

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

Applicant Name: Department of Planning and Development

Location of Proposal: The DOC1, DOC2, and DMC zones comprising the core of the Downtown Seattle Urban Center

SUMMARY OF PROPOSED ACTION

The proposed action is legislation to repeal existing, outdated bonus provisions for Landmark performing arts theaters that have been determined to be ineffective and replace the bonus incentive with a new incentive that would increase the base FAR on lots with eligible designated Landmark performing arts theaters (LPATs). The higher base FAR would result in the following positive outcomes: 1) additional chargeable floor area could be added to the lot with a LPAT, potentially allowing for more revenue generating space in a qualifying theater structure, provided the Landmarks Board approves any changes; and 2) the increase in base FAR would also create more floor area that could be sold and transferred as Landmark TDR (transfer of development rights) to other eligible receiving sites. This would benefit the LPATs that have already sold their allowed LPAT TDR, since the increase in base FAR would provide more TDR for them to sell. The Downtown Amenity Standards would also be amended to remove the section related to the LPAT bonus that is proposed to be repealed.

The following approval is required:

SEPA - Environmental Conditions - Chapter 25.05, Seattle Municipal Code.

SEPA DETERMINATION: Exempt DNS MDNS EIS

 DNS with conditions

 DNS involving non-exempt grading, or demolition,
or involving another agency with jurisdiction.

DESCRIPTION OF PROPOSAL

The Department of Planning and Development (DPD) is proposing to amend Sections 23.49.011, 23.49.013, and 23.49.014 of the current Seattle Land Use Code (Title 23) of the Seattle Municipal Code (SMC) 014 to remove provisions related to the bonus for a Landmark

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performing arts theater (LPAT); increase the base floor area ratio (FAR) of a lot with a LPAT to provide a new incentive for rehabilitating and maintaining these structures and amend the Downtown Amenity Standards to remove provisions related to the bonus for the restoration and preservation of a Landmark performing arts theatre, which is proposed to be deleted, and make minor corrections.

In 2011, the City Council reaffirmed its commitment to downtown's Landmark performing arts theaters in Resolution 31341 by creating a Downtown Historic Theater District. This resolution includes an Implementation Plan that, among other long-range strategies, directs the City to "review City zoning, financing, and development incentives and other policies for opportunities to support Downtown Historic Theatres' operations, renovations, or expansion." Following the requested review of City zoning and development incentives, DPD proposes the following amendments to strengthen support for LPATs in the Land Use Code.

In the current Land Use Code, Landmark performing arts theaters are eligible for two incentives: 1) "Landmark performing arts theater transfer of development rights" (LPAT TDR) and 2) a floor area bonus for the "restoration and preservation of Landmark performing arts theaters" (LPAT bonus). At the request of stakeholders advocating for the historic theaters, DPD reviewed the performance of these incentives, and concluded the following:

- While the use of LPAT TDRs has been successful, two of the three eligible LPATs have sold all their development rights, so this incentive is no longer available to them; and
- The LPAT bonus has never been used, primarily because of uncertainties as to how it is to be administered and because the types of improvements that can be funded to gain the bonus are too narrowly defined. There is also a concern that modifying the bonus to make it more usable could, over the long-term, have negative consequences on the use of incentives for other amenity features.

As an alternative to amending the existing LPAT bonus provisions, DPD is proposing to introduce a new incentive that would increase the base floor area ratio (FAR)¹ of a lot that includes a LPAT. The higher base FAR would result in the following positive outcomes: 1) additional chargeable floor area would be added to the lot with a LPAT, potentially allowing for more revenue generating space in a qualifying theater structure, provided the Landmarks Board approves any changes; and 2) the increase in base FAR would also create more floor area that could be sold and transferred as Landmark TDR (transfer of development rights) to other eligible receiving sites. This would benefit the LPATs that have already sold their allowed LPAT TDR, since the increase in base FAR would provide more TDR to sell.

The chart below summarizes the proposed amendments to the Land Use Code by section, including related changes to the Downtown Amenity Standards:

¹ "Floor area ratio" means a ratio expressing the relationship between the amount of gross floor area or chargeable floor area permitted in one or more structures and the area of the lot on which the structure is, or structures are, located,

Summary of Proposed Amendments for Landmark Performing Arts Theaters in Downtown Zones		
Ordinance Section	Code Section	Description of proposed changes
Chapter 23.49 DOWNTOWN ZONING		
1.	23.49.011 Floor area ratio	Add a new subsection 23.49.011.A.3 to allow an increase in the base FAR for qualifying lots that include a Landmark performing arts theater (LPAT). This increase in base FAR provides the incentive of additional chargeable floor area on the lot, or adding floor area that may be transferred from the lot as Landmark TDR. This subsection includes the criteria for qualifying Landmark performing arts theaters.
2.	23.49.013 Bonus floor area for amenities	Delete subsections 23.49.013.A.5, 23.49.013.B.2.b, and 23.49.013.B.3.b, which establish the bonus provisions for the rehabilitation and preservation of Landmark performing arts theaters, and remove Preservation of Landmark Theaters as a bonus amenity from Table A for 23.49.013. This action removes the bonus, to be replaced by the incentive provided through the increase in base FAR.
3.	23.49.014 Transfer of development rights	Amend subsection 23.49.014.E to allow floor area gained through the increase in the base FAR on a lot with a qualifying Landmarks performing arts theater to be used as Landmark TDR. In most cases, under current Code provisions, floor area gained through an increase in the base FAR is not available to be used as TDR on lots that have already sold TDR.
4.	Downtown Amenity Standards	Update Section I, subsection E. Art in Bonused Amenity Features to replace the “Seattle Arts Commission” with the appropriate Committee (“Public Art Advisory Committee”) Remove provisions related to the floor area bonus for the “Restoration and Preservation of Landmark Performing Arts Theatre” (Section II, subsection Q), which, under the proposal, would be eliminated and replaced with new incentives created by increasing the base FAR for lots with LPATs.

The proposed legislation would affect lots occupied by qualifying Landmark performing arts theaters and lots in downtown zones, including lots in the DOC1, DOC2, and DMC zones that would be eligible receiving sites for Landmark TDR from the LPAT sites. Exhibit A below shows the existing qualifying LPAT sites and surrounding zones.

The proposed legislation does not change the allowed maximum development potential of affected lots. Those lots that have a qualifying Landmark performing arts theater would be allowed a base FAR that is higher than other lots in the same zone, but there would no increase

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However, there is no change to the overall structure of the Downtown incentive programs. As Landmark TDR, the TDR from LPATs would still be subject to the existing limits on the use of non-housing incentives for gaining extra floor area, which, above an increment required to be gained through rural TDR, only allow these incentives to be used to gain 25 percent share of the extra floor area permitted above this increment; the remaining 75 percent share would continue to be gained through TDR from affordable housing structures or through the affordable housing/childcare bonus. The most significant potential impact of the proposed amendments is that it adds to the supply of TDR that is potentially available to sell within Downtown, which could affect the price of TDR in general, and influence the types of incentives that are likely to be used to gain the 25 percent share of extra floor area allowed.

Public Comments

Proposed changes to the Land Use Code require City Council approval. Public comment will be taken on the proposed amendments at an upcoming City Council Public Hearing.

ANALYSIS - SEPA

This proposal is an adoption of legislation and is defined as a non-project action. The initial disclosure of the potential impacts from this action was made in the environmental checklist dated August 1, 2013. The information in the checklist, a copy of the proposed text amendments, the analysis of the changes prepared by City staff, and the experience of the lead agency with review of similar legislative actions form the basis for this analysis and decision.

SHORT-TERM IMPACTS

As a non-project action no short-term direct adverse impacts upon the environment are identified. Future potential developments that might be indirectly affected by this legislation and subject to SEPA would be evaluated for their short-term environmental impacts as part of project-related reviews, and related mitigation would be identified as needed. However, this SEPA review concludes there is no potential for this proposal to generate incrementally greater or different adverse short-term environmental impacts upon the subject properties or other properties Downtown that might be eligible to use the provisions. This is because the proposal would not cause net increases in development capacity on any given site, or Downtown as a whole. Any given site in an affected zone would still be subject to the same maximum density limits. Also, there would be no change in the probable physical arrangements of future development, in the short or long term.

LONG-TERM IMPACTS

The proposed amendments to the various sections of the Land Use Code in this legislation are not expected to have significant adverse long-term impacts on any element of the natural or built environment.

Under the proposed amendments, there would be no net difference in built-environment impacts that could occur. At the same time, there would be no particular potential for adverse built-environment impacts pertaining to any environmental element; and, in terms of land use and aesthetics, and regarding consistency with plans and policies, the potential for environmental impacts are concluded as likely positive in nature. These impacts are described in more detail below, along with an interpretation of long-term natural environment impact potential.

Natural Environment

Similar to and following from the conclusions for short-term impact potential, there is no identified net difference in the potential levels of adverse impacts upon the natural environment. This is because the proposal would not cause net increases in development capacity on any given site, or Downtown as a whole. Any given site in an affected zone would still be subject to the same maximum density limits. Also, there would be no change in the probable physical arrangements of future development.

The focus of the amendments is to strengthen incentives that area available to support the retention and continued operation of Downtown's Landmark performing arts theaters, primarily by replacing existing incentives that have proven to be ineffective or, as in the case of incentives provided by the ability to sell and transfer unused development rights (TDR), are no longer available for use on some LPAT lots. Ground disturbances and related potential for erosion and runoff, and loss of open space and vegetation would be no different on sites in the affected Downtown zones, with or without implementation of the proposal.

Built Environment

Land Use Compatibility and Relationship to Plans and Policies:

The proposal would not alter the level of development in affected zones or affect compatibility with other nearby land use and development patterns. These conditions would be unchanged, and would remain consistent with development patterns and intensity that are encouraged by current land use plans and policies. This is because the proposal would not cause net increases in development capacity on any given site, or Downtown as a whole. Any given site in an affected zone would still be subject to the same maximum density limits. Also, there would be no change in the probable physical arrangements of future development.

While there would be no major changes to the basic structure of the Downtown incentive programs, the proposed amendments would add to the current supply of Landmark TDR, in an amount equal to +10 FAR across the three affected properties, or approximately 266,584 square feet. This could affect the price of TDR in general, and influence the types of incentives that are likely to be used to gain the 25 percent share of extra floor area allowed above the base FAR through non-housing related incentives. Since many of the incentive features are intended to mitigate the impacts associated with the denser development allowed, this could shift the emphasis of this mitigation more heavily to Landmark preservation (and more specifically

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Landmark theater preservation), as opposed to providing open space or other amenity features. However, the primary emphasis of the incentives on providing for affordable housing would be unchanged.

The proposed changes fall within the scope and intent of adopted policy goals for the City of Seattle. A summary of the plans and policies supported by the proposal is included in the Director's Report prepared by DPD staff as background information for this project. The general effect of the changes would be to provide greater consistency between DPD practice and policy and to allow more flexibility in the applications of the incentive provisions in the Downtown Code to allow development that is consistent with adopted policy goals. Future development using these provisions would be subject to SEPA to the extent required, which would be able to accomplish reviews that could address potential adverse impacts of future development with appropriate project-specific mitigation measures. Therefore, no mitigation pursuant to SEPA policies is warranted.

Transportation, Utilities, Public Services and other built environment elements

Because there would be no difference in the amount of future development due to the proposal, there would be no additional potential for increased future traffic generation and demands upon streets, public services and utilities. In relation to public services such as schools, fire protection, police, and parks, there would be no net added development potential for residential or non-residential uses to create any additional demands upon these public service providers and features.

To consider and disclose the potential for indirect impacts that could be generated by future development in any way associated through potential use of the tools in this proposal:

- Area street and infrastructure networks are generally designed to accommodate large volumes of traffic and utility service levels by existing uses Downtown-wide, and they also can typically accommodate future increases in demands anticipated through future development. Future development permit reviews that could include SEPA reviews would afford the chance to identify whether any localized connection or capacity improvements would be needed to streets, traffic signals and other infrastructure, which would typically be the responsibility of the applicant to provide.
- Similarly, protective features that would help avoid or reduce drainage and erosion effects during and after construction are already required by applicable code requirements, so the potential for unintended adverse impacts upon nearby features such as Elliott Bay is low with respect to street and utility infrastructure effects.

However, as noted above, given that there is no increase in the future development capacity Downtown due to the proposal, no incremental added degree of impacts is identified in this evaluation for this future set of potential indirect impacts.

DECISION – SEPA

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This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirements of the State Environmental Policy Act (RCW 43.21C), including the requirement to inform the public agency decisions pursuant to SEPA.

Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030 2c.

Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030 2c.

RECOMMENDED CONDITIONS – SEPA

None.

Signature: _____ Date: _____

Gordon Clowers, Senior Urban Planner
Department of Planning and Development