



**Legislative Department
Seattle City Council
Memorandum**

Date: March 1, 2013
To: Special Committee on South Lake Union
From: Sara Belz and Ketil Freeman, Council Central Staff
Subject: Issue Identification for Council Bill (C.B.) 117603 – South Lake Union Urban Center Rezone

Background and Introduction

In 2006, through [Resolution 30885](#), the Council ratified the designation of South Lake Union as an Urban Center in the Countywide Planning Policies. Also in 2006, by [Ordinance 122313](#), the Council incorporated the goals and policies from the South Lake Union Neighborhood Plan into the City's Comprehensive Plan. [C.B. 117603](#) is the first of several pieces of legislation that will be proposed by the Mayor to implement the South Lake Union Neighborhood Plan. This bill would establish development standards and zone designations sufficient to accommodate South Lake Union's proposed share of Seattle's future residential and employment growth. It would also implement planning goals identified by Neighborhood Plan updates, urban design studies, and other policy and planning documents.

Other pieces of legislation needed to implement the South Lake Union Neighborhood Plan include, but may not be limited to: 1) a bill designating the South Lake Union and Downtown urban centers as a Local Infrastructure Project Area (LIPA); 2) a bill accepting an allocation of regional transferable development rights (TDR), 3) a bill authorizing execution of an interlocal agreement with King County to implement a regional TDR program; 4) a bill to update South Lake Union's neighborhood design guidelines; 5) potentially, a bill to approve a development agreement between City Investors and the City of Seattle for increased height and density on the Mercer Blocks; and 6) a bill to amend the Comprehensive Plan to allocate 2031 growth targets, including those for the South Lake Union Urban Center.¹ The Council's Planning Land Use and Sustainability Committee is currently considering [C.B.117619](#), which would update the design guidelines for several Seattle neighborhoods, including South Lake Union. The other pieces of legislation are yet to be submitted by the Mayor.

On March 4, 2013, we will present the following issue identification matrix on C.B. 117603 to the Council's Special Committee on South Lake Union. The matrix lists various issues, organized by subject matter, which could be taken up in a subsequent decision agenda. The content of the matrix was informed by input from Councilmembers, Central Staff analysis of C.B. 117603, and questions and issues raised during meetings of the Special Committee. If you would like us to include additional issues, please let us know. Please also note that this memorandum assumes a term sheet for a development agreement authorizing additional height on the Mercer Blocks in exchange for property owned by City Investors on Block 59 is no longer under consideration by the Council.

¹ In 2010, the Council adopted [Resolution 31211](#), which approved and ratified a decision by the King County Council to allocate to Seattle 86,000 new residential units and 146,700 new jobs as growth targets for the 2006 – 2031 planning period. At the time the Resolution was approved, the City had sufficient growth capacity under existing zoning to accommodate those targets.

Subject Matter	Issue Area	Discussion	Policy Questions
Urban Form and Proposed Zoning	<i>Cascade Neighborhood</i>	<p>The Mayor’s proposal would retain existing Seattle Mixed/Residential zoning with a 55 foot height limit for commercial use and a 75 feet height limit for residential use (SM/R 55/75) on the interior blocks of the Cascade neighborhood. This designation is proposed to be retained, in part, to preclude additional development pressure on the area’s existing housing stock, which includes residential uses in older brick apartment buildings.</p> <p>A coalition of Cascade property owners would like to see the allowable height in this area increased to as much as 125 feet. DPD reviewed a proposed increase to 85 feet and determined that such an increase, while unlikely to produce much additional housing, could result in building forms with more generous street-level floor-to-floor ceiling heights. The increase could also put additional development pressure on the neighborhood’s older, character structures.</p>	<ul style="list-style-type: none"> ▪ Should the interior blocks of the Cascade neighborhood be upzoned from Seattle Mixed/Residential (SM/R 55/75) a zone designation with increased height and density?
	<i>Fairview Corridor</i>	<p>The Mayor’s proposal would retain an existing zone boundary along the alley between Fairview Avenue and Minor Avenue. Under the current zoning, this boundary primarily serves to separate incompatible uses. Specifically, the boundary separates Industrial Commercial (IC) zoning on the west side of the alley, which prohibits most residential uses and accommodates light industrial uses, from SM/R zoning on the east side of the alley, which favors residential uses. The height limits permitted on both sides of the alley under existing zoning are relatively similar. In the IC zone, the maximum height limit is 85 feet; in the SM zone it is 75 feet.</p> <p>Under C.B. 117603, zoning on both sides of the alley would be within the SM family of zones and generally allow the same uses. However, there would be significant transitions in allowable height, bulk and scale. On the west side of the alley, the proposed zoning designation of SM 160/85-240 would allow commercial towers with heights of up to 160 feet and mixed-use and residential towers with heights of up to 240 feet. Properties on the east side of the alley would retain their current SM/R 55/75 zoning designation.</p> <p>The Mayor’s proposal is intended to match zone designations across the relatively wide Fairview Avenue right-of-way and includes upper level setback standards at the alley to mitigate the transition from SM 160/85-240 to SM/R 55/75. These standards would require upper level setbacks along the alley lot line for portions of buildings above 25 feet. The maximum required depth of these upper level setbacks would be 15 feet.</p> <p>Council has received comments and testimony expressing concern about the severity of the proposed height, bulk and scale transitions at the alley.</p>	<ul style="list-style-type: none"> ▪ Should the Council move the zone boundary from the alley between Minor and Fairview to the center line of the Fairview right-of-way? ▪ Alternatively, should the Council change the proposed zone designation on the west side of the alley to a zone with lower maximum heights?
	<i>8th Avenue</i>	<p>The Mayor’s proposal would establish a residentially-focused corridor along 8th Avenue between Republican Street and John Street. Development standards for this area would favor residential development by limiting the locations where commercial uses would be permitted and requiring ground-level setbacks to allow for residential stoops and private open space.</p> <p>This proposed residential corridor is located immediately south of the University of Washington Medicine’s biomedical research campus and includes parcels that could serve as future expansion sites for that facility. The residentially-focused use and development standards proposed for those properties could inhibit such an expansion.</p>	<ul style="list-style-type: none"> ▪ Should the Council amend the use and development standards proposed for 8th Avenue in order to facilitate a possible future expansion of adjacent biomedical research and laboratory uses?
	<i>Mercer Blocks</i>	<p>The Mayor’s proposal establishes the SM 85/65-240 zone designation, which would apply to three blocks located between Valley Street and Mercer Street – the “Mercer Blocks.” This zone designation would allow construction of residential towers, or hotel towers meeting residential development standards, up to a height of 240 feet, if authorized by a development agreement between the City and the owner of the Mercer Blocks. Without a development agreement, the same buildings could not exceed heights of 160 feet. The height proposed for commercial structures, other than hotels, is 85 feet. The opportunity for the City and the owner of the Mercer Blocks to enter into a development agreement would expire six months after the effective date of C.B. 117603.</p> <p>Other proposed development standards applicable to the Mercer Blocks include, but are not limited to:</p> <ul style="list-style-type: none"> ▪ Lot coverage and ground-level setback standards intended to create physical and visual access through the site to Lake Union Park (DPD will propose to revise these standards as an open space requirement for consistency with existing regulations); ▪ Maximum podium heights for tower development of 85 feet on Mercer Street and 65 feet on Valley; ▪ Maximum floor plate sizes of 12,500 square feet for towers with heights of 160 feet; 	<ul style="list-style-type: none"> ▪ Should the Council eliminate the proposed option to develop 240 foot tall towers on the Mercer Blocks and instead limit the maximum tower height for this area to 160 feet? ▪ Should the Council reduce the proposed maximum tower floor plate size to 8,000 square feet? ▪ Should the Council reduce the proposed maximum podium heights?

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		<ul style="list-style-type: none"> ▪ Maximum average floor plate sizes of 10,500 square feet for towers with heights of 240 feet; and ▪ Maximum east / west towers widths of 120 feet. <p>Some Councilmembers and South Lake Union residents have expressed interest in lowering the maximum tower heights and floor plate sizes proposed for the Mercer Blocks.</p> <p>Current zoning allows development on the Mercer Blocks up to 40 feet in height with an exception allowing additional building height up to 65 feet if 20% of the site is set aside as usable open space and other development, including upper level setback and lot coverage limits are met.</p>	
	<i>Denny Way</i>	The Mayor proposes to upzone the area located one block north of Denny Way (extends from Denny Way to John Street and from Aurora Avenue to Interstate-5) to SM 240/125-400. Existing zoning in this area is primarily SM 125, with a pocket of SM 85 zoning located between 9 th Avenue North and Aurora Avenue North. The intent of the Mayor’s proposal is to make zoning on the north side of Denny more consistent with what is permitted on the south side of the street. However, some South Lake Union residents contend that 400 foot tall residential buildings would be out of scale with the development that would be permitted in the rest of the rezone area. They have also expressed concerns about the potential shading impacts 400 foot tall buildings would have on Denny Park and other properties.	<ul style="list-style-type: none"> ▪ Should the Council reduce the proposed maximum residential building height permitted on the block north of Denny Way?
	<i>Westlake Panhandle</i>	The northwest portion of the rezone area is shaped like a panhandle and located between Westlake Avenue, Aloha Street, Aurora Avenue, and Galer Street. C.B. 117603 proposes this area be upzoned from SM 65 to SM 85. Recently, a large property owner from the panhandle blocks requested the Council consider further upzoning this area to SM 85/65-160. The panhandle is not in the flight path for the seaplane terminal. The proposed zoning for properties located immediately south of the panhandle is a mix of SM 160/85-240 and SM 85/65-160.	<ul style="list-style-type: none"> ▪ Should the northwest portion of the rezone area be further upzoned to SM 85/65-160?
	<i>Urban Form, Other</i>	<p>A variety of other issues related to urban form in the proposed rezone area have been raised by Councilmembers, South Lake Union property owners, and other interested parties. Those issues are briefly described here.</p> <ul style="list-style-type: none"> ▪ <u>Podium Heights:</u> The Mayor’s rezone proposal does not prescribe podium heights for the ½ block east of Aurora Avenue, generally between John Street and Aloha Street, where towers could be developed. Podium heights dictate where, in part, other development standards, such as maximum floor plate size, would apply. DPD will propose to establish podium heights for this area. ▪ <u>Design Review Departure:</u> C.B. 117603 would add new prohibitions on development standard departures that could be granted through design review for: 1) floor plate sizes, 2) bonus provisions, and 3) the number of towers allowed per block. Theoretically departure could be granted for other development standards intended to ensure development of a built environment envisioned in urban design plans that inform the rezone. Potential development standard departures that could be granted include departures for upper level setbacks intended to allow east / west and north / south public views through the urban center and setback standards for transitions between areas with differential height, bulk and scale, such as the transition between the SM/R 55/75 and the SM 160/85-240 zoning east of Fairview Avenue. ▪ <u>Open Space and Bulk Reductions for Podiums:</u> South Lake Union Friends and Neighbors may propose additional development standards related to open space and podium bulk. Their draft proposal is currently under review by DPD. 	<ul style="list-style-type: none"> ▪ Should the Council establish maximum podium heights for the ½ block east of Aurora where towers could be developed? ▪ Should the Council further limit development standards departures for South Lake Union that could be granted through design review?
Bonus Program	<i>Bonus Programs, Generally</i>	<p>C.B. 117603 establishes floor area ratios (FARs) and residential heights above which additional residential or commercial floor area must be gained by participation in a bonus program. In 2008, the Council passed Resolution 31104, which provides some guidance on how the “base” should be established. Specifically, Resolution 31104 states:</p> <p>Section 3. Base Height and Density. In implementing an incentive zoning program the Council and Mayor intend that the height limit and maximum density allowed under existing zoning should be the "base" above which additional development capacity must be achieved through participation in an incentive zoning program. However, the Council and Mayor recognize that conditions of the built environment, planning objectives, and other considerations might compel use of a different base. The Council requests that when the</p>	<ul style="list-style-type: none"> ▪ Should the Council maintain the “base” proposed by the Mayor or should the Council explore options to lower the “base” in certain portions of the rezone area?

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		<p>Mayor proposes a base that is different from existing maximum height and density, that the Department of Planning and Development Director's Report provide a rationale for why the proposed base differs from existing.</p> <p>Base FAR and height standards dictate, in part, the magnitude of public benefits that can be achieved through development in the rezone area. While there may be compelling policy reasons to set a “base” above existing zoning, inherent in that choice is a tradeoff whereby some public benefit may be foregone in pursuit of a different policy objective. Moreover, given the myriad exceptions for height and FAR present in existing zoning, determining a “base” can be a somewhat technical and subjective exercise.</p> <p>In portions of the rezone area, the Mayor’s proposal sets “base” height and density limits that exceed those of existing zoning. In some cases, the choice was made by DPD to propose a higher “base” to establish a new zone designation that could be easily applied in other areas of the City.</p>	
	<p><i>Regional TDR and Tax Increment Financing</i></p>	<p>The Mayor’s proposal would establish participation in a regional TDR program, authorized by Chapter 39.108 RCW, as a means to achieve extra residential and commercial floor area above a “base.” Under the program, development rights from rural, agricultural, and forest land in King, Pierce, and Snohomish Counties could be sold and transferred to the South Lake Union and Downtown urban centers. The proposal establishes an exchange rate for residential and commercial floor area that varies depending on the county and type of land. As proposed, the program would initially prioritize preservation of farmland.</p> <p>Participation in the program would require the City to create a tax-increment-financing-like area called a Local Infrastructure Project Area (LIPA). A portion of King County’s incremental property tax revenue from new development in the LIPA would then flow to the City as a new revenue source to fund amenities in the areas accepting additional growth. The City would also encumber some incremental property tax from new development in the LIPA. DPD estimates that participation in the program would bring in approximately \$16.9 million (2012 dollars) in new revenue from King County over a 25-year period. DPD also estimates that the City would need to encumber \$40.3 million (2012 dollars) for expenditure on operations, maintenance and capital projects in the South Lake Union and Downtown urban centers over the same period of time.</p> <p><u>Use of LIPA Funds</u> Property tax revenue flows to the General Subfund, which is the City’s most fungible fund. DPD indicates that to preclude an inequitable distribution of property tax revenue, encumbered City funds would be spent on maintenance projects that would have to be undertaken regardless of whether a LIPA is in place; new amenity-creating capital projects would not be supported with those dollars. However, it is unclear how this would work in practice. For example, street maintenance has been mentioned as a type of activity that would be funded by encumbered City property tax revenue. In the Seattle Department of Transportation’s 2013 adopted Capital Improvement Program, General Subfund is not proposed as a revenue source for any major maintenance projects. Typically, revenues for major maintenance projects come from a variety of other sources including, but not limited to, gas taxes, vehicle license fees, real estate excise taxes, and the Bridging the Gap Levy. Presumably, encumbered City property tax in the LIPA spent on street major maintenance projects would supplant some of these sources. A draft memorandum from DPD describing how capital budgeting in the LIPA would work is under review by Central Staff. The Council may want to consider development and approval of financial policies governing use of LIPA funds.</p> <p><u>Transferable Forest and Rural Land Credits</u> The proposal prioritizes farmland preservation for the initial allocation of regional credits. Preservation would be accomplished in part through a commitment by King County to the City to use proceeds from the sale of the first 200 regional credits currently in the King County TDR bank to purchase development rights for farmland in King County. Some constituents and Councilmembers have expressed an interest in clarifying how, after this commitment is met, regulations establishing exchange ratios for forest and rural land are codified.</p>	<ul style="list-style-type: none"> ▪ Should the Council explore development of financial policies governing use of encumbered City property tax revenue in the LIPA area? ▪ Should the Council amend the Mayor’s proposal to clarify exchange ratios for forest and rural land after the first 200 credits, the proceeds from which would go towards preservation of farmland, have been acquired?
	<p><i>Affordable Housing Bonus - Residential</i></p>	<p>The Mayor’s proposal would establish a residential affordable housing incentive program in South Lake Union and slightly modify existing substantive and procedural requirements for clarity and ease of administration. The program would include the allowance of additional development above a “base” if a developer either: 1) provides affordable housing in their project (“performance”) or 2) makes an in-lieu payment to the City. As proposed, for residential development 60% of the extra residential floor area above the “base” would be achieved through in-lieu payment or performance. The remainder would be achieved through participation in either the regional TDR program, if approved by Council, or through landmark and open space TDR.</p>	<ul style="list-style-type: none"> ▪ Should the Council adjust the performance percentage? ▪ Should the Council adjust the payment-in-lieu fee for residential developers to induce performance?

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		<p>Rental housing provided through “performance” must be affordable to households earning up to 80% of the Area Median Income (AMI) (about \$55K /year for a two person household). Condominiums must be affordable to households earning up to 100% of AMI (about \$69K/year for a two person household). The current in-lieu payment amount is about \$19/net square foot, calculated with an 80% assumed efficiency factor for non-leasable space.</p> <p>In a residential building built to a height of 240 feet – the prevailing proposed height in South Lake Union - the performance requirement would equate to approximately 5% of all units in the building being affordable units. In most other areas of the City where this program operates, such as First Hill, Capitol Hill, Downtown, South Downtown, and Roosevelt, to name a few, performance is required in zones with height limits below 85 feet. In zones where towers may be built above 85 feet, developers have the option of performing or making an in-lieu payment. Historically, developers of towers have chosen to make in-lieu payments to the City.</p> <p>To meet Comprehensive Plan goals for the provision of housing affordable to households earning up to 80% of AMI, 37% of projected residential development, or 5,550 affordable units, would need to exist in South Lake Union in 2031. The Office of Housing estimates that there were 1,274 affordable units in South Lake Union in 2012.</p>	<ul style="list-style-type: none"> ▪ Should residential developers participating in the City’s incentive zoning program for South Lake Union be required to build affordable housing units on-site, rather than making an in-lieu payment? ▪ Should the Council adjust the income threshold for affordable units developed on-site?
	<i>Affordable Housing Bonus – Commercial</i>	<p>The Mayor’s proposal would extend the commercial affordable housing incentive program in South Lake Union. Like the residential program, the commercial program would allow additional development above a “base” if a developer either: 1) provides affordable housing in their project or 2) makes an in-lieu payment to the City. For commercial development, 75% of the extra floor area above the “base” would be achieved through in-lieu payment or performance. The remainder would be achieved through participation in either the regional TDR program, if approved by Council, or through landmark and open space TDR.</p> <p>C.B. 117603 encourages residential development in South Lake Union through development standard changes and height increases. DPD estimates that future development in South Lake Union under the proposal would result in an approximate 55% - 45% split between residential and commercial growth, respectively. To help ensure that future commercial and residential development compete more or less equally for land, the Council may want to amend the commercial affordable housing bonus program such that the cost per square foot of bonus floor area for commercial development is similar to the cost for residential development.</p>	<ul style="list-style-type: none"> ▪ If the Council adjusts the residential affordable housing incentive program, should the Council also adjust the payment-in-lieu fee for the commercial program?
Transportation Impact Mitigation	<i>Alternative Mitigation Program</i>	<p>Since 2004 there has been an optional State Environmental Policy Act (SEPA) based alternative fee payment mitigation program operating in South Lake Union. Under this program, a developer can opt to make a mitigation payment based on the square footage of a proposed use as an alternative to project-level SEPA review for transportation impacts. The program is based on a 2004 area-wide transportation study of South Lake Union. The program identifies infrastructure projects that are eligible for expenditure of fee revenue.</p> <p>In February 2011, DPD issued the Draft Environmental Impact Statement (DEIS) for the South Lake Union rezone. The Final EIS (FEIS) was issued in April 2012. The DEIS and FEIS identify infrastructure projects that could help mitigate the transportation impacts of development that could occur under the rezone. However, the cost estimation work needed to add these projects to the mitigation program and update its associated fee structure has not been done and is unlikely to be completed before C.B. 117603 is adopted by Council.</p> <p>Consequently, until the program and fee structure are updated, the City may forego opportunities to collect fees based on a program that is scaled to the actual impact of future development in South Lake Union. SDOT estimates that cost estimation and updates to the fee structure could take six to 12 months to complete and cost between \$75,000 and \$150,000.</p>	<ul style="list-style-type: none"> ▪ Should the Council find budgetary authority and provide direction to SDOT and DPD to update the alternative fee mitigation program?
Historic Preservation	<i>Preservation of Landmark and Character Structures</i>	<p>A total of 15 designated historic landmarks and about 30 potentially eligible sites are located within the rezone area. The Mayor’s proposal includes the following incentives to support historic preservation in South Lake Union:</p> <ul style="list-style-type: none"> ▪ Exempt preserved, designated landmark structures from FAR calculations. ▪ Provide a 0.5 FAR bonus for projects that incorporate the preservation of a designated landmark structure. The original intent of C.B. 117603 was to limit this provision to certain zones and to lots that measure 60,000 or more square feet. However, DPD recently revised its recommendations and is now proposing the 0.5 FAR bonus be extended to all lots in the rezone area where a landmark structure is 	<ul style="list-style-type: none"> ▪ Consistent with DPD’s recommendation, should the Council extend eligibility for the 0.5 FAR bonus to all lots with landmarked structures? If the Council wishes to go even further, it could also extend eligibility for the FAR bonus to sites with structures that are potentially eligible for landmark designation.

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		<p>preserved.</p> <ul style="list-style-type: none"> ▪ For structures that incorporate the preservation of a designated landmark, are located on lots measuring 60,000 or more square feet, and have nonresidential uses above 85 feet (slightly higher limits would apply to buildings with research and laboratory uses), increase the maximum floor plate size for each story above the required podium from 24,000 square feet to 30,000 square feet. <p>Under C.B. 117603, the City’s landmark TDR program would only operate in South Lake Union until the regional TDR program described on p.4 of this matrix is implemented. It’s estimated that there are currently about 360,000 square feet of landmark TDR credits are available from existing properties in South Lake Union. The present trading price downtown is about \$11 per square foot.</p>	<ul style="list-style-type: none"> ▪ Should the Council appropriate additional General Subfund support to the Department of Neighborhoods to review additional properties in South Lake Union for potential landmark designation? ▪ Should the Council incorporate landmark TDR into the bonus program for South Lake Union?
<p>Other Development Standards and Issues</p>		<p>A variety of other issues related to the proposed rezone area have been raised by Councilmembers, South Lake Union property owners, and other interested parties. Those issues are briefly described below.</p> <ul style="list-style-type: none"> ▪ <u>Designation of SEPA-Protected Viewpoints:</u> Representatives from the Space Needle have voiced concern about the potential impact of the Mayor’s South Lake Union rezone proposal on public views of the Space Needle. They contend such views are both iconic and important for local wayfinding. One step the Council could take to address this concern would be to designate the view from Lake Union Park toward the Space Needle as a SEPA-protected view corridor. However, because the section of the Municipal Code that lists the City’s established view corridors is not included in the title of C.B. 117603, separate legislation would be required to implement this change. ▪ <u>Green Building Requirements:</u> C.B. 117603 would require most future development projects in South Lake Union to meet or exceed the threshold for a LEED Silver rating in order to qualify for any bonus floor area. Some Councilmembers have stated that meeting LEED Silver requirements has, essentially, become a construction industry standard and the City should instead require South Lake Union projects to meet or exceed the threshold for achieving LEED Gold. ▪ <u>Public School Height Exception:</u> The proposal would create a height exception for co-development with the Seattle School District. Specifically, in the proposed SM 160 / 86-240 and SM 85-240 zones, heights for residential and commercial towers could be increased by 30% and 20%, respectively, if the building includes a public school. Some Councilmembers have expressed a desire to strengthen these provisions by providing more use-specific school development standards 	<ul style="list-style-type: none"> ▪ Should the Council add the view from Lake Union Park toward the Space Needle to the City’s codified list of SEPA-protected view corridors? ▪ Should future development projects in South Lake Union be required to meet or exceed the threshold for LEED Gold designation in order to take advantage of any bonus floor area? ▪ Should the Council amend the proposed height exception to clarify and add greater specificity to the school height exception?