INCENTIVE ZONING UPDATE
Initial Proposal

Seattle
Office of Planning & Community Development

This document summarizes an initial proposal to update Seattle's Incentive Zoning program. Incentive Zoning is a tool that allows new development in certain areas to voluntarily achieve extra floor area in exchange for providing certain public benefits. Incentive Zoning has been implemented piecemeal in different zones and geographic areas over the last 20 years with significant expansions in the last 5 years. Consequently, specific standards and processes vary substantially by zone and location. As a result, Incentive Zoning can be confusing for the public and potential users and difficult to administer. There is also an opportunity to learn from what is working and not working in different areas to create consistently high standards across all zones.

The goal of the Incentive Zoning Update is to:

1. create a clear and consistent program;
2. achieve better outcomes in the public benefits provided; and
3. improve the City's permitting, tracking, and enforcement processes.

The City is not proposing to implement Incentive Zoning in any additional geographic areas or change the amount of extra floor area that can be achieved in any zone as part of this update.

The City intends to discuss this proposal with the public in June through September of 2018. Once this public engagement period is complete, it is anticipated that an updated proposal and legislation will be available in early 2019 for a second shorter round of feedback. Legislation would then be sent to City Council for consideration in mid-2019.

Urban plaza at 2021 7th Ave

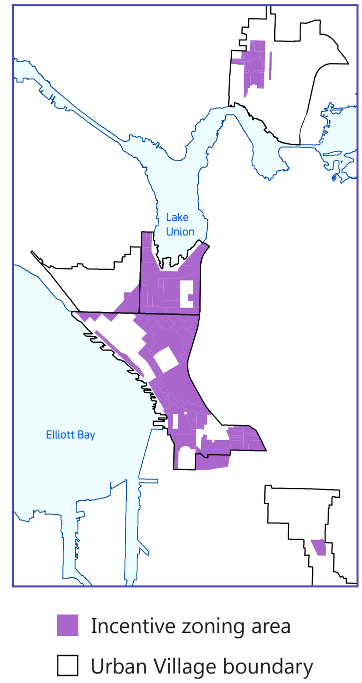
BACKGROUND

Incentive Zoning has been implemented in various areas of Seattle as part of a rezone that increased development capacity. To acheive the new development capacity allowed through the rezone, new development must provide public benefits through Incentive Zoning. These changes came after extensive discussions about zoning, transportation, design, infrastructure, and the range of public benefits options that could be provided to achieve extra floor area. By implementing Incentive Zoning as part of new rezones, the City ensures that new development contributes to infrastructure investments in growing neighborhoods.

Prior to the implementation of Seattle's new Mandatory Housing Affordability (MHA) program, Incentive Zoning was the primary way that new development contributed to affordable housing. In general, it has been the policy of the City that all extra floor earned through Incentive Zoning on properties with height limits of 85 feet or less would be earned through affordable housing. On properties with higher height limits, the policy was to get a mix of affordable housing and other benefits. As MHA is implemented, mandatory MHA requirements will replace the contribution developers made through Incentive Zoning. Where the provisions of a zone refer to MHA, all affordable housing requirements for achieving extra floor area will be satisfied through compliance with applicable MHA requirements instead of Incentive Zoning. Consequently, Incentive Zoning will remain primarily in areas with height limits above 85 feet.

GEOGRAPHIC AVAILABILITY

After citywide implementation of MHA, Incentive Zoning will remain in most of Downtown and South Lake Union as well as portions of University District, Uptown, and North Rainier. While Downtown has had Incentive Zoning since the 1980's, it has been implemented more recently in South Downtown (2009), South Lake Union (2013), North Rainier (2013), University District (2017), and Uptown (2017). This update will primarily impact Downtown, including South Downtown, since the other programs have been implemented more recently.



SUMMARY OF THE EXISTING PROGRAM

Through Incentive Zoning, developers gain extra floor area beyond a base allowed development capacity up to an established maximum development capacity by providing public benefits**.** Public benefits must meet specific standards outlined in the Land Use Code. Because the program has been implemented piecemeal in many stages, the specific public benefit options, standards, and process all vary significantly in different zones and areas.

Development is typically offered a menu of options for achieving extra floor area. Public benefits options can include:

- Providing privately-owned public open space on-site.
- Making improvements to a designated Green Street to allow more public space in the right-of-way.
- Purchasing Transferable Development Rights (TDR) or Transferable Development Potential (TDP) from a designated historic Landmark buildings, Vulnerable Masonry Structure, or open space.
- Providing other on-site amenities such as hill climb assist escalators, transit tunnel station access, shopping corridors, atriums, bathrooms, or human service uses.

Green street on 9th Ave

Commercial development must also contribute to child care facilities by providing them directly or paying into a fund to building child care facilities off-site. New buildings using Incentive Zoning in all areas except the core of Downtown must also meet a green building requirement. These buildings must use 15% less energy than the minimum building code requirement and meet one of the following green building certifications: LEED Gold, Built Green 4-star, Evergreen Sustainable Development Standard, or Passive House.

In South Lake Union, developers must earn extra floor area by purchasing TDR from regional farms and forests to ensure their preservation. In exchange for implementing this program, King County has agreed to give the City of Seattle a portion of future property tax revenue to fund identified local priorities, including Green Street improvements and a North Downtown community center.

BENEFITS RECEIVED TO DATE

Most development occurring in zones with Incentive Zoning has chosen to take advantage of Incentive Zoning. Below is a summary of benefits provided by geographic area. This summary does not include affordable housing contributions provided through Incentive Zoning since those affordable housing requirements are being replaced by MHA.

Downtown

In the Downtown Urban Center, there have been 40 projects that have used Incentive Zoning since 2004. Of these projects, 14 met all their Incentive Zoning requirements through affordable housing or affordable housing and child care. Residential projects outside of South Downtown and projects in PSM 85-120 and zones with height limits less than 85 feet achieve all their Incentive Zoning requirements through affordable housing or affordable housing and child care. Of the remaining 26 projects, below is a breakdown of the public benefits other than affordable housing that were provided.

	By Square Footage Earned		By Number of Projects	
	Amount of Square Feet	**Percentage of Square Feet**	**Number of Projects**	**Percentage of Projects**
Open Space	297,880	14%	4	15%
Green Street	162,752	8%	4	15%
All TDR	1,546,958	74%	23	88%
Landmark TDR	*552,978*	*26%*	*9*	*35%*
Open Space TDR	*148,631*	*7%*	*4*	*15%*
LPAT TDR	*72,816*	*3%*	*2*	*8%*
MPAF TDR	*279,692*	*13%*	*8*	*31%*
Regional TDR	*316,653*	*15%*	*12*	*46%*
In-Block TDR	*176,188*	*8%*	*2*	*8%*
Human Services Use	25,739	1%	1	4%
Other Amenities	67,968	3%	2	8%
TOTAL	**2,101,297**		**26**	

Additionally, development in Downtown contributed $14.5 million toward child care facilities and provided one on-site facility through Incentive Zoning.

South Lake Union

There have been 16 projects that have used Incentive Zoning since the current Incentive Zoning system was adopted on May 14, 2013. These projects have purchased 410 regional development credits, which will preserve about 2,000 acres of farm land. Additionally, development in South Lake Union contributed $3.7 million toward child care facilities.

University District, Uptown, and North Rainier

No projects have used Incentive Zoning in these areas as the programs are relatively new. Incentive Zoning was implemented in the University District and Uptown in 2017 and in North Rainier in 2013.

OVERVIEW OF THE INITIAL PROPOSAL

An overview of the initial proposal is described below. Details on how the proposal would affect specific public benefits (TDR, open space and on-site amenities, green building, and child care) are listed on the following pages.

The City is considering the following changes that would affect Incentive Zoning areas throughout Seattle:

- Consolidate standards from many zones into a single code chapter with modifications to ensure consistent and clear standards across different areas and zones
- Update payment and performance amounts for the child care requirement based on an updated study on the need generated by new development
- Allow historic buildings to sell more TDR if they meet proposed 2030 Challenge High Performance Building Pilot
- Update green building requirement to prohibit fossil fuel use for space heating in all buildings and prohibit electric resistance heating for space heating in commercial projects

Additionally, the following changes are being considered which would only affect Downtown, including Pioneer Square and the Chinatown/International District:

- Merge Transferable Development Rights (TDR) and Transferable Development Potential (TDP) programs and multiple geographic TDR and TDP markets in Downtown to make the program more intelligible and make it easier for buyers and seller to find each other
- Remove within-block TDR as it is not providing significant public benefit
- Remove shopping corridors and public atriums as Incentive Zoning options as they have produced areas that have a private character and reduce street activation; these amenities would continue to be exempt from floor area limit calculations
- Require all commercial projects in Downtown larger than 30,000 square feet, even those not using Incentive Zoning, to set aside 15% of lot as open space
- Evaluate a proposal to add provision of on-site cultural space as an amenity option in Downtown
- Extend minimum green building requirement to all projects that use Incentive Zoning in Downtown; currently it applies in all areas with Incentive Zoning except the portions of Downtown outside of South Downtown
- Modify affordable housing provisions for consistency in the few zones where affordable housing requirements will continue to be satisfied through that program as part of Incentive Zoning (not MHA).
- Update combined lot standards
- Update permitting process requirements

The City is not proposing to implement Incentive Zoning in additional geographic areas or change the amount of floor area that can be achieved through Incentive Zoning in any area as part of this update.

TRANSFER OF DEVELOPMENT RIGHTS (TDR)

Transferring development rights from another property is one option for achieving extra floor area. Depending on the location, development rights can be transferred from historic properties, unreinforced masonry structures that have been rehabilitated, and open space. The City has previously had programs that allowed transfer of development rights from sites with performing arts facilities, theaters, and low-income housing; however, these programs have either been eliminated or all eligible development rights have been transferred. The purpose of TDR is to:

1. enable the sale of unused development rights so that proceeds from the sale can be used to fund rehabilitation or maintainance.
2. support long-term preservation of these structures to support the character of a neighborhood that is experiencing growth.

The Central Building is a Landmark building that sold TDR

Currently, there are two types of development rights with different standards:

- Transferable Development Rights (TDR): TDR can only be transferred to a commercial development; transferring TDR reduces the capacity of the sending site to build commercial, but not residential, floor area
- Transferable Development Potential (TDP): TDP can only be transferred to residential projects; since most residential projects in Downtown can't achieve extra floor area through Incentive Zoning there is limited areas where TDP can be used; transferring TDP reduces the capacity of the sending site to build commercial and residential floor area

TDR and TDP have different rules for how to calculate the amount of floor area that can be transferred. Additionally, there are complex set of rules about which zones can send and receive TDR and TDP. The consequence of this complexity is that it is very difficult for property owners to understand the value of their development rights and for buyers and sellers to find each other.

The City is proposing three significant changes to the existing TDR and TDP options:

Merging TDR and TDP and Merging geographic markets

The City is proposing to merge TDR and TDP into one TDR option and to combine multiple geographic markets in Downtown, including South Downtown, so that it is easier to find sellers and buyers. This change will dramatically simplify the existing program and make it easier to buy and sell TDR. The City is also proposing to consolidate different standards as follows:

- Replace four different standards for determining how much Landmark TDR is available on a property with one standard
- Clarify how much development capacity is available on sites that either have no floor area limit or have different floor area limits for residential and commercial structures
- Ensure that the sale of TDR reduces the commercial and residential development capacity of a site (not just the commercial development capacity)

Under the new proposed standard, the amount of Landmark TDR available to transfer on any site would be equal to the development capacity of the site minus the amount of above-grade floor area on the site and the amount of TDR and TDP previously transferred. Existing floor area in a landmark structure would not be exempt from TDR availability calculation (as is currently the case in most zones outside of South Downtown). Additionally, the maximum amount of Landmark TDR that could be transferred from any lot would be set at a Floor Area Ratio (FAR) of 5 (i.e. 5 times the square footage of the lot), except that it would be equal to a FAR of 6 if the property meets the 2030 Challenge High Performance Existing Building Pilot Program (discussed in more detail later) or has a covenant that requires more than half of the units to be rent- and income-restricted affordable units. Currently, some zones have a maximum limit on TDR transfers equal to a FAR of 3 and other zones have no limit. Development capacity would be defined as the FAR limit of the zone except that in the following zones where residential capacity is substantially greater than the FAR limit or in which there is no FAR, the following would be used instead:

Zones	Proposed FAR for purpose of Landmark TDR Calculation
55-foot zone (DH2/55)	4
65 & 75-foot zones (DH2/75, DMC 75, DMC 85/65-150, DMR/C 65/65-150, DMR/C 65/65-85)	5
85 & 95-foot zones outside South Downtown (DH2/85, DMC 95, DMR/C 95/75, DMR/R 95/65, DRC 85-170)	6
85 & 95-foot zones in South Downtown and 100, 125, 145, and 150-foot zones (DMC 145, DMR/C 145/75, DMR/R 145/65, All IDM zones, All IDR zones)	7
170 and 280-foot zones (DMC 170, DMR/C 280/125, DMR/R 280/65)	8
290 and 300-foot zones (DMC 240/290-440, DMC 340/290-440, DOC2 500/300-550)	10
450-foot zone (DOC1 U/450-U)	12

Overall, these changes would increase the estimated amount of Landmark TDR available to sell from 5.7M square feet to 7.0M square feet. This change would be primarily due to significant increases in Belltown, where eligible properties currently can only sell very small amounts of TDR, and due to smaller increases for many properties in Chinatown/International District and Pioneer Square. Below is a summary of how these changes would affect properties by area:

Area	Impact of proposed change
Commercial Core (DOC1, DOC2, DMC 240, DMC 340 zones)	It would not change the amount of TDR that could be sold in most cases as the increase in FAR for purposes of TDR calculation would be offset by removing the exemption of existing landmark structures and adding a cap on the total amount of TDR than may be transferred
Belltown, Retail Core, and Waterfront (DRC and DH zones; other DMC and DMR zones outside South Downtown)	The proposed change would be a significant increase the amount of TDR that could be sold on most properties as they are currently limited by a low commercial FAR limit. The change would be bigger in zones with higher development capacities. Lots with very large buildings would still not have TDR to sell. Some projects along the waterfront that are already developed with very large buildings would have less TDR to sell.
South Downtown (PSM, IDM, and IDR Zones; DMC & DMR zones in South Downtown)	The impact on specific lots would vary based on the specifics of the property. In general, it would result in the following trends: • more TDR for most projects in DMR and IDR zones, which currently have very little to transfer; • more TDR for most commercial buildings • more TDR for residential buildings with a FAR less than 4; • less TDR for residential buildings with a FAR greater than 4
University District & Uptown	This would not change the amount of TDR that could be sold since this calculation is already being used in these areas.

Remove Within-block TDR

Within-block TDR is the only existing TDR option that does necessarily result in the preservation of an existing building. The original intent was to encourage variation in building size; however, it has not been achieving this intent as many properties have sold TDR, which reduces commercial development capacity, and then built a residential building. Additionally, properties that sell within-block TDR can still accommodate very large buildings, so it is not resulting a significant variation in building size. We are proposing to remove it as it has not provided a significant public benefit.

Allowing Projects meeting 2030 Challenge Pilot to Sell more TDR

The City has proposed legislation to implement a 2030 Challenge High Performance Existing Building Pilot Program. This legislation would allow up to 20 properties citywide to achieve additional height and floor area if they include a building that has been retrofitted to meet certain green building standards. While some of these buildings will use the additional height and floor area by adding stories to an existing building or building a second building adjacent to the existing buildings, some property owners wouldn't be able to use the capacity in these ways. To allow properties that cannot use the additional capacity on-site to use the pilot, we are proposing to allow properties that are already eligible to sell Landmark or South Downtown Historic TDR or TDP to sell additional TDR earned through the 2030 Challenge Pilot. This would be accomplished by:

- allowing the additional floor area earned through the pilot to increase the development capacity for purposes of calculating the amount of TDR that can be sold
- increasing the maximum amount of TDR that could be sold from an FAR of 5 to 6

This approach would encourage green retrofits while also supporting the primarily purpose of Landmark TDR which is to support the preservation of historic structures.

OPEN SPACE AND AMENITIES

In addition to transferring development rights, development may also earn extra floor area by providing open space and amenities. While the options vary substantially by zone, existing open space and amenity options include 5 types of outdoor open space, 2 types of indoor open space, hillside terraces, hillclimb assists, mid-block corridors, green street setbacks, green street improvements, transit station access, bathrooms, and human service uses.

The City is proposing changes to modify the open space and amenity options of Incentive Zoning but is also proposing some changes that would affect projects in Downtown regardless of whether they use Incentive Zoning or not.

Changes affecting Projects Using Incentive Zoning

Consolidating Outdoor Open Space Options

The City is proposing to consolidate the standards for neighborhood open spaces, urban plazas, and three types of parcel parks into one urban plaza option. Review of the existing open space options found that:

1. There was significant confusion over the purpose of the various open space options.
2. Some options were not meeting their intent because they lacked standards required for other options such as minimum landscaping or minimum depth.
3. The availability of multiple options was not resulting in spaces that better addressed the unique circumstances of different areas.

Consequently, the City is proposing to consolidate the various open space options into one urban plaza option to simplify the program and ensure consistently high standards for privately-owned public open space. The combined urban plaza option would:

- Have specific standards for location, access, layout, seating, and landscaping
- Allow more flexibility to accommodate movable chairs and tables
- Allow more flexibility to allow cafes and other activities that would activate the space
- Implement minimum standards for lighting
- Require that the spaces must be open to the general public from 6 am to 10 pm

Parcel park at 2101 7th Ave

An initial draft of the revised urban plaza standards is available at: www.seattle.gov/opcd/ongoing-initiatives/incentive-zoning-update. Standards for urban plazas will continue to be departable through the Design Review process to ensure that they can address unique circumstances and allow superior equivalent designs.

Removing Shopping Corridors and Public Atrium Options

Shopping corridors and public atrium are currently only allowed as an option to earn extra floor area in a portion of the Downtown Retail Core. The shopping corridors and public atrium that have been achieved through Incentive Zoning have a private character and do not appear to be providing significant benefit beyond that of an office lobby or food court. Consequently, these options are being removed to prioritize other benefits. These spaces will continue to be exempt from floor area calculations to provide a smaller encouragement to provide them.

Evaluate Creation of a New Cultural Space Option

The City is looking for feedback on whether to add a new option to earn extra floor area by providing space for cultural tenants. Under the draft concept, a cultural space option would work as follows:

- New development would gain 2 square feet of extra floor area for each square foot of net useable cultural space provided.
- The space would have to be occupied by one or more not-for-profit organizations dedicated to the creation, display, performance, or screening of art by or for members of the public.
- Any tenants would have to be approved by the Office of Arts and Culture to ensure their mission is consistent with the allowed uses.
- The City would not be involved in the setting of rent prices for the space.
- The space would not have to be at ground level but would have to have a dedicated entrance at the street level or from a multipurpose lobby.
- The minimum size of the space would be 200 square feet and the maximum size that could be counted toward earning extra floor area would be 5,000 sq ft.
- Cultural space would be provided for life of the building. If tenant left, space would be required to be vacant until a new approved tenant was found.

Changes Affecting All Projects in Downtown

Modify Open Space Fee-in-Lieu

New commercial development is required to provide open space for tenants of the building. Unlike open space that can be provided to earn extra floor area, this space can be indoors or outdoors and may be provided at ground-level or above. As an alternative to providing it on-site, developers can pay a fee in-lieu of providing it on-site to fund projects off-site. This fee-in-lieu option has been problematic because the City does not consistently have projects for which these funds can be used. Since the fees need to be paid back if they are not used for specific eligible projects within a certain distance of the project and within a certain time period from when they are recieved, it takes significant additional resources to spend this money. Consequently, the City is proposing to modify the provision so that it can only be used if the Department of Transportation or Seattle Parks and Recreation has a specific project identified for the revenue.

Requiring Open Space on Large Commercial Projects

The City is proposing to require all commercial projects in Downtown larger than 30,000 square feet, even those not using Incentive Zoning, to set aside 15% of the lot as open space. These spaces are not required to be public and would not be required to meet the standards proposed for open space provided through Incentive Zoning. Analysis conducted as part of this update found that few developments are electing to provide open space as part of Incentive Zoning and that most are providing very little ground-level open space of any kind. The proposed standard is already in place in South Lake Union and has been very successful in supporting more interesting building massing, providing more light to the sidewalks, and creating small open spaces. The 30,000 square foot threshold was established to ensure that all projects would still be able to achieve the maximum tower floor plate of 24,000 square feet.

Simplifying Minimum Facade Requirements

Minimum facade requirements were put in place in the 1980s to prevent large, empty plazas that had been designed on a couple full-block office developments in Downtown. The current standards have very complex, prescriptive standards regulating the distance that the building may be setback from the property line at different heights above the sidewalk. The existing standard forces a very specific type of facade design which limits the opportunity for small open spaces and frequently requires departures to allow interesting designs. The City proposes to replace a very complex standard with a simpler, more flexible approach that allows interesting designs and small open spaces while still precluding large, empty spaces.

GREEN BUILDING STANDARD

Under existing rules, all projects earning extra floor area through Incentive Zoning must meet minimum green building requirements, except for certain buildings in the Downtown Core. The existing green building standard is specified in Director's Rule 20-2017. These rules require that buildings must be 15% more energy efficient than the minimum code-compliant building and meet one of the following green building ratings: LEED Gold, Built Green 4 star, Living Building Challenge Zero Energy, Passive House, or Evergreen Sustainable Development Standards.

The City is proposing to extend this requirement, so it would apply to all projects that use Incentive Zoning. This change would affect projects in the Downtown Core.

The City is also proposing to update the existing green building standard to prohibit fossil fuel use for space heating in all buildings and prohibit electric resistance heating for space heating in non-residential projects and in the common areas of multifamily projects. This change would help the City meet its goals for addressing Climate Change by facilitating the conversation to clean, low-carbon electric sources of energy and by preventing low efficiency heating options.

CHILD CARE

Commercial development using Incentive Zoning must contribute to child care by providing child care facilities directly (on-site or off-site) or paying into a fund to support the development of child care facilities. Currently, new development must provide 0.000127 of a child care slot (enough space for one child) per square foot of extra floor area or pay $4.55 per square foot of extra floor area. Child care facilities provided directly or through the payment option must set aside 20% of their spaces for children in low-income households.

Revenue from incentive zonong payments was used to fund the Jose Marti Child Development Center at Harabayashi Place

The existing child care requirement is applied to the portion of extra floor area that was previously earned through the housing/childcare bonus, which typically is 65% or 75% of extra floor area, depending on zone. With the implementation of MHA, the housing portion of the housing/childcare bonus for extra floor area will be satisfied through the MHA requirement but the childcare requirement will remain the same.

The existing fee was based on a study which demonstrated the need for child care facilities generated by new development. The City completed an updated study in 2015 which shows the need generated by new development has changed somewhat. Below is a summary of the need determined by the updated study for different uses.

	Need found in 2015 Study (inflation adjusted to 2017)		**Requirement if full need is mitigated on 75% of extra floor area**	
Use	Child Care slots per sq ft	Payment per sq ft (in 2017 $)	Child Care slots per sq ft	Payment per sq ft (in 2017 $)
Office/R&D	0.0001129	$6.09	0.0001506	$8.12
Hotel/Motel	0.0000565	$3.04	0.0001082	$4.06
Medical Services	0.0000812	$4.35	0.000 753	$5.80

The City is proposing to update the performance and payment options to be consistent with the need found in the study. The City is also proposing two additional changes:

Removing the Off-site Performance Option

The existing allowance for off-site performance is proposed to be removed as it is problematic for the following reasons:

1. It is challenging to make an off-site facility work due to the timing required to negotiate, building, and occupy the off-site facility before the development earning the extra floor area is ready to be occupied.

2. Off-site performance results in less control in ensuring high quality locations and facilities than recieving payments.

Modifying Minimum Hours of Operation

Additionally, the City is proposing a small change in the minimum hours of operation for facilities created through performance or payment to be consistent with state requirements. This change would reduce the minimum hours of operation from at least 11 hours a day to at least 10 hours per day to be consistent with state requirements.

TIMELINE AND NEXT STEPS

The City is proposing to gather feedback on this initial proposal in June through September of 2018 through presentations to community groups, small group meetings, and a series of public "office hours" in various locations. Once this initial engagement period is over, we will produce a summary of comments we heard and begin developing an updated proposal with draft legislation. Once it is complete, the updated proposal and draft legislation will be advertised and posted on our website in early 2019 for additional comments. After this second comment period, we will create a final proposal and legislation for transmission to City Council. We anticipate that this legislation will be forwarded to Council so that they can discuss and vote on the legislation in Summer of 2019.

MORE RESOURCES

Materials on the update process and an opportunity to sign up to receive emails on this topic are available at the Incentive Zoning Update website: www.seattle.gov/opcd/ongoing-initiatives/incentive-zoning-update.

Additionally, ***TIP 258: Developer Contributions – Incentive Zoning*** provides detailed information on how the existing program works including how to calculate the amount of public benefits required and the types of document that will be required. It is available at: http://web6.seattle.gov/DPD/CAMS/CamDetail.aspx?cn=258.