

**Response to Council Comments and Questions on the MFTE Program
March 16, 2015**

Topics addressed in this memo:

1. *Residential Targeted Areas (RTA)*
2. *Housing Quality*
3. *Duration of Affordability*
4. *Balanced Public Benefit*
5. *Micro Housing*
6. *Only for Rental Housing*
7. *Other Incentives*

1. Residential Targeted Areas (RTA). There were public and written comments both in opposition and support for including the Newport Hills commercial area. There were no other public comments on any of the other areas. Several council members made comments about impact of new development in Newport Hills and the timing for dealing with Newport Hills and possibly some of the other RTA's. It was noted that RTA's can be modified over time. There were also general comments by council members on some of the other RTA's (e.g. Crossroads, Wilburton, Eastgate) but there was not a clear consensus on which areas to include and exclude.

Staff response. As was pointed out in staff presentation to the neighborhood, it is unlikely there will be any redevelopment of Newport Hills center without also changes to the current zoning, which will involve a public process. Therefore there is potential flexibility on when the council includes Newport Hills within the MFTE program—either now, or when zoning action is taken. Taking action now was considered an approach to signal to the community and potential developers' interest by the city to support redevelopment consistent with previous neighborhood conversations.

Potential Modification to Ordinance. Note: The hearing included two RTA's requested by council (Wilburton, Crossroads) that were not included in the draft ordinance last reviewed by council in January. Therefore the potential modifications shown below include all potential changes from the January version of the ordinance.

4.52.030 Residential targeted areas—Criteria—Designation—Rescission

D. The following areas, as shown in Maps 1 through 5 in this section, meet the criteria of this chapter for Residential Targeted Areas and are designated as such:

1. Bel-Red Area;
- 2) Downtown Bellevue RTA
- 3) Eastgate Planning RTA
- ~~4) Newport Hills Commercial Area~~
- 4) Crossroads Village RTA (former Top Foods)
- 5) Wilburton Commercial RTA

2. Housing Quality. Council member Robertson commented that the finishes of the affordable units should be the same as the market-priced units.

Staff Response. Though not explicitly addressed in the MFTE ordinance, the ordinance in Section **4.52.040 (E) Project eligibility** states:

Prior to issuing a certificate of occupancy, the owner shall record with the King County department of records and elections, an agreement in a form acceptable to the city attorney that addresses price restrictions, eligible household qualifications, long-term affordability, and any other applicable topics of the affordable housing units. This agreement shall be a covenant running with the land and shall be binding on the assigns, heirs and successors of the owner.

It is assumed that this covenant will be similar to those used by the city for other land use incentive and funding programs, which has historically included the following language: 'All of the dwelling units in the Project shall be constructed of similar quality, and each dwelling unit in the Project shall contain facilities...' In addition, subsection 4.52.040 (F) of the draft ordinance includes the following language:

The mix and configuration of housing units (e.g., studio, one-bedroom, two-bedroom, etc.) used to meet the requirement for affordable units under Section 4.52.090 shall be substantially proportional to the mix and configuration of the total housing units in the project unless otherwise approved by the director.

Potential Modification to Ordinance. If further clarification were desired by the council, one option would be to add additional language to Subsection 4.52.040 (F) of the draft ordinance that mirrors the language in the covenant:

4.52.040 (F) Project eligibility. The mix and configuration of housing units (e.g., studio, one-bedroom, two-bedroom, etc.) used to meet the requirement for affordable units under Section 4.52.090 shall be substantially proportional to the mix and configuration of the total housing units in the project unless otherwise approved by the director. The affordable units will be constructed of similar quality as the other units in the Project.

3. Duration of Affordability. Two letters were received by Council from local developers. Both those letters supported a 12 year affordability requirement rather than the draft ordinance 50 year period. These letters mention that a twelve year term as used in Seattle has proven to be an acceptable period and allows projects to receive conventional financing. Several council members also commented about the duration of affordability and interest in considering something shorter.

Staff response. Different cities have different requirements for duration of affordability. It is likely that requiring longer term affordability could make a program less desirable to private developers. Comments were also received that long term affordability (e.g. 30 to 50+ years) is typically associated with publicly subsidized housing and not incentive programs for private developers. An MFTE program may have some differences from other public incentive programs. It is noted that a number of local jurisdictions, including Bellevue, have land use density incentive programs that require affordability for 30 years to the 'life of the building' and they have been used by a number of private developers using private financing.

Potential Modification to Ordinance. Duration of affordability is a policy decision, and could be modified as follows in the ordinance.

4.52.040 Project eligibility (E). Prior to issuing a certificate of occupancy, the owner shall record with the King County department of records and elections, an MFTE covenant in a form acceptable to the city attorney that addresses price restrictions, eligible household qualifications, long-term affordability, and any other applicable topics of the affordable housing units. This MFTE covenant shall be a covenant running with the land and shall be binding on the assigns, heirs and successors of the owner. Affordable units that are provided

under this section shall continue to be made available to eligible households as affordable units for a minimum of ~~fifty~~ twelve years from the date of initial occupancy.

4. Balanced Public Benefit. In earlier discussion on the MFTE program, some council members asked about the cost benefit ratio of the program. In the event the council chooses a twelve year exemption period it would have an impact on the cost benefit ratio. Based on a 12 year affordability requirement and the affordability levels in the draft ordinance, it is estimated that the cost- benefit ratio could be between 1.75:1.0 and 2.0:1.0. That is for every \$1.75 to \$2.00 of benefit provided to the developer (i.e. property tax reduction), there would be \$1.00 of public benefit received (i.e. reduced rent for affordable units).

Staff Response. Given council member comments about cost benefit ratio, staff explored several approaches to modifying the proposed program requirements with the goal of creating a cost benefit ratio in the 1.2: 1.0 to 1.5: 1.0 range. This would increase the amount of public benefit achieved under the program, while still maintaining the program as an incentive to developers. Items evaluated included affordability levels, percentage of units required to be affordable, duration of affordability requirement, duration of the property tax exemption and unit mix. Based on trying to keep the program straight forward and similar to the Seattle MFTE program, following are a couple options for the council's consideration.

- a. Greater affordability levels. For the 20% affordable units, require the units to be at a more affordable level. Examples include:
- affordability levels at 60% to 70% of median depending upon unit size (similar to current draft code language but different income range)_(cost benefit ratio about 1.3: 1.0);
 - all affordable units at 65% of median income (cost benefit ratio about 1.3: 1.0);
 - Mix of affordability with half of affordable units at 60% of median income and half at 70% of median income. (cost benefit ratio about 1.3: 1.0) (Note: This scenario would have affordable units at 60% of median for all unit sizes)
- b. Unit Mix. The council could require projects to incorporate some additional features that have some type of public benefit such as ensuring a mix of housing serving a range of household sizes including families. This could mean requiring that developments using the MFTE program include a minimum percentage of two and three bedroom units (e.g. 15%).

Potential Modification to Ordinance. Depending upon direction from council, there could be several potential changes to sections **4.52.090 Exemption-Duration-Affordability requirements-Limits** and **4.52.040 Project eligibility (E)**. Based on needs in the community, especially for larger households, adopting the third option under a) greater affordability, and requiring a minimum percentage of two and three bedroom units would most align with addressing the needs of a wider range of household sizes. Also, if council does select a modification to the affordability level, staff would prepare a corresponding revision to the Bel-Red affordability requirements in order to account for the land use incentives available in Bel-Red. Based on council direction, staff would review the draft ordinance to determine appropriate edits.

5. Micro Housing. Councilmember Robertson requested more conversation regarding micro-housing.

Staff response. The draft ordinance includes separate affordability requirements for 'micro-housing'. This was in response to hearing that Seattle was evaluating their MFTE program for small units. Their review is at least partially due to there being a limited, if any, difference between

market rent levels and 65% of median income (current requirement for 'studio' units in Seattle program). In the draft ordinance section **4.52.020 Definitions (K) "Micro Unit"** means:

A residential dwelling unit with square footage of less than 220 square feet and includes: a living/sleeping area; a bathroom with a toilet, sink, and a shower or bathtub; and a food preparation area with a cooking appliance that may be portable, such as a microwave, a refrigerator, a sink, and not less than 4 square feet of contiguous countertop work area.

Since the draft ordinance was prepared, Seattle staff has recommended that there be special provisions for micro units and are recommending affordability levels at 40% of median income.

Potential Modification to Ordinance. The definition above could be modified to change the applicable square footage as follows:

A residential dwelling unit with square footage of less than ~~220~~ 300 square feet and includes: a living/sleeping area; a bathroom with a toilet....

6. Only for rental housing. Earlier the council concurred that an MFTE program should only apply to rental housing. In the draft ordinance there is no language regarding ownership housing, and all references to affordability levels are only for affordable rental housing. However, there is not a clear statement in Section 4.52.040 Project Eligibility that the program is limited to rental housing. It may be worth considering adding clarifying language to that section.

Potential Modification to Ordinance.

Section 4.52.040 Project eligibility (B) The project must be new construction multifamily rental housing consisting of at least four dwelling units within a residential structure or as part of a mixed use development, in which at least fifty percent of the space within such residential structure or mixed use development is intended for permanent residential occupancy

7. Other incentives. Councilmember Robinson asked what other types of incentives could potentially be considered by Council to supplement a multifamily tax exemption program.

Staff response. The draft ordinance, to some degree, utilizes another incentive to supplement the MFTE program. Section 4.52.090 Exemption—Duration—Affordability requirements—Limits has separate affordability requirements in the Bel-Red area. This was to account for the FAR density bonus available as part of the Bel-Red plan and zoning regulations. In the written correspondence from two private developers they mentioned that projects using the land use incentives should also be eligible to use the MFTE program. In a follow up conversation with one of the developers they clarified that the affordability levels for projects using both the FAR incentive and MFTE programs should be greater than those only utilizing the FAR incentive program.

Seattle is currently going through an extensive community process to identify potential strategies to increase affordable housing opportunities in Seattle. As part of that process a subgroup of private sector representatives presented a memo to the Mayor suggesting a number of proposed solutions to providing affordable housing. These include:

- Upzone around transit investments (no explicit linkage to affordability mentioned);
- Refine the incentive zoning code;
- Create more low-rise zoned capacity;
- Building, land use code and process reforms (generally reduce the cost, complexity and time needed to receive permits;

- Create a sales tax exemption program (note: requires state authorization);
- Refine the MFTE program (expand geographic area, and extend exemption beyond 12 years (Note: under existing State Legislation, maximum period is 12 years);
- Renew and increase the size of the Seattle Housing Levy;
- Develop a program to preserve existing affordable housing;
- Utilization of publicly-owned land;
- Create funding capacity for land acquisition for affordable housing (i.e. REDI fund);
- Re-establish a 'Growth Fund' (portion of General Fund revenue toward housing);
- Advocate for increase in State Trust Fund;
- Create housing 'enterprise zones' areas where housing production prioritized;
- Expand opportunities for ADUs and microhousing.

The first six on this list could potentially be layered with an MFTE program with new construction housing. Two of these, extending MFTE to longer time period and sales tax exemption would require state legislation. As was noted above a third one, a land use density incentive program is being used in Bel-Red. Whether there are opportunities in other areas of the city to use a land use density incentive would be for discussion by the council. Most of the other tools are more direct assistance tools that are typically used with other public sources and not as frequently with private new construction. However there may be opportunities to combine or use some of these with private developers.

There are two items not on the list above that are often included in discussions about incentives for affordable housing – reduced parking requirements and waiving impact fees. These are probably not included in this list because Seattle has no impact fees, and in many areas already have limited parking requirements.

Bellevue currently has impact fees for transportation, and in the area served by Issaquah School District, school impact fees. The city has provisions to waive these fees for units affordable at 80% of median income. There are also several regional fees for new construction- including Cascade Water and Metro connection charges. There are no provisions currently for waivers of these fees for affordable housing. One developer called out in particular the Metro connection charges. Two things of note related to impact fee waivers. First, they can only be granted for the affordable units so do not have as much overall economic impact as a MFTE program and land use incentive programs. Second, state legislation essentially requires permanent affordability because any affordable unit that converts to market housing must pay applicable impact fees in effect at the time of conversion.