

MINIMUM DENSITY (FLOOR AREA REQUIREMENT) LEGISLATION

Introduction

Seattle's business districts define our neighborhoods and provide a place for shopping and services for the whole community. Seattle's Comprehensive Plan states that pedestrian-oriented commercial zones should feature a pattern of dense mixed use development that encourages walking and transit use, and enables people to live or work and shop in the same neighborhood. This contrasts with sprawling low-intensity auto-oriented developments found outside of urban areas.

Over the years, neighborhood groups have reacted to development proposals that are inconsistent with the urban character of pedestrian-oriented commercial districts. This issue has generated interest in a minimum size of buildings in specific areas. In 2013, Council and DPD received complaints about applicants proposing structures that were significantly smaller (one-story with surface parking) than the size of structures anticipated in pedestrian-oriented areas of the city. Common complaints regarding these low-density developments are that they:

- impact the existing and/or desired character of the neighborhood by diminishing activity adjacent to the sidewalk, and preventing a street wall that can frame the pedestrian environment;
- reduce the capacity of neighborhood business districts to provide goods and services and accommodate residents and employees within a compact area;
- negatively impact the environment by encouraging greater use of automobiles, discouraging residents from walking to and within neighborhood centers, and making it more difficult to create transit-supportive densities; and
- conflict with Comprehensive Plan goals to create vibrant, pedestrian-oriented neighborhood centers that allow residents to satisfy their daily needs within close proximity to their homes.

To address this, the City adopted Ordinance 124270 in 2013 to establish a minimum floor area ratio (FAR)¹ requirement on pedestrian-designated commercially-zoned lots within Urban Centers, Urban Villages, and the Station Area Overlay District. The legislation was adopted on an emergency basis to prevent near-term development incompatible with adopted Comprehensive Plan and neighborhoods' goals and policies. Permanent regulations were to be developed for the City Council to consider within a year. Ordinance 124270 took effect on September 16, 2013. It is scheduled to expire, unless extended, on September 15, 2014.

¹ Floor Area Ratio (FAR) means the amount of gross floor area allowed within structures per square foot of the lot. For example, a lot of 20,000 square feet with a maximum FAR of 3 would allow a building containing 60,000 square feet (i.e. a three story building that occupied the full lot or a six story building that occupied half the lot). The same lot with a minimum FAR of 2 would be required to provide a building containing, at minimum, 40,000 square feet (i.e. a two story building that occupied the full lot or a four story building that occupied half the lot).

The Department of Planning and Development (DPD) proposes amendments to the Land Use Code to establish permanent minimum FAR requirements. In summary, the proposed amendments would:

1. continue to apply a minimum FAR requirement to all lots with a pedestrian designation in Urban Villages, Centers and the Station Area Overlay Districts and add a minimum FAR requirement to lots within the Northgate Overlay District along designated Major Pedestrian Streets and lots zoned Seattle Mixed that abut a Class 1 or Class 2 pedestrian street in a Station Area Overlay District;
2. identify the development threshold for the requirement; add flexibility for existing structures and larger lots that do not conform to the minimum FAR requirement; allow demolition to create a vacant lot; and exclude parks and open space;
3. continue to include provisions that specify portions of a lot that would not be included in calculating the minimum FAR requirement, such as wetlands or steep slopes; and
4. allow waivers for lots that contain a designated landmark or lots within a Landmark District; add flexibility for lots within the Pike/Pine Conservation Overlay District.

Minimum FAR standards have been used by other jurisdictions to ensure appropriate densities in targeted areas where low-density, suburban-style development is not appropriate. The benefit of this approach is that cities can anticipate planned densities and appropriate urban form, helping to achieve long-term growth management and neighborhood planning goals. A potential drawback of this approach is that it may delay redevelopment where the real estate market is not sufficient to support higher densities.

Additionally, it may disproportionately burden small-scale or low-income property owners that may not have sufficient funds to build multi-story buildings or may lack the expertise to develop mixed use buildings. However, our analysis indicates that a minimum FAR requirement will not disproportionately burden small-scale or low-income property owners or particular neighborhoods, and instead would promote the type of development envisioned in the neighborhoods' goals and policies. While some areas have not experienced recent growth, when new structures have been proposed over the last five years, they have typically met or exceeded the proposed minimum FARs.

Because the proposed minimum FAR standards would principally affect areas with a pedestrian zone designation, DPD has conducted outreach in conjunction with a larger pedestrian zone mapping project. Information about the proposal was distributed at meetings with neighborhood district councils, community/neighborhood councils and business groups, and through the project website and survey. In some areas where the neighborhood is not experiencing as much development pressure, the community has expressed some concern that a two story building may not always be warranted and that this requirement may deter development.

How it works

Maximum floor area limits are already established for each zone. Subsection 23.47A.013.H of the Land Use Code would specify the minimum floor area that would be required in certain zones. The required minimum would vary, depending upon the height of the zone.

Strategies used by other jurisdictions to reach similar objectives include requirements for: minimum number of stories; minimum building height; minimum *residential* density requirements (dwelling units per acre); or a specific split in mix of uses (i.e., requirement that the building is split 50/50 between housing and commercial uses).

In contrast to these other methods of regulating minimum development, FAR retains flexibility in terms of how the development is designed. For example, the floor area can be arranged on the site to produce shorter or taller buildings, or more or less lot coverage. The FAR approach also retains the Code's current flexibility in terms of which uses are permitted within the building while accommodating a broad mix of uses. A developer could build a mixed use building with retail at street-level and residential above. Alternatively, the FAR could accommodate a single purpose nonresidential building or a building with a diversity of commercial uses including ground floor retail and office in upper floors. However, the minimum density would *not* allow the formulaic one-story retail building characteristic of suburban development.

Regulating density through FAR works particularly well when the intent is to promote and protect a pedestrian-oriented urban form versus, for example, a specific housing density goal. Other existing regulations apply to development in pedestrian areas to promote a walkable business district. Existing design standards regulate the location of parking and parking access, and require visual access to businesses through windows and doors located near the sidewalk, for example. Pedestrian designations also require street-level uses that provide active, pedestrian-oriented destinations for the community.

Purpose and Intent

The minimum FAR standard is consistent with Comprehensive Plan goals and policies for pedestrian-designated commercial areas.

The City of Seattle Comprehensive Plan includes the following:

Urban Village Goal 3: Promote densities, mixes of uses, and transportation improvements that support walking, use of public transportation, and other transportation demand management (TDM) strategies, especially within urban centers and urban villages.

Urban Village Goal 4: Direct the greatest share of future development to centers and urban villages and reduce the potential for dispersed growth along arterials and in other areas not conducive to walking, transit use, and cohesive community development.

Urban Village Goal 5: Accommodate planned levels of household and employment growth. Depending on the characteristics of each area, establish concentrations of employment and housing at varying densities and with varying mixes of uses.

Urban Village Goal 8: Use limited land resources more efficiently and pursue a development pattern that is more economically sound, by encouraging infill development on vacant and underutilized sites, particularly within urban villages.

Urban Village Goal 9: Maximize the benefit of public investment in infrastructure and services, and deliver those services more equitably by focusing new infrastructure and services, as well as maintenance and improvements to existing infrastructure and services, in areas expecting to see additional growth, and by focusing growth in areas with sufficient infrastructure and services to support that growth.

Urban Village Policy 1: Promote the growth of urban villages as compact mixed-use neighborhoods in order to support walking and transit use, and to provide services and employment close to residences.

Urban Village Goal 29: Encourage growth in locations within the city that support more compact and less land-consuming, high quality urban living.

Land Use Policy 13: Seek the redevelopment of legally established structures and uses that do not conform to current regulations so that they are more conforming to current standards over the long term. Encourage nonconformities to become more conforming to current standards. Allow nonconformities to continue and support the maintenance and enhancement of nonconforming uses and developments so they may exist as an asset to their neighborhoods and so the City's land use regulations do not impose excessive burdens on legally established private property, as long as they do not expand their nonconformity.

Land Use Policy 33: In order to enhance current investments in the city, provide flexibility to maintain and improve existing structures.

Land Use Policy 104 (mixed-use areas): Consistent with the urban village strategy, prefer the development of compact concentrated commercial areas, or nodes, in which many businesses can be easily accessed by pedestrians, to the designation of diffuse, sprawling commercial areas along arterials, which often require driving from one business to another.

Land Use Policy 128 (pedestrian-oriented commercial zones policies): Use pedestrian-oriented zones to promote commercial areas with a development pattern, mix of uses, and intensity of activity generally oriented to pedestrian and transit use by maintaining areas that already possess these characteristics and encouraging the transition necessary in other areas to achieve these conditions.

Land Use Policy 130 (pedestrian-oriented commercial zones policies): Generally allow pedestrian-oriented commercial zones in urban villages to accommodate densities of development and mixes of uses that support pedestrian activity and transit use.

Land Use Policy 131 (pedestrian-oriented commercial zones policies): Provide use and development standards for pedestrian-oriented commercial zones, which promote environments conducive to walking and a mix of commercial and residential uses that further the goals for these zones.

Proposal

1. Continue to apply a minimum FAR requirement to all lots with a pedestrian designation in Urban Villages, Centers or the Station Area Overlay District and add a minimum FAR requirement to lots within the Northgate Overlay District along designated Major Pedestrian Streets and lots zoned Seattle Mixed that abut a Class 1 or Class 2 pedestrian street in a Station Area Overlay District.

Where the standard will apply:

- all lots located in a pedestrian-designated zone in an Urban Center, Urban Village, or the Station Area Overlay District, including existing *and future* pedestrian designated areas; the existing emergency standards apply only to pedestrian designations existing as of September 1, 2013; and
- all lots that abut a Major Pedestrian Street in the Northgate Overlay District. This was not included in the interim regulations; and
- all lots zoned Seattle Mixed that abut a Class 1 or Class 2 pedestrian street in a Station Area Overlay District. This was not included in the interim regulations.

Recent recommendations stemming from neighborhood planning efforts in station areas, such as the North Rainier Neighborhood Plan Update, have led to proposals to rezone some areas from a Neighborhood Commercial zone with a pedestrian zone designation to the Seattle Mixed zone. The Seattle Mixed zone includes development standards that are similar to those in a pedestrian zone while accommodating existing light industrial activities. Similarly, the Northgate Overlay District applies comparable standards to lots located along a Major Pedestrian Street in a Neighborhood Commercial zone that do not have a pedestrian zone designation. Adding a minimum FAR requirement to these areas will consistently target areas where pedestrian-oriented development has been identified as important and is in a zone that allows higher-density development.

Minimum FAR Varies by Zoned Height

The rules adopted in September 2013 established a minimum FAR that varies, depending on the allowable height of the zone. DPD proposes to retain the existing FAR standards identified in the emergency legislation.

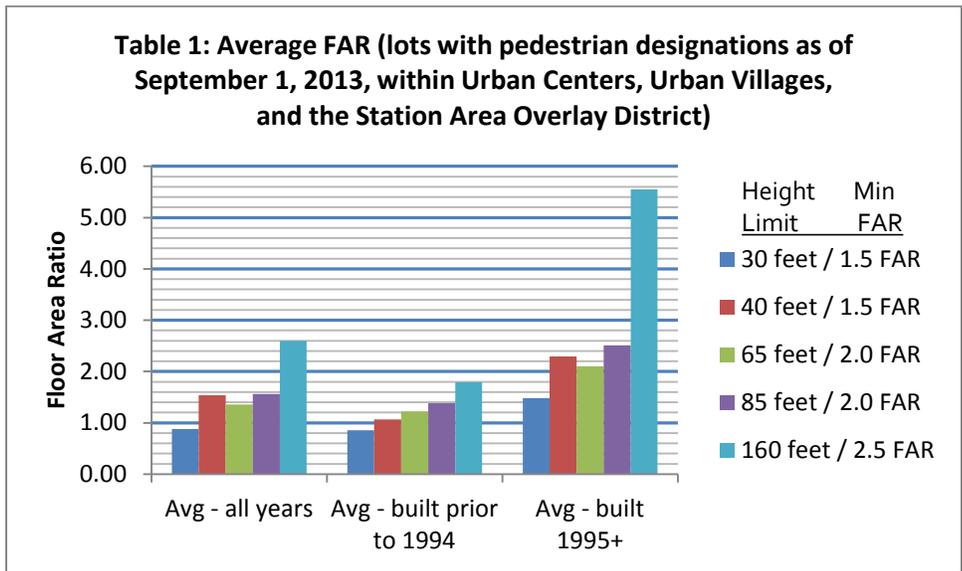
Minimum FAR requirements were chosen to vary by zone in rough proportion to the maximum FAR of the zones at about 50 percent of the maximum on average. Below are two tables comparing proposed minimum FAR requirements with existing maximum FAR requirements by height limit and location. Table 1 compares the maximum and proposed minimum FAR requirements for properties located in a Neighborhood Commercial zone with a pedestrian designation within an urban village, urban center, or station area overlay district or in the Northgate Overlay District.

Table 1: Comparison of Existing Maximum FAR and Proposed Minimum FAR in Neighborhood Commercial Zones								
Height Limit of Zone:			30'	40'	65'	85'	125'	160'
Existing Maximum FAR in NC zones:	Outside Station Area Overlay	1. Total permitted for a single-purpose structure containing only residential or non-residential use.	2.25	3	4.25	4.5	5	5
		2. Total permitted for any single use within a mixed-use structure.	n/a	n/a	4.25	4.5	5	5
		3. Total permitted for all uses within a mixed-use structure containing residential and non-residential uses.	2.5	3.25	4.75	6	6	7
	Inside Station Area Overlay District		3	4	5.75	6	6	7
Proposed Minimum FAR:			1.5	1.5	2	2	2.5	2.5

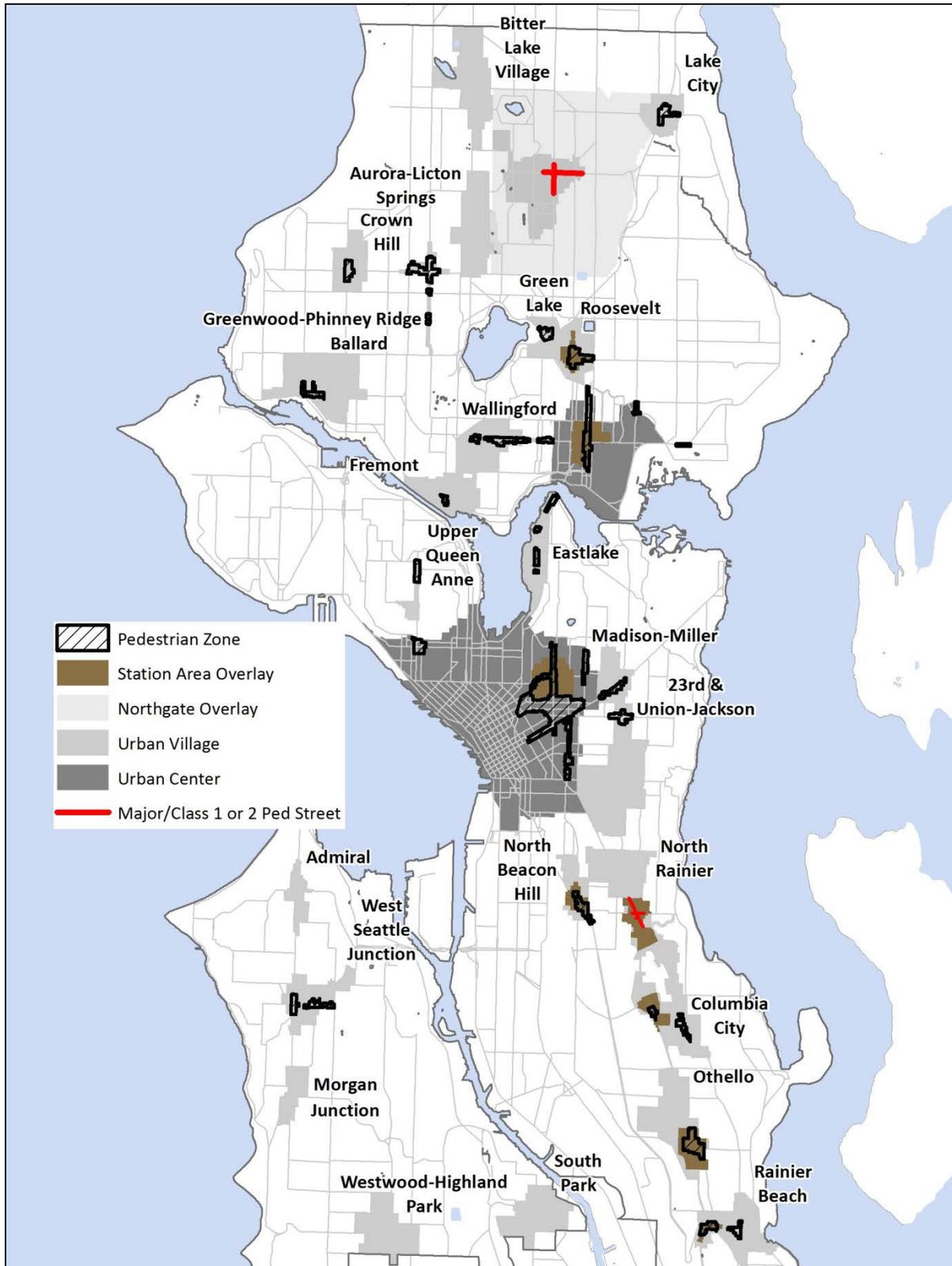
Table 2 compares the maximum and proposed minimum FAR requirements for properties located in a Seattle Mixed zone along a Class 1 or Class 2 Pedestrian Street within a station area overlay district.

Table 2: Comparison of Existing Maximum FAR and Proposed Minimum FAR in Seattle Mixed Zones								
Height Limit of Zone:			40'	65'	85'	125'	160'	240'
Existing Maximum FAR in Seattle Mixed zones:	1. Base FAR for all uses		3	3.5	4.5	5	5	6
	2. Maximum FAR for all Uses		3.5	5	6	8	9	13
Proposed Minimum FAR:			1.5	2	2	2.5	2.5	3

DPD reviewed the floor area of existing development within the areas currently subject to the minimum FAR standard. The average project developed over the past 20 years meets or exceeds the minimums adopted in the emergency legislation. This trend is illustrated in Chart 1 below. More detailed analysis is presented in Appendix 1 to this report. DPD concludes that maintaining the minimum FAR requirement will not present a challenge for most projects and would successfully prohibit development that would significantly under-develop the property based on the zoned capacity. However, the standard would continue to allow a range of development options between the minimum and maximum FAR requirements.



Map 1: Areas where the proposed minimum FAR requirement would apply
(see Appendix 2 for a more zoomed in map)



2. Identify the development threshold for the requirement; add flexibility with specific conditions.

The interim regulations adopted in 2013 applied standards to projects in pedestrian-oriented commercial districts that added more than 1,000 square feet of gross floor area to a vacant lot. On lots with an existing structure, the minimum density is required when more than 1,000 square feet or 10 percent of the existing gross floor area, whichever is less, is added or removed.

DPD proposes a few modifications to simplify the development threshold and add flexibility under specific conditions. The proposed minimum FAR requirement would apply when 1,000 square feet is added to or removed from a lot, other than on lots that meet the conditions outlined below.

The standard would not apply to:

- a lot that is larger than five acres;
- an addition to an existing structure on a lot that is nonconforming with respect to the minimum FAR;
- demolition of all existing structures to create a vacant lot; or
- parks and open space, when it is the principal use of the lot.

The majority of lots in the areas proposed for the minimum FAR standard are less than five acres and many are much smaller infill sites. However, there are a handful of larger lots (over five acres) that have existing structures that do not meet the minimum FAR standards and are more likely to add additional structures. Further, it may be a bigger burden for very large sites to meet a minimum FAR requirement and this flexibility recognizes that larger lots are more likely to incorporate multiple structures with varying configurations on the site. Any new development would have to comply with other existing pedestrian oriented development standards, such as building within 10 feet of the property line and transparency requirements.

DPD proposes allowing additions to existing structures even if the addition will not bring the building into full compliance with the minimum FAR standard. For example, a 10,000 square foot lot that has an existing structure with 5,000 square feet of GFA would have an FAR of .5. If the minimum FAR requirement is 1.5 that lot would be nonconforming to the minimums. If the property owner proposed a 7,000 square foot addition, bringing the FAR of the lot to 1.2, the lot would be moving towards conformance but would continue to be nonconforming. This proposed development would be legal under the proposed regulations, allowing improvements and enhancements to be made to existing structures short of fully redeveloping the site.

The proposal also allows for full demolition of a structure to create a vacant lot. Any future development would have to meet the minimum FAR requirement. In addition, DPD proposes exempting lots from the minimum FAR requirement when the principal use is a park or open space, a use that is permitted and encouraged in a pedestrian zone.

Although the goal is to encourage new development to maximize the development capacity of sites in pedestrian-oriented commercial districts, these exceptions allow improvements to lots with existing structures that do not meet the new minimum FAR standards and acknowledge that parks and open spaces would not typically include significant structures.

3. Continue to include provisions that specify portions of a lot that would not be included in calculating the minimum FAR requirement.

Under existing regulations, the City limits the maximum FAR allowed in many zones throughout the city. However, outside of the minimum FAR regulations adopted in September 2013, there are no other regulations that establish a minimum FAR. The measurement technique for calculating the minimum FAR would vary from maximum FAR as follows:

- Areas containing a steep slope, wetland areas, or riparian corridor and their buffers are not included in the calculation for determining the minimum floor area required on a lot to help ensure that the regulations do not inadvertently encourage development in an environmental critical area and do not disproportionately burden property owners whose property includes these areas. DPD proposes that these areas continue to be excluded from the calculation.
- Gross floor area below grade and gross floor area containing parking is excluded when calculating the minimum FAR requirement. As adopted in the emergency legislation, the list of floor area exemptions are simplified and gross floor area containing parking is explicitly excluded from the minimum FAR calculation. The existing Code often exempts from maximum FAR calculations uses that are generally desirable in certain areas of the city. Using similar logic, floor area containing parking would be excluded from the minimum FAR calculation to ensure that property owners do not meet the minimum FAR requirements by simply adding structured parking, which would be inconsistent with the goals of this provision. DPD proposes that these areas continue to be excluded from the calculation.

4. Allow waivers for development on lots that contain a designated landmark, lots within a landmark district or special review district and lots within the Pike/Pine Conservation Overlay District.

Areas occupied by landmark structures are exempt from the calculation to ensure that these regulations do not encourage demolition of a landmark structure and do not disproportionately burden property owners whose property includes these buildings. This proposal continues to provide this flexibility by allowing a waiver consistent with other standards applicable to landmark districts, special review districts and designated landmark structures. DPD also proposes allowance for a waiver in the Pike/Pine Overlay district to support neighborhood conservation objectives.

5. Make the interim standards effective permanently for future development.

As described previously, the legislation was adopted on an emergency basis and is scheduled to expire, unless extended, on September 15, 2014. DPD proposes permanent minimum FAR standards in pedestrian-oriented commercial districts.

Conclusion

A minimum FAR standard in certain areas will help to ensure that new development supports the goals of the Comprehensive Plan to foster vibrant, pedestrian-oriented neighborhood centers that serve the needs of local residents.

APPENDIX 1: FAR ANALYSIS NOTE:

To calculate the average FAR by zone, the above grade floor area and the total lot area were used. This analysis is meant to provide a general overview of existing conditions, with the following limitations:

- The above grade floor area of each building used in the calculation may include areas that are typically exempt or excluded from floor area calculations (such as area above grade containing parking).
- In some cases, portions of the property may not be buildable due to other regulations or constraints (such as property that is subject to shoreline requirements that may limit the buildable area of the lot). This area would not be used in calculating a future development’s minimum FAR requirement. However, for purposes of this analysis, we used the total area of the site.
- Vacant lots and/or lots where data is missing were excluded from the analysis.
- The maximum FAR uses the thresholds set for a single-purpose structure containing only residential or non-residential use. The maximum FAR for a mixed use building may be higher.

Zone	Existing Minimum FAR Requirement	Max FAR (single purpose)	Average FAR	On average - below minimum	On average - below MAX	Average FAR prior to 1994	Average 1995+	On average - below minimum (built prior to 1994)	On average - below minimum (built 1995+)
NC1P-30	1.50	2.25	0.97	(0.53)	(1.28)	0.86	2.38	(0.64)	0.88
NC2P-30	1.50	2.25	0.79	(0.71)	(1.46)	0.84	0.58	(0.66)	(0.92)
NC2P-40	1.50	3.00	1.14	(0.36)	(1.86)	0.89	2.05	(0.61)	0.55
NC3P-40	1.50	3.00	0.97	(0.53)	(2.03)	0.93	1.20	(0.57)	(0.30)
NC2P-65	2.00	4.25	1.18	(0.82)	(3.07)	1.00	2.40	(1.00)	0.40
NC3P-65	2.00	4.25	1.34	(0.66)	(2.91)	1.17	2.20	(0.83)	0.20
NC3P-85	2.00	4.50	1.02	(0.98)	(3.48)	0.88	2.93	(1.12)	0.93
NC3P-160	2.50	5.00	2.60	0.10	(2.40)	1.79	5.55	(0.71)	3.05

NC3P-65 PN ²	2.00	4.25	2.00	0.00	(2.25)	1.78	2.84	(0.22)	0.84
NC3P-40 PN	1.50	3.00	1.74	0.24	(1.26)	1.20	2.84	(0.30)	1.34
NC3P-85 PN	2.00	4.50	2.75	0.75	(1.75)	2.66	3.11	0.66	1.11
NC1P-40 SAO ³	1.50	4.00	1.07	(0.43)	(2.93)	0.57	2.08	(0.93)	0.58
NC2P-40 SAO	1.50	4.00	0.74	(0.76)	(3.26)	0.76	0.64	(0.74)	(0.86)
NC3P-40 SAO	1.50	4.00	1.22	(0.28)	(2.78)	1.14	1.45	(0.36)	(0.05)
NC2P-65 SAO	2.00	5.75	0.74	(1.26)	(5.01)	0.70	1.17	(1.30)	(0.83)
NC3P-65 SAO	2.00	5.75	1.51	(0.49)	(4.24)	1.46	1.88	(0.54)	(0.12)
NC3P-85 SAO	2.00	6.00	0.92	(1.08)	(5.08)	0.61	1.49	(1.39)	(0.51)

² PN = Pike/Pine Overlay District
³ SAO = Station Area Overlay District

Appendix 2: Areas where the proposed minimum FAR requirement would apply (by region)

Minimum FAR requirements would apply to:

- all lots with a pedestrian designation in Urban Villages, Centers or the Station Area Overlay District;
- lots within the Northgate Overlay District along Major Pedestrian Streets; and
- lots within a SM zone along a Class 1 or Class 2 Pedestrian Street.

