the
2 owner of that lot shall be responsible for maintaining compliance with all the requirements
3 applicable to the child care facility; otherwise responsibility for such requirements shall be
4 allocated by agreement in such manner as the Director of the Human Services Department may
5 approve. If a child care facility developed to qualify for bonus floor area by one applicant
6 includes space exceeding the amount necessary for the bonus floor area used by that applicant,
7 then to the extent that the voluntary agreement accepted by the Director of the Human Services
8 Department from that applicant so provides, such excess space may be deemed provided by the
9 applicant for a later project pursuant to a new voluntary agreement signed by both such
10 applicants and by any other owner of the child care facility, and a modification of the recorded
11 covenant, each in form and substance acceptable to such Director.
12
13

14 c. The Director of the Human Services Department shall review the design
15 and proposed management plan for any child care facility proposed to qualify for bonus floor
16 area to determine whether it will comply with the terms of this section. The allowance of bonus
17 floor area is conditioned upon approval of the design and proposed management plan by the
18 Director. The child care facility shall be constructed consistent with the design approved by such
19 Director and shall be operated for the minimum twenty (20) year term consistent with the
20 management plan approved by such Director, in each case with only such modifications as shall
21 be approved by such Director. If the proposed management plan includes provisions for
22 payment of rent or occupancy costs by the provider, the management plan must include a
23 detailed operating budget, staffing ratios, and other information requested by the Director to
24 assess whether the child care facility may be economically feasible and able to deliver quality
25 services.
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1 d. The Director of the Human Services Department is authorized to accept
2 a voluntary agreement for the provision of a child care facility to satisfy bonus conditions and
3 related agreements and instruments consistent with this section. The voluntary agreement may
4 provide, in case a child care facility is not maintained in continuous operation consistent with
5 this subsection B2 at any time within the minimum twenty (20) year period, for the City's right
6 to receive payment of a prorated amount of the alternative cash contribution that then would be
7 applicable to a new project seeking bonus floor area. Such Director may require security or
8 evidence of adequate financial responsibility, or both, as a condition to acceptance of an
9 agreement under this subsection.
10

11 C. Cash Option Payments.

12 1. Cash payments under voluntary agreements for bonuses shall be made prior to
13 issuance of any building permit after the first building permit for a project, and in any event
14 before any permit for any construction activity other than excavation and shoring is issued, or if
15 the bonus is for use of existing floor area, the cash payment shall be made prior to issuance of
16 any permit or modification allowing for use of such space as bonus floor area.
17

18 2. Such payments shall be deposited in special accounts established solely to
19 fund capital expenditures for child care facilities and housing as set forth in this section,
20 including the City's costs to administer projects, not to exceed 10% of the contributions.
21

22 3. Housing that is funded with cash contributions shall be located within the
23 South Lake Union Urban Center, except that if the Housing Director finds that it would be
24 impracticable to provide the housing in the South Lake Union Urban Center within the time
25 specified for the performance option under this Section or any time limit under applicable law,
26
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1 then the housing may be located at one or more other locations within the City from which
2 workers can easily commute by public transit to and from the lot using the bonus floor area.

3 4. The Housing Director may allow contributions of property in lieu of cash
4 payments if the Director finds that the value of the property equals or exceeds cash payment that
5 otherwise would be made, subject to acceptance of any real property by ordinance.

6 D. No Subsidies for Bonused Housing: Exception.

7
8 1. Intent. Housing provided through the bonus system is intended to mitigate a
9 portion of the additional housing needs resulting from increased density, beyond those needs
10 that would otherwise exist, which the City and other governmental and charitable entities
11 attempt to meet through various subsidy programs. Allowing bonus floor area under the
12 performance option for housing that uses such subsidy programs therefore could undermine the
13 intent of this section.

14
15 2. Agreement Concerning Subsidies. The Housing Director may require, as a
16 condition of any bonus floor area for housing under the performance option, that the owner of
17 the lot upon which the housing is located agree not to seek or accept any subsidies, including
18 without limitation those items referred to in subsection D3 of this section, related to the housing,
19 except for any subsidies that may be allowed by the Housing Director under that subsection. The
20 Director may require that such agreement provide for the payment to the City of the value of any
21 subsidies received in excess of any amounts allowed by such agreement.

22
23 3. No Bonus for Subsidized or Restricted Housing. In general, no bonus may be
24 earned by providing housing if:

25 a. Any person is receiving or will receive with respect to the housing any
26 charitable contributions or public subsidies for housing development or operation, including, but
27



1 not limited to, tax exempt bond financing, tax credits, federal loans or grants, City of Seattle
2 housing loans or grants, county housing funds, State of Washington housing funds, or property
3 tax exemptions except as allowed pursuant to RCW Chapter 84.14, or other special tax
4 treatment; or

5 b. Independent of the requirements for the bonus, the housing is or would be
6 subject to any restrictions on the use, occupancy or rents; or

7 c. The housing was required to be built by the City of Seattle as a requirement of
8 the purchase and sale of property or for any other purpose.

9
10 4. Exceptions by Rule. The Housing Director of may provide, by rule
11 promulgated after December 31, 2007, for terms and conditions on which exceptions to the
12 restriction on subsidies in this subsection may be allowed. Such rule may provide that, as a
13 condition to any exception, the Housing Director shall increase the amount of housing floor area
14 per bonus square foot, as set forth in subsection B1 of this section, to an amount that allows
15 credit for only the Director's estimate of the incremental effect, in meeting the City's housing
16 needs for the next fifty (50) years, of the net financial contribution that is being made by the
17 applicant pursuant to the voluntary agreement and not funded or reimbursed, directly or
18 indirectly, from any other source.
19

20
21 Section 11. A new Section 23.50.053 of the Seattle Municipal Code is adopted to read as
22 follows:

23 **23.50.053 Transfer of development rights within the South Lake Union Urban Center.**

24 A. General Standards.
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1. In order to achieve a portion of the floor area above five (5) FAR that may be allowed pursuant to Section 23.50.051, an applicant may use transferable development rights to the extent permitted in Chart 23.50.053A, subject to the limits and conditions in this Chapter:

Chart 23.50.053 A

| Zones | Types of TDR | | | |
|--|------------------|--------------|-------------------|-------------|
| | Within-block TDR | Landmark TDR | Arts Facility TDR | Housing TDR |
| IC | S, R | S, R | S, R | S, R |
| SM with a mapped height limit lower than 85' | X | X | X | X |
| SM/R | X | X | X | X |
| SM/85 | S | S | S | S |
| SM/125 | S | S | S | S |

S = Eligible sending lot, if in the South Lake Union Urban Center.
 R = Eligible receiving lot, if in the area eligible for added floor area under Section 23.50.051.
 X = Not permitted.

2. TDR may be transferred as within-block TDR only from a lot to another lot on the same block that is eligible for added floor area under Section 23.50.051, to the extent permitted in Chart 23.50.053A, subject to limits and conditions in this chapter.

3. The eligibility of a lot in the South Lake Union Urban Center to be either a sending or receiving lot is regulated by Chart 23.50.053A.

4. TDR eligible to be transferred from a major performing arts facility under Section 23.49.014 G, may be transferred from a Downtown zone to a lot eligible as a receiving site for arts facility TDR under Chart 23.50.053A. No other TDR from a Downtown zone may be used under this section.

5. Except as expressly permitted pursuant to this chapter, development rights or potential floor area may not be transferred from one lot to another.



1 6. No permit after the first building permit, and in any event, no permit for any
2 construction activity other than excavation and shoring or for occupancy of existing floor area
3 by any use based upon TDR, will be issued for development that includes TDR until the
4 applicant's possession of TDR is demonstrated to the satisfaction of the Director.

5 7. For purposes of this Section, the base FAR of any lot is the total maximum
6 FAR allowable for chargeable floor area pursuant to the provisions of this Chapter, excluding
7 Section 23.50.051, or pursuant to Chapter 23.48, as applicable to the sending lot, in each case
8 not including any additional FAR that may be permitted pursuant to any exception, departure or
9 waiver.
10

11 8. The Director may promulgate rules to implement this section.

12 B. Standards for Sending Lots.

13 1. a. The maximum amount of floor area that may be transferred from a
14 sending lot in the South Lake Union Urban Center is the amount by which the product of the
15 eligible lot area times the base FAR of the sending lot exceeds the sum of any chargeable floor
16 area on the lot plus any TDR previously transferred from the sending lot.

17 b. For purposes of this subsection B1, the eligible lot area is the total area
18 of the sending lot, reduced by the excess, if any, of the total of accessory surface parking over
19 one-quarter (1/4) of the total area of the footprints of all structures on the sending lot.

20 2. When TDR are transferred from a sending lot in a zone with a FAR limit that
21 applies to nonresidential uses, the amount of chargeable floor area that may then be built on the
22 sending lot shall be equal to the area of the lot multiplied by the base FAR, minus the total of:
23

24 a. The chargeable floor area on the lot; plus
25

26 b. The amount of chargeable floor area transferred from the lot.
27
28



1 3. Chargeable floor area allowed above the base FAR under any provisions of
2 this title, or allowed under any exceptions or waivers of development standards, may not be
3 transferred. TDR may be transferred from a lot that contains chargeable floor area exceeding the
4 base FAR only to the extent, if any, that:

5 a. TDR were previously transferred to such lot in compliance with the
6 Land Use Code provisions and applicable rules then in effect;

7 b. Those TDR, together with the base FAR set forth in Section 23.48.016
8 B or in Section 23.50.028, exceed the chargeable floor area on the lot and any additional
9 chargeable floor area for which any permit has been issued or for which any permit application
10 is pending; and

11 c. The excess amount of TDR previously transferred to such lot would
12 have been eligible for transfer from the original sending lot under the provisions of this section
13 at the time of their original transfer from that lot.

14 6. Landmark structures on sending lots from which Landmark TDR are
15 transferred shall be restored and maintained as required by the Landmarks Preservation Board.

16 7. Housing on lots from which housing TDR are transferred shall be rehabilitated
17 to the extent required to provide decent, sanitary and habitable conditions, in compliance with
18 applicable codes, and so as to have an estimated minimum useful life of at least fifty (50) years
19 from the time of the TDR transfer, as approved by the Director of Housing. If housing TDR are
20 proposed to be transferred prior to the completion of work necessary to satisfy this subsection
21 B7, the Director of the Office of Housing may require, as a condition to such transfer, that
22 security be deposited with the City to ensure the completion of such work.
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1 8. The housing units on a lot from which housing TDR are transferred, and that
2 are committed to low-income housing as a condition to eligibility of the lot as a TDR sending
3 site, shall be generally comparable in their average size and quality of construction to other
4 housing units in the same structure, in the judgment of the Housing Director, after completion of
5 any rehabilitation or construction undertaken in order to qualify as a TDR sending lot.

6 9. Structures on an arts facility TDR site shall be built or rehabilitated to the
7 extent required to be in compliance with applicable codes, and so as to have an estimated
8 minimum useful life of at least fifty (50) years from the time of the TDR transfer.

9 C. Limit on within-block TDR. Any receiving lot may use TDR from sending lots that
10 are eligible to send TDR solely because they are on the same block as the receiving lot for a
11 maximum of fifteen (15) percent of all floor area gained through bonus and TDR on the
12 receiving lot.
13

14 D. Transfer of Development Rights Deeds and Agreements.

15 1. The fee owners of the sending lot shall execute a deed, and shall obtain the
16 release of the TDR from all liens of record and the written consent of all holders of
17 encumbrances on the sending lot other than easements and restrictions, unless such release or
18 consent is waived by the Director for good cause. The deed shall be recorded in the King
19 County real property records. When TDR are conveyed to the owner of a receiving lot described
20 in the deed, then unless otherwise expressly stated in the deed or any subsequent instrument
21 conveying such lot or the TDR, the TDR shall pass with the receiving lot whether or not a
22 structure using such TDR shall have been permitted or built prior to any conveyance of the
23 receiving lot. Any subsequent conveyance of TDR previously conveyed to a receiving lot shall
24 require the written consent of all parties holding any interest in or lien on the receiving lot from
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1 which the conveyance is made. If the TDR are transferred other than directly from the sending
2 lot to the receiving lot using the TDR, then after the initial transfer, all subsequent transfers also
3 shall be by deed, duly executed, acknowledged and recorded, each referring by King County
4 recording number to the prior deed.

5 2. Any person may purchase any TDR that are eligible for transfer by complying
6 with the applicable provisions of this section, whether or not the purchaser is then an applicant
7 for a permit to develop real property. Any purchaser of such TDR (including any successor or
8 assignee) may use such TDR to obtain floor area above the applicable base on a receiving lot to
9 the extent such use of TDR is permitted under the Land Use Code provisions in effect on the
10 date of vesting, under applicable law, of such person's rights with respect to the issuance of
11 permits for development of the project intended to use such TDR. The Director may require, as a
12 condition of processing any permit application using TDR or for the release of any security
13 posted in lieu of a deed for TDR to the receiving lot, that the owner of the receiving lot
14 demonstrate that the TDR have been validly transferred of record to the receiving lot, and that
15 such owner has recorded in the real estate records a notice of the filing of such permit
16 application, stating that such TDR are not available for retransfer.

17 3. For transfers of Landmark TDR, the owner of the sending lot shall execute and
18 record an agreement in form and content acceptable to the Landmarks Preservation Board
19 providing for the restoration and maintenance of the historically significant features of the
20 structure or structures on the lot.

21 4. For transfers of arts facility TDR from an arts facility TDR site, the owner of
22 the sending lot shall execute and record an agreement in form and content acceptable to the
23 Director of the Office of Arts and Cultural Affairs providing for the construction, improvement
24



1 and/or maintenance of structure(s) on the lot and the use of the arts facility sending site for at
2 least fifty (50) years by one or more non-profit organizations dedicated to the creation, display,
3 performance or screening of art by or for members of the general public. Such agreements shall
4 commit to improvements, maintenance, limits on occupancy and other measures to maintain the
5 long-term use of the structure(s) for artistic activities consistent with the definition of arts
6 facility TDR site and acceptable to the Director of the Office of Arts and Cultural Affairs.
7

8 5. For transfers of housing TDR, the owner of the sending lot shall execute and
9 record an agreement, with the written consent of all holders of encumbrances on the sending lot,
10 unless such consent is waived by the Director of the Office of Housing for good cause, to
11 provide for the maintenance of the required housing on the sending lot for a minimum of fifty
12 (50) years. Such agreement shall commit to limits on rent and occupancy consistent with the
13 definition of housing TDR site and acceptable to the Director of the Office of Housing.
14

15 6. A deed conveying TDR may require or permit the return of the TDR to the
16 sending lot under specified conditions, but notwithstanding any such provisions:

17 a. The transfer of TDR to a receiving lot shall remain effective so long as
18 any portion of any structure for which a permit was issued based upon such transfer remains on
19 the receiving lot; and
20

21 b. The City shall not be required to recognize any return of TDR unless it
22 is demonstrated that all parties in the chain of title have executed, acknowledged and recorded
23 instruments conveying any interest in the TDR back to the sending lot and any lien holders have
24 released any liens thereon.
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1 "Chargeable floor area" means gross floor area of all structures on a((~~any~~)) lot ((~~in a~~
2 ~~downtown zone~~)), except portions of structures or uses that are expressly exempt from floor area
3 limits under the provisions of this title, and after reduction by any applicable adjustment for
4 mechanical equipment. Chargeable floor area is computed using the exemptions and adjustments
5 in effect at the time the computation is made. Chargeable floor area includes any floor area, not
6 otherwise exempt, that is in a structure in a ((~~downtown~~)) zone where floor area limits do not
7 apply or that is permitted to be occupied by reason of the Landmark status of the structure in
8 which it is located.
9

10 * * *

11 Section 14. The following subsections of Section 23.84A.038 of the Seattle Municipal
12 Code, which section was last amended by Ordinance 122330, are amended and additional
13 subsections are added to such section, to be codified in alphabetical order, as follows:
14

15 **23.84A.038 Definitions -- "T."**

16 * * *

17 "TDR, arts facility" means either TDR from a major performing arts facility that are
18 transferable pursuant to Section 23.49.014 G; or TDR that are eligible for transfer based on the
19 status of the sending lot as an arts facility TDR site, and if they are eligible for transfer on any
20 other basis, are designated by the applicant seeking to use such TDR on a receiving lot as arts
21 facility TDR.
22

23 * * *

24 "TDR site, arts facility" means a lot meeting the following requirements:
25

- 26 1. The lot is located in the South Lake Union Urban Center either in an IC zone
27 or in a zone with a height limit of eighty-five (85) feet or more;
28



1 2. Violations of the requirements of Section 23.44.041C are subject to a civil
2 penalty of Five Thousand Dollars (\$5,000), which shall be in addition to any penalty imposed
3 under subsection A of this section.

4 3. Violation of Section 23.49.011, ~~((or))~~ 23.49.015 or 23.50.051 with respect to
5 failure to demonstrate compliance with commitments to earn LEED Silver ratings or satisfy
6 alternative standards under ~~((either))~~ any such Section are subject to penalty in amounts
7 determined under Section 23.49.020, and not to any other penalty.
8

9 C. Civil actions to enforce Title 23 shall be brought exclusively in Seattle Municipal
10 Court except as otherwise required by law or court rule. The Director shall request in writing
11 that the City Attorney take enforcement action. The City Attorney shall, with the assistance of
12 the Director, take appropriate action to enforce Title 23. In any civil action filed pursuant to this
13 chapter, the City has the burden of proving by a preponderance of the evidence that a violation
14 exists or existed. The issuance of the notice of violation or of an order following a review by
15 the Director is not itself evidence that a violation exists.
16

17 D. Except in cases of violations of Section 23.49.011, ~~((or))~~ 23.49.015, or 23.50.051
18 with respect to failure to demonstrate compliance with commitments to earn LEED Silver
19 ratings or satisfy alternative standards, the violator may show as full or partial mitigation of
20 liability:
21

22 1. That the violation giving rise to the action was caused by the willful act, or
23 neglect, or abuse of another; or

24 2. That correction of the violation was commenced promptly, but that full
25 compliance within the time specified was prevented by inability to obtain necessary materials or
26
27
28



1 labor, inability to gain access to the subject structure, or other condition or circumstance beyond
2 the control of the defendant.

3 Section 16. Subsection B of Section 23.90.020 of the Seattle Municipal Code, which
4 section was last amended by Ordinance 122407, is amended as follows:

5 **23.90.020 Alternative criminal penalty.**

6 * * *

7
8 B. A criminal penalty, not to exceed Five Thousand Dollars (\$5,000) per occurrence,
9 may be imposed:

- 10 1. For violations of Section 23.90.002 D;
11 2. For any other violation of this Code for which corrective action is not possible,
12 other than violations with respect to commitments to earn LEED Silver ratings or satisfy
13 alternative standards under SMC 23.49.011, ~~((or))~~23.49.015, or 23.50.051; and
14
15 3. For any ~~((wilful))~~willful, intentional, or bad faith failure or refusal to comply
16 with the standards or requirements of this Code.

17 Section 17. The purpose of this Section is to clarify the combined effect of two bills
18 passed the same day amending the same Section. If and when CB 116090 takes effect, Section
19 23.50.027A shall read as follows, any other provision of this ordinance notwithstanding:

20 **23.50.027 Maximum size of nonindustrial use:**

21 A. Applicability.

- 22
23 1. Except as otherwise provided in this section, the maximum size of use limits on gross
24 floor area specified in Chart A of this section apply to uses on a lot. The maximum size of use
25 limits apply to both principal and accessory uses on a lot. The limits apply separately to the
26
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1 categories of uses listed on Chart A. The total gross floor area occupied by uses limited under
 2 Chart A shall not exceed an area equal to two and one-half (2.5) the area of the lot in an IG1,
 3 IG2 IB or IC zone, or three (3) times the lot area in IC zones with sixty-five (65) foot or eighty-
 4 five (85) foot height limits in the South Lake Union Urban Center.

5
 6 2. The combined square footage of any one business establishment located on more than
 7 one lot is subject to the size limitations on non-industrial uses specified on Chart A.

8
 9 3. The maximum size of use limits in Chart A do not apply to the area identified in
 10 Exhibit 23.50.027A. In that area no single non-office use listed in Chart A may exceed fifty
 11 thousand (50,000) square feet in size.

12 4. There is no limit under this Section on the size of uses in projects that qualify for additional
 13 floor area under section 23.50.051.

14
 15
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| CHART A INDUSTRIAL ZONES | | | | | |
|--|-------------------|----------------|--------------------|--|---|
| Uses Subject to Size Limits | IG1 | IG2 | IB | IC Outside the Duwamish MIC | IC Within the Duwamish MIC |
| Animal Shelters and Kennels* | 10,000 sq. ft. | 10,000 sq. ft. | 75,000 sq. ft. | 75,000 sq. ft. | N.S.L. |
| Drinking establishments** | 3,000 sq. ft. | 3,000 sq. ft. | N.S.L. | N.S.L. | N.S.L. |
| Entertainment* | 10,000 sq. ft. | 10,000 sq. ft. | 75,000 sq. ft. | 75,000 sq. ft. | N.S.L. |
| Lodging Uses* | 10,000 sq. ft. | 10,000 sq. ft. | 75,000 sq. ft. | 75,000 sq. ft. | N.S.L. |
| Medical Services* | 10,000 sq. ft. | 10,000 sq. ft. | 75,000 sq. ft. | 75,000 sq. ft. | N.S.L. |
| Office | 10,000 sq. ft. | 25,000 sq. ft. | 100,000 sq. ft. | N.S.L. | N.S.L. |

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| | | | | | | |
|---|--------------------------------------|-------------------|----------------|-------------------|-------------------|--------|
| 1 | Restaurants | 5,000 sq. ft. | 5,000 sq. ft. | N.S.L | N.S.L. | N.S.L. |
| 2 | Retail Sales, Major Durables | 10,000 sq. ft. | 25,000 sq. ft. | 75,000 sq. ft. | 75,000 sq. ft. | N.S.L. |
| 3 | Sales and Services, Automotive | 10,000 sq. ft. | 25,000 sq. ft. | 75,000 sq. ft. | 75,000 sq. ft. | N.S.L. |
| 4 | Sales and Services, General | 10,000 sq. ft. | 25,000 sq. ft. | 75,000 sq. ft. | 75,000 sq. ft. | N.S.L. |

7 N.S.L. = No Size Limit

8 * Where permitted under Chart A of Section 23.50.012.

9
10 ** The size limit for brew pubs applies to that portion of the pub that is not used for
11 brewing purposes.

12 Section 18. The purpose of this Section is to clarify the combined effect of two bills
13 passed the same day amending the same Section. If and when CB 116090 takes effect,
14 subsections A, B, E, F and G of Section 23.50.028, shall read as follows, any other provision of
15 this ordinance notwithstanding:
16

17 **23.50.028 Floor area ratio.**

18 The floor area ratio (FAR), as provided below, determines the permitted chargeable floor
19 area on a lot.

20
21 A. General Industrial 1 and General Industrial 2, Floor Area Ratio. The total
22 maximum FAR shall be two and one-half (2.5).
23

24 B. Industrial Buffer, Floor Area Ratio. The maximum FAR for all uses on lots in
25 the Industrial Buffer (IB) zone shall be two and one half (2.5).
26

27 * * *



1 E. All Industrial Zones, Exemptions from FAR Calculations. The following areas
2 are exempt from FAR calculations:

3 1. All gross floor area below grade;

4 2. All gross floor area used for accessory parking, except as provided in
5 subsection F;

6 3. All gross floor area located on the rooftop of a structure and used for any of the
7 following: mechanical equipment, stair and elevator penthouses, and communication equipment
8 and antennas;

9 4. All gross floor area used for covered rooftop recreational space of a building
10 existing as of December 31, 1998, when complying with the provisions of Section
11 23.50.012 D; and

12 5. Within the South Lake Union Urban Center:

13 a. Gross floor area occupied by mechanical equipment, up to a maximum
14 of fifteen (15) percent of the floor area on the lot. The allowance is calculated on the gross floor
15 area of the structure after all other exempt space permitted under this subsection E is deducted.

16 b. The following uses located at street level:

17 i. General sales and service uses;

18 ii. Eating and drinking establishments;

19 iii. Entertainment uses; and

20 iv. Public libraries.

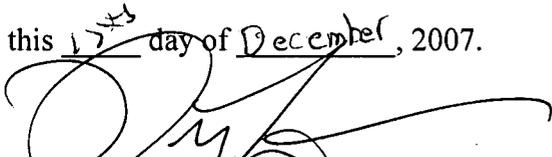


1 F. Within the South Lake Union Urban Center, gross floor area used for
2 accessory parking within stories that are completely above finished grade is not exempt.

3 G. Anything in Section 23.76.026 notwithstanding, the applicant for a
4 Master Use Permit for a project in the South Lake Union Urban Center to which the Land Use
5 Code in effect prior to the effective date of the ordinance enacting this subsection G applies
6 may, by written election, use the exemptions in subsection E5b of this section, provided that
7 subsection F of this section also shall apply.
8

9 Section 19. This ordinance shall take effect and be in force thirty (30) days from and
10 after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10)
11 days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

12 Passed by the City Council the 17th day of December 2007, and signed by me in
13 open session in authentication of its passage this 17th day of December, 2007.

14
15
16 
17 President _____ of the City Council

18 Approved by me this 21st day of December, 2007.

19
20 
21 Gregory J. Nickels, Mayor

22 Filed by me this 21st day of December, 2007.

23
24
25 
26 City Clerk

27 (Seal)



FISCAL NOTE FOR NON-CAPITAL PROJECTS

| Department: | Contact Person/Phone: | DOF Analyst/Phone: |
|--------------------|------------------------------|---------------------------|
| DPD | Lish Whitson/233-0079 | Karen Grove/684-5805 |

Legislation Title:

An ordinance related to land use and zoning, amending Chapters 23.48, 23.49, 23.50, 23.76, 23.84A and 23.90 of the Seattle Municipal Code; allowing additional height and density within a defined area of Industrial Commercial zones in the South Lake Union Urban Center; providing bonus floor area for affordable housing and child care in that area; allowing transfer of development rights to lots in that area from Landmarks and certain other properties; modifying exemptions from floor area limits for projects in the South Lake Union Urban Center; and making technical revisions.

• **Summary of the Legislation:**

The proposed Council Bill will amend the Land Use Code to allow development to exceed current height and density limits within a defined area in the South Lake Union Urban Center. The proposed legislation allows development up to one hundred and sixty feet, with a floor area ratio (FAR) of seven, if the following requirements are met:

- Use of housing and childcare bonuses or Transfer Development Rights for two FAR;
- Building a LEED™ Silver building;
- Development of a Transportation Management Plan that will result in no more than 40% of employees in the building driving alone to work;
- Development of an energy management plan that will reduce impacts on the electrical system;
- Meeting the Seattle Green Factor; and
- Meeting development standards from the Seattle Mixed Zone.

In addition, the legislation would change what areas are subject to the FAR limits in the IC zone in the South Lake Union Urban Center.

• **Background:**

The proposed legislation would implement policies established in the South Lake Union Neighborhood Plan, which was updated as part of 2006's Comprehensive Plan amendment process. The legislation responds to the proposed move of a major business to the South Lake Union Urban Center. It proposes to use a set of incentives that have been used in Downtown Seattle to encourage both more concentrated development and the provision of a series of public benefits.

- *Please check one of the following:*

This legislation does not have any financial implications.

- Attachment 1: Director's Report and Recommendation
Attachment 2: SEPA Checklist
Attachment 3: SEPA Determination of Non-Significance





Department of Planning and Development

Diane M. Sugimura, Director

Director's Report and Recommendation

South Lake Union Urban Center Industrial Commercial Zone Height and Density Changes and Bonus Program

Introduction

The Department of Planning and Development (DPD) is proposing to amend the City's Land Use Code (SMC, Title 23) to allow for increases in permitted height and density under specified conditions in certain areas within Industrial Commercial (IC) zones within the South Lake Union Urban Center. This amendment is intended to allow projects up to one hundred and sixty (160) feet in height, and up to seven (7) FAR, when participating in housing and childcare bonus programs in portions of the IC zones in South Lake Union Urban Center. The proposal implements policies in the South Lake Union Urban Center neighborhood plan.

Background

The South Lake Union Urban Center occupies a prime location next to Downtown Seattle. It is currently undergoing significant change and growth, consistent with the Seattle Comprehensive Plan and the South Lake Union neighborhood plan. With the Seattle Streetcar currently under construction, it will have increased transit access to the densest transit hub in the region.

The City Council adopted the goals and policies of the South Lake Union Urban Center neighborhood plan into the City's Comprehensive Plan in December, 2006. The neighborhood plan anticipates significant growth in the urban center, including 16,000 additional jobs and 8,000 additional households over twenty years.

Vulcan, a major property owner in the neighborhood, has identified a potential tenant, currently located in Seattle, but looking to establish a new corporate headquarters and Seattle area operations in South Lake Union. This tenant would bring approximately 6,000 jobs to the neighborhood in the next five years. This would be a substantial contribution to the neighborhood's 20-year employment target. To accommodate this tenant, Vulcan is proposing to build approximately 700,000 to 800,000 square feet of space on one and a half blocks between John and Harrison Streets and between Boren and Terry Avenues.



The South Lake Union neighborhood plan envisions a diverse community with a range of building types and forms. It supports the growth of “innovative” industries in the neighborhood. It also recommends providing incentives for the creation of affordable housing and preservation of City landmarks and other older neighborhood buildings. A summary of relevant goals and policies from both the South Lake Union Urban Center Neighborhood Plan and the Land Use Element of the Comprehensive Plan are included as Exhibit A.

Current Zoning

The area under consideration is currently zoned Industrial Commercial with a 65-foot height limit on the northern block and an 85-foot height limit on the southern block. The IC zone is intended to “promote a wide mix of employment activities including industrial and commercial activities, such as light manufacturing and research and development.”

The IC zone in South Lake Union has a floor area ratio (FAR) limit of three. In other words, a building with floor area equal to three times the lot area can be built on a lot in this area. Residential uses are generally prohibited in this industrial area. It is surrounded by areas zoned Seattle Mixed (SM), which has varying height and density limits. Generally one can build a 4.5 FAR or 5 FAR office structure in the SM zone. The area to the south of the IC zone is zoned for 125-foot buildings, to the west is an 85-foot zone, and to the east is a zone that encourages housing with a 55-foot height limit for office buildings and a 75-foot height limit for residential buildings, and has no FAR limit.

One block farther south a DMC begins, with variable height limits depending on the use and specific conditions (DMC-240/290-400). The DMC zone allows a base of five FAR of chargeable floor area (generally commercial use), with additional FAR allowed under specified conditions. Floor area above 5 FAR may be achieved in part through the housing and childcare bonus (providing for low-income housing to offset part of the increased need related to low-income employees expected to work in the building, and child care to address a similar increased need) and transferable development rights (TDR). The first increment of floor area above five FAR must be achieved by satisfying a LEED silver rating, or its equivalent.

The IC zone, as an industrial zone, contains few of the development requirements that apply to areas where the City expects large numbers of people to work. Light and glare limits, odor limits, a street tree requirement, screening of specific uses, and limits on blank walls apply in the IC zones. The Seattle Mixed zone includes all of the above, plus specific setbacks, facade requirements, transparency requirements, requirements for solid waste storage, and requirements for specific parking and loading locations.

The Comprehensive Plan's targets of at least 16,000 new jobs and 8,000 new households by the year 2024 were established when the City updated the Plan in 2004. In addition to setting specific growth targets for jobs and households in each urban center and urban village, the City's Comprehensive Plan also sets a jobs/household ratio goal for the year 2024. In those goals, South Lake Union is one of the four urban centers that constitute an area called “center city,” which collectively have a goal of 4.2 jobs per household. At the time the center city goal was set in 2004, South Lake Union had approximately 19,700 jobs and 1,200 households, for a ratio of 16.4 jobs per household. If the neighborhood were to meet its jobs and housing targets,

in the year 2024 the neighborhood would contain approximately 35,000 jobs and 9,000 households, for a ratio of approximately 3.9 jobs per household. This ratio would be much more in line with the Comp Plan's jobs/housing goal and would help offset a higher job ratio expected to occur in other portions of the center city, particularly downtown.

Recommendation:

In order to implement the neighborhood plan and to support development within the South Lake Union IC zone, the Director recommends allowing additional height and density on the portions of the two blocks shown on the attached map, under certain conditions.

1. Limit the building height to 160 feet. While this would be the highest allowable structure height in South Lake Union, it is only somewhat higher than the 125-foot height limits on the block immediately south of this site. Combining additional height with the FAR limit discussed below will permit a building that is less blocky than a building with the same FAR but at a lower height.
2. Set a maximum FAR of 7. This higher FAR would allow for more concentration of office space to accommodate the needs of a potential corporate headquarters.
3. To exceed the currently allowed 3 FAR, structures would need to:
 - Satisfy a LEED™ Silver standard. The Downtown zoning requires participation in LEED™ (Leadership in Energy and Environmental Design, a program of the US Green Building Council) for any project using bonus floor area. LEED™ encourages an integrated design process and establishes performance goals in the form of credits for sustainable site development, water savings, energy efficiency, materials selection, indoor environmental quality, and process and innovation. Points are awarded for credits achieved, with a total of 69 points possible. Thirty-three points of these points must be achieved to be certified LEED™ Silver.
 - Meet certain development standards that would help structures in this area better fit the desired character the neighborhood plan articulates for the South Lake Union Urban Center:
 - Upper level structure setbacks along Thomas and Harrison Streets, to maintain view corridors down those streets.
 - Transparency and blank facade limits, to provide a safe and pleasant pedestrian environment.
 - Solid waste and recyclables storage requirements, to provide space for the waste to be generated by these facilities.
 - Parking and loading location, access, and curbcuts, to provide for appropriate locations and reduce pedestrian/vehicle conflicts.
 - Facade requirements that are consistent with those applied in nearby SM zones.

- Seattle Green Factor, which requires that development provide landscaping to mitigate the impacts of that development. A range of landscaping options is weighted based on the extent of mitigation, and a specific score is required to be met.
 - Include a strong Transportation Management Program (TMP). Structures with 7 FAR on these sites could have significant impacts on the transportation network, if there were not strong measures to keep employees from driving alone to work. With a TMP that results in a maximum of 40% of employees driving alone to work, a study by The Transpo Group shows that there will not be a significant adverse impact on the transportation system.
 - Submit an energy management plan describing how the project's design and systems could reduce its impact on the electrical network. This plan would need to be approved by Seattle City Light before submitting the application for the Master Use Permit. The plan could include on-site energy generation, energy conservation, and/or electrical infrastructure improvements.
4. To exceed 5 FAR, structures would need to:
- Participate in a bonus program in which 75% of floor area above 5 FAR would be earned by providing low-income housing and child care or making voluntary payments to offset part of the additional needs generated by employees in a building. Either TDR or additional housing/childcare bonus could be used to satisfy all or a portion of the other 25% of this additional floor area. Consistent with the Downtown zoning, at least five percent of this additional floor area would be required to be transferred from a landmark structure, provided that there is landmark TDR available. TDR from arts facilities would also be permitted. The bonus program and TDR provisions help to implement the South Lake Union neighborhood plan's policies directing the City to implement incentive programs for housing, arts organizations, and landmark preservation.
5. Within South Lake Union Urban Center IC zones generally, change how floor area is counted for FAR limits. Under the proposed provisions, parking on floors that are above grade would count in floor area, while street-level retail uses would not be counted. This provides an incentive for active uses along the streetfront and removes the possibility that a project could be built to significantly more than the planned amount of FAR by providing above-grade parking.

Exhibit A: Relevant Comprehensive Plan policies

Neighborhood Plan Element: South Lake Union.

- SLU-P2 Promote diversity of building styles and support the diverse characters of neighborhood sub-areas.
- SLU-P6 Establish incentives to encourage preservation, reuse and rehabilitation of historically significant structures in the neighborhood; explore incentives to encourage the adaptive reuse of other older buildings in the neighborhood that provide a visual reminder of the past and promote diversity of character and building types.
- SLU-P9 Support the growth of innovative industries in South Lake Union including biotechnology, information technology, environmental sciences and technology and sustainable building.
- SLU-P11 Encourage characteristics that favor a sustainable arts and cultural presence, including affordable and adaptable venues for making, performing, and displaying art that meet the diverse needs of artists and arts organizations.
- SLU-P33 Provide incentives to encourage housing for people across a range of incomes in a variety of housing types, particularly in mixed-income buildings.
- SLU-P37 Encourage employers to develop and participate in strategies that allow employees to live near their work.
- SLU-P41 Encourage low-impact development and activities that can control consumption of resources, improve public health and safety, and provide for multiple environmental benefits.
- SLU-P45 Encourage building designs that allow for public view corridors through the neighborhood to Lake Union and the Space Needle and natural light at street level.
- SLU-P46 Seek to increase tree coverage, reintroduce native plant species into the neighborhood and provide for additional wildlife habitat appropriate to the urban environment.

Land Use Element: Industrial Commercial Zones

- LU169 Limit development density in Industrial Commercial zones to reflect transportation and other infrastructure constraints, while taking into account other features of an area. Employ development standards designed to create an environment attractive to business, while recognizing the economic constraints facing new development.
- LU173 Apply a range of maximum building height limits for all uses in Industrial commercial zones to protect the special amenities that attract new technology industrial development, such as views of water, shoreline access, and the scale and



character of neighboring development, so that these amenities will continue to be enjoyed both within the zone and from the surrounding area. Assign height limits independently of the zoning designation to provide flexibility in zoning specific areas. Allow different areas within a zone to be assigned different height limits according to the rezone criteria.

- LU174 Include development standards in the Industrial Commercial zones designed to create an attractive environment for new industry and ensure compatibility with surrounding development without inhibiting more traditional industrial activity or the expansion of smaller firms already located in the area. Generally require screening, landscaping and setback standards in the Industrial Commercial zone similar to those found in the pedestrian-oriented commercial areas to promote an attractive setting for new industries.

Land Use Element: Other Land Use Policies

- LU5
1. Consider, through neighborhood planning processes, recommendations for the revision of zoning to better reflect community preferences for the development of an area, provided that consistency between the zoning and this Plan is maintained. Consider relevant goals and policies in adopted neighborhood plans when evaluating a rezone proposal.
 2. Seek opportunities to incorporate incentive programs for development of housing affordable to lower-income households into legislative rezones or changes in development regulations that increase development potential.
 3. Consider development regulations that condition higher-density development on the provision of public benefits when such public benefits will help mitigate impacts of development attributable to increased development potential. (LU5)



Exhibit B:

JOBS-HOUSING ANALYSIS OF SOUTH LAKE UNION TEXT AMENDMENT DRAFT October 22, 2007

The following report is an analysis of the relationship between commercial development and the need for affordable housing in South Lake Union. The report is prepared for the purposes of consideration of a proposed text amendment to the South Lake Union zoning code that would allow for increased commercial density. The report is subject to change as additional information becomes available.

Methodology

This report uses the Keyser Marston Associates (KMA) nexus methodology developed for the report titled "Jobs Housing Analysis—Office and Housing Needs for Downtown Seattle Linkage Program" (hereafter referred to as the KMA study). That study analyzed and documented the economic linkages among construction of workplace buildings, employees, employee households and their housing demand, and the affordability structure of that demand, particularly in the Downtown Seattle area. The analysis quantified the linkages and costs associated with developing housing affordable to households at lower income levels. This report applies the KMA computations to estimate the households, income distribution and housing needs of the new households that would work in commercial buildings constructed in excess of the existing base zoning in South Lake Union. It then computes the financial gap between what the anticipated workers would be able to support and the cost of providing housing to accommodate their needs.

Context

The City of Seattle Department of Planning and Development (DPD) is preparing a proposed text amendment of the city zoning code for City Council consideration that would increase the commercial density on Blocks 34 and 35 in the South Lake Union neighborhood. The proposed text amendment would increase the floor area ratio (FAR) and increase the height limit for these blocks.

The text amendment would allow up to 817,000 square feet of office space and 31,400 of retail space. This amendment represents an increase of 462,500 square feet of office space and 4,700 square feet of retail over and above what would be allowed under existing zoning.

Nexus Concept

Seattle uses a variety of resources and policies to meet the housing needs of households at lower-income. These include the Seattle Housing Levy as well as a mix of federal, state and private resources. The nexus analysis and any requirements for provision of affordable housing or housing contribution that would apply to a developer electing to make use of the increase density allowable under revised zoning is not intended to address any shortfalls in existing housing problems and needs. The analysis only addresses new demands for

affordable housing associated with the construction of new office space exceeding the baseline density allowed in the applicable zone.

A simple description of the nexus concept is that it calculates the number of new workers linked with development of new commercial buildings, then analyzes the share of those workers that will seek housing in proximity to those jobs and then computes the portion of that housing which needs to be affordable to workers in low-income households. City policy, consistent with the Growth Management Act, is that higher commercial densities in the downtown and adjacent areas including South Lake Union must be supported by more housing to limit the growth in commuter traffic, sprawl and other impacts.

KMA Methodology

KMA provided the following summary of the nexus model that was prepared for Downtown, which they illustrated for a prototypical 100,000 square foot building:

- *We estimate the total number of employees working in the building based on average employment density experience.*
- *We use occupation and income information for typical job types in the building to calculate how many of those jobs pay compensation at levels below 30%, between 30% and 50% and between 50% and 80% of median income.*
- *We use the 1990 Census to estimate how many of these lower income employees will be members of households where more than one person is employee; we use various factors to calculate the number of low-income households represented.*
- *We then make a number of adjustments, most of which are drawn from the Macro Economic Analysis, such as an adjustment for people who work at jobs in the Downtown but live elsewhere in Seattle or outside the City altogether.*
- *Finally, we derive the number of lower income households (divided into several subsets by income level) associated with the building and divide by 100,000 square feet to arrive at coefficients of housing units per square foot of building area. We can also express the linkage by square feet of residential area using an average size of unit.*
- *In the last step, we multiply the number of households per square foot by the costs of delivering housing units affordable to these income groups.*

Source: Keyser Marston Associates, "Jobs Housing Analysis....."

Adaptation for South Lake Union Text Amendment

This report is premised on several professional judgments in making an adaptation to compute the employment impact and cost of delivering affordable housing to meet the increased demand associated with a South Lake Union text amendment. One is that the economic nexus and ratios developed by the 2001 KMA study continue to be valid. As noted in the KMA study, the "factors and relationships utilized in the analysis reflect long-term average conditions. Short-term conditions such as a recession or vigorous boom period, are not an appropriate basis for estimating impacts over the life of the building." The KMA study was designed to provide a basis for long-term policies. Most of the data used were from the 1990 census and contemporary employment figures. The assessment made in this report is that there has been no shift in Seattle's economy or employment pattern that would represent a fundamental change in the economic relationships documented in the KMA analysis.

A second premise of this report is that the relationships between construction and job growth, between population and job growth and the translation of this growth into housing demand is similar between Downtown Seattle and the South Lake Union neighborhood. The assessment made in this report is that the proximity, comparability of commute time, and nature of employers are sufficiently similar between those two neighborhoods that the KMA nexus model can be reasonably applied to the South Lake Union neighborhood.

The KMA nexus model assumes a mix of industry sectors that reflects the overall Downtown area. This report finds that overall mix is more appropriate than the specific workforce expected to locate in the South Lake Union blocks that are the subject of the text amendment. As noted in the KMA study, "any given new building in the downtown [core] may be occupied partly or perhaps even totally by employees relocating from elsewhere in the downtown or Puget Sound region. Buildings are often leased to firms relocating from other buildings within the jurisdiction. However, when a firm relocates to a new building from elsewhere in the region, there is a space in an existing building that is vacated and released to another firm. That building in turn may be filled by some combination of newcomers to the area and existing residents. Somewhere in the chain there are jobs new to the region. The net effect is that new buildings bring new employees, although not directly inside of the new buildings themselves."

As far as updating the KMA study, we have obtained updated figures for income and housing costs, so the gap between the cost of housing supportable by workers at lower-incomes and the market-rate for delivering that housing does reflect more current figures.

Computation of South Lake Union Nexus

This section presents a summary of the analysis and computation of the linkage between office buildings and the number of lower income households that will, on average, be employed within them. As noted previously, this computation relies on the findings and information in the KMA study.

Step 1: Estimate of New Employees in Prototypical 100,000 square foot Office Building

| | |
|-------------------------|------------------------------|
| Employee density factor | 250 square fee per employees |
| Number of employees | 400 |

Step 2: Adjustment for Changing Industries

| | |
|--|-------------------|
| Changing employment/replacement factor | 5% |
| Adjustment | 400 less 5% = 380 |

Step 3: Breakdown of Employees by Occupation

| | | |
|-----------------------------------|---------------|--------------|
| Managerial & administrative | 16.2% | 61.6 |
| Professional & technical | 19.0% | 72.2 |
| Sales & marketing | 13.6% | 51.7 |
| Administrative support & clerical | 50.1% | 190.4 |
| Service | 1.1% | 4.2 |
| Total | 100.0% | 380.0 |

Step 4: Estimates of Employees Meeting the Lower Income Definitions



This step estimates the share of employees that fall at or below identified income levels, based on based on State wage and salary information for each occupation category.¹ Although wage/salary levels and HUD income limits have increased since the 2001 KMA study, it is reasonable to assume that the relationship between the two has not changed significantly.

Step 5: Estimate of Household Size Distribution

The KMA study estimated the distribution of household sizes, ranging from 1 to 6, based on 1990 Census data for King County. The study notes that downtown workers live all over the metropolitan area and their household sizes are more reflective of county-wide demographics than those of Seattle or downtown residents. The same assumption would be true of workers in the adjacent South Lake Union neighborhood.

| % of King County households by size | |
|-------------------------------------|-------|
| 1 | 39.3% |
| 2 | 30.2% |
| 3 | 12.5% |
| 4 | 8.6% |
| 5 | 4.5% |
| 6 | 4.9% |

Step 6: Estimate of Households that meet the HUD Size and Income Criteria

This step estimates of the number of employee households in each occupation category that fall into each of three HUD income categories. For example, the KMA study found that, in a prototypical 100,000 office building, 17.29 employees would have incomes less than 30% of median income. The vast majority of these employees hold administrative support or clerical jobs, as shown in the following table.

| Occupation category | Number of < 30% AMI employees |
|-------------------------------------|-------------------------------|
| Managerial and administrative | 0.0477 |
| Professional and technical | 0.0559 |
| Sales and marketing | 0.1219 |
| Administrative support and clerical | 16.3254 |
| Service | 0.7370 |
| Total | 17.2879 |

Step 7: Adjustment for Commute Relationships

This step adjusts the estimated number of employees in each HUD income category downward, assuming that one-third of new workers associated with new office buildings are anticipated to want to live downtown. The KMA study noted that this assumption is a policy input, based in part on Comprehensive Plan goals. Note, the Comprehensive Plan 2024 targets are for 8,000 new households and 16,000 new jobs; a 50% relationship. The adjustment of one-third used in the analysis is conservative.

| | |
|-----------------------------|------------------------|
| Commute relationship factor | 33% |
| Adjustment | 17.2879 * 33% = 5.7050 |

¹ Source: Washington State Employment Security Department, Average compensation survey for Seattle PMSA, 1998



Step 8: Adjustment from Employees to Employee Households

The KMA study notes that there is, on average, more than one worker per household. Therefore, the number of housing units needed to meet demand of new workers was reduced. The KMA study cited 1.34 and 1.65 workers per worker household in downtown and Seattle citywide respectively.² The South Lake Union neighborhood is more like downtown as opposed to other parts of Seattle, which is largely low-density residential, so the 1.34 used in the KMA economic model is a reasonable assumption.

| | |
|--|------------------------|
| Employees to employee household factor | 1.34 |
| Adjustment | 5.7050 / 1.34 = 4.2575 |

Step 9: Adjustment for Household Income in Multiple Worker Households

This step reallocates most of the households with two or more wage earners to higher income categories. Based on U.S. Census data, KMA calculated the number of multiple earner households within each income category. The adjustment for households with incomes up to 30% of area median income is shown below:

| | |
|---|------------------------|
| Multiple worker household income factor | 1.36 |
| Adjustment | 4.2575 / 1.36 = 3.1305 |

Summary by Income Level

A new 100,000 square foot office building is estimated to have 36.75 worker households with incomes 80% of area median income or less, as shown below. The difference between the development cost and the maximum investment (debt and equity) supported by rents affordable to households in each of the three HUD income categories is the "affordability gap."

| Income Category | Number of Households | Per Unit Affordability Gap |
|-------------------------|----------------------|----------------------------|
| Under 30% AMI | 3.13 | \$200,000 (studio) |
| 30% to 50% AMI | 12.33 | \$167,812 (1-bedroom) |
| 50% to 80% AMI | 21.29 | \$78,556 (1-bedroom) |
| Total Households | 36.75 | |

Summary by Square Foot of Building Area

The cost per square foot of building area to provide housing affordable to lower income worker households associated with the building equals the number of households multiplied by the per unit affordability gap divided by 100,000 square feet.

| Income category | Nexus Cost Per Sq. Ft. |
|-----------------|------------------------|
| Under 30% AMI | \$6.26 |
| 30% to 50% AMI | \$20.69 |
| 50% to 80% AMI | \$16.72 |
| Total | \$43.68 |

² 1990 U.S. Census



Computation of Impacts in Text Amendment Area

The proposed text amendment would allow greater density on Block 34 and 35 in the South Lake Union IC zone. Block 34 is bounded by Harrison Street, Thomas Street, Terry Avenue and Boren Avenue. The affected Block 35 area is the eastern half of the block bounded by Thomas Street, John Street, Terry Avenue and Boren Avenue. The proposed text amendment would allow greater floor area ratio (FAR) (up to 7.0) and greater height (up to 160 feet) than the existing zoning, enabling the development of approximately 817,000 square feet of office space and 31,400 square feet of retail space. This represents an increase of 462,500 square feet of office and 4,700 square feet of retail above what would be allowed under current zoning on these sites.

Based on the methodology and assumptions outlined in this study, an additional 462,500 square feet of office would increase the need for affordable housing for modest-wage households by 170 units.

| Income Category | Number of Households | Total Affordability Gap |
|-------------------------|----------------------|-------------------------|
| Under 30% AMI | 14.48 | \$2,895,250 |
| 30% to 50% AMI | 57.03 | \$9,569,689 |
| 50% to 80% AMI | 98.47 | \$7,735,115 |
| Total Households | 169.98 | \$20,200,054 |

The total cost of assistance required to provide housing units affordable to 170 households with incomes up to 80% of area median income is \$20,200,054, which is equivalent to approximately \$43.68 per square foot of additional office space that would be allowed as a result of the proposed text amendment. This analysis does not examine the impact of additional retail space on housing needs.

**CITY OF SEATTLE
DETERMINATION OF NON-SIGNIFICANCE BY
THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Applicant Name: Lish Whitson for the Department of Planning and Development

Address of Proposal: Various sites in the South Lake Union Urban Center

SUMMARY OF PROPOSED ACTION

The proposal is to amend the Land Use Code to allow additional height and density in an area within the Industrial Commercial zone in the South Lake Union Urban Center.

The following approval is required:

SEPA - Environmental Conditions - 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

Several blocks in the heart of the South Lake Union Urban Center are zoned Industrial Commercial, with either a 65' or a 85' height limit. The IC zone in South Lake Union has a floor area ratio (FAR) limit of three, meaning that a building with floor area equal to no more than three times the lot area can be built on a lot with this FAR.

The South Lake Union IC zone is surrounded by areas zoned Seattle Mixed (SM); these areas generally have 4.5 to 5 FAR limits. The area to the south of the IC zone has a height limit of 125', to the west is a 85' zone, and to the east is a zone that allows heights of up to 55' for office buildings and 75' for residential buildings.

One block further south, land is zoned Downtown Mixed Commercial (DMC), with variable height limits depending on the use and other factors (DMC 240/290-400). The DMC zone



allows a 5 FAR building with additional FAR allowed under specific conditions. Among the conditions are mitigating the impact of the additional building area through a number of different tools, specified in the Land Use Code. Two of the most important are the housing bonus (providing for housing for low-income employees expected to work in the building) and transfer of development rights (TDR) to build the same amount of area from another site. In addition, projects with more than 5 FAR must build and certify the building as a LEED Silver building.

Proposal Description

The proposed amendment would allow additional height and density on one and one-half blocks in the South Lake Union Urban Center, in an area bounded by Terry Avenue N to the west, Harrison Street to the north, Boren Avenue N to the east, and John Street to the south. For projects located in the area identified in the text amendment, office projects could develop up to 7 FAR, and would have a height limit of 160'. To be allowed, such development would need to meet the following conditions:

- Provide housing, childcare and TDR for FARs greater than five, consistent with the Downtown requirements described above. Seventy-five percent of the floor area above the 5 FAR would need to meet affordable housing and childcare provisions; the other twenty-five percent could be allowed through use of TDR.
- Develop a project that meets a LEED Silver or comparable requirement.
- Develop and implement a transportation management program with a maximum 40% single-occupant vehicle (SOV) goal.
- Provide upper-level setbacks along Thomas Street and Harrison Street.
- Meet blank façade and transparency requirements per the SM zone.
- Meet solid waste and recyclable storage requirements per the SM zone.
- Meet SM parking and loading requirements.
- Meet screening, landscaping, and street tree requirements per the Commercial zone, meet a Seattle Green Factor score of 0.30, and provide street trees.

In addition, throughout the IC zone in the South Lake Union Urban Center, the text amendment would exempt certain street-level uses from FAR requirements and would apply FAR limits to accessory parking on floors that are completely above grade.

Public Comments

Proposed changes to the Land Use Code require City Council approval. Public comment will be taken on the proposed amendments during future Council hearings.

ANALYSIS - SEPA

The initial disclosure of the potential impacts from this project was made in the environmental checklist dated October 4, 2007. The information in the checklist, a copy of the proposed text



changes, and the experience of the lead agency with review of similar legislative actions form the basis for this analysis and decision.

Short-term Impacts

As a non-project action, the proposed amendment will not have any short-term impact on the environment. Future development affected by this legislation and subject to SEPA will be required to address short-term impacts on the environment.

Long-term Impacts

Most long-term impacts of this code amendment are expected to be minor. Many of the new code sections, such as blank façade, transparency, and screening and landscaping requirements, would strengthen development standards for projects proposed in the identified area, and as such would have no adverse environmental impacts. Impacts to noise, light and glare, air quality, and public services and facilities may slightly increase, due to larger structures and greater levels of activity on various sites, but are not expected to be significant. Any expansion of 12,000 square feet or more will be subject to project-level SEPA review, which will allow for more focused review of environmental impacts of individual developments. In addition, projects expanding under the provision of this code amendment will need to comply with existing codes and regulations, including the Land Use Code, Environmentally Critical Areas regulations, and the Stormwater, Grading and Drainage Control Code.

The most likely adverse impacts of the proposed amendment would be to energy; height, bulk, and scale; historic preservation; public view protection; shadows; and traffic and transportation. Various sections of the proposed amendment respond to some of these potential impacts by codifying mitigation. These topics are discussed further below.

Energy

The increase in development capacity permitted by the text amendments are expected to lead to an increase in energy demand. To ensure that adequate energy capacity exists for any individual project, the text amendment will require that any project developing with the additional height or FAR permitted by the code changes must provide the Department of Planning and Development, at the time of Master Use Permit (MUP) application, a letter from Seattle City Light stating that sufficient electrical capacity exists to serve the project as designed. Under the text amendment, DPD will have the authority, in consultation with Seattle City Light, to condition MUP approval on the development and implementation of an energy management plan containing specific energy conservation or alternative energy generation methods or on-site electrical systems that can ensure that the existing electrical system can accommodate the projected loads from the proposed development. In addition to these codified requirements, projects with height and density limits above the current base would be required to meet a LEED-Silver standard, which includes points for projects that reduce or control energy use. Given these requirements that will be placed on projects developing under the text amendment, no significant energy impacts are anticipated pursuant to SMC 25.05.675 E.

Height, Bulk, and Scale

The text amendment would apply to parcels within the Industrial Commercial zone of South Lake Union. Current height limits in this area range from 65 to 85 feet. Parcels to the west of the area of the text amendment are zoned with an 85' height limit, and those to the north with a 65' height limit. To the east is a zone with a 55' height limit for office buildings and 75' height limit for residential buildings. Directly to the south, parcels are zoned for 125' buildings. Property one block further south is zoned Downtown Mixed Commercial (DMC) with height limits ranging from 240' to 400' depending on the use and specific design proposals.

The proposed text amendments would allow buildings up to 160 feet in the affected area. This would allow taller buildings than those that could be built on immediately adjacent parcels. However, the building heights would not be out of character with those allowed on nearby parcels to the south. Allowing this additional height would continue the general zoning pattern in South Lake Union that allows taller buildings to the south, with a gradual lessening of building heights to the north, closest to Lake Union. Similarly, the additional FAR, with up to 7 allowed under certain conditions, would allow for buildings of greater bulk and scale than those on immediately adjacent parcels, but would be consistent with floor area limits applied a block away, in the DMC zone.

SEPA Height, Bulk, and Scale Policies note that "it is the City's policy that the height, bulk and scale of development projects should be reasonably compatible with the general character of development anticipated by the goals and policies set forth in Section B of the land use element of the Seattle Comprehensive Plan regarding Land Use Categories". The area of the text amendment is within the South Lake Union Urban Center. In general, Urban Centers are designated as the most densely developed areas of Seattle, with the greatest concentrations of jobs and housing. The neighborhood plan for this Urban Center was adopted into the City's Comprehensive Plan in December, 2007. The plan anticipated significant growth in the urban center, including 16,000 additional jobs and 8,000 additional households over twenty years. The height, bulk and scale of specific projects that develop pursuant to these text amendments are expected to be consistent with these growth estimates, and compatible with the general character of development that would result from the Urban Center goals and policies.

Specific height, bulk and scale impacts of particular projects will be determined at the time of project-specific SEPA review. Such projects will be required to meet new upper-level setback requirements along Thomas Street and Harrison Street, proposed as part of this code amendment package. This requirement will help reduce bulk and scale impacts of individual projects that are adjacent to these streets.

Historic Preservation

None of the existing buildings on the parcels that could develop to greater heights and FARs are designated Historic Landmarks. However, historic resource surveys for the South Lake Union neighborhood have identified a number of structures that could warrant further review, including



at least one (310 Terry Avenue North) within the text amendment area. Individual development projects proposed on such sites would be subject to project-level environmental review, and further evaluation of the landmark potential of any structures on those sites would be undertaken at that time. The proposed code amendments are not anticipated to have any adverse impacts on historic preservation.

Public View Protection

The SEPA View Protection Policy specifies public places and scenic routes from which views of significant natural and human-made features are to be protected. Projects proposed under the amendments could alter views from Fairview Avenue N and I-5, both to the east of the area subject to the text amendments. However, the additional height and bulk allowed under these amendments is not expected to intrude on any protected views, primarily due to existing and potential buildings on sites closer to these routes. The SEPA Policy also protects views of the Space Needle from particular vantage points; no views of the Space Needle from these locations are apt to be altered due to the proposed text amendments. The impacts of specific proposals on public view protection would be analyzed at the time of individual project application. The new upper-level setback requirement on Thomas and Harrison Streets would reduce the impacts of new development on east-west views along these streets. The text amendments are not expected to have a significant impact on public views, pursuant to SMC 25.05.675 P.

Shadows

Pursuant to the City's SEPA Policy, certain open space areas are to be protected from substantial shadow impacts. Outside of downtown, these areas are public parks, public schoolyards and private schools which allow public use of schoolyards during non-school hours, and publicly owned street ends in shoreline areas. The closest such site to the text amendment area is the playground two blocks to the east, bounded by Minor Avenue N, Pontius Avenue N, Thomas Street, and Harrison Street. A multi-story residential structure (the Alcyone Apartments) is located immediately west of this playground; this structure would itself shadow portions of the playground in the afternoon, and likely would block all or most of the shadows coming from structures on the text amendment sites further to the west. Given the pattern of existing and potential development near this playground, the text amendments are not likely to have a significant shadow impact.

Transportation

By increasing the development capacity of various parcels in South Lake Union, the proposed text amendments would result in greater traffic volumes, and potential transportation impacts. The Transpo Group analyzed these potential impacts in a memo (dated September 10, 2007) to the Department of Planning and Development. The memo compares the development potential of the relevant area with and without the text amendment; over all the affected parcels, the amendments were estimated to increase the office development potential by 462,500 square feet, and the retail development potential by 4,700 square feet.

Using trip generation estimates from the Institute of Transportation Engineers, the analysis forecasts that development with existing zoning capacity would likely generate about 3,500 daily vehicle trips, with 450 of these trips occurring the AM peak hour and 440 in the PM peak hour. As development capacity is expected to more than double on the affected parcels with the increased height and floor area ratios, the expected trip generation from development on these sites also would more than double. This level of additional traffic would be expected to have substantial and potentially significant impacts on the nearby roadway system.

To ensure reasonable mitigation of these potential impacts, the code amendments will require any project utilizing the additional development capacity to adopt a Transportation Management Program (TMP) with a goal of no more than 40% of PM peak hour trips being made in single-occupant autos. The Transpo memo analyzed the likely impacts of additional development capacity with this mitigation requirement. With a 40% SOV mode split, the additional development capacity would be expected to generate 1,230 more daily auto trips, with 130 of these trips occurring in both the AM and PM peak hours.

The analysis of impacts anticipated to result from the proposed text amendment was conducted using 2030 as the horizon year. This year was selected to identify the long-term impacts of the proposed text amendment, as well as to provide consistency with analysis of the transportation capital improvement projects identified for the South Lake Union neighborhood, including the Mercer Corridor project. The additional peak hour traffic was distributed to the local roadway system, using the City of Seattle's travel demand model as a basis for distribution and assignment of additional traffic. The assigned trips were then added onto the baseline 2030 traffic volumes (which assumed development on the text amendment area consistent with existing zoning) to create forecast traffic volumes for the "without" and "with text amendment" scenarios.

Traffic impacts were evaluated by calculating levels of service at key intersections in and near South Lake Union for both scenarios. In general, these intersections were not likely to be substantially impacted by the additional traffic expected to be generated from the text amendment. A number of intersections, such as Mercer Street/Fairview Avenue, are forecast to operate poorly (LOS F) with or without this additional traffic; the additional traffic would not noticeably increase delays.

Certain intersections, such as Fairview Avenue/Thomas Street, may experience more substantial delays; the analysis indicates that PM peak hour level of service will decline at this location from LOS D (52.2 average seconds of delay) to LOS E (59.4 average seconds of delay). Such forecasts are based on general distributions of traffic to the surrounding roadway network; intersections close to the area affected by the text amendment, such as this one, may experience greater or lesser increases in delay based on locations of driveways and other development-specific considerations.

Projects developing under these code amendments, like other projects recently permitted in South Lake Union, will be required to pay their "fair share" of building the South Lake Union Transportation Study capital improvement projects. The capital projects are expected to provide



an enhanced multi-modal transportation system to accommodate the growth anticipated in and around South Lake Union over the next 20 years. At the time of project-specific SEPA analysis, more detailed forecasts of increases in each mode will be used to determine projects' proportional contributions to relevant capital projects. Although these proportional payments cannot be determined prior to specific development applications, such payments will reduce project-specific transportation impacts, with or without the text amendments.

The code-required TMP goal of 40% will substantially reduce the likely volumes of traffic generated by the increased development capacity allowed under the text amendment; remaining traffic impacts will be determined at the time of specific project applications and appropriate mitigation developed, including but not necessarily limited to proportional payments to the South Lake Union Transportation Study multi-modal capital improvement projects. With these mitigations, no significant transportation impacts pursuant to SMC 25.05.675 R are expected from the proposed code changes.

Conclusion

The proposed code amendments to increase the height and FAR for structures within a portion of the South Lake Union Industrial Commercial zone are not expected to have substantial adverse impacts. Setbacks required as part of the code amendments will provide mitigation to reduce potential height, bulk and scale and public view impacts. Potential energy impacts will be addressed by requirements that adequacy of electrical capacity be confirmed by Seattle City Light at the time of MUP application. A mandated TMP goal of 40% will substantially reduce potential traffic volumes from future developments in this area. Developments over the SEPA threshold will be subject to project-level SEPA review; mitigation based on that review would further reduce impacts from projects developing pursuant to these code amendments. Based on these considerations and on the limited area over which the code amendments will apply, these amendments are expected to have no significant adverse environmental impacts.

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 requirements of the State Environmental Policy Act (RCW 43.21C), including the requirement to inform the public 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 2c.

- [] 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 2c.





ENVIRONMENTAL (SEPA) CHECKLIST

Purpose of Checklist

The State Environmental Policy Act (SEPA), Chapter 43.21 RCW, requires all governmental agencies to consider the environmental impacts of a proposal before making decisions. An environmental impact statement (EIS) must be prepared for all proposals with probable significant adverse impacts on the quality of the environment. The purpose of this checklist is to provide information to help you and the agency identify impacts from your proposal (and to reduce or avoid impacts from your proposal, if it can be done) and to help the agency decide whether an EIS is required.

Instructions for Applicants

This environmental checklist asks you to describe some basic information about your proposal. Governmental agencies use this checklist to determine whether the environmental impacts of your proposal are significant, requiring preparation of an EIS. Answer the questions briefly, with the most precise information known, or give the best description you can.

You must answer each question accurately and carefully, to the best of your knowledge. In most cases you should be able to answer the questions from your own observations or project plans without the need to hire experts. If you really do not know the answer, or if a question does not apply to your proposal, write "do not know" or "does not apply". Complete answers to the questions now may avoid unnecessary delays later.

Some questions ask about governmental regulations, such as zoning, shoreline, and landmark designations. Answer these questions if you can. If you have problems, the governmental agencies can assist you.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

Use of Checklist for Nonproject Proposals

Complete this checklist for nonproject proposals, even though questions may be answered "does not apply". IN ADDITION, complete the SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS (Part D). For nonproject actions, the references in the checklist to the words "project", "applicant", and "property or site" should be read as "proposal", "proposer", and "affected geographic area", respectively.

Attachment 3 to the Fiscal Note

DPD, 700 Fifth Avenue, Suite 2000, PO Box 34019, Seattle, WA 98124-4019, www.seattle.gov/dpd

DPD complies with the Americans with Disabilities Act. Accommodation provided on request. 2/17/06 akb



A. BACKGROUND

1. Name of proposed project, if applicable:

South Lake Union IC Zone Incentive Zoning Amendment

2. Name of applicant:

City of Seattle

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

Lish Whitson

City of Seattle, Department of Planning and Development

700 5th Avenue, Room 2000

PO Box 34019

Seattle, WA 98124-4019

4. Date checklist prepared:

September 2007

5. Agency requesting checklist:

City of Seattle Department of Planning and Development

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

The amendments will be discussed in a public hearing and considered by the City Council in late 2007 or early 2008.

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

The proposed code amendments could enable project-level development in the area shown on Map A, and it is anticipated that project-level development would occur consistent with the proposed amendments. However, no project-level proposal has been designed or proposed, the impacts from any site-specific proposal are speculative at this time. Any project-level proposals consistent with this text amendment would undergo more detailed project-specific environmental review as part of the land use and building permit process.

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

A cultural and historic resources technical report that covered the area under consideration was prepared for the South Lake Union Streetcar project, and is incorporated by reference.



A zoning massing study showing a potential zoning envelope of development, and potential impacts of development under the proposal on views from scenic routes is attached as Attachment A.

A transportation analysis showing the potential traffic impacts of development under the proposed amendment is attached as Attachment B.

A memo describing potential energy impacts is attached as Attachment C.

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

The proposed area is within the South Lake Union Urban Center. A neighborhood plan for the South Lake Union Urban Center is expected to be reviewed and approved by the Seattle City Council in the fall of 2007.

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

The proposed amendment requires adoption by the City Council. Future projects developed pursuant to the provisions of the proposal will require permits, project approval and environmental review as provided for in the Seattle Municipal Code.

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.)

The proposed Land Use Code amendment would allow additional development height and density under specified conditions in an area within the IC zone within the South Lake Union Urban Center. The amendment would affect a one and one-half block area bordered by Harrison Street, Terry Avenue, John Street, and Boren Avenue. For projects located in the area affected by the text amendment, office projects could obtain additional FAR (from 3.0 FAR up to 7.0 FAR) and additional height (from 65 or 85 feet up to 160 feet) upon satisfaction of a number of conditions.

Conditions include:

- Development of a project that meets a LEED Silver or comparable requirement;

- Development and implementation of a transportation management plan to effectively control the generation of single occupancy vehicle trips;
- Upper level setbacks along Thomas and Harrison Streets;
- Façade, transparency, blank façade requirements per the SM zone;
- Solid waste and recyclable storage requirements per the SM zone;
- Parking and loading requirements per the SM zone;
- Screening, landscaping and street tree requirements per the Commercial zones, including meeting a Seattle Green Factor score of 0.30, and providing street trees; and
- For projects with more than 5 FAR, the purchase of transferable development rights, or provision for affordable housing and affordable childcare for floor area above five FAR.

In addition, the text amendment would exempt certain street-level uses from FAR requirements and apply FAR limits to accessory parking on floors that are completely above grade, throughout the IC zone within the South Lake Union Urban Center.

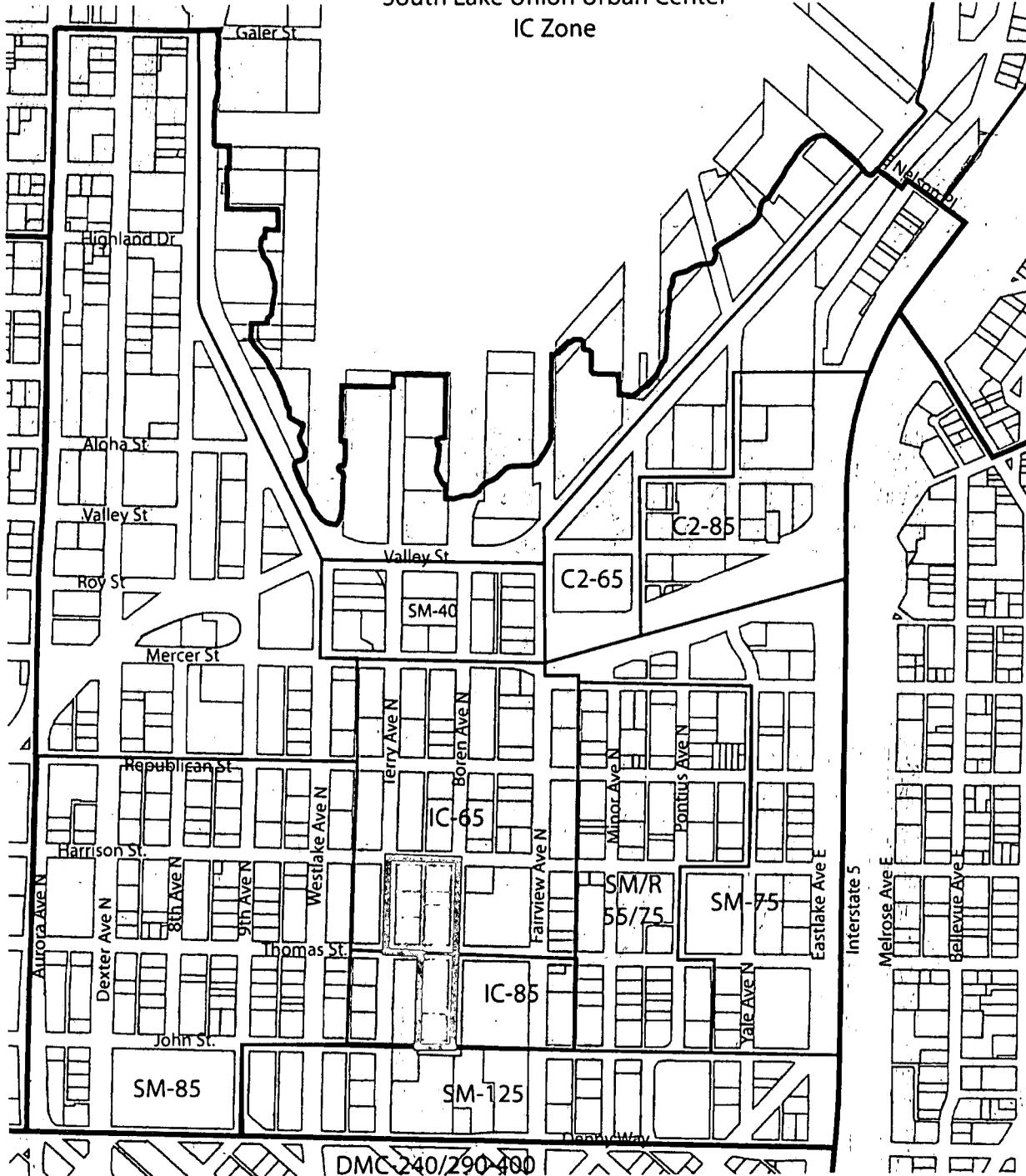
12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). 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.

See Map A.

The IC zone within the South Lake Union Urban Center generally runs from the alley east of Westlake Avenue North to the alley east of Fairview Avenue North, between Mercer Street and John Street.



Map A:
South Lake Union Urban Center
IC Zone



- | | | | |
|---|--|---|-----------------------|
|  | Area where projects would be permitted up to 160 feet and 7 FAR under certain conditions |  | Parcel Boundary |
|  | IC zone |  | Zone Boundary |
|  | 10-foot Contour Line |  | Urban Center Boundary |



The area where additional height would be permitted is generally bounded going clockwise from the northeast by Boren Avenue North, John Street, the alley between Terry Avenue North and Boren Avenue North, Thomas Street, Terry Avenue North and Harrison Street.

B. ENVIRONMENTAL ELEMENTS

1. Earth

- a. General description of the site (circle one):

Flat, rolling, hilly, steep slopes, mountainous, other:

The area generally slopes down from the south east to the north west, with the steepest slopes between Boren Avenue N and Terry Avenue North south of Thomas Street.

- b. What is the steepest slope on the site (approximate percent slope)?

Slopes up to 143% can be found along Thomas Street.

- 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.

A variety of soils types are found in the IC zone in South Lake Union. Generally the area consists of glacial till composed of layers of sand, silt and clay.

- d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.

No.

- e. Describe the purpose, type, and approximate quantities of any filling or grading proposed. Indicate source of fill.

Not applicable. The proposed amendment is a non-project action that allows additional development in a particular area. No filling or grading is proposed as part of this non-project action. Any project developed under the proposed amendments that may involve filling or grading would be subject to environmental review and the City's stormwater, grading and drainage code.

- f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.

Not applicable. The proposed amendment is a non-project action. Individual projects developed pursuant to the proposed

amendments may result in clearing with the potential for erosion. Individual projects developed pursuant to the provisions of this proposal will be subject to environmental review (if they meet or exceed thresholds for environmental review) and the City's Stormwater, Grading and Drainage Code.

- g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

The proposed amendment is a non-project action. One hundred percent of the area where additional height and density would be permitted is currently impervious. Any development under the proposed amendments would be required to provide landscaping and street trees, which could reduce the amount of impervious surface compared to current conditions.

- h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:

The proposed amendment is a non-project action. Individual projects developed under the proposed amendments would be subject to established policies and regulations to limit the potential of erosion and landslide impact of specific development proposals. Such projects would also be subject to project-level environmental review, at which time additional measures could be required.

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.

This is a non-project action and no changes to odor standards are proposed. Individual projects developed pursuant to the provisions of this amendment will be subject to environmental review and existing odor and emissions requirements currently contained in the Land Use Code and promulgated by the Puget Sound Clean Air Agency as they move forward. The indirect effects of this non-project proposal to air resources are addressed in Section D, Supplemental Sheet for Non-project Actions.

- b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.

No.

- c. Proposed measures to reduce or control emissions or other impacts to air, if any:

This is a non-project action. Individual projects developed pursuant to the provisions of this proposal will be subject to environmental review as they move forward. There are established policies and regulations to minimize or prevent adverse air quality impacts of specific development projects. Individual projects subject to the provisions of this proposal will occur over time and cannot be evaluated in terms of other measures to reduce or control emissions or other impacts to air at this stage. Such projects will be subject to environmental review.

3. Water

- a. Surface:

- 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.

None, the closest surface water body is Lake Union, which is more than six hundred feet from the area subject to this proposal.

- 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.

None. This is a non-project action, and projects developed under these amendments are unlikely to include placing fill in or dredging material from surface water or wetlands. Individual projects proposed under these amendments would be subject to project-level environmental review at which time any potential filling or dredging would be considered.

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

No. This is a non-project action. Individual projects developed pursuant to this proposal that would require

surface water withdrawals or diversions would be subject to project-level environmental review.

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

No. The proposed amendments apply to areas that are not within a 100-year floodplain.

- 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.

No. The proposal is a non-project action.

b. Ground:

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

No. The proposed amendment is a non-project action. Any project developed under the proposed amendments that might withdraw or discharge to ground water would be subject to project-level review, the City's Environmentally Critical Areas Ordinance, and other requirements. New development will need to include adequate sanitary sewer connections and capacity, and storm water controls.

- 2) Describe waste material that will be discharged into the ground from 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.

Not applicable. The proposed amendment is a non-project action. The area where increased development density would be allowed has a full sewer system.

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.

Not applicable. This is a non-project action. Projects proposed pursuant to this proposal would be subject to project-level environmental review and the City's stormwater, grading and drainage code.

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

The proposal is a non-project action and has no direct impact on whether waste materials would enter ground or surface waters. Individual projects developed pursuant to the proposed changes would be subject to the City's Environmentally Critical Areas Ordinance and the City's stormwater, grading and drainage code, and environmental review.

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

The project is a non-project action. There are established policies and regulations to protect wetlands, riparian corridors, lakes, drainage basins, wildlife habitat, slopes and other property from adverse drainage impacts of specific development projects. New projects developed pursuant to the proposed changes would be required to comply with the City's stormwater, grading and drainage control ordinance and provide for mitigation of erosion, if required. Individual projects would also be subject to environmental review.

4. Plants

- a. Check or circle 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, bullrush, skunk cabbage, other
 water plants: water lily, eelgrass, milfoil, other
 other types of vegetation

Generally, the IC-zoned area of South Lake Union is a built-out urban environment with very little existing vegetation. There are street trees along John Street, along Boren Avenue south of Thomas Street, and along Fairview Avenue in this area.

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

The project is a non-project action. Individual development projects developed pursuant to the proposed amendment would be subject to environmental review, the City's Environmentally Critical Areas Ordinance, Significant Trees Ordinance, and other regulations. The indirect effects of this non-project

proposal on vegetation are addressed in Section D, Supplemental Sheet for Non-project Actions.

The amount of vegetation removed depends on project-specific site design. The proposed legislation is unlikely to increase the amount of vegetation removed or altered compared to that allowed under existing regulations.

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

No known threatened or endangered plant species are known to be on or near the site. The area that is the subject of this proposal is currently developed.

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

The proposal would require street trees and landscaping that are typically not required of IC zoned sites, including meeting the Seattle Green Factor requirement. The proposal has a strong likelihood of increasing vegetation provided by projects that develop under the proposed regulations.

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:

The proposal is a non-project action. The South Lake Union Urban Center IC zoned area is a developed urban area with little habitat area. Typically, birds, rodents, insects and other fauna appropriate to the urban environment could be found in the area.

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

None known. Threatened or endangered salmon can be found in Lake Union which is over 500 feet from the area subject to this proposed amendment.

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

Not applicable to this non-project action. However, no portion of the South Lake Union Urban Center IC zoned area is a known migration route.

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

Increased landscaping and street tree requirements could provide additional habitat for urban birds, see Section 4.

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.

The proposal is a non-project action. Individual projects developed pursuant to the provisions of the proposal will occur over time and cannot be evaluated in terms of energy requirements at this stage. Such projects will be subject to subsequent environmental review. However, changes to energy demand that could result from projects that could be built under the proposal have been reviewed. See Attachment C.

If the two properties are rezoned and developed as proposed, Seattle City Light (SCL) will have to accelerate planned capacity improvements to the power distribution feeders in the area. However, the density proposed for the two properties may require SCL to require additional space on customer property to accommodate the primary switching and protection needed to accommodate primary power distribution to the development. SCL will be able to provide a complete assessment of electrical service requirements to the developer after submittal of project plans including load calculations, electrical riser diagram, transformer vault locations, and customer electrical room locations.

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

The project is a non-project action. The impact of specific design alternatives on use of solar energy by adjacent properties can not be determined at this level. However, the proposed amendment could increase the potential for shadows on adjacent properties by permitting additional building height and density. Individual projects developed under the proposed amendments will be subject to project specific environmental review, which can consider building designs which would reduce the potential use of solar energy by adjacent properties.

- 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:

The proposal is a non-project action. Individual projects developed pursuant to the provisions of the proposal will occur over time, and cannot be evaluated in terms of energy

conservation features or measures to reduce or control energy impacts at this stage. Such projects will be subject to environmental review, and will need to meet the City's energy code requirements. Projects with height and density limits above the current base would be required to meet a LEED-Silver standard, which includes points for projects that reduce or control energy use.

The proposal would require an energy management plan to be submitted with the Master Use Permit application. The plan would need to include energy conservation methods, alternative energy generation methods or on-site electrical systems that would ensure that projected loads from the project could be accommodated.

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. This is a non-project action. Individual projects developed pursuant to the provisions of this proposal will be subject to the City's Environmentally Critical Areas Ordinance and environmental review.

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

None. See answer to 7.a above.

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

None proposed. See answer to 7.a above.

- b. Noise

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

Not applicable to this non-project action. None known.

- 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 site.

None specific to this non-project action. The indirect effects arising from this non-project proposal are not expected to increase noise. Individual projects developed pursuant to

the land use and zoning provisions of the proposal will occur over time and can not be evaluated at this time. Such projects would be subject to environmental review as they move forward.

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

None proposed. Individual projects subject to the provisions of this proposal will occur over time and cannot be evaluated in terms of measures to reduce or control noise impacts at this stage. Such projects will be subject to project-specific environmental review.

8. Land and Shoreline Use

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

The IC zone contains a mix of surface parking, light industrial, warehouse, office, entertainment and retail uses. A few non-conforming residences remain in the IC zone from the early 20th Century. Within the area where additional height and density would be permitted, are small office buildings and surface parking lots. Adjacent to that area are restaurants, retail businesses, and larger office buildings.

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

No, no known use of the site for agriculture.

- c. Describe any structures on the site.

The proposal is a non-project action. In the South Lake Union IC, a wide variety of building types of varying heights building materials, age and lot coverage can be found, see the response to question 8a. Within the area where additional height and density would be permitted are a collection of one-to-two story small industrial and office buildings made of concrete and/or brick.

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

This is a non-project action. No demolition is expected as a direct result of the proposal. Individual projects developed under the proposed amendment are likely to demolish the existing structures, and will be subject to project-level environmental review.

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

The blocks between John Street and Thomas Street are zoned Industrial Commercial with an 85 foot height limit (IC-85). Blocks between Thomas Street and Mercer Street are zoned Industrial Commercial with a sixty-five foot height limit (IC-65). See Map A.

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

The area is within the South Lake Union Urban Center, and is designated Industrial on the Future Land Use Map.

- 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 critical" area? If so, specify.

According to the City of Seattle's GIS., steep slopes have been identified south of Thomas Street and east of Boren Avenue North. They have also been identified north of Republican Street on either side of Fairview Avenue N.

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

This is a non-project action, and no construction projects have been proposed at this time. Individual projects developed pursuant to the land use and zoning provisions of the proposal will occur over time and can not be fully evaluated at this time. Such projects would be subject to environmental review as they move forward.

If projects were built to the maximum FAR, under the proposed amendment, the potential additional floor area could increase the amount of floor area in the area by approximately 460,000 square feet of office space. This amount of space could accommodate approximately 1,800 employees. No housing is permitted in the Industrial Commercial zone.

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

Not applicable, this is a non-project action, and no displacement would occur as a direct result of the proposal. There is no housing on the blocks where additional development would be permitted.

- 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:

See the discussion under Section D5.

9. Housing

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

Not applicable. Residential uses are not permitted in the IC zone.

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

Not applicable, this is a non-project action. There are six housing units in the IC zone, none of which are within the area where additional height and density would be permitted.

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

Projects proposing to exceed the current FAR limit would be required to mitigate the impacts of housing low-income employees of the building by contributing funds to construct housing within South Lake Union, or by purchasing TDR from housing sites within South Lake Union.

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, this is a non-project action, structures have not been designed, and it is too early to identify exterior building materials. Current height limits in the IC zone range from 65 to 85 feet. The proposed amendments would allow buildings up to 160 feet in specific areas. See Map A.

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

Not applicable, since this is a non-project action. Projects proposed under the amendments could alter views to the east from Fairview Avenue North and Interstate 5, both of which are designated SEPA Scenic Routes. In addition, private views from Capitol Hill of the Olympics and Space Needle, and views to Lake Union from the Denny Triangle and along Boren Avenue North could be altered by the proposed amendments, but would not be obstructed by the proposed amendments. See Attachment A.

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

Setbacks would be required along Thomas and Republican Streets in order to maintain views to the west from Capitol Hill. Project level environmental review and design review could help to shape projects to reduce aesthetic impacts.

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, this is a non-project action. Individual projects developed pursuant to the land use and zoning provisions of the proposal will occur over time and can not be evaluated at this time. Such projects would be subject to environmental review as they move forward.

- b. Could light or glare from the finished project be a safety hazard or interfere with views?

Not applicable, this is a non-project action. Individual projects developed under the proposed regulations would be subject to project-specific environmental review.

- c. What existing off-site sources of light or glare may affect your proposal?

None identified beyond typical light and glare found in a dense urban environment.

- 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?

There is a small privately-owned pocket park at the corner of Fairview Avenue North and John Street. Proposed development between Boren Avenue North and Terry Avenue North between Thomas Street and Republican Street would include a public plaza. The closest public parks are Cascade Playground at Thomas Street and Minor Avenue North, Denny Park at John Street and 9th Avenue North, and Lake Union Park at Valley Street and Boren Avenue North.

- b. Would the proposed project displace any existing recreational uses? If so, describe.

No, this is a non-project action. Project-specific proposals would not be anticipated to displace recreational uses.

- 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. Historic 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.

Three City of Seattle landmarks are in the IC zone within the South Lake Union Urban Center: The Seattle Times Building, at Boren Avenue North and John Street; the Troy Laundry Building at Fairview Avenue North and Republican Street; and the Van Vorst Building at 413 Boren Avenue North. None of these buildings is expected to be impacted by development pursuant to the non-project amendment proposed.

Individual development projects proposed under the proposed amendment would be subject to project-level environmental review.

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

In addition to the designated landmarks identified under 13a, historic resources surveys for the South Lake Union neighborhood have identified a number of structures in the Industrial Commercial zone that appear to warrant further review:

South Lake Union Survey

- 334 Boren Avenue North
- 423 Fairview Avenue North
- 210 Boren Avenue North
- 405 Fairview Avenue
- 1114-1124 Republican Street

Cascade Neighborhood Inventory

- 318 Fairview Avenue North

South Lake Union Streetcar Project Technical Report – Cultural and Historic Resources

- 310 Terry Avenue North
- 200 Terry Avenue North

Individual development projects proposed under the proposed amendment would be subject to project-level environmental review, and further review of the significance of any structures on those sites would be undertaken at that time.



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

For the area shown on Map A permitting additional height and FAR, projects that demolish a City of Seattle Landmark would be prevented from using the additional height and density, and, if Landmark TDR were available, projects with more than five FAR would be required to purchase transfer development rights from a landmark structure for at least five percent of the floor area above 5 FAR. Individual development projects proposed under the proposed amendment would be subject to project-level environmental review, and further review of the significance of any structures on those sites, and/or impacts on adjacent City of Seattle Landmarks would be undertaken at that time.

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.

Because this is a non-project action, specific points of access to particular pieces of property subject the proposed amendments are not known. A number of streets serve the South Lake Union IC zone, see Map A. Interstate 5 and State Route 99 are to the east and west of the South Lake Union Urban Center, respectively, and provide regional access to the area. See Attachment B for more information about expected trip distribution to the area where additional height and density would be permitted.

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

This is a non-project action. Different sites within the South Lake Union IC zone will be closer to different transit routes.

The South Lake Union Streetcar will begin running along Terry Avenue North and Westlake Avenue North at the end of 2007, with stops at Mercer Street and between Republican Street and Thomas Street. The Streetcar's southern terminus will be within a block of the Westlake transit station, providing connections to the light rail service scheduled to run in the transit tunnel. In addition, the Route 17 bus line runs along Westlake Avenue North, Route 70 runs along Fairview Avenue North, and Route 8 runs along Denny Way.

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

Not applicable, this is a non-project action, which would not eliminate or provide parking spaces. Any subsequent project-specific action would fully analyze parking and transportation impacts. See Attachment B.

- 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).

Not applicable, this is a non-project action. The transportation impacts of project-specific actions would be subject to project-level environmental review. Specific improvements to roads or streets would be identified at that time.

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

The South Lake Union Streetcar will run along Terry Avenue North with a stop between Thomas and Harrison Streets starting at the end of 2007.

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

Not applicable to this non-project action. Because the proposed amendment would allow greater density than is currently permitted in certain areas, the transportation analysis in Attachment B compares potential trips per day for the likely maximum buildout of that area under existing conditions and under the proposed amendment, including the use of a Transportation Management Plan. As explained in Attachment B, no transportation impacts that could not be mitigated during project-level review are likely result from development pursuant to the text amendment.

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

Projects proposing to use the proposed additional height and density would need to submit, implement and monitor the effectiveness of a Transportation Management Plan which would result in no more than 40 percent of trips to the site via single occupant vehicles. In addition, project-level environmental review would be required for projects that receive additional height and density under the proposed amendments, and may include requirements to improve streets and roads in addition to the TMP requirement.

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.

Not applicable, this is a non-project action. The proposed amendments are not expected to significantly change potential demand for public services.

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

None.

16. Utilities

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

In the South Lake Union Industrial Commercial zone, all of the utilities listed above are available, with the exception of septic systems.

- 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 immediate vicinity which might be needed.

This is a non-project action. Specific proposals to build under the proposed amendments would identify and assess any impacts on utilities as required during permit review.



C. SIGNATURE

The above answers are true and complete to the best of my knowledge.

I understand the lead agency is relying on them to make its decision.

Signature: [Signature on file]

Lish Richard Whitson, Senior Planner, Department of Planning and Development

Date submitted: October 8, 2007

This checklist was reviewed by: [John Shaw, Signature on File]

Land Use Planner, Department of Planning and Development

Any comments or changes made by the Department are entered in the body of the checklist and contain the initials of the reviewer.



D. SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS

(Do not use this sheet for 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 these questions, be aware of the extent 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?

Given the probable development on subject projects in the future under current zoning, the proposal would indirectly increase the potential for additional pollutant emissions to air and water, including noise and toxic/hazardous substances. Additional employee trips would be the primary source of these additional pollutants.

Proposed measures to avoid or reduce such increases are:

A Transportation Management Plan would be required that would be designed and implemented to limit the share of trips via single occupant vehicles for projects receiving additional height and density under the proposed amendments. Compliance with City of Seattle, State of Washington and federal environmental regulations would also be required.

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

The presence of plants, animals, fish and marine life in the subject area is low, contributing to a low potential for significant adverse environmental impacts of this sort. The proposed amendments would require more landscaping than is required under the City's current regulations for the Industrial Commercial zone, resulting in more plants, and potentially more habitat for birds and insects. Certain incremental increases in pollutants as described under D1, would not be expected to be significant.

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

Meeting landscaping requirements from the Commercial zones, which include meeting a green factor score of 0.30. Compliance



with City of Seattle, State of Washington and federal environmental regulations would also be required.

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

The proposed amendment would permit additional development in the area shown on Map A and would lead to increases in potential total demand for water and electricity from the subject area. Such increases would not likely constitute significant adverse impacts, due in part to the available capacity of systems serving this area and capability of the energy provider to serve such uses.

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

Projects receiving additional height and floor area under the proposed amendments would be required to meet a LEED Silver or higher standard, which requires projects to be designed to reduce energy use.

An energy management plan would be required to be submitted with the Master Use Permit application. The plan would need to include energy conservation methods, alternative energy generation methods or on-site electrical systems that would ensure that projected loads from the project could be accommodated.

Compliance with City of Seattle, State of Washington and federal environmental regulations would also be required.

4. How would the proposal be likely to use or affect environmentally critical 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 area where additional height and density would be permitted includes small areas with steep slopes. However, given the strong development environment in South Lake Union under current regulations, the proposed action is not likely to increase the likelihood that development will occur in those areas. Project-specific analysis would address specific impacts, and existing regulations regarding development in areas with steep slopes would help to reduce the impacts of such development.

Given their relative locations, parks in the area are not likely to be shaded by projects built to the higher heights and densities permitted under the proposed amendment.

There are a number of City of Seattle landmarks in the IC zoned area within the South Lake Union Urban Center. Other structures



within the area have been identified on historic surveys as potentially meriting designation (see section B13b.) Project-specific analysis of development on these sites would be required to review the significance of these structures, and mitigate the impact of development on these structures.

No endangered species habitat, wilderness area, rivers, wetlands, floodplains or farmlands are found in the IC zone in South Lake Union.

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

Compliance with City of Seattle, State of Washington and federal environmental regulations.

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

The proposed amendments would increase the square footage of office uses permitted in the area shown on Map A, under certain conditions. The proposed amendments would also remove limits on certain street-level activities, including retail uses, in the IC zone in the South Lake Union Urban Center. These uses are consistent with the surrounding uses existing and planned for the area. Where additional height would be permitted, the proposed amendment carries many of the development regulations from the surrounding SM zone into the IC zone. However, the scale of development under the proposed amendment will be larger.

The increased density would allow more bulk and height on sites in the area bounded by Terry Avenue, John Street, Boren Avenue, and Harrison Street. The zoning massing study contained in Attachment A compares the maximum buildout under current zoning as compared with the maximum buildout under the proposed development regulation changes in the text amendment.

Currently, the permissible zoning envelope varies from the downtown DMC zones one block to the south of the South Lake Union IC area and steps down to the shoreline of Lake Union. The area of the IC zone where greater height and bulk would be allowed is adjacent to the SM-125 zone, where 5 FAR and 125-foot structures are permitted.

While the proposed height and density limits are higher than found in the immediately surrounding area, the proposed amendment is consistent with the South Lake Union Neighborhood Plan policies adopted in December 2006. The neighborhood plan seeks to "promote a diversity of building styles", "establish incentives to

encourage preservation, reuse and rehabilitation of historically significant structures in the neighborhood;" "support the growth of innovative industries in South Lake Union;" and "provide incentives to encourage housing for people across a range of incomes...;" and "Encourage building designs that allow for public view corridors through the neighborhood to Lake Union and the Space Needle..."

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

The proposed amendment implements the neighborhood plan by promoting a diversity of building styles, by providing incentives to encourage preservation of City of Seattle Landmarks and housing affordable at a range of incomes, and providing setbacks along certain streets to maintain public view corridors toward the Space Needle. In addition, development under the proposed amendment would be subject to project-specific environmental review.

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

New development proposals in the area where additional density is allowed are likely to result in increases in vehicle trips and utility use over development subject to the current regulations. While no specific project-level development has been designed or proposed, the range of impacts for that increased density is studies in the attached transportation report (Attachment B). That study shows that, while there would likely be an increase in trips and an increase in demand for both transit and street space, if an aggressive transportation management plan is developed, no significant adverse impacts would be expected from the additional density allowable under the text amendment. Project specific actions consistent with the text amendment could have impacts, such as impacts on particular intersections resulting from structure design and garage entering/exiting patterns. Those potential impacts would need to be reviewed through project-level environmental review, and may identify additional impacts that are not identified as part of this analysis.

Any new structures consistent with the text amendment would use typical urban utility services, such as electrical utility, solid waste utility, and police and fire. Because the South Lake Union Urban Center is already a highly developed urban environment, additional utilization of such services by project-specific proposals would not be anticipated to significantly impact such public services and utilities. Construction of project-specific proposals could potentially require relocation of some utilities. Such impacts depend on the design of the specific project and are best addressed during project-specific development review.



Proposed measures to reduce or respond to such demand(s) are:

For projects built over three FAR, a transportation management plan would required to be developed and implemented that resulted in a 40% or lower share of trips via single occupant vehicle. That TMP would need to be regularly monitored and updated to ensure its continuing effectiveness.

In order to reduce energy demands, a project would also be required to be designed to meet the LEED Silver standard. This standard includes a requirement that the project be designed to reduce energy consumption.

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

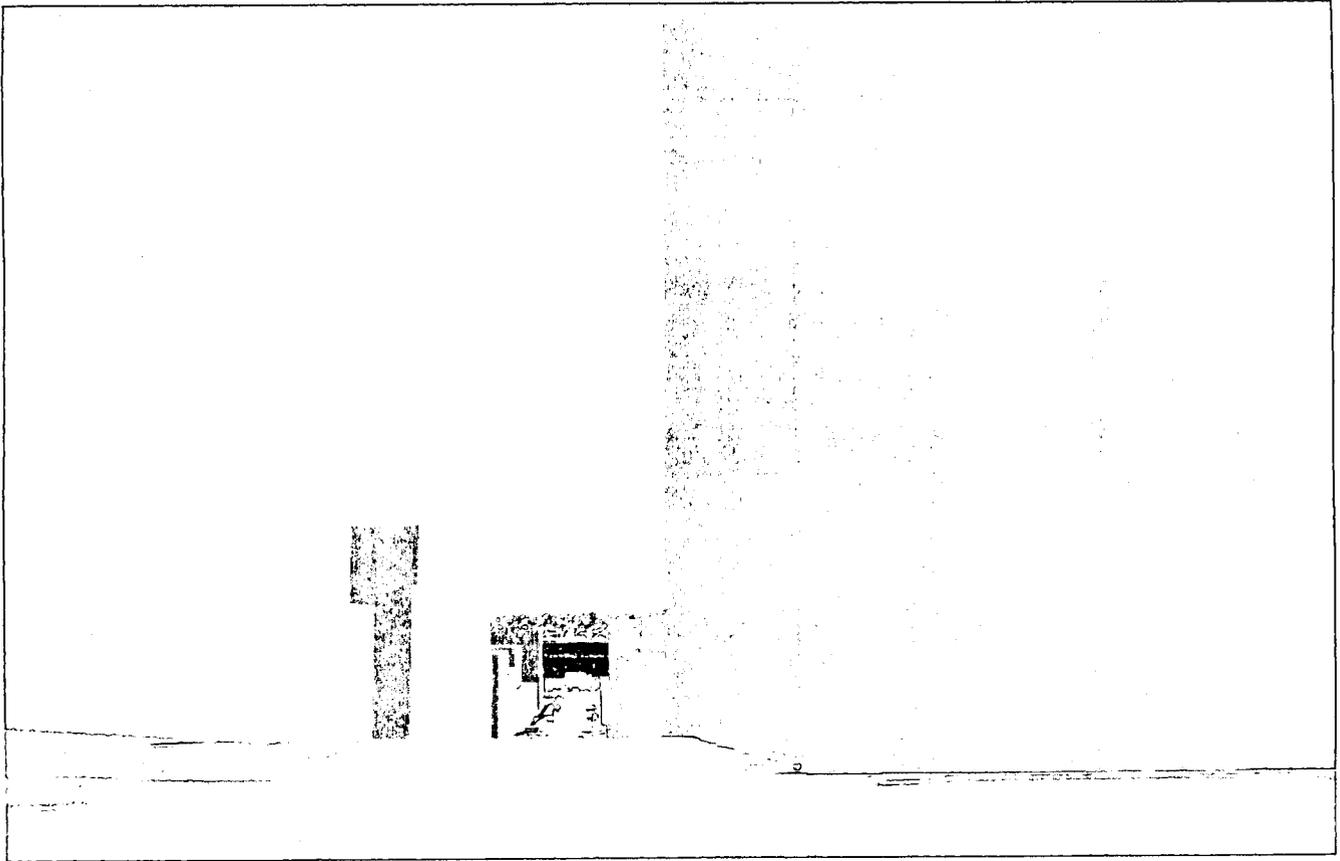
The proposed text amendment is not in conflict with local, state or federal laws or requirements for environmental protection. It is expected that any project-specific proposals consistent with the proposed text amendment would comply with all local, state and federal laws and requirements for environmental protection.

ATTACHMENT A: Development Modeling

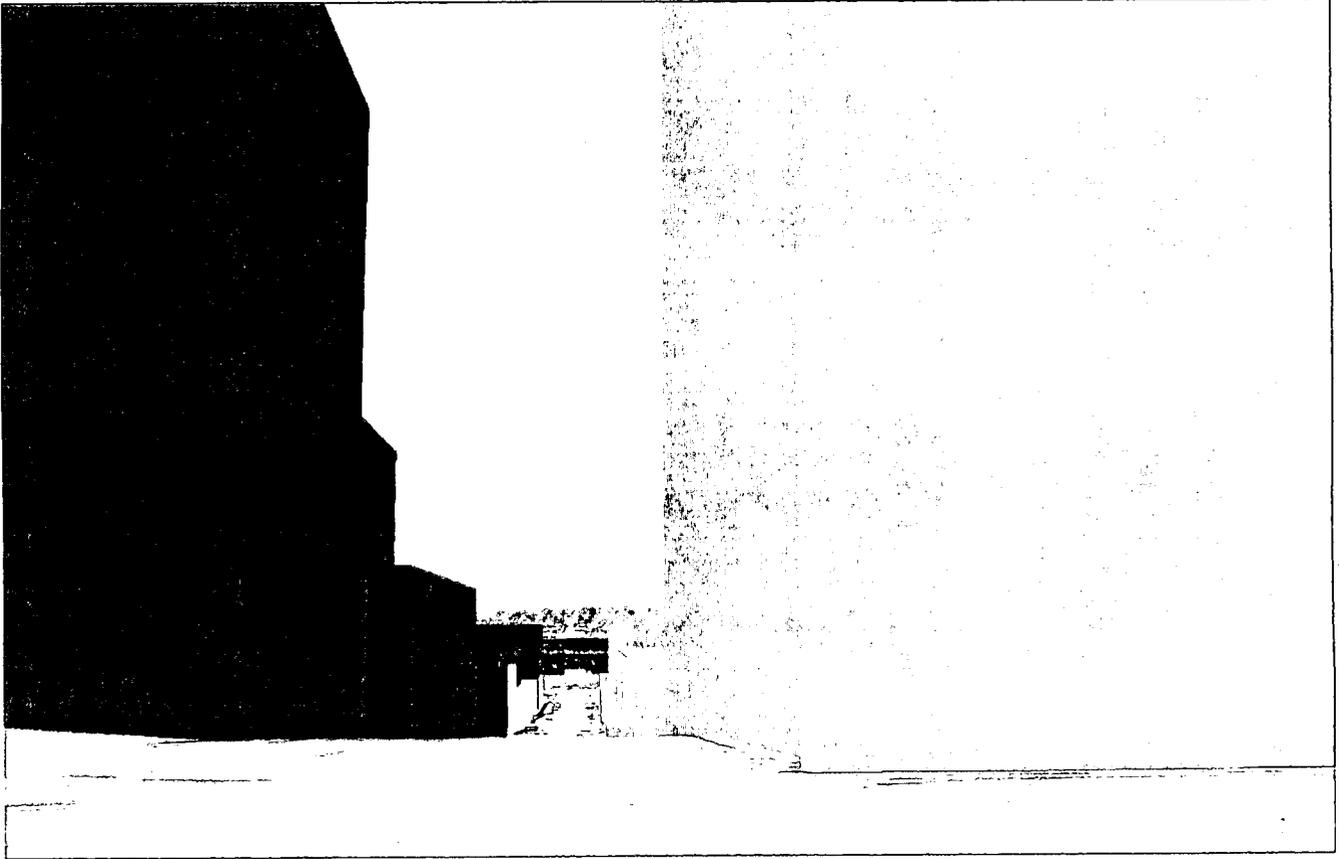
The following pages compare development under current zoning to development under the proposed additional height and density limits on the blocks between John and Harrison Streets and Boren and Terry Avenues North. The diagrams show the maximum height and density limits on these blocks, rather than particular building designs.



View: North from the NE corner of Boren Avenue North and John Street

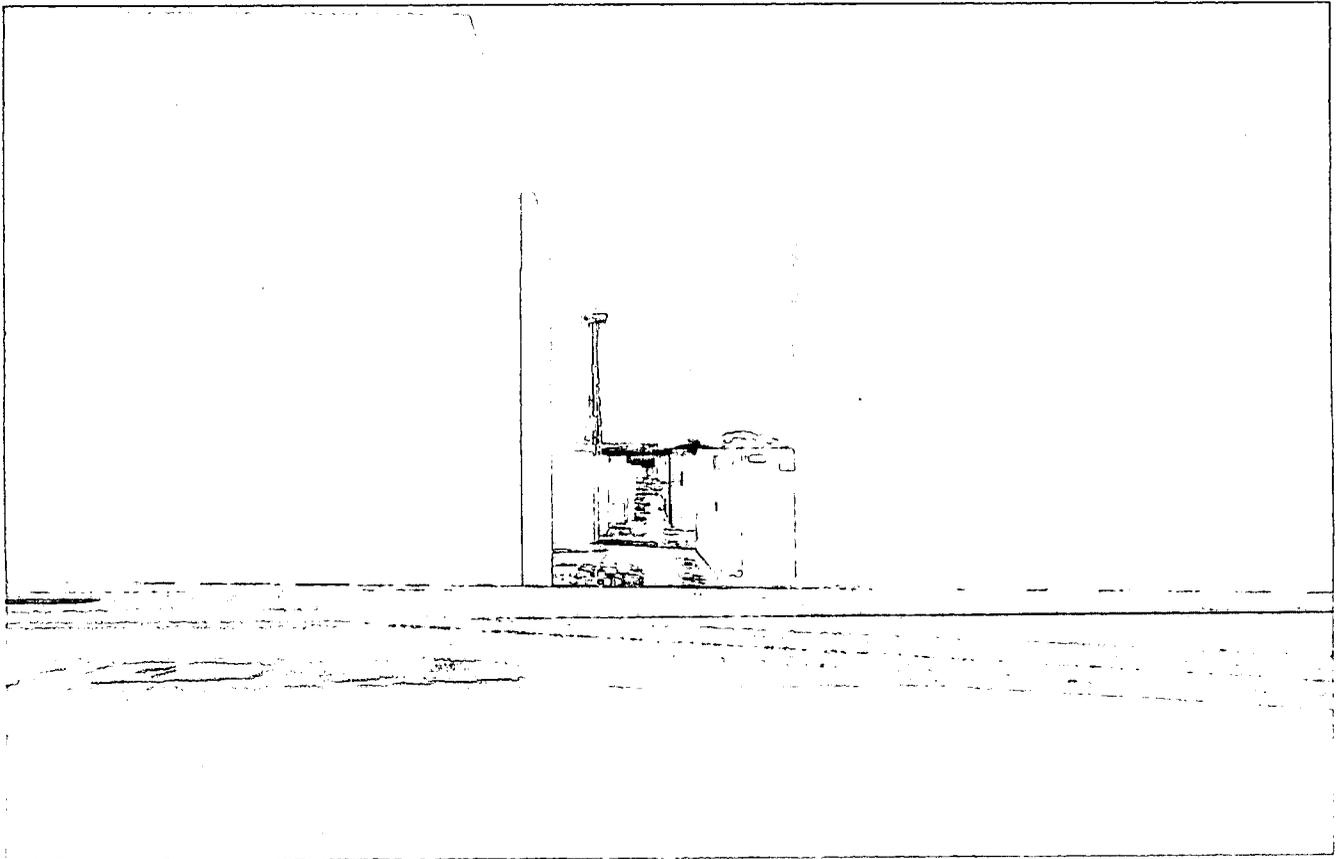


Existing Zoning

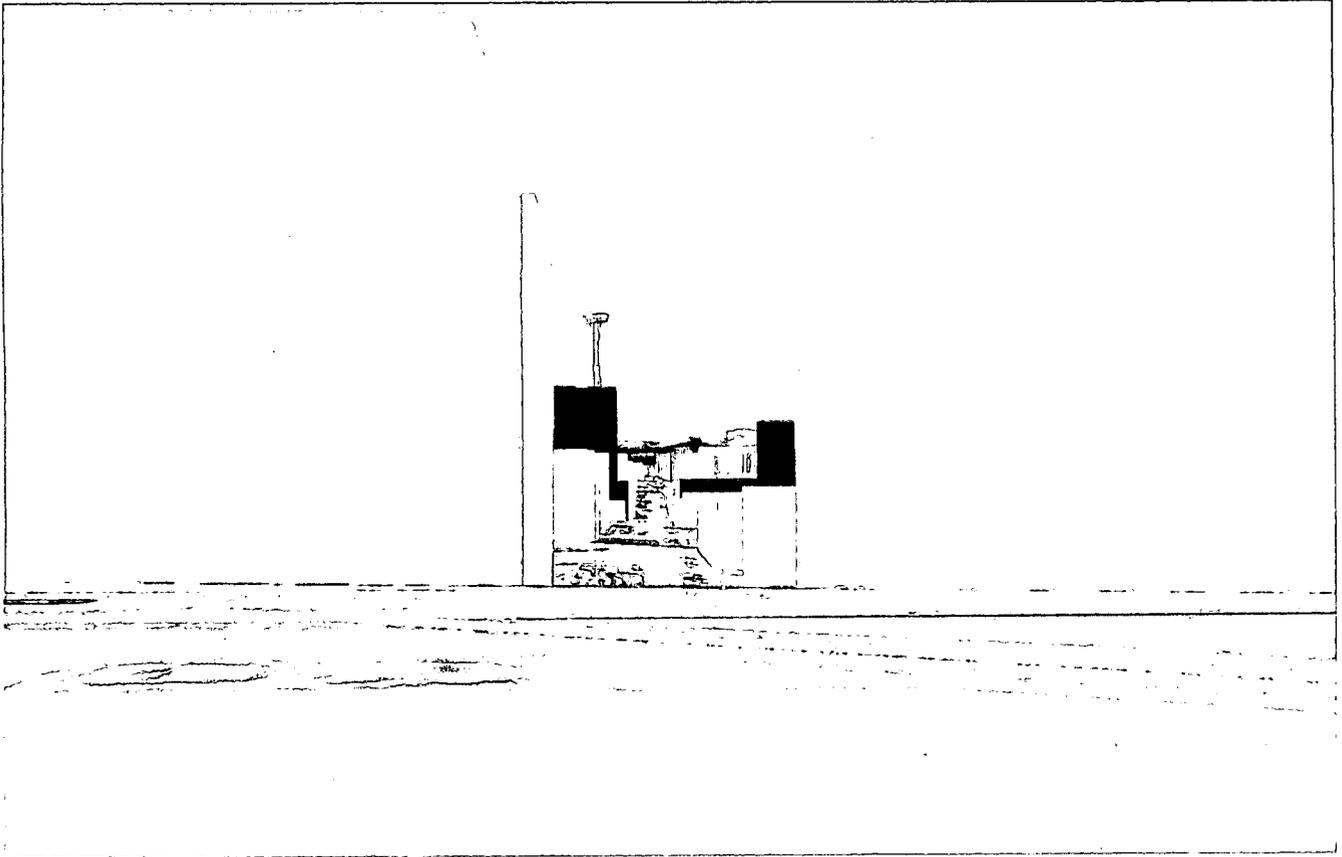


Proposed Zoning

View: West from I-5 at Thomas Street

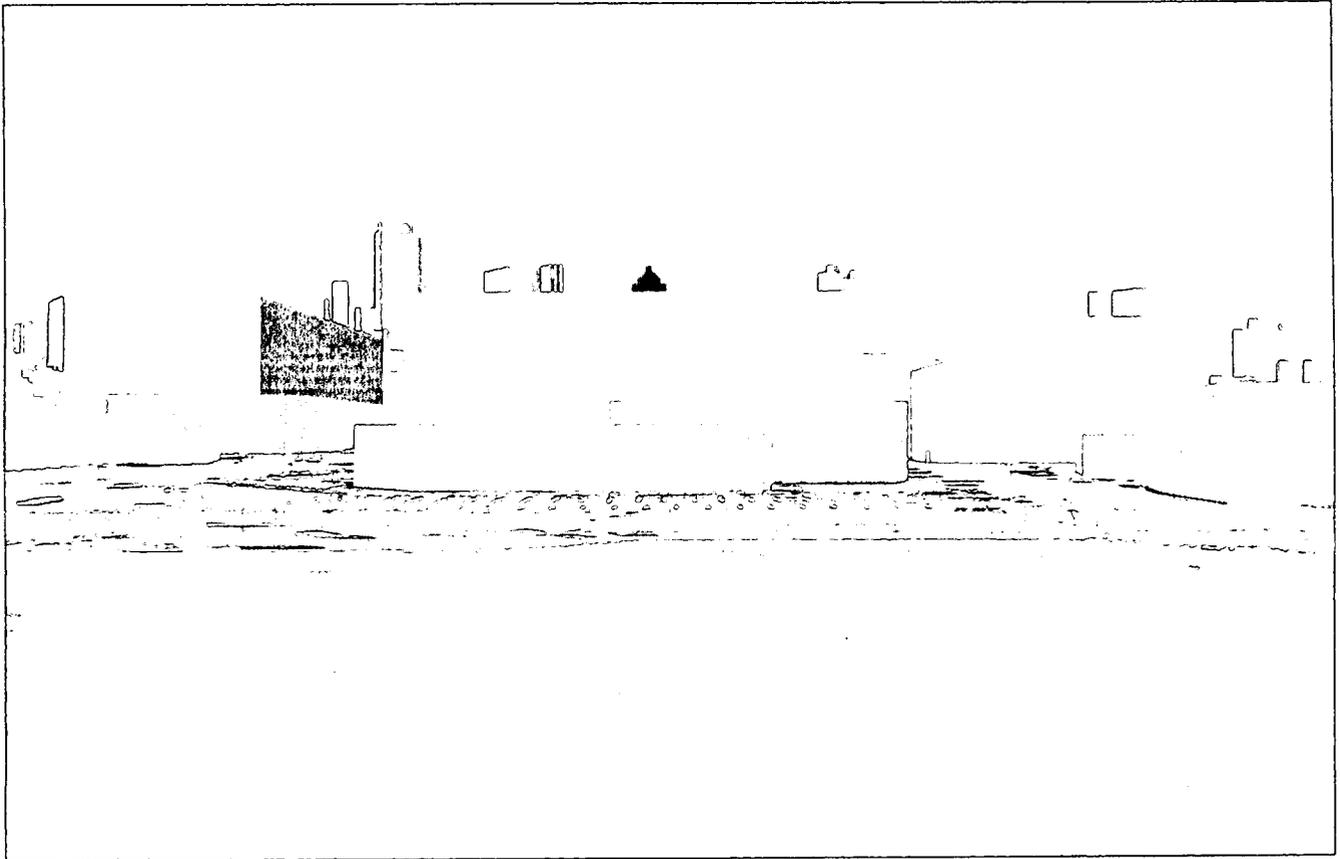


Existing Zoning



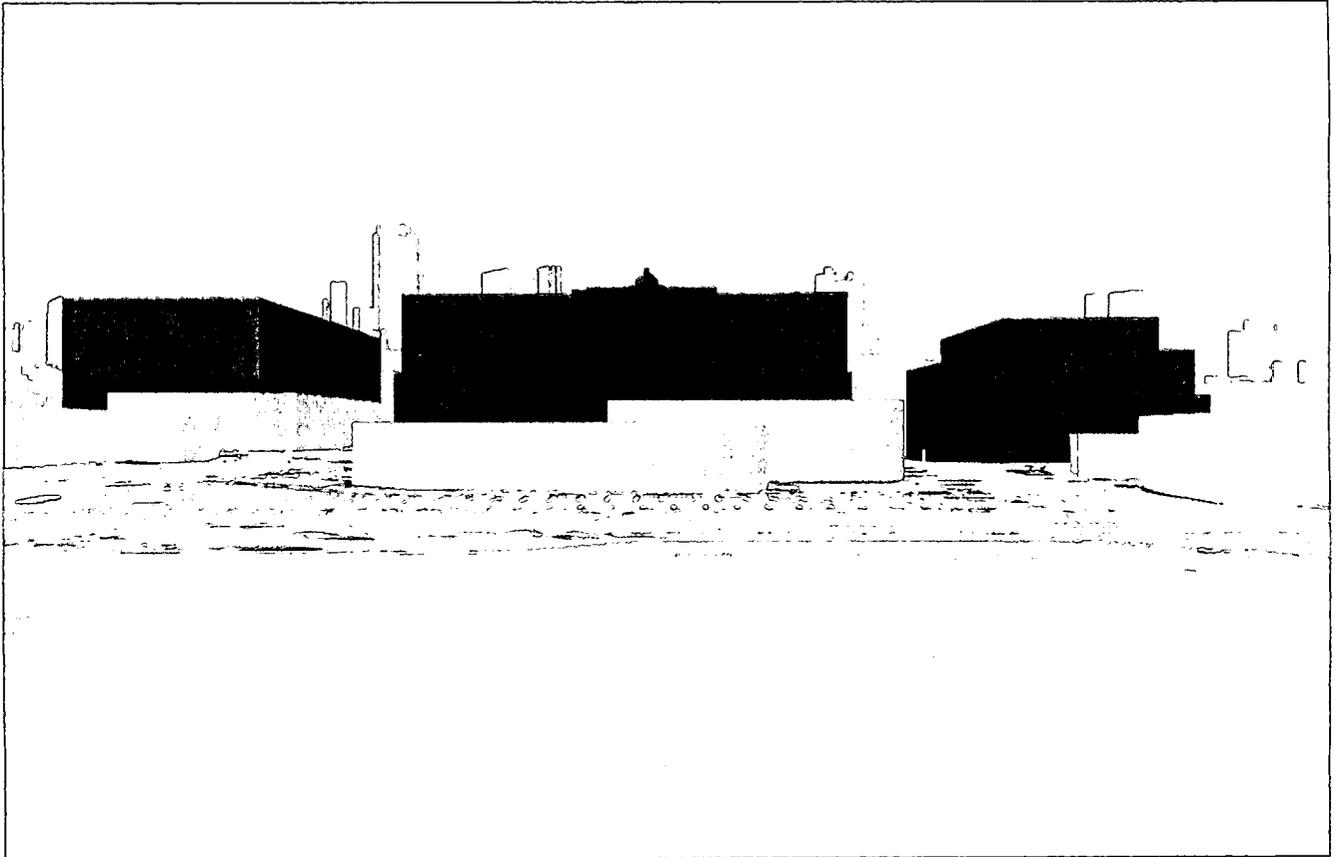
Proposed Zoning

View: South from Lake Union Park



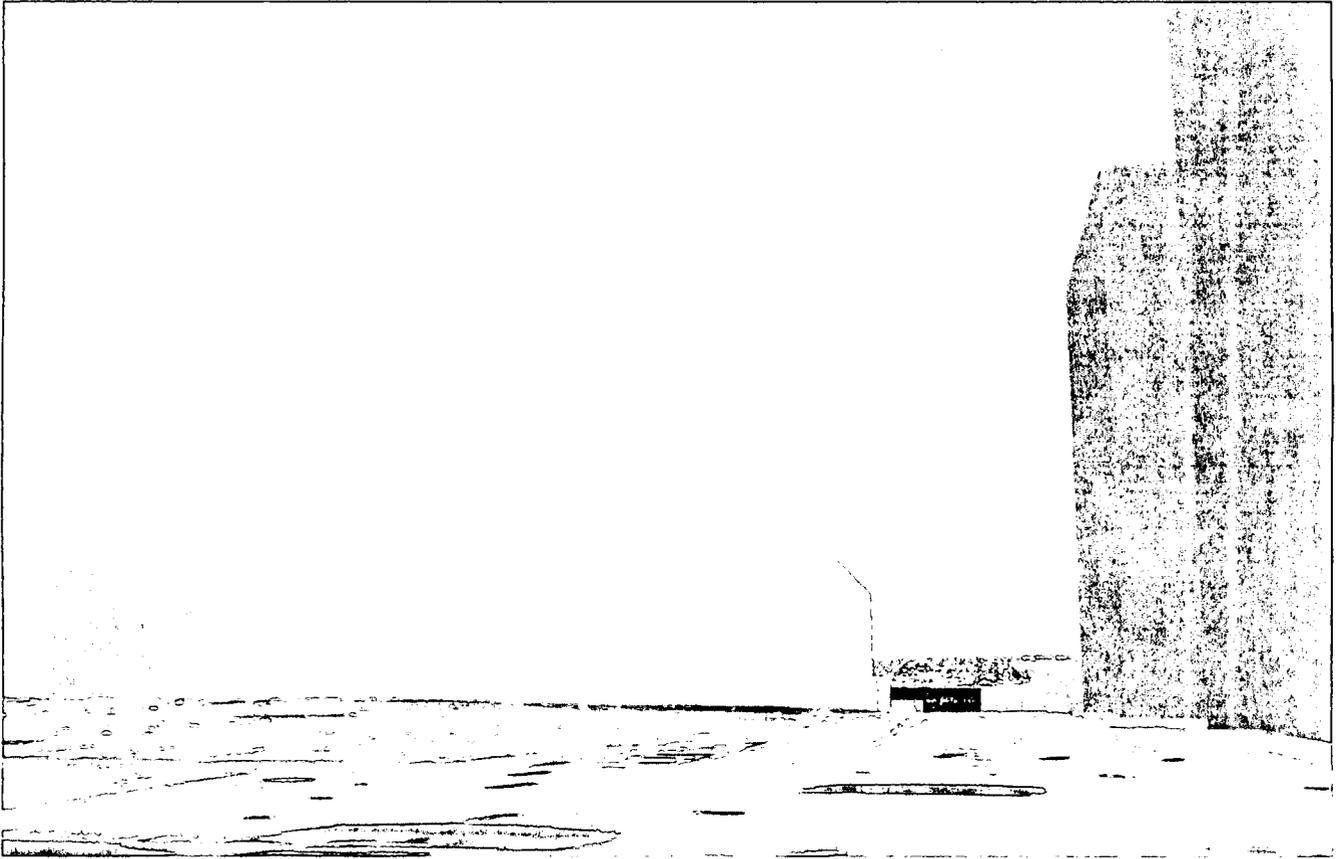
Existing Zoning

View South from Lake Union Park



Proposed Zoning

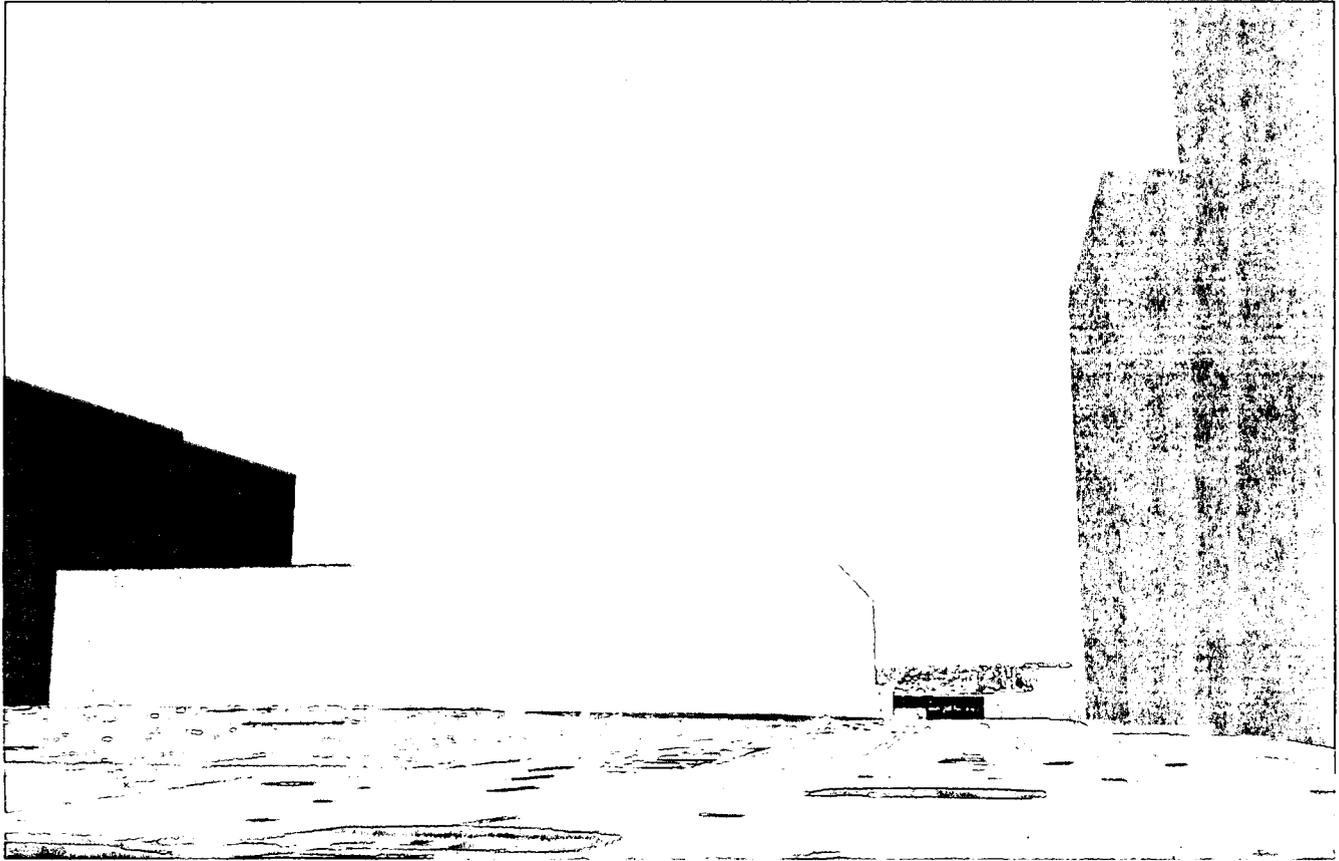
View: North from Denny Way and Fairview Avenue North



Existing Zoning

Note: Existing street trees (not shown) to the northwest obscure the parking lot and buildings to the north and west.

View: North from Denny Way and Fairview Avenue North



Proposed Zoning

Note: Existing street trees (not shown) to the northwest obscure the parking lot and buildings to the north and west.

ATTACHMENT B: Transportation Analysis



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City of Seattle

Gregory J. Nickels, Mayor

Office of the Mayor

October 30, 2007

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

Dear Council President Licata:

I am transmitting the attached proposed Council Bill to support economic development in the South Lake Union Neighborhood Plan. The Bill would amend the land use code to allow additional height and densities for projects that meet specific requirements within a defined area in the Industrial Commercial (IC) zone in the South Lake Union Urban Center. The amendment would support significant job growth adjacent to the new streetcar line, and provide incentives for housing, arts, and historic preservation in the South Lake Union neighborhood.

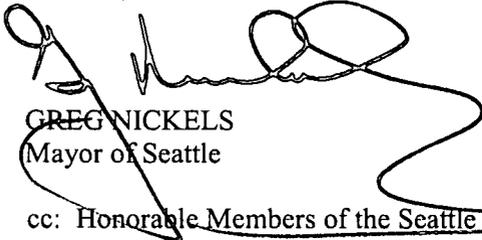
The proposed legislation allows development up to one hundred and sixty feet, with a floor area ratio (FAR) of seven, if the following requirements are met:

- Use of housing and childcare bonuses or Transfer Development Rights for two FAR;
- Building a LEEDTM Silver building;
- Development of a Transportation Management Plan that will result in no more than 40% of employees in the building driving alone to work;
- Meeting the Seattle Green Factor;
- Development of an energy management plan that will reduce impacts on the electrical system; and
- Meeting development standards from the Seattle Mixed Zone.

The proposed changes take tools that have been successful in Downtown Seattle, and apply them to another dense urban neighborhood. They will help to implement the South Lake Union Neighborhood Plan and citywide goals for livable development in Seattle's Urban Centers.

This proposed Bill will help us meet multiple City and neighborhood goals, and will support the further development of the South Lake Union neighborhood. Thank you for your consideration of this legislation. Should you have questions, please contact Nathan Torgelson at 684-0343.

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

An equal employment opportunity, affirmative action employer. Accommodations for people with disabilities provided upon request.



ORDINANCE _____

1
2 AN ORDINANCE related to land use and zoning, amending Chapters 23.48, 23.49, 23.50,
3 23.76, 23.84A and 23.90 of the Seattle Municipal Code; allowing additional height and
4 density within a defined area of Industrial Commercial zones in the South Lake Union
5 Urban Center; providing bonus floor area for affordable housing and child care in that
6 area; allowing transfer of development rights to lots in that area from Landmarks and
7 certain other properties; modifying exemptions from floor area limits for projects in the
8 South Lake Union Urban Center; and making technical revisions.

9 WHEREAS, the City adopted South Lake Union Urban Center goals and policies into the
10 Comprehensive Plan in December 2006, supporting the growth of innovative industries
11 in South Lake Union, incentives for housing, arts and historic preservation, and a
12 diversity of building styles; and

13 WHEREAS, opportunities to implement these goals and policies exist within a portion of the
14 Industrial Commercial zone in South Lake Union; NOW, THEREFORE,

15 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

16 Section 1. The Council finds that that the provisions of this Ordinance will implement
17 the Comprehensive Plan and protect and promote public health, safety and welfare.

18 Section 2. Subsection B of Section 23.48.016 of the Seattle Municipal Code, which
19 Section was last amended by Ordinance 122311, is amended as follows:

20 **23.48.016 Standards applicable to specific areas.**

21 * * *

22 B. Floor Area Ratios. In SM/85 and SM/125 zones, the following floor area ratios
23 (FARs) apply:

24 1. In SM/85 zones, a FAR of four and one half (4.5) is the maximum ((gross))
25 chargeable floor area permitted((for all nonresidential uses)).

26 2. In SM/125 zones, a FAR of five (5) is the maximum ((gross)) chargeable floor
27 area permitted ((for all nonresidential uses)) in structures greater than seventy-five (75) feet in
28 height.



1 3. ~~((Exemptions from FAR Calculations.))~~ The following areas are ~~((shall be))~~
2 exempt from FAR calculations:

- 3 a. All gross floor area below grade;
4 b. All gross floor area used for accessory parking located above grade;

5 and

- 6
7 c. All gross floor area in residential use.

8 4. Up to three and one-half (3 1/2) percent of the gross floor area of a structure
9 shall not be counted in ~~((gross))~~ floor area calculations, as an allowance for mechanical
10 equipment. The allowance shall be calculated on the gross floor area after all exempt space
11 permitted under subsection~~((s))~~ B3~~((a and B3b))~~ has been deducted.

12
13 5. Within the South Lake Union Urban Center, gross floor area occupied by
14 mechanical equipment, up to a maximum of fifteen (15) percent, is exempt from ~~((FAR))~~ floor
15 area calculations. The allowance is calculated on the gross floor area of the structure after all
16 exempt space permitted under subsection~~((s))~~ B3~~((a and B3b))~~ has been deducted. Subsection
17 B4 ~~((shall))~~ does not apply. Mechanical equipment located on the roof of a structure is not
18 calculated as part of the total gross floor area of a structure.

19
20 6. To the extent provided in Section 23.50.053, the transfer of TDR from a lot
21 reduces the limits on chargeable floor area set forth in this Section. On a lot in an SM/125 zone
22 from which TDR is transferred, the FAR limit in this Section, as so reduced, applies regardless
23 of the height of any structure.

24 Section 3. Subsection G of Section 23.49.014 of the Seattle Municipal Code, which
25 Section was last amended by Ordinance 122054, is amended as follows:

26
27 **23.49.014 Transfer of development rights (TDR).**



* * *

1
2 G. TDR Satisfying Conditions to Transfer Under Prior Code.

3 1. If the conditions to transfer Landmark TDR, as in effect immediately prior to
4 the effective date of Ordinance 120443, ((the following)) are satisfied on or before December
5 31, 2001, such TDR may be transferred from the sending lot in the amounts eligible for transfer
6 as determined under the provisions of this title in effect immediately prior to the effective date
7 of Ordinance 120443. If the conditions to transfer housing TDR are satisfied prior to the
8 effective date of Ordinance 120443 under the provisions of this title then in effect, such TDR
9 may be transferred from the sending lot in the amounts eligible for transfer immediately prior to
10 that effective date. If the conditions to transfer TDR from a major performing arts facility are
11 satisfied prior to the effective date of Ordinance 120443 under the provisions of this Title then in
12 effect, TDR may be transferred from the sending lot after that effective date, for use on any
13 receiving lots in zones where housing TDR may be used according to Chart 23.49.014 A or as
14 provided in Section 23.50.053, in an amount as determined under subsection B of this section,
15 provided that the cumulative amount of TDR that may be transferred after June 1, 2005 from
16 any sending lot based on the presence of a major performing arts facility is limited to one
17 hundred fifty thousand (150,000) square feet.
18

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20
21 2. For purposes of this subsection, conditions to transfer include, without
22 limitations, the execution by the owner of the sending lot, and recording in the King County real
23 property records, of any agreement required by the provisions of this title or the Public Benefit
24 Features Rule in effect immediately prior to the effective date of Ordinance 120443, but such
25 conditions do not include any requirement for a master use permit application for a project
26 intending to use TDR, or any action connected with a receiving lot. TDR transferable under this
27
28



1 subsection G are eligible either for use consistent with the terms of Section 23.49.011 or
2 Section 23.50.051 or for use by projects developed pursuant to permits issued under the
3 provisions of this title in effect prior to the effective date of Ordinance 120443. The use of TDR
4 transferred under this subsection G on the receiving lot shall be subject only to those conditions
5 and limits that apply for purposes of the master use permit decision for the project using the
6 TDR.

7
8 * * *

9 Section 4. Subsection A of Section 23.49.020 of the Seattle Municipal Code, which
10 Section was enacted by Ordinance 122054, is amended as follows:

11 **23.49.020 Demonstration of LEED Silver rating.**

12 A. Applicability. This section applies whenever a commitment to earn a LEED Silver
13 rating or substantially equivalent standard is a condition of a permit ~~((pursuant to SMC Section~~
14 ~~23.49.011 or 23.49.015))~~.

15
16 * * *

17 Section 5. Section 23.50.020 of the Seattle Municipal Code, which Section was last
18 amended by Ordinance 121359, is amended as follows:

19 **23.50.020 All Industrial zones -- Structure height exceptions and additional restrictions.**

20 A. Rooftop Features. Where a height limit ~~((s are otherwise applicable))~~ applies to a
21 structure, ~~((and))~~ except as provided in subsections C4, D4, E4 and F3 of Section 23.50.024, the
22 ~~((following conditions))~~ provisions in this subsection A apply to rooftop features:

23 1. Smokestacks ~~((;))~~, chimneys, and flagpoles, and religious symbols for religious
24 institutions are exempt from height limits ~~((controls))~~, except as regulated in Chapter 23.64,
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1 Airport Height Overlay District, provided they are a minimum of ten (10) feet from any side or
2 rear lot line.

3 2. Open railings, planters, skylights, clerestories, greenhouses, parapets and
4 firewalls may extend four (4) feet above the applicable ~~((maximum))~~ height limit with unlimited
5 rooftop coverage.

6 3. Solar collectors may extend up to seven (7) feet above the
7 applicable ~~((maximum))~~ height limit, with unlimited rooftop coverage.

8 4. The following rooftop features may extend up to fifteen (15) feet above the
9 ~~((maximum))~~ applicable height limit, as long as the combined total coverage of all features listed
10 in this subsection A4 does not exceed twenty (20) percent of the roof area, or twenty-five (25)
11 percent of the roof area if the total includes screened mechanical equipment:
12

- 13
- 14 a. Solar collectors;
 - 15 b. Stair and elevator penthouses;
 - 16 c. Mechanical equipment; and
 - 17 d. Minor communication utilities and accessory communication devices,

18 except that height is regulated according to the provisions of Section 23.57.015.

19 5. Within the South Lake Union (~~Hub Urban Village~~) Urban Center, at the
20 applicant's option, the combined total coverage of all features listed in subsection A4 above may
21 be increased to sixty-five (65) percent of the roof area, provided that all of the following are
22 satisfied:
23

- 24 a. All mechanical equipment is screened; and
- 25 b. No rooftop features are located closer than ten (10) feet to the roof

26
27 edge.



1 B. Forty-five (45) Foot Height Limit Areas-Additional Height Restrictions for Certain
2 Structures.

3 ~~((1. Within these industrial areas designated as having))~~ In zones with a forty-five
4 (45) foot height limit, except as provided for IC zones in Section 23.50.028, ~~((forty-five (45)~~
5 ~~foot structure height is permitted only when a structure contains at least one (1) story at least~~
6 ~~fifteen (15) feet in height.~~

7
8 ~~2-8))~~ structures with no story at least fifteen (15) feet in height ~~((shall be))~~ are
9 limited to a maximum height of forty (40) feet.

10 C. Structures existing prior to October 8, 1987 ~~((which))~~ that exceed the height limit of
11 the zone may add the rooftop features listed as conditioned in subsection A of this section above.
12 The existing roof elevation of the structure shall be considered the ~~((maximum))~~ applicable
13 height limit for the purpose of adding rooftop features.

14
15 Section 6. Section 23.50.026 of the Seattle Municipal Code, which Section was last
16 amended by Ordinance 121359, is amended as follows:

17 **23.50.026 Structure height in IC zones.**

18 A. Except ~~((for the provisions of Section 23.50.020, and except))~~ as may be otherwise
19 provided in this title ~~((for any overlay district, and except that monorail transit facilities may~~
20 ~~exceed the height limit of the zone according to the provisions of Section 23.80.004 or Section~~
21 ~~15.54.020)),~~ the maximum structure height in IC zones for all uses ~~((shall be))~~ is thirty (30)
22 feet, forty-five (45) feet, sixty-five (65) feet, eighty-five (85) feet or one hundred twenty-five
23 (125) feet, as designated on the Official Land Use Map, Chapter 23.32. Only areas in the
24 Stadium Transition Area Overlay District abutting the PSM 85/120 zone may be designated for
25 a height limit of one hundred twenty-five (125) feet. Maximum structure height may be
26
27
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1 increased or reduced as provided in this section or Section 23.50.020. An overlay district may
2 increase or reduce the maximum structure height.

3 B. Water-dependent uses within the Shoreline District shall only be subject to the height
4 limits of the applicable shoreline environment, Chapter 23.60.

5 C. Within the area shown on Exhibit 23.50.026 A, areas zoned IC/45 ~~((shall be))~~ are
6 subject to the following height regulations (See Exhibit 23.50.026 A):
7

8 1. ~~((A forty-five (45) foot structure height is permitted only when a structure~~
9 ~~contains at least one (1) story at least fifteen (15) feet in height.~~

10 2.) Except as provided in subsection ~~((3e))~~ 2c below, structures with no story at
11 least fifteen (15) feet in height ~~are((shall be))~~ limited to a maximum height of forty (40) feet.

12 ~~((3))~~ 2. A sixty-five (65) foot structure height is permitted as a special exception
13 provided that:

14 a. Provision is made for view corridors(s) looking from Elliott Avenue
15 towards Puget Sound;

16 (1) The location of the view corridor(s) shall be determined by the
17 Director upon consideration of such factors as existing view corridors, the location of street
18 rights-of-way, and the configuration of the lot,

19 (2) The view corridor(s) shall have a width not less than thirty-five
20 (35) percent of the width of the lot,

21 (3) The minimum width of each required view corridor shall be
22 thirty (30) feet measured at Elliott Avenue West,

23 (4) Measurement, modification or waiver of the view corridor(s)
24 shall be according to the Seattle Shoreline Master Program measurement regulations, Chapter
25
26
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1 23.60. Where a waiver under these provisions is granted, the sixty-five (65) foot structure height
2 shall still be permitted,

3 (5) Parking for motor vehicles shall not be located in the view
4 corridor unless the area of the lot where the parking would be located is four (4) or more feet
5 below the level of Elliott Avenue West;

6 b. Development shall be located so as to maximize opportunities for
7 views of Puget Sound for residents and the general public; and

8 c. The structure contains at least two (2) stories at least fifteen (15) feet in
9 height; with the exception that no story in an accessory parking structure is required to be at
10 least fifteen (15) feet in height.

11 D. Within the South Lake Union (~~Hub~~) Urban Center (~~Village~~, t):

12 1. The maximum structure height in IC zones with sixty-five (65) foot and
13 eighty-five (85) foot height limits may be increased to eighty-five (85) feet and one-hundred and
14 five (105) feet, respectively, provided that:

15 ~~((1-))~~ a. A minimum of two (2) ~~((floors))~~ stories in the structure have a
16 floor to floor height of at least fourteen (14) feet; and

17 ~~((2-))~~ b. The additional height is used to accommodate mechanical
18 equipment; and

19 ~~((3-))~~ c. The additional height permitted does not allow more than six (6)
20 ~~((floors))~~ stories in IC zones with a sixty-five (65) foot height limit, or more than seven (7)
21 ~~((floors))~~ stories in IC zones with an eighty-five (85) foot height limit.

22 2. The maximum structure height of structures qualifying for additional floor area
23 under the provisions of section 23.50.051 is one hundred and sixty (160) feet.
24

1 Section 7. Subsection A of Section 23.50.027 of the Seattle Municipal Code, which
2 Section was last amended by Ordinance 121281, is amended as follows:

3 **23.50.027 Maximum size of nonindustrial use.**

4 A. Applicability.

5 1. Except as otherwise provided in ~~((subsections B, C, D and E of))~~ this section
6 ~~((below))~~, the maximum size of use limits on gross floor area specified in Chart A or, for lots
7 located in the Duwamish Manufacturing/Industrial Center, Chart B of this section ~~((shall))~~ apply
8 to uses on a lot. The maximum size of use limits apply to both principal and accessory uses on a
9 lot. The limits ~~((shall be))~~ apply ~~((ied))~~ separately to the categories of uses listed in the respective
10 charts of this section. The total gross floor area occupied by uses limited under the respective
11 charts of this section shall not exceed an area equal to the area of the lot in an IG1 zone, or two
12 and one-half (2.5) times the area of the lot in an IG2, IB or IC zone, or three (3) times the lot
13 area in IC zones with sixty-five (65) foot or eighty-five (85) foot height limits in the South Lake
14 Union Urban Center ~~((Planning Area, as identified in Exhibit 23.50A))~~.

17 2. The maximum size of use limits in Chart A ~~((shall))~~ not apply to the area
18 identified in Exhibit 23.50.027A. In that area ~~((provided that))~~ no single retail establishment
19 ~~((shall))~~ may exceed fifty thousand (50,000) square feet in size.

21 3. There is no limit under this Section on the size of uses in projects that qualify
22 for additional floor area under section 23.50.051.



Chart A

INDUSTRIAL ZONES

| Categories of Uses Subject to Size of Use Limits | IG1 | IG2 and IB | IC |
|--|----------------|-------------------|----------------|
| Retail sales and service or entertainment except spectator sports facilities | 30,000 sq. ft. | 75,000 sq. ft. | 75,000 sq. ft. |
| Office | 50,000 sq. ft. | 100,000 sq. ft. | N.M.S.L. |

N.M.S.L. = No Maximum Size Limits

Chart B

GENERAL INDUSTRIAL ZONES WITHIN DUWAMISH M/I CENTER

| Categories of Uses Subject to Size of Use Limits | IG1 | IG2 |
|---|----------------|----------------|
| Office uses | 50,000 sq. ft. | 75,000 sq. ft. |
| Retail sales and service (except for restaurants and drinking establishments) | 25,000 sq. ft. | 50,000 sq. ft. |
| Restaurants | 5,000 sq. ft. | 5,000 sq. ft. |
| Drinking establishments* | 3,000 sq. ft. | 3,000 sq. ft. |
| Meeting halls | N.M.S.L. | 5,000 sq. ft. |

N.M.S.L. = No Maximum Size Limits

* The maximum size limit for brew pubs applies to that portion of the pub that is not used for brewing purposes.

Section 8. Section 23.50.028 of the Seattle Municipal Code, which Section was last amended by Ordinance 121828, is amended as follows:



1 **23.50.028 Floor area ratio.**

2 The floor area ratio (FAR), as provided below, ~~((shall))~~ determines the permitted ~~((gross~~
3 ~~square footage))~~ chargeable floor area on a lot~~((permitted))~~.

4 A. General Industrial 1, Floor Area Ratio. The ~~((total))~~ maximum FAR in IG1
5 zones~~((shall be))~~ is two and one-half (2.5).

6 B. General Industrial 2 and Industrial Buffer, Floor Area Ratio. The maximum FAR for
7 all General Industrial 2 (IG2) and Industrial Buffer (IB) uses ~~((shall be))~~ is two and one half
8 (2.5).

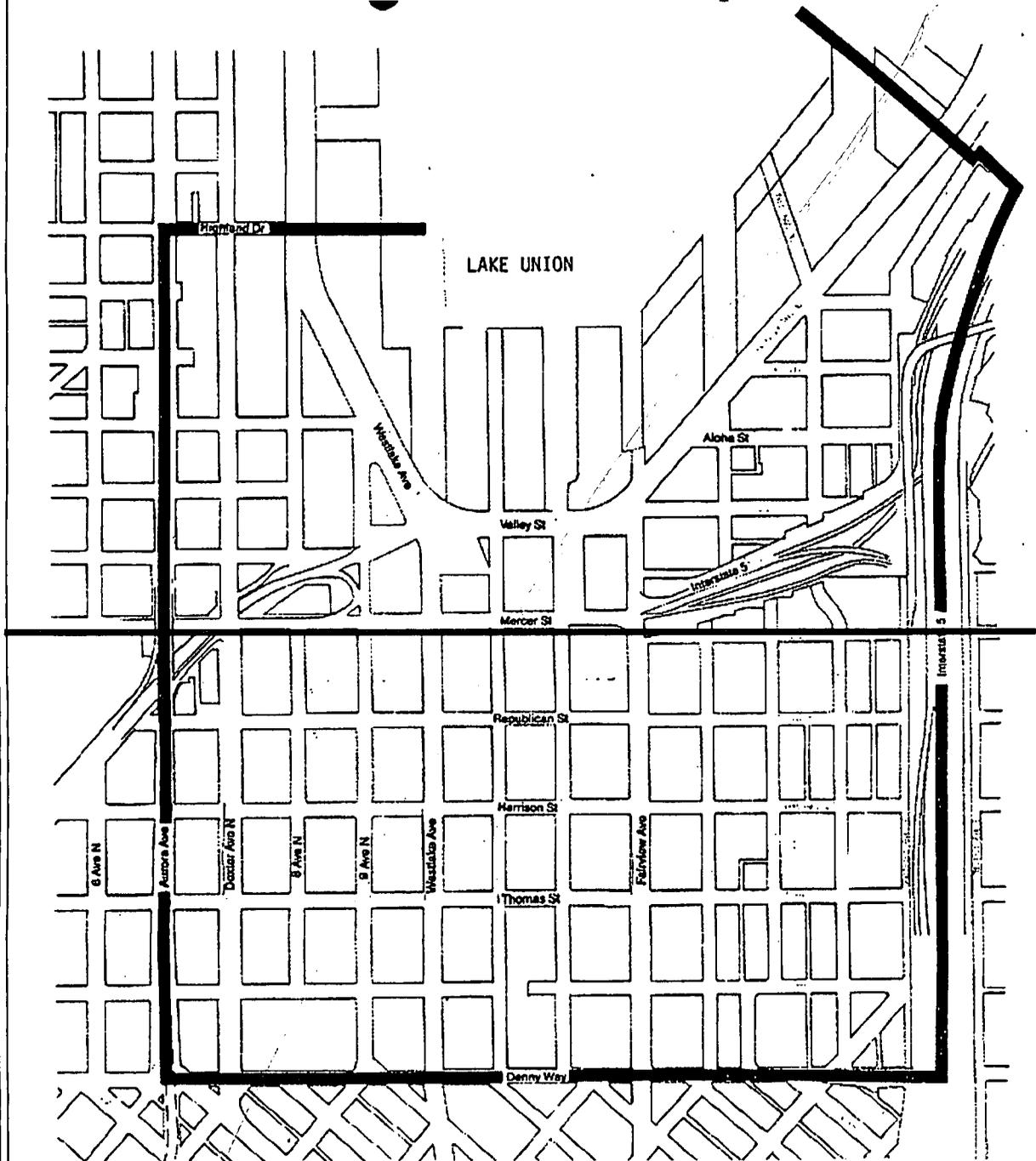
9 C. Industrial Commercial, Floor Area Ratio. Except within the South Lake Union Urban
10 Center, ~~((for the area shown in Exhibit 23.50.028 A-))~~ the maximum FAR ~~((for))~~ in all Industrial
11 Commercial (IC) ~~((uses shall be))~~ zones is two and one-half (2.5). ~~((See Exhibit 23.50.028 A-))~~
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((Exhibit 23.50.028A

South Lake Union Planning Area

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1))D. Industrial Commercial/South Lake Union, Floor Area Ratio. Within the South Lake
2 Union Urban Center, (~~area shown on Exhibit 23.50.028 A and described as the South Lake~~
3 ~~Union Planning Area~~),) the maximum FAR in Industrial Commercial zones (~~shall be as~~
4 ~~follows:~~

5 1. ~~In areas with a thirty (30) foot or forty five (45) foot height limit, the FAR~~
6 ~~shall be two and one half (2.5); and~~

7 2. ~~In areas with a sixty five (65) foot or eighty five (85) foot height limit, the~~
8 ~~FAR shall be~~) is three (3), except as provided in Section 23.50.051.

9 E. All Industrial Zones, Exemptions from FAR Calculations. The following areas (~~shall~~
10 ~~be~~) are exempt from FAR calculations:

11 1. All gross floor area below grade;

12 2. All gross floor area used for accessory parking, except as provided in
13 subsection F;

14 3. All gross floor area located on the rooftop of a structure and used for any of the
15 following: mechanical equipment, stair and elevator penthouses, and communication equipment
16 and antennas(~~located on the rooftop of structures~~);

17 4. All gross floor area uses for covered rooftop recreational space of a building
18 existing as of December 31, 1998, when complying with the provisions of Section 23.50.012 D;
19 and

20 5. (~~All gross floor area of a monorail station, including all floor area open to the~~
21 ~~general public during normal hours of station operation (but excluding retail or service~~
22 ~~establishments to which public access is limited to customers or clients, even where such~~
23 ~~establishments are primarily intended to serve monorail riders); and~~)

1 ~~((6-))~~ Within the South Lake Union ~~((Hub-))~~Urban Center ~~((Village))~~;~~(;)~~

2 a. ~~((g))~~Gross floor area occupied by mechanical equipment, up to a
3 maximum of fifteen (15) percent of the floor area on the lot~~((, is exempt from FAR~~
4 ~~calculations))~~. The allowance is calculated on the gross floor area of the structure after all other
5 exempt space permitted under this subsection E is deducted. ~~Mechanical equipment located on~~
6 ~~the roof of a structure is not calculated as part of the total gross floor area of a structure.~~

7
8 b. The following uses located at street level:

9 i. General sales and service uses;

10 ii. Eating and drinking establishments;

11 iii. Entertainment uses; and

12 iv. Public libraries.

13
14 F. Within the South Lake Union Urban Center, gross floor area used for accessory
15 parking within stories that are completely above finished grade is not exempt.

16 G. Anything in Section 23.76.026 notwithstanding, the applicant for a Master Use Permit
17 for a project in the South Lake Union Urban Center to which the Land Use Code in effect prior
18 to the effective date of the ordinance enacting this subsection G applies may, by written election,
19 use the exemptions in subsection E5b of this section, provided that subsection F of this section
20 also shall apply.

21
22 Section 9. A new Section 23.50.051 of the Seattle Municipal Code is adopted to read as
23 follows:

24 **23.50.051 Additional floor area in certain IC-zoned areas in the South Lake Union Urban**
25 **Center.**
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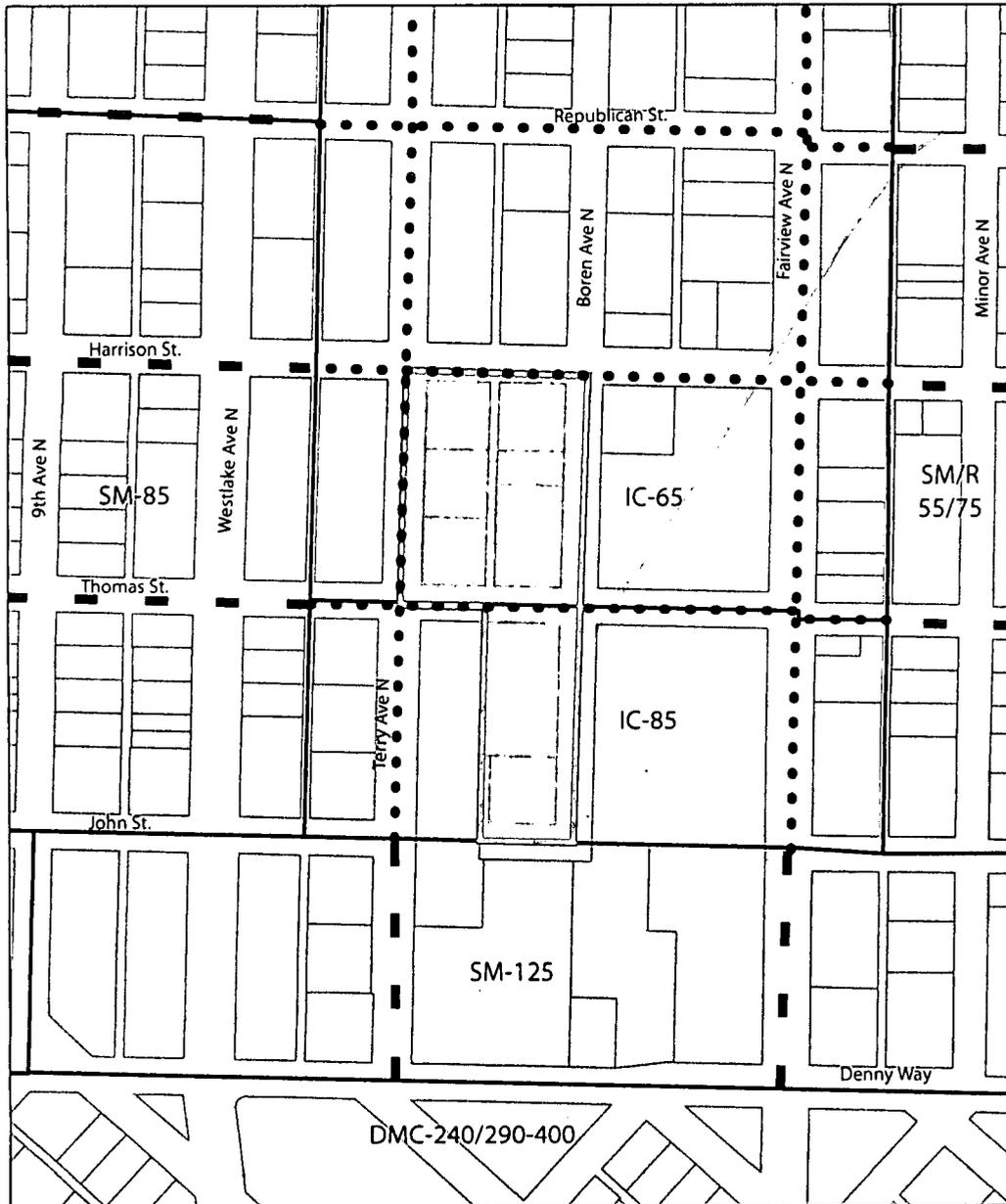
1 A. Applicability; General Rules. This Section applies only to IC zones in the area shown
2 on Exhibit 23.50.051 A. In IC zones in that area, floor area in addition to the FAR limit in
3 Section 23.50.028 is permitted for projects that satisfy all the conditions in this section. For
4 purposes of applying any section of Chapter 23.48 referred to in this section, Class 2 Pedestrian
5 Streets are as designated on Exhibit 23.50.051A. For the purposes of this section, the applicable
6 FAR limit in subsection 23.50.028D is called the “base FAR.” As a condition to any floor area
7 above the base FAR, a project must conform to all the provisions of subsections C through L of
8 this section, inclusive. As a further condition, any floor area above five (5) FAR is allowed only
9 to the extent gained in accordance with the bonus and TDR provisions of subsection M of this
10 section.
11

12 B. Maximum FAR. The maximum chargeable floor area permitted on a lot pursuant to
13 this section is seven (7) FAR.
14

15 C. Alteration of Landmark. No floor area above the base FAR shall be granted to any
16 proposed development that would result in a significant alteration to any designated feature of a
17 Landmark structure, unless a Certificate of Approval for the alteration is granted by the
18 Landmarks Preservation Board.
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Exhibit 23.50.051 A

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|---|--|---|--|---|
|  | Area where additional floor area is permitted according to the provisions of Section 23.50.051 of the Seattle Municipal Code |  | Parcel Boundary |  |
|  | Class 2 Pedestrian Street in SM Zone |  | Class 2 Pedestrian Street for lots receiving additional floor area under 23.50.051 | |
|  | Zone Boundary | | | |

D. LEED requirement. The applicant shall make a commitment acceptable to the Director that the proposed development will earn a LEED Silver rating or meet a substantially



1 equivalent standard, and shall demonstrate compliance with that commitment, all in accordance
2 with the provisions of Section 23.49.020.

3 E. Upper Level Setback. An upper level setback consistent with subsections B and C of
4 Section 23.48.012 is provided along Thomas Street and Harrison Street for any portion of the
5 structure above forty-five (45) feet in height.

6 F. Facades. Each structure satisfies the general facade requirements of Section
7 23.48.014.

8 G. Transparency. Each structure satisfies the transparency and blank facade
9 requirements of Section 23.48.018.

10 H. Solid Waste and Recycling. Each structure satisfies the solid waste and recyclable
11 materials storage space requirements of Section 23.48.031.

12 I. Parking and access. Each structure satisfies the parking and loading location, access
13 and curbcuts requirements of Section 23.48.034.

14 J. Screening and Landscaping. Each structure satisfies the NC3 zone screening and
15 landscaping requirements of Section 23.47A.016.

16 K. Transportation Management Program. The Master Use Permit application shall
17 include a Transportation Management Program (TMP) consistent with requirements for TMPs in
18 Director's Rule 14-2002. The TMP shall be approved by the Director only if, after consulting
19 with Seattle Department of Transportation, the Director determines that no more than forty (40)
20 percent of trips to and from the project will be made using single-occupant vehicles (SOV).

21 1. For purposes of measuring attainment of single-occupant vehicle (SOV) goals
22 contained in the TMP, the number of SOV trips shall be calculated for the p.m. hour in which an
23

1 applicant expects the largest number of vehicle trips to be made by employees at the site (the
2 p.m. peak hour of the generator).

3 2. Compliance with this section does not affect the responsibility of any employer
4 to comply with Seattle's Commute Trip Reduction (CTR) Ordinance.

5 L. Energy Management Plan. The Master Use Permit application shall include an energy
6 management plan, approved by the Director of Seattle City Light, containing specific energy
7 conservation or alternative energy generation methods or on-site electrical systems that together
8 can ensure that the existing electrical system can accommodate the projected loads from the
9 project. The Director, after consulting with the Director of Seattle City Light, may condition the
10 approval of the Master Use Permit on the implementation of the energy management plan.
11

12 M. Bonus floor area and TDR. A minimum of seventy-five (75) percent of floor area
13 above five (5) FAR may be gained only through bonuses under Section 23.50.052. The
14 remaining twenty-five (25) percent may be gained either through TDR consistent with Section
15 23.50.053 or bonuses under Section 23.50.052, provided that the condition in Subsection N is
16 satisfied if applicable. The Master Use Permit application to establish any floor area above five
17 (5) FAR under this section shall include a calculation of the amount of floor area and shall
18 identify the manner in which the conditions to added floor area will be satisfied.
19

20 N. Landmark TDR. If Landmark TDR is available, not less than five (5) percent of floor
21 area on a lot above five (5) FAR shall be gained through the transfer of Landmark TDR.
22 Landmark TDR shall be considered "available" if, at the time of the Master Use Permit
23 application to gain the additional floor area, the City of Seattle is offering Landmark TDR
24 eligible for use on the lot for sale at a price per square foot no greater than the total bonus
25 contribution under Section 23.50.052 for a project using the cash option for both housing and
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1 childcare facilities. An applicant may satisfy the condition in this section by purchases of
2 Landmark TDR from private parties, by transfer of Landmark TDR from an eligible sending lot
3 owned by the applicant, by purchase of Landmark TDR from the City, or by any combination of
4 the foregoing.

5 Section 10. A new Section 23.50.052 of the Seattle Municipal Code is adopted to read as
6 follows:
7

8 **23.50.052 Bonus floor area for housing and child care.**

9 A. General Provisions

10 1. This Section applies only to projects seeking floor area above five (5) FAR
11 pursuant to Section 23.50.051. The purpose of this section is to encourage development in
12 addition to that authorized by basic zoning regulations, provided that portions of certain adverse
13 impacts from the additional development are mitigated. Two (2) impacts from such
14 development are an increased need for housing in the South Lake Union Urban Center to house
15 the families of workers having lower-paid jobs, and an increased need for child care for workers
16 in the South Lake Union Urban Center.
17

18 2. The mitigation may be provided by building the requisite housing or child care
19 facilities (the "performance option"), by making a contribution to be used by the City to build or
20 provide the housing and child care facilities (the "payment option"), or by a combination of the
21 performance and payment options.
22

23 3. For the purposes of this section, chargeable floor area that is earned under the
24 provisions of this section is called "bonus floor area."
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1 B. Housing and Child Care Bonus. For each square foot of bonus floor area, the
2 applicant shall provide or make payments for both housing and child care in amounts
3 determined as follows:

4 1. Housing.

5 a. For each square foot of bonus floor area, either 0.15575807 square feet
6 of housing affordable to and serving households with incomes up to 80% of median King
7 County household income based on household size (referred to as the “income limit” in this
8 section), or an alternative voluntary cash contribution of \$18.75 for such housing. The Housing
9 Director may adjust the cash contribution alternative, no more frequently than annually,
10 approximately in proportion to the change in the Consumer Price Index, All Urban Consumers,
11 Seattle-Tacoma metropolitan area, All Items (1982 - 84 = 100), as determined by the U.S.
12 Department of Labor, Bureau of Labor Statistics, or successor index, or any other cost index that
13 such Director may deem appropriate. The base year for the first such adjustment shall be 2007.
14 Any such adjustment to the cash contribution amounts may be implemented through a rule-
15 making process.

16 b. For purposes of this subsection, a housing unit serves households with
17 incomes up to 80% of median King County household income only if all of the following are
18 satisfied for a period of fifty (50) years beginning upon the issuance of a final certificate of
19 occupancy for the housing unit by the Department of Planning and Development:

20 (1) For rental units:

21 i. The housing unit is used as rental housing solely for
22 households with incomes, at the time of each household's initial occupancy, not exceeding the
23 income limit; and
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1 ii. The monthly rent charged for the housing unit, together
2 with a reasonable allowance for any basic utilities that are not included in the rent, does not
3 exceed one-twelfth (1/12) of thirty (30) percent of the income limit for the estimated average
4 size of household corresponding to the size of unit, as determined by the Housing Director;

5 iii. There are no charges for occupancy other than rent;
6 and
7

8 iv. The housing unit and the structure in which it is
9 located are maintained in decent and habitable condition, including adequate basic appliances,
10 for such fifty (50) year period.

11 (2) For homeownership units:

12 i. The housing unit is used as homeownership housing
13 solely for households with incomes at the time of each household's initial occupancy, not
14 exceeding the income limit;
15

16 ii. The sales price is restricted so that estimated monthly
17 housing costs, according to a method prescribed or approved by the Housing Director, including
18 mortgage payment, taxes, insurance, and condominium dues, do not exceed 40% of household
19 monthly income at the income limit for the estimated average size of household corresponding
20 to the size of unit as determined by the Housing Director; and
21

22 iii. The housing unit is subject to recorded instruments
23 satisfactory to the Housing Director providing for sales prices on any resale consistent with
24 affordability on the same basis, for such fifty (50) year period.
25

26 c. If housing provided under the performance option is not yet
27 constructed, or is not ready for occupancy, at the time when a cash contribution would be due
28



1 pursuant to subsection C of this Section if the applicant had elected the cash option, the
2 applicant may commit to complete such housing on terms acceptable to the Housing Director,
3 which terms shall require that within three (3) years of the issuance of the first building permit
4 for the project using the bonus floor area, the applicant shall obtain a final certificate of
5 occupancy for such housing. Any applicant seeking to qualify for bonus floor area based on such
6 housing shall provide to the City, prior to the date when a contribution would be due for the cash
7 option under subsection C of this section, an irrevocable bank letter of credit or other sufficient
8 security approved by the Housing Director, and a related voluntary agreement, so that at the end
9 of the three (3) year period, if the housing does not qualify or is not provided in a sufficient
10 amount to satisfy the terms of this section, the City shall receive (i) a cash contribution for
11 housing in the amount determined pursuant to this section after credit for any qualifying housing
12 then provided, plus (ii) an amount equal to interest on such contribution, at the rate equal to the
13 prime rate quoted from time to time by Bank of America, or its successor, plus three (3) percent
14 per annum, from the date of issuance of the first building permit for the project using the bonus.
15 If and when the City becomes entitled to realize on any such security, the Housing Director shall
16 take appropriate steps to do so, and the amounts realized, net of any costs to the City, shall be
17 used in the same manner as cash contributions for housing made under this section. In the case
18 of any project proposing to use bonus floor area for which no building permit is required,
19 references to the building permit in this subsection shall mean the master use permit allowing
20 establishment of expansion of the use for which bonus floor area is sought.
21
22
23

24 d. The Housing Director shall review the design and proposed
25 management plan for any housing proposed under the performance option to determine whether
26 it will comply with the terms of this section.
27
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1 e. The Housing Director is authorized to accept a voluntary agreement
2 for the provision of housing and related agreements and instruments consistent with this
3 section.

4 f. It shall be a continuing permit condition, whether or not expressly
5 stated, for each project obtaining bonus floor area based on the provision of housing under this
6 subsection, that the housing units shall continue to satisfy the requirements of this subsection
7 throughout the required fifty (50) year period and that such compliance shall be documented
8 annually to the satisfaction of the Housing Director, and the owner of any project using such
9 bonus floor area shall be in violation of this title if any such housing unit does not satisfy such
10 requirements, or if satisfactory documentation is not provided to the Housing Director, at any
11 time during such period. The Housing Director may provide by rule for circumstances in which
12 housing units maybe replaced if lost due to casualty or other causes, and for terms and
13 conditions upon which a cash contribution may be made in lieu of continuing to provide
14 housing units under the terms of this subsection.
15

16
17 g. Housing units provided to qualify for a bonus should include a range of
18 unit sizes, including units suitable for families with children. The Housing Director is authorized
19 to prescribe by rule minimum requirements for the range of unit sizes, by numbers of bedrooms,
20 in housing provided to qualify for a bonus. The Housing Director shall take into account, in any
21 such rule, estimated distributions of household sizes among households with incomes up to 80%
22 of median King County household income.
23

24 h. Housing units provided to qualify for a bonus shall be located within
25 the South Lake Union Urban Center, except that if the Director, after consultation with the
26 Housing Director, finds that it would be impracticable to provide the housing in the South Lake
27



1 Union Urban Center within the time specified in this Section, the Director may allow the
2 housing to be provided at one or more other locations within the City from which workers can
3 easily commute by public transit to and from the lot using the bonus floor area.

4 i. Housing units provided to qualify for a bonus shall be newly
5 constructed, converted from nonresidential use, or renovated in a residential building that was
6 vacant as of December 1, 2007.

7
8 j. For purposes of this section, “median King County household income”
9 for any household size means the estimated median income among households of that size in
10 King County as most recently published or reported by a source considered reliable by the
11 Housing Director. If such data are not published or reported for a household size, the Housing
12 Director may estimate the median King County household income for that household size by
13 adjusting available data in such manner as the Housing Director shall determine. For purposes
14 of maximum rents or sale prices, if the estimated average household size corresponding to a unit
15 size includes a fraction, the Housing Director shall estimate the median King County household
16 income for that household size by interpolation using the next higher and lower integral
17 household sizes.

18
19
20 2. Child Care

21 a. For each square foot of bonus floor area allowed under this section, in
22 addition to providing housing or an alternative cash contribution pursuant to subsection B1, the
23 applicant shall provide fully improved child care facility space sufficient for 0.000127 of a child
24 care slot, or a cash contribution to the City of Three Dollars and Twenty-five Cents (\$3.25), to
25 be administered by the Human Services Department. The Director of the Human Services
26 Department may adjust the alternative cash contribution, no more frequently than annually,
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1 approximately in proportion to the change in the Consumer Price Index, All Urban Consumers,
2 Seattle-Tacoma metropolitan area, All Items (1982-84=100), as determined by the U.S.
3 Department of Labor, Bureau of Labor Statistics, or successor index, or any other cost index that
4 such Director may deem appropriate. The base year for the first such adjustment is 2007. The
5 minimum interior space in the child care facility for each child care slot shall comply with all
6 applicable state and local regulations governing the operation of licensed childcare providers.
7 Child care facility space shall be deemed provided only if the applicant causes the space to be
8 newly constructed or newly placed in child care use after the submission of a permit application
9 for the project intended to use the bonus floor area, except as provided in subsection B2b(6). If
10 any contribution or subsidy in any form is made by any public entity to the acquisition,
11 development, financing or improvement of any child care facility, then any portion of the space
12 in such facility determined by the Director of the Human Services Department to be attributable
13 to such contribution or subsidy shall not be considered as provided by any applicant other than
14 that public entity.
15

16
17 b. Child care space shall be provided on the same lot as the project using
18 the bonus floor area or on another lot in the South Lake Union Urban Center and shall be
19 contained in a child care facility satisfying the following standards:
20

21 (1) The child care facility and accessory exterior space must be
22 approved for licensing by the State of Washington Department of Social and Health Services
23 and any other applicable state or local governmental agencies responsible for the regulation of
24 licensed childcare providers.
25

26 (2) At least twenty (20) percent of the number of child care slots
27 for which space is provided as a condition of bonus floor area must be reserved for, and
28

1 affordable to, families with annual incomes at or below the U.S. Department of Housing and
2 Urban Development Low Income Standard for Section 8 Housing based on family size (or, if
3 such standard shall no longer be published, a standard established by the Human Services
4 Director based generally on eighty (80) percent of the median family income of the Metropolitan
5 Statistical Area, or division thereof, that includes Seattle, adjusted for family size). Child care
6 slots shall be deemed to meet these conditions if they serve, and are limited to, (a) children
7 receiving child care subsidy from the City of Seattle, King County or State Department of Social
8 and Health Services, and/or (b) children whose families have annual incomes no higher than the
9 above standard who are charged according to a sliding fee scale such that the fees paid by any
10 family do not exceed the amount it would be charged, exclusive of subsidy, if the family were
11 enrolled in the City of Seattle Child Care Subsidy Program.
12

13
14 (3) Child care space provided to satisfy bonus conditions shall be
15 dedicated to child care use, consistent with the terms of this section, for twenty (20) years. The
16 dedication shall be established by a recorded covenant, running with the land, and enforceable
17 by the City, signed by the owner of the lot where the child care facility is located and by the
18 owner of the lot where the bonus floor area is used, if different from the lot of the child care
19 facility. The child care facility shall be maintained in operation, with adequate staffing, at least
20 eleven (11) hours per day, five (5) days per week, fifty (50) weeks per year.
21

22 (4) Exterior space for which a bonus is or has been allowed under
23 any other section of this title or under former Title 24 shall not be eligible to satisfy the
24 conditions of this section.
25

26 (5) Unless the applicant is the owner of the child care space and is
27 a duly licensed and experienced child care provider approved by the Director of the Human
28

1 Services Department, the applicant shall provide to the Director a signed agreement, acceptable
2 to such Director, with a duly licensed child care provider, under which the child care provider
3 agrees to operate the child care facility consistent with the terms of this section and of the
4 recorded covenant, and to provide reports and documentation to the City to demonstrate such
5 compliance.

6
7 (6) One (1) child care facility may fulfill the conditions for a
8 bonus for more than one (1) project if it includes sufficient space, and provides sufficient slots
9 affordable to limited income families, to satisfy the conditions for each such project without any
10 space or child care slot being counted toward the conditions for more than one (1) project. If the
11 child care facility is located on the same lot as one of the projects using the bonus, then the
12 owner of that lot shall be responsible for maintaining compliance with all the requirements
13 applicable to the child care facility; otherwise responsibility for such requirements shall be
14 allocated by agreement in such manner as the Director of the Human Services Department may
15 approve. If a child care facility developed to qualify for bonus floor area by one applicant
16 includes space exceeding the amount necessary for the bonus floor area used by that applicant,
17 then to the extent that the voluntary agreement accepted by the Director of the Human Services
18 Department from that applicant so provides, such excess space may be deemed provided by the
19 applicant for a later project pursuant to a new voluntary agreement signed by both such
20 applicants and by any other owner of the child care facility, and a modification of the recorded
21 covenant, each in form and substance acceptable to such Director.

22
23
24 c. The Director of the Human Services Department shall review the design
25 and proposed management plan for any child care facility proposed to qualify for bonus floor
26 area to determine whether it will comply with the terms of this section. The allowance of bonus
27



1 floor area is conditioned upon approval of the design and proposed management plan by the
2 Director. The child care facility shall be constructed consistent with the design approved by such
3 Director and shall be operated for the minimum twenty (20) year term consistent with the
4 management plan approved by such Director, in each case with only such modifications as shall
5 be approved by such Director. If the proposed management plan includes provisions for
6 payment of rent or occupancy costs by the provider, the management plan must include a
7 detailed operating budget, staffing ratios, and other information requested by the Director to
8 assess whether the child care facility may be economically feasible and able to deliver quality
9 services.
10

11 d. The Director of the Human Services Department is authorized to accept
12 a voluntary agreement for the provision of a child care facility to satisfy bonus conditions and
13 related agreements and instruments consistent with this section. The voluntary agreement may
14 provide, in case a child care facility is not maintained in continuous operation consistent with
15 this subsection B2 at any time within the minimum twenty (20) year period, for the City's right
16 to receive payment of a prorated amount of the alternative cash contribution that then would be
17 applicable to a new project seeking bonus floor area. Such Director may require security or
18 evidence of adequate financial responsibility, or both, as a condition to acceptance of an
19 agreement under this subsection.
20
21

22 C. Cash Option Payments.

23 1. Cash payments under voluntary agreements for bonuses shall be made prior to
24 issuance of any building permit after the first building permit for a project, and in any event
25 before any permit for any construction activity other than excavation and shoring is issued, or if
26
27
28



1 the bonus is for use of existing floor area, the cash payment shall be made prior to issuance of
2 any permit or modification allowing for use of such space as bonus floor area.

3 2. Such payments shall be deposited in special accounts established solely to
4 fund capital expenditures for child care facilities and housing as set forth in this section,
5 including the City's costs to administer projects, not to exceed 10% of the contributions.
6

7 3. Housing that is funded with cash contributions shall be located within the
8 South Lake Union Urban Center, except that if the Housing Director finds that it would be
9 impracticable to provide the housing in the South Lake Union Urban Center within the time
10 specified for the performance option under this Section or any time limit under applicable law,
11 then the housing may be located at one or more other locations within the City from which
12 workers can easily commute by public transit to and from the lot using the bonus floor area.
13

14 4. The Housing Director may allow contributions of property in lieu of cash
15 payments if the Director finds that the value of the property equals or exceeds cash payment that
16 otherwise would be made, subject to acceptance of any real property by ordinance.
17

18 D. No Subsidies for Bonused Housing: Exception.

19 1. Intent. Housing provided through the bonus system is intended to mitigate a
20 portion of the additional housing needs resulting from increased density, beyond those needs
21 that would otherwise exist, which the City and other governmental and charitable entities
22 attempt to meet through various subsidy programs. Allowing bonus floor area under the
23 performance option for housing that uses such subsidy programs therefore could undermine the
24 intent of this section.
25

26 2. Agreement Concerning Subsidies. The Housing Director may require, as a
27 condition of any bonus floor area for housing under the performance option, that the owner of
28



1 the lot upon which the housing is located agree not to seek or accept any subsidies, including
2 without limitation those items referred to in subsection D3 of this section, related to the housing,
3 except for any subsidies that may be allowed by the Housing Director under that subsection. The
4 Director may require that such agreement provide for the payment to the City of the value of any
5 subsidies received in excess of any amounts allowed by such agreement.

6
7 3. No Bonus for Subsidized or Restricted Housing. In general, no bonus may be
8 earned by providing housing if:

9 a. Any person is receiving or will receive with respect to the housing any
10 charitable contributions or public subsidies for housing development or operation, including, but
11 not limited to, tax exempt bond financing, tax credits, federal loans or grants, City of Seattle
12 housing loans or grants, county housing funds, State of Washington housing funds, or property
13 tax exemptions except as allowed pursuant to RCW Chapter 84.14, or other special tax
14 treatment; or
15

16 b. Independent of the requirements for the bonus, the housing is or would be
17 subject to any restrictions on the use, occupancy or rents; or

18 c. The housing was required to be built by the City of Seattle as a requirement of
19 the purchase and sale of property or for any other purpose.

20
21 4. Exceptions by Rule. The Housing Director of may provide, by rule
22 promulgated after December 31, 2007, for terms and conditions on which exceptions to the
23 restriction on subsidies in this subsection may be allowed. Such rule may provide that, as a
24 condition to any exception, the Housing Director shall increase the amount of housing floor area
25 per bonus square foot, as set forth in subsection B1 of this section, to an amount that allows
26 credit for only the Director's estimate of the incremental effect, in meeting the City's housing
27



needs for the next fifty (50) years, of the net financial contribution that is being made by the applicant pursuant to the voluntary agreement and not funded or reimbursed, directly or indirectly, from any other source.

Section 11. A new Section 23.50.053 of the Seattle Municipal Code is adopted to read as follows:

23.50.053 Transfer of development rights within the South Lake Union Urban Center.

A. General Standards.

1. In order to achieve a portion of the floor area above five (5) FAR that may be allowed pursuant to Section 23.50.051, an applicant may use transferable development rights to the extent permitted in Chart 23.50.053A, subject to the limits and conditions in this Chapter:

Chart 23.50.053 A

| Zones | Types of TDR | | | |
|--|------------------|--------------|-------------------|-------------|
| | Within-block TDR | Landmark TDR | Arts Facility TDR | Housing TDR |
| IC | S, R | S, R | S, R | S, R |
| SM with a mapped height limit lower than 85' | X | X | X | X |
| SM/R | X | X | X | X |
| SM/85 | S | S | S | S |
| SM/125 | S | S | S | S |

S = Eligible sending lot, if in the South Lake Union Urban Center.
 R = Eligible receiving lot, if in the area eligible for added floor area under Section 23.50.051.
 X = Not permitted.

2. TDR may be transferred as within-block TDR only from a lot to another lot on the same block that is eligible for added floor area under Section 23.50.051, to the extent permitted in Chart 23.50.053A, subject to limits and conditions in this chapter.



1 3. The eligibility of a lot in the South Lake Union Urban Center to be either a
2 sending or receiving lot is regulated by Chart 23.50.053A.

3 4. TDR eligible to be transferred from a major performing arts facility under
4 Section 23.49.014 G, may be transferred from a Downtown zone to a lot eligible as a receiving
5 site for arts facility TDR under Chart 23.50.053A. No other TDR from a Downtown zone may
6 be used under this section.

7 5. Except as expressly permitted pursuant to this chapter, development rights or
8 potential floor area may not be transferred from one lot to another.

9 6. No permit after the first building permit, and in any event, no permit for any
10 construction activity other than excavation and shoring or for occupancy of existing floor area
11 by any use based upon TDR, will be issued for development that includes TDR until the
12 applicant's possession of TDR is demonstrated to the satisfaction of the Director.

13 7. For purposes of this Section, the base FAR of any lot is the total maximum
14 FAR allowable for chargeable floor area pursuant to the provisions of this Chapter, excluding
15 Section 23.50.051, or pursuant to Chapter 23.48, as applicable to the sending lot, in each case
16 not including any additional FAR that may be permitted pursuant to any exception, departure or
17 waiver.
18
19

20 8. The Director may promulgate rules to implement this section.

21 B. Standards for Sending Lots.

22 1. a. The maximum amount of floor area that may be transferred from a
23 sending lot in the South Lake Union Urban Center is the amount by which the product of the
24 eligible lot area times the base FAR of the sending lot exceeds the sum of any chargeable floor
25 area on the lot plus any TDR previously transferred from the sending lot.
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1 b. For purposes of this subsection B1, the eligible lot area is the total area
2 of the sending lot, reduced by the excess, if any, of the total of accessory surface parking over
3 one-quarter (1/4) of the total area of the footprints of all structures on the sending lot.

4 2. When TDR are transferred from a sending lot in a zone with a FAR limit that
5 applies to nonresidential uses, the amount of chargeable floor area that may then be built on the
6 sending lot shall be equal to the area of the lot multiplied by the base FAR, minus the total of:
7

8 a. The chargeable floor area on the lot; plus

9 b. The amount of chargeable floor area transferred from the lot.

10 3. Chargeable floor area allowed above the base FAR under any provisions of
11 this title, or allowed under any exceptions or waivers of development standards, may not be
12 transferred. TDR may be transferred from a lot that contains chargeable floor area exceeding the
13 base FAR only to the extent, if any, that:
14

15 a. TDR were previously transferred to such lot in compliance with the
16 Land Use Code provisions and applicable rules then in effect;

17 b. Those TDR, together with the base FAR set forth in Section 23.48.016
18 B or in Section 23.50.028, exceed the chargeable floor area on the lot and any additional
19 chargeable floor area for which any permit has been issued or for which any permit application
20 is pending; and
21

22 c. The excess amount of TDR previously transferred to such lot would
23 have been eligible for transfer from the original sending lot under the provisions of this section
24 at the time of their original transfer from that lot.
25

26 6. Landmark structures on sending lots from which Landmark TDR are
27 transferred shall be restored and maintained as required by the Landmarks Preservation Board.
28



1 7. Housing on lots from which housing TDR are transferred shall be rehabilitated
2 to the extent required to provide decent, sanitary and habitable conditions, in compliance with
3 applicable codes, and so as to have an estimated minimum useful life of at least fifty (50) years
4 from the time of the TDR transfer, as approved by the Director of Housing. If housing TDR are
5 proposed to be transferred prior to the completion of work necessary to satisfy this subsection
6 B7, the Director of the Office of Housing may require, as a condition to such transfer, that
7 security be deposited with the City to ensure the completion of such work.
8

9 8. The housing units on a lot from which housing TDR are transferred, and that
10 are committed to low-income housing as a condition to eligibility of the lot as a TDR sending
11 site, shall be generally comparable in their average size and quality of construction to other
12 housing units in the same structure, in the judgment of the Housing Director, after completion of
13 any rehabilitation or construction undertaken in order to qualify as a TDR sending lot.
14

15 9. Structures on an arts facility TDR site shall be built or rehabilitated to the
16 extent required to be in compliance with applicable codes, and so as to have an estimated
17 minimum useful life of at least fifty (50) years from the time of the TDR transfer.
18

19 C. Limit on within-block TDR. Any receiving lot may use TDR from sending lots that
20 are eligible to send TDR solely because they are on the same block as the receiving lot for a
21 maximum of fifteen (15) percent of all floor area gained through bonus and TDR on the
22 receiving lot.

23 D. Transfer of Development Rights Deeds and Agreements.

24 1. The fee owners of the sending lot shall execute a deed, and shall obtain the
25 release of the TDR from all liens of record and the written consent of all holders of
26 encumbrances on the sending lot other than easements and restrictions, unless such release or
27



1 consent is waived by the Director for good cause. The deed shall be recorded in the King
2 County real property records. When TDR are conveyed to the owner of a receiving lot described
3 in the deed, then unless otherwise expressly stated in the deed or any subsequent instrument
4 conveying such lot or the TDR, the TDR shall pass with the receiving lot whether or not a
5 structure using such TDR shall have been permitted or built prior to any conveyance of the
6 receiving lot. Any subsequent conveyance of TDR previously conveyed to a receiving lot shall
7 require the written consent of all parties holding any interest in or lien on the receiving lot from
8 which the conveyance is made. If the TDR are transferred other than directly from the sending
9 lot to the receiving lot using the TDR, then after the initial transfer, all subsequent transfers also
10 shall be by deed, duly executed, acknowledged and recorded, each referring by King County
11 recording number to the prior deed.
12

13
14 2. Any person may purchase any TDR that are eligible for transfer by complying
15 with the applicable provisions of this section, whether or not the purchaser is then an applicant
16 for a permit to develop real property. Any purchaser of such TDR (including any successor or
17 assignee) may use such TDR to obtain floor area above the applicable base on a receiving lot to
18 the extent such use of TDR is permitted under the Land Use Code provisions in effect on the
19 date of vesting, under applicable law, of such person's rights with respect to the issuance of
20 permits for development of the project intended to use such TDR. The Director may require, as a
21 condition of processing any permit application using TDR or for the release of any security
22 posted in lieu of a deed for TDR to the receiving lot, that the owner of the receiving lot
23 demonstrate that the TDR have been validly transferred of record to the receiving lot, and that
24 such owner has recorded in the real estate records a notice of the filing of such permit
25 application, stating that such TDR are not available for retransfer.
26
27
28

1 3. For transfers of Landmark TDR, the owner of the sending lot shall execute and
2 record an agreement in form and content acceptable to the Landmarks Preservation Board
3 providing for the restoration and maintenance of the historically significant features of the
4 structure or structures on the lot.

5 4. For transfers of arts facility TDR from an arts facility TDR site, the owner of
6 the sending lot shall execute and record an agreement in form and content acceptable to the
7 Director of the Office of Arts and Cultural Affairs providing for the construction, improvement
8 and/or maintenance of structure(s) on the lot and the use of the arts facility sending site for at
9 least fifty (50) years by one or more non-profit organizations dedicated to the creation, display,
10 performance or screening of art by or for members of the general public. Such agreements shall
11 commit to improvements, maintenance, limits on occupancy and other measures to maintain the
12 long-term use of the structure(s) for artistic activities consistent with the definition of arts
13 facility TDR site and acceptable to the Director of the Office of Arts and Cultural Affairs.

14 5. For transfers of housing TDR, the owner of the sending lot shall execute and
15 record an agreement, with the written consent of all holders of encumbrances on the sending lot,
16 unless such consent is waived by the Director of the Office of Housing for good cause, to
17 provide for the maintenance of the required housing on the sending lot for a minimum of fifty
18 (50) years. Such agreement shall commit to limits on rent and occupancy consistent with the
19 definition of housing TDR site and acceptable to the Director of the Office of Housing.

20 6. A deed conveying TDR may require or permit the return of the TDR to the
21 sending lot under specified conditions, but notwithstanding any such provisions:
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1 a. The transfer of TDR to a receiving lot shall remain effective so long as
2 any portion of any structure for which a permit was issued based upon such transfer remains on
3 the receiving lot; and

4 b. The City shall not be required to recognize any return of TDR unless it
5 is demonstrated that all parties in the chain of title have executed, acknowledged and recorded
6 instruments conveying any interest in the TDR back to the sending lot and any lien holders have
7 released any liens thereon.
8

9 7. Any agreement governing the use or development of the sending lot shall
10 provide that its covenants or conditions shall run with the land and shall be specifically
11 enforceable by The City of Seattle.
12

13 E. Time of Determination of TDR Eligible for Transfer. The eligibility of a sending lot to
14 transfer TDR, and the amount transferable from a sending lot, shall be determined as of the date
15 of transfer from the sending lot and shall not be affected by the date of any application, permit
16 decision or other action for any project seeking to use such TDR.

17 F. Use of Previously Transferred TDR by New Projects. Any project using TDR
18 according to applicable limits on TDR in Sections 23.50.051 and 23.50.053 may use TDR that
19 were transferred from the sending lot consistent with the provisions of this title in effect at the
20 time of such transfer.
21

22 Section 12. A new subsection F is added to Section 23.76.026 of the Seattle Municipal
23 Code, which section was last amended by Ordinance 122311, as follows:

24 **23.76.026 Vesting of Development Rights**

25 * * *



1 Director has issued a notice of violation, the violation will be deemed to begin for purposes of
2 determining the number of days of violation on the date compliance is required by the notice of
3 violation.

4 B. Specific Violations.

5 1. Violations of Section 23.71.018 are subject to penalty in the amount specified
6 in Section 23.71.018 H.

7
8 2. Violations of the requirements of Section 23.44.041C are subject to a civil
9 penalty of Five Thousand Dollars (\$5,000), which shall be in addition to any penalty imposed
10 under subsection A of this section.

11 3. Violation of Section 23.49.011, ~~((or))~~ 23.49.015 or 23.50.051 with respect to
12 failure to demonstrate compliance with commitments to earn LEED Silver ratings or satisfy
13 alternative standards under ~~((either))~~ any such Section are subject to penalty in amounts
14 determined under Section 23.49.020, and ~~not~~ to any other penalty.
15

16 C. Civil actions to enforce Title 23 shall be brought exclusively in Seattle Municipal
17 Court except as otherwise required by law or court rule. The Director shall request in writing
18 that the City Attorney take enforcement action. The City Attorney shall, with the assistance of
19 the Director, take appropriate action to enforce Title 23. In any civil action filed pursuant to this
20 chapter, the City has the burden of proving by a preponderance of the evidence that a violation
21 exists or existed. The issuance of the notice of violation or of an order following a review by
22 the Director is not itself evidence that a violation exists.
23

24 D. Except in cases of violations of Section 23.49.011, ~~((or))~~ 23.49.015, or 23.50.051
25 with respect to failure to demonstrate compliance with commitments to earn LEED Silver
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1 ratings or satisfy alternative standards, the violator may show as full or partial mitigation of
2 liability:

3 1. That the violation giving rise to the action was caused by the willful act, or
4 neglect, or abuse of another; or

5 2. That correction of the violation was commenced promptly, but that full
6 compliance within the time specified was prevented by inability to obtain necessary materials or
7 labor, inability to gain access to the subject structure, or other condition or circumstance beyond
8 the control of the defendant.
9

10 Section 13. Subsection B of Section 23.90.020 of the Seattle Municipal Code, which
11 section was last amended by Ordinance 122407, is amended as follows:

12 **23.90.020 Alternative criminal penalty.**

13 * * *

14
15 B. A criminal penalty, not to exceed Five Thousand Dollars (\$5,000) per occurrence,
16 may be imposed:

17 1. For violations of Section 23.90.002 D;

18 2. For any other violation of this Code for which corrective action is not possible,

19 other than violations with respect to commitments to earn LEED Silver ratings or satisfy
20 alternative standards under SMC 23.49.011, ~~((or))~~23.49.015, or 23.50.051; and
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1 3. For any ((~~willful~~))willful, intentional, or bad faith failure or refusal to comply
2 with the standards or requirements of this Code.

3 Section 14. This ordinance shall take effect and be in force thirty (30) days from and
4 after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10)
5 days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

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

8
9
10 _____
11 President _____ of the City Council

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

13
14 _____
15 Gregory J. Nickels, Mayor

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

17
18 _____
19 City Clerk

20 (Seal)

ORDINANCE _____

1
2 AN ORDINANCE related to land use and zoning, amending Chapters 23.48, 23.49, 23.50,
3 23.76, 23.84A and 23.90 of the Seattle Municipal Code; allowing additional height and
4 density within a defined area of Industrial Commercial zones in the South Lake Union
5 Urban Center; providing bonus floor area for affordable housing and child care in that
6 area; allowing transfer of development rights to lots in that area from Landmarks and
7 certain other properties; modifying exemptions from floor area limits for projects in the
8 South Lake Union Urban Center, and making technical revisions.

9 WHEREAS, the City adopted South Lake Union Urban Center goals and policies into the
10 Comprehensive Plan in December 2006, supporting the growth of innovative industries
11 in South Lake Union, incentives for housing, arts and historic preservation, and a
12 diversity of building styles; and

13 WHEREAS, opportunities to implement these goals and policies exist within a portion of the
14 Industrial Commercial zone in South Lake Union; NOW, THEREFORE,

15 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

16 Section 1. The Council finds that that the provisions of this Ordinance will implement
17 the Comprehensive Plan and protect and promote public health, safety and welfare.

18 Section 2. Subsection B of Section 23.48.016 of the Seattle Municipal Code, which
19 Section was last amended by Ordinance 122311, is amended as follows:

20 **23.48.016 Standards applicable to specific areas.**

21 * * *

22 B. Floor Area Ratios. In SM/85 and SM/125 zones, the following floor area ratios
23 (FARs) apply:

24 1. In SM/85 zones, a FAR of four and one half (4.5) is the maximum ((gross))
25 chargeable floor area permitted((for all nonresidential uses)).

26 2. In SM/125 zones, a FAR of five (5) is the maximum ((gross)) chargeable floor
27 area permitted ((for all nonresidential uses)) in structures greater than seventy-five (75) feet in
28 height.



1 3. (~~Exemptions from FAR Calculations.~~) The following areas are (~~shall be~~)
2 exempt from FAR calculations:

- 3 a. All gross floor area below grade;
4 b. All gross floor area used for accessory parking located above grade;

5 and

- 6 c. All gross floor area in residential use.

7
8 4. Up to three and one-half (3 1/2) percent of the gross floor area of a structure
9 shall not be counted in (~~gross~~) floor area calculations, as an allowance for mechanical
10 equipment. The allowance shall be calculated on the gross floor area after all exempt space
11 permitted under subsection(~~s~~) B3(~~a and B3b~~) has been deducted.

12
13 5. Within the South Lake Union Urban Center, gross floor area occupied by
14 mechanical equipment, up to a maximum of fifteen (15) percent, is exempt from (~~FAR~~) floor
15 area calculations. The allowance is calculated on the gross floor area of the structure after all
16 exempt space permitted under subsection(~~s~~) B3(~~a and B3b~~) has been deducted. Subsection
17 B4 (~~shall~~) does not apply. Mechanical equipment located on the roof of a structure is not
18 calculated as part of the total gross floor area of a structure.

19
20 6. To the extent provided in Section 23.50.053, the transfer of TDR from a lot
21 reduces the limits on chargeable floor area set forth in this Section. On a lot in an SM/125 zone
22 from which TDR is transferred, the FAR limit in this Section, as so reduced, applies regardless
23 of the height of any structure.

24
25 Section 3. Subsection G of Section 23.49.014 of the Seattle Municipal Code, which
26 Section was last amended by Ordinance 122054, is amended as follows:

27 **23.49.014 Transfer of development rights (TDR).**

* * *

1
2 G. TDR Satisfying Conditions to Transfer Under Prior Code.

3 1. If the conditions to transfer Landmark TDR, as in effect immediately prior to
4 the effective date of Ordinance 120443, ((the following)) are satisfied on or before December
5 31, 2001, such TDR may be transferred from the sending lot in the amounts eligible for transfer
6 as determined under the provisions of this title in effect immediately prior to the effective date
7 of Ordinance 120443. If the conditions to transfer housing TDR are satisfied prior to the
8 effective date of Ordinance 120443 under the provisions of this title then in effect, such TDR
9 may be transferred from the sending lot in the amounts eligible for transfer immediately prior to
10 that effective date. If the conditions to transfer TDR from a major performing arts facility are
11 satisfied prior to the effective date of Ordinance 120443 under the provisions of this Title then in
12 effect, TDR may be transferred from the sending lot after that effective date, for use on any
13 receiving lots in zones where housing TDR may be used according to Chart 23.49.014 A or as
14 provided in Section 23.50.053, in an amount as determined under subsection B of this section,
15 provided that the cumulative amount of TDR that may be transferred after June 1, 2005 from
16 any sending lot based on the presence of a major performing arts facility is limited to one
17 hundred fifty thousand (150,000) square feet.
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21 2. For purposes of this subsection, conditions to transfer include, without
22 limitations, the execution by the owner of the sending lot, and recording in the King County real
23 property records, of any agreement required by the provisions of this title or the Public Benefit
24 Features Rule in effect immediately prior to the effective date of Ordinance 120443, but such
25 conditions do not include any requirement for a master use permit application for a project
26 intending to use TDR, or any action connected with a receiving lot. TDR transferable under this
27
28



1 subsection G are eligible either for use consistent with the terms of Section 23.49.011 or
2 Section 23.50.051 or for use by projects developed pursuant to permits issued under the
3 provisions of this title in effect prior to the effective date of Ordinance 120443. The use of TDR
4 transferred under this subsection G on the receiving lot shall be subject only to those conditions
5 and limits that apply for purposes of the master use permit decision for the project using the
6 TDR.

7
8 * * *

9 Section 4. Subsection A of Section 23.49.020 of the Seattle Municipal Code, which
10 Section was enacted by Ordinance 122054, is amended as follows:

11 **23.49.020 Demonstration of LEED Silver rating.**

12 A. Applicability. This section applies whenever a commitment to earn a LEED Silver
13 rating or substantially equivalent standard is a condition of a permit ~~((pursuant to SMC Section~~
14 ~~23.49.011 or 23.49.015))~~.

15
16 * * *

17 Section 5. Section 23.50.020 of the Seattle Municipal Code, which Section was last
18 amended by Ordinance 121359, is amended as follows:

19 **23.50.020 All Industrial zones -- Structure height exceptions and additional restrictions.**

20 A. Rooftop Features. Where a height limit ~~((s are otherwise applicable))~~ applies to a
21 structure, ~~((and))~~ except as provided in subsections C4, D4, E4 and F3 of Section 23.50.024, the
22 ~~((following conditions))~~ provisions in this subsection A apply to rooftop features:
23

24 1. Smokestacks ~~((;))~~, chimneys, and flagpoles, and religious symbols for religious
25 institutions are exempt from height limits ~~((controls))~~, except as regulated in Chapter 23.64,
26
27
28

1 Airport Height Overlay District, provided they are a minimum of ten (10) feet from any side or
2 rear lot line.

3 2. Open railings, planters, skylights, clerestories, greenhouses, parapets and
4 firewalls may extend four (4) feet above the applicable ~~((maximum))~~ height limit with unlimited
5 rooftop coverage.

6 3. Solar collectors may extend up to seven (7) feet above the
7 applicable ~~((maximum))~~ height limit, with unlimited rooftop coverage.

8 4. The following rooftop features may extend up to fifteen (15) feet above the
9 ~~((maximum))~~ applicable height limit, as long as the combined total coverage of all features listed
10 in this subsection A4 does not exceed twenty (20) percent of the roof area, or twenty-five (25)
11 percent of the roof area if the total includes screened mechanical equipment:
12

- 13 a. Solar collectors;
- 14 b. Stair and elevator penthouses;
- 15 c. Mechanical equipment; and
- 16 d. Minor communication utilities and accessory communication devices,
- 17
- 18

19 except that height is regulated according to the provisions of Section 23.57.015.

20 5. Within the South Lake Union ~~((Hub Urban Village))~~ Urban Center, at the
21 applicant's option, the combined total coverage of all features listed in subsection A4 above may
22 be increased to sixty-five (65) percent of the roof area, provided that all of the following are
23 satisfied:

- 24 a. All mechanical equipment is screened; and
- 25 b. No rooftop features are located closer than ten (10) feet to the roof
- 26

27 edge.



1 B. Forty-five (45) Foot Height Limit Areas-Additional Height Restrictions for Certain
2 Structures.

3 ~~((1. Within those industrial areas designated as having))~~ In zones with a forty-five
4 (45) foot height limit, except as provided for IC zones in Section 23.50.028, ((forty-five (45)
5 foot structure height is permitted only when a structure contains at least one (1) story at least
6 fifteen (15) feet in height.

7
8 ~~2.S))~~ structures with no story at least fifteen (15) feet in height ~~((shall be))~~ are
9 limited to a maximum height of forty (40) feet.

10 C. Structures existing prior to October 8, 1987 ~~((which))~~ that exceed the height limit of
11 the zone may add the rooftop features listed as conditioned in subsection A of this section above.
12 The existing roof elevation of the structure shall be considered the ~~((maximum))~~ applicable
13 height limit for the purpose of adding rooftop features.

14
15 Section 6. Section 23.50.026 of the Seattle Municipal Code, which Section was last
16 amended by Ordinance 121359, is amended as follows:

17 **23.50.026 Structure height in IC zones.**

18 A. Except ~~((for the provisions of Section 23.50.020, and except-))~~ as may be otherwise
19 provided in this title ~~((for any overlay district, and except that monorail transit facilities may~~
20 ~~exceed the height limit of the zone according to the provisions of Section 23.80.004 or Section~~
21 ~~15.54.020)),~~ the maximum structure height in IC zones for all uses ~~((shall be))~~ is thirty (30)
22 feet, forty-five (45) feet, sixty-five (65) feet, eighty-five (85) feet or one hundred twenty-five
23 (125) feet, as designated on the Official Land Use Map, Chapter 23.32. Only areas in the
24 Stadium Transition Area Overlay District abutting the PSM 85/120 zone may be designated for
25 a height limit of one hundred twenty-five (125) feet. Maximum structure height may be
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1 increased or reduced as provided in this section or Section 23.50.020. An overlay district may
2 increase or reduce the maximum structure height.

3 B. Water-dependent uses within the Shoreline District shall only be subject to the height
4 limits of the applicable shoreline environment, Chapter 23.60.

5 C. Within the area shown on Exhibit 23.50.026 A, areas zoned IC/45 ~~((shall be))~~ are
6 subject to the following height regulations (See Exhibit 23.50.026 A):

7 1. ~~((A forty-five (45) foot structure height is permitted only when a structure~~
8 ~~contains at least one (1) story at least fifteen (15) feet in height.~~

9 2.) Except as provided in subsection ~~((3e))~~ 2c below, structures with no story at
10 least fifteen (15) feet in height ~~are((shall be))~~ limited to a maximum height of forty (40) feet.

11 ~~((3))~~ 2. A sixty-five (65) foot structure height is permitted as a special exception
12 provided that:

13 a. Provision is made for view corridors(s) looking from Elliott Avenue
14 towards Puget Sound;

15 (1) The location of the view corridor(s) shall be determined by the
16 Director upon consideration of such factors as existing view corridors, the location of street
17 rights-of-way, and the configuration of the lot,

18 (2) The view corridor(s) shall have a width not less than thirty-five
19 (35) percent of the width of the lot,

20 (3) The minimum width of each required view corridor shall be
21 thirty (30) feet measured at Elliott Avenue West,

22 (4) Measurement, modification or waiver of the view corridor(s)
23 shall be according to the Seattle Shoreline Master Program measurement regulations, Chapter
24



1 23.60. Where a waiver under these provisions is granted, the sixty-five (65) foot structure height
2 shall still be permitted,

3 (5) Parking for motor vehicles shall not be located in the view
4 corridor unless the area of the lot where the parking would be located is four (4) or more feet
5 below the level of Elliott Avenue West;

6 b. Development shall be located so as to maximize opportunities for
7 views of Puget Sound for residents and the general public; and

8 c. The structure contains at least two (2) stories at least fifteen (15) feet in
9 height; with the exception that no story in an accessory parking structure is required to be at
10 least fifteen (15) feet in height.

11 D. Within the South Lake Union ~~((Hub-))~~ Urban Center ~~((Village, t))~~;

12 1. The maximum structure height in IC zones with sixty-five (65) foot and
13 eighty-five (85) foot height limits may be increased to eighty-five (85) feet and one-hundred and
14 five (105) feet, respectively, provided that:

15 ~~((4-))~~ a. A minimum of two (2) ~~((floors))~~ stories in the structure have a
16 floor to floor height of at least fourteen (14) feet; and

17 ~~((2-))~~ b. The additional height is used to accommodate mechanical
18 equipment; and

19 ~~((3-))~~ c. The additional height permitted does not allow more than six (6)
20 ~~((floors))~~ stories in IC zones with a sixty-five (65) foot height limit, or more than seven (7)
21 ~~((floors))~~ stories in IC zones with an eighty-five (85) foot height limit.

22 2. The maximum structure height of structures qualifying for additional floor area
23 under the provisions of section 23.50.051 is one hundred and sixty (160) feet.
24

1 Section 7. Subsection A of Section 23.50.027 of the Seattle Municipal Code, which
2 Section was last amended by Ordinance 121281, is amended as follows:

3 **23.50.027 Maximum size of nonindustrial use.**

4 A. Applicability.

5 1. Except as otherwise provided in (~~subsections B, C, D and E of~~) this section
6 (~~below~~), the maximum size of use limits on gross floor area specified in Chart A or, for lots
7 located in the Duwamish Manufacturing/Industrial Center, Chart B of this section (~~shall~~) apply
8 to uses on a lot. The maximum size of use limits apply to both principal and accessory uses on a
9 lot. The limits (~~shall be~~) apply(~~ied~~) separately to the categories of uses listed in the respective
10 charts of this section. The total gross floor area occupied by uses limited under the respective
11 charts of this section shall not exceed an area equal to the area of the lot in an IG1 zone, or two
12 and one-half (2.5) times the area of the lot in an IG2, IB or IC zone, or three (3) times the lot
13 area in IC zones with sixty-five (65) foot or eighty-five (85) foot height limits in the South Lake
14 Union Urban Center(~~Planning Area, as identified in Exhibit 23.50A~~)).

17 2. The maximum size of use limits in Chart A do (~~shall~~) not apply to the area
18 identified in Exhibit 23.50.027A. In that area (~~provided that~~) no single retail establishment
19 (~~shall~~) may exceed fifty thousand (50,000) square feet in size.

21 3. There is no limit under this Section on the size of uses in projects that qualify
22 for additional floor area under section 23.50.051.



Chart A

INDUSTRIAL ZONES

| Categories of Uses Subject to Size of Use Limits | IG1 | IG2 and IB | IC |
|--|----------------|-------------------|----------------|
| Retail sales and service or entertainment except spectator sports facilities | 30,000 sq. ft. | 75,000 sq. ft. | 75,000 sq. ft. |
| Office | 50,000 sq. ft. | 100,000 sq. ft. | N.M.S.L. |

N.M.S.L. = No Maximum Size Limits

Chart B

GENERAL INDUSTRIAL ZONES WITHIN DUWAMISH M/I CENTER

| Categories of Uses Subject to Size of Use Limits | IG1 | IG2 |
|---|----------------|----------------|
| Office uses | 50,000 sq. ft. | 75,000 sq. ft. |
| Retail sales and service (except for restaurants and drinking establishments) | 25,000 sq. ft. | 50,000 sq. ft. |
| Restaurants | 5,000 sq. ft. | 5,000 sq. ft. |
| Drinking establishments* | 3,000 sq. ft. | 3,000 sq. ft. |
| Meeting halls | N.M.S.L. | 5,000 sq. ft. |

N.M.S.L. = No Maximum Size Limits

* The maximum size limit for brew pubs applies to that portion of the pub that is not used for brewing purposes.

Section 8. Section 23.50.028 of the Seattle Municipal Code, which Section was last amended by Ordinance 121828, is amended as follows:



1 **23.50.028 Floor area ratio.**

2 The floor area ratio (FAR), as provided below, ~~((shall))~~ determines the permitted ~~((gross~~
3 ~~square footage))~~ chargeable floor area on a lot~~((permitted))~~.

4 A. General Industrial 1, Floor Area Ratio. The ~~((total))~~ maximum FAR in IG1
5 zones~~((shall be))~~ is two and one-half (2.5).

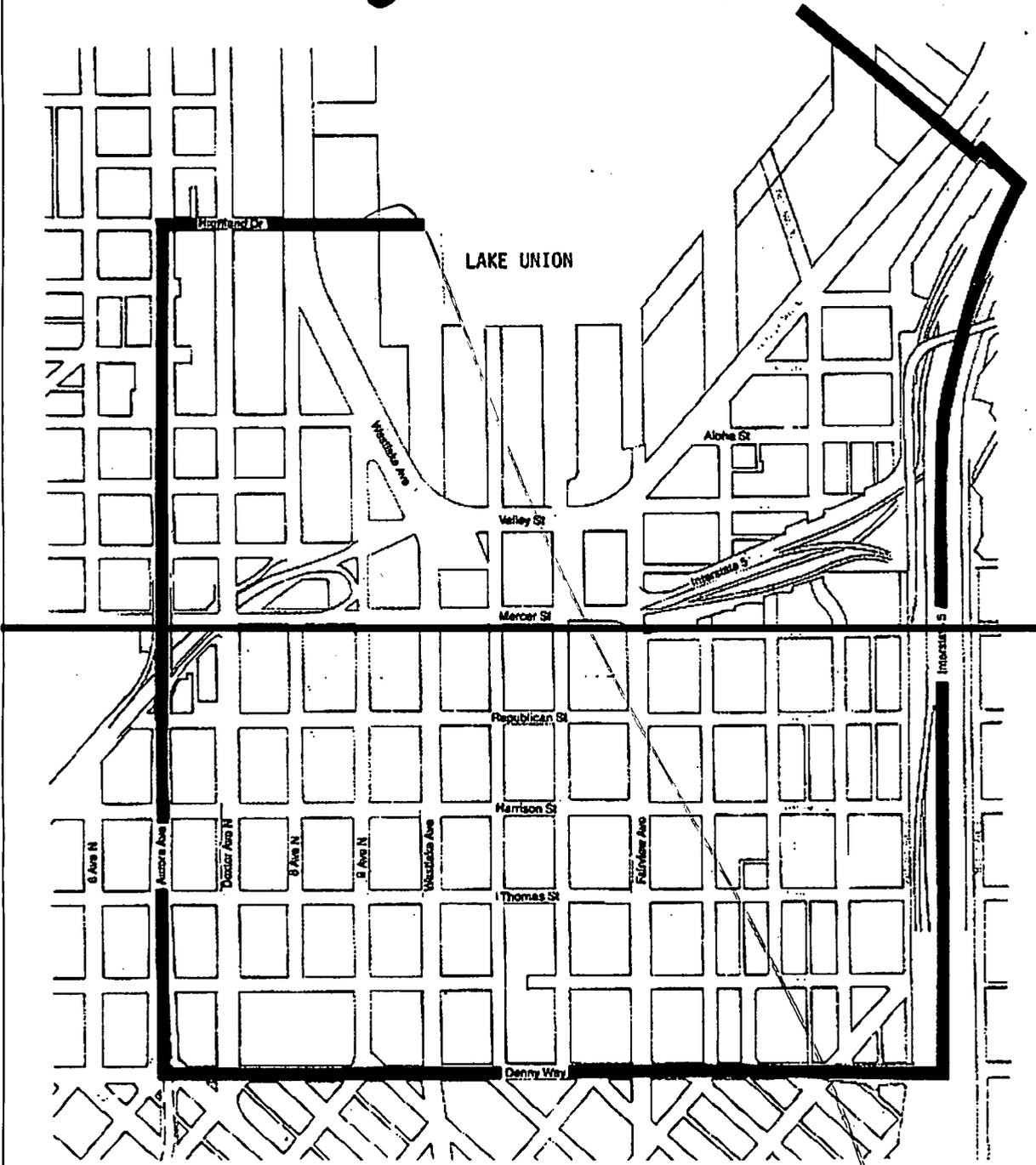
6 B. General Industrial 2 and Industrial Buffer, Floor Area Ratio. The maximum FAR for
7 all General Industrial 2 (IG2) and Industrial Buffer (IB) uses ~~((shall be))~~ is two and one half
8 (2.5).

9 C. Industrial Commercial, Floor Area Ratio. Except within the South Lake Union Urban
10 Center, ~~((for the area shown in Exhibit 23.50.028 A-))~~ the maximum FAR ~~((for))~~ in all Industrial
11 Commercial (IC) ~~((uses shall be))~~ zones is two and one-half (2.5). ~~((See Exhibit 23.50.028 A))~~
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((Exhibit 23.50.028A

South Lake Union Planning Area

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1))D. Industrial Commercial/South Lake Union, Floor Area Ratio. Within the South Lake
2 Union Urban Center, ~~((area shown on Exhibit 23.50.028 A and described as the South Lake~~
3 ~~Union Planning Area,))~~ the maximum FAR in Industrial Commercial zones ~~((shall be as~~
4 ~~follows:~~

5 1. ~~In areas with a thirty (30) foot or forty five (45) foot height limit, the FAR~~
6 ~~shall be two and one half (2.5); and~~

7 2. ~~In areas with a sixty five (65) foot or eighty five (85) foot height limit, the~~
8 ~~FAR shall be))~~ is three (3), except as provided in Section 23.50.051.

9
10 E. All Industrial Zones, Exemptions from FAR Calculations. The following areas ~~((shall~~
11 ~~be))~~ are exempt from FAR calculations:

12 1. All gross floor area below grade;

13 2. All gross floor area used for accessory parking, except as provided in

14 subsection F;

15 3. All gross floor area located on the rooftop of a structure and used for any of the
16 following: mechanical equipment, stair and elevator penthouses, and communication equipment
17 and antennas~~((located on the rooftop of structures));~~

18 4. All gross floor area uses for covered rooftop recreational space of a building
19 existing as of December 31, 1998, when complying with the provisions of Section 23.50.012 D;
20 and

21 5. ~~((All gross floor area of a monorail station, including all floor area open to the~~
22 ~~general public during normal hours of station operation (but excluding retail or service~~
23 ~~establishments to which public access is limited to customers or clients, even where such~~
24 ~~establishments are primarily intended to serve monorail riders); and))~~

1 ((6.)) Within the South Lake Union ((Hub-))Urban Center ((Village));((;))

2 a. ((g))Gross floor area occupied by mechanical equipment, up to a
3 maximum of fifteen (15) percent of the floor area on the lot((, is exempt from FAR
4 calculations)). The allowance is calculated on the gross floor area of the structure after all other
5 exempt space permitted under this subsection E is deducted. ~~Mechanical equipment located on~~
6 ~~the roof of a structure is not calculated as part of the total gross floor area of a structure.~~

7
8 b. The following uses located at street level:

9 i. General sales and service uses;

10 ii. Eating and drinking establishments;

11 iii. Entertainment uses; and

12 iv. Public libraries.

13
14 F. Within the South Lake Union Urban Center, gross floor area used for accessory
15 parking within stories that are completely above finished grade is not exempt.

16 G. Anything in Section 23.76.026 notwithstanding, the applicant for a Master Use Permit
17 for a project in the South Lake Union Urban Center to which the Land Use Code in effect prior
18 to the effective date of the ordinance enacting this subsection G applies may, by written election,
19 use the exemptions in subsection E5b of this section, provided that subsection F of this section
20 also shall apply.

21
22 Section 9. A new Section 23.50.051 of the Seattle Municipal Code is adopted to read as
23 follows:

24 **23.50.051 Additional floor area in certain IC-zoned areas in the South Lake Union Urban**
25 **Center.**



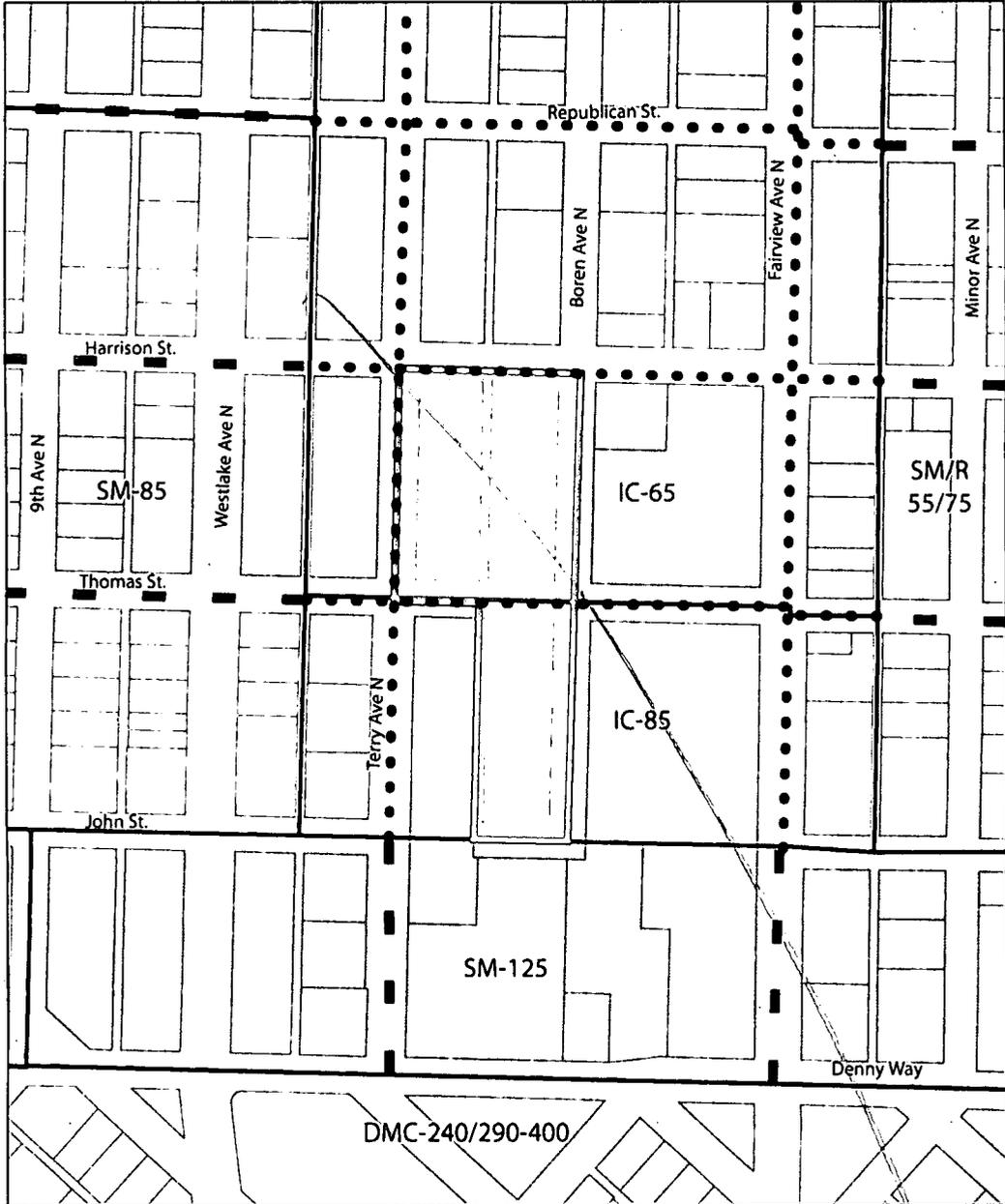
1 A. Applicability; General Rules. This Section applies only to IC zones in the area shown
2 on Exhibit 23.50.051 A. In IC zones in that area, floor area in addition to the FAR limit in
3 Section 23.50.028 is permitted for projects that satisfy all the conditions in this section. For
4 purposes of applying any section of Chapter 23.48 referred to in this section, Class 2 Pedestrian
5 Streets are as designated on Exhibit 23.50.051A. For the purposes of this section, the applicable
6 FAR limit in subsection 23.50.028D is called the "base FAR." As a condition to any floor area
7 above the base FAR, a project must conform to all the provisions of subsections C through M of
8 this section, inclusive. As a further condition, any floor area above four and a half (4.5) FAR is
9 allowed only to the extent gained in accordance with the bonus and TDR provisions of
10 subsection N of this section.
11

12 B. Maximum FAR. The maximum chargeable floor area permitted on a lot pursuant to
13 this section is seven (7) FAR.
14

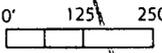
15 C. Alteration of Landmark. No floor area above the base FAR shall be granted to any
16 proposed development that would result in a significant alteration to any designated feature of a
17 Landmark structure, unless a Certificate of Approval for the alteration is granted by the
18 Landmarks Preservation Board.
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Exhibit 23.50.051 A

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|---|--|---|--|
|  | Area where additional floor area is permitted according to the provisions of Section 23.50.051 of the Seattle Municipal Code |  | Parcel Boundary |
|  | Class 2 Pedestrian Street in SM Zone |  | Class 2 Pedestrian Street for lots receiving additional floor area under 23.50.051 |
| | |  | Zone Boundary |

D. LEED requirement. The applicant will strive to achieve a LEED Gold rating or better and make a commitment acceptable to the Director that the proposed development will earn at



1 least a LEED Silver rating or meet a substantially equivalent standard, and shall demonstrate
2 compliance with that commitment, all in accordance with the provisions of Section 23.49.020.

3 E. Upper Level Setback. An upper level setback consistent with subsections B and C of
4 Section 23.48.012 is provided along Thomas Street and Harrison Street for any portion of the
5 structure above forty-five (45) feet in height.

6 F. Facades. Each structure satisfies the general facade requirements of Section
7 23.48.014.

8 G. Transparency. Each structure satisfies the transparency and blank facade
9 requirements of Section 23.48.018.

10 H. Solid Waste and Recycling. Each structure satisfies the solid waste and recyclable
11 materials storage space requirements of Section 23.48.031.

12 I. Parking and access. Each structure satisfies the parking and loading location, access
13 and curbcuts requirements of Section 23.48.034.

14 J. Screening and Landscaping. Each structure satisfies the NC3 zone screening and
15 landscaping requirements of Section 23.47A.016.

16 K. Transportation Management Program. The Master Use Permit application shall
17 include a Transportation Management Program (TMP) consistent with requirements for TMPs in
18 Director's Rule 14-2002. The TMP shall be approved by the Director only if, after consulting
19 with Seattle Department of Transportation, the Director determines that no more than forty (40)
20 percent of trips to and from the project will be made using single-occupant vehicles (SOV).
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24 1. For purposes of measuring attainment of single-occupant vehicle (SOV) goals
25 contained in the TMP, the number of SOV trips shall be calculated for the p.m. hour in which an
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1 applicant expects the largest number of vehicle trips to be made by employees at the site (the
2 p.m. peak hour of the generator).

3 2. Compliance with this section does not affect the responsibility of any employer
4 to comply with Seattle's Commute Trip Reduction (CTR) Ordinance.

5 L. Energy Management Plan. The Master Use Permit application shall include an energy
6 management plan, approved by the Director of Seattle City Light, containing specific energy
7 conservation or alternative energy generation methods or on-site electrical systems that together
8 can ensure that the existing electrical system can accommodate the projected loads from the
9 project. The Director, after consulting with the Director of Seattle City Light, may condition the
10 approval of the Master Use Permit on the implementation of the energy management plan.
11

12 M. Parking Quantity. For development permitted according to Sec. 23.50.051, the
13 Director shall set a maximum number of parking spaces based on the expected number of
14 employees in the project and the TMP goals for single-occupant vehicle use, with an allowance
15 for additional short-term parking spaces to serve retail uses and visitors.
16

17 N. Bonus floor area and TDR. A minimum of seventy-five (75) percent of floor area
18 above five (5) FAR may be gained only through bonuses under Section 23.50.052. The
19 remaining twenty-five (25) percent may be gained either through TDR consistent with Section
20 23.50.053 or bonuses under Section 23.50.052, provided that the condition in Subsection N is
21 satisfied if applicable. The Master Use Permit application to establish any floor area above five
22 (5) FAR under this section shall include a calculation of the amount of floor area and shall
23 identify the manner in which the conditions to added floor area will be satisfied.
24

25 O. Landmark TDR. If Landmark TDR is available, not less than five (5) percent of floor
26 area on a lot above five (5) FAR shall be gained through the transfer of Landmark TDR.
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1 Landmark TDR shall be considered "available" if, at the time of the Master Use Permit
2 application to gain the additional floor area, the City of Seattle is offering Landmark TDR
3 eligible for use on the lot for sale at a price per square foot no greater than the total bonus
4 contribution under Section 23.50.052 for a project using the cash option for both housing and
5 childcare facilities. An applicant may satisfy the condition in this section by purchases of
6 Landmark TDR from private parties, by transfer of Landmark TDR from an eligible sending lot
7 owned by the applicant, by purchase of Landmark TDR from the City, or by any combination of
8 the foregoing.
9

10 Section 10. A new Section 23.50.052 of the Seattle Municipal Code is adopted to read as
11 follows:

12 **23.50.052 Bonus floor area for housing and child care.**

13 A. General Provisions

14
15 1. This Section applies only to projects seeking floor area above four and a half
16 (4.5) FAR pursuant to Section 23.50.051. The purpose of this section is to encourage
17 development in addition to that authorized by basic zoning regulations, provided that portions of
18 certain adverse impacts from the additional development are mitigated. Two (2) impacts from
19 such development are an increased need for housing in the South Lake Union Urban Center to
20 house the families of workers having lower-paid jobs, and an increased need for child care for
21 workers in the South Lake Union Urban Center.
22

23 2. The mitigation may be provided by building the requisite housing or child care
24 facilities (the "performance option"), by making a contribution to be used by the City to build or
25 provide the housing and child care facilities (the "payment option"), or by a combination of the
26 performance and payment options.
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1 3. For the purposes of this section, chargeable floor area that is earned under the
2 provisions of this section is called "bonus floor area."

3 B. Housing and Child Care Bonus. For each square foot of bonus floor area, the
4 applicant shall provide or make payments for both housing and child care in amounts
5 determined as follows:

6 1. Housing.

7 a. For each square foot of bonus floor area, either 0.15575807 square feet
8 of housing affordable to and serving households with incomes up to 80% of median King
9 County household income based on household size (referred to as the "income limit" in this
10 section), or an alternative voluntary cash contribution of \$18.75 for such housing. The Housing
11 Director may adjust the cash contribution alternative, no more frequently than annually,
12 approximately in proportion to the change in the Consumer Price Index, All Urban Consumers,
13 Seattle-Tacoma metropolitan area, All Items (1982 - 84 = 100), as determined by the U.S.
14 Department of Labor, Bureau of Labor Statistics, or successor index, or any other cost index that
15 such Director may deem appropriate. The base year for the first such adjustment shall be 2007.
16 Any such adjustment to the cash contribution amounts may be implemented through a rule-
17 making process.
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21 b. For purposes of this subsection, a housing unit serves households with
22 incomes up to 80% of median King County household income only if all of the following are
23 satisfied for a period of fifty (50) years beginning upon the issuance of a final certificate of
24 occupancy for the housing unit by the Department of Planning and Development:

25 (1) For rental units:



1 i. The housing unit is used as rental housing solely for
2 households with incomes, at the time of each household's initial occupancy, not exceeding the
3 income limit; and

4 ii. The monthly rent charged for the housing unit, together
5 with a reasonable allowance for any basic utilities that are not included in the rent, does not
6 exceed one-twelfth (1/12) of thirty (30) percent of the income limit for the estimated average
7 size of household corresponding to the size of unit, as determined by the Housing Director;

8 iii. There are no charges for occupancy other than rent;
9 and
10

11 iv. The housing unit and the structure in which it is
12 located are maintained in decent and habitable condition, including adequate basic appliances,
13 for such fifty (50) year period.

14
15 (2) For homeownership units:

16 i. The housing unit is used as homeownership housing
17 solely for households with incomes at the time of each household's initial occupancy, not
18 exceeding the income limit;

19 ii. The sales price is restricted so that estimated monthly
20 housing costs, according to a method prescribed or approved by the Housing Director, including
21 mortgage payment, taxes, insurance, and condominium dues, do not exceed 40% of household
22 monthly income at the income limit for the estimated average size of household corresponding
23 to the size of unit as determined by the Housing Director; and
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1 references to the building permit in this subsection shall mean the master use permit allowing
2 establishment or expansion of the use for which bonus floor area is sought.

3 d. The Housing Director shall review the design and proposed
4 management plan for any housing proposed under the performance option to determine whether
5 it will comply with the terms of this section.

6 e. The Housing Director is authorized to accept a voluntary agreement
7 for the provision of housing and related agreements and instruments consistent with this
8 section.
9

10 f. It shall be a continuing permit condition, whether or not expressly
11 stated, for each project obtaining bonus floor area based on the provision of housing under this
12 subsection, that the housing units shall continue to satisfy the requirements of this subsection
13 throughout the required fifty (50) year period and that such compliance shall be documented
14 annually to the satisfaction of the Housing Director, and the owner of any project using such
15 bonus floor area shall be in violation of this title if any such housing unit does not satisfy such
16 requirements, or if satisfactory documentation is not provided to the Housing Director, at any
17 time during such period. The Housing Director may provide by rule for circumstances in which
18 housing units maybe replaced if lost due to casualty or other causes, and for terms and
19 conditions upon which a cash contribution may be made in lieu of continuing to provide
20 housing units under the terms of this subsection.
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23 g. Housing units provided to qualify for a bonus should include a range of
24 unit sizes, including units suitable for families with children. The Housing Director is authorized
25 to prescribe by rule minimum requirements for the range of unit sizes, by numbers of bedrooms,
26 in housing provided to qualify for a bonus. The Housing Director shall take into account, in any
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1 such rule, estimated distributions of household sizes among households with incomes up to 80%
2 of median King County household income.

3 h. Housing units provided to qualify for a bonus shall be located within
4 the South Lake Union Urban Center, except that if the Director, after consultation with the
5 Housing Director, finds that it would be impracticable to provide the housing in the South Lake
6 Union Urban Center within the time specified in this Section, the Director may allow the
7 housing to be provided at one or more other locations within the City from which workers can
8 easily commute by public transit to and from the lot using the bonus floor area.

9 i. Housing units provided to qualify for a bonus shall be newly
10 constructed, converted from nonresidential use, or renovated in a residential building that was
11 vacant as of December 1, 2007.

12 j. For purposes of this section, "median King County household income"
13 for any household size means the estimated median income among households of that size in
14 King County as most recently published or reported by a source considered reliable by the
15 Housing Director. If such data are not published or reported for a household size, the Housing
16 Director may estimate the median King County household income for that household size by
17 adjusting available data in such manner as the Housing Director shall determine. For purposes
18 of maximum rents or sale prices, if the estimated average household size corresponding to a unit
19 size includes a fraction, the Housing Director shall estimate the median King County household
20 income for that household size by interpolation using the next higher and lower integral
21 household sizes.

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26 2. Child Care.



1 a. For each square foot of bonus floor area allowed under this section, in
2 addition to providing housing or an alternative cash contribution pursuant to subsection B1, the
3 applicant shall provide fully improved child care facility space sufficient for 0.000127 of a child
4 care slot, or a cash contribution to the City of Three Dollars and Twenty-five Cents (\$3.25), to
5 be administered by the Human Services Department. The Director of the Human Services
6 Department may adjust the alternative cash contribution, no more frequently than annually,
7 approximately in proportion to the change in the Consumer Price Index, All Urban Consumers,
8 Seattle-Tacoma metropolitan area, All Items (1982-84=100), as determined by the U.S.
9 Department of Labor, Bureau of Labor Statistics, or successor index, or any other cost index that
10 such Director may deem appropriate. The base year for the first such adjustment is 2007. The
11 minimum interior space in the child care facility for each child care slot shall comply with all
12 applicable state and local regulations governing the operation of licensed childcare providers.
13 Child care facility space shall be deemed provided only if the applicant causes the space to be
14 newly constructed or newly placed in child care use after the submission of a permit application
15 for the project intended to use the bonus floor area, except as provided in subsection B2b(6). If
16 any contribution or subsidy in any form is made by any public entity to the acquisition,
17 development, financing or improvement of any child care facility, then any portion of the space
18 in such facility determined by the Director of the Human Services Department to be attributable
19 to such contribution or subsidy shall not be considered as provided by any applicant other than
20 that public entity.

24 b. Child care space shall be provided on the same lot as the project using
25 the bonus floor area or on another lot in the South Lake Union Urban Center and shall be
26 contained in a child care facility satisfying the following standards:
27



1 (1) The child care facility and accessory exterior space must be
2 approved for licensing by the State of Washington Department of Social and Health Services
3 and any other applicable state or local governmental agencies responsible for the regulation of
4 licensed childcare providers.

5 (2) At least twenty (20) percent of the number of child care slots
6 for which space is provided as a condition of bonus floor area must be reserved for, and
7 affordable to, families with annual incomes at or below the U.S. Department of Housing and
8 Urban Development Low Income Standard for Section 8 Housing based on family size (or, if
9 such standard shall no longer be published, a standard established by the Human Services
10 Director based generally on eighty (80) percent of the median family income of the Metropolitan
11 Statistical Area, or division thereof, that includes Seattle, adjusted for family size). Child care
12 slots shall be deemed to meet these conditions if they serve, and are limited to, (a) children
13 receiving child care subsidy from the City of Seattle, King County or State Department of Social
14 and Health Services, and/or (b) children whose families have annual incomes no higher than the
15 above standard who are charged according to a sliding fee scale such that the fees paid by any
16 family do not exceed the amount it would be charged, exclusive of subsidy, if the family were
17 enrolled in the City of Seattle Child Care Subsidy Program.
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21 (3) Child care space provided to satisfy bonus conditions shall be
22 dedicated to child care use, consistent with the terms of this section, for twenty (20) years. The
23 dedication shall be established by a recorded covenant, running with the land, and enforceable
24 by the City, signed by the owner of the lot where the child care facility is located and by the
25 owner of the lot where the bonus floor area is used, if different from the lot of the child care
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1 facility. The child care facility shall be maintained in operation, with adequate staffing, at least
2 eleven (11) hours per day, five (5) days per week, fifty (50) weeks per year.

3 (4) Exterior space for which a bonus is or has been allowed under
4 any other section of this title or under former Title 24 shall not be eligible to satisfy the
5 conditions of this section.

6 (5) Unless the applicant is the owner of the child care space and is
7 a duly licensed and experienced child care provider approved by the Director of the Human
8 Services Department, the applicant shall provide to the Director a signed agreement, acceptable
9 to such Director, with a duly licensed child care provider, under which the child care provider
10 agrees to operate the child care facility consistent with the terms of this section and of the
11 recorded covenant, and to provide reports and documentation to the City to demonstrate such
12 compliance.

13 (6) One (1) child care facility may fulfill the conditions for a
14 bonus for more than one (1) project if it includes sufficient space, and provides sufficient slots
15 affordable to limited income families, to satisfy the conditions for each such project without any
16 space or child care slot being counted toward the conditions for more than one (1) project. If the
17 child care facility is located on the same lot as one of the projects using the bonus, then the
18 owner of that lot shall be responsible for maintaining compliance with all the requirements
19 applicable to the child care facility; otherwise responsibility for such requirements shall be
20 allocated by agreement in such manner as the Director of the Human Services Department may
21 approve. If a child care facility developed to qualify for bonus floor area by one applicant
22 includes space exceeding the amount necessary for the bonus floor area used by that applicant,
23 then to the extent that the voluntary agreement accepted by the Director of the Human Services
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1 Department from that applicant so provides, such excess space may be deemed provided by the
2 applicant for a later project pursuant to a new voluntary agreement signed by both such
3 applicants and by any other owner of the child care facility, and a modification of the recorded
4 covenant, each in form and substance acceptable to such Director.

5 c. The Director of the Human Services Department shall review the design
6 and proposed management plan for any child care facility proposed to qualify for bonus floor
7 area to determine whether it will comply with the terms of this section. The allowance of bonus
8 floor area is conditioned upon approval of the design and proposed management plan by the
9 Director. The child care facility shall be constructed consistent with the design approved by such
10 Director and shall be operated for the minimum twenty (20) year term consistent with the
11 management plan approved by such Director, in each case with only such modifications as shall
12 be approved by such Director. If the proposed management plan includes provisions for
13 payment of rent or occupancy costs by the provider, the management plan must include a
14 detailed operating budget, staffing ratios, and other information requested by the Director to
15 assess whether the child care facility may be economically feasible and able to deliver quality
16 services.
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20 d. The Director of the Human Services Department is authorized to accept
21 a voluntary agreement for the provision of a child care facility to satisfy bonus conditions and
22 related agreements and instruments consistent with this section. The voluntary agreement may
23 provide, in case a child care facility is not maintained in continuous operation consistent with
24 this subsection B2 at any time within the minimum twenty (20) year period, for the City's right
25 to receive payment of a prorated amount of the alternative cash contribution that then would be
26 applicable to a new project seeking bonus floor area. Such Director may require security or
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1 evidence of adequate financial responsibility, or both, as a condition to acceptance of an
2 agreement under this subsection.

3 C. Cash Option Payments.

4 1. Cash payments under voluntary agreements for bonuses shall be made prior to
5 issuance of any building permit after the first building permit for a project, and in any event
6 before any permit for any construction activity other than excavation and shoring is issued, or if
7 the bonus is for use of existing floor area, the cash payment shall be made prior to issuance of
8 any permit or modification allowing for use of such space as bonus floor area.

9
10 2. Such payments shall be deposited in special accounts established solely to
11 fund capital expenditures for child care facilities and housing as set forth in this section,
12 including the City's costs to administer projects, not to exceed 10% of the contributions.

13
14 3. Housing that is funded with cash contributions shall be located within the
15 South Lake Union Urban Center, except that if the Housing Director finds that it would be
16 impracticable to provide the housing in the South Lake Union Urban Center within the time
17 specified for the performance option under this Section or any time limit under applicable law,
18 then the housing may be located at one or more other locations within the City from which
19 workers can easily commute by public transit to and from the lot using the bonus floor area.

20
21 4. The Housing Director may allow contributions of property in lieu of cash
22 payments if the Director finds that the value of the property equals or exceeds cash payment that
23 otherwise would be made, subject to acceptance of any real property by ordinance.

24 D. No Subsidies for Bonused Housing: Exception.

25
26 1. Intent. Housing provided through the bonus system is intended to mitigate a
27 portion of the additional housing needs resulting from increased density, beyond those needs
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1 that would otherwise exist, which the City and other governmental and charitable entities
2 attempt to meet through various subsidy programs. Allowing bonus floor area under the
3 performance option for housing that uses such subsidy programs therefore could undermine the
4 intent of this section.

5 2. Agreement Concerning Subsidies. The Housing Director may require, as a
6 condition of any bonus floor area for housing under the performance option, that the owner of
7 the lot upon which the housing is located agree not to seek or accept any subsidies, including
8 without limitation those items referred to in subsection D3 of this section, related to the housing,
9 except for any subsidies that may be allowed by the Housing Director under that subsection. The
10 Director may require that such agreement provide for the payment to the City of the value of any
11 subsidies received in excess of any amounts allowed by such agreement.
12

13 3. No Bonus for Subsidized or Restricted Housing. In general, no bonus may be
14 earned by providing housing if:
15

16 a. Any person is receiving or will receive with respect to the housing any
17 charitable contributions or public subsidies for housing development or operation, including, but
18 not limited to, tax exempt bond financing, tax credits, federal loans or grants, City of Seattle
19 housing loans or grants, county housing funds, State of Washington housing funds, or property
20 tax exemptions except as allowed pursuant to RCW Chapter 84.14, or other special tax
21 treatment; or
22

23 b. Independent of the requirements for the bonus, the housing is or would be
24 subject to any restrictions on the use, occupancy or rents; or
25

26 c. The housing was required to be built by the City of Seattle as a requirement of
27 the purchase and sale of property or for any other purpose.
28



1 4. Exceptions by Rule. The Housing Director of may provide, by rule
2 promulgated after December 31, 2007, for terms and conditions on which exceptions to the
3 restriction on subsidies in this subsection may be allowed. Such rule may provide that, as a
4 condition to any exception, the Housing Director shall increase the amount of housing floor area
5 per bonus square foot, as set forth in subsection B1 of this section, to an amount that allows
6 credit for only the Director's estimate of the incremental effect, in meeting the City's housing
7 needs for the next fifty (50) years, of the net financial contribution that is being made by the
8 applicant pursuant to the voluntary agreement and not funded or reimbursed, directly or
9 indirectly, from any other source.
10

11 Section 11. A new Section 23.50.053 of the Seattle Municipal Code is adopted to read as
12 follows:
13

14 **23.50.053 Transfer of development rights within the South Lake Union Urban Center.**

15 A. General Standards.

16 1. In order to achieve a portion of the floor area above five (5) FAR that may be
17 allowed pursuant to Section 23.50.051, an applicant may use transferable development rights to
18 the extent permitted in Chart 23.50.053A, subject to the limits and conditions in this Chapter:
19

20 **Chart 23.50.053 A**

| Zones | Types of TDR | | | |
|---|-------------------------|-----------------|-------------------------|----------------|
| | Within- block TDR | Landmark TDR | Arts Facility TDR | Housing TDR |
| IC | S, R | S, R | S, R | S, R |
| SM with a mapped height limit lower than 85' | X | X | X | X |
| SM/R | X | X | X | X |
| SM/85 | S | S | S | S |
| SM/125 | S | S | S | S |



1 S = Eligible sending lot, if in the South Lake Union Urban Center.
2 R = Eligible receiving lot, if in the area eligible for added floor area under Section 23.50.051.
3 X = Not permitted.

4 2. TDR may be transferred as within-block TDR only from a lot to another lot on
5 the same block that is eligible for added floor area under Section 23.50.051, to the extent
6 permitted in Chart 23.50.053A, subject to limits and conditions in this chapter.

7 3. The eligibility of a lot in the South Lake Union Urban Center to be either a
8 sending or receiving lot is regulated by Chart 23.50.053A.

9 4. TDR eligible to be transferred from a major performing arts facility under
10 Section 23.49.014 G, may be transferred from a Downtown zone to a lot eligible as a receiving
11 site for arts facility TDR under Chart 23.50.053A. No other TDR from a Downtown zone may
12 be used under this section.

13 5. Except as expressly permitted pursuant to this chapter, development rights or
14 potential floor area may not be transferred from one lot to another.

15 6. No permit after the first building permit, and in any event, no permit for any
16 construction activity other than excavation and shoring or for occupancy of existing floor area
17 by any use based upon TDR, will be issued for development that includes TDR until the
18 applicant's possession of TDR is demonstrated to the satisfaction of the Director.

19 7. For purposes of this Section, the base FAR of any lot is the total maximum
20 FAR allowable for chargeable floor area pursuant to the provisions of this Chapter, excluding
21 Section 23.50.051, or pursuant to Chapter 23.48, as applicable to the sending lot, in each case
22 not including any additional FAR that may be permitted pursuant to any exception, departure or
23 waiver.
24
25

26 8. The Director may promulgate rules to implement this section.
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1 B. Standards for Sending Lots.

2 1. a. The maximum amount of floor area that may be transferred from a
3 sending lot in the South Lake Union Urban Center is the amount by which the product of the
4 eligible lot area times the base FAR of the sending lot exceeds the sum of any chargeable floor
5 area on the lot plus any TDR previously transferred from the sending lot.

6 b. For purposes of this subsection B1, the eligible lot area is the total area
7 of the sending lot, reduced by the excess, if any, of the total of accessory surface parking over
8 one-quarter (1/4) of the total area of the footprints of all structures on the sending lot.

9 2. When TDR are transferred from a sending lot in a zone with a FAR limit that
10 applies to nonresidential uses, the amount of chargeable floor area that may then be built on the
11 sending lot shall be equal to the area of the lot multiplied by the base FAR, minus the total of:

12 a. The chargeable floor area on the lot; plus

13 b. The amount of chargeable floor area transferred from the lot.

14 3. Chargeable floor area allowed above the base FAR under any provisions of
15 this title, or allowed under any exceptions or waivers of development standards, may not be
16 transferred. TDR may be transferred from a lot that contains chargeable floor area exceeding the
17 base FAR only to the extent, if any, that:

18 a. TDR were previously transferred to such lot in compliance with the
19 Land Use Code provisions and applicable rules then in effect;

20 b. Those TDR, together with the base FAR set forth in Section 23.48.016
21 B or in Section 23.50.028, exceed the chargeable floor area on the lot and any additional
22 chargeable floor area for which any permit has been issued or for which any permit application
23 is pending; and
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1 c. The excess amount of TDR previously transferred to such lot would
2 have been eligible for transfer from the original sending lot under the provisions of this section
3 at the time of their original transfer from that lot.

4 6. Landmark structures on sending lots from which Landmark TDR are
5 transferred shall be restored and maintained as required by the Landmarks Preservation Board.

6 7. Housing on lots from which housing TDR are transferred shall be rehabilitated
7 to the extent required to provide decent, sanitary and habitable conditions, in compliance with
8 applicable codes, and so as to have an estimated minimum useful life of at least fifty (50) years
9 from the time of the TDR transfer, as approved by the Director of Housing. If housing TDR are
10 proposed to be transferred prior to the completion of work necessary to satisfy this subsection
11 B7, the Director of the Office of Housing may require, as a condition to such transfer, that
12 security be deposited with the City to ensure the completion of such work.

13 8. The housing units on a lot from which housing TDR are transferred, and that
14 are committed to low-income housing as a condition to eligibility of the lot as a TDR sending
15 site, shall be generally comparable in their average size and quality of construction to other
16 housing units in the same structure, in the judgment of the Housing Director, after completion of
17 any rehabilitation or construction undertaken in order to qualify as a TDR sending lot.

18 9. Structures on an arts facility TDR site shall be built or rehabilitated to the
19 extent required to be in compliance with applicable codes, and so as to have an estimated
20 minimum useful life of at least fifty (50) years from the time of the TDR transfer.

21 C. Limit on within-block TDR. Any receiving lot may use TDR from sending lots that
22 are eligible to send TDR solely because they are on the same block as the receiving lot for a
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1 maximum of fifteen (15) percent of all floor area gained through bonus and TDR on the
2 receiving lot.

3 D. Transfer of Development Rights Deeds and Agreements.

4 1. The fee owners of the sending lot shall execute a deed, and shall obtain the
5 release of the TDR from all liens of record and the written consent of all holders of
6 encumbrances on the sending lot other than easements and restrictions, unless such release or
7 consent is waived by the Director for good cause. The deed shall be recorded in the King
8 County real property records. When TDR are conveyed to the owner of a receiving lot described
9 in the deed, then unless otherwise expressly stated in the deed or any subsequent instrument
10 conveying such lot or the TDR, the TDR shall pass with the receiving lot whether or not a
11 structure using such TDR shall have been permitted or built prior to any conveyance of the
12 receiving lot. Any subsequent conveyance of TDR previously conveyed to a receiving lot shall
13 require the written consent of all parties holding any interest in or lien on the receiving lot from
14 which the conveyance is made. If the TDR are transferred other than directly from the sending
15 lot to the receiving lot using the TDR, then after the initial transfer, all subsequent transfers also
16 shall be by deed, duly executed, acknowledged and recorded, each referring by King County
17 recording number to the prior deed.
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21 2. Any person may purchase any TDR that are eligible for transfer by complying
22 with the applicable provisions of this section, whether or not the purchaser is then an applicant
23 for a permit to develop real property. Any purchaser of such TDR (including any successor or
24 assignee) may use such TDR to obtain floor area above the applicable base on a receiving lot to
25 the extent such use of TDR is permitted under the Land Use Code provisions in effect on the
26 date of vesting, under applicable law, of such person's rights with respect to the issuance of
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1 permits for development of the project intended to use such TDR. The Director may require, as a
2 condition of processing any permit application using TDR or for the release of any security
3 posted in lieu of a deed for TDR to the receiving lot, that the owner of the receiving lot
4 demonstrate that the TDR have been validly transferred of record to the receiving lot, and that
5 such owner has recorded in the real estate records a notice of the filing of such permit
6 application, stating that such TDR are not available for retransfer.
7

8 3. For transfers of Landmark TDR, the owner of the sending lot shall execute and
9 record an agreement in form and content acceptable to the Landmarks Preservation Board
10 providing for the restoration and maintenance of the historically significant features of the
11 structure or structures on the lot.
12

13 4. For transfers of arts facility TDR from an arts facility TDR site, the owner of
14 the sending lot shall execute and record an agreement in form and content acceptable to the
15 Director of the Office of Arts and Cultural Affairs providing for the construction, improvement
16 and/or maintenance of structure(s) on the lot and the use of the arts facility sending site for at
17 least fifty (50) years by one or more non-profit organizations dedicated to the creation, display,
18 performance or screening of art by or for members of the general public. Such agreements shall
19 commit to improvements, maintenance, limits on occupancy and other measures to maintain the
20 long-term use of the structure(s) for artistic activities consistent with the definition of arts
21 facility TDR site and acceptable to the Director of the Office of Arts and Cultural Affairs.
22

23 5. For transfers of housing TDR, the owner of the sending lot shall execute and
24 record an agreement, with the written consent of all holders of encumbrances on the sending lot,
25 unless such consent is waived by the Director of the Office of Housing for good cause, to
26 provide for the maintenance of the required housing on the sending lot for a minimum of fifty
27
28



1 (50) years. Such agreement shall commit to limits on rent and occupancy consistent with the
2 definition of housing TDR site and acceptable to the Director of the Office of Housing.

3 6. A deed conveying TDR may require or permit the return of the TDR to the
4 sending lot under specified conditions, but notwithstanding any such provisions:

5 a. The transfer of TDR to a receiving lot shall remain effective so long as
6 any portion of any structure for which a permit was issued based upon such transfer remains on
7 the receiving lot; and
8

9 b. The City shall not be required to recognize any return of TDR unless it
10 is demonstrated that all parties in the chain of title have executed, acknowledged and recorded
11 instruments conveying any interest in the TDR back to the sending lot and any lien holders have
12 released any liens thereon.
13

14 7. Any agreement governing the use or development of the sending lot shall
15 provide that its covenants or conditions shall run with the land and shall be specifically
16 enforceable by The City of Seattle.

17 E. Time of Determination of TDR Eligible for Transfer. The eligibility of a sending lot to
18 transfer TDR, and the amount transferable from a sending lot, shall be determined as of the date
19 of transfer from the sending lot and shall not be affected by the date of any application, permit
20 decision or other action for any project seeking to use such TDR.
21

22 F. Use of Previously Transferred TDR by New Projects. Any project using TDR
23 according to applicable limits on TDR in Sections 23.50.051 and 23.50.053 may use TDR that
24 were transferred from the sending lot consistent with the provisions of this title in effect at the
25 time of such transfer.
26
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1 Section 12. A new subsection F is added to Section 23.76.026 of the Seattle Municipal
2 Code, which section was last amended by Ordinance 122311, as follows:

3 **23.76.026 Vesting of Development Rights**

4 * * *

5 F. Notwithstanding any other provision of this section or this chapter, an applicant may
6 elect, at such time and in such manner as the Director may permit, that specific Land Use Code
7 provisions as in effect as of a later date apply to an application, pursuant to authorization for
8 such election set forth elsewhere in this Title.

10 Section 13. The following subsection of Section 23.84A.006 of the Seattle Municipal
11 Code, which section was last amended by Ordinance 122411, is amended as follows:

12 **23.84A.006 Definitions -- "C."**

14 * * *

15 "Chargeable floor area" means gross floor area of all structures on a ~~((any))~~ lot ~~((in a~~
16 ~~downtown zone))~~, except portions of structures or uses that are expressly exempt from floor area
17 limits under the provisions of this title, and after reduction by any applicable adjustment for
18 mechanical equipment. Chargeable floor area is computed using the exemptions and adjustments
19 in effect at the time the computation is made. Chargeable floor area includes any floor area, not
20 otherwise exempt, that is in a structure in a ~~((downtown))~~ zone where floor area limits do not
21 apply or that is permitted to be occupied by reason of the Landmark status of the structure in
22 which it is located.

24 * * *



1 Section 14. The following subsections of Section 23.84A.038 of the Seattle Municipal
2 Code, which section was last amended by Ordinance 122330, are amended and additional
3 subsections are added to such section, to be codified in alphabetical order, as follows:

4 **23.84A.038 Definitions -- "T."**

5 * * *

6
7 "TDR, arts facility" means either TDR from a major performing arts facility that are
8 transferable pursuant to Section 23.49.014 G; or TDR that are eligible for transfer based on the
9 status of the sending lot as an arts facility TDR site, and if they are eligible for transfer on any
10 other basis, are designated by the applicant seeking to use such TDR on a receiving lot as arts
11 facility TDR.

12 * * *

13
14 "TDR site, arts facility" means a lot meeting the following requirements:

15 1. The lot is located in the South Lake Union Urban Center either in an IC zone
16 or in a zone with a height limit of eighty-five (85) feet or more;

17 2. Each structure to be developed on the lot is a major performing arts facility; or
18 has or will have a minimum of one (1) FAR or all of its chargeable floor area if there is less than
19 one (1) FAR in the structure(s) committed for at least fifty (50) years to occupancy by one or
20 more not-for-profit organizations dedicated to the creation, display, performance or screening of
21 art by or for members of the general public.

22
23 3. The arts facility commitments on the lot comply with 23.50.053 for structures
24 in the South Lake Union Urban Center and are memorialized in a recorded agreement between
25 the owner of such an arts facility and the Director of the Mayor's Office of Arts and Cultural
26 Affairs.



* * *

"TDR site, housing" means a lot meeting the following requirements:

1. The lot is located in any Downtown zone except PMM, DH-1 and DH-2 zones, or is located in the South Lake Union Urban Center either in any IC zone or in any SM zone with a height limit of eighty-five (85) feet or higher;

2. Each structure on the lot has a minimum of fifty (50) percent of total gross above-grade floor area committed to low-income housing for a minimum of fifty (50) years;

3. The lot has above-grade gross floor area equivalent to at least one (1) FAR committed to very low-income housing use for a minimum of fifty (50) years;

4. The above-grade gross floor area on the lot committed to satisfy the conditions in subsections 2 and 3 of this definition is contained in one or more structures existing as of the date of passage of Ordinance 120443 and such area was in residential use as of such date, as demonstrated to the satisfaction of the Director of the Office of Housing; and

5. The low-income housing and very low-income housing commitments on the lot comply with the standards in Section 23.49.012 B1b and are memorialized in a recorded agreement between the owner of such low-income and very low-income housing and the Director of the Office of Housing.

* * *

Section 15. Section 23.90.018 of the Seattle Municipal Code, which section was last amended by Ordinance 122407, is amended as follows:

23.90.018 Civil enforcement proceedings and penalties.



1 A. In addition to any other remedy authorized by law or equity, any person violating or
2 failing to comply with any of the provisions of Title 23 shall be subject to a cumulative penalty
3 of up to One Hundred Fifty Dollars (\$150.00) per day for each violation from the date the
4 violation begins for the first ten (10) days of noncompliance; and up to Five Hundred Dollars
5 (\$500) per day for each violation for each day beyond ten (10) days of noncompliance until
6 compliance is achieved, except as provided in subsection B of this section. In cases where the
7 Director has issued a notice of violation, the violation will be deemed to begin for purposes of
8 determining the number of days of violation on the date compliance is required by the notice of
9 violation.
10 violation.

11 B. Specific Violations.

12 1. Violations of Section 23.71.018 are subject to penalty in the amount specified
13 in Section 23.71.018 H.

14 2. Violations of the requirements of Section 23.44.041C are subject to a civil
15 penalty of Five Thousand Dollars (\$5,000), which shall be in addition to any penalty imposed
16 under subsection A of this section.
17

18 3. Violation of Section 23.49.011, ~~((or))~~ 23.49.015 or 23.50.051 with respect to
19 failure to demonstrate compliance with commitments to earn LEED Silver ratings or satisfy
20 alternative standards under ~~((either))~~ any such Section are subject to penalty in amounts
21 determined under Section 23.49.020, and not to any other penalty.
22

23 C. Civil actions to enforce Title 23 shall be brought exclusively in Seattle Municipal
24 Court except as otherwise required by law or court rule. The Director shall request in writing
25 that the City Attorney take enforcement action. The City Attorney shall, with the assistance of
26 the Director, take appropriate action to enforce Title 23. In any civil action filed pursuant to this
27



1 chapter, the City has the burden of proving by a preponderance of the evidence that a violation
2 exists or existed. The issuance of the notice of violation or of an order following a review by
3 the Director is not itself evidence that a violation exists.

4 D. Except in cases of violations of Section 23.49.011, ~~((or))~~ 23.49.015, or 23.50.051
5 with respect to failure to demonstrate compliance with commitments to earn LEED Silver
6 ratings or satisfy alternative standards, the violator may show as full or partial mitigation of
7 liability:
8

9 1. That the violation giving rise to the action was caused by the willful act, or
10 neglect, or abuse of another; or

11 2. That correction of the violation was commenced promptly, but that full
12 compliance within the time specified was prevented by inability to obtain necessary materials or
13 labor, inability to gain access to the subject structure, or other condition or circumstance beyond
14 the control of the defendant.

15
16 Section 13. Subsection B of Section 23.90.020 of the Seattle Municipal Code, which
17 section was last amended by Ordinance 122407, is amended as follows:

18 **23.90.020 Alternative criminal penalty.**

19 * * *

20
21 B. A criminal penalty, not to exceed Five Thousand Dollars (\$5,000) per occurrence,
22 may be imposed:

- 23 1. For violations of Section 23.90.002 D;
24 2. For any other violation of this Code for which corrective action is not possible,
25 other than violations with respect to commitments to earn LEED Silver ratings or satisfy
26 alternative standards under SMC 23.49.011, ~~((or))~~ 23.49.015, or 23.50.051; and
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3. For any ((~~wilful~~))willful, intentional, or bad faith failure or refusal to comply with the standards or requirements of this Code.

Section 14. 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 ____ day of _____, 2007, and signed by me in open session in authentication of its passage this ____ day of _____, 2007.

President _____ of the City Council

Approved by me this ____ day of _____, 2007.

Gregory J. Nickels, Mayor

Filed by me this ____ day of _____, 2007.

City Clerk

(Seal)

T



STATE OF WASHINGTON – KING COUNTY

--SS.

218884
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.

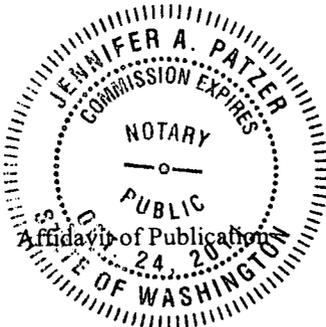
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:122611 ORDINANCE

was published on

01/02/08

The amount of the fee charged for the foregoing publication is the sum of \$5,780.88, which amount has been paid in full.

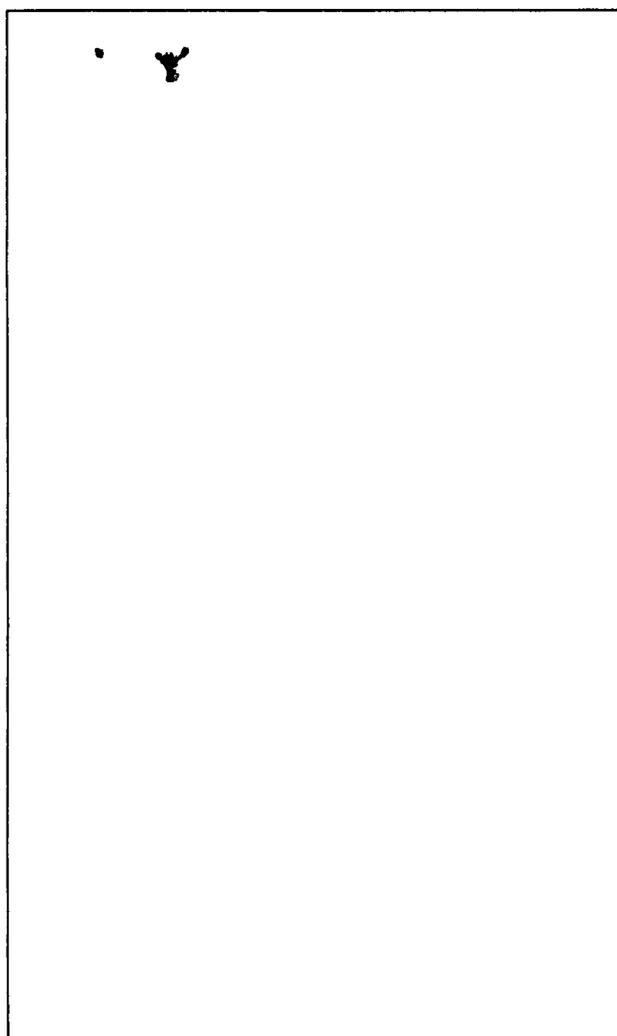


[Signature]

Subscribed and sworn to before me on
01/02/08
[Signature]

Notary public for the State of Washington,
residing in Seattle

State of Washington, King County



STATE OF WASHINGTON – KING COUNTY

--SS.

218880
CITY OF SEATTLE, CLERKS OFFICE

No. 09,10,12,13&16 TITLE

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:122599.00,02-04,06,08

was published on

12/31/07

The amount of the fee charged for the foregoing publication is the sum of \$ 167.40, which amount has been paid in full.



Affidavit of Publication

[Signature]

Subscribed and sworn to before me on

12/31/07

[Signature]

Notary public for the State of Washington,
residing in Seattle

State of Washington, King County

City of Seattle

TITLE-ONLY PUBLICATION

The full text of the following ordinances, passed by the City Council on December 17, 2007, and published here by title only, will be mailed upon request, or can be accessed electronically at <http://clerk.ci.seattle.wa.us>. For further information, contact the Seattle City Clerk at 684-8344.

ORDINANCE NO. 122616

AN ORDINANCE relating to the Seattle Municipal Court, authorizing execution pursuant to the Interlocal Cooperation Act of an agreement with the Washington State Department of Social and Health Services regarding the funding of a part-time State of Washington Funding Services Specialist in the Seattle Municipal Court Resource Center to provide screening services to Court defendants and the community and declaring an emergency requiring a 3/4 vote of the Seattle City Council so that the Ordinance may take effect immediately.

ORDINANCE NO. 122615

AN ORDINANCE authorizing the Mayor to sign an agreement between the City of Seattle and the King County Rural Library District for the transfer of the White Center and Boulevard Park libraries to the City of Seattle in the event of certain annexations in the unincorporated North Highline area.

ORDINANCE NO. 122612

AN ORDINANCE related to the sale and redevelopment of the former Public Safety Building Block, authorizing the execution of a Purchase and Sale Agreement, Project Agreement and other related documents, necessary to implement the sale and redevelopment of such property, and exempting the sale of such property from the requirements of Resolution 29799 as amended by Resolution 30862.

ORDINANCE NO. 122610

AN ORDINANCE amending the Seattle Comprehensive Plan to incorporate changes proposed as part of the 2007 Comprehensive Plan annual amendment process.

ORDINANCE NO. 122609

AN ORDINANCE appropriating money to pay certain audited claims and ordering the payment thereof.

ORDINANCE NO. 122608

AN ORDINANCE authorizing the Mayor to sign and/or execute a collective bargaining agreement by and between the City of Seattle and the Public Service & Industrial Employees, Local 1239 Recreation Unit to be effective through December 31, 2010.

ORDINANCE NO. 122606

AN ORDINANCE relating to the Seattle Center Department authorizing the execution of a revocable, non-exclusive license agreement with Teatro ZinZanni to construct certain improvements on City property for the purpose of public ingress and egress to the circus dinner theater on an adjacent property.

ORDINANCE NO. 122604

AN ORDINANCE relating to the Filipino Community Center, removing a budget provision restricting expenditure of an appropriation in the 2007 Budget, and authorizing the expenditure of the funds for purchase and acceptance of an easement with restrictive covenants from Filipino Community of Seattle to provide for City and public access uses and the provision of social services on the property at 5740 M.L. King Jr. Way South, Seattle, Washington.

ORDINANCE NO. 122603

AN ORDINANCE relating to the financing of the South Lake Union Streetcar Project, authorizing the loan of funds from the City's Consolidated (Residual) Cash Pool or its participating funds to the Transportation Master Fund, and providing for the repayment thereof.

ORDINANCE NO. 122602

AN ORDINANCE concerning indigent public defense services; establishing a process for selecting providers of those services; creating a proposal review panel; setting out standards for those services; establishing contractual requirements for agreements between the City and public defense service providers; requesting the Seattle City Auditor to audit compliance; repealing Ordinance 122493 and Ordinance 121501; and ratifying and confirming certain prior acts.

ORDINANCE NO. 122600

AN ORDINANCE amending the Seattle Comprehensive Plan to incorporate changes proposed as part of the 2007 Comprehensive Plan annual amendment process for a new policy governing expansion of major employers located in manufacturing/industrial centers.

ORDINANCE NO. 122599

AN ORDINANCE authorizing the Director of Seattle Public Utilities to execute a contract with the City of North Bend to provide North Bend with a supply of irrigation water.

Publication ordered by JUDITH PIPPIN, City Clerk.
Date of publication in the Seattle Daily Journal of Commerce: December 31, 2007.
12/31(218880)

SEATTLE CITY NOTICES

ORDINANCE 122611

AN ORDINANCE related to land use and zoning, amending Chapters 23.48, 23.49, 23.50, 23.76, 23.84A and 23.90 of the Seattle Municipal Code; allowing additional height and density within a defined area of Industrial Commercial zones in the South Lake Union Urban Center; providing bonus floor area for affordable housing and child care in that area; allowing transfer of development rights to lots in that area from Landmarks and certain other properties; modifying exemptions from floor area limits for projects in the South Lake Union Urban Center; and making technical revisions.

WHEREAS, the City adopted South Lake Union Urban Center goals and policies into the Comprehensive Plan in December 2006, supporting the growth of innovative industries in South Lake Union, incentives for housing, arts and historic preservation, and a diversity of building styles; and

WHEREAS, opportunities to implement these goals and policies exist within a portion of the Industrial Commercial zone in South Lake Union; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The Council finds that the provisions of this Ordinance will implement the Comprehensive Plan and protect and promote public health, safety and welfare.

Section 2. Subsection B of Section 23.48.016 of the Seattle Municipal Code, which Section was last amended by Ordinance 122311, is amended as follows:

23.48.016 Standards applicable to specific areas.

B. Floor Area Ratios. In SM/85 and SM/125 zones, the following floor area ratios (FARs) apply:

1. In SM/85 zones, a FAR of four and one half (4.5) is the maximum (gross) chargeable floor area permitted (for all nonresidential uses).

2. In SM/125 zones, a FAR of five (5) is the maximum (gross) chargeable floor area permitted (for all nonresidential uses) in structures greater than seventy-five (75) feet in height.

3. (Exemptions from FAR Calculations.) The following areas are (shall be) exempt from FAR calculations:

- a. All gross floor area below grade;
- b. All gross floor area used for accessory parking located above grade;

and

c. All gross floor area in residential use.

4. Up to three and one-half (3 1/2) percent of the gross floor area of a structure shall not be counted in (gross) floor area calculations, as an allowance for mechanical equipment. The allowance shall be calculated on the gross floor area after all exempt space permitted under subsection (a) B3 (a and B3b) has been deducted.

5. Within the South Lake Union Urban Center, gross floor area occupied by mechanical equipment, up to a maximum of fifteen (15) percent, is exempt from (FAR) floor area calculations. The allowance is calculated on the gross floor area of the structure after all exempt space permitted under subsection (a) B3 (a and B3b) has been deducted. Subsection B4 (shall) does not apply. Mechanical equipment located on the roof of a structure is not calculated as part of the total gross floor area of a structure.

6. To the extent provided in Section 23.50.053, the transfer of TDR from a lot reduces the limits on chargeable floor area set forth in this Section. On a lot in an SM/125 zone from which TDR is transferred, the FAR limit in this Section, as so reduced, applies regardless of the height of any structure.

Section 3. Subsection G of Section 23.49.014 of the Seattle Municipal Code, which Section was last amended by Ordinance 122054, is amended as follows:

23.49.014 Transfer of development rights (TDR).

G. TDR Satisfying Conditions to Transfer Under Prior Code.

1. If the conditions to transfer Landmark TDR, as in effect immediately prior to the effective date of Ordinance 120443, (the following) are satisfied on or before December 31, 2001, such TDR may be transferred from the sending lot in the amounts eligible for transfer as determined under the provisions of this title in effect immediately prior to the effective date of Ordinance 120443. If the conditions to transfer housing TDR are satisfied prior to the effective date of Ordinance 120443 under the provisions of this title then in effect, such TDR may be transferred from the sending lot in the amounts eligible for transfer immediately prior to that effective date. If the conditions to transfer TDR from a major performing arts facility are satisfied prior to the effective date of Ordinance 120443 under the provisions of this Title then in effect, TDR may be transferred from the sending lot after that effective date, for use on any receiving lots in zones where housing TDR may be used according to Chart 23.49.014 A or as provided in Section 23.50.053, in an amount as determined under subsection B of this section, provided that the cumulative amount of TDR that may be transferred after June 1, 2005 from any sending lot based on the presence of a major performing arts facility is limited to one hundred fifty thousand (150,000) square feet.

2. For purposes of this subsection, conditions to transfer include, without limitations, the execution by the owner of the sending lot, and recording in the King County real property records, of any agreement required by the provisions of this title or the Public Benefit Features Rule in effect immediately prior to the effective date of Ordinance 120443, but such conditions do not include any requirement for a master use permit application for a project intending to use TDR, or any action connected with a receiving lot. TDR transferable under this subsection G are eligible either for use consistent with the terms of Section 23.49.011 or Section 23.50.051 or for use by projects developed pursuant to permits issued under the provisions of this title in effect prior to the effective date of Ordinance 120443. The use of TDR transferred under this subsection G on the receiving lot shall be subject only to those conditions and limits that apply for purposes of the master use permit decision for the project using the TDR.

Section 4. Subsection A of Section 23.49.020 of the Seattle Municipal Code, which Section was enacted by Ordinance 122054, is amended as follows:

23.49.020 Demonstration of LEED Silver rating.

A. Applicability. This section applies whenever a commitment to earn a LEED Silver rating or substantially equivalent standard is a condition of a permit (pursuant to SMC Section 23.49.011 or 23.49.015).

Section 5. Section 23.50.020 of the Seattle Municipal Code, which Section was last amended by Ordinance 121359, is amended as follows:

23.50.020 All Industrial zones -- Structure height exceptions and additional restrictions.

A. Rooftop Features. Where a height limit (if otherwise applicable) applies to a structure, (and) except as provided in subsections C4, D4, E4 and F3 of Section 23.50.024, the (following conditions) provisions in this subsection A apply to rooftop features:

1. Smokestacks (i), chimneys, and flagpoles, and religious symbols for religious institutions are exempt from height limits (controls), except as regulated in Chapter 23.64, Airport Height Overlay District, provided they are a minimum of ten (10) feet from any side or rear lot line.

2. Open railings, planters, skylights, clerestories, greenhouses, parapets and firewalls may extend four (4) feet above the applicable (maximum) height limit with unlimited rooftop coverage.

3. Solar collectors may extend up to seven (7) feet above the applicable (maximum) height limit, with unlimited rooftop coverage.

4. The following rooftop features may extend up to fifteen (15) feet above the (maximum) applicable height limit, as long as the combined total coverage of all features listed in this subsection A4 does not exceed twenty (20) percent of the roof area, or twenty-five (25) percent of the roof area if the total includes screened mechanical equipment:

- a. Solar collectors;
- b. Stair and elevator penthouses;
- c. Mechanical equipment; and
- d. Minor communication utilities and accessory communication devices,

except that height is regulated according to the provisions of Section 23.57.015.

5. Within the South Lake Union (Hub-Urban-Village) Urban Center, at the applicant's option, the combined total coverage of all features listed in subsection A4 above may be increased to sixty-five (65) percent of the roof area, provided that all of the following are satisfied:

- a. All mechanical equipment is screened; and
- b. No rooftop features are located closer than ten (10) feet to the roof edge.

B. Forty-five (45) Foot Height Limit Areas-Additional Height Restrictions for Certain Structures.

(1-Within those industrial areas designated as having) In zones with a forty-five (45) foot height limit, except as provided for IC zones in Section 23.50.028, (forty-five (45) foot structure height is permitted only when a structure contains at least one (1) story at least fifteen (15) feet in height.

2-Structures with no story at least fifteen (15) feet in height (shall be) are limited to a maximum height of forty (40) feet.

C. Structures existing prior to October 8, 1987 (which) that exceed the height limit of the zone may add the rooftop features listed as (conditioned) in subsection A of this section above.

The existing roof elevation of the structure shall be considered the (maximum) applicable height limit for the purpose of adding rooftop features.

Section 6. Section 23.50.026 of the Seattle Municipal Code, which Section was last amended by Ordinance 121359, is amended as follows:

23.50.026 Structure height in IC zones.

A. Except (for the provisions of Section 23.50.020, and except) as may be otherwise provided in this title (for any overlay district, and except that monorail transit facilities may exceed the height limit of the zone according to the provisions of Section 23.80.004 or Section 23.54.020), the maximum structure height in IC zones for all uses (shall be) is thirty (30) feet, forty-five (45) feet, sixty-five (65) feet, eighty-five (85) feet or one hundred twenty-five (125) feet, as designated on the Official Land Use Map, Chapter 23.32. Only areas in the Stadium Transition Area Overlay District abutting the PSM 85/120 zone may (be) designated for a height limit of one hundred twenty-five (125) feet. Maximum structure height may be increased or reduced as provided in this section or Section 23.50.020. An overlay district may increase or reduce the maximum structure height.

B. Water-dependent uses within the Shoreline District shall only be subject to the height limits of the applicable shoreline environment, Chapter 23.60.

C. Within the area shown on Exhibit 23.50.026 A, areas zoned IC/45 (shall be) are subject to the following height regulations (See Exhibit 23.50.026 A):

1. (A forty-five (45) foot structure height is permitted only when a structure contains at least one (1) story at least fifteen (15) feet in height.

2-Except as provided in subsection (3a) 2c below, structures with no story at least fifteen (15) feet in height are (shall be) limited to a maximum height of forty (40) feet.

(3) 2a. A sixty-five (65) foot structure height is permitted as a special exception provided that:

a. Provision is made for view corridors (s) looking from Elliott Avenue towards Puget Sound;

(1) The location of the view corridor(s) shall be determined by the Director upon consideration of such factors as existing view corridors, the location of street rights-of-way, and the configuration of the lot,

(2) The view corridor(s) shall have a width not less than thirty-five (35) percent of the width of the lot,

(3) The minimum width of each required view corridor shall be thirty (30) feet measured at Elliott Avenue West,

(4) Measurement, modification or waiver of the view corridor(s) shall be according to the Seattle Shoreline Master Program measurement regulations, Chapter 23.60. Where a waiver under these provisions is granted, the sixty-five (65) foot structure height shall still be permitted,

(5) Parking for motor vehicles shall not be located in the view corridor unless the area of the lot where the parking would be located is four (4) or more feet below the level of Elliott Avenue West;

b. Development shall be located so as to maximize opportunities for views of Puget Sound for residents and the general public; and

c. The structure contains at least two (2) stories at least fifteen (15) feet in height; with the exception that no story in an accessory parking structure is required to be at least fifteen (15) feet in height.

D. Within the South Lake Union (Hub-Urban-Village) Urban Center (Village-4);

1. The maximum structure height in IC zones with sixty-five (65) foot and eighty-five (85) foot height limits may be increased to eighty-five (85) feet and one-hundred and five (105) feet, respectively, provided that:

(1-2) a. A minimum of two (2) (floors) stories in the structure have a floor to floor height of at least fourteen (14) feet; and

(2-2) b. The additional height is used to accommodate mechanical equipment; and

(3-2) c. The additional height permitted does not allow more than six (6) (floors) stories in IC zones with a sixty-five (65) foot height limit, or more than seven (7) (floors) stories in IC zones with an eighty-five (85) foot height limit.

2. The maximum structure height of structures qualifying for additional floor area under the provisions of section 23.50.051 is one hundred and sixty (160) feet.

Section 7. Subsection A of Section 23.50.027 of the Seattle Municipal Code, which Section was last amended by Ordinance 121281, is amended as follows:

23.50.027 Maximum size of nonindustrial use.

A. Applicability.

1. Except as otherwise provided in (subsections B, C, D and E of) this section (below), the maximum size of use limits on gross floor area specified in Chart A or, for lots located in the Duwamish Manufacturing/Industrial Center, Chart B of this section (shall) apply to uses on a lot. The maximum size of use limits apply to both principal and accessory uses on a lot. The limits (shall be) apply (ied) separately to the categories of uses listed in the respective charts of this section. The total gross floor area occupied by uses limited under the respective charts of this section shall not exceed an area equal to the area of the lot in an IG1 zone, or two and one-half (2.5) times the area of the lot in an IG2, IB or IC zone, or three (3) times the lot area in IC zones with sixty-five (65) foot or eighty-five (85) foot height limits in the South Lake Union Urban Center (Planning Area, as identified in Exhibit 23.50A).

2. The maximum size of use limits in Chart A do (shall) not apply to the area identified in Exhibit 23.50.027A, in that area (provided that) no single retail establishment (shall) may exceed fifty thousand (50,000) square feet in size.

3. There is no limit under this Section on the size of uses in projects that qualify for additional floor area under section 23.50.051.

Chart A

INDUSTRIAL ZONES

| Categories of Uses Subject to Size of Use Limits | IG1 | IG2 and IB | IC |
|--|----------------|-----------------|----------------|
| Retail sales and service or entertainment except spectator sports facilities | 30,000 sq. ft. | 75,000 sq. ft. | 75,000 sq. ft. |
| Office | 50,000 sq. ft. | 100,000 sq. ft. | N.M.S.L. |

N.M.S.L. = No Maximum Size Limits

Chart B

GENERAL INDUSTRIAL ZONES WITHIN DUWAMISH M/I CENTER

| Categories of Uses Subject to Size of Use Limits | IG1 | IG2 |
|---|----------------|----------------|
| Office uses | 50,000 sq. ft. | 75,000 sq. ft. |
| Retail sales and service (except for restaurants and drinking establishments) | 25,000 sq. ft. | 50,000 sq. ft. |
| Restaurants | 5,000 sq. ft. | 5,000 sq. ft. |
| Drinking establishments* | 3,000 sq. ft. | 3,000 sq. ft. |
| Meeting halls | N.M.S.L. | 5,000 sq. ft. |

N.M.S.L. = No Maximum Size Limits

* The maximum size limit for brew pubs applies to that portion of the pub that is not used for brewing purposes.

Section 8. Section 23.50.028 of the Seattle Municipal Code, which Section was last amended by Ordinance 121828, is amended as follows:

23.50.028 Floor area ratio.

The floor area ratio (FAR), as provided below, (shall) determine the permitted (gross square footage) chargeable floor area on a lot (permitted).

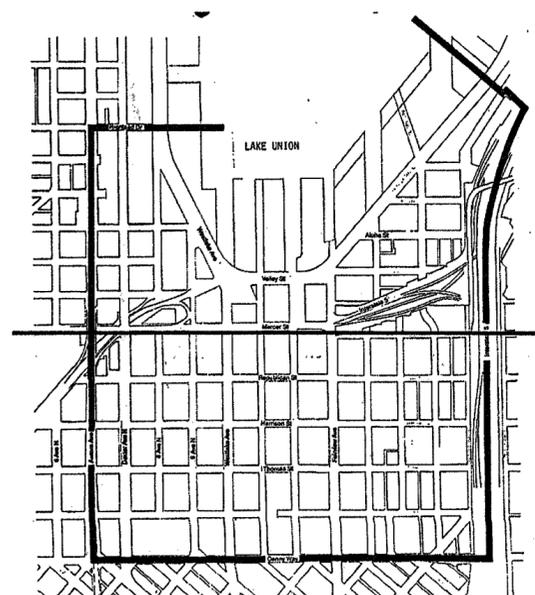
A. General Industrial 1, Floor Area Ratio. The (total) maximum FAR in IG1 zones (shall be) is two and one-half (2.5).

B. General Industrial 2 and Industrial Buffer, Floor Area Ratio. The maximum FAR for all General Industrial 2 (IG2) and Industrial Buffer (IB) uses (shall be) is two and one half (2.5).

C. Industrial Commercial, Floor Area Ratio. Except within the South Lake Union Urban Center, (for the area shown in Exhibit 23.50.028 A) the maximum FAR (for) in all Industrial Commercial (IC) (uses shall be) zones is two and one-half (2.5). (See Exhibit 23.50.028 A)

(Exhibit 23.50.028 A)

South Lake Union Planning Area



D. Industrial Commercial/South Lake Union, Floor Area Ratio. Within the South Lake Union Urban Center, (area shown on Exhibit 23.50.028 A and described as the South Lake Union Planning Area,) the maximum FAR in Industrial Commercial zones (shall be as follows:

1. In areas with a thirty (30) foot or forty-five (45) foot height limit, the FAR shall be two and one-half (2.5); and
2. In areas with a sixty-five (65) foot or eighty-five (85) foot height limit, the FAR shall be three (3), except as provided in Section 23.50.051.

E. All Industrial Zones, Exemptions from FAR Calculations. The following areas (shall be) are exempt from FAR calculations:

1. All gross floor area below grade;
2. All gross floor area used for accessory parking, except as provided in subsection F;
3. All gross floor area located on the rooftop of a structure and used for any of the following: mechanical equipment, stair and elevator penthouses, and communication equipment and antennas (located on the rooftop of structures);
4. All gross floor area uses for covered rooftop recreational space of a building existing as of December 31, 1998, when complying with the provisions of Section 23.50.012 D; and
5. (All gross floor area of a monorail station, including all floor area open to the general public during normal hours of station operation (but excluding retail or service establishments to which public access is limited to customers or clients, even where such establishments are primarily intended to serve monorail riders); and)

(6.) Within the South Lake Union (Hub) Urban Center (Village); (c) a. (g) Gross floor area occupied by mechanical equipment, up to a maximum of fifteen (15) percent of the floor area on the lot (is exempt from FAR calculations). The allowance is calculated on the gross floor area of the structure after all other exempt space permitted under this subsection E is deducted. Mechanical equipment located on the roof of a structure is not calculated as part of the total gross floor area of a structure.

b. The following uses located at street level:

- i. General sales and service uses;
- ii. Eating and drinking establishments;
- iii. Entertainment uses; and
- iv. Public libraries.

F. Within the South Lake Union Urban Center, gross floor area used for accessory parking within stories that are completely above finished grade is not exempt.

G. Anything in Section 23.76.026 notwithstanding, the applicant for a Master Use Permit for a project in the South Lake Union Urban Center to which the Land Use Code in effect prior to the effective date of the ordinance enacting this subsection G applies may, by written election, use the exemptions in subsection E5b of this section, provided that subsection F of this section also shall apply.

Section 9. A new Section 23.50.051 of the Seattle Municipal Code is adopted to read as follows:

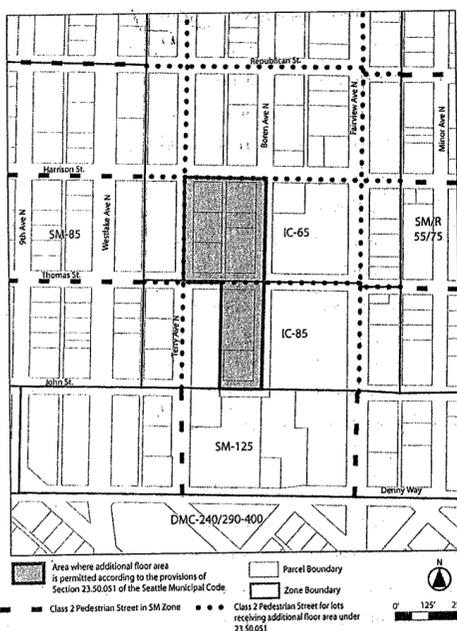
23.50.051 Additional floor area in certain IC-zoned areas in the South Lake Union Urban Center.

A. Applicability; General Rules. This Section applies only to IC zones in the area shown on Exhibit 23.50.051 A. In IC zones in that area, floor area in addition to the FAR limit in Section 23.50.028 is permitted for projects that satisfy all the conditions in this section. For purposes of applying any section of Chapter 23.48 referred to in this section, Class 2 Pedestrian Streets are as designated on Exhibit 23.50.051A. For the purposes of this section, the applicable FAR limit in subsection 23.50.028D is called the "base FAR." As a condition to any floor area above the base FAR, a project must conform to all the provisions of subsections C through M of this section, inclusive. As a further condition, any floor area above four and a half (4.5) FAR is allowed only to the extent gained in accordance with the bonus and TDR provisions of subsection N of this section.

B. Maximum FAR. The maximum chargeable floor area permitted on a lot pursuant to this section is seven (7) FAR.

C. Alteration of Landmark. No floor area above the base FAR shall be granted to any proposed development that would result in a 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.

Exhibit 23.50.051 A



D. LEED requirement. The applicant will strive to achieve a LEED Gold rating or better and make a commitment acceptable to the Director that the proposed development will earn at least a LEED Silver rating or meet a substantially equivalent standard, and shall demonstrate compliance with that commitment, all in accordance with the provisions of Section 23.49.020.

E. Upper Level Setback. An upper level setback consistent with subsections B and C of Section 23.48.012 is provided along Thomas Street and Harrison Street for any portion of the

structure above forty-five (45) feet in height.

F. Facades. Each structure satisfies the general facade requirements of Section 23.48.014.

G. Transparency. Each structure satisfies the transparency and blank facade requirements of Section 23.48.018.

H. Solid Waste and Recycling. Each structure satisfies the solid waste and recyclable materials storage space requirements of Section 23.48.031.

I. Parking and access. Each structure satisfies the parking and loading access requirements of Section 23.48.034. Parking for each structure is subject to the following limitations and requirements:

- (1) Parking is not permitted in stories that are completely above street level unless the parking is separated from the street by other uses;
- (2) Due to physical site conditions such as topographic or geologic conditions, parking is permitted in stories that are partially below street level and partially above street level without being separated from the street by other uses, if:
 - a. the street front portion of the parking (excluding garage and loading doors and permitted access to parking) that is at or above street level is screened from view at the street level; and
 - b. the street façade is enhanced by architectural detailing, artwork, landscaping, or similar visual interest features.

J. Screening and Landscaping. Each structure satisfies the NC3 zone screening and landscaping requirements of Section 23.47A.016.

K. Transportation Management Program. The Master Use Permit application shall include a Transportation Management Program (TMP) consistent with requirements for TMPs in Director's Rule 14-2002. The TMP shall be approved by the Director only if, after consulting with Seattle Department of Transportation, the Director determines that no more than forty (40) percent of trips to and from the project will be made using single-occupant vehicles (SOV).

1. For purposes of measuring attainment of single-occupant vehicle (SOV) goals contained in the TMP, the number of SOV trips shall be calculated for the p.m. hour in which an applicant expects the largest number of vehicle trips to be made by employees at the site (the p.m. peak hour of the generator).

2. Compliance with this section does not affect the responsibility of any employer to comply with Seattle's Commute Trip Reduction (CTR) Ordinance.

L. Energy Management Plan. The Master Use Permit application shall include an energy management plan, approved by the Director of Seattle City Light, containing specific energy conservation or alternative energy generation methods or on-site electrical systems that together can ensure that the existing electrical system can accommodate the projected loads from the project. The Director, after consulting with the Director of Seattle City Light, may condition the approval of the Master Use Permit on the implementation of the energy management plan.

M. Parking Quantity. For development permitted according to Sec. 23.50.051, the Director shall set a maximum number of parking spaces based on the expected number of employees in the project and the TMP goals for single-occupant vehicle use, with an allowance for additional short-term parking spaces to serve retail uses and visitors.

N. Bonus floor area and TDR. A minimum of seventy-five (75) percent of floor area above five (5) FAR may be gained only through bonuses under Section 23.50.052. The remaining twenty-five (25) percent may be gained either through TDR consistent with Section 23.50.053 or bonuses under Section 23.50.052, provided that the condition in Subsection N is satisfied if applicable. The Master Use Permit application to establish any floor area above five (5) FAR under this section shall include a calculation of the amount of floor area and shall identify the manner in which the conditions to added floor area will be satisfied.

O. Landmark TDR. If Landmark TDR is available, not less than five (5) percent of floor area on a lot above five (5) FAR shall be gained through the transfer of Landmark TDR. Landmark TDR shall be considered "available" if, at the time of the Master Use Permit application to gain the additional floor area, the City of Seattle is offering Landmark TDR eligible for use on the lot for sale at a price per square foot no greater than the total bonus contribution under Section 23.50.052 for a project using the cash option for both housing and childcare facilities. An applicant may satisfy the condition in this section by purchases of Landmark TDR from private parties, by transfer of Landmark TDR from an eligible sending lot owned by the applicant, by purchase of Landmark TDR from the City, or by any combination of the foregoing.

Section 10. A new Section 23.50.052 of the Seattle Municipal Code is adopted to read as follows:

23.50.052 Bonus floor area for housing and child care.

A. General Provisions

1. This Section applies only to projects seeking floor area above four and a half (4.5) FAR pursuant to Section 23.50.051. The purpose of this section is to encourage development in addition to that authorized by basic zoning regulations, provided that portions of certain adverse impacts from the additional development are mitigated. Two (2) impacts from such development are an increased need for housing in the South Lake Union Urban Center to house the families of workers having lower-paid jobs, and an increased need for child care for workers in the South Lake Union Urban Center.

2. The mitigation may be provided by building the requisite housing or child care facilities (the "performance option"), by making a contribution to be used by the City to build or provide the housing and child care facilities (the "payment option"), or by a combination of the performance and payment options.

3. For the purposes of this section, chargeable floor area that is earned under the provisions of this section is called "bonus floor area."

B. Housing and Child Care Bonus. For each square foot of bonus floor area, the applicant shall provide or make payments for both housing and child care in amounts determined as follows:

1. Housing.

a. For each square foot of bonus floor area, either 0.15575807 square feet of housing affordable to and serving households with incomes up to 80% of median King County household income based on household size (referred to as the "income limit" in this section), or an alternative voluntary cash contribution of \$18.75 (for such housing. The Housing Director may adjust the cash contribution alternative, no more frequently than annually, approximately in proportion to the change in the Consumer Price Index, All Urban Consumers,

Seattle-Tacoma metropolitan area, All Items (1982 - 84 = 100), as determined by the U.S.

Department of Labor, Bureau of Labor Statistics, or successor index, or any other cost index that such Director may deem appropriate. The base year for the first such adjustment shall be 2007.

Any such adjustment to the cash contribution amounts may be implemented through a rule-making process.

b. For purposes of this subsection, a housing unit serves households with incomes up to 80% of median King County household income only if all of the following are satisfied for a period of fifty (50) years beginning upon the issuance of a final certificate of occupancy for the housing unit by the Department of Planning and Development:

(1) For rental units:

- i. The housing unit is used as rental housing solely for households with incomes, at the time of each household's initial occupancy, not exceeding the income limit; and
- ii. The monthly rent charged for the housing unit, together with a reasonable allowance for any basic utilities that are not included in the rent, does not exceed one-twelfth (1/12) of thirty (30) percent of the income limit for the estimated average size of household corresponding to the size of unit, as determined by the Housing Director;
- iii. There are no charges for occupancy other than rent; and
- iv. The housing unit and the structure in which it is located are maintained in decent and habitable condition, including adequate basic appliances, for such fifty (50) year period.

(2) For homeownership units:

- i. The housing unit is used as homeownership housing solely for households with incomes at the time of each household's initial occupancy, not exceeding the income limit;
- ii. The sales price is restricted so that estimated monthly housing costs, according to a method prescribed or approved by the Housing Director, including mortgage payment, taxes, insurance, and condominium dues, do not exceed 40% of household monthly income at the income limit for the estimated average size of household corresponding to the size of unit as determined by the Housing Director; and
- iii. The housing unit is subject to recorded instruments satisfactory to the Housing Director providing for sales prices on any resale consistent with affordability on the same basis, for such fifty (50) year period.

c. If housing provided under the performance option is not yet constructed, or is not ready for occupancy, at the time when a cash contribution would be due pursuant to subsection C of this Section if the applicant had elected the cash option, the applicant may commit to complete such housing on terms acceptable to the Housing Director, which terms shall require that within three (3) years of the issuance of the first building permit for the project using the bonus floor area, the applicant shall obtain a final certificate of occupancy for such housing. Any applicant seeking to qualify for bonus floor area based on such 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 Housing Director, and a related voluntary agreement, so that at the end of the three (3) year period, 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 Housing Director 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 floor area 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 floor area is sought.

d. The Housing Director shall review the design and proposed management plan for any housing proposed under the performance option to determine whether it will comply with the terms of this section.

e. The Housing Director is authorized to accept a voluntary agreement for the provision of housing and related agreements and instruments consistent with this section.

f. 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 housing units shall continue to satisfy the requirements of this subsection throughout the required fifty (50) year period and that such compliance shall be documented annually to the satisfaction of the Housing Director, and the owner of any project using such bonus floor area shall be in violation of this title if any such housing unit does not satisfy such requirements, or if satisfactory documentation is not provided to the Housing Director, at any time during such period. The Housing Director may provide by rule for circumstances in which housing units maybe 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 housing units under the terms of this subsection.

g. Housing units provided to qualify for a bonus should include a range of unit sizes, including units suitable for families with children. The Housing Director is authorized to prescribe by rule minimum requirements for the range of unit sizes, by numbers of bedrooms, in housing provided to qualify for a bonus. The Housing Director shall take into account, in any such rule, estimated distributions of household sizes among households with incomes up to 80% of median King County household income.

h. Housing units provided to qualify for a bonus shall be located within the South Lake Union Urban Center, except that if the Director, after consultation with the Housing Director, finds that it would be impracticable to provide the housing in the South Lake Union Urban Center within the time specified in this Section, the Director may allow the housing to be provided at one or more other locations within the City from which workers can easily commute by public transit to and from the lot using the bonus floor area.

i. Housing units provided to qualify for a bonus shall be newly constructed, converted from nonresidential use, or renovated in a residential building that was vacant as of December 1, 2007.

j. For purposes of this section, "median King County household income"

for any household size means the estimated median income among households of that size in King County as most recently published or reported by a source considered reliable by the Housing Director. If such data are not published or reported for a household size, the Housing Director may estimate the median King County household income for that household size by adjusting available data in such manner as the Housing Director shall determine. For purposes of maximum rents or sale prices, if the estimated average household size corresponding to a unit size includes a fraction, the Housing Director shall estimate the median King County household income for that household size by interpolation using the next higher and lower integral household sizes.

2. Child Care.

a. For each square foot of bonus floor area allowed under this section, in addition to providing housing or an alternative cash contribution pursuant to subsection B1, the applicant shall provide fully improved child care facility space sufficient for 0.000127 of a child care slot, or a cash contribution to the City of Three Dollars and Twenty-five Cents (\$3.25), to be administered by the Human Services Department. The Director of the Human Services Department may adjust the alternative cash contribution, no more frequently than annually, approximately in proportion to the change in the Consumer Price Index, All Urban Consumers, Seattle-Tacoma metropolitan area, All Items (1982-84=100), as determined by the U.S. Department of Labor, Bureau of Labor Statistics, or successor index, or any other cost index that such Director may deem appropriate. The base year for the first such adjustment is 2007. The minimum interior space in the child care facility for each child care slot shall comply with all applicable state and local regulations governing the operation of licensed childcare providers. Child care facility space shall be deemed provided only if the applicant causes the space to be newly constructed or newly placed in child care use after the submission of a permit application for the project intended to use the bonus floor area, except as provided in subsection B2b(6). If any contribution or subsidy in any form is made by any public entity to the acquisition, development, financing or improvement of any child care facility, then any portion of the space in such facility determined by the Director of the Human Services Department to be attributable to such contribution or subsidy shall not be considered as provided by any applicant other than that public entity.

b. Child care space shall be provided on the same lot as the project using the bonus floor area or on another lot in the South Lake Union Urban Center and shall be contained in a child care facility satisfying the following standards:

(1) The child care facility and accessory exterior space must be approved for licensing by the State of Washington Department of Social and Health Services and any other applicable state or local governmental agencies responsible for the regulation of licensed childcare providers.

(2) At least twenty (20) percent of the number of child care slots for which space is provided as a condition of bonus floor area must be reserved for, and affordable to, families with annual incomes at or below the U.S. Department of Housing and Urban Development Low Income Standard for Section 8 Housing based on family size (or, if such standard shall no longer be published, a standard established by the Human Services Director based generally on eighty (80) percent of the median family income of the Metropolitan Statistical Area, or division thereof, that includes Seattle, adjusted for family size). Child care slots shall be deemed to meet these conditions if they serve, and are limited to, (a) children receiving child care subsidy from the City of Seattle, King County or State Department of Social and Health Services, and/or (b) children whose families have annual incomes no higher than the above standard who are charged according to a sliding fee scale such that the fees paid by any family do not exceed the amount it would be charged, exclusive of subsidy, if the family were enrolled in the City of Seattle Child Care Subsidy Program.

(3) Child care space provided to satisfy bonus conditions shall be dedicated to child care use, consistent with the terms of this section, for twenty (20) years. The dedication shall be established by a recorded covenant, running with the land, and enforceable by the City, signed by the owner of the lot where the child care facility is located and by the owner of the lot where the bonus floor area is used, if different from the lot of the child care facility. The child care facility shall be maintained in operation, with adequate staffing, at least eleven (11) hours per day, five (5) days per week, fifty (50) weeks per year.

(4) Exterior space for which a bonus is or has been allowed under any other section of this title or under former Title 24 shall not be eligible to satisfy the conditions of this section.

(5) Unless the applicant is the owner of the child care space and is a duly licensed and experienced child care provider approved by the Director of the Human Services Department, the applicant shall provide to the Director a signed agreement, acceptable to such Director, with a duly licensed child care provider, under which the child care provider agrees to operate the child care facility consistent with the terms of this section and of the recorded covenant, and to provide reports and documentation to the City to demonstrate such compliance.

(6) One (1) child care facility may fulfill the conditions for a bonus for more than one (1) project if it includes sufficient space, and provides sufficient slots affordable to limited income families, to satisfy the conditions for each such project without any space or child care slot being counted toward the conditions for more than one (1) project. If the child care facility is located on the same lot as one of the projects using the bonus, then the owner of that lot shall be responsible for maintaining compliance with all the requirements applicable to the child care facility; otherwise responsibility for such requirements shall be allocated by agreement in such manner as the Director of the Human Services Department may approve. If a child care facility developed to qualify for bonus floor area by one applicant includes space exceeding the amount necessary for the bonus floor area used by that applicant, then to the extent that the voluntary agreement accepted by the Director of the Human Services Department from that applicant so provides, such excess space may be deemed provided by the applicant for a later project pursuant to a new voluntary agreement signed by both such applicants and by any other owner of the child care facility, and a modification of the recorded covenant, each in form and substance acceptable to such Director.

c. The Director of the Human Services Department shall review the design and proposed management plan for any child care facility proposed to qualify for bonus floor area to determine whether it will comply with the terms of this section. The allowance of bonus floor area is conditioned upon approval of the design and proposed management plan by the Director. The child care facility shall be constructed consistent with the design approved by such Director and shall be operated for the minimum twenty (20) year term consistent with the management plan approved by such Director, in each case with only such modifications as shall

be approved by such Director. If the proposed management plan includes provisions for payment of rent or occupancy costs by the provider, the management plan must include a detailed operating budget, staffing ratios, and other information requested by the Director to assess whether the child care facility may be economically feasible and able to deliver quality services.

d. The Director of the Human Services Department is authorized to accept a voluntary agreement for the provision of a child care facility to satisfy bonus conditions and related agreements and instruments consistent with this section. The voluntary agreement may provide, in case a child care facility is not maintained in continuous operation consistent with this subsection B2 at any time within the minimum twenty (20) year period, for the City's right to receive payment of a prorated amount of the alternative cash contribution that then would be applicable to a new project seeking bonus floor area. Such Director may require security or evidence of adequate financial responsibility, or both, as a condition to acceptance of an agreement under this subsection.

C. Cash Option Payments.

1. Cash payments under voluntary agreements for bonuses shall be made prior to issuance of any building permit after the first building permit for a project, and in any event before any permit for any construction activity other than excavation and shoring is issued, or if the bonus is for use of existing floor area, the cash payment shall be made prior to issuance of any permit or modification allowing for use of such space as bonus floor area.

2. Such payments shall be deposited in special accounts established solely to fund capital expenditures for child care facilities and housing as set forth in this section, including the City's costs to administer projects, not to exceed 10% of the contributions.

3. Housing that is funded with cash contributions shall be located within the South Lake Union Urban Center, except that if the Housing Director finds that it would be impracticable to provide the housing in the South Lake Union Urban Center within the time specified for the performance option under this Section or any time limit under applicable law, then the housing may be located at one or more other locations within the City from which workers can easily commute by public transit to and from the lot using the bonus floor area.

4. The Housing Director may allow contributions of property in lieu of cash payments if the Director finds that the value of the property equals or exceeds cash payment that otherwise would be made, subject to acceptance of any real property by ordinance.

D. No Subsidies for Bonused Housing: Exception.

1. Intent. Housing provided through the bonus system is intended to mitigate a portion of the additional housing needs resulting from increased density, beyond those needs that would otherwise exist, which the City and other governmental and charitable entities attempt to meet through various subsidy programs. Allowing bonus floor area under the performance option for housing that uses such subsidy programs therefore could undermine the intent of this section.

2. Agreement Concerning Subsidies. The Housing Director may require, as a condition of any bonus floor area for housing under the performance option, that the owner of the lot upon which the housing is located agree not to seek or accept any subsidies, including without limitation those items referred to in subsection D3 of this section, related to the housing, except for any subsidies that may be allowed by the Housing Director under that subsection. The Director may require that such agreement provide for the payment to the City of the value of any subsidies received in excess of any amounts allowed by such agreement.

3. No Bonus for Subsidized or Restricted Housing. In general, no bonus may be earned by providing housing if:

a. Any person is receiving or will receive with respect to the housing any charitable contributions or public subsidies for housing development or operation, including, but not limited to, tax exempt bond financing, tax credits, federal loans or grants, City of Seattle housing loans or grants, county housing funds, State of Washington housing funds, or property tax exemptions except as allowed pursuant to RCW Chapter 84.14, or other special tax treatment; or

b. Independent of the requirements for the bonus, the housing is or would be subject to any restrictions on the use, occupancy or rents; or

c. The housing was required to be built by the City of Seattle as a requirement of the purchase and sale of property or for any other purpose.

4. Exceptions by Rule. The Housing Director may provide, by rule promulgated after December 31, 2007, for terms and conditions on which exceptions to the restriction on subsidies in this subsection may be allowed. Such rule may provide that, as a condition to any exception, the Housing Director shall increase the amount of housing floor area per bonus square foot, as set forth in subsection B1 of this section, to an amount that allows credit for only the Director's estimate of the incremental effect, in meeting the City's housing needs for the next fifty (50) years, of the net financial contribution that is being made by the applicant pursuant to the voluntary agreement and not funded or reimbursed, directly or indirectly, from any other source.

Section 11. A new Section 23.50.053 of the Seattle Municipal Code is adopted to read as follows:

23.50.053 Transfer of development rights within the South Lake Union Urban Center.

A. General Standards.

1. In order to achieve a portion of the floor area above five (5) FAR that may be allowed pursuant to Section 23.50.051, an applicant may use transferable development rights to the extent permitted in Chart 23.50.053A, subject to the limits and conditions in this Chapter:

Chart 23.50.053 A

| Zones | Types of TDR | | | |
|--|------------------|--------------|-------------------|-------------|
| | Within-block TDR | Landmark TDR | Arts Facility TDR | Housing TDR |
| IC | S, R | S, R | S, R | S, R |
| SM with a mapped height limit lower than 85' | X | X | X | X |
| SM/R | S | S | S | S |
| SM/85 | S | S | S | S |
| SM/125 | S | S | S | S |

S = Eligible sending lot, if in the South Lake Union Urban Center.
R = Eligible receiving lot, if in the area eligible for added floor area under Section 23.50.051.
X = Not permitted.

2. TDR may be transferred as within-block TDR only from a lot to another lot on the same block that is eligible for added floor area under Section 23.50.051, to the extent permitted in Chart 23.50.053A, subject to limits and conditions in this chapter.

3. The eligibility of a lot in the South Lake Union Urban Center to be either a sending or receiving lot is regulated by Chart 23.50.053A.

4. TDR eligible to be transferred from a major performing arts facility under

Section 23.49.014 G, may be transferred from a Downtown zone to a lot eligible as a receiving site for arts facility TDR under Chart 23.50.053A. No other TDR from a Downtown zone may be used under this section.

5. Except as expressly permitted pursuant to this chapter, development rights or potential floor area may not be transferred from one lot to another.

6. No permit after the first building permit, and in any event, no permit for any construction activity other than excavation and shoring or for occupancy of existing floor area by any use based upon TDR, will be issued for development that includes TDR until the applicant's possession of TDR is demonstrated to the satisfaction of the Director.

7. For purposes of this Section, the base FAR of any lot is the total maximum FAR allowable for chargeable floor area pursuant to the provisions of this Chapter, excluding Section 23.50.051, or pursuant to Chapter 23.48, as applicable to the sending lot, in each case not including any additional FAR that may be permitted pursuant to any exception, departure or waiver.

8. The Director may promulgate rules to implement this section.

B. Standards for Sending Lots.

1. a. The maximum amount of floor area that may be transferred from a sending lot in the South Lake Union Urban Center is the amount by which the product of the eligible lot area times the base FAR of the sending lot exceeds the sum of any chargeable floor area on the lot plus any TDR previously transferred from the sending lot.

b. For purposes of this subsection B1, the eligible lot area is the total area of the sending lot, reduced by the excess, if any, of the total of accessory surface parking over one-quarter (1/4) of the total area of the footprints of all structures on the sending lot.

2. When TDR are transferred from a sending lot in a zone with a FAR limit that applies to nonresidential uses, the amount of chargeable floor area that may then be built on the sending lot shall be equal to the area of the lot multiplied by the base FAR, minus the total of:

a. The chargeable floor area on the lot; plus

b. The amount of chargeable floor area transferred from the lot.

3. Chargeable floor area allowed above the base FAR under any provisions of this title, or allowed under any exceptions or waivers of development standards, may not be transferred. TDR may be transferred from a lot that contains chargeable floor area exceeding the base FAR only to the extent, if any, that:

a. TDR were previously transferred to such lot in compliance with the Land Use Code provisions and applicable rules then in effect;

b. Those TDR, together with the base FAR set forth in Section 23.48.016 B or in Section 23.50.028, exceed the chargeable floor area on the lot and any additional chargeable floor area for which any permit has been issued or for which any permit application is pending; and

c. The excess amount of TDR previously transferred to such lot would have been eligible for transfer from the original sending lot under the provisions of this section at the time of their original transfer from that lot.

6. Landmark structures on sending lots from which Landmark TDR are transferred shall be restored and maintained as required by the Landmarks Preservation Board.

7. Housing on lots from which housing TDR are transferred shall be rehabilitated to the extent required to provide decent, sanitary and habitable conditions, in compliance with applicable codes, and so as to have an estimated minimum useful life of at least fifty (50) years from the time of the TDR transfer, as approved by the Director of Housing. If housing TDR are proposed to be transferred prior to the completion of work necessary to satisfy this subsection B7, the Director of the Office of Housing may require, as a condition to such transfer, that security be deposited with the City to ensure the completion of such work.

8. The housing units on a lot from which housing TDR are transferred, and that are committed to low-income housing as a condition to eligibility of the lot as a TDR sending site, shall be generally comparable in their average size and quality of construction to other housing units in the same structure, in the judgment of the Housing Director, after completion of any rehabilitation or construction undertaken in order to qualify as a TDR sending lot.

9. Structures on an arts facility TDR site shall be built or rehabilitated to the extent required to be in compliance with applicable codes, and so as to have an estimated minimum useful life of at least fifty (50) years from the time of the TDR transfer.

C. Limit on within-block TDR. Any receiving lot may use TDR from sending lots that are eligible to send TDR solely because they are on the same block as the receiving lot for a maximum of fifteen (15) percent of all floor area gained through bonus and TDR on the receiving lot.

D. Transfer of Development Rights Deeds and Agreements.

1. The fee owners of the sending lot shall execute a deed, and shall obtain the release of the TDR from all liens of record and the written consent of all holders of encumbrances on the sending lot other than easements and restrictions, unless such release or consent is waived by the Director for good cause. The deed shall be recorded in the King County real property records. When TDR are conveyed to the owner of a receiving lot described in the deed, then unless otherwise expressly stated in the deed or any subsequent instrument conveying such lot or the TDR, the TDR shall pass with the receiving lot whether or not a structure using such TDR shall have been permitted or built prior to any conveyance of the receiving lot. Any subsequent conveyance of TDR previously conveyed to a receiving lot shall require the written consent of all parties holding any interest in or lien on the receiving lot from which the conveyance is made. If the TDR are transferred other than directly from the sending lot to the receiving lot using the TDR, then after the initial transfer, all subsequent transfers also shall be by deed, duly executed, acknowledged and recorded, each referring by King County recording number to the prior deed.

2. Any person may purchase any TDR that are eligible for transfer by complying with the applicable provisions of this section, whether or not the purchaser is then an applicant for a permit to develop real property. Any purchaser of such TDR (including any successor or assignee) may use such TDR to obtain floor area above the applicable base on a receiving lot to the extent such use of TDR is permitted under the Land Use Code provisions in effect on the date of vesting, under applicable law, of such person's rights with respect to the issuance of permits for development of the project intended to use such TDR. The Director may require, as a condition of processing any permit application using TDR or for the release of any security posted in lieu of a deed for TDR to the receiving lot, that the owner of the receiving lot demonstrate that the TDR have been validly transferred of record to the receiving lot, and that such owner has recorded in the real estate records a notice of the filing of such permit

application, stating that such TDR are not available for retransfer.

3. For transfers of Landmark TDR, the owner of the sending lot shall execute and record an agreement in form and content acceptable to the Landmarks Preservation Board providing for the restoration and maintenance of the historically significant features of the structure or structures on the lot.

4. For transfers of arts facility TDR from an arts facility TDR site, the owner of the sending lot shall execute and record an agreement in form and content acceptable to the Director of the Office of Arts and Cultural Affairs providing for the construction, improvement and/or maintenance of structure(s) on the lot and the use of the arts facility sending site for at least fifty (50) years by one or more non-profit organizations dedicated to the creation, display, performance or screening of art by or for members of the general public. Such agreements shall commit to improvements, maintenance, limits on occupancy and other measures to maintain the long-term use of the structure(s) for artistic activities consistent with the definition of arts facility TDR site and acceptable to the Director of the Office of Arts and Cultural Affairs.

5. For transfers of housing TDR, the owner of the sending lot shall execute and record an agreement, with the written consent of all holders of encumbrances on the sending lot, unless such consent is waived by the Director of the Office of Housing for good cause, to provide for the maintenance of the required housing on the sending lot for a minimum of fifty (50) years. Such agreement shall commit to limits on rent and occupancy consistent with the definition of housing TDR site and acceptable to the Director of the Office of Housing.

6. A deed conveying TDR may require or permit the return of the TDR to the sending lot under specified conditions, but notwithstanding any such provisions:

a. The transfer of TDR to a receiving lot shall remain effective so long as any portion of any structure for which a permit was issued based upon such transfer remains on the receiving lot; and

b. The City shall not be required to recognize any return of TDR unless it is demonstrated that all parties in the chain of title have executed, acknowledged and recorded instruments conveying any interest in the TDR back to the sending lot and any lien holders have released any liens thereon.

7. Any agreement governing the use or development of the sending lot shall provide that its covenants or conditions shall run with the land and shall be specifically enforceable by The City of Seattle.

E. Time of Determination of TDR Eligible for Transfer. The eligibility of a sending lot to transfer TDR, and the amount transferable from a sending lot, shall be determined as of the date of transfer from the sending lot and shall not be affected by the date of any application, permit decision or other action for any project seeking to use such TDR.

F. Use of Previously Transferred TDR by New Projects. Any project using TDR according to applicable limits on TDR in Sections 23.50.051 and 23.50.053 may use TDR that were transferred from the sending lot consistent with the provisions of this title in effect at the time of such transfer.

Section 12. A new subsection F is added to Section 23.76.026 of the Seattle Municipal Code, which section was last amended by Ordinance 122311, as follows:

23.76.026 Vesting of Development Rights

F. Notwithstanding any other provision of this section or this chapter, an applicant may elect, at such time and in such manner as the Director may permit, that specific Land Use Code provisions as in effect as of a later date apply to an application, pursuant to authorization for such election set forth elsewhere in this Title.

Section 13. The following subsection of Section 23.84A.006 of the Seattle Municipal Code, which section was last amended by Ordinance 122411, is amended as follows:

23.84A.006 Definitions -- "C."

"Chargeable floor area" means gross floor area of all structures on a lot (in a downtown zone), except portions of structures or uses that are expressly exempt from floor area limits under the provisions of this title, and after reduction by any applicable adjustment for mechanical equipment. Chargeable floor area is computed using the exemptions and adjustments in effect at the time the computation is made. Chargeable floor area includes any floor area, not otherwise exempt, that is in a structure in a (downtown) zone where floor area limits do not apply or that is permitted to be occupied by reason of the Landmark status of the structure in which it is located.

Section 14. The following subsections of Section 23.84A.038 of the Seattle Municipal Code, which section was last amended by Ordinance 122330, are amended and additional subsections are added to such section, to be codified in alphabetical order, as follows:

23.84A.038 Definitions -- "T."

"TDR, arts facility" means either TDR from a major performing arts facility that are transferable pursuant to Section 23.49.014 G; or TDR that are eligible for transfer based on any other basis, are designated by the applicant seeking to use such TDR on a receiving lot as arts facility TDR.

"TDR site, arts facility" means a lot meeting the following requirements:

1. The lot is located in the South Lake Union Urban Center either in an IC zone or in a zone with a height limit of eighty-five (85) feet or more;
2. Each structure to be developed on the lot is a major performing arts facility; or has or will have a minimum of one (1) FAR or all of its chargeable floor area if there is less than one (1) FAR in the structure(s) committed for at least fifty (50) years to occupancy by one or more not-for-profit organizations dedicated to the creation, display, performance or screening of art by or for members of the general public;
3. The arts facility commitments on the lot comply with 23.50.053 for structures in the South Lake Union Urban Center and are memorialized in a recorded agreement between the owner of such an arts facility and the Director of the Mayor's Office of Arts and Cultural Affairs.

"TDR site, housing" means a lot meeting the following requirements:

1. The lot is located in any Downtown zone except PMM, DH-1 and DH-2 zones, or is located in the South Lake Union Urban Center either in any IC zone or in any SM zone with a height limit of eighty-five (85) feet or higher;

2. Each structure on the lot has a minimum of fifty (50) percent of total gross above-grade floor area committed to low-income housing for a minimum of fifty (50) years;

3. The lot has above-grade gross floor area equivalent to at least one (1) FAR committed to very low-income housing use for a minimum of fifty (50) years;

4. The above-grade gross floor area on the lot committed to satisfy the conditions in subsections 2 and 3 of this definition is contained in one or more structures existing as of the date of passage of Ordinance 120443 and such area was in residential use as of such date, as demonstrated to the satisfaction of the Director of the Office of Housing; and

5. The low-income housing and very low-income housing commitments on the lot comply with the standards in Section 23.49.012 B1b and are memorialized in a recorded agreement between the owner of such low-income and very low-income housing and the Director of the Office of Housing.

Section 15. Section 23.90.018 of the Seattle Municipal Code, which section was last amended by Ordinance 122407, is amended as follows:

23.90.018 Civil enforcement proceedings and penalties.

A. In addition to any other remedy authorized by law or equity, any person violating or failing to comply with any of the provisions of Title 23 shall be subject to a cumulative penalty of up to One Hundred Fifty Dollars (\$150.00) per day for each violation from the date the violation begins for the first ten (10) days of noncompliance; and up to Five Hundred Dollars (\$500) per day for each violation for each day beyond ten (10) days of noncompliance until compliance is achieved, except as provided in subsection B of this section. In cases where the Director has issued a notice of violation, the violation will be deemed to begin for purposes of determining the number of days of violation on the date compliance is required by the notice of violation.

B. Specific Violations.

1. Violations of Section 23.71.018 are subject to penalty in the amount specified in Section 23.71.018 H.

2. Violations of the requirements of Section 23.44.041 C are subject to a civil penalty of Five Thousand Dollars (\$5,000), which shall be in addition to any penalty imposed under subsection A of this section.

3. Violation of Section 23.49.011, (or) 23.49.015 or 23.50.051 with respect to failure to demonstrate compliance with commitments to earn LEED Silver ratings or satisfy alternative standards under (either) any such Section are subject to penalty in amounts determined under Section 23.49.020, and not to any other penalty.

C. Civil actions to enforce Title 23 shall be brought exclusively in Seattle Municipal Court except as otherwise required by law or court rule. The Director shall request in writing that the City Attorney take enforcement action. The City Attorney shall, with the assistance of the Director, take appropriate action to enforce Title 23. In any civil action filed pursuant to this chapter, the City has the burden of proving by a preponderance of the evidence that a violation exists or existed. The issuance of the notice of violation or of an order following a review by the Director is not itself evidence that a violation exists.

D. Except in cases of violations of Section 23.49.011, (or) 23.49.015 or 23.50.051 with respect to failure to demonstrate compliance with commitments to earn LEED Silver ratings or satisfy alternative standards, the violator may show as full or partial mitigation of liability:

1. That the violation giving rise to the action was caused by the willful act, or neglect, or abuse of another; or
2. That correction of the violation was commenced promptly, but that full compliance within the time specified was prevented by inability to obtain necessary materials or labor, inability to gain access to the subject structure, or other condition or circumstance beyond the control of the defendant.

Section 16. Subsection B of Section 23.90.020 of the Seattle Municipal Code, which section was last amended by Ordinance 122407, is amended as follows:

23.90.020 Alternative criminal penalty.

B. A criminal penalty, not to exceed Five Thousand Dollars (\$5,000) per occurrence, may be imposed:

1. For violations of Section 23.90.002 D;
2. For any other violation of this Code for which corrective action is not possible, other than violations with respect to commitments to earn LEED Silver ratings or satisfy alternative standards under SMC 23.49.011, (or) 23.49.015 or 23.50.051; and
3. For any (willful) willful, intentional, or bad faith failure or refusal to comply with the standards or requirements of this Code.

Section 17. The purpose of this Section is to clarify the combined effect of two bills passed the same day amending the same Section. If and when CB 116090 takes effect, Section 23.50.027A shall read as follows, any other provision of this ordinance notwithstanding:

23.50.027 Maximum size of nonindustrial use.

A. Applicability.

1. Except as otherwise provided in this section, the maximum size of use limits on gross floor area specified in Chart A of this section apply to uses on a lot. The maximum size of use limits apply to both principal and accessory uses on a lot. The limits apply separately to the categories of uses listed on Chart A. The total gross floor area occupied by uses limited under Chart A shall not exceed an area equal to two and one-half (2.5) times the area of the lot in an IG1, IG2 IB or IC zone, or three (3) times the lot area in IC zones with sixty-five (65) foot or eighty-five (85) foot height limits in the South Lake Union Urban Center.

2. The combined square footage of any one business establishment located on more than one lot is subject to the size limitations on non-industrial uses specified on Chart A.

3. The maximum size of use limits in Chart A do not apply to the area identified in Exhibit 23.50.027A. In that area no single non-office use listed in Chart A may exceed fifty thousand (50,000) square feet in size.

4. There is no limit under this Section on the size of uses in projects that qualify for additional floor area under section 23.50.051.

| Uses Subject to Size Limits | CHART A INDUSTRIAL ZONES | | | | |
|--------------------------------|--------------------------|----------------|-----------------|-----------------------------|----------------------------|
| | IG1 | IG2 | IB | IC Outside the Duwamish MIC | IC Within the Duwamish MIC |
| Animal Shelters and Kennels* | 10,000 sq. ft. | 10,000 sq. ft. | 75,000 sq. ft. | 75,000 sq. ft. | N.S.L. |
| Drinking establishments** | 3,000 sq. ft. | 3,000 sq. ft. | N.S.L. | N.S.L. | N.S.L. |
| Entertainment* | 10,000 sq. ft. | 10,000 sq. ft. | 75,000 sq. ft. | 75,000 sq. ft. | N.S.L. |
| Lodging Uses* | 10,000 sq. ft. | 10,000 sq. ft. | 75,000 sq. ft. | 75,000 sq. ft. | N.S.L. |
| Medical Services* | 10,000 sq. ft. | 10,000 sq. ft. | 75,000 sq. ft. | 75,000 sq. ft. | N.S.L. |
| Office | 10,000 sq. ft. | 25,000 sq. ft. | 100,000 sq. ft. | N.S.L. | N.S.L. |
| Restaurants | 5,000 sq. ft. | 5,000 sq. ft. | N.S.L. | N.S.L. | N.S.L. |
| Retail Sales, Major Durables | 10,000 sq. ft. | 25,000 sq. ft. | 75,000 sq. ft. | 75,000 sq. ft. | N.S.L. |
| Sales and Services, Automotive | 10,000 sq. ft. | 25,000 sq. ft. | 75,000 sq. ft. | 75,000 sq. ft. | N.S.L. |
| Sales and Services, General | 10,000 sq. ft. | 25,000 sq. ft. | 75,000 sq. ft. | 75,000 sq. ft. | N.S.L. |

N.S.L. = No Size Limit

* Where permitted under Chart A of Section 23.50.012.

** The size limit for brew pubs applies to that portion of the pub that is not used for brewing purposes.

Section 18. The purpose of this Section is to clarify the combined effect of two bills passed the same day amending the same Section. If and when CB 116090 takes effect, subsections A, B, E, F and G of Section 23.50.028, shall read as follows, any other provision of this ordinance notwithstanding:

23.50.028 Floor area ratio.

The floor area ratio (FAR), as provided below, determines the permitted chargeable floor area on a lot.

A. General Industrial 1 and General Industrial 2, Floor Area Ratio. The total maximum FAR shall be two and one-half (2.5).

B. Industrial Buffer, Floor Area Ratio. The maximum FAR for all uses on lots in the Industrial Buffer (IB) zone shall be two and one half (2.5).

E. All Industrial Zones, Exemptions from FAR Calculations. The following areas are exempt from FAR calculations:

1. All gross floor area below grade;
2. All gross floor area used for accessory parking, except as provided in subsection F;
3. All gross floor area located on the rooftop of a structure and used for any of the following: mechanical equipment, stair and elevator penthouses, and communication equipment and antennas;
4. All gross floor area used for covered rooftop recreational space of a building existing as of December 31, 1998, when complying with the provisions of Section 23.50.012 D; and

5. Within the South Lake Union Urban Center:

a. Gross floor area occupied by mechanical equipment, up to a maximum of fifteen (15) percent of the floor area on the lot. The allowance is calculated on the gross floor area of the structure after all other exempt space permitted under this subsection E is deducted.

b. The following uses located at street level:

- i. General sales and service uses;
- ii. Eating and drinking establishments;
- iii. Entertainment uses; and
- iv. Public libraries.

F. Within the South Lake Union Urban Center, gross floor area used for accessory parking within stories that are completely above finished grade is not exempt.

G. Anything in Section 23.76.026 notwithstanding, the applicant for a Master Use Permit for a project in the South Lake Union Urban Center to which the Land Use Code in effect prior to the effective date of the ordinance enacting this subsection G applies may, by written election, use the exemptions in subsection E5b of this section, provided that subsection F of this section also shall apply.

Section 19. 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 17th day of December, 2007, and signed by me in open session in authentication of its passage this 17th day of December, 2007.

NICK LICATA,
President of the City Council.
Approved by me this 21st day of December, 2007.
GREGORY J. NICKELS,
Mayor.
Filed by me this 21st day of December, 2007.
JUDITH E. PIPPIN,
City Clerk.
Publication ordered by JUDITH PIPPIN, City Clerk.
Date of publication in the Daily Journal of Commerce, January 2, 2008.

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