

Joint Council/Planning Commission Workshop on Incentive Zoning



November 9, 2015



Overview of Tonight's Agenda

Goals of the Workshop

- ▣ Increase Council/Commission's knowledge and understanding of incentive zoning
- ▣ Align Council and Commission approach to the update
- ▣ Set expectations for general approach/methodology

Agenda Arranged by Three Main Parts

- Foundations of Incentive Zoning
- Bellevue's Incentive Zoning System
- Principles to Guide the Update

Where We Are Now

PUBLIC ENGAGEMENT



Incentive Zoning Workshop

Analysis and Formation of Code Recommendations:

- Public Open Space
- Pedestrian Corridor
- Design Guidelines
- Incentive System
- Height and Form
- Other Topics

3 Key Questions for Updating Incentive Zoning

Tonight

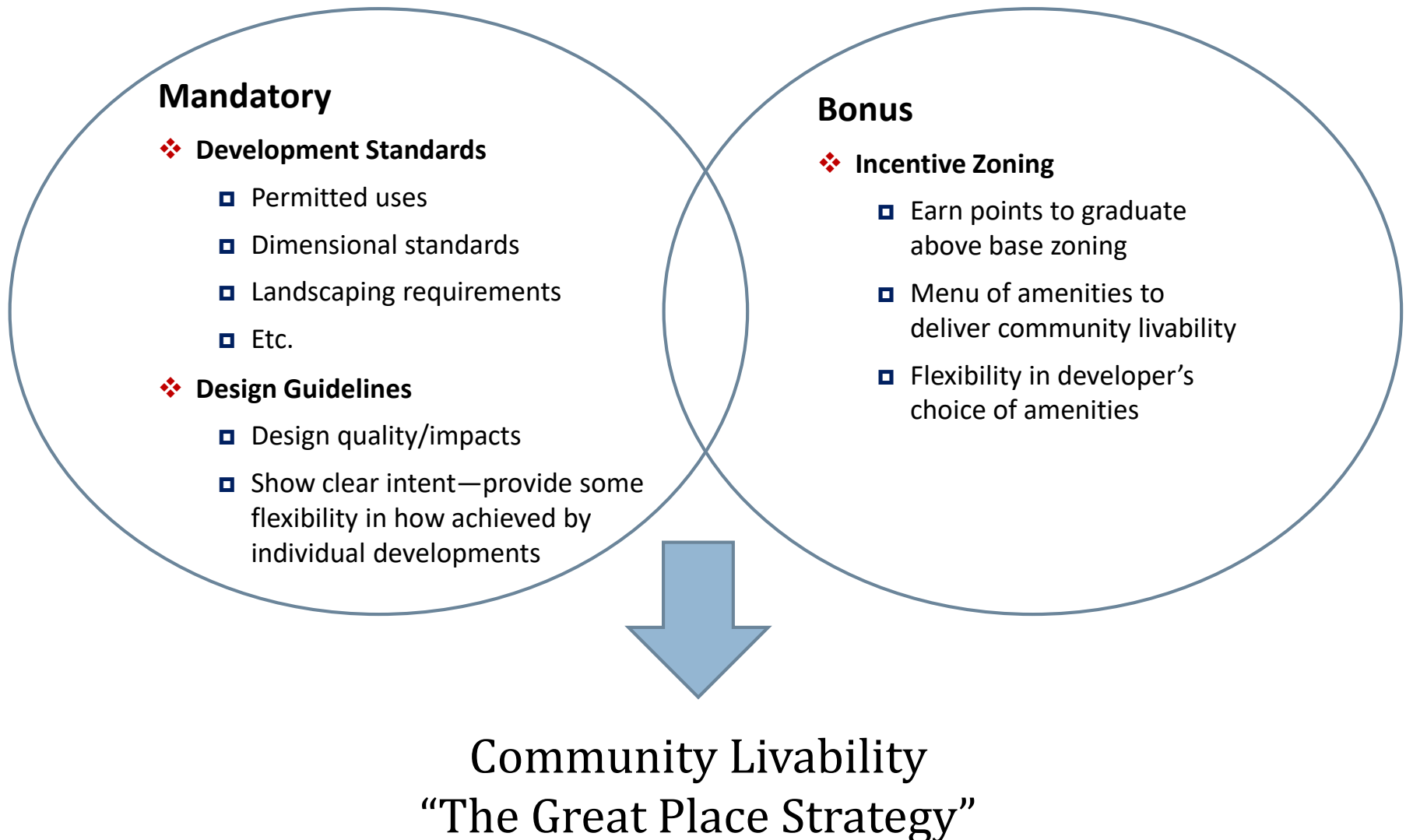
- 1. What do we incentivize?**
- 2. How do we incentivize? (How does the incentive methodology work?)**

Future Work

- 3. What is the market-based exchange rate?**

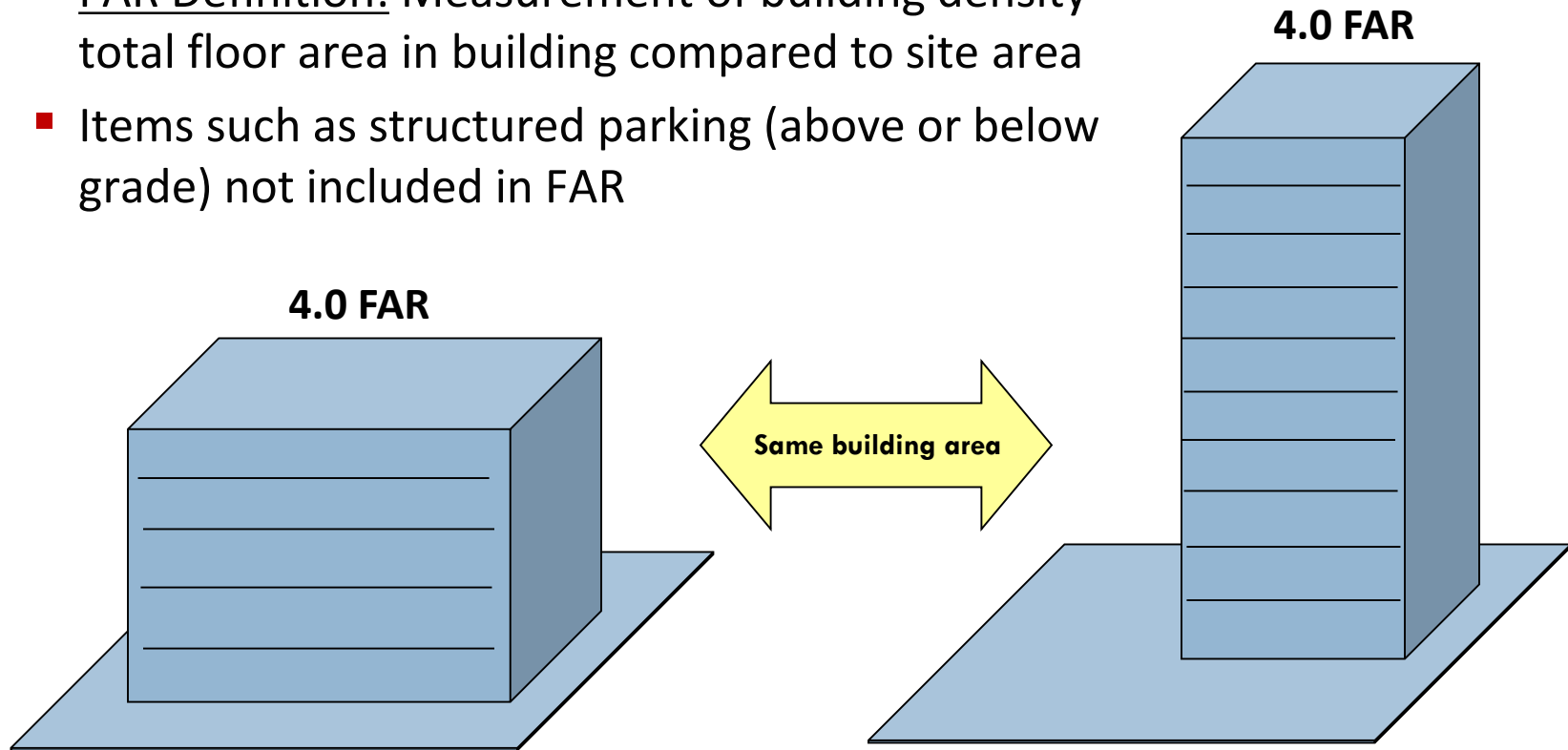
Part 1: Foundations of Incentive Zoning

Role of Incentive Zoning – “Connecting the Dots”



The “incentive” in the Incentive System: Additional Density/Height

- Typically expressed as Floor Area Ratio (FAR)
- FAR Definition: Measurement of building density – total floor area in building compared to site area
- Items such as structured parking (above or below grade) not included in FAR



5 floors at 24,000 sf each = **120,000 total sf**
 $120,000 \text{ total sf} / 30,000 \text{ sf site area} = 4.0 \text{ FAR}$

10 floors at 12,000 sf each = **120,000 total sf**
 $120,000 \text{ total sf} / 30,000 \text{ sf site area} = 4.0 \text{ FAR}$

Bellevue Policy Foundations

Excerpts from Downtown Subarea Plan (last updated 2004)

- Provide bonus incentives to accomplish public objectives outlined in Plan
- Use in concert with development standards
- Use incentives to encourage items such as:
 - ▣ Urban residential development throughout Downtown
 - ▣ Themed streets
 - ▣ Major unifying design feature
 - ▣ Unique characteristics of Downtown Districts
 - ▣ Neighborhood-serving retail and service uses in Perimeter Areas
 - ▣ Voluntary replication or protection of historic façades or other significant design features when redevelopment occurs

Overview of Legal Principles

MAIN SOURCES OF LAW

Federal Constitution

Fifth Amendment to the U.S. Constitution:

“... nor shall private property be taken for public use, without just compensation.”

Nollan v. California Coastal Comm'n, 483 U.S. 825 (1987)

Dolan v. City of Tigard, 512 U.S. 374 (1994)

Koontz v. St. Johns River Water Mgmt. Dist., 133 S.Ct. 2586 (2013)

WA Constitution

The **Washington, Const. art. 1, § 16**:

“No private property shall be taken or damaged for public or private use without just compensation having been first made....”

Presbytery of Seattle v. King Cnty., 114 Wn.2d 320 (1990)

Legal Foundation

Guiding Principle:

Base FAR requirements should not be so restrictive as to destroy a property's economic viability.

Legal Foundation

Guiding Principle:

Required monetary or property exactions must have a nexus and be roughly proportional to the negative impacts created or exacerbated by the development.

Legal Foundation

Guiding Principle:

At least one amenity providing bonus FAR and height must have a nexus and be roughly proportional to the impact(s) created by the additional FAR and/or height.

Case Study: Seattle

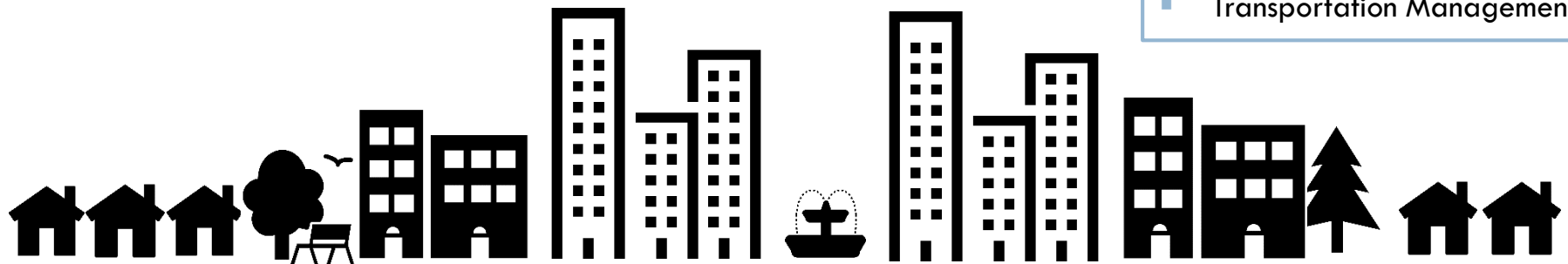
- **Program:** Additional floor area awarded for provision of amenities
- **Structure:** Allows on-site, off-site, fee-in-lieu, and purchase of TDRs as bonus options
- **Pricing:**
 - ▣ Based on a residual land value analysis assessing a developer's ability to pay for additional square footage (above by-right)
 - ▣ Fee-in-lieu price is calibrated to the value of non-housing public benefits

Where does it apply?

- Varies by location and development type
- Non-residential bonus program available in targeted locations

What is the public benefit?

- Affordable Housing
- Green Street Improvements
- Open space
- On-site amenities
- Child care facilities
- Rural forest and farmland preservation
- Historic Preservation
- LEED/Build Green
- Transportation Management



Case Study: Portland

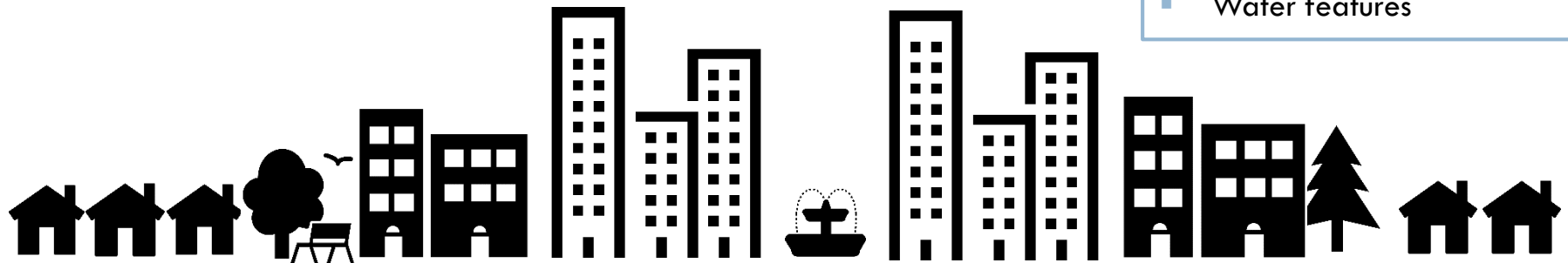
- **Program:** Increased land use and redevelopment flexibility
- **Structure:** Ratio of bonus floor area based on the amount of amenity provided, with a fee-in-lieu option for contribution to the housing or public open space fund.
- **Pricing:**
 - ▣ The value of bonus FAR is equal to the difference in the residual value of the land when considered with and without the bonus FAR
 - ▣ Fee-in-lieu prices are set per square foot of bonus floor area

Where does it apply?

- Bonus depends on the location in the City
- Specific incentive zoning for the Central City Plan District

What is the public benefit?

- Amenities and facilities that implement the Central City Plan
- Desired uses
- Larger residential units
- Affordable housing
- Open space
- Below grade parking
- Rooftop gardens & ecoroofs
- Efficient family sized units
- Water features



Case Study: Denver

- **Program:** Developer receives benefit in exchange for developing affordable housing
- **Structure:** Allows on-site, off-site, and fee-in-lieu options (with the fee varying by area)
- **Pricing:**
 - ▣ Fee-in-lieu price equal to 50% of sales price per affordable unit that would be required (the assumed maximum profit on sale price of an affordable unit)
 - ▣ Developers offered option of cash incentive or design incentive

Where does it apply?

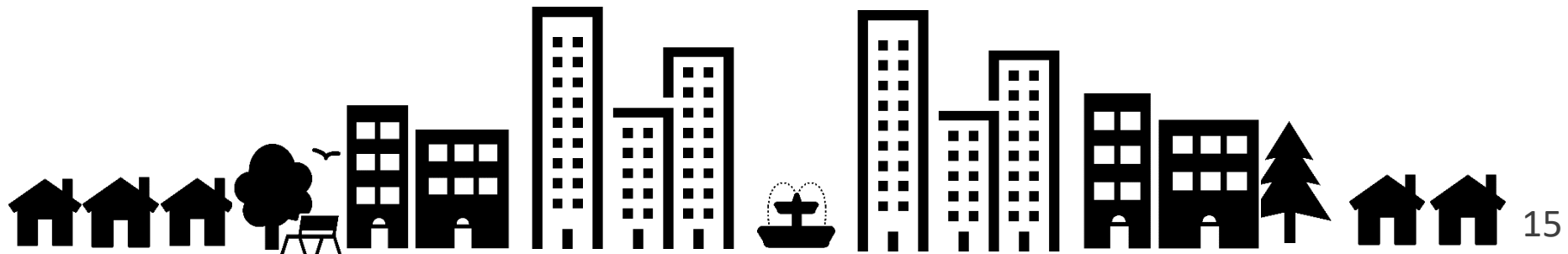
- Citywide where 30 or more units are built or substantially rehabilitated

What is the public benefit?

- Minimum of 10% moderately priced units per project

How does the developer benefit?

- Cash incentive
- Supplemental Density
- Parking reduction
- Expedited review process



Case Study: Chicago

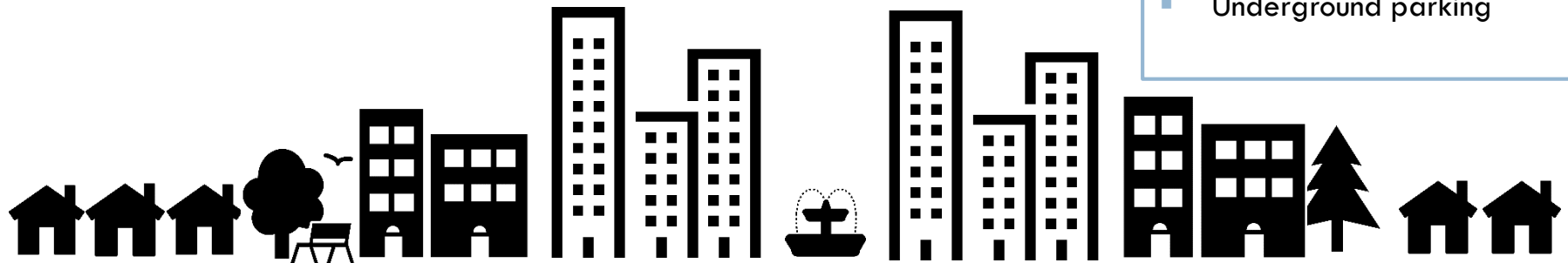
- **Program:** Allows additional floor area for providing affordable housing or incorporating design elements
- **Structure:** Allows on-site or fee-in-lieu options, with different bonus allowances for providing amenity versus affordable housing
- **Pricing (a few different ones):**
 - ▣ Uses the ratio of square footage of amenity provided relative to the total lot size and FAR allowed
 - ▣ Sets bonus floor area based on developer's contribution in relation to the value of the property in the particular geographic area

Where does it apply?

- Four specific downtown zones targeted with different pricing structure

What is the public benefit?

- Affordable housing
- Public schools
- Contribution to the Affordable Housing Opportunity Fund
- Plazas and parks
- Riverwalk and streetscape Improvements
- Through-block connections
- Upper-level setbacks
- Green roofs
- Underground parking



Case Studies: Lessons Learned

Program Goals

- Develop clear goals for what a program should achieve

Geography

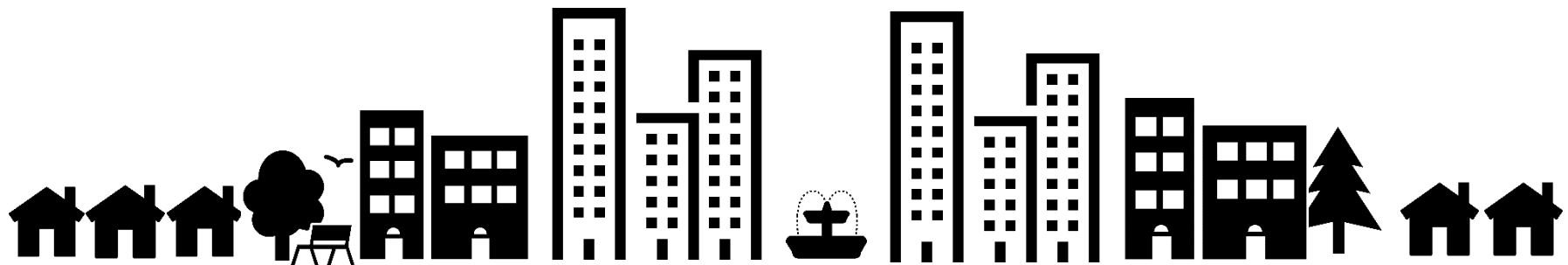
- Determine what's appropriate and what the goals are for specific geography/districts

Incentive Structure

- Determine where the by-right zoning ends and the incentive zoning begins and how much bonus each incentive will give. Prioritize the amenities appropriately.

Incentive Pricing

- Value the cost of the amenity and the bonus so that the bonus value exceeds the amenity value.



Part 1: Foundations of Incentive Zoning

Q & A / Discussion

- Thoughts about the unique role that incentive zoning should play in Bellevue's fiscal/implementation strategy?
- Are any examples from elsewhere particularly instructive for Bellevue's update?

Part 2: Bellevue's Incentive Zoning System – Current & Future

How the System Works

- Key tool for furthering the Downtown vision
- A development provides public amenities in exchange for additional building area and height
 - ▣ In essence, development “earns” the right to exceed base FAR/height
- Current list of 23 amenities to choose from, each with specific design criteria and bonus rates
- Some items are both requirements and qualifying amenities
 - ▣ All development must provide for “basic” amenities
 - ▣ Pedestrian-oriented frontage, Pedestrian Corridor

Example of Incentive System Calculations



Basic Floor Area

Points req. = 46,525
Points earned = 46,764

Zoning: DNTN-02

Project Limits: 58,156 SF

Basic FAR Allowed: 4.0 = 232,624 SF

Max FAR Allowed: 6.0 = 348,936 SF

Project FAR Built: 5.9 = 348,454 SF

FAR to be earned: $348,454 - 232,624 = 115,830$

Basic Amenity Points Earned

46,764

Total Amenity Points Earned

231,019 (46,764 + 184,255)

Excess Amenity Points

115,189 (231,019 – 115,830)

Amenities Provided

Amenities for Basic FAR = 46,764

Retail = 27,300

Marquee = 1,008

Landscape Features = 18,457

Amenities for Additional FAR = 184,255

Underground Parking = 184,255

Challenges/Room for Improvement

- List of amenities and calibration is dated
- Amenities to serve all ages
- Adding to Downtown's memorability
- Sporadic implementation of some key amenities
- Adding ideas from Charrette and Great Streets
- Opportunities for green building and sustainability elements
- Range of ideas for other new amenities coupled with 21st century livability
- Adaptability provisions for system moving forward

Public/Stakeholder Feedback

- Flexibility and adaptability – provide appropriate flexibility and ensure adaptability over time
- Desired new amenities – reflect evolving Downtown livability needs
- Application of incentive system – prioritize and consider needs of entire Downtown
- Don't lose sight of economics

CAC Recommendations for Update

- Update list of amenities:
 - Focus on amenities most important to achieving livability
 - Consider what needs to be incentivized vs. what market will do without incentives.
 - Provide flexibility to encourage creative design.
 - Amenities should help reinforce Downtown neighborhood identity.
 - Modified incentive system must be feasible and act as a real incentive.
- Make weather protection a development requirement
- Consider neighborhood-specific weighting
- Develop method to consider alternative amenities
- Recalibrate economics of amenity incentive system; including review of base FARs and fee-in-lieu provisions

Existing and Potential New Amenities

Category	EXISTING AMENITIES IN CODE	POTENTIAL NEW AMENITIES
Public Gathering Spaces/Placemaking	Major Pedestrian Corridor Pedestrian Oriented Frontage	Signature Streets Third Places, gathering places Farmers Market Space
Neighborhood-Serving Uses	Public Meeting Rooms Child Care Services Retail Food Space for Non-profit Social Services	None
Parks/Green/Open Space	Outdoor Plaza Landscape Feature Landscape Area Donation of Park Property Residential Entry Courtyard Active Recreation Area Enclosed Plaza	Upper Level Plaza Green Space/Open Space Pocket Parks & Urban Courtyards Green Streets Concepts Landmark Tree Preservation Significant Tree Planting Activated Rooftops
Parking	Underground Parking Above Grade Parking Above Grade Parking in Residential Bldg	None
Housing	Residential Uses	Affordable Housing
Arts and Culture	Performing Arts Space Sculpture Water Feature	Art Space Historic Preservation and Cultural Resources
Design	None	Iconic Features (i.e. rooftop, tower, etc.) Increased Setbacks for Light/Air Small Lot Interesting Architecture Sustainable Features/Practices Freestanding Canopies at Corners Pedestrian Bridges

Updating Bellevue's Incentive Zoning: Questions about Alternative Methodologies

- Put more into requirements, while raising base?
- Shorter, more focused list of incentives vs. longer, more robust list?
- Retain amenities that development would likely do anyway?
- Provide an option to bypass incentive system altogether?

Part 2: Bellevue's System – Current & Future

Q & A / Discussion

- What has worked well in Bellevue's existing incentive zoning structure? What not so well?
- What should we be incentivizing in the future?
- Thoughts about the alternative methodologies that should be studied?

Part 3: Principles to Guide the Update

Part 3: Foundations of Incentive Zoning

Q & A / Discussion

- The Council will be issuing a set of Council Principles to guide the incentive zoning system update. What are some of the key thoughts that should be included?

Workshop Conclusion

- ***Wrap-up and Next Steps***