

Topics for Council Follow-Up

September 18, 2017 City Council Study Session

TABLE OF CONTENTS

1. Affordable housing code flexibility
 2. Accessibility and use of alleys
 3. Downtown boundary linear buffer
 4. Use of in-lieu fees for parks
 5. Small site exceptions and deviations
 6. Floor plate reduction when nonresidential buildings exceed trigger height; discussion of no reduction below 20,000 square feet
 7. Wrap-up of minor topics
-

1. Affordable housing code flexibility (*Re-print from September 5*)

STATUS:

The Planning Commission provided a placeholder in their recommended Land Use Code for a 1.0 FAR exemption to be used towards affordable housing. On July 17, Staff recommended a ratio of 2.5 market units for every 1 affordable unit at 80 percent Area Median Income (AMI) in Downtown to comprise the 1.0 FAR affordable housing exemption. Based on stakeholder input later in the meeting on July 17, Council asked for Staff review of potential dimensional standard flexibility to be used by a developer in combination with the affordable housing FAR exemption.

PLANNING COMMISSION RECOMMENDATION:

Based on the timing of the Citywide Affordable Housing Strategy, the Planning Commission provided a placeholder in their recommended Land Use Code for a 1.0 FAR exemption to be used towards affordable housing.

DISCUSSION:

On July 17, Council was presented with the following provisions for the Downtown 1.0 FAR exemption for affordable housing:

- Based on Staff and consultant analysis, allow up to 1.0 exempt FAR for each Downtown land use district at a ratio of 2.5 market rate units for every 1 residential unit affordable at 80% AMI. (The 2.5 to 1 ratio to be measured by market rate and affordable square footage in proposed code for consistency with FAR measurement Downtown.)
- The bedroom mix and exterior finishes should be comparable to the market rate units but the interior design, unit size, amenities and interior finishes may vary.
- An agreement shall be recorded with the County that the affordable units shall remain affordable for the life of the project.

- When the MFTE program is updated per the Affordable Housing Strategy, it should incorporate the potential combined use of the Downtown affordable housing exemption with the MFTE, similar to the existing approach for BelRed.
- Include periodic review of the market rate to affordable housing ratio to ensure the provision is working as intended.

It was noted on July 17, that dimensional standard modifications for affordable housing were not included in the Planning Commission recommendations, and that there would be a few circumstances in which all or a portion of this exempt FAR cannot be used within the allowed building dimensions.

Based on Council direction on July 17, Staff examined potential development standard flexibility that could lead to a higher participation rate of the affordable housing exemption. The dimensional standards discussed by Staff for potential increased flexibility included: maximum lot coverage, required upper level stepbacks, maximum building height, tower spacing, floor plates, and minimum parking ratios. As is shown below, the Staff recommendation is for increased flexibility for maximum lot coverage, required upper level stepbacks, and required minimum parking. The intent is to allow flexibility for affordable housing without upsetting the broader urban form framework in the Planning Commission's recommended code.

STAFF RECOMMENDATIONS FOR COUNCIL CONSIDERATION:

1. Provide code flexibility for projects participating in the affordable housing FAR exemption as follows:
 - a. Reduced minimum parking ratio of 0.5 stalls per unit for studio and one-bedroom units located in participating projects.
 - b. Increase maximum lot coverage in proposed LUC 20.25A.060.A.4 by five percent in Perimeter Overlay Districts A-1, A-2, A-3, B-1, and B-2, where it is currently 75 percent.
 - c. Decrease the upper level stepback requirements in proposed LUC 20.25A.070.C by a maximum of five feet. Currently at 15-20 feet depending on street.

The following is recommended code language for affordable housing: LUC Part 20.25A is consistent with the Staff recommendation for Downtown FAR exemption. The second section is deletion of reference to Downtown in LUC 20.20.128, Citywide affordable housing bonus, which is no longer applicable Downtown.

Affordable Housing for Part 20.25A LUC

Proposed LUC 20.25A.070.C

C. FAR Exemptions, Special Dedications, and Conversion of Previously Approved Exempt Retail Activity Space.

...

2. Affordable Housing Development Flexibility. A maximum of 1.0 FAR of floor area may be exempted to support the provision of affordable housing, minimum parking may be reduced, and additional development flexibility allowed, as provided below.

- a. Up to 1.0 FAR of floor area dedicated to support the creation of on-site affordable housing shall not be counted for the purposes of calculating the FAR of a project, provided that:
 - i. For every 1.0 square feet of affordable housing provided at 80 percent AMI, 2.5 square feet is allowed for market rate housing not to exceed a maximum of 1.0 FAR total;
 - ii. The bedroom mix and exterior finishes shall be comparable to the market rate units, but interior design, unit size, amenities and interior finishes may vary; and
 - iii. An agreement in a form approved by the City will be executed by the applicant and recorded with the King County Record's Office, or its successor organization, requiring the affordable housing to remain for the life of the project. This agreement shall be a covenant running with the land, binding on assigns, heirs, and successors of the applicant.
- b. Reduced Minimum Parking Ratio for Affordable Units. Affordable studio and one-bedroom units located in projects meeting the requirements of LUC 20.25A.C.2.a shall have a minimum parking ratio of 0.5 stalls per unit.
- c. Additional Development Flexibility. Projects that provide 0.5 FAR or greater of the exempt floor area earned through the provisions of on-site affordable housing may:
 - i. Increase the maximum lot coverage by five percent in Perimeter Overlay Districts A-1, A-2, A-3, B-1, and B-2; and
 - ii. Decrease the upper level stepbacks required in LUC 20.25A.075.C by a maximum of five feet.

Proposed edits to LUC 20.25A.010.A

...

- 3. Land Use Code sections not applicable in Downtown. The following sections of the Land Use Code, Title 20 Bellevue City Code (BCC) now or as hereafter amended, do not apply in Downtown. Unless specifically listed below, all other sections apply.
 - a. 20.10.400
 - b. 20.10.440
 - c. 20.20.005 through 20.20.025
 - d. 20.20.030
 - e. 20.20.060 and 20.20.070
 - f. 20.20.120 and 20.20.125
 - g. 20.20.128
 - h.g. 20.20.135 and 20.20.140
 - i.h. 20.20.190 and 20.20.192
 - j.i. 20.20.250
 - k.j. 20.20.400.l. 20.20.520
 - l.k. 20.20.525

- ~~m.f.~~ 20.20.560
- ~~n.m.~~ 20.20.700 and 20.20.720
- ~~o.n.~~ 20.20.750 through 20.20.800
- ~~p.e.~~ 20.20.890 and 20.20.900

Proposed edits to LUC 20.20.128 Affordable housing.

C. Dimensional Standard Modification. ...

2. Parking Requirements. For those buildings containing affordable housing, the percent of compact parking stalls may be increased up to 75 percent of the total required parking in non-Downtown Zoning Districts, ~~and up to 85 percent of the total required parking in Downtown Zoning Districts.~~ Tandem parking stalls are permitted to the extent feasible to satisfy required parking ratios.

2. Accessibility and use of alleys (*Re-print from September 5*)

STATUS:

On June 26, Council requested additional information on the topic of accessibility and use of alleys. The example most often cited are private streets that have sidewalks and allow for pedestrian movement, but also have considerable “back of house” functions such as mechanical equipment, site servicing, or solid waste receptacles that can impede pedestrian and vehicle passage.

PLANNING COMMISSION RECOMMENDATION:

Below are selected provisions that address the requirement of a clear sidewalk for pedestrians and the location of “back of house” functions. In addition to these provisions, the code also proposes to widen sidewalks to a width of 12, 16, or 20 feet in recommended LUC 20.25A.090. Widening the sidewalks will provide more room for amenities and required site servicing.

Recommended LUC 20.25A.090.A.3

“Unobstructed Travel Path. Within the width of the walkway or sidewalk, at least six feet of unobstructed travel path shall be maintained for safe pedestrian access in new development. A narrower width may be approved to accommodate sidewalk cafes adjacent to development that was permitted under Part 20.25A LUC prior to [EFFECTIVE DATE OF THE ORDINANCE], if the width is consistent with design standards adopted by the Director of Transportation and is consistent with the ADA.”

Recommended LUC 20.25A.130.B

“1. To the maximum extent reasonable and consistent with building and site design objectives, mechanical equipment shall be located in the building, below grade, or on the roof.

2. Where the equipment must be located on the roof, it shall be consolidated to the maximum extent reasonable rather than scattered.

3. Mechanical equipment shall not be located adjacent to a sidewalk, through-block pedestrian connection, or area designated open to the public, such as a plaza.”

Recommended LUC 20.25A.160.160.B.

“2. Guidelines.

a. Site Circulation for Servicing and Parking.

...

iii. Provide access to site servicing, such as loading, servicing, utilities, vehicle parking, either underground or within the building mass and away from the public realm and public view;

iv. Minimize the area of the site used for servicing through the use of shared infrastructure and shared driveways;

...

iv. Locate above-ground mechanical and site servicing equipment away from the public sidewalk, through-block connections, and open spaces.”

DISCUSSION:

Sidewalks and streets, whether private or public, must remain safe and clear. Issues arise when mechanical equipment, site servicing, or solid waste receptacles impede pedestrian passage on the sidewalk or vehicular passage on the street. In many situations, the design of the building did not provide space for these “back of house” functions. The problem becomes worse if the street is private and ownership is shared, as it is between four buildings on NE 9th Street and 111th Avenue NE. The sidewalks and streets in this area, especially NE 9th Street, are often obstructed by solid waste receptacles and parked cars. These obstructions make passage on the sidewalk and street difficult and there is no express authority in the Right-of-Way Code for the Transportation Director to control passage on private streets.

The recommended Downtown Code addresses many of the sidewalk concerns. In addition, the Utilities Department, representatives of which administer the contract with Republic Services, will be promulgating rules that will be incorporated by reference into the Land Use Code. These rules will have requirements that will address sidewalk and street concerns as they relate to solid waste receptacles, solid waste pick up, and Republic Services. For instance, the rules may require a garage or room away from the sidewalk where solid waste receptacles can be kept and accessed by Republic Services trucks. This alternative will keep the receptacles off the sidewalks and streets. If the sidewalk is unavailable for site servicing or “back of house” function” because of proposed Downtown Code provisions and there is no room to accommodate these functions within the building, it is likely that the street or right-of-way would be used. The Transportation Department has jurisdiction over the right-of-way and can ensure that it remains clear.

STAFF RECOMMENDATION FOR COUNCIL CONSIDERATION:

1. Adopt the code provisions as recommended by the Planning Commission. Revised sidewalk standards and design guidelines address many of the concerns. In addition, the

Utilities Department, which administer the contract with Republic Services, will be promulgating rules that will be incorporated by reference into the Land Use Code.

3. Downtown boundary linear buffer (*Re-print from September 5*)

STATUS:

On June 26, Council requested more information on the Downtown linear buffer and the amendments to the measurement of the buffer. The 20-foot linear buffer is intended to provide a transition from Downtown to the adjacent residential neighborhoods. The Planning Commission recommended elimination of the buffer in the Perimeter Overlay A-3 on the southeast corner of Downtown and a reduction of the buffer in the Perimeter Overlay A-2. The Planning Commission also recommended measuring the linear buffer from the back of curb rather than the back of sidewalk in the Perimeter Overlay A-2.

PLANNING COMMISSION RECOMMENDATION:

Below is the Planning Commission's recommendation with respect to the measurement of the Downtown Linear Buffer. Front setbacks and the linear buffer are measured from the back of sidewalk. Relevant portions of the code have been identified in bold italicized font for ease of reference.

20.25A.110 Landscape Development Requirements

...

C. Linear Buffer

1. General. The standards of this paragraph supplement other landscape requirements of this Part 20.25A and LUC 20.20.520 for development in the Perimeter Overlay.
2. Linear Buffers.
 - a. General. Any development situated within Perimeter Overlay A-1 and A-2 shall provide a linear buffer within the minimum setback from the Downtown boundary required by LUC Chart 20.25A.060.A.4. The purpose of this feature is to produce a green buffer that will soften the visual impact of larger buildings as viewed from the lower intensity Land Use Districts adjacent to Downtown. These design standards are minimum requirements for the size and quantity of trees and other linear buffer elements. The specific design of the linear buffer for each project shall be determined through the Design Review Process. Design considerations include, but are not limited to, the placement of elements and their relationship to adjacent property as well as to the proposed development. Different sets of design standards apply to each of the locational conditions. ***Linear buffers for Perimeter Overlay A-2 shall be measured from back of curb instead of from the back of sidewalk.***
3. Requirements for All Linear Buffers. All linear buffers:
 - a. Shall have a minimum width of 20 feet;
 - b. Shall not be used for parking, and vehicular access drives shall be no more than 25 percent of the total area of the linear buffer;

- c. Shall include seasonal color in an amount of at least ten percent of the perimeter setback area; and
 - d. Shall utilize native species for at least 50 percent of the plantings located within the perimeter setback area.
4. Linear Buffers that are Adjacent to Rights-of-Way or Public Property shall have:
- a. Three deciduous trees, with a minimum caliper of 2.5 inches, per each 1,000 square feet of the perimeter setback area.
 - b. Two flowering trees, with a minimum caliper of two inches, per each 1,000 square feet of perimeter setback area.
 - c. Ten evergreen shrubs, minimum five-gallon size, per 1,000 square feet of the perimeter setback area.
 - d. Living ground cover that provides cover of unpaved portion of buffer within three years.
 - e. Walls and fences that do not exceed 30 inches.
 - f. Accessibility both visually and physically abutting the sidewalk and being within three feet of the sidewalk or providing alternative access.
 - g. Seventy-five percent of the buffer shall be planted. The other 25 percent may be paved with pervious pavement, brick, stone or tile in a pattern and texture that is level and slip-resistant. The paved portion of the buffer may be used for private recreational space and residential entries.
5. Where the Downtown boundary abuts property outside Downtown other than right-of-way or public property, the minimum setback from the Downtown boundary (or perimeter property lines when the setback has been relocated pursuant to Note 6 of subsection LUC 20.25A.060.A.4 shall be landscaped as follows:
- a. The entire setback shall be planted except for allowed paved portions. No portion may be paved except for required vehicular entrance drives, required through-block connections, patios that do not exceed 25 percent of the area of the required setback, and residential entries that do not exceed 25 percent of the area of the required setback.
 - b. The setback shall be planted with:
 - i. Evergreen and deciduous trees, with no more than 30 percent deciduous, a minimum of ten feet in height, at intervals no greater than 20 feet on center;
 - ii. Evergreen shrubs, a minimum of two-gallon in size, at a spacing of three feet on center; and
 - iii. Living ground cover so that the entire remaining area will be covered in three years.

DISCUSSION:

The Downtown Subarea Plan states in POLICY S-DT-125: “Utilize lineal green open space buffers directly outside Downtown (north of NE 12th Street between 106th Place NE and 112th

Avenue NE, and in the vicinity of the southeast corner of Downtown) to provide a graceful transition from Downtown to surrounding residential neighborhoods.” As stated in the Land Use Code, “The purpose of this feature is to produce a green buffer that will soften the visual impact of the relatively larger buildings.” LUC 20.25.A.090.D.4.b.

The Perimeter Overlay A-3

The Planning Commission recommends the elimination of the Downtown Linear Buffer in the Perimeter Overlay A-3 because the tunnel portal park will soon be located at southwest corner of the intersection at 112th Avenue NE and Main Street. Given that the park will be located there, there will be no need to buffer the visual impact of larger Downtown buildings or to create a graceful transition from Downtown into residential areas to the south. The park will provide the graceful transition contemplated in the Comprehensive Plan for the southeast corner of Downtown.

The Perimeter Overlay A-2 Exception

Parcels in the Perimeter Overlay A-2 would be measured from the back of curb, rather than the back of sidewalk. The result would be that the sidewalk would be included in the measurement of the linear buffer. The Perimeter Overlay A-2 will be located on the north, south, and west boundaries of Downtown.

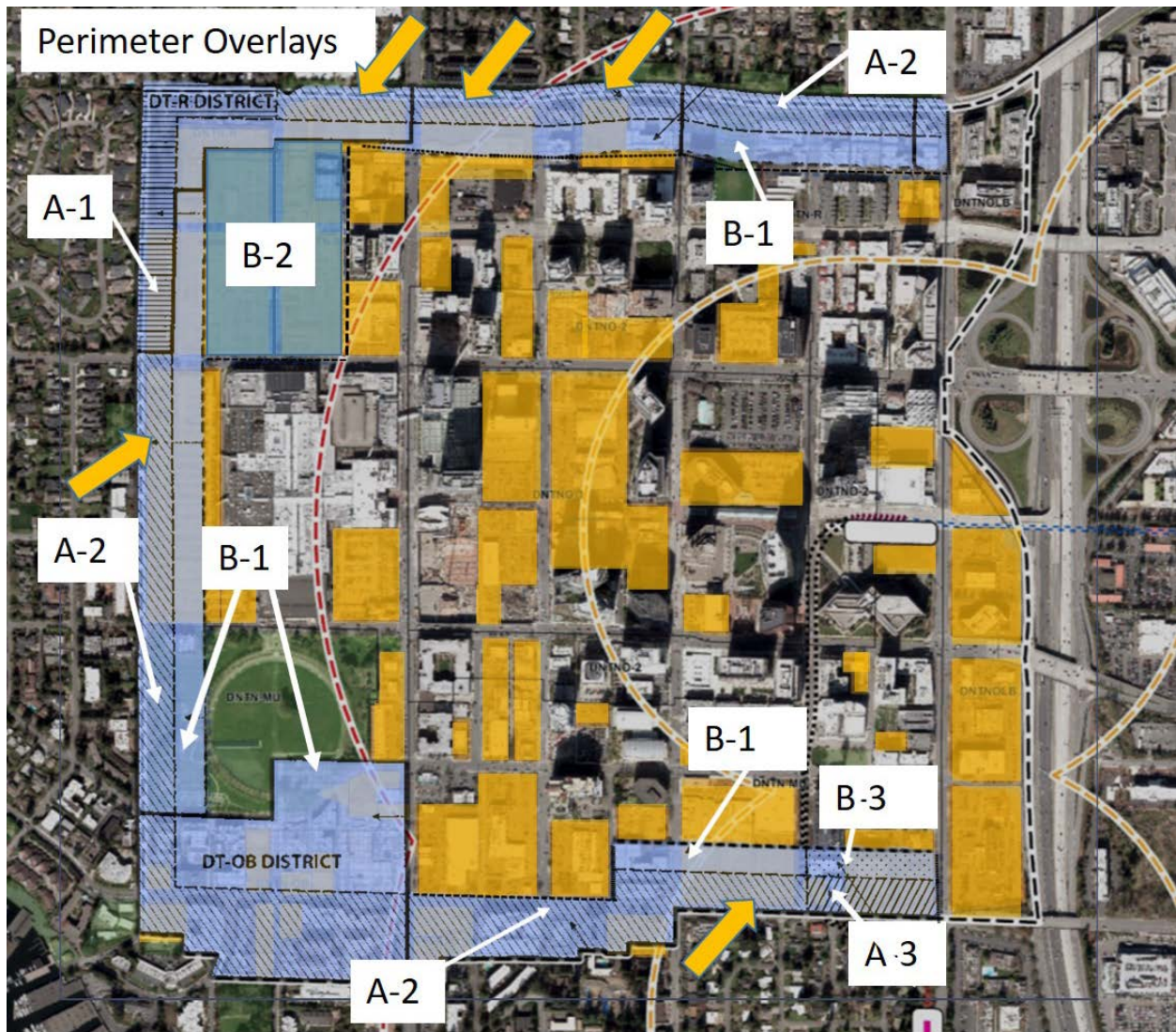
North Boundary in the Perimeter Overlay A-2. In the Perimeter Overlay A-2 on NE 12th Street, the required sidewalk width is 12 feet. If the buffer were measured from the back of curb, thereby including the sidewalk in the buffer measurement, the vegetated portion of the buffer would be 8 feet instead of 20 feet. Because it is located adjacent to the north side of NE 12th Street from 112th Avenue NE to 102nd Avenue NE, McCormick Park also acts as a buffer for the adjacent neighborhood to the north.

South Boundary in the Perimeter Overlay A-2. In the Perimeter Overlay A-2 on Main Street west from the Perimeter A-3 boundary to 108th Avenue SE, the required sidewalk width is 16 feet in the recommended code. If the buffer were measured from the back of curb, the vegetated portion of buffer would be 4 feet instead of 20 feet. There are commercial establishments on the south side of Main Street, across from the area where the Perimeter Overlay A-2 will be located. From 108th Avenue NE to 100th Avenue SE, there are no sidewalks on the south boundary of the Perimeter Overlay A-2 in that area which is also the Downtown boundary. Because there are no sidewalks, the width of the linear buffer would remain 20 feet.

West Boundary. The Perimeter Overlay A-2 runs along the western boundary of Downtown on the east side of 100th Avenue NE. Downtown Park and an existing apartment building occupy most of the property from Main Street to NE 4th Street on the east side of 100th Avenue NE. The parking garages for Bellevue Square and an existing bank are adjacent to the east side of 100th Avenue NE from NE 4th Street to NE 8th Street where the Perimeter Overlay A-2 ends. On the west side of 100th Avenue NE between NE 4th Street and NE 8th Street, there is a hotel, several apartment buildings, and a small park. From Main Street to NE 8th Street, the required sidewalk width for the

east side of 100th Avenue NE is 12 feet in the proposed code, so application of the exception would mean that the buffer would measure 8 feet instead of 20 feet.

Below is a map of Downtown with the parcels that have the potential to be the subject of redevelopment in the future, the proposed Perimeter Overlay Districts, and the parcels that would be affected by the reduction in the linear buffer. The locations of the parcels that are possible sites of redevelopment and are within the Perimeter Overlay A-2 are marked with yellow arrows. The Perimeter Overlays are shown in blue.



In the area of Perimeter Overlay A-3 on the southeast portion of Downtown, the elimination of the Downtown buffer is reasonable because the tunnel portal park will be located across the street. Staff recommends that Council adopt this provision.

In addition, Staff recommends that the Council adopt the other provisions regarding the measurement of the linear buffer with respect to the north and south boundary. The parcels located on NE 12th Street that are also in the Perimeter Overlay A-2 will be required to provide a

buffer of 8 feet. Because McCormick Park is across NE 12th Street to the north, this and the required 8-foot buffer should be sufficient to create a graceful transition and to reduce the visual impacts of the larger Downtown buildings. For the south boundary within the Perimeter Overlay A-2, the area located between 108th Avenue NE and 110th Avenue NE on Main Street is the largest area at issue. Given that all of the uses across Main Street to the south are commercial in nature rather than residential, there does not seem to be a need to maintain a 20 foot linear buffer in that area. The southern boundary between 108th Avenue NE to 100th Avenue NE is not an issue because the full 20 foot landscaped linear buffer will be required where the Downtown edge is not located on a street alignment.

On the west boundary of Downtown, there is a possibility of redevelopment and an 8-foot linear for the residential neighborhood on the west side of 100th Avenue NE between SE 4th Street and NE 8th Street. There is also a small park and a hotel, along with the multifamily housing on the west side of 100th Avenue NE. Given the short distance and the presence of the park and hotel, an 8 foot vegetated buffer should be sufficient.

STAFF RECOMMENDATIONS FOR COUNCIL CONSIDERATION:

1. Consistent with the Commission recommendation, adopt the code provisions that eliminate the Downtown buffer in Perimeter Overlay A-3. It is reasonable because the tunnel portal park will be located across the street.
2. Staff has analyzed available parcels for redevelopment on the north, west and south edges of Downtown where the back of curb would function as the starting point for measuring the linear buffer, and recommends adoption of the Commission's recommended code language for measurement of the linear buffer from the back of the curb, rather than from the back of the sidewalk, on the south, north, and west boundaries of Downtown in the Perimeter Overlay A-2.

4. Use of in-lieu fees for parks (*Re-print from September 5 with additional language added in Staff recommendation*)

STATUS:

On June 26, Council requested more information on the use of amenity incentive system in-lieu fees for parks. The Planning Commission's recommendation states that "in-lieu fees collected by the City shall be placed in a dedicated account and used exclusively for the acquisition or improvement of publicly accessible open space within Downtown."

PLANNING COMMISSION RECOMMENDATION:

20.25A.070 Amenity Incentive System and Floor Area Ratio

D. Specific Amenity Incentive System Requirements. ...

- c. In-lieu Fees. In-lieu fees may be used for up to 50 percent of a project's required amenity incentive points. The in-lieu fee as of [INSERT EFFECTIVE DATE OF THE ORDINANCE] 2017 is \$28.00 per amenity point. In-lieu fees shall be assessed and collected at building permit issuance. In-lieu fees collected by the City shall be placed in

a dedicated account and used exclusively for the acquisition or improvement of publicly accessible open space within Downtown. The amenity incentive system in-lieu fee rate, published in the City's fee rate schedule, shall be reviewed annually, and, effective January 1st of each year, may be administratively increased or decreased by an adjustment to reflect the current published annual change in the Seattle Consumer Price Index for Wage Earners and Clerical Workers as needed in order to maintain accurate costs for the region.

DISCUSSION:

The Planning Commission's recommended language allows for in-lieu fees to be used for acquisition or improvement of City park facilities as well as for other publicly accessible open spaces. This flexibility would allow for potential improvements along the Pedestrian Corridor or Grand Connection route, for example, in addition to City park facilities. The Amenity Incentive System also allows for park land donation or developer construction of improvements to City-owned park facilities as bonusable amenities. It's also important to make note of the Planning Commission's recommendation that park impact fees be further explored by Council as a follow-up item to the Code update.

STAFF RECOMMENDATION FOR COUNCIL CONSIDERATION:

1. Retain the Planning Commission's language for use of in-lieu fees. It provides flexibility for the fees to be used for park facilities as well as for other publicly accessible open spaces at the City's discretion. If Council wished to be more directive, the Commission's recommended language could be changed to focus solely on acquisition or improvement of City park facilities and not the broader definition of publicly accessible open space. *(New)* If Council wished to be able to have land acquisition or physical improvements occur both within or adjacent to Downtown, the Commission's recommended code language could be modified to include adjacent properties.

5. Small site exceptions and deviations

STATUS:

On September 5, a Councilmember asked for small sites (defined in LUC 20.25A.020 as less than or equal to 40,000 square feet in size) to be further discussed, with a focus on the maximum in-lieu fee threshold in the amenity incentive system potentially being increased to 75 percent from 50 percent of a project's amenity points. On July 10, Staff presented Council with the full range of small site exceptions and deviations included in the Planning Commission's recommended code. A small site applicant would not be required to provide 75 percent of its amenity points in open space amenities or provide tower separation. Additionally, small site applicants would have the ability to reduce upper level stepbacks, and be required to meet a reduced Green and Sustainability Factor. General administrative departures available to small sites were also highlighted. No changes were made by Council on July 10.

PLANNING COMMISSION RECOMMENDATION:

LUC 20.25A.020 Definitions

DT-Small Site: A lot in existence prior to [EFFECTIVE DATE OF THIS ORDINANCE] that is less than or equal to 40,000 square feet in area and corresponds to the project limit within which the small site is located. This definition does not apply to lots less than 40,000 square feet in area that are aggregated into a project limit that is greater than 40,000 square feet.

Exceptions Specifically Recommended by the Planning Commission for Small Sites:

1. In the Amenity Incentive System, developers must allocate at least 75 percent of the amenities used to open space amenities. The recommended Downtown Code does not require a minimum allocation for small sites. Recommended LUC 20.25A.070.D.2.b
2. The tower separation requirements do not apply to small sites. Recommended LUC 20.25A.075.B.4
3. An upper level stepbacks may be modified or eliminated if the stepback is infeasible because the lot is small or irregularly shaped. Recommended LUC 20.25A.075.C.1.a
4. The Green and Sustainability Factor is 0.30 for most lots, but it is 0.25 for small sites.

General Departures that Could Provide Relief for Small Sites:

There are also departures applicable to all sites that are particularly useful for small sites. The general provisions for administrative departures and City Council departures are in recommended LUC 20.25A.030.D.

1. General Administrative Departure – The general administrative departure applies to numeric standards in walkways and sidewalks, planter strips and tree pits, the Pedestrian Corridor, street trees, linear buffers, and the design guidelines. Recommended LUC 20.25A.030.D.1. These would be especially useful on small sites where sidewalk widths, planter strip widths, or other numeric standards can be adjusted to address site constraints.

Topic-Specific Administrative Departures that Could Provide Relief for Small Sites:

There are administrative departures available in the following sections that would provide flexibility when developing on a small site. They are:

1. The ability to build a higher residential tower that exceeds 220 feet in the B-2 overlay. Recommended LUC 20.25A.060, Footnote 12. Small sites are not as able to expand floor plates, so the building must be taller to gain more area.
2. The ability to build intrusions over sidewalks, into setbacks, into stepbacks and to obtain height exceptions for mechanical equipment. Recommended LUC 20.25A.060.B.2 and 3. This allows parts of the building to intrude into spaces that normally would not be available for building features, whether required or not. For instance, weather protection, decks, balconies, and the building structure itself on Mixed and Neighborhood streets are allowed to intrude over the sidewalk.

3. The ability to use shared and off-site parking. Recommended LUC 20.25A.080.C and D. The ability to use shared and off-site parking increases the amount of the site available for the building and other amenities.
4. The ability to modify the location and screening of mechanical equipment and exhaust systems. When the mechanical equipment or exhaust system is allowed to be placed in an area that is normally free of equipment, then more habitable space becomes available. Recommended LUC 20.25A.130.

DISCUSSION:

On September 5, a Councilmember asked for small sites (less than or equal to 40,000 square feet in size) to be further discussed, with a focus on the maximum in-lieu fee threshold in the amenity incentive system potentially being increased to 75 percent from 50 percent of a project's amenity points. This would lead to potentially more in-lieu fees being paid as opposed to on-site development of amenities. Including on-site amenities was an important part of the Commission discussion. Based on the range of amenities available to use, and the departure for small sites from a minimum amount of "open space" amenities, there appears to be ample opportunity to achieve needed points on-site.

Some examples of the amenities that a small site could pursue, include: enhanced streetscape, active recreation area, enclosed plaza, public art, water feature, neighborhood serving uses, and the flexible amenity. A modification that Council may want to consider is reducing the minimum size of a bonusable Outdoor Plaza amenity to 1,500 square feet for small sites, from the 3,000 square feet in the recommended code applicable to all sites. This would make it more likely to be pursued on small sites.

STAFF RECOMMENDATION FOR COUNCIL CONSIDERATION:

1. Retain Planning Commission's recommendation for in-lieu fees being limited to no more than 50 percent of a project's required amenity points, including for small sites, if participating in the amenity incentive system.

Council may want to consider modification to the minimum size of a bonusable Outdoor Plaza amenity to 1,500 square feet for small sites (from 3,000 square feet applicable to all sites).

6. Floor plate reduction when nonresidential buildings exceed trigger height; discussion of no reduction below 20,000 square feet

STATUS:

On July 17 and September 5, Council discussed floor plate reductions when buildings exceed the trigger height. The remaining issue identified by Council is for nonresidential development where a 10 percent reduction could lead to some office floor plates as low as 18,000 square feet, and if there should be a code provision that requires floor plate reductions to a minimum of 20,000 square feet.

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission explored a floor plate reduction for nonresidential buildings in the range of 10-25 percent for floors above the trigger height. Ultimately, the Commission was not able to land on recommended reductions within this range for nonresidential buildings, and asked Council to resolve this issue during the adoption process.

As previously discussed with Council, the floor plate reduction is calculated from the maximum floor plate allowed over 80 feet in the land use district, applicable to all floor plates above the trigger height. The applicable percent reduction may be averaged among all floor plates above 80 feet, but no single floor plate shall exceed the maximum floor plate size above 80 feet.

DISCUSSION:

The Planning Commission included in its recommended Code the ability to achieve taller, more slender buildings in many parts of Downtown. The trigger height requirement is a way to ensure more slender towers are built when exceeding the maximum building height allowed in the current code, which was a key tenet of the Planning Commission's recommendation.

Stakeholders and some Councilmembers have expressed concern regarding the 10 percent nonresidential floor plate reduction in the DT-MU and DT-OLB districts because it could lead to some office floors being built below 20,000 square feet in size. Some stakeholders have also noted that the floor plate reduction to 18,000 square feet above the trigger height in the DT-MU district could lead to unused FAR in certain instances.

Based on local and national development examples, there is clearly a minimum of about 18,000 square feet for desirable and feasible office floor plates in urban locations. In addition to floor plate sizes, significant emphasis is placed on design, amenities, and authenticity as priorities when businesses choose locations for office space. As a whole, Staff do not feel that some floors developed under 20,000 square feet in Downtown Bellevue when exceeding the trigger height would necessarily lead to unfeasible office development.

Previous direction from Council was to include a 15 percent nonresidential floor plate reduction above the trigger height in the DT-O-1 and DT-O-2 Districts. This 15 percent reduction applies to the 24,000 square foot maximum in those districts, resulting in floors of 20,400 square feet above the trigger with the reduction.

If Council wished to include a provision to reduce floor plates to a minimum of 20,000 square feet for nonresidential development in the DT-MU and DT-OLB districts, it would be included in the final ordinance for adoption as follows:

Potential Amendment Shown in Double-Underline

20.25A.075 Downtown Tower Requirements

A. Requirements for Additional Height

1. Applicability. Buildings with heights that exceed the trigger for additional height shall be subject to the diminishing floor plate requirement in paragraph A.2. and an outdoor plaza space requirement.
2. Diminishing Floor Plate Requirement. The maximum floor plates above the trigger for additional height shall be reduced by: ~~10 to 25 percent for nonresidential buildings and 10 percent for residential buildings.~~
 - a. 15 percent in nonresidential towers located in the DT-O-1 and DT-O-2 Districts,
 - b. 10 percent in nonresidential towers located in the DT-MU, DT-MU Civic Center, DT-OLB Central and DT-OLB South Districts, provided that no floor plate reduction shall be required below 20,000 gsf/f; and
 - c. 10 percent in residential towers.
 - d. The reduction shall be applied on all floor plates above the trigger for additional height. The applicable percent reduction may be averaged among all floor plates above 80 feet, but no single floor plate shall exceed the maximum floor plate size above 80 feet.

.....

STAFF RECOMMENDATIONS FOR COUNCIL CONSIDERATION:

1. Maintain Planning Commission's recommended 10 percent floor plate reduction for nonresidential development in the DT-MU, DT-MU Civic Center, DT-OLB Central and DT-OLB South districts.

There was Council interest expressed in further discussion of a provision to reduce floor plates to a minimum of 20,000 square feet for nonresidential development.

7. Wrap-up of minor topics

a. VESTING (*Re-print from September 5*)

STATUS:

The topic of vesting of applications under the current Land Use Code was raised by developers, but not discussed by the Planning Commission. This was not identified as a topic that needed to be codified into the Land Use Code. Instead, Staff recommend that the topic of vesting of applications currently in review under provisions of the Land Use Code in effect prior to the Downtown Livability Update be addressed as a section of the ordinance.

DISCUSSION:

Vesting of applications for discretionary permits and approvals provides certainty and predictability to applicants and the public. When major code changes are undertaken, clarity regarding the vesting of applications is particularly important. Developers need to have enough time to complete the application process under the old code when substantial time and financial resource has been committed to a project. The public also needs to know that vesting of applications will eventually expire and new projects required to meet updated codes. Project applicants that are not committed to move forward through the development process under the old code within a reasonable period of time, should be required to comply with provisions of the new code once a reasonable time has passed.

STAFF RECOMMENDATION FOR COUNCIL CONSIDERATION:

Staff recommends that the following language regarding application vesting and permit and approval vesting be added to the ordinance that will be adopted by the City Council to implement the Downtown Livability Update.

Section __. Land Use Applications for Downtown Development that are Currently in Review. Applications deemed complete under the provisions of the Downtown code (Part 20.25A LUC) in effect prior to the adoption of this Downtown Code Update (Ord. No. _____) shall continue to be reviewed under the prior code. The vested status of a land use application filed under the prior code shall expire on July 1, 2019, unless a complete Building Permit application is filed before the end of the two-year term. In such cases, the vested status of the land use application shall be automatically extended for the time period during which the Building Permit application is pending prior to issuance; provided, that if the Building Permit application expires or is canceled pursuant to BCC 23.05.100, the vested status of a land use application shall also expire or be canceled. At issuance of a permit or approval for any application vested under the terms of this section, the permit or approval shall vest pursuant to the terms of LUC 20.40.500.B.

Section __. Land Use Permits and Approvals that have been Issued.

The vested status of a land use permit or approval issued prior to the adoption of this Downtown Code Update shall be governed pursuant to the terms of LUC 20.40.500.B

b. SUSTAINABILITY CERTIFICATIONS (Re-print from September 5)

STATUS:

The Master Builders Association (MBA) has requested that the Built Green Certifications be included in the Tier 2 amenities and in the “open space” amenities as defined in the Amenity Incentive System or moved to the Flexible Amenity. The reason for this request is to balance the increased risk and cost for green projects with the number of amenity points.

PLANNING COMMISSION RECOMMENDATION:

Bold type has been added for ease of review.

Chart 20.25A.070.D.4 Amenity Incentive System

LIST OF BONUSABLE AMENITIES	APPLICABLE NEIGHBORHOODS AND BONUS RATIOS						
	Northwest Village	City Center North	Ashwood	Eastside Center	Old Bellevue	City Center South	East Main
OTHER AMENITIES							
17. Sustainability Certification: The City has a vested interest in supporting sustainable building practices and provides amenity bonus points commensurate with the level of sustainability provided in each building. Bonus FAR shall be earned according to the level of rating applicant completes. Building practices are rapidly evolving and sustainability features are becoming mainstream. The purpose of this amenity is to incentivize performance significantly above the industry norm.	Tier 1: Living Building Net Zero Energy; Built Green 5-Star ; or LEED Platinum; 0.25 FAR Bonus. Tier 2: Passivhaus PHIUS+2015 Verification; Built Green 4-Star ; or LEED Gold; 0.2 FAR Bonus. Note: Other Sustainability Certifications with an expected public benefit equal to or in excess of Tier 1 or Tier 2 may be pursued under the Flexible Amenity provisions. DESIGN CRITERIA: 1. Buildings shall meet minimum criteria for LEED, Built Green or Living Building Challenge certification in chosen category. 2. A performance bond equivalent to the value of the bonus shall be provided to the City by the developer. In the event the project does not achieve the planned rating within 18 months of project completion, the bonded funds shall be used for environmental improvements within Downtown identified by the City.						
18. Flexible Amenity: For proposed amenities not identified in items 1 – 17 of this list, the Flexible Amenity allows an applicant the opportunity to propose an additional amenity that would substantially increase livability in the Downtown. Credit shall be determined on a case-by-case basis; it is expected that the public benefit shall equal or exceed what would be provided by amenities on the standard list provided above. The Flexible Amenity may also be used to determine a mix of amenities that is appropriate for a DT-Small Site when application of standard list would not provide it with the development rights permitted to other similarly situated properties.	Values for this amenity will be set through the City Council Departure process in 20.25A.030 and require a Development Agreement. May be pursued in all Downtown Neighborhoods. This amenity may be used on DT-Small Sites to earn necessary amenity bonus points needed to exceed base FAR. DESIGN CRITERIA: 1. Bonus proposal shall be approved by City Council through a Legislative Departure and Development Agreement. 2. Proposed bonus shall have merit and value to the community. 3. Proposed bonus shall be outside of the anticipated amenity bonus structure. 4. Proposed bonus shall not be in conflict with existing Land Use Code regulations. TECHNICAL REVIEW: The City may require the applicant to pay for independent technical review, by a consultant retained by the City, of materials submitted by the applicant to support the requested departures contained within a requested Development Agreement. Consultant services may include, but are not limited to, economic evaluation of public benefits, impacts on property values, review of construction valuations, documentation related to constructability, and other input deemed necessary by the City Council to support its legislative decision making.						

Recommended LUC 20.25A.070D.2.b. “Allocation of Amenities. **The Amenity Incentive System has a focus on public open space features. It is required that 75 percent or more of a project’s amenity points shall be earned from one or more of the following amenities:**

Major Pedestrian Corridor, Outdoor Plaza, Donation of Park Property, Improvement of Public Park Property, Enhanced Streetscape, Active Recreation Area, Enclosed Plaza or Alleys with Addresses. The remaining 25 percent of a project's required amenity points may be earned from any other amenity on the amenity list. DT-Small Sites may utilize any combination of amenity incentive points from the standard list to earn required amenity points."

Recommended LUC 20.25A.020.A. **DT-Open Space:** Landscaped areas, walkways, gardens, courtyards and lawns; excluding areas devoted to buildings, traffic circulation roads, or parking areas. Outdoor plazas, Major Pedestrian Open Space and Minor Publicly Accessible Spaces are a kind of open space."

DISCUSSION:

The Master Builders requested that: (1) Built Green 4-Star be included in Tier 2 and included in the list of open space amenities; or (2) Both Built Green certifications should be included in the "open space" category of amenities or included in the Flexible Amenity. The Built Green 4-Star has been included in Tier 2 as requested by the MBA.

The MBA requested that the Built Green 4-Star and 5-Star Certifications be included with the open space amenities such as Major Pedestrian Corridor, Outdoor Plaza, Enhanced Streetscape and the other amenities listed above. This would allow an applicant to use the certification for a maximum of 75 percent of the required amenity points on a site, rather than a maximum of 25 percent as an amenity that does not fall in the open space category. However, these certifications are not appropriate for the open space category. While the Built Green 4-Star and 5-Star Certifications have some credits for green practices conducted outdoors, the vast majority of the credits available are for building practices on a multifamily or single family residence. Moreover, buildings do not fall within the Downtown definition of open space. If the Built Green 4-Star and 5-Star certifications were included in the open space category, there would be an internal inconsistency in the proposed code.

The Flexible Amenity is already available to those with certifications where there is a substantial increase to the livability of Downtown. To place these certifications in the Flexible Amenity category rather than in the category of Sustainability Certifications, would make it harder, rather than easier, to obtain the amenity points because a development agreement and legislative departure would be required every time anyone wanted to use the Built Green 4 –Star and 5-Star Certifications for amenity points. Staff believe the better course of action would be to leave the certifications where they are and the applicant can apply for the Flexible Amenity when the situation warrants it.

STAFF RECOMMENDATION FOR COUNCIL CONSIDERATION:

1. Leave Built Green-5 Star in Tier 1 and Built Green-4 Star Certification in Tier 2 of the Sustainability Certifications in the Amenity Incentive System. Applicant may apply for a Flexible Amenity in extraordinary situations.

c. OPEN SPACE PROVISIONS *(Re-print from September 5)*

STATUS:

Council requested more information on how the open space provisions worked together in the new code. Open space is addressed in the amenity incentive system, minor publicly accessible spaces, open space required when a building exceeds the trigger height, and in the Major Pedestrian Corridor and Major Public Open Spaces provisions. Open space is further refined by the new design guidelines found in Attachment C at LUC 20.25A.150 to .180. These design guidelines will help to create better open spaces Downtown.¹

DISCUSSION

In the amenity incentive system, those amenities that are related to open space are required to comprise 75 percent of the project's required amenity points. These open space amenities include: Major Pedestrian Corridor, Outdoor Plaza, Donation of Park Property, Improvement of Public Park Property, Enhanced Streetscape, Active Recreation Area, Enclosed Plaza, or Alleys with Addresses. The remainder of the required amenity points can be open space amenities or other amenities. Recommended LUC 20.25A.070.D.2.b. The amenity system also allows an applicant to provide in-lieu fees for a maximum of fifty percent of the entire required amenity points. The money is placed in a dedicated account that may be used to acquire or approve publicly accessible open space in Downtown. Recommended LUC 20.25A.070.D.2.c.

If the applicant does not take advantage of the amenity incentive system and is located in the Downtown Core, the project must still provide a minor publicly accessible space. The Minor Publicly Accessible Space may have hours of operation, must be recorded with the County, and provide directional signage for pedestrians. Recommended LUC 20.25A.090.C.3.

Open space is required where a building height exceeds the trigger height. Recommended LUC 20.25A.075.A.3. In that instance, the project must provide ten percent of ground-level, open space, among other requirements. The open space must comply with the open space guideline in the amenity incentive system and may not be less than 3,000 square feet. In addition, it may not be divided into unusable fragments. Though this is a requirement upon exceeding the trigger height, there is no requirement that a building must exceed the trigger height. This required open space must comply with the design requirements in the amenity incentive system for outdoor plazas.

The proposed Downtown Code incorporates the Major Pedestrian Corridor and Major Public Open Spaces from the current code. They can be found in the recommended code at LUC 20.25A.090.C. Though they are required spaces, the applicant receives amenity points for providing both the Pedestrian Corridor and the Major Public Open Space amenities.

Not only does the proposed Downtown code provide optional and mandatory open space, but the design guidelines are more specific in protecting open spaces. A few examples in the proposed code include:

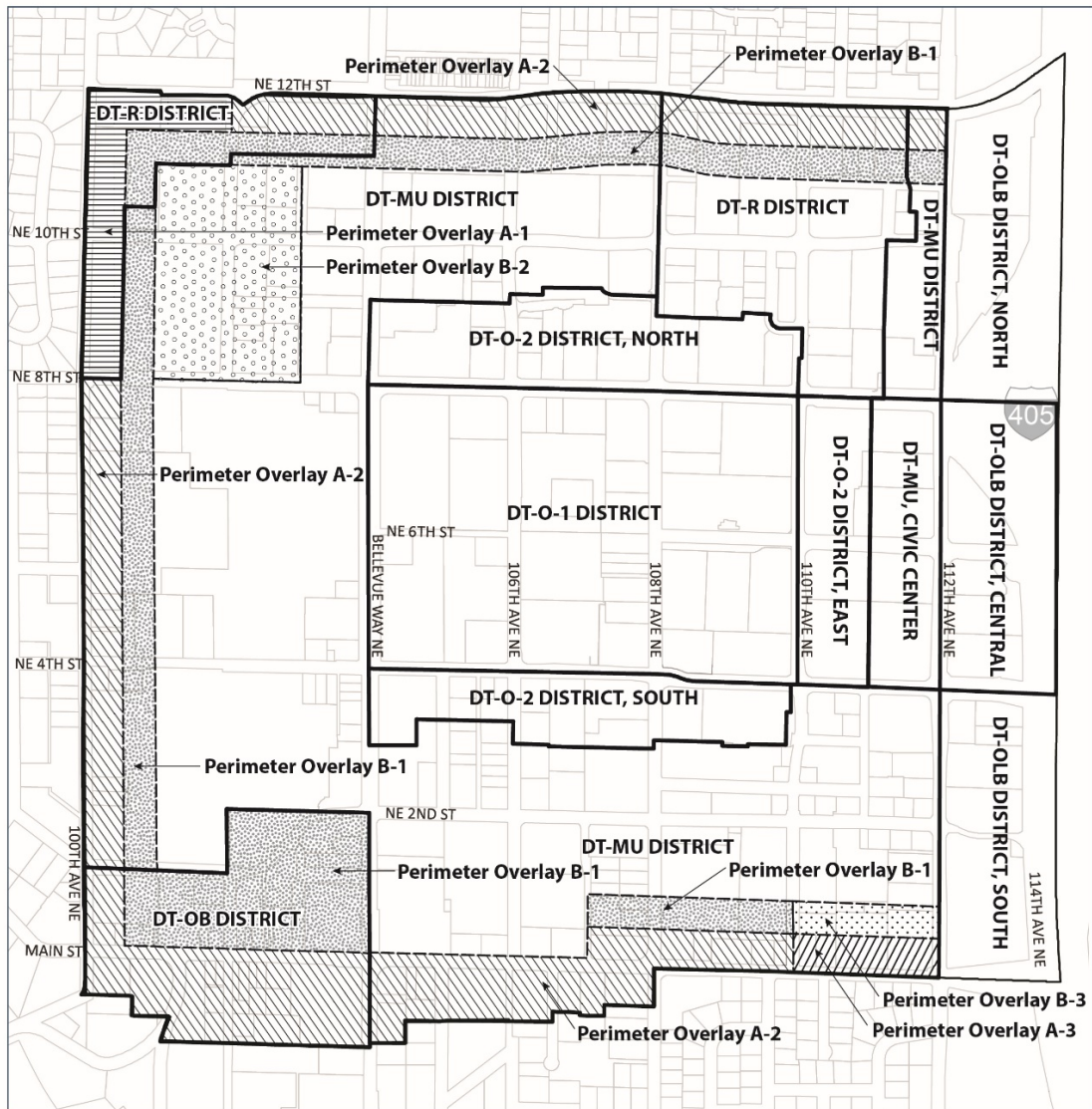
¹ The Green and Sustainability Factor in proposed LUC 20.25A.120 is not included here because it does not require the inclusion of open space. Rather, it requires a minimum amount of green elements that must be provided on a site.

- Buildings should be placed in a manner that preserves solar access and to take maximum advantage of the open space. Recommended LUC 20.25A.150.B.2.a
- Open space design should not incorporate the use of open spaces for loading, parking, and refuse collection unless no other option is available. Recommended LUC 20.25A.160.E.2.o
- Define and animate the edges of publicly accessible open space with well-proportioned building bases, permeable facades, and Active Uses at-grade. Recommended LUC 20.25A.160.B.2.h
- Place towers away from parks, open space, and neighboring properties to reduce visual and physical impacts of the tower. Recommended LUC 20.25A.180.E.1.b.1

STAFF RECOMMENDATION FOR COUNCIL CONSIDERATION:

1. Retain the Planning Commission's recommended open space provisions which provide both mandatory and optional mechanisms to encourage open space in Downtown. The new design guidelines encourage a better quality of open space by addressing characteristics like solar access, uses allowed in open space, and locating towers away from open space. Consistent with the Downtown Subarea Plan, these provisions help to make Downtown more livable.

For Reference: Downtown Land Use District Classifications and Perimeter Overlays



LAND USE DISTRICT CLASSIFICATIONS AND PERIMETER OVERLAYS

