Ordinance No. 119837

Council Bill No. 113057

ORDINANCE _____

AN ORDINANCE relating to land use and zoning, amending Section 23.44.041, Section 23.47.012, Section 23.49.008, and Section 23.91.002 of the Seattle Municipal Code to increase housing opportunity in the Downtown Retail Core and the First Hill Urban Village, and to clarify provisions for accessory dwelling units and vehicles on lots in Single Family zones.

CF No. _____

Date Introduced: DEC 13 1999	
Date 1st Referred: DEC 13 1999	To: (committee) Business, Economic & Community Development Committee
Date Re - Referred:	To: (committee)
Date Re - Referred:	To: (committee)
Date of Final Passage: 1-18-00	Full Council Vote: 9-0
Date Presented to Mayor: 1-19-00	Date Approved: 1/24/2000
Date Returned to City Clerk: 1/25/2000	Date Published: [illegible] T.O. ___ F.T. ✓
Date Vetoed by Mayor:	Date Veto Published:
Date Passed Over Veto:	Veto Sustained:

The City of Seattl

Council Bill/Ordina

1/11/00 Rec

1-18-00 Pass

This file is complete and ready

Law Department

Law Dept. Review

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: DRAGO

Councilmember

Committee Action:

1/11/00 BECD Do approve 2-0 Drago

McIver

1-18-00 Passed 9-0

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

Law Department

Law Dept. Review	OMP Review	City Clerk Review	Electronic Copy Loaded	Indexed

ORDINANCE 119837

AN ORDINANCE relating to land use and zoning, amending Section 23.44.041, Section 23.47.012, Section 23.49.008, and Section 23.91.002 of the Seattle Municipal Code to increase housing opportunity in the Downtown Retail Core and the First Hill Urban Village, and to clarify provisions for accessory dwelling units and vehicles on lots in Single Family zones.

WHEREAS, the City's Comprehensive Plan, Goals L21, H24, and H25 support mixed uses, including housing, downtown and the adaptation of older buildings for residential uses, in particular the use of landmark structures for housing, and for encouraging housing diversity and quality; and

WHEREAS, the encouragement of adaptive reuse of historic structures increases the quality of life within the City of Seattle; and

WHEREAS, encouraging residential uses within the Downtown Retail Core zone further strengthens this part of the Downtown Urban Center; and

WHEREAS, increasing floor area ratio standards for housing affordable to moderate income households in the First Hill Urban Village will help to fulfill in-city housing goals and to preserve middle income housing opportunities in a rapidly changing neighborhood; and

WHEREAS, the First Hill Urban Village Neighborhood Plan identifies the need to preserve and create housing opportunities that retain the economic mix of First Hill residents; **NOW THEREFORE,**

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Subsection A of Section 23.44.041 of the Seattle Municipal Code, which Section was last amended by Ordinance 119617, is further amended as follows:

23.44.041 Accessory dwelling units.

Accessory dwelling units may be permitted subject to the standards in subsection A of this Section. The Master Use Permit process set forth in Chapter 23.76 shall be followed to authorize these uses.

A. The Director may authorize an accessory dwelling unit if the Director finds that the unit meets the following development and use standards:

1. A single family dwelling may have no more than one (1) accessory dwelling unit, and only one (1) accessory dwelling unit shall be allowed per lot.

2. One (1) of the dwelling units in the structure shall be occupied by one (1) or more owners of the property as the owner's(s') permanent and principal residence. The owner occupant must occupy the owner-occupied dwelling unit for more than six (6) months of each calendar year. The owner-occupant may not receive rent for the owner-occupied dwelling unit. If a complaint that an owner has violated these requirements is filed, the owner shall:

a. submit evidence to the Director showing good cause, such as job dislocation, sabbatical leave, education, or illness, for waiver of this requirement for up to three years absence from the Puget Sound region. Upon such showing the Director may waive the requirement;

b. re-occupy the structure; or

c. remove the accessory dwelling unit.

3. Any number of related persons may occupy each unit in a single family residence with an accessory dwelling unit provided that if unrelated persons occupy either unit, the total number of persons occupying both units together may not exceed eight (8).

4. Accessory dwelling units may not be located in any structure detached from the single family dwelling.

5. The floor area of the accessory dwelling unit may exceed one thousand (1,000) square feet only if the portion of the structure in which the accessory dwelling unit is located was in existence as of June 1, 1999 and if the entire accessory dwelling unit is located on one (1) level.

6. Only one (1) principal entrance to the structure may be located on each street-facing facade of the residence except:

a. where two (2) entrances on the front or street side existed on January 1, 1993; or((;))

b. where the Director determines that topography, screening or other design solution is effective in de-emphasizing the presence of a second entrance, so there do not appear to be two principal entrances.

7. A minimum of one (1) off-street parking space per accessory dwelling unit shall be provided, which space may be in tandem with parking provided for the principal dwelling unit.

a. The Director may waive the parking requirement for an accessory dwelling unit if topography or location of existing principal or accessory structures makes provision of a parking space physically or economically infeasible and, for properties located in residential parking zones (RPZs), a parking study is conducted and shows that the utilization rate for on-street parking within a four hundred (400) foot walking distance of the

subject property is less than seventy-five (75) percent. Parking may not be waived for accessory dwelling units within the University District or Alki Parking Overlay Areas as shown on Maps A and B, Section 23.54.015.((;))

b. The applicant need not apply for a variance in order to waive the parking requirement. The parking waiver process cannot be used to eliminate an existing required parking space in order to create an accessory dwelling unit, unless replaced elsewhere on the lot.

8. Ceiling height.

((~~a.~~)) If the portion of the single-family dwelling in which the accessory dwelling unit is located was in existence prior to October 17, 1979, the minimum ceiling height shall be six (6) feet eight (8) inches measured per Sections 310.6.1 and 3403 of the Seattle Building Code (SBC), or the minimum ceiling height shall be six (6) feet four (4) inches if a hard-wired smoke detector is located in the accessory dwelling unit. If the portion of the single-family dwelling in which the accessory dwelling unit is located was constructed on or subsequent to October 17, 1979, the minimum ceiling height shall be ((~~seven (7) feet six (6) inches measured per~~)) as determined according to Sections 310.6.1 and 3403 of the Seattle Building Code.

* * *

Section 2. Subsection B of Section 23.47.012 of the Seattle Municipal Code, which Section was last amended by Ordinance 119370, is further amended as follows:

23.47.012 Structure height and floor area ratio.

* * *

B. Floor Area Ratios.

1. Floor area ratios (FARs) are hereby established for structures in zones with eighty-five (85) foot, one hundred twenty-five (125) foot and one hundred sixty (160) foot maximum height limits according to Chart C. Structures sixty-five (65) feet in height or less in these zones shall not be subject to floor area ratio provisions. For the provisions of this section, a "mixed-use structure" is a building containing a residential use, excluding caretaker's quarters, and at least one (1) other type of use.

CHART C
PERMITTED FLOOR AREA RATIO (FAR)

Structures Higher than 65 Feet	**Height Limit Zones** 85'	125'	160'
Mixed-use structure total	6	6	7
Any single use within a mixed-use structure	4.5	5	5
Single-purpose structure	4.5	5	5

2. Within a mixed-use structure in the First Hill Urban Village, residential floor area constructed or substantially rehabilitated for occupancy by households whose annual incomes do not exceed 120% of median household income for Seattle, shall be allowed in addition to residential floor area in the maximum amount allowed for a single use provided in Chart C, on the terms set forth below in this subsection:

a. The mixed-use structure must satisfy the provisions of Section 23.47.008, Mixed Use Development, and, together with any other structures on the lot, may not exceed the maximum "mixed-use structure total" FAR provided in Chart C.

b. A dwelling unit shall be considered to be constructed or substantially rehabilitated for occupancy by an eligible household if the initial sale or rental of such unit after completion of construction or substantial rehabilitation is made to an eligible household and such household occupies the unit.

c. The additional residential floor area permitted in a mixed-use structure by this subsection 2 includes common areas serving only such dwelling units and an allocable portion of common areas serving such dwelling units and other portions of the structure, as determined by the Director.

* * *

Section 3. Subsections A and C of Section 23.49.008 of the Seattle Municipal Code, which Section was last amended by Ordinance 119728, are further amended as follows:

23.49.008 Structure height.

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

A. Maximum structure heights for downtown zones are forty-five feet (45'), fifty-five feet (55'), sixty-five feet (65'), seventy-five feet (75'), eighty-five feet (85'), one hundred feet (100'), one hundred twenty feet (120'), one hundred twenty-five feet (125'), one hundred fifty feet (150'), one hundred sixty feet (160'), two hundred forty feet (240'), three hundred feet (300'), and four hundred fifty feet (450'), as designated on the Official Land Use Map, Chapter 23.32, except that:

1. The Council shall determine the maximum permitted height when a major retail store or performing arts theater bonus is approved in the Downtown Retail Core zone((s)) pursuant to Section 23.49.096; provided, that such height shall not exceed one hundred fifty (150) feet.

2. Any property in the Pike Market Mixed zone that is subject to an urban renewal covenant may be built no higher than the height permitted by the covenant for the life of the covenant.

3. Any lot in the Denny Triangle Urban Village, as shown on Map 23.49.014 A, may gain up to an additional thirty percent (30%) in height if credit floor area is allowed pursuant to Section 23.49.041, City/County Transfer of Development Credits Program.

4. In the Downtown Retail Core zone, residential floor area created by infill of a lightwell on a City-designated Landmark structure shall be permitted above eighty-five (85) feet. For the purpose of this subsection a lightwell is defined as an inward modulation on a non-street facing facade that is enclosed on at least three sides by walls of the same structure, and infill is defined as an addition to that structure within the lightwell. The maximum height limit for any infill allowed under this subsection A4 shall be the highest level at which the lightwell is enclosed by the full length of walls of the structure on at least three sides.

* * *

C. Rooftop Features.

1. The following rooftop features are permitted with unlimited rooftop coverage and may not exceed the height limits as indicated:

a. Open railings, planters, clerestories, skylights, play equipment, parapets and firewalls up to four (4) feet above the maximum height limit;

b. Solar collectors up to seven (7) feet above the maximum height limit; and

c. The rooftop features listed below may extend up to fifty (50) feet above the roof of the structure on which they are located or fifty (50) feet above the maximum height limit, whichever is less, except as regulated by Chapter 23.64, Airport Height Overlay District:

(1) Major or minor communication utilities,

(2) Religious symbols and that portion of the roof which supports them, such as belfries and spires,

(3) Smokestacks, and

(4) Flagpoles.

They shall be located a minimum of ten (10) feet from all lot lines.

2. The following rooftop features are permitted as long as the combined coverage of all features does not exceed twenty (20) percent of the roof area, or twenty-five (25) percent if the total includes stair or elevator penthouses or screened mechanical equipment. Except in the PMM zone, additional combined coverage of all rooftop features,

not to exceed thirty-five (35) percent of the roof area, may be permitted through the design review process for development standard departures in Section 23.41.012.

a. The following rooftop features are permitted to extend up to fifteen (15) feet above the maximum height limit:

(1) Solar collectors;

(2) Stair penthouses;

(3) Play equipment and open-mesh fencing, as long as the fencing is at least fifteen (15) feet from the roof edge;

(4) Mechanical equipment; and

(5) Mechanical equipment, whether new or replacement, may be allowed up to fifteen (15) feet above the roof elevation of a structure existing prior to June 1, 1989.

b. Elevator penthouses are permitted to extend beyond the maximum height limit as follows:

(1) In the PMM zone, up to fifteen (15) feet above the maximum height limit for the zone;

(2) Except in the PMM zone, up to twenty (20) feet above the maximum height limit for a penthouse designed for an elevator cab up to eight (8) feet high; or

(3) Except in the PMM zone, up to twenty-two (22) feet above the maximum height limit for a penthouse designed for an elevator cab more than eight (8) feet high.

3. Screening of Rooftop Features.

a. Measures may be taken to screen rooftop features from public view through the design review process or, if located within the Pike Place Market Historical District, by the Market Historical Commission.

b. Except in the PMM zone, the amount of roof area enclosed by rooftop screening may exceed the maximum percentage of the combined coverage of all rooftop features as provided in subsection C2 above.

c. Except in the PMM zone, in no circumstances shall the height of rooftop screening exceed ten (10) percent of the maximum height of the zone in which the structure is located, or fifteen (15) feet, whichever is greater. In the PMM zone, the height of the screening shall not exceed the height of the rooftop feature being screened, or such greater height necessary for effective screening as determined by the Pike Place Market Historical Commission.

4. Administrative Conditional Use for Rooftop Features. The rooftop features listed in subsection C1c of this section may exceed a height of fifty (50) feet above the roof of the structure on which they are located if authorized by the Director through an administrative conditional use, Chapter 23.76. The request for additional height shall be evaluated on the basis of public benefits provided, the possible impacts of the additional height, consistency with the City's land use policies, and the following specific criteria:

a. The feature shall be compatible with and not adversely affect the downtown skyline.

b. The feature shall not have a substantial adverse effect upon the light, air, solar and visual access of properties within a three hundred (300) foot radius.

c. The feature, supporting structure and structure below shall be compatible in design elements such as bulk, profile, color and materials.

d. The feature shall not adversely affect the function of existing transmission or receiving equipment within a five (5) mile radius.

e. The increased size is necessary for the successful physical function of the feature, except for religious symbols.

5. Residential Penthouses Above Height Limit in DRC Zone.

a. A residential penthouse exceeding the maximum allowable height shall be permitted in the DRC zone only on a mixed-use, City-designated Landmark structure for which a Certificate of Approval by the Landmarks Preservation Board is required. A residential penthouse allowed under this section may cover a maximum of fifty (50) percent of the total roof surface. Except as the Director may allow under subsection 5b of this section:

(1) A residential penthouse allowed under this subsection shall be set back a minimum of fifteen (15) feet from the street property line.

(2) A residential penthouse may extend up to eight (8) feet above the roof, or twelve (12) feet above the roof when set back a minimum of thirty (30) feet from the street property line.

b. If the Director determines, after a sight line review based upon adequate information submitted by the applicant, that a penthouse will be invisible or minimally visible from public streets and parks within three hundred (300) feet from the structure, the Director may allow one or both of the following:

(1) an increase of the penthouse height limit under subsection 5a of this section by an amount up to the average height of the structure's street-facing parapet; or

(2) a reduction in the required setback for a residential penthouse.

c. The Director's decision to modify development standards pursuant to subsection 5b must be consistent with the Certificate of Approval from the Landmarks Preservation Board.

d. A residential penthouse allowed under this section shall not exceed the maximum permitted height that could be permitted in the DRC zone by the City Council as provided in Section 23.49.008 A1.

e. No rooftop features shall be permitted on a residential penthouse allowed under this subsection 5.

* * *

Section 4. Subsection A of Section 23.91.002 of the Seattle Municipal Code, which Section was added by Ordinance 119473, is amended as follows:

23.91.002 Scope.

A. Violations of the following provisions of the Seattle Municipal Code Title 23 shall be enforced under the citation or criminal provisions set forth in this Chapter 23.91:

1. Junk storage (as defined in SMC Section 23.84.020) in residential zones (Sections 23.44.006, 23.44.040, 23.45.004, and 23.45.140);

2. Construction or maintenance of structures in required yards or setbacks in residential zones (Sections 23.44.014, 23.44.040, 23.45.005, 23.45.014, 23.45.056, and 23.45.072);

3. Parking of vehicles ((~~in required yards~~)) in a single family zone (Section 23.44.016);

4. Keeping of animals (Sections 23.44.048 and 23.45.148); and

5. Home Occupations (Sections 23.44.050 and 23.45.152).

B. Any enforcement action or proceeding pursuant to this Chapter 23.91 shall not affect, limit or preclude any previous, pending or subsequent enforcement action or proceeding taken pursuant to Chapter 23.90.

Section 5. Severability. The several provisions of this ordinance are declared to be separate and severable and the invalidity of any clause, sentence, paragraph, subdivision, section, subsection, or portion of this ordinance, or the invalidity of the application thereof to any person or circumstances shall not affect the validity of the remainder of this ordinance or the validity of its application to other persons or circumstances.

Section 6. 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 18th day of January, 2000, and signed by me in open session in authentication of its passage this 18th day of January, 2000.

Margaret A. Pageler
President of the City Council

Approved by me this 24th day of January, 2000.

Paul Schell
Paul Schell, Mayor

Filed by me this 25 day of January, 2000.

Judith E. Pippin
City Clerk

(SEAL)

City of Seattle

Paul Schell, Mayor

Department of Design, Construction and Land Use
R. F. Krochalis, Director

December 2, 1999

Dear Citizen:

Encouraging the adaptive reuse of historic structures and the provision of additional housing types are actions that increase the quality of life within the City of Seattle. Towards that end, three Land Use Code amendments are proposed that will allow residential uses to be included in mixed-use structures, and are summarized below:

- allowing within the Downtown Retail Core zone, residential additions within the lightwells of City-designated Landmark structures;
- allowing within the Downtown Retail Core zone, residential penthouse development on mixed-use buildings provided that setback and height limit standards are met; and
- for Neighborhood Commercial zones in the First Hill Urban Village, permitting an increase in floor area ratio standards for a single use when affordable housing is provided in mixed-use buildings.

Two other amendments further clarify recently adopted Land Use Code provisions, as summarized below:

- clarifying the portion of the structure that must be in existence prior to June 1999 in order to establish an accessory dwelling unit that is larger than 1,000 square feet; and
- clarifying the applicable Land Use Code sections for citation enforcement actions in Single Family zones.

A second public hearing on these proposed amendments will be held on January 11, 2000 at 9:30 a.m. in the City Council Chamber, 11th Floor of the Seattle Municipal Building, 600 Fourth Avenue.

For more information concerning the public hearing, please contact Dan McGrady, Councilmember Jan Drago's office at (206) 684-8801. Questions concerning the proposed code amendments may be directed to Kevin Bergsrud, via e-mail at kevin.bergsrud@ci.seattle.wa.us (please enter in the subject line "Housing Related Code Amendments") or by calling (206) 615-1280.

Sincerely,

Rick Krochalis, Director
Department of Design, Construction and Land Use

Enclosure

City of Seattle
Paul Schell, Mayor

Department of Design, Construction and Land Use
R. F. Krochalis, Director

MEMORANDUM

TO: Sue Donaldson, City Council President, via Margaret Klockars, Law Department

FROM: Rick Krochalis, Director

DATE: December 2, 1999

SUBJECT: Proposed Housing Related Land Use Code Amendments

Transmittal

With this memorandum we are transmitting to the City Council for their consideration, proposed legislation that amends Land Use Code Sections related to housing in the Downtown Retail Core zone and Neighborhood Commercial zone.

Background

Encouraging the adaptive reuse of historic structures and the provision of additional housing types are actions that increase the quality of life within the City of Seattle. Towards that end, three Land Use Code amendments are proposed that will allow residential uses to be included in mixed-use structures, and are summarized below:

1. allowing within the Downtown Retail Core zone, residential additions within the lightwells of City-designated Landmark structures;
2. allowing within the Downtown Retail Core zone, residential penthouse development on mixed-use buildings provided that setback and height limit standards are met; and
3. for Neighborhood Commercial zones in the First Hill Urban Village, permitting an increase in floor area ratio standards for a single use when affordable housing is provided in mixed-use buildings.

Two other amendments further clarify recently adopted Land Use Code provisions, as summarized below:

4. clarifying the portion of the structure that must be in existence prior to June 1999 in order to establish an accessory dwelling unit that is larger than 1,000 square feet; and
5. clarifying the applicable Land Use Code sections for citation enforcement actions in Single Family zones.

SEPA Environmental Determination

DCLU has completed environmental review and issued a Determination of Non-Significance (no environmental impact statement required) on October 21, 1999. The appeal period ran through November 4, 1999; and no appeals were received.

Public Hearing Scheduled

A public hearing on this legislation has been scheduled before the City Council's Business, Economic and Community Development Committee at 9:30 a.m., Tuesday, January 11, 2000. An earlier public hearing was held on November 22, 1999 where several citizens testified in support of legislative sections, particularly items one and three as listed above. Since that hearing all sections have been further clarified and refined.

Non-Financial Legislation

The proposed legislation has limited financial implications for City revenues and expenditures.

If you have any questions about the proposed legislation, please contact Kevin Bergsrud of my staff by email at *kevin.bergsrud@ci.seattle.wa.us* or by phone at (206) 615-1280.

Attachments

kb
counciltrans3.doc
12/02/99

Director's Report
Housing Related Land Use Code Amendments

December 2, 1999

Summary

Encouraging the adaptive reuse of historic structures and the provision of additional housing types are actions that increase the quality of life within the City of Seattle. Towards that end, three Land Use Code amendments are proposed that will allow residential uses to be included in mixed-use structures, and are summarized below:

1. allowing within the Downtown Retail Core zone, residential additions within the lightwells of City-designated Landmark structures;
2. allowing within the Downtown Retail Core zone, residential penthouse development on mixed-use buildings provided that setback and height limit standards are met; and
3. for Neighborhood Commercial zones in the First Hill Urban Village, permitting an increase in floor area ratio standards for a single use when affordable housing is provided in mixed-use buildings.

Two other amendments further clarify recently adopted Land Use Code provisions, as summarized below:

4. clarifying the portion of the structure that must be in existence prior to June 1999 in order to establish an accessory dwelling unit that is larger than 1,000 square feet; and
5. clarifying the applicable Land Use Code sections for citation enforcement actions in Single Family zones.

Residential Uses in Landmark Structures in the Downtown Retail Core (DRC) Zone

The Downtown Retail Core (DRC) zone was established in the mid-1980s to allow and promote further regional retail development within downtown Seattle. The zone was intended to be the location of concentrated, regional retail shopping activities in the downtown core and is one of eleven zoning categories located within downtown Seattle. The boundaries of the DRC are generally defined as 2nd to 6th Avenues and Stewart Street/Olive Way to Union Street (see map on page 3). At street level, consumer retail, entertainment and service activities are required, while related support activities are permitted on upper levels. Building heights are limited to 85 feet, although heights of up to 150 feet may be permitted through a conditional use when a Public Benefit Feature is provided, such as a major department store or a performing arts theater. However, within the DRC zone, no major department stores or theater facilities have thus far resulted from conditional use Public Benefit Feature provisions. A review of retail industry and demographic trends, and the availability of developable parcel sizes within the DRC zone, suggest a lower probability of additional major Department stores within the zone (See Appendix A).

Several City-designated Landmark structures are located within and exceed the 85 foot base height limit of the DRC zone. Many of these structures have floorplates that do not meet the requirements of modern tenants. The principal element that characterizes such a floorplate is the existence of a lightwell, an inward modulation of a building facade that allows light and air to interior building spaces.

The City goal of creating a vital downtown is framed by the development of work, shopping and entertainment facilities. Several goals within *Seattle's Comprehensive Plan* generally support housing development. In Goal L21, the Downtown Commercial Core is seen as providing mixed uses, including housing, with an emphasis on employment. Policy H24 encourages the adaptation of older buildings for residential uses. Policy H25 supports the combination of housing and historic preservation efforts, in particular the use of Landmark structures for housing. *The Downtown Urban Center Neighborhood Plan* also provides policy guidance for the DRC zone. Neighborhood Policy P4 states that the Commercial Core should, "... provide housing affordable to households with a range of income levels." In Policy LU-13 it is stated that "uses other than retail shall be allowed to the extent that they augment but do not detract from this primary function.".

Lightwell Infill

A number of lightwells have been infilled on historic structures within the downtown area to provide better floor layouts for office and housing uses, and to provide seismic improvements. Lightwells are created by inward facade modulations that result in setbacks into the building envelope to provide additional light and air access (Figure 1). The design of lightwells generally occurred in the pre-Second World War period prior to the development of modern ventilation and lighting systems.

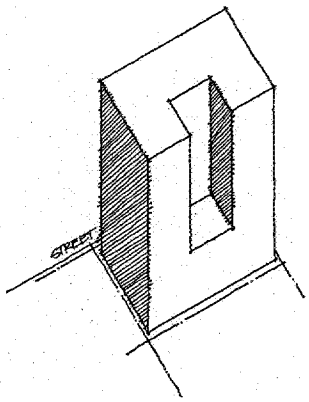
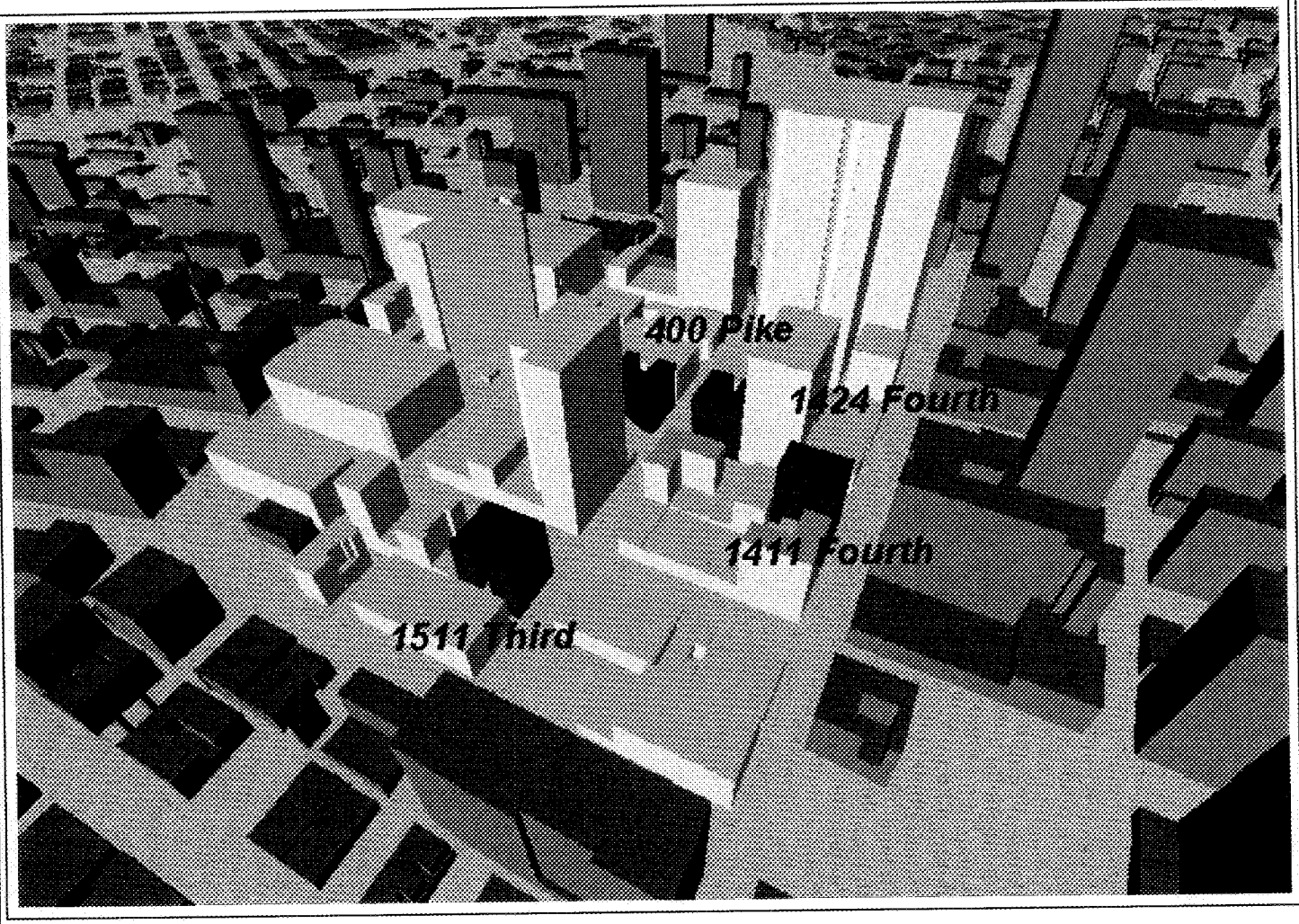


Figure 1: Lightwell

Examples of buildings with lightwells within the DRC zone include the Northern Bank and Trust/Seaboard Building (400 Pike Street), the Melbourne Tower (1511 Third Avenue), the Ligett/Fourth & Pike Building (1424 Fourth Avenue), and the 1411 Fourth Avenue Building (see Figure 1). On all these structures, the lightwell is located on a non-street facing facade. Three of these four structures, the Ligett/Fourth & Pike Building, the 1411 Fourth Avenue Building, and the Northern Bank and Trust/Seaboard Building are also City-designated Landmark structures. It should be noted that while lightwell infill may encourage the continued use of City-designated Landmark structures, it could potentially jeopardize federal certification for these structures to earn rehabilitation tax credits (on nationally designated historic structures), and it may also set a precedent for eliminating a historic characteristic from these same early 20th century structures.

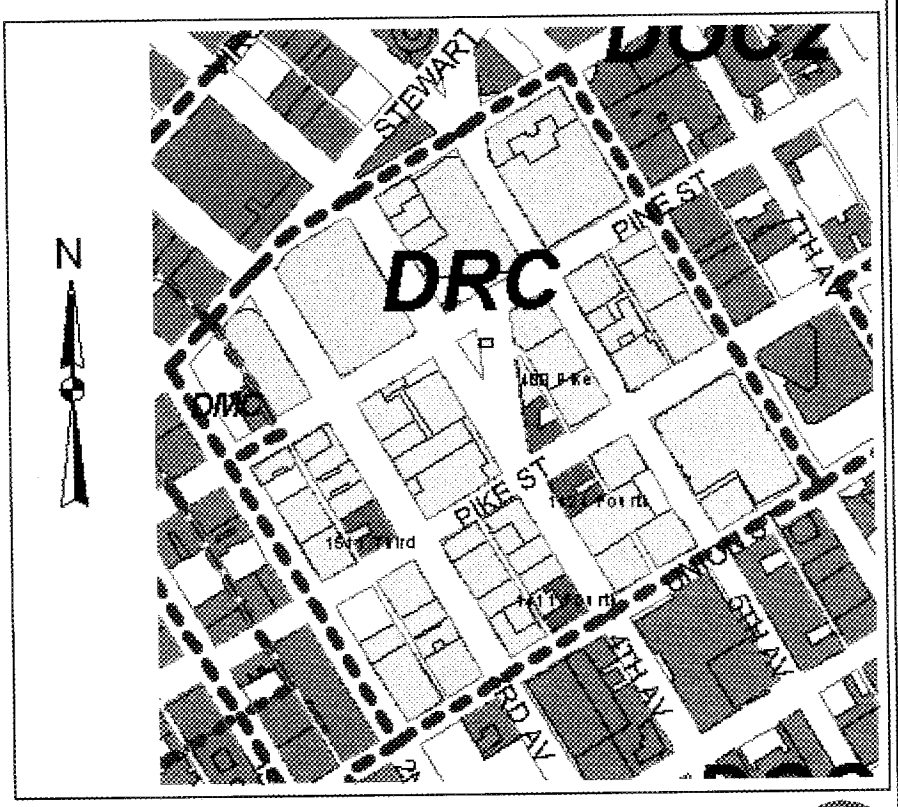


Legend

Downtown Buildings

- with Lightwells
- in DRC Zone
- Adjacent Buildings

Downtown Buildings with Lightwells in DRC Zone



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Outside the DRC zone, but for discussion purposes, lightwell infill was approved in 1997 and 1998 for building renovations of the L.C. Smith Building (Smith Tower 506 2nd Avenue), and the YMCA Central Branch Building (South Building 901 4th Avenue). These structures are also on the City-designated Landmarks list. For the Smith Tower, the lightwell infill converted a U-shaped corridor arrangement to a complete loop which better accommodates flexible office space requirements (Saar, 1999). Seismic improvements were also made. For the YMCA building, the five-story lightwell infill provided seismic improvements and 20,000 square feet of space.

Penthouse Development

The height of early 20th century office buildings in downtown reflect the constraints of historical real estate demand and structural systems. As a means to add value to historic buildings, many residential and office penthouses have been constructed within downtown Seattle. Where lightwell infill converts outdated floorplates, penthouse development on historic buildings can provide an extra incentive for adaptive building reuse. Penthouse development relative to the downtown core could also provide another housing form in the north central business district. Rooftop feature provisions in the Land Use Code currently define setbacks from the parapet edge, and permissible height above the roof. Based on field visits, no non-mechanical (stair, elevator, etc.) penthouses were identified within the DRC zone.

The main issues related to penthouse development are related to the preservation of background views to historic cornices and rooflines, and the preservation of view corridors. Many building rehabilitation projects in the 1990s have requested a change-of-use from office to residential and the addition of penthouse units. Similar to lightwell infill projects, these projects also included seismic upgrades. Examples of penthouse development on renovated structures near the downtown urban core include, 417 East Pine Street, Pike Lofts (303 East Pike Street), the Terry-Denny Building (109 First Avenue South), the Eastern Hotel, and 81 Vine Street Condominiums.

Recommendations

1. To encourage adaptive reuse, preservation and maintenance of City-designated Landmark structures, and additional housing in the downtown retail core, DCLU is proposing two code amendments. The first amendment is to SMC 23.49.008, Structure Heights, and would specifically allow additional floor area in City-designated Landmark structures at height limits greater than 85 feet, without meeting the Public Benefit Feature Rule provisions if residential use is provided by infill of a lightwell. A major department store or a performing arts theater would not be required. DCLU concludes that it is likely that this adaptive reuse will not compete for structures viable for department store development, as few existing structures or parcels can meet the minimum square footage requirements.

2. Allow residential penthouses on City-designated Landmark structures provided that a Certificate of Approval is granted by the Landmarks Preservation Board, and that specific setback and review conditions are met. This would permit some additional housing in the DRC zone without likely conflicting with demands for office or retail space.

Increasing Floor Area Ratio (FAR) Standards for Affordable Housing in Certain Neighborhood Commercial (NC) Zones

The provision of housing for a full range of income levels is an objective of the City of Seattle. Comprehensive Plan and neighborhood plan policies support the development of housing and particularly affordable housing within the city. The First Hill Urban Village, in particular is experiencing continued growth due to the expansion of major institutions and the area's proximity to the downtown urban core. The *First Hill Neighborhood Plan* calls for increases in housing and retail densities along specific corridors such as Madison Street. The neighborhood plan housing goal identifies "housing opportunities that retain the economic mix of First Hill residents" as an important goal. The plan also identifies Madison Street and Eighth Avenue as two priority areas for higher density housing. Planning is also underway for a light rail station at the eastern end of Madison Street corridor, which would likely further enhance pedestrian character in the corridor.

The development of housing in the First Hill Urban Village has experienced renewed vigor in recent years as demand for housing near the city's center and jobs has increased. As the primary highrise, high density residential neighborhood in Seattle, outside of downtown, First Hill has seen its share of residential development over the years. In particular, the neighborhood has been home to a number of subsidized, lower income properties developed in large part by local non-profit housing organizations. First Hill has also seen the development of a significant number of higher income properties and continues to attract large numbers of seniors who value the proximity to shopping, services and healthcare. As a result of this proximity to downtown and the medical services of First Hill, the neighborhood is at risk of losing the supply of non-subsidized middle income properties as new development is planned and executed. As the market swells and new dwellings are priced beyond the range of incomes of many of the service-oriented employees that fill the majority of neighborhood jobs, the neighborhood loses the diversity it so richly embraces. While subsidized housing has succeeded in the neighborhood and market rate housing increases in value, it is essential to allow for the continued success of affordable housing to families or individuals not able to keep pace with the market or to qualify for subsidy.

The Land Use Code influences the amount of housing that can be built in the First Hill Urban Village through limits on FAR, which is the relationship of the amount of floor area in a building to the size of the lot on which the building is located (for example, on a 10,000 square foot lot with a 2 FAR limit, 20,000 square feet of floor are could be built). The Land Use Code limits single use in a building to an FAR less than the total FAR allowed for the building including all uses. For example, in a mixed use building in an NC3/160 zone, the total FAR cannot exceed 7, while a single use in the building, such as residential, could not exceed 5 FAR (Figure 2). These limits apply in commercial zones with height limits higher than 65'along the main arterials of the neighborhood, Madison St. and Boren Street. They were intended to ensure mixed use development and limit the intrusion of office development into the neighborhood, spurred by rising land prices downtown, and proximity to major institutions.

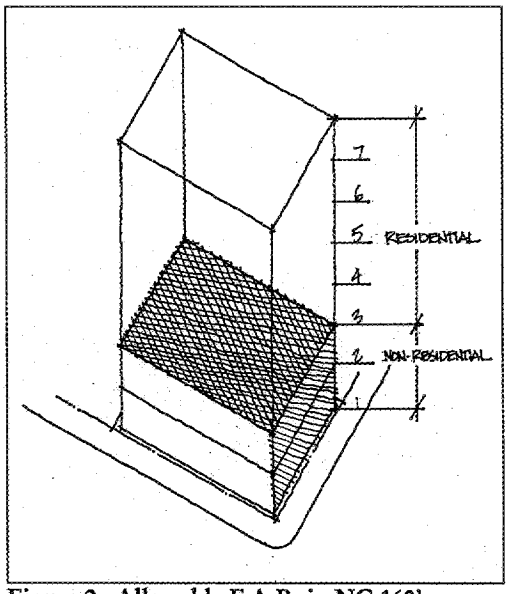

Figure 2: Allowable F.A.R. in NC 160' zone
- maximum F.A.R. = 7
- maximum single use F.A.R. = 5

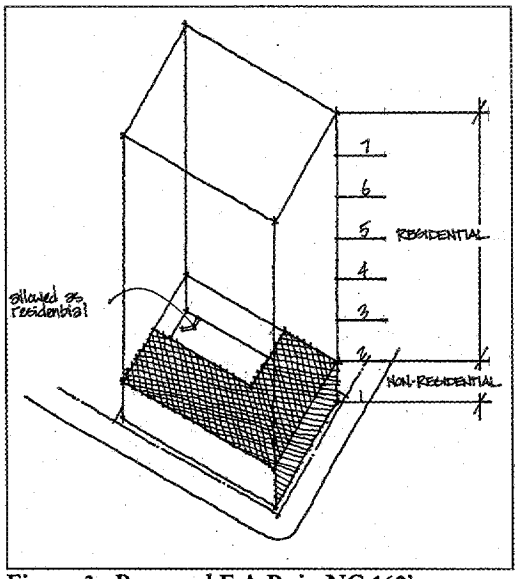

Figure 3: Proposed F.A.R. in NC 160' zone
- maximum F.A.R. = 7
- maximum residential F.A.R. = 7 minus the required street front non-residential space

Recommendation 3

DCLU recommends that the Land Use Code be amended to increase the allowable floor area ratio for a single use in a building, when the additional floor area is housing made available to moderate income households with incomes between 80% and 120% of median. This would help to sustain the diversity in income groups that compose the First Hill Urban Village. The proposed amendment would not alter maximum FAR for the site, and a portion of the building at street level must be non-residential, consistent with the City's policy to promote mixed-use development in commercial zones with higher height limits (Figure 3).

The proposed amendment allowing affordable housing to exceed the single use FAR limits in NC zones with height limits above 65' would further city goals related to housing in proximity to services, jobs, and transit. Additional affordable housing would support City housing goals, neighborhood plan policies and increased densities around a proposed light rail station in the First Hill Urban Village.

Portion of Accessory Dwelling Unit (ADU) In Existence Prior to June 1999

Recommendation 4. Clarify the language in Section 23.44.041 A.5., that the portion of the structure where an ADU is being proposed must have existed prior to June 1, 1999 in order to exceed the 1000 square foot limit. The goal was to allow some flexibility for pre-existing

structures that may have had a second floor with, for example 1100 square feet, to use the whole floor for the ADU, instead of having a "leftover" unusable space of 100 square feet.

Land Use Code Sections Covered Under Citation Actions

Recommendation 5. This amendment clarifies that all the requirements of Section 23.44.016, Parking location and access in Single Family zones, will be enforced according to the provisions of Section 23.91, Citation - Hearings - Penalties. Under the current code, only the parking of vehicles in required yards would be subject to the citation enforcement process. Under the proposal, all requirements of Section 23.44.016 would be included.

Appendix A: Major Department Store Development

No additional department stores have been developed in the downtown since adoption of the DRC zone with the 1985 Downtown Plan. Major department stores, are defined in the Land Use Code (LUC) Section 23.49.096, as uses which meet the following:

- provide a range of merchandise and services;
- occupy a structure which occupies a lot with a minimum size of 25,000 square feet; and
- occupy minimum floor area of a structure of 80,000 square feet.

Other requirements for a major department store define the amount of bonusable space, street-level pedestrian access points, hours of operation, and exterior design treatments. A review of existing department store conditions in five comparably sized cities (see Appendix A) indicates that the development of additional department stores may still be realistic, though difficult, due to demographic and economic conditions, as well as parcel size and availability in the retail core.

Parcel size and availability may present the greatest constraint for department store development within the DRC zone. For example, *The Bon Marché* and former *Frederick & Nelson* parcel footprints both contain more than 60,000 square feet. Even if parcel consolidation were feasible to meet the minimum lot size of 25,000 square feet, opportunities appear very limited due to the location of existing office towers and landmark buildings.

Department Stores per Comparable Downtown Area

City	Estimated Population 1998	Population Density per Square Mile	Department Stores within Downtown Core (Corporate Affiliation)
Cleveland, OH	495,817	6439.18	Dillard's (D)
Columbus, OH	670,234	3315.00	Jacobson's, Lazarus (F), Marshall Field's (DH), Marshalls (TJX)
Milwaukee, WI	578,364	6018.36	Marshall Field's (DH), Carson Pirie Scott & Company (S), The Boston Store
Minneapolis, MN	351,731	6705.90	Dayton's (DH), Marshall Field's (DH), Marshalls (TJX), Neiman Marcus, Sak's Fifth Avenue (S)
Portland, OR	503,891	4040.83	Meier & Frank (M), Mercantile Stores West (D), Nordstrom, Sak's Fifth Avenue (S)
Seattle, WA	*536,978*	*6400.21*	*The Bon Marché (F), Nordstrom, Ross*

Notes: Consolidated department store chains. D-Dillard's, DH-Dayton-Hudson, F-Federated Department Stores, M-May Department Stores Company, S-Saks Incorporated, TJX-TJX Stores, Inc.
Sources: Department store locations within downtown areas was generated from GTE Superpages.com. Population density generated from 1992 U.S. Census land area and population data (most recent). Corporate affiliation established from International Association of Department Stores website.

As reported 1997, in the magazine *Shopping Center World*, consolidations of department store chains will likely continue, while the development of specialty stores (e.g., *The Gap*, *Old Navy*, etc.) will also continue. This same article also reported that *Federated Department Stores*, *May Department Store Company*, *Dillard's*, and *Mercantile Department Stores* (since merged with *Dillard's*) controlled almost 80 percent of the American department store market. Contrasting the trend for consolidation, it was reported that at "Class A" suburban shopping malls the number of anchor stores (usually department stores) will likely increase from four to six, from the traditional two to three stores. The traditional role of anchor stores in attracting customers to malls was also questioned, and instead, mall location, quality, tenant mix and the availability of land or property were seen as more important.

If using the suburban mall standard of two to three department stores as a guide, few downtown areas comparable to Seattle were able to meet it. The internet business database, *Hoover's Online*, provides relative descriptions of department store industry categories such as luxury (*Neiman Marcus*, *Nordstrom*, *Saks*, etc.), upper-middle (*The Bon Marché*, *Dillard's*, *Lazarus*, *Marshall Field's* etc.) and off-price (*Marshalls*, *Ross Stores*). It appears that most downtown areas contain at least two of the three categories. Few examples were reported of new department stores in downtown areas. Those that were found, resembled the recent multi-element deal for moving the *Nordstrom* department store into the former *Frederick & Nelson* building. As reported in San Francisco, a former *Emporium* department store was to be renovated for a *Bloomingdale's* department store (327,000 square-feet). This mixed-use project also included a 464-room hotel, shopping arcade, movie theaters, and restaurants. Renovations and upgrades of existing downtown Seattle department stores are noted. *The Bon Marché* began refurbishing, in mid-1999, half of its 400,000 square-foot space. In mid-1999, the ten-year old *Westlake Center* announced a program of renovations and additions. *The Galleries of Neiman Marcus*, was reported to be one of the new tenants. Although the proposed 12,000 square-foot store is approximately 10 times smaller than other stores within the chain.

Appendix B: Performing Arts Theaters

No theaters have been developed in the downtown retail core area since adoption of the DRC zone with the 1985 Downtown Plan. Performing Arts Theaters, are defined in LUC 23.49.096, as uses which meet the following:

- specifically designed for live performances of dance, drama and music;
- occupy an area secured by a minimum 10-year lease; and
- have a minimum seating area of 200 seats and necessary support areas.

Director's Rule 20-93, Public Benefit Features, provides further definition that bonusable performing arts space must meet audience viewing requirements relative to floor slope, ceiling heights, and stage lighting and acoustics. In addition, lobbies, backstages and other accessory spaces must be provided. The effect of these requirements may make renovation of standard floorplates or office spaces difficult. No performing art theater facilities currently exist within the DRC zone.

As of August 1999, approximately 100 theater production companies existed within Seattle, and at least 10 performing arts theaters (see Appendix B) were located in downtown. While there was anecdotal evidence that a shortage of 100 to 200-seat live performance theatre facilities exist within downtown Seattle, this range also is less than the minimum seating requirement to meet the Public Benefit Features Rule. In addition, there were also questions of long term viability as facilities within this range would most likely be used by "fringe" or smaller theatre companies, which were also most likely to have smaller operating budgets. Even though such companies may be on the edge of commercial viability, these smaller theatre companies provide the "training ground" and talent pool for larger and better known companies.

Existing Live Performance Facilities in Downtown Seattle

Theater	Seating Capacity	Performance Types
Annex Theatre 1916 4th Avenue	n/a	Theatre
Belltown Theatre Center 115 Blanchard Street	n/a	Theatre
Benaroya Hall 200 University Street	Main Hall: 2,500 Recital Hall: 540	Live Music, Seattle Symphony, Popular Music
5th Avenue Theater 1308 5th Avenue	2,100	Musicals, Readings
Kreielsheimer Place (former Eagles Auditorium) 700 Union Street	Allen Arena Theatre:390 Falls Thrust Theatre: 390 Dorothy S. Bullitt Cabaret: n/a	Theatre, A Contemporary Theatre
Paramount Theater 911 Pine Street	3,000	Musicals, Live Music
The Market Theatre 1428 Post Alley	n/a	Live Theatre, Art Films
Moore Theater 1932 2nd Avenue	1,419	Live Music
Northwest Asian American Theater 409 7th Avenue South	135	Theatre
Nippon Kan Theater 628 South Washington Street	400	Theatre

Sources: Seattle.sidewalk.com, Redcard.com., Seattletimes.com

Appendix C: References

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Seattle City Council

PUBLIC HEARING SIGN-UP SHEET

Housing Code Amendments Package

INFORMATION ON THIS SIGN-UP SHEET IS ***PUBLIC RECORD***

#	(PLEASE PRINT) NAME	ORGANIZATION	(OPTIONAL) ADDRESS	ZIP	(OPTIONAL) PHONE/FAX
+	Matt Griffin	Pine Street Development	520 Pike Tower, #2200 Seattle	98112	206-340-9897
+	Randy Barnecker	Realtors & Apt Assic	2240 E Blaine Sea	98112	568-6336
+	DAVID YUAN	NBBJ	111 S Jackson ST Seattle	98104	206 223 5555
+	ROGER WILLIAMS	MITHUN PARTNERS			
+	LAWERENCE BROUSH	ST JAMES CATHERAL	(ADMIN)		
+	MARGARITE McGUIRE	FIRST HILL			

Housing Package

MITHUN
PARTNERS

ROGER WILLIAMS, FAIA, JIA
PRINCIPAL

ARCHITECTURE
PLANNING &
INTERIOR DESIGN

MITHUN PARTNERS, INC.
414 OLIVE WAY
SUITE 5
SEATTLE WA 9
(206) 623
FAX (206) 623
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page _____

Seattle City Council

PUBLIC HEARING SIGN-UP SHEET

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(1) A residential penthouse allowed under this subsection shall be set back a minimum of fifteen (15) feet from the street property line.

(2) A residential penthouse may extend up to eight (8) feet above the roof, or twelve (12) feet above the roof when set back a minimum of thirty (30) feet from the street property line. UPON A RECOMMENDATION BY THE LANDMARKS PRESERVATION BOARD AND

b. If the Director determines, after a sight line review based upon adequate information submitted by the applicant, that a penthouse will be invisible or minimally visible from public streets and parks within three hundred (300) feet from the structure, the Director may allow one or both of the following:

(1) an increase of the penthouse height limit under subsection 5a of this section by an amount up to the average height of the structure's street-facing parapet; or

(2) a reduction in the required setback for a residential penthouse.

c. A residential penthouse allowed under this section shall not exceed the maximum permitted height that could be permitted in the DRC zone by the City Council as provided in Section 23.49.008 A1.

d. No rooftop features shall be permitted on a residential penthouse allowed under this subsection 5.

* * *

Section 5. Subsection A of Section 23.91.002 of the Seattle Municipal Code, which Section was added by Ordinance 119473, is further amended as follows:

23.91.002 Scope.

A. Violations of the following provisions of the Seattle Municipal Code Title 23 shall be enforced under the citation or criminal provisions set forth in this Chapter 23.91:

1. Junk storage (as defined in SMC Section 23.84.020) in residential zones (Sections 23.44.006, 23.44.040, 23.45.004, and 23.45.140);

2. Construction or maintenance of structures in required yards or setbacks in residential zones (Sections 23.44.014, 23.44.040, 23.45.005, 23.45.014, 23.45.056, and 23.45.072);

3. Parking of vehicles ((~~in required yards~~)) in a single family zone (Section 23.44.016);

4. Keeping of animals (Sections 23.44.048 and 23.45.148); and

5. Home Occupations (Sections 23.44.050 and 23.45.152).

City of Seattle
Paul Schell, Mayor

Department of Design, Construction and Land Use
R. F. Krochalis, Director

November 19, 1999

Housing Related Land Use Code Amendments

Dear Citizen:

Encouraging the adaptive reuse of historic structures and the provision of additional housing types are actions that increase the quality of life within the City of Seattle. Towards that end, three Land Use Code amendments are proposed that will allow residential uses to be included in mixed-use structures, and are summarized below:

- allowing within the Downtown Retail Core zone, residential additions within the lightwells of City-designated Landmark structures;
- allowing within the Downtown Retail Core zone, residential penthouse development on mixed-use buildings provided that setback and height limit standards are met; and
- for Neighborhood Commercial zones in the First Hill Urban Village, permitting an increase in floor area ratio standards for a single use when affordable housing is provided in mixed-use buildings.

Two other amendments further clarify recently adopted Land Use Code provisions, as summarized below:

- defining the portion of accessory dwelling units that must be in existence prior to June 1999; and
- defining the applicable Land Use Code sections for parking enforcement actions in Single Family zones.

A public hearing on the provisions in this report will be held on November 22, 1999. The hearing will be held at 5:30 p.m. in the City Council Chamber, 11th Floor of the Municipal Building, 600 Fourth Avenue.

For more information concerning the public hearing, please contact Dan McGrady, Councilmember Jan Drago's office at (206) 684-8801. Questions concerning the proposed code amendments may be directed to Kevin Bergsrud, via e-mail at kevin.bergsrud@ci.seattle.wa.us (please enter in the subject line "Housing Related Code Amendments") or by calling (206) 615-1280.

Sincerely,

Rick Krochalis, Director
Department of Design, Construction and Land Use

City of Seattle

Paul Schell, Mayor

Department of Design, Construction and Land Use

R. F. Krochalis, Director

MEMORANDUM

TO: Sue Donaldson, City Council President
Via Margaret Klockars, Law Department

FROM: Rick Krochalis, Director DMS for RFK

DATE: November 19, 1999

SUBJECT: Proposed Housing Related Land Use Code Amendments

Transmittal

With this memorandum we are transmitting to the City Council for their consideration, proposed legislation that amends Land Use Code sections related to housing in the Downtown Retail Core zone and Neighborhood Commercial zone.

Background

The Department of Design, Construction and Land Use (DCLU) is recommending approval of three amendments to the Land Use Code to enhance housing opportunities in the Downtown Retail Core zone and in the First Hill Urban Village.

In the Downtown Retail Core (DRC) zone, an allowance would be made for residential infilling of lightwells on existing landmark structures that are already taller than the maximum height limit. No additional building height would result. Further amendments would allow the construction of a residential penthouse addition to existing landmark structures above the maximum height limit, provided that setback and height limit standards are met.

An amendment for Neighborhood Commercial zones, in the First Hill Urban Village, would permit an increase in the single use floor area ratio (FAR) for affordable housing provided that the housing occurs in a mixed-use building, and the maximum total FAR limit is not exceeded.

Two other proposals further clarify recently adopted Land Use Code provisions related to accessory dwelling units and parking enforcement actions in Single Family zones.

These proposals are based on requests for code amendments from the development community, owners of existing buildings, and from staff who have suggested ways to improve the Land Use Code.

SEPA Environmental Review Determination

DCLU has completed environmental review and issued a Determination of Non-Significance (no environmental impact statement required) on October 21, 1999. The appeal period ran through November 4, 1999; and no appeals were received.

Public Hearing Scheduled

A public hearing on this legislation has been scheduled before the City Council's Business, Economic and Community Development Committee at 5:30 pm, Monday, November 22, 1999.

Non-Financial Legislation

The proposed legislation is not financial in nature and would not substantially affect City revenues or expenditures.

If you have any questions about the proposed legislation, please contact Kevin Bergsrud by email at *kevin.bergsrud@ci.seattle.wa.us* or by phone at (206) 615-1280.

Attachments

kb
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11/19/99

Director's Report
Recommendations on
Housing Related Land Use Code Amendments

November 19, 1999

Summary

DCLU is proposing legislation that would amend the Land Use Code in order to achieve housing related goals. The legislation, and this report, address four topic areas as follows:

1. Residential Uses in Landmark Structures in the Downtown Retail Core (DRC) Zone;
2. Increasing Floor Area Ratio Standards for Affordable Housing in Certain Neighborhood Commercial (NC) Zones;
3. Portion of Accessory Dwelling Unit (ADU) In Existence Prior to June 1999; and
4. Land Use Code Sections Covered Under Citation Actions.

The two main elements of this housing related legislation propose to permit residential use to fill the lightwells of City-designated Landmarks even when the building exceeds the 85 foot height limit of the Downtown Retail Core (DRC) zone; and to increase the single use floor area ratio (FAR) standards for affordable housing in mixed-use buildings, located in Neighborhood Commercial (NC) zones within the First Hill Urban Village. The two other elements of this legislation make minor text revisions. Relative to Accessory Dwelling Units (ADU), the legislation clarifies what portion of a structure must be in existence prior to June 1, 1999 in order to establish an ADU larger than 1,000 square feet. Relative to parking in Single Family zones, the legislation clarifies which Land Use Code sections are included under the citation enforcement process.

Residential Uses in Landmark Structures in the Downtown Retail Core (DRC) Zone

Background

The Downtown Retail Core (DRC) zone was established in the mid-1980s to allow and promote further regional retail development within downtown Seattle. The zone was intended to be the location of concentrated, regional retail shopping activities in the downtown core and is one of eleven zoning categories located within downtown Seattle. The boundaries of the DRC are generally defined as 2nd to 6th Avenues and Stewart Street/Olive Way to Union Street (see Figure 1). At street level, consumer retail, entertainment and service activities are required, while related support activities are permitted on upper levels. Building heights are limited to 85 feet, although heights of up to 150 feet may be permitted through a conditional use when a Public Benefit Feature is provided, such as a major department store or a performing arts theater. However, within the DRC zone, no major department stores or theater facilities have thus far

resulted from conditional use Public Benefit Feature provisions. A review of retail industry and demographic trends, and the availability of developable parcel sizes within the DRC zone, suggest a lower probability of additional major retail facilities within the zone.

Several City-designated Landmark structures are located within and exceed the 85 foot base height limit of the DRC zone. Many of these structures have floorplates that do not meet the requirements of modern tenants. The principle element that characterizes such a floorplate is the existence of a lightwell, an inward modulation of a building facade that allows light and air to interior building spaces.

The City goal of creating a vital downtown is framed by the development of work, shopping and entertainment facilities. Several goals within Seattle's Comprehensive Plan generally support the conversion of other land uses to housing, with the exception of industrial use. In Goal L21, the Downtown Commercial Core is seen as providing mixed uses, including housing, with an emphasis on employment. Policy H24 encourages the adaptation of older buildings for residential uses. Policy H25 supports the combination of housing and historic preservation efforts, in particular the use of Landmark structures for housing.

Public Benefit Features Rule

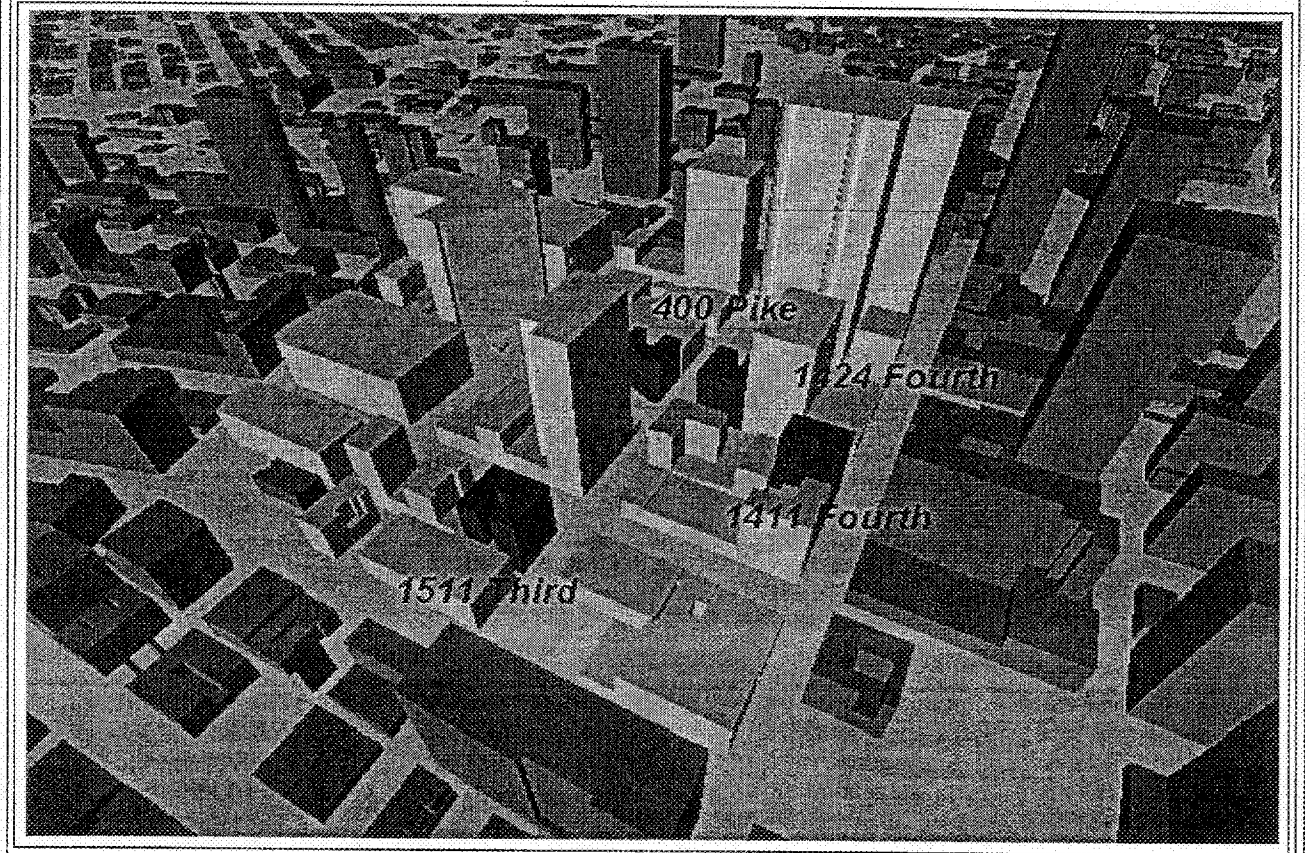
Major Department Store Development
No additional department stores have been developed in the downtown since adoption of the DRC zone with the 1985 Downtown Plan. Major department stores, are defined in LUC 23.49.096, as uses which meet the following:

- provide a range of merchandise and services;
- occupy a structure which occupies a lot with a minimum size of 25,000 square feet; and
- occupy minimum floor area of a structure of 80,000 square feet.

Other requirements for a major department store define the amount of bonusable space, street-level pedestrian access points, hours of operation, and exterior design treatments. A review of existing department store conditions in five comparably sized cities (see Appendix A). indicates that the development of additional department stores may still be realistic, though difficult, due to demographic and economic conditions, as well as parcel size and availability in the retail core.

Parcel size and availability may present the greatest constraint for department store development within the DRC zone. For example, *The Bon Marché* and former *Frederick & Nelson* parcel footprints both contain more than 60,000 square feet. Even if parcel consolidation was feasible to meet the minimum lot size of 25,000 square feet, only two locations appear available due to the location of existing office towers and landmark buildings. The first location consists of three parcels on the south side of Pine Street between 3rd and 4th Avenues, and the second location consists of three parcels on the south side of Pike Street between 2nd and 3rd Avenues.

Figure 1: Downtown Retail Core Zone Map



Legend

Downtown Buildings

- with Lightwells
- in DRC Zone
- Adjacent Buildings

Downtown Buildings with Lightwells in DRC Zone

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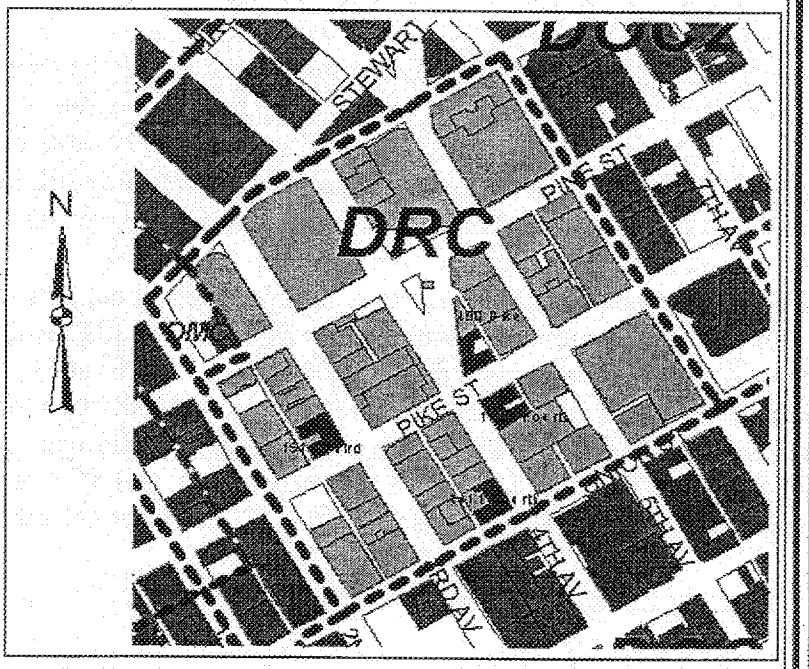

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- have a minimum seating area of 200 seats and necessary support areas.

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As of August 1999, approximately 100 theater production companies existed within Seattle, and at least 10 performing arts theaters (see Appendix B) were located in downtown. While there was anecdotal evidence that a shortage of 100 to 200-seat live performance theatre facilities exist within downtown Seattle, this range also is less than the minimum seating requirement to meet the Public Benefit Features Rule. In addition, there were also questions of long term viability as facilities within this range would most likely be used by "fringe" or smaller theatre companies, which were also most likely to have smaller operating budgets. Even though such companies may be on the edge of commercial viability, these smaller theatre companies provide the "training ground" and talent pool for larger and better known companies. From that point, the continuation of granting a height bonus in return for the provision of theater facilities is an indirect link to the city's cultural infrastructure.

Floorplate Adaptability Issues
A number of lightwells have been infilled on historic structures within the downtown area to provide better floor layouts for office and housing uses, and to provide seismic improvements. Taken together, these actions may encourage adaptive reuse of City-designated Landmark structures. Lightwells are created by inward facade modulations that create setbacks into the building envelope to provide additional light and air access. The design of lightwells generally occurred in the pre-Second World War period prior to the development of modern ventilation and lighting systems.

Examples of buildings with lightwells within the DRC zone include the Northern Bank and Trust/Seaboard Building (400 Pike Street), the Melbourne Tower (1511 Third Avenue), the Ligett/Fourth & Pike Building (1424 Fourth Avenue), and the 1411 Fourth Avenue Building (see Figure 1). On all these structures, the lightwell was located on a non-street facing facade. Three of these four structures, the Ligett/Fourth & Pike Building, the 1411 Fourth Avenue Building, and the Northern Bank and Trust/Seaboard Building are also City-designated Landmark structures. It should also be noted that while lightwell infill may encourage the continued use of City-designated Landmark structures, it could potentially jeopardize federal certification for these structures to earn rehabilitation tax credits (on nationally designated historic structures), and it

may also set a precedent for eliminating a historic characteristic from these same early 20th century structures.

Outside the DRC zone and for discussion purposes, lightwell infill was approved in 1997 and 1998 for building renovations of the L.C. Smith Building (Smith Tower 506 2nd Avenue), and the YMCA Central Branch Building (South Building 901 4th Avenue). These structures were also on the City-designated Landmarks list. For the Smith Tower, the lightwell infill converted a U-shaped corridor arrangement to a complete loop which better accommodated flexible office space requirements (Saar, 1999). Seismic improvements were also made. For the YMCA building, the five-story lightwell infill provided seismic improvements and 20,000 square feet of space. It should be noted that a non City-designated Landmark structure on the same block was demolished (Lihach, 1999).

Penthouse Development Issues

The height of early 20th century office buildings in downtown reflect the constraints of historical real estate demand and structural systems. As a means to add value to historic buildings, many residential and office penthouses have been constructed within downtown Seattle. Where lightwell infill converts outdated floorplates due to air and light requirements, penthouse development on historic buildings can provide an extra incentive for adaptive building reuse. Penthouse development relative to the downtown core could also provide another housing form in the north central business district. Rooftop feature provisions in the Land Use Code currently define setbacks from the parapet edge, and permissible height above the roof. Based on field visits, no non-mechanical (stair, elevator, etc.) penthouses were identified within the DRC zone.

The main issues related to penthouse development are related to the preservation of background views to historic cornices and rooflines, and the preservation of view corridors. Many building rehabilitation projects in the 1990s have requested a change-of-use from office to residential and the addition of penthouse units. Similar to lightwell infill projects, these projects also included seismic upgrades. Examples of penthouse development on renovated structures near the downtown urban core include, 417 East Pine Street, Pike Lofts (303 East Pike Street), the Terry-Denny Building (109 First Avenue South), the Eastern Hotel, and 81 Vine Street Condominiums.

Code Amendment Proposal

To encourage adaptive reuse, preservation and maintenance of City-designated Landmark structures, and additional housing in the downtown core, DCLU is proposing two code amendments. The first amendment is to SMC 23.49.008, Structure Heights, and would specifically allow additional floor area in City-designated Landmark structures at height limits greater than 85 feet, and without meeting the Public Benefit Feature Rule provisions if residential use is provided by infill of a lightwell. A major department store or a performing arts theater would not be required. DCLU concludes that it is likely that this adaptive reuse will not compete for structures viable for department store development, as few existing structures or parcels can meet the minimum square footage requirements. However, such a revision may cause more competition for potential 200-seat performing arts theaters, as the square footage requirements are more flexible and likely to be met by existing structures.

The second amendment would add a rooftop feature provision to SMC 23.49.008 that would allow residential penthouses on City-designated Landmark structures provided that a Certificate of Approval is granted by the Landmarks Preservation Board, and that specific setback and review conditions are met. This would permit some additional housing in the DRC zone without likely conflicting with demands for office or retail space. The Director recommends that Council approve the code amendments that allow the creation of residential uses within infilled lightwells, and the development of residential penthouses in the DRC zone.

Increasing Floor Area Ratio (FAR) Standards for Affordable Housing in Certain Neighborhood Commercial (NC) Zones

Background

The provision of housing for a full range of income levels is an objective of the City of Seattle. Comprehensive Plan and neighborhood plan policies support the development of housing and particularly affordable housing within the city. The First Hill Urban Village, in particular is experiencing continued growth due to the expansion of major institutions and the area's proximity to the downtown urban core. While no specific housing policies are stated in the *First Hill Neighborhood Plan, Approval and Adoption Matrix*, other policies do call for increases in housing and retail densities along specific corridors such as Madison Street. Planning is also underway for a light rail station at the eastern end of Madison Street corridor, which would most likely further enhance pedestrian character.

The Land Use Code, section 23.47.012 Structure height and floor area ratio, permits a single use FAR at amounts less than the total building FAR. According to DCLU staff, the difference between any single use and total FAR was originally established to ensure that mixed-use development occurred and that an FAR of at least 1.0 to 1.5 FAR would occur in non-residential use. These FAR limits were established prior to other FAR amendments and mixed-use requirements.

Code Amendment Proposal

To encourage the provision of affordable housing within a developing pedestrian corridor, DCLU concludes that the proposed code amendment of increasing floor area ratio standards for affordable housing provides an acceptable approach to achieving city goals related to housing. While additional affordable housing may be created by this amendment, it should be noted that the affordable housing along with other uses in a structure could not exceed the total permitted FAR. The proposed amendment includes a provision for requiring street-level commercial development, consistent with the City's policy to promote mixed-use development in commercial zones with higher height limits. Additional affordable housing would support neighborhood plan policies and increased densities around a proposed light rail station in the First Hill Urban Village.

Portion of Accessory Dwelling Unit (ADU) In Existence Prior to June 1999

This amendment clarifies the language in Section 23.44.041 A.5., that the portion of the structure where an ADU is being proposed must have existed prior to June 1, 1999 in order to exceed the 1000 square foot limit. The goal was to allow some flexibility for pre-existing structures that may have had a second floor with, for example 1100 square feet, to use the whole floor for the ADU, instead of having a "leftover" unusable space of 100 square feet.

Land Use Code Sections Covered Under Citation Actions

This amendment clarifies that all the requirements of Section 23.44.016, Parking location and access in Single Family zones, will be enforced according to the provisions of Section 23.91, Citation - Hearings - Penalties.

Appendices A-C

Appendix A: Department Store Comparisons

Department Stores per Comparable Downtown Area			
City	**Estimated Population 1998**	**Population Density per Square Mile**	**Department Stores within Downtown Core (Corporate Affiliation)**
Cleveland, OH	495,817	6439.18	Dillard's (D)
Columbus, OH	670,234	3315.00	Jacobson's, Lazarus (F), Marshall Field's (DH), Marshalls (TJX)
Milwaukee, WI	578,364	6018.36	Marshall Field's (DH), Carson Pirie Scott & Company (S), The Boston Store
Minneapolis, MN	351,731	6705.90	Dayton's (DH), Marshall Field's (DH), Marshalls (TJX), Neiman Marcus, Sak's Fifth Avenue (S)
Portland, OR	503,891	4040.83	Meier & Frank (M), Mercantile Stores West (D), Nordstrom, Sak's Fifth Avenue (S)
Seattle, WA	*536,978*	*6400.21*	*The Bon Marché (F), Nordstrom, Ross*

Notes: Consolidated department store chains. D-Dillard's, DH-Dayton-Hudson, F-Federated Department Stores, M-May Department Stores Company, S-Saks Incorporated, TJX-TJX Stores, Inc.
Sources: Department store locations within downtown areas was generated from GTE Superpages.com. Population density generated from 1992 U.S. Census land area and population data (most recent). Corporate affiliation established from International Association of Department Stores website.

As reported 1997, in the magazine *Shopping Center World*, consolidations of department store chains will likely continue, while the development of specialty stores (e.g., *The Gap*, *Old Navy*, etc.) will also continue. This same article also reported that *Federated Department Stores*, *May Department Store Company*, *Dillard's*, and *Mercantile Department Stores* (since merged with *Dillard's*) controlled almost 80 percent of the American department store market. Contrasting the trend for consolidation, it was reported that at "Class A" suburban shopping malls the number of anchor stores (usually department stores) will likely increase from four to six, from the traditional two to three stores. The traditional role of anchor stores in attracting customers to malls was also questioned, and instead, mall location, quality, tenant mix and the availability of land or property were seen as more important.

If using the suburban mall standard of two to three department stores as a guide, few downtown areas comparable to Seattle were able to meet it. The internet business database, *Hoover's Online*, provides relative descriptions of department store industry categories such as luxury (*Neiman Marcus*, *Nordstrom*, *Saks*, etc.), upper-middle (*The Bon Marché*, *Dillard's*, *Lazarus*,

Marshall Field's etc.) and off-price (*Marshalls*, *Ross Stores*). It appears that most downtown areas contain at least two of the three categories. Few examples were reported of new department stores in downtown areas. Those that were found, resembled the recent multi-element deal for moving the *Nordstrom* department store into the former *Frederick & Nelson* building. As reported in San Francisco, a former *Emporium* department store was to be renovated for a *Bloomingdale's* department store (327,000 square-feet). This mixed-use project also included a 464-room hotel, shopping arcade, movie theaters, and restaurants. Renovations and upgrades of existing downtown Seattle department stores are noted. *The Bon Marché* began refurbishing, in mid-1999, half of its 400,000 square-foot space. In mid-1999, the ten-year old *Westlake Center* announced a program of renovations and additions. *The Galleries of Neiman Marcus*, was reported to be one of the new tenants. Although the proposed 12,000 square-foot store is approximately 10 times smaller than other stores within the chain.

Appendix B: Performing Arts Theaters

Existing Live Performance Facilities in Downtown Seattle

Theater	Seating Capacity	Performance Types
Annex Theatre 1916 4th Avenue	n/a	Theatre
Belltown Theatre Center 115 Blanchard Street	n/a	Theatre
Benaroya Hall 200 University Street	Main Hall: 2,500 Recital Hall: 540	Live Music, Seattle Symphony, Popular Music
5th Avenue Theater 1308 5th Avenue	2,100	Musicals, Readings
Kreielsheimer Place (former Eagles Auditorium) 700 Union Street	Allen Arena Theatre:390 Falls Thrust Theatre: 390 Dorothy S. Bullitt Cabaret: n/a	Theatre, A Contemporary Theatre
Paramount Theater 911 Pine Street	3,000	Musicals, Live Music
The Market Theatre 1428 Post Alley	n/a	Live Theatre, Art Films
Moore Theater 1932 2nd Avenue	1,419	Live Music
Northwest Asian American Theater 409 7th Avenue South	135	Theatre
Nippon Kan Theater 628 South Washington Street	400	Theatre

Sources: Seattle.sidewalk.com, Redcard.com., Seattletimes.com

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ORDINANCE _____

AN ORDINANCE relating to land use and zoning, amending Section 23.44.041, Section 23.47.012, Section 23.49.008, and Section 23.91.002 of the Seattle Municipal Code to increase housing opportunity in the Downtown Retail Core and the First Hill Urban Village, and to clarify provisions for accessory dwelling units and vehicles on lots in Single Family zones.

WHEREAS, the City's Comprehensive Plan, originally adopted in 1994 and most recently amended in 1998, includes housing goals for accommodating growth and maintaining affordability, and for encouraging housing diversity and quality; and

WHEREAS, the encouragement of adaptive reuse of historic structures increases the quality of life within the City of Seattle; and

WHEREAS, permitting residential uses within the Downtown Retail Core zone further strengthens this part of the Downtown Urban Core; and

WHEREAS, increasing floor area ratio standards for affordable housing in the First Hill Urban Village will encourage the development of new housing in a rapidly changing neighborhood, **NOW THEREFORE,**

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Subsection A of Section 23.44.041 of the Seattle Municipal Code, which Section was last amended by Ordinance 119617, is further amended as follows:

23.44.041 Accessory dwelling units.

Accessory dwelling units may be permitted subject to the standards in subsection A of this Section. The Master Use Permit process set forth in Chapter 23.76 shall be followed to authorize these uses.

A. The Director may authorize an accessory dwelling unit if the Director finds that the unit meets the following development and use standards:

1. A single family dwelling may have no more than one (1) accessory dwelling unit, and only one (1) accessory dwelling unit shall be allowed per lot.

2. One (1) of the dwelling units in the structure shall be occupied by one (1) or more owners of the property as the owner's(s') permanent and principal residence. The owner occupant must occupy the owner-occupied dwelling unit for more than six (6) months of each calendar year. The owner-occupant may not receive rent for the owner-occupied

dwelling unit. If a complaint that an owner has violated these requirements is filed, the owner shall:

a. submit evidence to the Director showing good cause, such as job dislocation, sabbatical leave, education, or illness, for waiver of this requirement for up to three years absence from the Puget Sound region. Upon such showing the Director may waive the requirement;

b. re-occupy the structure; or

c. remove the accessory dwelling unit.

3. Any number of related persons may occupy each unit in a single family residence with an accessory dwelling unit provided that if unrelated persons occupy either unit, the total number of persons occupying both units together may not exceed eight (8).

4. Accessory dwelling units may not be located in any structure detached from the single family dwelling.

5. The floor area of the accessory dwelling unit may exceed one thousand (1,000) square feet only if the portion of the structure in which the accessory dwelling unit is located was in existence as of June 1, 1999 and if the entire accessory dwelling unit is located on one (1) level.

6. Only one (1) principal entrance to the structure may be located on each street-facing facade of the residence except:

a. where two (2) entrances on the front or street side existed on January 1, 1993; or((;))

b. where the Director determines that topography, screening or other design solution is effective in de-emphasizing the presence of a second entrance, so there do not appear to be two principal entrances.

7. A minimum of one (1) off-street parking space per accessory dwelling unit shall be provided, which space may be in tandem with parking provided for the principal dwelling unit.

a. The Director may waive the parking requirement for an accessory dwelling unit if topography or location of existing principal or accessory structures makes provision of a parking space physically or economically infeasible and, for properties located in residential parking zones (RPZs), a parking study is conducted and shows that the utilization rate for on-street parking within a four hundred (400) foot walking distance of the subject property is less than seventy-five (75) percent. Parking may not be waived for accessory dwelling units within the University District or Alki Parking Overlay Areas as shown on Maps A and B, Section 23.54.015.((;))

b. The applicant need not apply for a variance in order to waive the parking requirement. The parking waiver process cannot be used to eliminate an existing required parking space in order to create an accessory dwelling unit, unless replaced elsewhere on the lot.

8. Ceiling height.

a. If the portion of the single-family dwelling in which the accessory dwelling unit is located was in existence prior to October 17, 1979, the minimum ceiling height shall be six (6) feet eight (8) inches measured per Sections 310.6.1 and 3403 of the Seattle Building Code (SBC), or the minimum ceiling height shall be six (6) feet four (4) inches if a hard-wired smoke detector is located in the accessory dwelling unit.

b. If the portion of the single-family dwelling in which the accessory dwelling unit is located was constructed on or subsequent to October 17, 1979, the minimum ceiling height shall be seven (7) feet measured per the SBC.

* * *

Section 2. Subsection B of Section 23.47.012 of the Seattle Municipal Code, which Section was last amended by Ordinance 119370, is further amended as follows:

SMC 23.47.012 Structure height and floor area ratio.

* * *

B. Floor Area Ratios.

1. Floor area ratios (FARs) are hereby established for structures in zones with eighty-five (85) foot, one hundred twenty-five (125) foot and one hundred sixty (160) foot maximum height limits according to Chart C. Structures sixty-five (65) feet in height or less in these zones shall not be subject to floor area ratio provisions. For the provisions of this section, a "mixed-use structure" is a building containing a residential use, excluding caretaker's quarters, and at least one (1) other type of use.

CHART C
PERMITTED FLOOR AREA RATIO (FAR)

Structures Higher than 65 Feet	**Height Limit Zones** 85'	125'	160'
Mixed-use structure total	6	6	7
Any single use within a mixed-use structure	4.5	5	5
Single-purpose structure	4.5	5	5

2. Within the First Hill Urban Village, the FAR limit for residential use within a mixed-use structure as defined in this section, and as provided in Chart C, may be increased by the amount of floor area provided by affordable housing. For purposes of this section, "affordable housing" shall mean housing designed and constructed so that, in the Director's judgment and based upon reasonable projections provided by the applicant, monthly housing costs are expected to be affordable to moderate income households, assuming thirty (30) percent of household income is available for housing costs. The mixed-use structure must satisfy the provisions of Section 23.47.008 Mixed Use Development, and may not exceed the maximum FAR permitted in the zone.

* * *

Section 3. Subsection A of Section 23.49.008 of the Seattle Municipal Code, which Section was last amended by Ordinance 119370, is further amended as follows:

SMC 23.49.008 Structure height.

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

A. Maximum structure height shall be as designated on the Official Land Use Map, Chapter 23.32, except that:

1. The Council shall determine the maximum permitted height when a major retail store or performing arts theater bonus is approved in the Downtown Retail Core zone((s)) pursuant to Section 23.49.096; provided, that such height shall not exceed one hundred fifty (150) feet.

2. Any property in the Pike Market Mixed zone that is subject to an urban renewal covenant may be built no higher than the height permitted by the covenant for the life of the covenant.

3. Structures in the Downtown Office Core 1 zone shall not exceed a height of four hundred fifty (450) feet.

4. Not withstanding any contrary designation on the Official Land Use Map, the maximum height of structures in the Downtown Retail Core zone((s)) shall be eighty-five (85) feet, except as otherwise specified in subsection A1 of this section and in this subsection A4. Residential floor area created by infill of a lightwell on a City-designated Landmark structure shall be permitted above eighty-five (85) feet. For the purpose of this section a lightwell is defined as an inward modulation on a non-street facing facade that is enclosed on at least three sides by walls of the same structure, and infill is defined as an addition to that structure within the lightwell. The maximum height limit for any infill allowed under this subsection A4 shall be the highest level at which the lightwell is enclosed by the full length of walls of the structure on at least three sides.

5. Notwithstanding any contrary designation on the Official Land Use Map, structures in the Downtown Office Core 2 zones that are designated for a permitted height of four hundred (400) feet may not exceed a maximum of three hundred (300) feet.

* * *

Section 4. Subsection C of Section 23.49.008 of the Seattle Municipal Code, which Section was last amended by Ordinance 119370, is further amended as follows:

SMC 23.49.008 Structure Height.

* * *

C. Rooftop Features.

1. The following rooftop features are permitted with unlimited rooftop coverage and may not exceed the height limits as indicated:

a. Open railings, planters, clerestories, skylights, play equipment, parapets and firewalls up to four (4) feet above the maximum height limit;

b. Solar collectors up to seven (7) feet above the maximum height limit; and

c. The rooftop features listed below may extend up to fifty (50) feet above the roof of the structure on which they are located or fifty (50) feet above the maximum height limit, whichever is less, except as regulated by Chapter 23.64, Airport Height Overlay District:

(1) Major or minor communication utilities,

(2) Religious symbols and that portion of the roof which supports them, such as belfries and spires,

(3) Smokestacks, and

(4) Flagpoles.

They shall be located a minimum of ten (10) feet from all lot lines.

2. The following rooftop features are permitted as long as the combined coverage of all features does not exceed twenty (20) percent of the roof area, or twenty-five (25) percent if the total includes stair or elevator penthouses or screened mechanical equipment. Except in the PMM zone, additional combined coverage of all rooftop features, not to exceed thirty-five (35) percent of the roof area, may be permitted through the ((~~d~~))Design ((~~r~~))Review ((~~p~~))Process for ((~~d~~))Development ((~~s~~))Standard ((~~d~~))Departures in Section 23.41.012.

a. The following rooftop features are permitted to extend up to fifteen (15) feet above the maximum height limit:

(1) Solar collectors;

(2) Stair penthouses;

(3) Play equipment and open-mesh fencing, as long as the fencing is at least fifteen (15) feet from the roof edge;

(4) Mechanical equipment; and

(5) Mechanical equipment, whether new or replacement, may be allowed up to fifteen (15) feet above the roof elevation of a structure existing prior to June 1, 1989.

b. Elevator penthouses are permitted to extend beyond the maximum height limit as follows:

(1) In the PMM zone, up to fifteen (15) feet above the maximum height limit for the zone;

(2) Except in the PMM zone, up to twenty (20) feet above the maximum height limit for a penthouse designed for an elevator cab up to eight (8) feet high; or

(3) Except in the PMM zone, up to twenty-two (22) feet above the maximum height limit for a penthouse designed for an elevator cab more than eight (8) feet high.

3. Screening of Rooftop Features.

a. Measures may be taken to screen rooftop features from public view through the design review process or, if located within the Pike Place Market Historical District, by the Market Historical Commission.

b. Except in the PMM zone, the amount of roof area enclosed by rooftop screening may exceed the maximum percentage of the combined coverage of all rooftop features as provided in subsection C2 above.

c. Except in the PMM zone, in no circumstances shall the height of rooftop screening exceed ten (10) percent of the maximum height of the zone in which the structure is located, or fifteen (15) feet, whichever is greater. In the PMM zone, the height of the screening shall not exceed the height of the rooftop feature being screened, or such greater height necessary for effective screening as determined by the Pike Place Market Historical Commission.

4. Administrative Conditional Use for Rooftop Features. The rooftop features listed in subsection C1c of this section may exceed a height of fifty (50) feet above the roof of the structure on which they are located if authorized by the Director through an administrative conditional use, Chapter 23.76. The request for additional height shall be evaluated on the basis of public benefits provided, the possible impacts of the additional height, consistency with the City's land use policies, and the following specific criteria:

a. The feature shall be compatible with and not adversely affect the downtown skyline.

b. The feature shall not have a substantial adverse effect upon the light, air, solar and visual access of properties within a three hundred (300) foot radius.

c. The feature, supporting structure and structure below shall be compatible in design elements such as bulk, profile, color and materials.

d. The feature shall not adversely affect the function of existing transmission or receiving equipment within a five (5) mile radius.

e. The increased size is necessary for the successful physical function of the feature, except for religious symbols.

<u>5. Residential Penthouses Above Height Limit in DRC Zone.</u>

<u>a. A residential penthouse exceeding the maximum allowable height shall be permitted in the DRC zone only on a mixed-use, City-designated Landmark structure for which a Certificate of Approval by the Landmarks Preservation Board is required. A residential penthouse allowed under this section may cover a maximum of fifty (50) percent of the total roof surface. Except as the Director may allow under subsection 5b of this section:</u>

(1) A residential penthouse allowed under this subsection shall be set back a minimum of fifteen (15) feet from the street property line.

(2) A residential penthouse may extend up to eight (8) feet above the roof, or twelve (12) feet above the roof when set back a minimum of thirty (30) feet from the street property line.

b. If the Director determines, after a sight line review based upon adequate information submitted by the applicant, that a penthouse will be invisible or minimally visible from public streets and parks within three hundred (300) feet from the structure, the Director may allow one or both of the following:

(1) an increase of the penthouse height limit under subsection 5a of this section by an amount up to the average height of the structure's street-facing parapet; or

(2) a reduction in the required setback for a residential penthouse.

c. The Director's decision to modify development standards pursuant to subsection 5b must be consistent with the Certificate of Approval from the Landmarks Preservation Board.

d. A residential penthouse allowed under this section shall not exceed the maximum permitted height that could be permitted in the DRC zone by the City Council as provided in Section 23.49.008 A1.

e. No rooftop features shall be permitted on a residential penthouse allowed under this subsection 5.

* * *

Section 5. Subsection A of Section 23.91.002 of the Seattle Municipal Code, which Section was added by Ordinance 119473, is further amended as follows:

23.91.002 Scope.

A. Violations of the following provisions of the Seattle Municipal Code Title 23 shall be enforced under the citation or criminal provisions set forth in this Chapter 23.91:

1. Junk storage (as defined in SMC Section 23.84.020) in residential zones (Sections 23.44.006, 23.44.040, 23.45.004, and 23.45.140);

2. Construction or maintenance of structures in required yards or setbacks in residential zones (Sections 23.44.014, 23.44.040, 23.45.005, 23.45.014, 23.45.056, and 23.45.072);

3. Parking of vehicles ((~~in required yards~~)) in a single family zone (Section 23.44.016);

4. Keeping of animals (Sections 23.44.048 and 23.45.148); and

5. Home Occupations (Sections 23.44.050 and 23.45.152).

B. Any enforcement action or proceeding pursuant to this Chapter 23.91 shall not affect, limit or preclude any previous, pending or subsequent enforcement action or proceeding taken pursuant to Chapter 23.90.

Section 6. Severability. The several provisions of this ordinance are declared to be separate and severable and the invalidity of any clause, sentence, paragraph, subdivision, section, subsection, or portion of this ordinance, or the invalidity of the application thereof to any person or circumstances shall not affect the validity of the remainder of this ordinance or the validity of its application to other persons or circumstances.

Section 7. 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 _____, 1999, and signed by me in open session in authentication of its passage this _____ day of _____, 1999.

_____

President _____ of the City Council

Approved by me this _____ day of _____, 1999.

_____

Paul Schell, Mayor

Filed by me this _____ day of _____, 1999.

_____

City Clerk

(SEAL)

Randy Bannecker – Seattle Apt Assoc
Sea/King Realtors
supports – helps to meet job to housing ratio,
need every single new unit

Michael McKay –
supports old Cabrini Tower site
for 128 units, the Perry at Cabrini Ctr.

Mamie Jackson –
objects to building DT for peat houses,
we need affordable housing units,
remember 10/29/29, DCLU needs to think
about whole city not just DT

Chair P□ Special Review
David Yuan – NBBJ arch working on
Seaboard Bldg., landmark bldg
goes thru diff ~~to~~ lives, allows
new uses while main-arch.
~~[illegible]~~

Matt Griffin – add 7 housing stock
around the city,

Seattle City Council

PUBLIC HEARING SIGN-UP SHEET

Housing Package Amendments to the Land Use Code

INFORMATION ON THIS SIGN-UP SHEET IS ***PUBLIC RECORD***

#	(PLEASE PRINT) NAME	ORGANIZATION	(OPTIONAL) ADDRESS	ZIP	(OPTIONAL) PHONE/FAX
+	RANDY BANNECKER	Apt Assoc & Realtors	2240 E Blaine	98112	368-6336
+	Michael McKay	McKay Thinking	P.O. Box 94283	98124-6583	660-7787
-	MAMIE JACKSON	CITIZEN	530 TENTH AVE EAST	98102	324-3958
+	DAVID YUAN ~~ROBERT LANE~~	NBBJ	111 S. JACKSON, SEATTLE	98104	206-223-5555
+	MATT GRIFFIN	PINE STREET DEVELOPMENT	520 PIKE TOWER, #2200	98101	206-340-9877

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Seattle City Council

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	Michael McKay	McKay Printing	P.O. Box 94283	98124-6583	660-7787
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City of Seattle
Paul Schell, Mayor

Department of Design, Construction and Land Use
R. F. Krochalis, Director

December 2, 1999

Dear Citizen:

Encouraging the adaptive reuse of historic structures and the provision of additional housing types are actions that increase the quality of life within the City of Seattle. Towards that end, three Land Use Code amendments are proposed that will allow residential uses to be included in mixed-use structures, and are summarized below:

- allowing within the Downtown Retail Core zone, residential additions within the lightwells of City-designated Landmark structures;
- allowing within the Downtown Retail Core zone, residential penthouse development on mixed-use buildings provided that setback and height limit standards are met; and
- for Neighborhood Commercial zones in the First Hill Urban Village, permitting an increase in floor area ratio standards for a single use when affordable housing is provided in mixed-use buildings.

Two other amendments further clarify recently adopted Land Use Code provisions, as summarized below:

- clarifying the portion of the structure that must be in existence prior to June 1999 in order to establish an accessory dwelling unit that is larger than 1,000 square feet; and
- clarifying the applicable Land Use Code sections for citation enforcement actions in Single Family zones.

A second public hearing on these proposed amendments will be held on January 11, 2000 at 9:30 a.m. in the City Council Chamber, 11th Floor of the Seattle Municipal Building, 600 Fourth Avenue.

For more information concerning the public hearing, please contact Dan McGrady, Councilmember Jan Drago's office at (206) 684-8801. Questions concerning the proposed code amendments may be directed to Kevin Bergsrud, via e-mail at kevin.bergsrud@ci.seattle.wa.us (please enter in the subject line "Housing Related Code Amendments") or by calling (206) 615-1280.

Sincerely,

Rick Krochalis, Director
Department of Design, Construction and Land Use

Enclosure

City of Seattle
Paul Schell, Mayor

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Director's Report
Housing Related Land Use Code Amendments

December 2, 1999

Summary

Encouraging the adaptive reuse of historic structures and the provision of additional housing types are actions that increase the quality of life within the City of Seattle. Towards that end, three Land Use Code amendments are proposed that will allow residential uses to be included in mixed-use structures, and are summarized below:

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4. clarifying the portion of the structure that must be in existence prior to June 1999 in order to establish an accessory dwelling unit that is larger than 1,000 square feet; and
5. clarifying the applicable Land Use Code sections for citation enforcement actions in Single Family zones.

Residential Uses in Landmark Structures in the Downtown Retail Core (DRC) Zone

The Downtown Retail Core (DRC) zone was established in the mid-1980s to allow and promote further regional retail development within downtown Seattle. The zone was intended to be the location of concentrated, regional retail shopping activities in the downtown core and is one of eleven zoning categories located within downtown Seattle. The boundaries of the DRC are generally defined as 2nd to 6th Avenues and Stewart Street/Olive Way to Union Street (see map on page 3). At street level, consumer retail, entertainment and service activities are required, while related support activities are permitted on upper levels. Building heights are limited to 85 feet, although heights of up to 150 feet may be permitted through a conditional use when a Public Benefit Feature is provided, such as a major department store or a performing arts theater. However, within the DRC zone, no major department stores or theater facilities have thus far resulted from conditional use Public Benefit Feature provisions. A review of retail industry and demographic trends, and the availability of developable parcel sizes within the DRC zone, suggest a lower probability of additional major Department stores within the zone (See Appendix A).

Several City-designated Landmark structures are located within and exceed the 85 foot base height limit of the DRC zone. Many of these structures have floorplates that do not meet the requirements of modern tenants. The principal element that characterizes such a floorplate is the existence of a lightwell, an inward modulation of a building facade that allows light and air to interior building spaces.

The City goal of creating a vital downtown is framed by the development of work, shopping and entertainment facilities. Several goals within *Seattle's Comprehensive Plan* generally support housing development. In Goal L21, the Downtown Commercial Core is seen as providing mixed uses, including housing, with an emphasis on employment. Policy H24 encourages the adaptation of older buildings for residential uses. Policy H25 supports the combination of housing and historic preservation efforts, in particular the use of Landmark structures for housing. *The Downtown Urban Center Neighborhood Plan* also provides policy guidance for the DRC zone. Neighborhood Policy P4 states that the Commercial Core should, "... provide housing affordable to households with a range of income levels." In Policy LU-13 it is stated that "uses other than retail shall be allowed to the extent that they augment but do not detract from this primary function.".

Lightwell Infill

A number of lightwells have been infilled on historic structures within the downtown area to provide better floor layouts for office and housing uses, and to provide seismic improvements. Lightwells are created by inward facade modulations that result in setbacks into the building envelope to provide additional light and air access (Figure 1). The design of lightwells generally occurred in the pre-Second World War period prior to the development of modern ventilation and lighting systems.

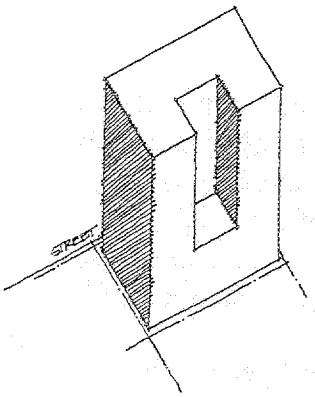
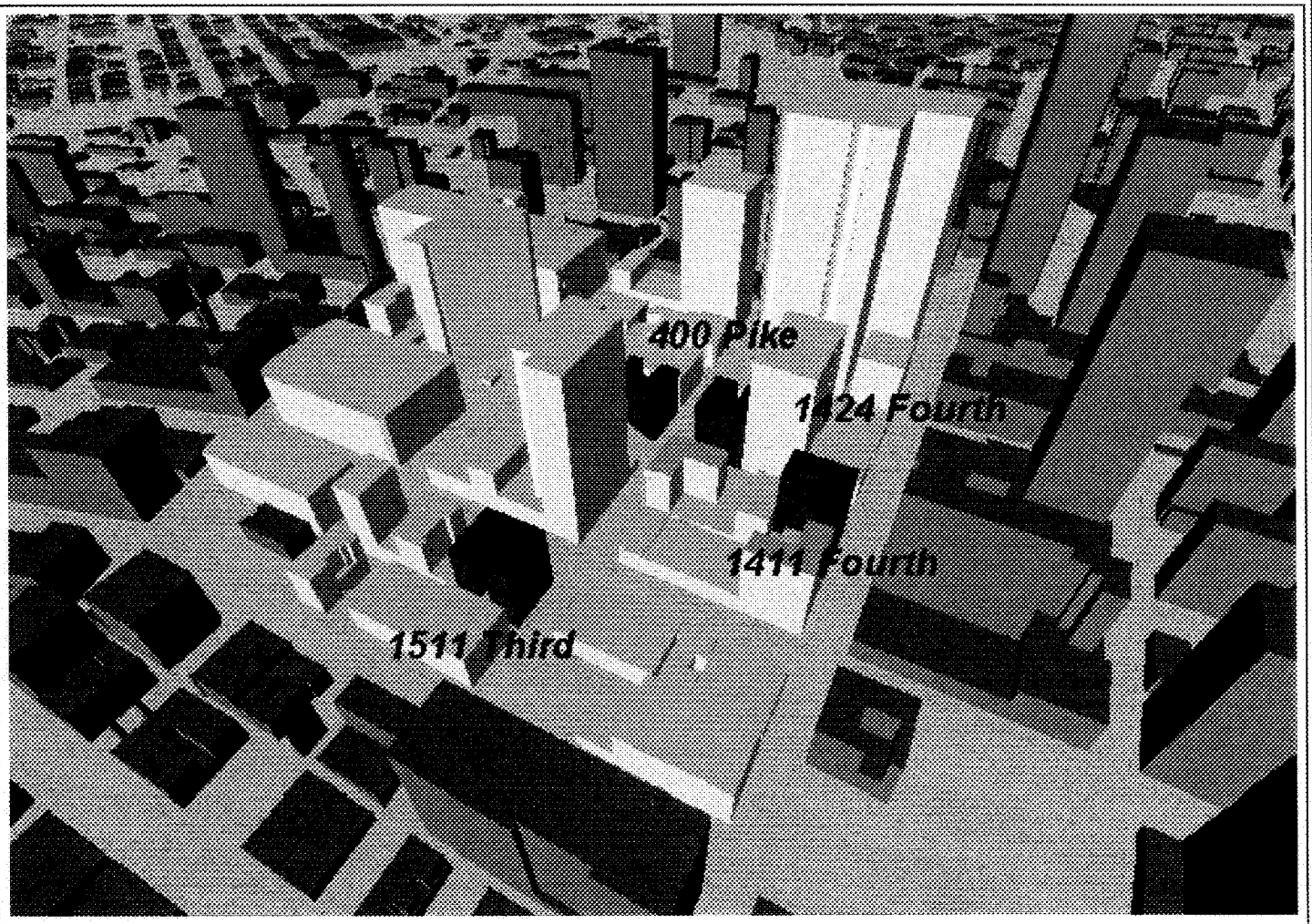


Figure 1: Lightwell

Examples of buildings with lightwells within the DRC zone include the Northern Bank and Trust/Seaboard Building (400 Pike Street), the Melbourne Tower (1511 Third Avenue), the Ligett/Fourth & Pike Building (1424 Fourth Avenue), and the 1411 Fourth Avenue Building (see Figure 1). On all these structures, the lightwell is located on a non-street facing facade. Three of these four structures, the Ligett/Fourth & Pike Building, the 1411 Fourth Avenue Building, and the Northern Bank and Trust/Seaboard Building are also City-designated Landmark structures. It should be noted that while lightwell infill may encourage the continued use of City-designated Landmark structures, it could potentially jeopardize federal certification for these structures to earn rehabilitation tax credits (on nationally designated historic structures), and it may also set a precedent for eliminating a historic characteristic from these same early 20th century structures.

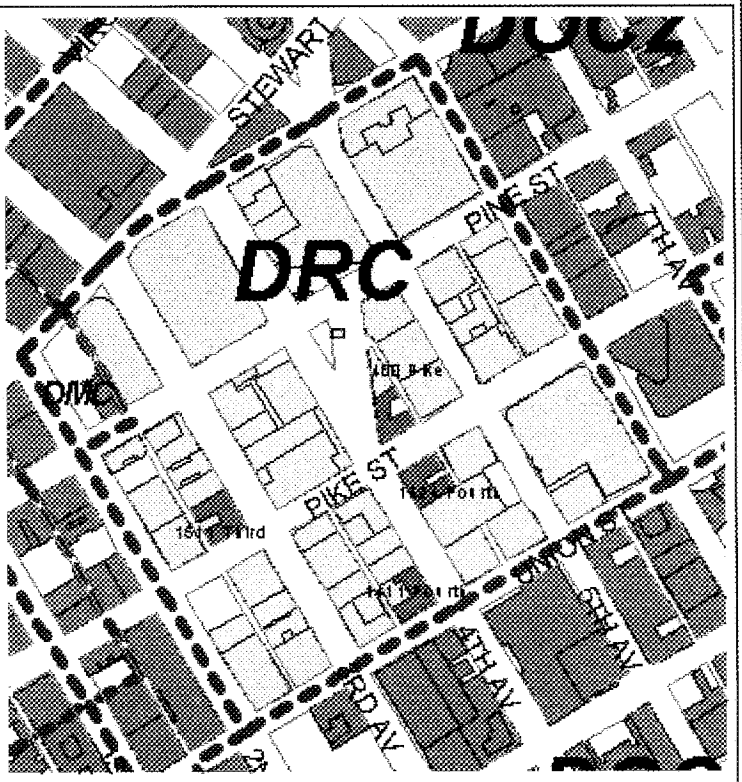


Legend

Downtown Buildings

- with Lightwells
- in DRC Zone
- Adjacent Buildings

Downtown Buildings with Lightwells in DRC Zone



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Outside the DRC zone, but for discussion purposes, lightwell infill was approved in 1997 and 1998 for building renovations of the L.C. Smith Building (Smith Tower 506 2nd Avenue), and the YMCA Central Branch Building (South Building 901 4th Avenue). These structures are also on the City-designated Landmarks list. For the Smith Tower, the lightwell infill converted a U-shaped corridor arrangement to a complete loop which better accommodates flexible office space requirements (Saar, 1999). Seismic improvements were also made. For the YMCA building, the five-story lightwell infill provided seismic improvements and 20,000 square feet of space.

Penthouse Development

The height of early 20th century office buildings in downtown reflect the constraints of historical real estate demand and structural systems. As a means to add value to historic buildings, many residential and office penthouses have been constructed within downtown Seattle. Where lightwell infill converts outdated floorplates, penthouse development on historic buildings can provide an extra incentive for adaptive building reuse. Penthouse development relative to the downtown core could also provide another housing form in the north central business district. Rooftop feature provisions in the Land Use Code currently define setbacks from the parapet edge, and permissible height above the roof. Based on field visits, no non-mechanical (stair, elevator, etc.) penthouses were identified within the DRC zone.

The main issues related to penthouse development are related to the preservation of background views to historic cornices and rooflines, and the preservation of view corridors. Many building rehabilitation projects in the 1990s have requested a change-of-use from office to residential and the addition of penthouse units. Similar to lightwell infill projects, these projects also included seismic upgrades. Examples of penthouse development on renovated structures near the downtown urban core include, 417 East Pine Street, Pike Lofts (303 East Pike Street), the Terry-Denny Building (109 First Avenue South), the Eastern Hotel, and 81 Vine Street Condominiums.

Recommendations

1. To encourage adaptive reuse, preservation and maintenance of City-designated Landmark structures, and additional housing in the downtown retail core, DCLU is proposing two code amendments. The first amendment is to SMC 23.49.008, Structure Heights, and would specifically allow additional floor area in City-designated Landmark structures at height limits greater than 85 feet, without meeting the Public Benefit Feature Rule provisions if residential use is provided by infill of a lightwell. A major department store or a performing arts theater would not be required. DCLU concludes that it is likely that this adaptive reuse will not compete for structures viable for department store development, as few existing structures or parcels can meet the minimum square footage requirements.

2. Allow residential penthouses on City-designated Landmark structures provided that a Certificate of Approval is granted by the Landmarks Preservation Board, and that specific setback and review conditions are met. This would permit some additional housing in the DRC zone without likely conflicting with demands for office or retail space.

Increasing Floor Area Ratio (FAR) Standards for Affordable Housing in Certain Neighborhood Commercial (NC) Zones

The provision of housing for a full range of income levels is an objective of the City of Seattle. Comprehensive Plan and neighborhood plan policies support the development of housing and particularly affordable housing within the city. The First Hill Urban Village, in particular is experiencing continued growth due to the expansion of major institutions and the area's proximity to the downtown urban core. The *First Hill Neighborhood Plan* calls for increases in housing and retail densities along specific corridors such as Madison Street. The neighborhood plan housing goal identifies "housing opportunities that retain the economic mix of First Hill residents" as an important goal. The plan also identifies Madison Street and Eighth Avenue as two priority areas for higher density housing. Planning is also underway for a light rail station at the eastern end of Madison Street corridor, which would likely further enhance pedestrian character in the corridor.

The development of housing in the First Hill Urban Village has experienced renewed vigor in recent years as demand for housing near the city's center and jobs has increased. As the primary highrise, high density residential neighborhood in Seattle, outside of downtown, First Hill has seen its share of residential development over the years. In particular, the neighborhood has been home to a number of subsidized, lower income properties developed in large part by local non-profit housing organizations. First Hill has also seen the development of a significant number of higher income properties and continues to attract large numbers of seniors who value the proximity to shopping, services and healthcare. As a result of this proximity to downtown and the medical services of First Hill, the neighborhood is at risk of losing the supply of non-subsidized middle income properties as new development is planned and executed. As the market swells and new dwellings are priced beyond the range of incomes of many of the service-oriented employees that fill the majority of neighborhood jobs, the neighborhood loses the diversity it so richly embraces. While subsidized housing has succeeded in the neighborhood and market rate housing increases in value, it is essential to allow for the continued success of affordable housing to families or individuals not able to keep pace with the market or to qualify for subsidy.

The Land Use Code influences the amount of housing that can be built in the First Hill Urban Village through limits on FAR, which is the relationship of the amount of floor area in a building to the size of the lot on which the building is located (for example, on a 10,000 square foot lot with a 2 FAR limit, 20,000 square feet of floor are could be built). The Land Use Code limits single use in a building to an FAR less than the total FAR allowed for the building including all uses. For example, in a mixed use building in an NC3/160 zone, the total FAR cannot exceed 7, while a single use in the building, such as residential, could not exceed 5 FAR (Figure 2). These limits apply in commercial zones with height limits higher than 65'along the main arterials of the neighborhood, Madison St. and Boren Street. They were intended to ensure mixed use development and limit the intrusion of office development into the neighborhood, spurred by rising land prices downtown, and proximity to major institutions.

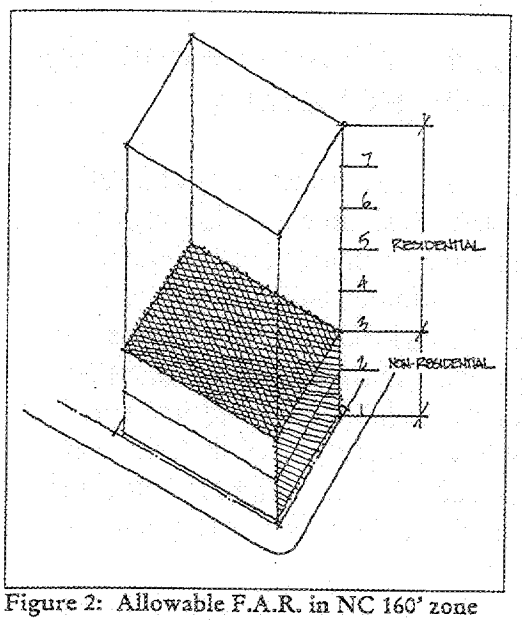

Figure 2: Allowable F.A.R. in NC 160' zone
- maximum F.A.R. = 7
- maximum single use F.A.R. = 5

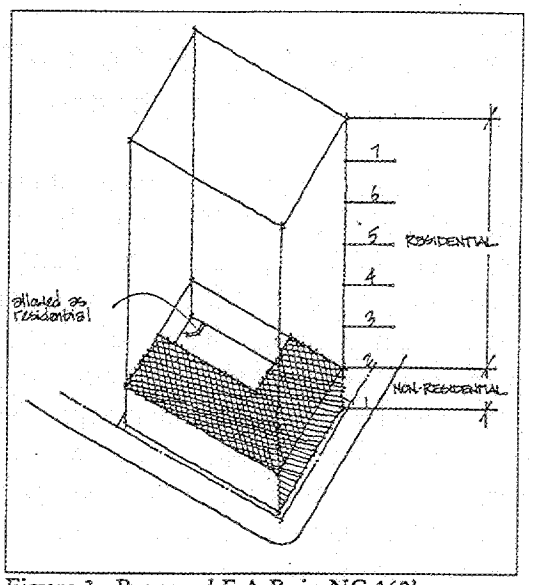

Figure 3: Proposed F.A.R. in NC 160' zone
- maximum F.A.R. = 7
- maximum residential F.A.R. = 7 minus the required street front non-residential space

Recommendation 3

DCLU recommends that the Land Use Code be amended to increase the allowable floor area ratio for a single use in a building, when the additional floor area is housing made available to moderate income households with incomes between 80% and 120% of median. This would help to sustain the diversity in income groups that compose the First Hill Urban Village. The proposed amendment would not alter maximum FAR for the site, and a portion of the building at street level must be non-residential, consistent with the City's policy to promote mixed-use development in commercial zones with higher height limits (Figure 3).

The proposed amendment allowing affordable housing to exceed the single use FAR limits in NC zones with height limits above 65' would further city goals related to housing in proximity to services, jobs, and transit. Additional affordable housing would support City housing goals, neighborhood plan policies and increased densities around a proposed light rail station in the First Hill Urban Village.

Portion of Accessory Dwelling Unit (ADU) In Existence Prior to June 1999

Recommendation 4. Clarify the language in Section 23.44.041 A.5., that the portion of the structure where an ADU is being proposed must have existed prior to June 1, 1999 in order to exceed the 1000 square foot limit. The goal was to allow some flexibility for pre-existing

structures that may have had a second floor with, for example 1100 square feet, to use the whole floor for the ADU, instead of having a "leftover" unusable space of 100 square feet.

Land Use Code Sections Covered Under Citation Actions

Recommendation 5. This amendment clarifies that all the requirements of Section 23.44.016, Parking location and access in Single Family zones, will be enforced according to the provisions of Section 23.91, Citation - Hearings - Penalties. Under the current code, only the parking of vehicles in required yards would be subject to the citation enforcement process. Under the proposal, all requirements of Section 23.44.016 would be included.

Appendix A: Major Department Store Development

No additional department stores have been developed in the downtown since adoption of the DRC zone with the 1985 Downtown Plan. Major department stores, are defined in the Land Use Code (LUC) Section 23.49.096, as uses which meet the following:

- provide a range of merchandise and services;
- occupy a structure which occupies a lot with a minimum size of 25,000 square feet; and
- occupy minimum floor area of a structure of 80,000 square feet.

Other requirements for a major department store define the amount of bonusable space, street-level pedestrian access points, hours of operation, and exterior design treatments. A review of existing department store conditions in five comparably sized cities (see Appendix A) indicates that the development of additional department stores may still be realistic, though difficult, due to demographic and economic conditions, as well as parcel size and availability in the retail core.

Parcel size and availability may present the greatest constraint for department store development within the DRC zone. For example, *The Bon Marché* and former *Frederick & Nelson* parcel footprints both contain more than 60,000 square feet. Even if parcel consolidation were feasible to meet the minimum lot size of 25,000 square feet, opportunities appear very limited due to the location of existing office towers and landmark buildings.

Department Stores per Comparable Downtown Area

City	Estimated Population 1998	Population Density per Square Mile	Department Stores within Downtown Core (Corporate Affiliation)
Cleveland, OH	495,817	6439.18	Dillard's (D)
Columbus, OH	670,234	3315.00	Jacobson's, Lazarus (F), Marshall Field's (DH), Marshalls (TJX)
Milwaukee, WI	578,364	6018.36	Marshall Field's (DH), Carson Pirie Scott & Company (S), The Boston Store
Minneapolis, MN	351,731	6705.90	Dayton's (DH), Marshall Field's (DH), Marshalls (TJX), Neiman Marcus, Sak's Fifth Avenue (S)
Portland, OR	503,891	4040.83	Meier & Frank (M), Mercantile Stores West (D), Nordstrom, Sak's Fifth Avenue (S)
Seattle, WA	*536,978*	*6400.21*	*The Bon Marché (F), Nordstrom, Ross*

Notes: Consolidated department store chains. D-Dillard's, DH-Dayton-Hudson, F-Federated Department Stores, M-May Department Stores Company, S-Saks Incorporated, TJX-TJX Stores, Inc.
Sources: Department store locations within downtown areas was generated from GTE Superpages.com. Population density generated from 1992 U.S. Census land area and population data (most recent). Corporate affiliation established from International Association of Department Stores website.

As reported 1997, in the magazine *Shopping Center World*, consolidations of department store chains will likely continue, while the development of specialty stores (e.g., *The Gap*, *Old Navy*, etc.) will also continue. This same article also reported that *Federated Department Stores*, *May Department Store Company*, *Dillard's*, and *Mercantile Department Stores* (since merged with *Dillard's*) controlled almost 80 percent of the American department store market. Contrasting the trend for consolidation, it was reported that at "Class A" suburban shopping malls the number of anchor stores (usually department stores) will likely increase from four to six, from the traditional two to three stores. The traditional role of anchor stores in attracting customers to malls was also questioned, and instead, mall location, quality, tenant mix and the availability of land or property were seen as more important.

If using the suburban mall standard of two to three department stores as a guide, few downtown areas comparable to Seattle were able to meet it. The internet business database, *Hoover's Online*, provides relative descriptions of department store industry categories such as luxury (*Neiman Marcus*, *Nordstrom*, *Saks*, etc.), upper-middle (*The Bon Marché*, *Dillard's*, *Lazarus*, *Marshall Field's* etc.) and off-price (*Marshalls*, *Ross Stores*). It appears that most downtown areas contain at least two of the three categories. Few examples were reported of new department stores in downtown areas. Those that were found, resembled the recent multi-element deal for moving the *Nordstrom* department store into the former *Frederick & Nelson* building. As reported in San Francisco, a former *Emporium* department store was to be renovated for a *Bloomingdale's* department store (327,000 square-feet). This mixed-use project also included a 464-room hotel, shopping arcade, movie theaters, and restaurants. Renovations and upgrades of existing downtown Seattle department stores are noted. *The Bon Marché* began refurbishing, in mid-1999, half of its 400,000 square-foot space. In mid-1999, the ten-year old *Westlake Center* announced a program of renovations and additions. *The Galleries of Neiman Marcus*, was reported to be one of the new tenants. Although the proposed 12,000 square-foot store is approximately 10 times smaller than other stores within the chain.

Appendix B: Performing Arts Theaters

No theaters have been developed in the downtown retail core area since adoption of the DRC zone with the 1985 Downtown Plan. Performing Arts Theaters, are defined in LUC 23.49.096, as uses which meet the following:

- specifically designed for live performances of dance, drama and music;
- occupy an area secured by a minimum 10-year lease; and
- have a minimum seating area of 200 seats and necessary support areas.

Director's Rule 20-93, Public Benefit Features, provides further definition that bonusable performing arts space must meet audience viewing requirements relative to floor slope, ceiling heights, and stage lighting and acoustics. In addition, lobbies, backstages and other accessory spaces must be provided. The effect of these requirements may make renovation of standard floorplates or office spaces difficult. No performing art theater facilities currently exist within the DRC zone.

As of August 1999, approximately 100 theater production companies existed within Seattle, and at least 10 performing arts theaters (see Appendix B) were located in downtown. While there was anecdotal evidence that a shortage of 100 to 200-seat live performance theatre facilities exist within downtown Seattle, this range also is less than the minimum seating requirement to meet the Public Benefit Features Rule. In addition, there were also questions of long term viability as facilities within this range would most likely be used by "fringe" or smaller theatre companies, which were also most likely to have smaller operating budgets. Even though such companies may be on the edge of commercial viability, these smaller theatre companies provide the "training ground" and talent pool for larger and better known companies.

Existing Live Performance Facilities in Downtown Seattle

Theater	Seating Capacity	Performance Types
Annex Theatre 1916 4th Avenue	n/a	Theatre
Belltown Theatre Center 115 Blanchard Street	n/a	Theatre
Benaroya Hall 200 University Street	Main Hall: 2,500 Recital Hall: 540	Live Music, Seattle Symphony, Popular Music
5th Avenue Theater 1308 5th Avenue	2,100	Musicals, Readings
Kreielsheimer Place (former Eagles Auditorium) 700 Union Street	Allen Arena Theatre:390 Falls Thrust Theatre: 390 Dorothy S. Bullitt Cabaret: n/a	Theatre, A Contemporary Theatre
Paramount Theater 911 Pine Street	3,000	Musicals, Live Music
The Market Theatre 1428 Post Alley	n/a	Live Theatre, Art Films
Moore Theater 1932 2nd Avenue	1,419	Live Music
Northwest Asian American Theater 409 7th Avenue South	135	Theatre
Nippon Kan Theater 628 South Washington Street	400	Theatre

Sources: Seattle.sidewalk.com, Redcard.com., Seattletimes.com

Appendix C: References

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housing related directors report.doc

ORDINANCE _____

AN ORDINANCE relating to land use and zoning, amending Section 23.44.041, Section 23.47.012, Section 23.49.008, and Section 23.91.002 of the Seattle Municipal Code to increase housing opportunity in the Downtown Retail Core and the First Hill Urban Village, and to clarify provisions for accessory dwelling units and vehicles on lots in Single Family zones.

WHEREAS, the City's Comprehensive Plan, Goals L21, H24, and H25 support mixed uses, including housing, downtown and the adaptation of older buildings for residential uses, in particular the use of landmark structures for housing, and for encouraging housing diversity and quality; and

WHEREAS, the encouragement of adaptive reuse of historic structures increases the quality of life within the City of Seattle; and

WHEREAS, encouraging residential uses within the Downtown Retail Core zone further strengthens this part of the Downtown Urban Center; and

WHEREAS, increasing floor area ratio standards for housing affordable to moderate income households in the First Hill Urban Village will help to fulfill in-city housing goals and to preserve middle income housing opportunities in a rapidly changing neighborhood; and

WHEREAS, the First Hill Urban Village Neighborhood Plan identifies the need to preserve and create housing opportunities that retain the economic mix of First Hill residents; **NOW THEREFORE,**

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Subsection A of Section 23.44.041 of the Seattle Municipal Code, which Section was last amended by Ordinance 119617, is further amended as follows:

23.44.041 Accessory dwelling units.

Accessory dwelling units may be permitted subject to the standards in subsection A of this Section. The Master Use Permit process set forth in Chapter 23.76 shall be followed to authorize these uses.

A. The Director may authorize an accessory dwelling unit if the Director finds that the unit meets the following development and use standards:

1. A single family dwelling may have no more than one (1) accessory dwelling unit, and only one (1) accessory dwelling unit shall be allowed per lot.

2. One (1) of the dwelling units in the structure shall be occupied by one (1) or more owners of the property as the owner's(s') permanent and principal residence. The owner occupant must occupy the owner-occupied dwelling unit for more than six (6) months of each calendar year. The owner-occupant may not receive rent for the owner-occupied dwelling unit. If a complaint that an owner has violated these requirements is filed, the owner shall:

a. submit evidence to the Director showing good cause, such as job dislocation, sabbatical leave, education, or illness, for waiver of this requirement for up to three years absence from the Puget Sound region. Upon such showing the Director may waive the requirement;

b. re-occupy the structure; or

c. remove the accessory dwelling unit.

3. Any number of related persons may occupy each unit in a single family residence with an accessory dwelling unit provided that if unrelated persons occupy either unit, the total number of persons occupying both units together may not exceed eight (8).

4. Accessory dwelling units may not be located in any structure detached from the single family dwelling.

5. The floor area of the accessory dwelling unit may exceed one thousand (1,000) square feet only if the portion of the structure in which the accessory dwelling unit is located was in existence as of June 1, 1999 and if the entire accessory dwelling unit is located on one (1) level.

6. Only one (1) principal entrance to the structure may be located on each street-facing facade of the residence except:

a. where two (2) entrances on the front or street side existed on January 1, 1993; or((~~,~~))

b. where the Director determines that topography, screening or other design solution is effective in de-emphasizing the presence of a second entrance, so there do not appear to be two principal entrances.

7. A minimum of one (1) off-street parking space per accessory dwelling unit shall be provided, which space may be in tandem with parking provided for the principal dwelling unit.

a. The Director may waive the parking requirement for an accessory dwelling unit if topography or location of existing principal or accessory structures makes provision of a parking space physically or economically infeasible and, for properties located in residential parking zones (RPZs), a parking study is conducted and shows that the utilization rate for on-street parking within a four hundred (400) foot walking distance of the

subject property is less than seventy-five (75) percent. Parking may not be waived for accessory dwelling units within the University District or Alki Parking Overlay Areas as shown on Maps A and B, Section 23.54.015.((;))

b. The applicant need not apply for a variance in order to waive the parking requirement. The parking waiver process cannot be used to eliminate an existing required parking space in order to create an accessory dwelling unit, unless replaced elsewhere on the lot.

8. Ceiling height.

((~~a.~~)) If the portion of the single-family dwelling in which the accessory dwelling unit is located was in existence prior to October 17, 1979, the minimum ceiling height shall be six (6) feet eight (8) inches measured per Section((s)) 310.6.1 and 3403 of the Seattle Building Code (SBC), or the minimum ceiling height shall be six (6) feet four (4) inches if a hard-wired smoke detector is located in the accessory dwelling unit. If the portion of the single-family dwelling in which the accessory dwelling unit is located was constructed on or subsequent to October 17, 1979, the minimum ceiling height shall be ((~~seven (7) feet six (6) inches measured per~~)) as determined according to Section((s)) 310.6.1 and 3403 of the Seattle Building Code.

* * *

Section 2. Subsection B of Section 23.47.012 of the Seattle Municipal Code, which Section was last amended by Ordinance 119370, is further amended as follows:

23.47.012 Structure height and floor area ratio.

* * *

B. Floor Area Ratios.

1. Floor area ratios (FARs) are hereby established for structures in zones with eighty-five (85) foot, one hundred twenty-five (125) foot and one hundred sixty (160) foot maximum height limits according to Chart C. Structures sixty-five (65) feet in height or less in these zones shall not be subject to floor area ratio provisions. For the provisions of this section, a "mixed-use structure" is a building containing a residential use, excluding caretaker's quarters, and at least one (1) other type of use.

CHART C
PERMITTED FLOOR AREA RATIO (FAR)

Structures Higher than 65 Feet	Height Limit Zones 85'	125'	160'
Mixed-use structure total	6	6	7
Any single use within a mixed-use structure	4.5	5	5
Single-purpose structure	4.5	5	5

2. Within a mixed-use structure in the First Hill Urban Village, residential floor area constructed [or substantially rehabilitated] for occupancy by households whose annual incomes do not exceed 120% of median household income for Seattle, shall be allowed in addition to residential floor area in the maximum amount allowed for a single use provided in Chart C, on the terms set forth below in this subsection:

a. The mixed-use structure must satisfy the provisions of Section 23.47.008, Mixed Use Development, and, together with any other structures on the lot, may not exceed the maximum "mixed-use structure total" FAR provided in Chart C.

b. A dwelling unit shall be considered to be constructed [or substantially rehabilitated] for occupancy by an eligible household if the initial sale or rental of such unit after completion of construction [or substantial rehabilitation] is made to an eligible household and such household occupies the unit.

c. The additional residential floor area permitted in a mixed-use structure by this subsection 2, includes common areas serving only such dwelling units and an allocable portion of common areas serving such dwelling units and other portions of the structure, as determined by the Director.

* * *

Section 3. Subsections A and C of Section 23.49.008 of the Seattle Municipal Code, which Section was last amended by Ordinance 119370, is further amended as follows:

23.49.008 Structure height.

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

A. Maximum structure heights for downtown zones are forty-five feet (45'), fifty-five feet (55'), sixty-five feet (65'), seventy-five feet (75'), eighty-five feet (85'), one hundred feet (100'), one hundred twenty feet (120'), one hundred twenty-five feet (125'), one hundred fifty feet (150'), one hundred sixty feet (160'), two hundred forty feet (240'), three hundred feet (300'), and four hundred fifty feet (450'), as designated on the Official Land Use Map, Chapter 23.32, except that:

1. The Council shall determine the maximum permitted height when a major retail store or performing arts theater bonus is approved in the Downtown Retail Core zone((s)) pursuant to Section 23.49.096; provided, that such height shall not exceed one hundred fifty (150) feet.

2. Any property in the Pike Market Mixed zone that is subject to an urban renewal covenant may be built no higher than the height permitted by the covenant for the life of the covenant.

3. Any lot in the Denny Triangle Urban Village, as shown on Map 23.49.014 A, may gain up to an additional thirty percent (30%) in height if credit floor area is allowed pursuant to Section 23.49.041, City/County Transfer of Development Credits Program.

4. In the Downtown Retail Core zone, residential floor area created by infill of a lightwell on a City-designated Landmark structure shall be permitted above eighty-five (85) feet. For the purpose of this subsection a lightwell is defined as an inward modulation on a non-street facing facade that is enclosed on at least three sides by walls of the same structure, and infill is defined as an addition to that structure within the lightwell. The maximum height limit for any infill allowed under this subsection A4 shall be the highest level at which the lightwell is enclosed by the full length of walls of the structure on at least three sides.

* * *

C. Rooftop Features.

1. The following rooftop features are permitted with unlimited rooftop coverage and may not exceed the height limits as indicated:

a. Open railings, planters, clerestories, skylights, play equipment, parapets and firewalls up to four (4) feet above the maximum height limit;

b. Solar collectors up to seven (7) feet above the maximum height limit; and

c. The rooftop features listed below may extend up to fifty (50) feet above the roof of the structure on which they are located or fifty (50) feet above the maximum height limit, whichever is less, except as regulated by Chapter 23.64, Airport Height Overlay District:

(1) Major or minor communication utilities,

(2) Religious symbols and that portion of the roof which supports them, such as belfries and spires,

(3) Smokestacks, and

(4) Flagpoles.

They shall be located a minimum of ten (10) feet from all lot lines.

2. The following rooftop features are permitted as long as the combined coverage of all features does not exceed twenty (20) percent of the roof area, or twenty-five (25) percent if the total includes stair or elevator penthouses or screened mechanical equipment. Except in the PMM zone, additional combined coverage of all rooftop features,

not to exceed thirty-five (35) percent of the roof area, may be permitted through the design review process for development standard departures in Section 23.41.012.

a. The following rooftop features are permitted to extend up to fifteen (15) feet above the maximum height limit:

(1) Solar collectors;

(2) Stair penthouses;

(3) Play equipment and open-mesh fencing, as long as the fencing is at least fifteen (15) feet from the roof edge;

(4) Mechanical equipment; and

(5) Mechanical equipment, whether new or replacement, may be allowed up to fifteen (15) feet above the roof elevation of a structure existing prior to June 1, 1989.

b. Elevator penthouses are permitted to extend beyond the maximum height limit as follows:

(1) In the PMM zone, up to fifteen (15) feet above the maximum height limit for the zone;

(2) Except in the PMM zone, up to twenty (20) feet above the maximum height limit for a penthouse designed for an elevator cab up to eight (8) feet high; or

(3) Except in the PMM zone, up to twenty-two (22) feet above the maximum height limit for a penthouse designed for an elevator cab more than eight (8) feet high.

3. Screening of Rooftop Features.

a. Measures may be taken to screen rooftop features from public view through the design review process or, if located within the Pike Place Market Historical District, by the Market Historical Commission.

b. Except in the PMM zone, the amount of roof area enclosed by rooftop screening may exceed the maximum percentage of the combined coverage of all rooftop features as provided in subsection C2 above.

c. Except in the PMM zone, in no circumstances shall the height of rooftop screening exceed ten (10) percent of the maximum height of the zone in which the structure is located, or fifteen (15) feet, whichever is greater. In the PMM zone, the height of the screening shall not exceed the height of the rooftop feature being screened, or such greater height necessary for effective screening as determined by the Pike Place Market Historical Commission.

4. Administrative Conditional Use for Rooftop Features. The rooftop features listed in subsection C1c of this section may exceed a height of fifty (50) feet above the roof of the structure on which they are located if authorized by the Director through an administrative conditional use, Chapter 23.76. The request for additional height shall be evaluated on the basis of public benefits provided, the possible impacts of the additional height, consistency with the City's land use policies, and the following specific criteria:

a. The feature shall be compatible with and not adversely affect the downtown skyline.

b. The feature shall not have a substantial adverse effect upon the light, air, solar and visual access of properties within a three hundred (300) foot radius.

c. The feature, supporting structure and structure below shall be compatible in design elements such as bulk, profile, color and materials.

d. The feature shall not adversely affect the function of existing transmission or receiving equipment within a five (5) mile radius.

e. The increased size is necessary for the successful physical function of the feature, except for religious symbols.

5. Residential Penthouses Above Height Limit in DRC Zone.

a. A residential penthouse exceeding the maximum allowable height shall be permitted in the DRC zone only on a mixed-use, City-designated Landmark structure for which a Certificate of Approval by the Landmarks Preservation Board is required. A residential penthouse allowed under this section may cover a maximum of fifty (50) percent of the total roof surface. Except as the Director may allow under subsection 5b of this section:

(1) A residential penthouse allowed under this subsection shall be set back a minimum of fifteen (15) feet from the street property line.

(2) A residential penthouse may extend up to eight (8) feet above the roof, or twelve (12) feet above the roof when set back a minimum of thirty (30) feet from the street property line.

b. If the Director determines, after a sight line review based upon adequate information submitted by the applicant, that a penthouse will be invisible or minimally visible from public streets and parks within three hundred (300) feet from the structure, the Director may allow one or both of the following:

(1) an increase of the penthouse height limit under subsection 5a of this section by an amount up to the average height of the structure's street-facing parapet; or

(2) a reduction in the required setback for a residential penthouse.

c. The Director's decision to modify development standards pursuant to subsection 5b must be consistent with the Certificate of Approval from the Landmarks Preservation Board.

d. A residential penthouse allowed under this section shall not exceed the maximum permitted height that could be permitted in the DRC zone by the City Council as provided in Section 23.49.008 A1.

e. No rooftop features shall be permitted on a residential penthouse allowed under this subsection 5.

* * *

Section 4. Subsection A of Section 23.91.002 of the Seattle Municipal Code, which Section was added by Ordinance 119473, is further amended as follows:

23.91.002 Scope.

A. Violations of the following provisions of the Seattle Municipal Code Title 23 shall be enforced under the citation or criminal provisions set forth in this Chapter 23.91:

1. Junk storage (as defined in SMC Section 23.84.020) in residential zones (Sections 23.44.006, 23.44.040, 23.45.004, and 23.45.140);

2. Construction or maintenance of structures in required yards or setbacks in residential zones (Sections 23.44.014, 23.44.040, 23.45.005, 23.45.014, 23.45.056, and 23.45.072);

3. Parking of vehicles ((~~in required yards~~)) in a single family zone (Section 23.44.016);

4. Keeping of animals (Sections 23.44.048 and 23.45.148); and

5. Home Occupations (Sections 23.44.050 and 23.45.152).

B. Any enforcement action or proceeding pursuant to this Chapter 23.91 shall not affect, limit or preclude any previous, pending or subsequent enforcement action or proceeding taken pursuant to Chapter 23.90.

Section 5. Severability. The several provisions of this ordinance are declared to be separate and severable and the invalidity of any clause, sentence, paragraph, subdivision, section, subsection, or portion of this ordinance, or the invalidity of the application thereof to any person or circumstances shall not affect the validity of the remainder of this ordinance or the validity of its application to other persons or circumstances.

Section 6. 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 _____, 2000, and signed by me in open session in authentication of its passage this _____ day of _____, 2000.

_____
President of the City Council

Approved by me this _____ day of _____, 2000.

_____
Paul Schell, Mayor

Filed by me this _____ day of _____, 2000.

_____
City Clerk

(SEAL)

Director's Report
Housing Related Land Use Code Amendments

December 2, 1999

Summary

Encouraging the adaptive reuse of historic structures and the provision of additional housing types are actions that increase the quality of life within the City of Seattle. Towards that end, three Land Use Code amendments are proposed that will allow residential uses to be included in mixed-use structures, and are summarized below:

1. allowing within the Downtown Retail Core zone, residential additions within the lightwells of City-designated Landmark structures;
2. allowing within the Downtown Retail Core zone, residential penthouse development on mixed-use buildings provided that setback and height limit standards are met; and
3. for Neighborhood Commercial zones in the First Hill Urban Village, permitting an increase in floor area ratio standards for a single use when affordable housing is provided in mixed-use buildings.

Two other amendments further clarify recently adopted Land Use Code provisions, as summarized below:

4. clarifying the portion of the structure that must be in existence prior to June 1999 in order to establish an accessory dwelling unit that is larger than 1,000 square feet; and
5. clarifying the applicable Land Use Code sections for citation enforcement actions in Single Family zones.

Residential Uses in Landmark Structures in the Downtown Retail Core (DRC) Zone

The Downtown Retail Core (DRC) zone was established in the mid-1980s to allow and promote further regional retail development within downtown Seattle. The zone was intended to be the location of concentrated, regional retail shopping activities in the downtown core and is one of eleven zoning categories located within downtown Seattle. The boundaries of the DRC are generally defined as 2nd to 6th Avenues and Stewart Street/Olive Way to Union Street (see map on page 3). At street level, consumer retail, entertainment and service activities are required, while related support activities are permitted on upper levels. Building heights are limited to 85 feet, although heights of up to 150 feet may be permitted through a conditional use when a Public Benefit Feature is provided, such as a major department store or a performing arts theater. However, within the DRC zone, no major department stores or theater facilities have thus far resulted from conditional use Public Benefit Feature provisions. A review of retail industry and demographic trends, and the availability of developable parcel sizes within the DRC zone, suggest a lower probability of additional major Department stores within the zone (See Appendix A).

Several City-designated Landmark structures are located within and exceed the 85 foot base height limit of the DRC zone. Many of these structures have floorplates that do not meet the requirements of modern tenants. The principal element that characterizes such a floorplate is the existence of a lightwell, an inward modulation of a building facade that allows light and air to interior building spaces.

The City goal of creating a vital downtown is framed by the development of work, shopping and entertainment facilities. Several goals within *Seattle's Comprehensive Plan* generally support housing development. In Goal L21, the Downtown Commercial Core is seen as providing mixed uses, including housing, with an emphasis on employment. Policy H24 encourages the adaptation of older buildings for residential uses. Policy H25 supports the combination of housing and historic preservation efforts, in particular the use of Landmark structures for housing. *The Downtown Urban Center Neighborhood Plan* also provides policy guidance for the DRC zone. Neighborhood Policy P4 states that the Commercial Core should, "... provide housing affordable to households with a range of income levels." In Policy LU-13 it is stated that "uses other than retail shall be allowed to the extent that they augment but do not detract from this primary function.".

Lightwell Infill

A number of lightwells have been infilled on historic structures within the downtown area to provide better floor layouts for office and housing uses, and to provide seismic improvements. Lightwells are created by inward facade modulations that result in setbacks into the building envelope to provide additional light and air access (Figure 1). The design of lightwells generally occurred in the pre-Second World War period prior to the development of modern ventilation and lighting systems.

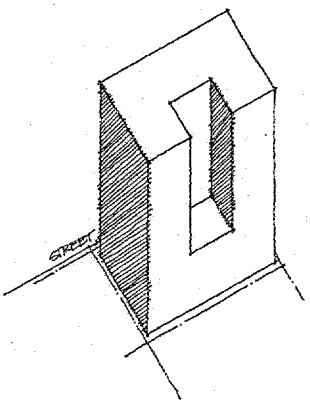
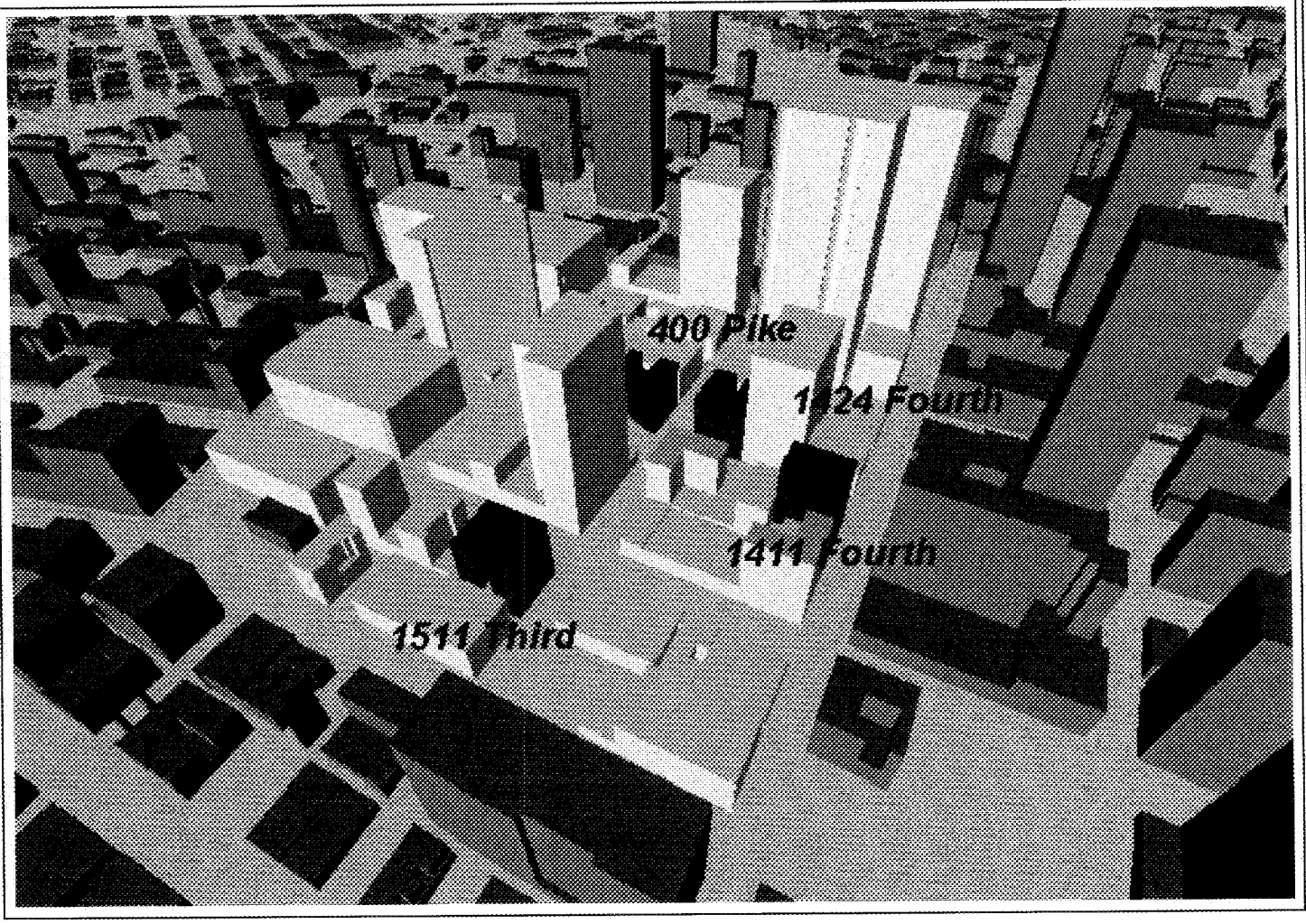


Figure 1: Lightwell

Examples of buildings with lightwells within the DRC zone include the Northern Bank and Trust/Seaboard Building (400 Pike Street), the Melbourne Tower (1511 Third Avenue), the Ligett/Fourth & Pike Building (1424 Fourth Avenue), and the 1411 Fourth Avenue Building (see Figure 1). On all these structures, the lightwell is located on a non-street facing facade. Three of these four structures, the Ligett/Fourth & Pike Building, the 1411 Fourth Avenue Building, and the Northern Bank and Trust/Seaboard Building are also City-designated Landmark structures. It should be noted that while lightwell infill may encourage the continued use of City-designated Landmark structures, it could potentially jeopardize federal certification for these structures to earn rehabilitation tax credits (on nationally designated historic structures), and it may also set a precedent for eliminating a historic characteristic from these same early 20th century structures.

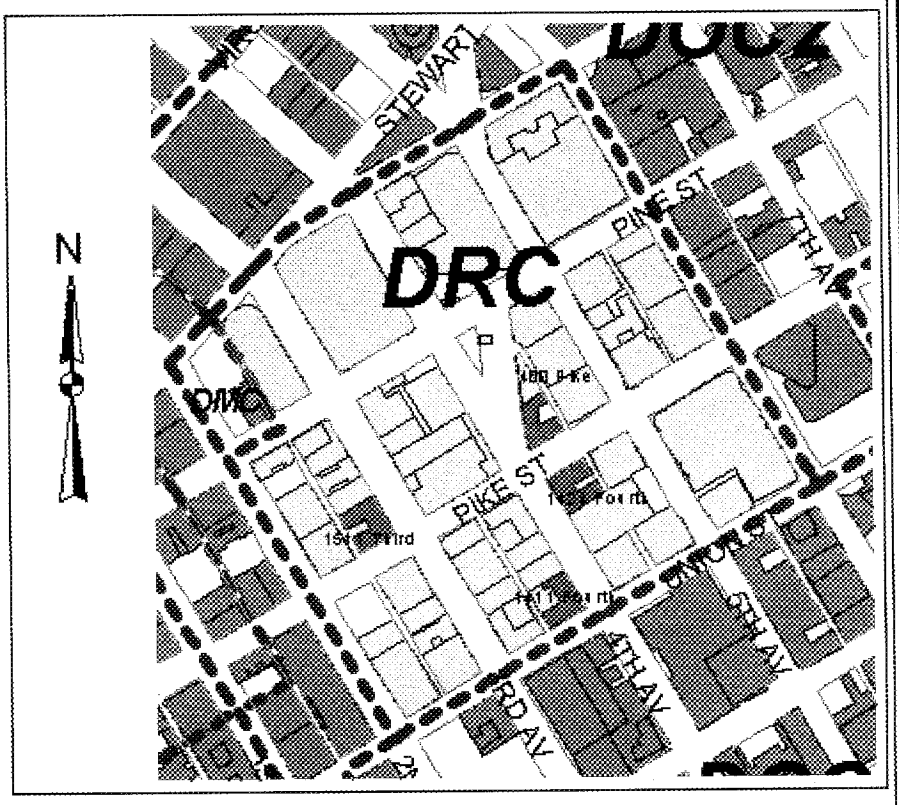


Legend

Downtown Buildings

- with Lightwells
- in DRC Zone
- Adjacent Buildings

Downtown Buildings with Lightwells in DRC Zone



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Outside the DRC zone, but for discussion purposes, lightwell infill was approved in 1997 and 1998 for building renovations of the L.C. Smith Building (Smith Tower 506 2nd Avenue), and the YMCA Central Branch Building (South Building 901 4th Avenue). These structures are also on the City-designated Landmarks list. For the Smith Tower, the lightwell infill converted a U-shaped corridor arrangement to a complete loop which better accommodates flexible office space requirements (Saar, 1999). Seismic improvements were also made. For the YMCA building, the five-story lightwell infill provided seismic improvements and 20,000 square feet of space.

Penthouse Development

The height of early 20th century office buildings in downtown reflect the constraints of historical real estate demand and structural systems. As a means to add value to historic buildings, many residential and office penthouses have been constructed within downtown Seattle. Where lightwell infill converts outdated floorplates, penthouse development on historic buildings can provide an extra incentive for adaptive building reuse. Penthouse development relative to the downtown core could also provide another housing form in the north central business district. Rooftop feature provisions in the Land Use Code currently define setbacks from the parapet edge, and permissible height above the roof. Based on field visits, no non-mechanical (stair, elevator, etc.) penthouses were identified within the DRC zone.

The main issues related to penthouse development are related to the preservation of background views to historic cornices and rooflines, and the preservation of view corridors. Many building rehabilitation projects in the 1990s have requested a change-of-use from office to residential and the addition of penthouse units. Similar to lightwell infill projects, these projects also included seismic upgrades. Examples of penthouse development on renovated structures near the downtown urban core include, 417 East Pine Street, Pike Lofts (303 East Pike Street), the Terry-Denny Building (109 First Avenue South), the Eastern Hotel, and 81 Vine Street Condominiums.

Recommendations

1. To encourage adaptive reuse, preservation and maintenance of City-designated Landmark structures, and additional housing in the downtown retail core, DCLU is proposing two code amendments. The first amendment is to SMC 23.49.008, Structure Heights, and would specifically allow additional floor area in City-designated Landmark structures at height limits greater than 85 feet, without meeting the Public Benefit Feature Rule provisions if residential use is provided by infill of a lightwell. A major department store or a performing arts theater would not be required. DCLU concludes that it is likely that this adaptive reuse will not compete for structures viable for department store development, as few existing structures or parcels can meet the minimum square footage requirements.

2. Allow residential penthouses on City-designated Landmark structures provided that a Certificate of Approval is granted by the Landmarks Preservation Board, and that specific setback and review conditions are met. This would permit some additional housing in the DRC zone without likely conflicting with demands for office or retail space.

Increasing Floor Area Ratio (FAR) Standards for Affordable Housing in Certain Neighborhood Commercial (NC) Zones

The provision of housing for a full range of income levels is an objective of the City of Seattle. Comprehensive Plan and neighborhood plan policies support the development of housing and particularly affordable housing within the city. The First Hill Urban Village, in particular is experiencing continued growth due to the expansion of major institutions and the area's proximity to the downtown urban core. The *First Hill Neighborhood Plan* calls for increases in housing and retail densities along specific corridors such as Madison Street. The neighborhood plan housing goal identifies "housing opportunities that retain the economic mix of First Hill residents" as an important goal. The plan also identifies Madison Street and Eighth Avenue as two priority areas for higher density housing. Planning is also underway for a light rail station at the eastern end of Madison Street corridor, which would likely further enhance pedestrian character in the corridor.

The development of housing in the First Hill Urban Village has experienced renewed vigor in recent years as demand for housing near the city's center and jobs has increased. As the primary highrise, high density residential neighborhood in Seattle, outside of downtown, First Hill has seen its share of residential development over the years. In particular, the neighborhood has been home to a number of subsidized, lower income properties developed in large part by local non-profit housing organizations. First Hill has also seen the development of a significant number of higher income properties and continues to attract large numbers of seniors who value the proximity to shopping, services and healthcare. As a result of this proximity to downtown and the medical services of First Hill, the neighborhood is at risk of losing the supply of non-subsidized middle income properties as new development is planned and executed. As the market swells and new dwellings are priced beyond the range of incomes of many of the service-oriented employees that fill the majority of neighborhood jobs, the neighborhood loses the diversity it so richly embraces. While subsidized housing has succeeded in the neighborhood and market rate housing increases in value, it is essential to allow for the continued success of affordable housing to families or individuals not able to keep pace with the market or to qualify for subsidy.

The Land Use Code influences the amount of housing that can be built in the First Hill Urban Village through limits on FAR, which is the relationship of the amount of floor area in a building to the size of the lot on which the building is located (for example, on a 10,000 square foot lot with a 2 FAR limit, 20,000 square feet of floor are could be built). The Land Use Code limits single use in a building to an FAR less than the total FAR allowed for the building including all uses. For example, in a mixed use building in an NC3/160 zone, the total FAR cannot exceed 7, while a single use in the building, such as residential, could not exceed 5 FAR (Figure 2). These limits apply in commercial zones with height limits higher than 65'along the main arterials of the neighborhood, Madison St. and Boren Street. They were intended to ensure mixed use development and limit the intrusion of office development into the neighborhood, spurred by rising land prices downtown, and proximity to major institutions.

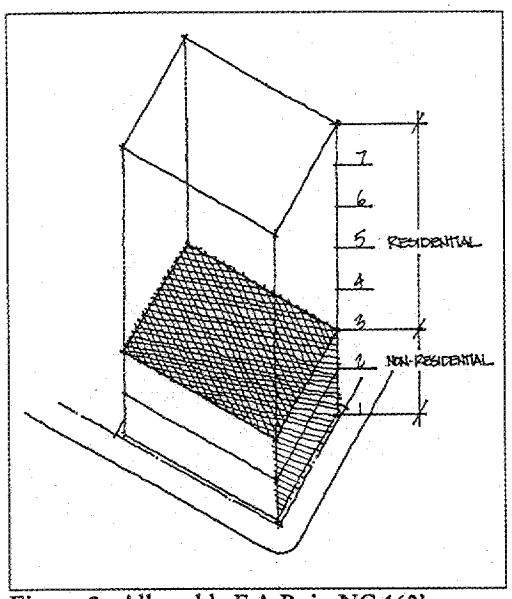

Figure 2: Allowable F.A.R. in NC 160' zone
- maximum F.A.R. = 7
- maximum single use F.A.R. = 5

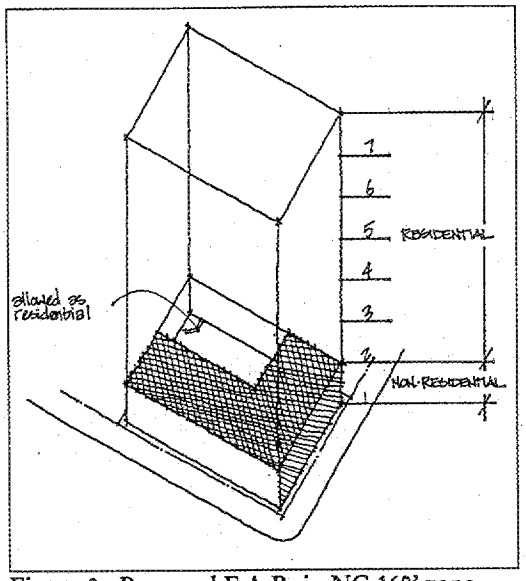

Figure 3: Proposed F.A.R. in NC 160' zone
- maximum F.A.R. = 7
- maximum residential F.A.R. = 7 minus the required street front non-residential space

Recommendation 3

DCLU recommends that the Land Use Code be amended to increase the allowable floor area ratio for a single use in a building, when the additional floor area is housing made available to moderate income households with incomes between 80% and 120% of median. This would help to sustain the diversity in income groups that compose the First Hill Urban Village. The proposed amendment would not alter maximum FAR for the site, and a portion of the building at street level must be non-residential, consistent with the City's policy to promote mixed-use development in commercial zones with higher height limits (Figure 3).

The proposed amendment allowing affordable housing to exceed the single use FAR limits in NC zones with height limits above 65' would further city goals related to housing in proximity to services, jobs, and transit. Additional affordable housing would support City housing goals, neighborhood plan policies and increased densities around a proposed light rail station in the First Hill Urban Village.

Portion of Accessory Dwelling Unit (ADU) In Existence Prior to June 1999

Recommendation 4. Clarify the language in Section 23.44.041 A.5., that the portion of the structure where an ADU is being proposed must have existed prior to June 1, 1999 in order to exceed the 1000 square foot limit. The goal was to allow some flexibility for pre-existing

structures that may have had a second floor with, for example 1100 square feet, to use the whole floor for the ADU, instead of having a "leftover" unusable space of 100 square feet.

Land Use Code Sections Covered Under Citation Actions

Recommendation 5. This amendment clarifies that all the requirements of Section 23.44.016, Parking location and access in Single Family zones, will be enforced according to the provisions of Section 23.91, Citation - Hearings - Penalties. Under the current code, only the parking of vehicles in required yards would be subject to the citation enforcement process. Under the proposal, all requirements of Section 23.44.016 would be included.

Appendix A: Major Department Store Development

No additional department stores have been developed in the downtown since adoption of the DRC zone with the 1985 Downtown Plan. Major department stores, are defined in the Land Use Code (LUC) Section 23.49.096, as uses which meet the following:

- provide a range of merchandise and services;
- occupy a structure which occupies a lot with a minimum size of 25,000 square feet; and
- occupy minimum floor area of a structure of 80,000 square feet.

Other requirements for a major department store define the amount of bonusable space, street-level pedestrian access points, hours of operation, and exterior design treatments. A review of existing department store conditions in five comparably sized cities (see Appendix A) indicates that the development of additional department stores may still be realistic, though difficult, due to demographic and economic conditions, as well as parcel size and availability in the retail core.

Parcel size and availability may present the greatest constraint for department store development within the DRC zone. For example, *The Bon Marché* and former *Frederick & Nelson* parcel footprints both contain more than 60,000 square feet. Even if parcel consolidation were feasible to meet the minimum lot size of 25,000 square feet, opportunities appear very limited due to the location of existing office towers and landmark buildings.

Department Stores per Comparable Downtown Area

City	Estimated Population 1998	Population Density per Square Mile	Department Stores within Downtown Core (Corporate Affiliation)
Cleveland, OH	495,817	6439.18	Dillard's (D)
Columbus, OH	670,234	3315.00	Jacobson's, Lazarus (F), Marshall Field's (DH), Marshalls (TJX)
Milwaukee, WI	578,364	6018.36	Marshall Field's (DH), Carson Pirie Scott & Company (S), The Boston Store
Minneapolis, MN	351,731	6705.90	Dayton's (DH), Marshall Field's (DH), Marshalls (TJX), Neiman Marcus, Sak's Fifth Avenue (S)
Portland, OR	503,891	4040.83	Meier & Frank (M), Mercantile Stores West (D), Nordstrom, Sak's Fifth Avenue (S)
Seattle, WA	*536,978*	*6400.21*	*The Bon Marché (F), Nordstrom, Ross*

Notes: Consolidated department store chains. D-Dillard's, DH-Dayton-Hudson, F-Federated Department Stores, M-May Department Stores Company, S-Saks Incorporated, TJX-TJX Stores, Inc.
Sources: Department store locations within downtown areas was generated from GTE Superpages.com. Population density generated from 1992 U.S. Census land area and population data (most recent). Corporate affiliation established from International Association of Department Stores website.

As reported 1997, in the magazine *Shopping Center World*, consolidations of department store chains will likely continue, while the development of specialty stores (e.g., *The Gap*, *Old Navy*, etc.) will also continue. This same article also reported that *Federated Department Stores*, *May Department Store Company*, *Dillard's*, and *Mercantile Department Stores* (since merged with *Dillard's*) controlled almost 80 percent of the American department store market. Contrasting the trend for consolidation, it was reported that at "Class A" suburban shopping malls the number of anchor stores (usually department stores) will likely increase from four to six, from the traditional two to three stores. The traditional role of anchor stores in attracting customers to malls was also questioned, and instead, mall location, quality, tenant mix and the availability of land or property were seen as more important.

If using the suburban mall standard of two to three department stores as a guide, few downtown areas comparable to Seattle were able to meet it. The internet business database, *Hoover's Online*, provides relative descriptions of department store industry categories such as luxury (*Neiman Marcus*, *Nordstrom*, *Saks*, etc.), upper-middle (*The Bon Marché*, *Dillard's*, *Lazarus*, *Marshall Field's* etc.) and off-price (*Marshalls*, *Ross Stores*). It appears that most downtown areas contain at least two of the three categories. Few examples were reported of new department stores in downtown areas. Those that were found, resembled the recent multi-element deal for moving the *Nordstrom* department store into the former *Frederick & Nelson* building. As reported in San Francisco, a former *Emporium* department store was to be renovated for a *Bloomingdale's* department store (327,000 square-feet). This mixed-use project also included a 464-room hotel, shopping arcade, movie theaters, and restaurants. Renovations and upgrades of existing downtown Seattle department stores are noted. *The Bon Marché* began refurbishing, in mid-1999, half of its 400,000 square-foot space. In mid-1999, the ten-year old *Westlake Center* announced a program of renovations and additions. *The Galleries of Neiman Marcus*, was reported to be one of the new tenants. Although the proposed 12,000 square-foot store is approximately 10 times smaller than other stores within the chain.

Appendix B: Performing Arts Theaters

No theaters have been developed in the downtown retail core area since adoption of the DRC zone with the 1985 Downtown Plan. Performing Arts Theaters, are defined in LUC 23.49.096, as uses which meet the following:

- specifically designed for live performances of dance, drama and music;
- occupy an area secured by a minimum 10-year lease; and
- have a minimum seating area of 200 seats and necessary support areas.

Director's Rule 20-93, Public Benefit Features, provides further definition that bonusable performing arts space must meet audience viewing requirements relative to floor slope, ceiling heights, and stage lighting and acoustics. In addition, lobbies, backstages and other accessory spaces must be provided. The effect of these requirements may make renovation of standard floorplates or office spaces difficult. No performing art theater facilities currently exist within the DRC zone.

As of August 1999, approximately 100 theater production companies existed within Seattle, and at least 10 performing arts theaters (see Appendix B) were located in downtown. While there was anecdotal evidence that a shortage of 100 to 200-seat live performance theatre facilities exist within downtown Seattle, this range also is less than the minimum seating requirement to meet the Public Benefit Features Rule. In addition, there were also questions of long term viability as facilities within this range would most likely be used by "fringe" or smaller theatre companies, which were also most likely to have smaller operating budgets. Even though such companies may be on the edge of commercial viability, these smaller theatre companies provide the "training ground" and talent pool for larger and better known companies.

Existing Live Performance Facilities in Downtown Seattle

Theater	Seating Capacity	Performance Types
Annex Theatre 1916 4th Avenue	n/a	Theatre
Belltown Theatre Center 115 Blanchard Street	n/a	Theatre
Benaroya Hall 200 University Street	Main Hall: 2,500 Recital Hall: 540	Live Music, Seattle Symphony, Popular Music
5th Avenue Theater 1308 5th Avenue	2,100	Musicals, Readings
Kreielsheimer Place (former Eagles Auditorium) 700 Union Street	Allen Arena Theatre:390 Falls Thrust Theatre: 390 Dorothy S. Bullitt Cabaret: n/a	Theatre, A Contemporary Theatre
Paramount Theater 911 Pine Street	3,000	Musicals, Live Music
The Market Theatre 1428 Post Alley	n/a	Live Theatre, Art Films
Moore Theater 1932 2nd Avenue	1,419	Live Music
Northwest Asian American Theater 409 7th Avenue South	135	Theatre
Nippon Kan Theater 628 South Washington Street	400	Theatre

Sources: Seattle.sidewalk.com, Redcard.com., Seattletimes.com

Appendix C: References

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ORDINANCE _____

AN ORDINANCE relating to land use and zoning, amending Section 23.44.041, Section 23.47.012, Section 23.49.008, and Section 23.91.002 of the Seattle Municipal Code to increase housing opportunity in the Downtown Retail Core and the First Hill Urban Village, and to clarify provisions for accessory dwelling units and vehicles on lots in Single Family zones.

WHEREAS, the City's Comprehensive Plan, Goals L21, H24, and H25 support mixed uses, including housing, downtown and the adaptation of older buildings for residential uses, in particular the use of landmark structures for housing, and for encouraging housing diversity and quality; and

WHEREAS, the encouragement of adaptive reuse of historic structures increases the quality of life within the City of Seattle; and

WHEREAS, encouraging residential uses within the Downtown Retail Core zone further strengthens this part of the Downtown Urban Center; and

WHEREAS, increasing floor area ratio standards for housing affordable to moderate income households in the First Hill Urban Village will help to fulfill in-city housing goals and to preserve middle income housing opportunities in a rapidly changing neighborhood; and

WHEREAS, the First Hill Urban Village Neighborhood Plan identifies the need to preserve and create housing opportunities that retain the economic mix of First Hill residents; **NOW THEREFORE,**

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Subsection A of Section 23.44.041 of the Seattle Municipal Code, which Section was last amended by Ordinance 119617, is further amended as follows:

23.44.041 Accessory dwelling units.

Accessory dwelling units may be permitted subject to the standards in subsection A of this Section. The Master Use Permit process set forth in Chapter 23.76 shall be followed to authorize these uses.

A. The Director may authorize an accessory dwelling unit if the Director finds that the unit meets the following development and use standards:

1. A single family dwelling may have no more than one (1) accessory dwelling unit, and only one (1) accessory dwelling unit shall be allowed per lot.

2. One (1) of the dwelling units in the structure shall be occupied by one (1) or more owners of the property as the owner's(s') permanent and principal residence. The owner occupant must occupy the owner-occupied dwelling unit for more than six (6) months of each calendar year. The owner-occupant may not receive rent for the owner-occupied dwelling unit. If a complaint that an owner has violated these requirements is filed, the owner shall:

a. submit evidence to the Director showing good cause, such as job dislocation, sabbatical leave, education, or illness, for waiver of this requirement for up to three years absence from the Puget Sound region. Upon such showing the Director may waive the requirement;

b. re-occupy the structure; or

c. remove the accessory dwelling unit.

3. Any number of related persons may occupy each unit in a single family residence with an accessory dwelling unit provided that if unrelated persons occupy either unit, the total number of persons occupying both units together may not exceed eight (8).

4. Accessory dwelling units may not be located in any structure detached from the single family dwelling.

5. The floor area of the accessory dwelling unit may exceed one thousand (1,000) square feet only if the portion of the structure in which the accessory dwelling unit is located was in existence as of June 1, 1999 and if the entire accessory dwelling unit is located on one (1) level.

6. Only one (1) principal entrance to the structure may be located on each street-facing facade of the residence except:

a. where two (2) entrances on the front or street side existed on January 1, 1993; or((;))

b. where the Director determines that topography, screening or other design solution is effective in de-emphasizing the presence of a second entrance, so there do not appear to be two principal entrances.

7. A minimum of one (1) off-street parking space per accessory dwelling unit shall be provided, which space may be in tandem with parking provided for the principal dwelling unit.

a. The Director may waive the parking requirement for an accessory dwelling unit if topography or location of existing principal or accessory structures makes provision of a parking space physically or economically infeasible and, for properties located in residential parking zones (RPZs), a parking study is conducted and shows that the utilization rate for on-street parking within a four hundred (400) foot walking distance of the

subject property is less than seventy-five (75) percent. Parking may not be waived for accessory dwelling units within the University District or Alki Parking Overlay Areas as shown on Maps A and B, Section 23.54.015.((;))

b. The applicant need not apply for a variance in order to waive the parking requirement. The parking waiver process cannot be used to eliminate an existing required parking space in order to create an accessory dwelling unit, unless replaced elsewhere on the lot.

8. Ceiling height.

((~~a.~~)) If the portion of the single-family dwelling in which the accessory dwelling unit is located was in existence prior to October 17, 1979, the minimum ceiling height shall be six (6) feet eight (8) inches measured per Section((s)) 310.6.1 and 3403 of the Seattle Building Code (SBC), or the minimum ceiling height shall be six (6) feet four (4) inches if a hard-wired smoke detector is located in the accessory dwelling unit. If the portion of the single-family dwelling in which the accessory dwelling unit is located was constructed on or subsequent to October 17, 1979, the minimum ceiling height shall be ((~~seven (7) feet six (6) inches measured per~~)) as determined according to Section((s)) 310.6.1 and 3403 of the Seattle Building Code.

* * *

Section 2. Subsection B of Section 23.47.012 of the Seattle Municipal Code, which Section was last amended by Ordinance 119370, is further amended as follows:

23.47.012 Structure height and floor area ratio.

* * *

B. Floor Area Ratios.

1. Floor area ratios (FARs) are hereby established for structures in zones with eighty-five (85) foot, one hundred twenty-five (125) foot and one hundred sixty (160) foot maximum height limits according to Chart C. Structures sixty-five (65) feet in height or less in these zones shall not be subject to floor area ratio provisions. For the provisions of this section, a "mixed-use structure" is a building containing a residential use, excluding caretaker's quarters, and at least one (1) other type of use.

CHART C
PERMITTED FLOOR AREA RATIO (FAR)

Structures Higher than 65 Feet	**Height Limit Zones** 85'	125'	160'
Mixed-use structure total	6	6	7
Any single use within a mixed-use structure	4.5	5	5
Single-purpose structure	4.5	5	5

2. Within a mixed-use structure in the First Hill Urban Village, residential floor area constructed [or substantially rehabilitated] for occupancy by households whose annual incomes do not exceed 120% of median household income for Seattle, shall be allowed in addition to residential floor area in the maximum amount allowed for a single use provided in Chart C, on the terms set forth below in this subsection:

a. The mixed-use structure must satisfy the provisions of Section 23.47.008, Mixed Use Development, and, together with any other structures on the lot, may not exceed the maximum "mixed-use structure total" FAR provided in Chart C.

b. A dwelling unit shall be considered to be constructed [or substantially rehabilitated] for occupancy by an eligible household if the initial sale or rental of such unit after completion of construction [or substantial rehabilitation] is made to an eligible household and such household occupies the unit.

c. The additional residential floor area permitted in a mixed-use structure by this subsection 2, includes common areas serving only such dwelling units and an allocable portion of common areas serving such dwelling units and other portions of the structure, as determined by the Director.

* * *

Section 3. Subsections A and C of Section 23.49.008 of the Seattle Municipal Code, which Section was last amended by Ordinance 119370, is further amended as follows:

23.49.008 Structure height.

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

A. Maximum structure heights for downtown zones are forty-five feet (45'), fifty-five feet (55'), sixty-five feet (65'), seventy-five feet (75'), eighty-five feet (85'), one hundred feet (100'), one hundred twenty feet (120'), one hundred twenty-five feet (125'), one hundred fifty feet (150'), one hundred sixty feet (160'), two hundred forty feet (240'), three hundred feet (300'), and four hundred fifty feet (450'), as designated on the Official Land Use Map, Chapter 23.32, except that:

1. The Council shall determine the maximum permitted height when a major retail store or performing arts theater bonus is approved in the Downtown Retail Core zone((s)) pursuant to Section 23.49.096; provided, that such height shall not exceed one hundred fifty (150) feet.

2. Any property in the Pike Market Mixed zone that is subject to an urban renewal covenant may be built no higher than the height permitted by the covenant for the life of the covenant.

3. Any lot in the Denny Triangle Urban Village, as shown on Map 23.49.014 A, may gain up to an additional thirty percent (30%) in height if credit floor area is allowed pursuant to Section 23.49.041, City/County Transfer of Development Credits Program.

4. In the Downtown Retail Core zone, residential floor area created by infill of a lightwell on a City-designated Landmark structure shall be permitted above eighty-five (85) feet. For the purpose of this subsection a lightwell is defined as an inward modulation on a non-street facing facade that is enclosed on at least three sides by walls of the same structure, and infill is defined as an addition to that structure within the lightwell. The maximum height limit for any infill allowed under this subsection A4 shall be the highest level at which the lightwell is enclosed by the full length of walls of the structure on at least three sides.

* * *

C. Rooftop Features.

1. The following rooftop features are permitted with unlimited rooftop coverage and may not exceed the height limits as indicated:

a. Open railings, planters, clerestories, skylights, play equipment, parapets and firewalls up to four (4) feet above the maximum height limit;

b. Solar collectors up to seven (7) feet above the maximum height limit; and

c. The rooftop features listed below may extend up to fifty (50) feet above the roof of the structure on which they are located or fifty (50) feet above the maximum height limit, whichever is less, except as regulated by Chapter 23.64, Airport Height Overlay District:

(1) Major or minor communication utilities,

(2) Religious symbols and that portion of the roof which supports them, such as belfries and spires,

(3) Smokestacks, and

(4) Flagpoles.

They shall be located a minimum of ten (10) feet from all lot lines.

2. The following rooftop features are permitted as long as the combined coverage of all features does not exceed twenty (20) percent of the roof area, or twenty-five (25) percent if the total includes stair or elevator penthouses or screened mechanical equipment. Except in the PMM zone, additional combined coverage of all rooftop features,

not to exceed thirty-five (35) percent of the roof area, may be permitted through the design review process for development standard departures in Section 23.41.012.

a. The following rooftop features are permitted to extend up to fifteen (15) feet above the maximum height limit:

(1) Solar collectors;

(2) Stair penthouses;

(3) Play equipment and open-mesh fencing, as long as the fencing is at least fifteen (15) feet from the roof edge;

(4) Mechanical equipment; and

(5) Mechanical equipment, whether new or replacement, may be allowed up to fifteen (15) feet above the roof elevation of a structure existing prior to June 1, 1989.

b. Elevator penthouses are permitted to extend beyond the maximum height limit as follows:

(1) In the PMM zone, up to fifteen (15) feet above the maximum height limit for the zone;

(2) Except in the PMM zone, up to twenty (20) feet above the maximum height limit for a penthouse designed for an elevator cab up to eight (8) feet high; or

(3) Except in the PMM zone, up to twenty-two (22) feet above the maximum height limit for a penthouse designed for an elevator cab more than eight (8) feet high.

3. Screening of Rooftop Features.

a. Measures may be taken to screen rooftop features from public view through the design review process or, if located within the Pike Place Market Historical District, by the Market Historical Commission.

b. Except in the PMM zone, the amount of roof area enclosed by rooftop screening may exceed the maximum percentage of the combined coverage of all rooftop features as provided in subsection C2 above.

c. Except in the PMM zone, in no circumstances shall the height of rooftop screening exceed ten (10) percent of the maximum height of the zone in which the structure is located, or fifteen (15) feet, whichever is greater. In the PMM zone, the height of the screening shall not exceed the height of the rooftop feature being screened, or such greater height necessary for effective screening as determined by the Pike Place Market Historical Commission.

4. Administrative Conditional Use for Rooftop Features. The rooftop features listed in subsection C1c of this section may exceed a height of fifty (50) feet above the roof of the structure on which they are located if authorized by the Director through an administrative conditional use, Chapter 23.76. The request for additional height shall be evaluated on the basis of public benefits provided, the possible impacts of the additional height, consistency with the City's land use policies, and the following specific criteria:

a. The feature shall be compatible with and not adversely affect the downtown skyline.

b. The feature shall not have a substantial adverse effect upon the light, air, solar and visual access of properties within a three hundred (300) foot radius.

c. The feature, supporting structure and structure below shall be compatible in design elements such as bulk, profile, color and materials.

d. The feature shall not adversely affect the function of existing transmission or receiving equipment within a five (5) mile radius.

e. The increased size is necessary for the successful physical function of the feature, except for religious symbols.

<u>5. Residential Penthouses Above Height Limit in DRC Zone.</u>

<u>a. A residential penthouse exceeding the maximum allowable height shall be permitted in the DRC zone only on a mixed-use, City-designated Landmark structure for which a Certificate of Approval by the Landmarks Preservation Board is required. A residential penthouse allowed under this section may cover a maximum of fifty (50) percent of the total roof surface. Except as the Director may allow under subsection 5b of this section:</u>

(1) A residential penthouse allowed under this subsection shall be set back a minimum of fifteen (15) feet from the street property line.

(2) A residential penthouse may extend up to eight (8) feet above the roof, or twelve (12) feet above the roof when set back a minimum of thirty (30) feet from the street property line.

b. If the Director determines, after a sight line review based upon adequate information submitted by the applicant, that a penthouse will be invisible or minimally visible from public streets and parks within three hundred (300) feet from the structure, the Director may allow one or both of the following:

(1) an increase of the penthouse height limit under subsection 5a of this section by an amount up to the average height of the structure's street-facing parapet; or

(2) a reduction in the required setback for a residential penthouse.

c. The Director's decision to modify development standards pursuant to subsection 5b must be consistent with the Certificate of Approval from the Landmarks Preservation Board.

d. A residential penthouse allowed under this section shall not exceed the maximum permitted height that could be permitted in the DRC zone by the City Council as provided in Section 23.49.008 A1.

e. No rooftop features shall be permitted on a residential penthouse allowed under this subsection 5.

* * *

Section 4. Subsection A of Section 23.91.002 of the Seattle Municipal Code, which Section was added by Ordinance 119473, is further amended as follows:

23.91.002 Scope.

A. Violations of the following provisions of the Seattle Municipal Code Title 23 shall be enforced under the citation or criminal provisions set forth in this Chapter 23.91:

1. Junk storage (as defined in SMC Section 23.84.020) in residential zones (Sections 23.44.006, 23.44.040, 23.45.004, and 23.45.140);

2. Construction or maintenance of structures in required yards or setbacks in residential zones (Sections 23.44.014, 23.44.040, 23.45.005, 23.45.014, 23.45.056, and 23.45.072);

3. Parking of vehicles ((~~in required yards~~)) in a single family zone (Section 23.44.016);

4. Keeping of animals (Sections 23.44.048 and 23.45.148); and

5. Home Occupations (Sections 23.44.050 and 23.45.152).

B. Any enforcement action or proceeding pursuant to this Chapter 23.91 shall not affect, limit or preclude any previous, pending or subsequent enforcement action or proceeding taken pursuant to Chapter 23.90.

Section 5. Severability. The several provisions of this ordinance are declared to be separate and severable and the invalidity of any clause, sentence, paragraph, subdivision, section, subsection, or portion of this ordinance, or the invalidity of the application thereof to any person or circumstances shall not affect the validity of the remainder of this ordinance or the validity of its application to other persons or circumstances.

Section 6. 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 _____, 2000, and signed by me in open session in authentication of its passage this _____ day of _____, 2000.

_____
President of the City Council

Approved by me this _____ day of _____, 2000.

_____
Paul Schell, Mayor

Filed by me this _____ day of _____, 2000.

_____
City Clerk

(SEAL)

STATE OF WASHINGTON - KING COUNTY

114417
City of Seattle,City Clerk

—ss.

No. FULL ORDINAN

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:119837 ORD.IN FUL

was published on

02/02/00

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

Subscribed and sworn to before me on

02/02/00

Notary Public for the State of Washington,
residing in Seattle

TIME AND D E STAMP

SPONSORSHIP

THE ATTACHED DOCUMENT IS SPONSORED FOR FILING WITH THE CITY COUNCIL BY THE MEMBER(S) OF THE CITY COUNCIL WHOSE SIGNATURE(S) ARE SHOWN BELOW:

Lora Reyes

FOR CITY COUNCIL PRESIDENT USE ONLY

COMMITTEE(S) REFERRED TO: _____

PRESIDENT'S SIGNATURE

CITY CLERK

City of Seattle

ORDINANCE 119837

AN ORDINANCE relating to land use and zoning, amending Section 23.44.041, Section 23.47.012, Section 23.49.008, and Section 23.91.002 of the Seattle Municipal Code to increase housing opportunity in the Downtown Retail Core and the First Hill Urban Village, and to clarify provisions for accessory dwelling units and vehicles on lots in Single Family zones.

WHEREAS, the City's Comprehensive Plan, Goals L21, H24, and H25 support mixed uses, including housing, downtown and the adaptation of older buildings for residential uses, in particular the use of landmark structures for housing, and for encouraging housing diversity and quality; and

WHEREAS, the encouragement of adaptive reuse of historic structures increases the quality of life within the City of Seattle; and

WHEREAS, encouraging residential uses within the Downtown Retail Core zone further strengthens this part of the Downtown Urban Center; and

WHEREAS, increasing floor area ratio standards for housing affordable to moderate income households in the First Hill Urban Village will help to fulfill in-city housing goals and to preserve middle income housing opportunities in a rapidly changing neighborhood; and

WHEREAS, the First Hill Urban Village Neighborhood Plan identifies the need to preserve and create housing opportunities that retain the economic mix of First Hill residents;

NOW THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

SECTION 1. Subsection A of Section 23.44.041 of the Seattle Municipal Code, which Section was last amended by Ordinance 119617, is further amended as follows:

23.44.041 ACCESSORY DWELLING UNITS.

Accessory dwelling units may be permitted subject to the standards in subsection A of this Section. The Master Use Permit process set forth in Chapter 23.76 shall be followed to authorize these uses.

A. The Director may authorize an accessory dwelling unit if the Director finds that the unit meets the following development and use standards:

1. A single family dwelling may have no more than one (1) accessory dwelling unit, and only one (1) accessory dwelling unit shall be allowed per lot.

2. One (1) of the dwelling units in the structure shall be occupied by one (1) or more owners of the property as the owner's(s') permanent and principal residence. The owner occupant must occupy the owner-occupied dwelling unit for more than six (6) months of each calendar year. The owner-occupant may not receive rent for the owner-occupied dwelling unit. If a complaint that an owner has violated these requirements is filed, the owner shall:

a. submit evidence to the Director showing good cause, such as job dislocation, sabbatical leave, education, or illness, for waiver of this requirement for up to three years absence from the Puget Sound region. Upon such showing the Director may waive the requirement;

b. re-occupy the structure; or

c. remove the accessory dwelling unit.

3. Any number of related persons may occupy each unit in a single family residence with an accessory dwelling unit provided that if unrelated persons occupy either unit, the total number of persons occupying both units together may not exceed eight (8).

Accessory dwelling units may not be located in any structure detached from the single family dwelling.

5. The floor area of the accessory dwelling unit may exceed one thousand (1,000) square feet only if the portion of the structure in which the accessory dwelling unit is located was in existence as of June 1, 1999 and if the entire accessory dwelling unit is located on one (1) level.

6. Only one (1) principal entrance to the structure may be located on each street-facing facade of the residence except:

a. where two (2) entrances on the front or street side existed on January 1, 1993; or ((;))

b. where the Director determines that topography, screening or other design solution is effective in de-emphasizing the presence of a second entrance, so there do not appear to be two principal entrances.

7. A minimum of one (1) off-street parking space per accessory dwelling unit shall be provided, which space may be in tandem with parking provided for the principal dwelling unit.

a. The Director may waive the parking requirement for an accessory dwelling unit if topography or location of existing principal or accessory structures makes provision of a parking space physically or economically infeasible and, for properties located in residential parking zones (RPZs), a parking study is conducted and shows that the utilization rate for on-street parking within a four hundred (400) foot walking distance of the subject property is less than seventy-five (75) percent. Parking may not be waived for accessory dwelling units within the University District or Alki Parking Overlay Areas as shown on Maps A and B, Section 23.54.015.((;))

b. The applicant need not apply for a variance in order to waive the parking requirement. The parking waiver process cannot be used to eliminate an existing required parking space in order to create an accessory dwelling unit, unless replaced elsewhere on the lot.

8. Ceiling height.

((a.)) If the portion of the single-family dwelling in which the accessory dwelling unit is located was in existence prior to October 17, 1979, the minimum ceiling height shall be six (6) feet eight (8) inches measured per Sections 310.6.1 and 3403 of the Seattle Building Code (SBC), or the minimum ceiling height shall be six (6) feet four (4) inches if a hard-wired smoke detector is located in the accessory dwelling unit. If the portion of the single-family dwelling in which the accessory dwelling unit is located was constructed on or subsequent to October 17, 1979, the minimum ceiling height shall be ((seven (7) feet six (6) inches measured per)) as determined according to Sections 310.6.1 and 3403 of the Seattle Building Code.

* * *

SECTION 2. Subsection B of Section 23.47.012 of the Seattle Municipal Code, which Section was last amended by Ordinance 119370, is further amended as follows:

23.47.012 STRUCTURE HEIGHT AND FLOOR AREA RATIO.

* * *

B. Floor Area Ratios.

1. Floor area ratios (FARs) are hereby established for structures in zones with eighty-five (85) foot, one hundred twenty-five (125) foot and one hundred sixty (160) foot maximum height limits according to Chart C. Structures sixty-five (65) feet in height or less in these zones shall not be subject to floor area ratio provisions. For the provisions of this section, a "mixed-use structure" is a building containing a residential use, excluding caretaker's quarters, and at least one (1) other type of use.

CHART C

PERMITTED FLOOR AREA RATIO (FAR)

Structures Higher than 65 Feet	Height Limit Zones 85'	125'	160'
Mixed-use structure total	6	6	7
Any single use within a mixed-use structure	4.5	5	5
Single-purpose structure	4.5	5	5

2. Within a mixed-use structure in the First Hill Urban Village, residential floor area constructed or substantially rehabilitated for occupancy by households whose annual incomes do not exceed 120% of median household income for Seattle, shall be allowed in addition to residential floor area in the maximum amount allowed for [illegible] elevator penthouses or screened mechanical equipment. Except in the PMM zone, additional combined coverage of all rooftop features, not to exceed thirty-five (35) percent of the roof area, may be permitted through the design review process for development standard departures in Section [illegible]

(1) an increase of the penthouse height limit under subsection 5a of this section by an amount up to the average height of the structure's street-facing parapet; or

(2) a reduction in the required setback for a residential penthouse.

c. The Director's decision to modify development standards pursuant to subsection 5b must be consistent with the Certificate of Approval from the Landmarks Preservation Board.

d. A residential penthouse allowed under this section shall not exceed the maximum permitted height that could be permitted in the DRC zone by the City Council as provided in Section 23.49.009 A1.

e. No rooftop features shall be permitted on a residential penthouse allowed under this subsection 5.

* * *

SECTION 4. Subsection A of Section 23.91.002 of the Seattle Municipal Code, which Section was added by Ordinance 119473, is amended as follows:

23.91.002 SCOPE.

A. Violations of the following provisions of the Seattle Municipal Code Title 23 shall be enforced under the citation or criminal provisions set forth in this Chapter 23.91:

1. Junk storage (as defined in SMC Section 23.84.020) in residential zones (Sections 23.44.006, 23.44.040, 23.45.004, and 23.45.140);

2. Construction or maintenance of structures in required yards or setbacks in residential zones (Sections 23.44.014, 23.44.040, 23.45.005, 23.45.014, 23.45.056, and 23.45.072);

3. Parking of vehicles ((**in required yards**)) in a single family zone (Section 23.44.016);

4. Keeping of animals (Sections 23.44.048 and 23.45.148); and

5. Home Occupations (Sections 23.44.050 and 23.45.152).

B. Any enforcement action or proceeding pursuant to this Chapter 23.91 shall not affect, limit or preclude any previous, pending or subsequent enforcement action or proceeding taken pursuant to Chapter 23.90.

SECTION 5. Severability. The several provisions of this ordinance are declared to be separate and severable and the invalidity of any clause, sentence, paragraph, subdivision, section, subsection, or portion of this ordinance, or the invalidity of the application thereof to any person or circumstances shall not affect the validity of the remainder of this ordinance or the validity of its application to other persons or circumstances.

SECTION 6. 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 18th day of January, 2000, and signed by me in open session in authentication of its passage this 18th day of January, 2000.

MARGARET CARTER,
President of the City Council.

Approved by me this 24th day of January, 2000.

PAUL SCHELL,
Mayor.

Filed by me this 25 day of January, 2000.

(Seal) JUDITH E. PIPPIN,
City Clerk.

Publication ordered by JUDITH PIPPIN, City Clerk.

((**Boldface denotes deletion.**))

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