

**Proposed Downtown Land Use Code Amendment:
Height Incentive for Open Space in DMC 340/290-400 Zone**

Director's Report and Recommendation
Department of Planning and Development (DPD)

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INTRODUCTION

The Department of Planning and Development is proposing to amend the Downtown Chapter of the Land Use Code, Chapter 23.49 of the Seattle Municipal Code. The proposed amendments would allow additional height on lots meeting specific conditions in the Downtown Mixed Commercial (DMC) 340/290-400 zone as an incentive to provide open space on a development lot. The additional height would be allowed above the applicable height limits for residential and non-residential uses, without any changes to limits on chargeable floor area.

The Comprehensive Plan includes goals for the desired amount and distribution of open space in the Downtown Urban Center, and it has long been recognized that parts of Downtown, including the office core, would benefit from additional usable open space that is easily accessible to the large concentration of residents, employees and visitors in the area. Furthermore, the high cost and limited availability of suitable open space sites severely limits opportunities for increasing the supply. In response to these conditions, City policies encourage the collaboration of public and private interests to develop innovative solutions for achieving open space goals.

The Downtown Code currently provides both requirements for open space and incentives that encourage public amenities, such as public open space, to be provided on a private development site or at another location nearby. These incentives include floor area bonuses for incorporating certain types of open spaces, like plazas or parcel parks, in private developments. The Code also includes provisions that allow a project to increase floor area through the purchase and transfer of development rights (TDR) from another site that is improved as public open space.

The lack of available land, however, limits the effectiveness of these tools. Despite incentives, a development lot may not be large enough for both open space and permitted development. Often, the height limit is identified as the constraining factor. On a large lot, permitted floor area could be accommodated in multiple structures built within the height limit, but the amount of building coverage needed would likely prevent a significant amount of open space from being provided at ground level. To accommodate a sizeable open space would likely require at least one structure to be eliminated or

significantly reduced in size. However, with additional height, at least a portion of the floor area displaced by the open space could be relocated on floors above another structure. Furthermore, maintaining the lot's development potential in this manner can promote mixed use, since the added height may provide more flexibility to stack housing above the commercial portion of a structure. Mixed use development would generate more activity in the area, with the added benefit of increasing the use and security of the open space.

By addressing the height issue, the proposed amendment will provide opportunities to locate a large open space on a lot while maintaining much of the development potential otherwise allowed on the lot. A development providing a sizeable open space would be allowed additional height to accommodate at least a portion of the floor area that might otherwise have been provided in another structure displaced by the open space. Consequently, the project would not gain more floor area than otherwise allowed; it would simply be able to relocate some of the permitted floor area from the portion of the lot occupied by the open space to a taller tower on the remaining portion of the lot.

While the open space is not required to be open to the general public, it must be accessible to all occupants of the development on the lot, and, to offset the impact of the added height, must be approximately at street level and visible to the general public from abutting sidewalks. However, the blocks best able to use the incentive are currently in public ownership. Whether for public or private use, the open space would increase access to light and air in densely developed downtown areas, enhance view opportunities, and provide visual relief for the surrounding population.

BACKGROUND

Creating more opportunities for open space requires land. In the densely developed zones in and around the Downtown core, land is scarce and costly. Policies governing height limits Downtown are intended to accommodate permitted densities while maintaining a transition between areas of different development intensities. The Downtown Mixed Commercial (DMC) 340/290-400 zone allows high density development, but the zone's height and density limits are tailored to provide a transition between the greater heights and densities allowed in abutting office core zones (DOC1 and DOC2) and the less intensive development of adjacent neighborhoods, including Pioneer Square, portions of the Denny Triangle and Capitol Hill-Pike/Pine. To create opportunities for open space in this zone, the proposed amendment would allow increased height on certain lots under specific conditions that respect the intended transition in height and density.

The current proposal is drawn from an earlier provision that addressed similar issues. In 2001, under Ordinance 120443, the City Council amended the Downtown Code to implement recommendations in the Downtown Urban Center Neighborhood Plan. Among these amendments was a provision to allow height increases of up to 20 percent in the DOC1 and DOC2 zones for projects complying with certain conditions, including an option to provide open space on at least 25 percent of the lot. At the time, the height

limits were 450 feet in DOC1 and 300 feet in DOC2. This provision was rescinded in 2006 when, under Ordinance 122054, the height and density limits in these zones were significantly increased. The 2006 amendments also established the DMC 340/290-400 zone. This zone replaced some areas previously zoned DOC2, retaining the original DOC2 density limit of 10 FAR. The height limit in the DMC zone is somewhat higher than the earlier DOC2 limits of 240 and 300 feet, but lower than the current limit of 500 feet. The proposal is to reapply a height incentive similar to the 2001 provision for DOC1 and DOC2, but limited to this new zone, which has characteristics similar to the earlier DOC2 zone, and limited to lots abutting DOC 1, which allows unlimited height.

PROPOSED AMENDMENTS

Under the proposal, the Downtown Chapter (23.49) of the Land Use Code would be amended as follows:

Amend 23.49.008 to allow additional height in the DMC 340/290-400 zone as an incentive to projects that include significant open space on a lot. Land Use Code Section 23.49.008 would be amended to include new provisions regarding maximum structure heights. Special provisions would be added to permit additional height on lots in the DMC 340/290-400 zone that include a significant amount of open space.

- **Amount of height increase permitted.** The maximum height for non-residential use could be increased by 35%, (340 feet to 459 feet, or 119 feet), allowing about nine or ten more stories. The maximum height for residential use could be increased by 30%, (400 feet to 520 feet, or 120 feet), allowing about 12 more residential floors. The differences in the percentage of height increase allows for the added height in feet to be essentially the same for each use. The maximum permitted height of 520 feet for a residential or mixed use structure with housing on the upper floors and 459 feet for a non-residential structure is lower than the heights permitted in the DOC1 zone, which is not subject to a height limit. Examples of the heights of structures in the DOC1 zone along this zoning edge include 967 feet for Columbia Center, 740 feet for Two Union Square, and 574 feet for Wells Fargo Center.
- **Limits on eligible lots.** In addition to restricting the height increase to the DMC 340/290-400 zone, an eligible lot would also need to be a full-block that abuts a DOC1 zone. To ensure that granting the additional height will maintain the desired transition in development scale between zones; this additional restriction will ensure that the height increase will only be allowed on those blocks on the edges of a zone allowing even greater height.
- **Amount of required open space.** The open space is required to be a minimum of 35% of the total area of the lot, or 25,000 square feet, whichever is greater. For reference, a minimum area of 25,000 square feet is a little less than half of the area of a typical square block in the DMC zone south of DOC1. Downtown parks that are roughly in this size range include City Hall Park next to the King County Courthouse,

Occidental Square Park in Pioneer Square, and Victor Steinbrueck Park in the Pike Place Market.

- **Bonus residential floor area.** The amendment does not affect the provisions for gaining additional chargeable floor area above the base FAR¹ limit, and the base and maximum FAR limits are unchanged. However, residential use is exempt from chargeable floor area calculations. Since the floor area bonus for residential structures is based on structure height, the additional floor area allowed for residential use above the current height limit would be gained through the existing provisions for a residential floor area bonus in Section 23.49.015.
- **Additional bulk controls.** To address the bulk of structures gaining added height, only one tower would be permitted on a lot developed with a structure that exceeds the current maximum height limits. Furthermore, additional residential floors above 400 feet would be subject to the limits established in the Code for floor sizes in residential towers. Since non-residential use is subject to an FAR limit, which is not changed under this proposal, a commercial structure gaining additional height would likely be less bulky, given that the same total amount of floor area would be distributed over more, smaller floors.
- **Permitted coverage of open space.** The proposal establishes that a majority of the area of the open space must be open to the sky. However, a portion of the space is allowed to be covered to accommodate features that contribute to pedestrian comfort and active use of the space, such as overhead weather protection, retail kiosks and pedestrian shelters.

ANALYSIS

Relationship to Existing Plans and Policies

Seattle's Comprehensive Plan and Downtown neighborhood plans recognize the public benefit of open space and include goals and policies for increasing open space Downtown. The goals and policies from Downtown neighborhood plans that are most relevant to the proposal (see Appendix A) support measures such as height incentives to increase the supply of open space in Downtown. Policies related to height emphasize the need to maintain a transition in development scale between areas and to conform to the desired urban form with highest heights in the core tapering downward to the water and adjacent neighborhoods.

¹ FAR, or floor area ratio, is the relationship between the size of the lot and the amount of floor area permitted to be on it. For example, on a lot that is 10,000 square feet in area, 10 FAR would allow a building that has 100,000 square feet of non-exempt floor area.

Likely use of Height Incentive for Open Space

Under the proposal, the height incentive would be limited to one Downtown zone, the DMC 340/290-400 zone. There are approximately 26 blocks in this zone. However, the increased height would only be allowed on full-block lots abutting the DOC1 zone. This additional limitation reduces the number of eligible blocks to about seven. Since the DOC1 zone is not subject to a height limit, structures that might gain additional height on the edge in the DMC zone would be lower than those allowed, and in many cases, already existing, in the abutting DOC1 zone.

Out of the estimated seven eligible blocks, three blocks seem to have the greatest potential for using the incentive of increased height by providing open space on the same development lot: 1) the former Public Safety Building site, now proposed to be developed with public open space and a mixed use structure; 2) the King County Administration Building site, where there is interest in redevelopment to consolidate County office space; and 3) County property on the block south of Jefferson Street and the King County Correctional Facility, a portion of which is now occupied by a new parking garage.

Impact on Amount of Permitted Development on a Lot.

The amount of commercial development permitted on a lot is controlled by a floor area ratio (FAR). On a lot that includes a large open space, the amount of permitted floor area is based on the entire area of the lot and could be accommodated in structures on the remaining portion of the lot. Under the proposed incentive, as long as the remaining portion of the lot is large enough for the building footprint, and the height limit is sufficient to allow the building to be tall enough to accommodate all the floor area permitted by the FAR limit, there would be no difference in the amount of commercial floor area allowed. A square block typical of the DMC area south of the office core is roughly 60,000 square feet. The maximum FAR limit of 10 would allow 600,000 square feet of chargeable floor area, which could be accommodated in a 26 story tower with 23,100 square foot floors at a height of about 340 feet, a 30 story tower with 20,000 square foot floors at a height of about 390 feet, or a 34 story tower with 18,000 square foot floors at a height of 442 feet. A commercial structure could also include additional floor area for uses that are exempt from FAR calculations, such as street level retail uses, or space occupied by interior bonusable public amenities, such as a public atrium.

Residential use is not subject to an FAR limit, and is permitted to the extent that it can be accommodated by the height and bulk limits and tower spacing requirements established for the zone. Consequently, any portion of a lot occupied by open space is area that otherwise could have been occupied by residential use or a limited number of other uses that are also exempt from the calculations of FAR.

The chart below compares what could be built under current conditions in the DMC 340/290-400 zone on a 60,000 square foot full block site with what could be built if an open space were located on the lot, with or without the proposed height increase. The calculations of floor area are based on the maximum use of the density limits and/or an

estimate of the floor area permitted by the building envelope for residential use. Other conditions that are not accounted for may further constrain the amount of floor area that could actually be achieved. For example, the placement of towers on the lot to maintain views and ensure marketability of the project may limit the number or height of towers, or dictate smaller floor sizes than the Code allows.

Development scenarios for 60,000 sq. ft. block abutting a DOC1 zone		
Current Zoning (DMC 340/290-400) with no open space on the lot		
Use	Floor area	Building Type
Commercial only	600,000 sq. ft. (10 FAR)	One 26-story office tower (340') with 23,000 sq. ft./ floor average
Residential only	1,222,000 sq. ft. residential	Two 39-story residential towers and base and one 15-story residential structure (160')* with 280,000 sq. ft.
Mixed use	600,000 sq. ft. commercial <u>402,400 sq. ft. residential</u> 1,002,400 sq. ft. total	One 32 story mixed use structure with 26 floors office (600,000 sq. ft.) and two towers above with 6 floors of residential each (122,400 sq. ft.) and one 15-story residential structure (160')* with 280,000 sq. ft.
Current Zoning (DMC 340/290-400) with open space on the lot		
Commercial with 25,000 sq. ft. open space	600,000 sq. ft. (10 FAR)	One 26-story office tower (340') with 23,000 sq. ft./ floor average
Residential with 25,000 sq. ft. open space	833,200 sq. ft. residential	Two 39-story residential towers and base
Mixed use with 25,000 sq. ft. open space	600,000 sq. ft. commercial <u>122,400 sq. ft. residential</u> 722,400 sq. ft. total	One 32 story mixed use structure with 26 floors office (600,000 sq. ft.) and two towers above with 6 floors of residential each (122,400 sq. ft. total)
Proposed Amendment		
30% height increase for residential (520') and 35% of lot area provided as open space		
Commercial with 25,000 sq. ft. open space	600,000 sq. ft. (10 FAR)	One 26 story office tower (340') with 23,000 sq. ft./ floor average
Residential with 25,000 sq. ft. open space	660,000 sq. ft. residential	One 51-story residential tower and base
Mixed use with 25,000 sq. ft. open space	600,000 sq. ft. commercial <u>192,600 sq. ft. residential</u> 792,600 sq. ft. total	One 44 story mixed use structure with 26 floors office (600,000 sq. ft.) and 18 floors of residential above (192,600 sq. ft. total)

*maximum height of structure allowed without tower spacing

Except for a commercial-only development, which remains the same for all scenarios, development potential is reduced when open space is provided on the lot. However, for a mixed use scenario, the height increase allows some of the lost development potential to be recaptured in a taller structure on the remaining portion of the site. Under the proposed amendment, the restriction of one tower per lot reduces development potential for the residential-only scenario compared to existing conditions with or without open space.

Effect of Proposal on Use of Other Bonus and TDR Programs

The amendment does not change the use of current bonus and TDR programs for adding chargeable floor area above the base FAR, as specified in Section 23.49.011. The base FAR of 5 and the maximum 10 FAR is also unchanged. Since the commercial floor area

bonus is tied to FAR increases and not height, the increase in height allowed for a commercial structure will not affect the use of bonuses and TDR for gaining chargeable bonus FAR. However, it may allow for a less bulky tower by distributing the permitted commercial floor area over more floors that would be smaller than otherwise required to accommodate the maximum FAR within the current height limit.

Similarly, all residential floor area above the 290 foot base height limit for residential use would need to be gained through the residential floor area bonus, as specified in Section 23.49.015. To the extent that the added height allows more residential floor area above the 290 foot base height limit for residential use, the amount of floor area gained through the bonus may actually increase. However, because housing is not subject to a density limit, any area of the lot that is occupied by open space is area that could have been occupied by residential use. Therefore, it is possible that a block may include one fewer residential tower than might otherwise be accommodated, and that could reduce the amount of floor area gained through use of the residential floor area bonus. However, any residential floor area added above the height limit under this provision would need to be gained through the affordable housing bonus, which could offset the potential reduction in bonus floor area.

In the mixed use example above, the current amount of floor area that could be added above the maximum commercial portion of a mixed use structure up to the 400 foot height limit is 122,400 square feet in two towers; which could increase to 192,600 sq. ft. in a single tower with the additional height allowed. The amount of square footage of affordable housing required would be based on the total amount of bonus floor area added, including the floor area exceeding the current 400 foot height limit.

Since providing the open space on the lot is a required condition for gaining the additional height allowed, the Code stipulates that this open space cannot be used as an amenity for a floor area bonus to gain additional chargeable floor area above the base FAR. However, as open space accessible to building occupants, the space may be used to meet the open space requirement for office space, since it is desirable to encourage use of the space by those working nearby. It may also be used to meet the common recreation area requirement for residential use.

RECOMMENDATIONS

The following amendments to Chapter 23.49 of the Land Use Code are proposed:

- **Allow additional height in the DMC 340/290-400 zone for structures on full-block lots that provide a large open space. Include standards to ensure that the open space will be visible and usable and will offset the impacts of added height. (23.49.008).**

- **Limit the lots eligible for the bonus to full-blocks abutting DOC1, and limit the amount of the height increase to ensure that a transition in development scale will be maintained between zones of different intensities. (23.49.008).**
- **Specify that under the incentive the added residential floor area above current height limits would be gained as bonus residential floor area. (23.49.015).**
- **Remove current code language in the chapter on measurements to resolve any possible inconsistency regarding the maximum height limits. (23.86.006).**

DPD, in making recommendations, has considered the comments of affected departments, other government agencies, and citizens. Their comments, as well as all environmental documentation that was prepared relevant to the proposed amendments, are available upon request.

DPD recommends approval of the proposed ordinance

APPENDIX A: Relationship to Existing Plans and Policies

Comprehensive Plan

- UV46 Strive to accomplish goals in Urban Village Appendix B for the amount, types, and distribution of open space.
- UV55 Seek to provide public open space in conjunction with major public projects such as utility and transportation projects, with the amount of open space based on the size of the project, open space needs of the adjacent areas, and the opportunities provided by the particular project.
- UV56 Emphasize flexibility in planning, designing, and developing new open space and encourage development of innovative projects.
- CR4 Continue Seattle's long tradition of providing a rich variety of public open spaces, community gardens, and public facilities to provide residents with recreational and cultural opportunities, promote environmental stewardship and attract desirable economic development.
- CRG5 Promote the development or expansion of cultural facilities, including libraries, schools, parks, performing arts and art exhibition facilities, museums, and community centers, in areas designated as urban villages and urban centers.

Downtown Urban Center Plan

- DT-G4 Use regulations in the Land Use Code and other measures to encourage public and private development that contributes positively to the downtown physical environment by:

6. creating new downtown parks and open spaces at strategic locations;
- DT-LUP4 Downtown Mixed Commercial (DMC)

• promote development diversity and compatibility with adjacent areas through a range of height limits.
- DT-UDP5 Use the following criteria in determining appropriate height limits and provisions for limited additions and exceptions:
1. Transition. Generally taper height limits from an apex in the office core toward the perimeter of downtown, to provide transitions to the waterfront and neighborhoods adjacent to downtown.

5. Height Above Specified Limits. Increased heights beyond the limits specified for downtown zones may be considered only when the public purpose served by the additional height justifies the higher buildings, and the height increase is generally consistent with the criteria above.

DT-OSP1 Expand the (downtown) open space system through:

1. development of new parks and/or other open spaces

3. incorporation of open space, as appropriate, in major public projects;
4. a system of incentives to promote development of public open space as part of new downtown projects through bonuses for private development of public open space and/or transfer of development rights from sites providing public open space;

DT-OSP3 Consider major public projects, such as the City Hall and convention center, as opportunities for adding significant public open space downtown. Consider including public open space in these projects when it is consistent with their function and integrate new open space with surrounding parks and public spaces, as appropriate. Any redevelopment of the existing Convention Place transit station site should include a public open space component.

Commercial Core Neighborhood Plan

COM-P1 Explore revising public benefit bonuses and incentive programs regulated by the Land Use Code to stimulate desirable development and support neighborhood goals.

COM-P6 Strive to take advantage of opportunities to develop new public open space and encourage development of a system of connected green spaces and open public areas.