



# KING COUNTY

1200 King County Courthouse  
516 Third Avenue  
Seattle, WA 98104

## Signature Report

June 16, 2009

### Ordinance 16555

**Proposed No.** 2009-0323.2

**Sponsors** Gossett

1 AN ORDINANCE authorizing the King County executive  
2 to execute an amendment to the purchase and sale  
3 agreement dated June 21, 2007, in order to complete the  
4 sale of the county-owned property known as the North Half  
5 of the Former Kingdome Parking Lot parcel, located in  
6 Council District 8, to North Lot Development, L.L.C.

7

8 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

9 **SECTION 1. Findings:**

10 A. King County (the Seller) owns a 3.85 acre (167,513 square feet) parcel of  
11 land, commonly known as the North Half of the Former Kingdome Parking Lot (the  
12 Property), in the City of Seattle, Washington, located adjacent to the King Street Center,  
13 the King Street Station, the Weller Street Pedestrian Bridge, and a surface parking lot  
14 owned by the Washington State Public Stadium Authority (PSA) and operated by First  
15 and Goal, Inc. (FGI). King County facilities management division is the custodian.

16 B. Pursuant to Ordinance 15820, the King County executive executed a purchase  
17 and sale agreement (the Agreement), dated June 21, 2007, for the sale of the Property to  
18 North Lot Development, L.L.C. (the Buyer).

19 C. Section 5.1 of the Agreement establishes the Buyer's due diligence  
20 contingency (as defined in the Agreement) to be satisfied and removed by the Buyer  
21 within the Due Diligence Period.

22 D. Section 5.2 of the Agreement establishes the Seller's due diligence  
23 contingency (as defined in the Agreement) to be satisfied and removed by the Seller  
24 within the Due Diligence Period.

25 E. Section 5.4 of the Agreement also provides that the parties shall agree on the  
26 form of the Deed and Covenants (as defined in the Agreement) by September 19, 2007  
27 and the Reserved Easements (as defined in the Agreement) by October 19, 2007.

28 F. The dates for the parties to agree on the forms of the Deed and Covenants and  
29 the reserved Easements were extended by a First Amendment dated September 28, 2007;  
30 a Second Amendment dated October 28, 2007; a Third Amendment dated November 20,  
31 2007; a Fourth Amendment dated January 31, 2008; a Fifth Amendment dated March 20,  
32 2008; a Sixth Amendment dated April 30, 2008; and a Seventh Amendment dated  
33 December 17, 2008.

34 G. The dates for certain actions in the Due Diligence Period were extended by a  
35 Fifth Amendment dated March 20, 2008; a Sixth Amendment dated April 30, 2008; and a  
36 Seventh Amendment dated December 17, 2008.

37 H. One of Buyer's Contingencies is the environmental status of the Property,  
38 which includes obtaining the appropriate concurrences from the Washington State

39 Department of Ecology (Ecology), if the Property is found to contain Hazardous  
40 Substances as defined in RCW 70.105D.020(10).

41 I. During Buyer's due diligence review, it has been determined that the Property  
42 contains Hazardous Substances.

43 J. As a result of the existence of such Hazardous Substances, Buyer's decision to  
44 purchase the Property will be subject to its ability to negotiate a Clean-Up Action Plan  
45 with Ecology and obtain a Prospective Purchaser Consent Decree from the appropriate  
46 court (the Consent Decree), which will require a further extension of the Due Diligence  
47 Period.

48 K. As a result of the issues relating to the existence of Hazardous Substances on  
49 the Property, the emerging regulatory requirements of the City of Seattle and the  
50 negotiations with the PSA, the parties have not finalized the forms of the Deed and  
51 Covenants and Reserved Easements, which will require a further extension of the dates to  
52 agree on the forms.

53 L. As a result of the development activities of the Buyer, as required in the  
54 Agreement, which include application for a Master Use Permit (MUP) that was submitted  
55 to the city of Seattle in June 2008 and a proposed amendment to the Seattle land use  
56 code, both pending with the City of Seattle, and discussions with the Public Stadium  
57 Authority (the PSA), certain requirements of the Agreement need to be modified.

58 M. As written, the Agreement provides at Section 4.5.2 that the housing  
59 component of the development shall consist of sixty percent of the development's gross  
60 square footage allowable under the zoning in force at the time of the Agreement's

61 execution, the height limits of the Stadium View Corridor as set forth in Section 4.5.7 of  
62 the Agreement, and any easements in existence at the time the Agreement was executed.

63 N. As further provided for in Section 4.5.2 of the Agreement, the Buyer has  
64 concluded that if the pending MUP conditions and land use code amendments are  
65 approved by the city of Seattle, which would allow for a greater development gross  
66 square footage, then it would be inappropriate to extend the sixty percent housing  
67 requirement to the larger development.

68 O. In accordance with Section 4.5.2, Buyer has submitted an alternative  
69 development plan as to the percentage of the development that must be housing only, as  
70 set forth the MUP, and received the approval of that alternative development plan from  
71 the city of Seattle Mayor.

72 P. The alternative development plan would result in the housing component of  
73 the development consisting of less than sixty percent of the development's overall gross  
74 square footage.

75 Q. As required by Section 4.5.2, Buyer has submitted the alternative development  
76 plan to the King County council.

77 R. Buyer has completed all of Buyer's due diligence review and is satisfied with  
78 the Property, except for those matters related to the Hazardous Substances, and has  
79 waived its Due Diligence contingencies regarding the Property, other than those related  
80 to "environmental (including appropriate concurrence from the Department of Ecology to  
81 enable development activities which meet the substantive requirements of the Model  
82 Toxics Control Act)."

83 S. Both Buyer and Seller have completed certain tasks associated with  
84 requirements in the Agreement and the parties desire to acknowledge that certain of the  
85 requirements of the Agreement have been satisfied and to otherwise modify certain  
86 provisions of the Agreement, while keeping the core of the transaction intact.

87 T. It is in the best interests of the citizens of King County, that the Agreement be  
88 modified, so that the development of the Property can proceed, safeguarding the benefits  
89 articulated in Ordinance 15820.

90 SECTION 2. The King County council approves the reduction of the housing  
91 square footage percentage to the overall development's square footage reflected in the  
92 alternative development plan, a synopsis of which is set forth in Attachment B to this  
93 ordinance.

94 SECTION 3. The King County executive is hereby authorized to execute the  
95 Eighth Amendment to Real Estate Purchase and Sale Agreement substantially in the form  
96 of Attachment A to this ordinance.

97 SECTION 4. The King County executive shall not, without prior council  
98 approval, execute any further amendments to the Agreement that would alter the duration  
99 of the Due Diligence Period, that would alter the deadline for obtaining and the duration  
100 of an Extension Period, that would extend the Closing Date, that would alter the  
101 substantive rights and obligations of the parties with regard to the terms of the  
102

103 conveyance, or that would alter any requirements for the Earnest Money, Extension  
104 Payments or the Purchase Price payment.

105

Ordinance 16555 was introduced on 5/11/2009 and passed by the Metropolitan King County Council on 6/15/2009, by the following vote:

Yes: 6 - Mr. Constantine, Mr. Ferguson, Ms. Hague, Mr. Gossett, Mr. Phillips and Ms. Patterson

No: 0

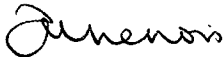
Excused: 3 - Ms. Lambert, Mr. von Reichbauer and Mr. Dunn

KING COUNTY COUNCIL  
KING COUNTY, WASHINGTON



Dow Constantine, Chair

ATTEST:



Anne Noris, Clerk of the Council

APPROVED this 25<sup>th</sup> day of June, 2009.



Kurt Triplett, County Executive

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KING COUNTY COUNCIL

**Attachments** A Eighth Amendment to Real Estate Purchase and Sale Agreement, dated June 2, 2009, B Synopsis of MUP - the alternative development plan

**EIGHTH AMENDMENT TO  
REAL ESTATE PURCHASE AND SALE AGREEMENT**

THIS EIGHTH AMENDMENT TO REAL ESTATE PURCHASE AND SALE AGREEMENT (the "Amendment") is made and entered into effective the \_\_\_\_ day of \_\_\_\_\_, 2009, by and between KING COUNTY, a municipal corporation and political subdivision of the state of Washington ("Seller"), and NORTH LOT DEVELOPMENT, L.L.C., a Delaware limited liability company ("Buyer").

WHEREAS, Seller and Buyer entered into that certain Real Estate Purchase and Sale Agreement dated June 21, 2007 (the "Agreement") which provided for the sale by Seller and the purchase by Buyer of certain real property in Seattle, Washington, which property is more specifically described in the Agreement (the "Property"); and

WHEREAS, the Agreement was amended by a First Amendment dated September 28, 2007; a Second Amendment dated October 28, 2007; a Third Amendment dated November 20, 2007; a Fourth Amendment dated January 31, 2008; a Fifth Amendment dated March 20, 2008; a Sixth Amendment dated April 30, 2008; and a Seventh Amendment dated December 17, 2008; and

WHEREAS, the Due Diligence Period in Section 5.1 of the Agreement, which contains certain Buyer's Contingencies (as defined in the Agreement), was extended by the Sixth Amendment, and Buyer agreed that "by agreeing to and entering into this Sixth Amendment to Real Estate Purchase and Sale Agreement, Buyer shall be deemed to have removed Buyer's Contingencies as to the Stadium Agreements and Stadium Claim, only, and all provisions of Section 4.1 of the Agreement that result from such removal shall be in full force and effect"; and

WHEREAS, the Due Diligence Period in Section 5.1 of the Agreement, which contains certain Buyer's Contingencies (as defined in the Agreement), was extended by the Seventh Amendment until March 31, 2009; and Buyer agreed that "Buyer hereby waives all of Buyer's Contingencies other than those related to 'environmental (including appropriate concurrence from the Department of Ecology to enable development activities which meet the substantive requirements of the Model Toxics Control Act', as set forth in Section 5.1"; and

WHEREAS, one of Buyer's Contingencies was the environmental status of the Property, including the appropriate concurrences from the Washington State Department of Ecology ("Ecology"); and

WHEREAS, during Buyer's due diligence review, it has been determined that the Property contains Hazardous Substances as defined in RCW 70.105D.020(10); and

WHEREAS, as a result of the existence of such Hazardous Substances, Buyer's decision to purchase the Property will be subject to its ability to negotiate a Clean-Up Action Plan with Ecology and obtain a Prospective Purchaser Consent Decree for the Property under RCW 70.105D.040(5) and WAC 177-340-520 from the appropriate court (the "Consent Decree"); and

WHEREAS, in part due to the issues relating to the existence of Hazardous Substances on the Property, the parties have not finalized the forms of the Deed and Covenants and Reserved Easements (as defined in the Agreement).

WHEREAS, Buyer has completed all of Buyer's due diligence review and is satisfied with the Property, except for those matters related to the Hazardous Substances; and

WHEREAS, the parties desire to acknowledge that certain of the requirements of the Agreement have been satisfied and to otherwise modify certain provisions of the Agreement.

NOW, THEREFORE, in consideration of the covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. The first sentence in Section 4.1.3 of the Agreement is hereby amended by changing "from the date this Agreement is fully executed" to "from the date the Eighth Amendment is fully executed."

2. Section 4.4.3 of the Agreement is hereby deleted.

3. Section 4.5.1 of the Agreement is hereby amended by deleting the term "row houses" in the fourth line.

4. a. Buyer has sought and obtained the concurrence of the City of Seattle Mayor, of amendments to the City's land use code to allow for an increase in the permitted height of buildings within the development under specified conditions, which in turn would increase the gross square footage of the development. Legislation to approve these amendments to the land use code is currently pending before the Seattle City Council as Council Bill 116505, attached hereto as Exhibit 1 ("North Lot ORD"). Based on information gained about the site during Buyer's development feasibility analysis, Buyer has concluded that should the North Lot ORD be adopted, that it is inappropriate to extend the sixty percent housing requirement currently required by Section 4.5.2 to the larger development.

b. For the purposes of satisfying the requirements of Section 4.5.2 of this Agreement to adjust the sixty percent requirement, Buyer has submitted an alternative development plan as to the percentage of the development that must be housing only, as set forth in the MUP Submittal Project No. 3009251 submitted to the City of Seattle on June 30, 2008, as revised by a submittal dated May 8, 2009. A written synopsis of the May 8, 2009 revised MUP is attached hereto as Exhibit 2 ("Alternative Development Plan"), which has been approved consistent with Section 4.5.2 of this Agreement by the City of Seattle Mayor and the King County Executive. The Alternative Development Plan provides for the development's housing component to be less than sixty percent of the development's gross square footage (not including parking) that would be allowable under the Seattle land use code as amended by the North Lot ORD, the height limits imposed by the Stadium View Corridor in Section 4.5.7 of this Agreement, and any easements existing as of June 21, 2007. The King County Council approved, by Ordinance \_\_\_\_\_, the reduction of the housing component square footage percentage contemplated in the Alternative Development Plan.



c. If the North Lot ORD is adopted by the City of Seattle with provisions that will allow the development's gross square footage to be at least 1,119,712 square feet, not including parking, as specified in the May 8, 2009 revised MUP, then the text of Section 4.5.2 of the Agreement will be deleted and replaced with the following:

Buyer shall covenant that the development shall include at least 350,000 gross square feet of housing, not including parking, for multiple income levels and family sizes and include a minimum of 400 housing units, of which a minimum of 200 housing units shall be ownership units. All housing units in the development must meet either LEED Certification or Built Green Certification at the highest level determined to be economically feasible by Buyer, in the exercise of its best business judgment. The development's housing component shall be consistent with the Alternative Development Plan as to the percentage of the development that must be housing only, which shall be not less **than fifty-eight percent of the development's gross square footage** (not including parking) allowable under the Seattle land use code as amended by the North Lot ORD, the height limits imposed by the Stadium View Corridor in Section 4.5.7 of this Agreement and any easements existing as of June 21, 2007. If the gross square footage of the development is increased, because of a additional changes in zoning to allow for an increase in the height of buildings within the development, and if Buyer concludes that it is inappropriate to extend the fifty-eight percent housing requirement to the larger development, based on information gained about the site during Buyer's development feasibility analysis, Buyer may present this information to Seller and the City of Seattle and develop the property pursuant to an alternative development plan as to the percentage of the development that must be housing only, provided that such alternative development plan is approved by the King County Executive, following approval by ordinance of the King County Council, and the Mayor of the City of Seattle. This covenant shall expire upon the completion of the construction of the Project in a manner consistent with the requirements of this Agreement, including without limitation, the development schedule requirements in Section 4.5.11 of this Agreement.

5. Section 4.5.7 of the Agreement is deleted and replaced with the following:

Buyer shall covenant that the development on the Property shall not exceed 70 feet in height, measured in the manner for measuring height required by the applicable portions of Seattle Municipal Code Section 23.86.006 to which Buyer vests in its filing of an application for a master use permit, for a distance of 60 feet on each side of the 90-foot-wide easement on the Second Avenue Extension that is granted to the PSA. This view covenant is intended to provide a view corridor to and from the Stadium located to the South of the Property, which Stadium is owned by the PSA. This covenant shall run in perpetuity. Provided however, this view covenant shall be satisfied if the Buyer provides the Seller with a written agreement between the Buyer and PSA and First and Goal, Inc. ("FGI") providing either for different view corridors or that PSA and FGI will not seek to enforce any rights to the view corridor described in this Section 4.5.7.

6. The parties acknowledge and agree that:

a. Buyer has to date provided FGI and PSA the right to early review and comment on Buyer's development plans for the North Half Lot as required by Section 4.5.8 and 5.2.5 of the Agreement.

b. Development of the project did commence prior to July 1, 2008, as required by Section 4.5.11 of the Agreement.

c. Section 4.6.1 of the Agreement will be satisfied upon the issuance of the Master Use Permit by the City of Seattle.

d. Buyer has satisfied the requirement in Section 4.6.2 of the Agreement to prepare at its sole expense a traffic, circulation, and staging study designed to inform Buyer of the traffic and circulation issues that arise during the staging of large events.

7. Buyer's last remaining Buyer's Contingency shall be satisfied with the entry of the Consent Decree, and, therefore, the third sentence of Section 5.1 of the Agreement is hereby amended in its entirety to read as follows: "Buyer shall make such determination on or before 5:00 pm on the earlier of (a) the twentieth (20<sup>th</sup>) day after the entry of the Consent Decree or (b) January 1, 2010 ("Due Diligence Period"), provided that Buyer may extend the Due Diligence Period, as provided in Section 5.3, in the event Seller has not waived or satisfied the Seller's Due Diligence Contingency by such date."

8. The text of that last paragraph in Section 5.2 of the Agreement is deleted and replaced with the following:

Seller agrees not to unreasonably withhold its approval of the satisfaction of the foregoing conditions. If Buyer has made reasonable efforts to obtain PSA's approval pursuant to contingencies 5.2.3 and 5.2.4 above, has submitted a proposal for parking in a timely manner that meets the requirements of this Agreement, and has been unable to obtain PSA's approval, Seller shall remove said contingencies, notwithstanding the lack of such approvals. Seller agrees to notify Buyer, in writing, thereby removing the Seller's Due Diligence Contingency. Seller shall make such determination on or before 5:00 pm on the last day of the Due Diligence Period. In the event this contingency is not satisfied or waived by Seller within the Due Diligence Period, either Party may terminate this Agreement upon written notice to the other, and neither party shall have any further rights or obligations to the other hereunder; provided however, Seller may extend the Due Diligence Period for up to two (2) consecutive 175-day periods (each, an "Extension Period"). To exercise an Extension Period, Seller shall give written notice to Buyer of the extension not later than two (2) business days before the then-applicable end of the Due Diligence Period.

9. Section 5.3 of the Agreement is hereby amended by reducing the number of extensions from 4 to 2, and changing the extension periods from "90 days" to "175 days."

10. Upon execution of this Eighth Amendment, the extension, and any requirement for an extension payment, for any extension previously exercised by Buyer shall be null and void.

11. Section 5.4 of the Agreement is hereby amended to provide that the date for the parties to agree on the forms of the Deed and Covenants and the Reserved Easements shall be June 30, 2009, unless a longer period is agreed to in writing by the parties; and

12. The text of Section 10.1 of the Agreement is deleted and replaced with the following:

The Closing shall take place on the earlier of (i) sixty (60) days (or on such later business day as the parties may agree) after Buyer and Seller remove or waive all of Buyer's and Seller's Contingencies as the same may be extended as provided in Sections 5.2 or 5.3, or (ii) December 16, 2010 (the "Closing Date"). If all Contingencies have been removed or waived before Buyer has obtained an extension of the Due Diligence Period under Section 5.3, then Buyer may instead obtain extensions of the Closing Date in the same manner as provided for an extension under Section 5.3. If all Contingencies are removed or waived during Buyer's first extension under Section 5.3, then Buyer may elect in writing and at no cost to extend the Closing Date for the same period remaining under the first extension, and Buyer may in addition extend the Closing Date with a second extension in the same manner as provided for an extension under Section 5.3. If all Contingencies are removed or waived during Buyer's second extension under Section 5.3, then Buyer may elect in writing and at no cost to extend the Closing Date for the same period remaining under the second extension. Any extension of the Closing Date under this Section 10.1 shall extend the Closing Date no later than December 16, 2010 regardless of whether there would be additional days remaining under the then applicable 175-day extension period. Any extension of the Closing Date under this Section 10.1 will be treated and considered to be the same under the terms of this Agreement as an extension of the Due Diligence Period under Section 5.3.

13. Except as previously amended and as hereby amended, the terms of the Agreement shall remain in full force and effect.

14. Exhibit 1 – Seattle City Council Bill 116505 and Exhibit 2 - a written synopsis of the May 8, 2009 revised MUP are attached hereto.

“SELLER”

KING COUNTY, a municipal corporation and political subdivision of the state of Washington

By \_\_\_\_\_  
Its \_\_\_\_\_

APPROVED AS TO FORM:

By \_\_\_\_\_  
\_\_\_\_\_  
Deputy Prosecuting Attorney

“BUYER”

NORTH LOT DEVELOPMENT, L.L.C.  
a Delaware limited liability company

By: Opus Northwest, L.L.C., Member

By \_\_\_\_\_  
Its \_\_\_\_\_

By: Nitze-Stagen & Co., Inc., Member

By \_\_\_\_\_  
Kevin D. Daniels, President

APPROVED AS TO FORM:

By \_\_\_\_\_  
Counsel to North Lot Development, L.L.C.

**ORDINANCE**

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AN ORDINANCE related to land use and zoning, amending Sections 23.41.004, 23.41.012, 23.49.178, 23.66.120, 23.66.122, 23.66.124, 23.66.130, 23.66.140, 23.66.150, 23.66.170, 23.76.032, of the Seattle Municipal Code; adding new Sections 23.49.180, and 23.49.181; to implement Comprehensive Plan policies for accommodating growth by permitting additional building height under specified conditions within a defined area of the Pioneer Square Mixed 85-120 zone, to amend applicable provisions of the Pioneer Square Preservation District regulations to allow such development; to allow for a longer term for a master use permit for development under Section 23.49.180 and Section 23.49.181; and to make technical changes.

WHEREAS, the City adopted Pioneer Square Neighborhood Plan goals and policies into the Comprehensive Plan in December 1998; and

WHEREAS, both residential and employment growth in the Pioneer Square Urban Center Village have lagged behind other Downtown neighborhoods and, if trends continue, will be insufficient to meet Comprehensive Plan growth targets, and

WHEREAS, the Livable South Downtown Planning Study provided a public process for identifying ways in which South Downtown neighborhoods, including Pioneer Square, could attract sufficient growth to meet Comprehensive Plan housing and employment growth targets and accomplish neighborhood plan goals and policies, including a review of proposals for high-density mixed-use development in Pioneer Square; and

WHEREAS, the proposed Land Use Code amendments would facilitate new, high density mixed-use development at a location on the edges of the Pioneer Square Preservation District to contribute to the revitalization of Pioneer Square, enhance urban form, and accommodate additional growth without requiring the demolition of historic structures or displacement of existing uses; and

WHEREAS, the Pioneer Square Preservation Board created *Design Guidelines for New Construction on the North Lot*, approved by the Director of the Department of Neighborhoods in May of 2007 to provide guidance for development of the Stadium North Lot; and

WHEREAS, the Pioneer Square Preservation Board reviewed the proposed amendments and voted to endorse an earlier version of the draft amendments on December 17, 2008; and

WHEREAS, environmental review requirements for this ordinance are satisfied by the analyses provided in Livable South Downtown Planning Study's environmental review documents; NOW, THEREFORE,

1 BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

2 Section 1. Subsection C of 23.41.004 of the Seattle Municipal Code, which Section was  
3 last amended by Ordinance 122670, is amended as follows:

4 **23.41.004 Applicability**

5 \* \* \*

6  
7 C. Exemptions. The following structures are exempt from design review:

8 1. New structures located ~~((with))~~in special review districts,~~((as))~~ regulated by  
9 Chapter 23.66; design review is not available for an applicant applying for additional building height  
10 under the provisions of Section 23.49.180;

11  
12 2. New structures ~~((with))~~in Landmark districts~~((as))~~ regulated by SMC Title 25,  
13 Environmental Protection and Historic Preservation;

14 3. New structures that are within the historic character area of the Downtown  
15 Harborfront 1 zone~~((as))~~ regulated by Section 23.60.704, or that are otherwise required to  
16 undergo shoreline design review ~~((as regulated by ))~~pursuant to Chapter 23.60;

17  
18 4. New monorail transit facilities that have been subject to review by the Seattle  
19 Design Commission; and

20 5. New light rail transit facilities that have been subject to review by the Seattle  
21 Design Commission.

22  
23 Section 2. Section 23.41.012 of the Seattle Municipal Code, which Section was last  
24 amended by Ordinance 122935, is amended as follows:

25 **23.41.012 Development standard departures**

1           A. Departure from Land Use Code requirements may be permitted for new multifamily,  
2 commercial, and Major Institution development as part of the design review process. Departures  
3 may be allowed if an applicant demonstrates that departures from Land Use Code requirements  
4 would result in a development that better meets the intent of adopted design guidelines.  
5

6           B. Departures may be granted from any Land Use Code standard or requirement, except  
7 for the following:

- 8                   1. Procedures;
- 9                   2. Permitted, prohibited or conditional use provisions, except that departures may  
10 be granted from development standards for required street-level uses;
- 11                   3. Residential density limits;
- 12                   4. In Downtown zones, provisions for exceeding the base FAR or achieving  
13 bonus development as provided in Chapter 23.49;
- 14                   5. In Downtown zones, the minimum size for Planned Community Developments  
15 as provided in Section 23.49.036;
- 16                   6. In Downtown zones, the average floor area limit for stories in residential use in  
17 Chart 23.49.058.D.1;
- 18                   7. In Downtown zones, the provisions for combined lot developments as  
19 provided in Section 23.49.041;
- 20                   8. In Downtown Mixed Commercial zones, tower spacing requirements as  
21 provided in subsection 23.49.058.E;
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1                   9. Downtown view corridor requirements, provided that departures may be  
2 granted to allow open railings on upper level roof decks or rooftop open space to project into the  
3 required view corridor, provided such railings are determined to have a minimal impact on views  
4 and meet the requirements of the Building Code;

5                   10. Floor Area Ratios;

6                   11. Maximum size of use;

7                   12. Structure height, except that:

8                   a. Within the Roosevelt Commercial Core building height departures up  
9 to an additional 3 feet may be granted for properties zoned NC3-65, (Exhibit 23.41.012.A,  
10 Roosevelt Commercial Core);  
11

12                   b. Within the Ballard Municipal Center Master Plan area building height  
13 departures may be granted for properties zoned NC3-65, (Exhibit B for 23.41.012, Ballard  
14 Municipal Center Master Plan Area). The additional height may not exceed 9 feet, and may be  
15 granted only for townhouses that front a mid-block pedestrian connection or a park identified in  
16 the Ballard Municipal Center Master Plan;  
17

18                   c. In Downtown zones building height departures may be granted for  
19 minor communication utilities as set forth in ~~((S))~~subsection 23.57.013.B;  
20

21                   d. Within the PSM 85-120 zone in the area shown on Map A for  
22 23.49.180, departures may be granted from development standards that apply as conditions to  
23 additional height, except for floor area ratios and provisions for adding bonus floor area above  
24 the base FAR.  
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1                   13. Quantity of parking required, minimum and maximum parking limits, and  
2 minimum and maximum number of drive-in lanes, except that within the Ballard Municipal  
3 Center Master Plan area required parking for ground level retail uses that abut established mid-  
4 block pedestrian connections through private property as identified in the "Ballard Municipal  
5 Center Master Plan Design Guidelines, 2000," may be reduced, but shall not be less than the  
6 required parking for Pedestrian-designated areas shown in Chart D for Section 23.54.015;  
7

8                   14. Provisions of the Shoreline District, Chapter 23.60;

9                   15. Standards for storage of solid-waste containers;

10                   16. The quantity of open space required for major office projects in Downtown  
11 zones as provided in ~~((S))~~subsection 23.49.016.B;  
12

13                   17. Noise and odor standards;

14                   18. Standards for the location of access to parking in Downtown zones;

15                   19. Provisions of Chapter 23.52, Transportation Concurrency Project Review  
16 System;

17                   20. Provisions of Chapter 23.53, Requirements for Streets, Alleys and Easements,  
18 except that departures may be granted from the access easement standards in Section 23.53.025  
19 and the provisions for structural building overhangs in Section 23.53.035;  
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21                   21. Definitions; and

22                   22. Measurements.  
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1 C. Limitations upon departures through the design review process established in  
2 subsection 23.41.012.B ~~((of this section-))~~ do not limit departures expressly permitted by other  
3 provisions of this title or other titles of the Seattle Municipal Code.

4 Section 3. Section 23.49.178 of the Seattle Municipal Code, which Section was last  
5 amended by Ordinance 122435, is amended as follows:

6 **23.49.178 Pioneer Square Mixed, structure height**~~((:-))~~

7 A. Maximum structure height ~~((shall be as))~~ is the applicable height limit designated on  
8 the Official Land Use Map, Chapter 23.32, except as provided in this Section 23.49.178.

9 B. Rooftop features and certain additions to structures ~~((may be permitted-))~~ are allowed to  
10 exceed the applicable height limit according to the provisions of ~~((S))~~ subsection 23.66.140.C.

11 C. In the PSM ~~((one hundred-))~~ 100 ~~((-))~~ foot height district ~~((-))~~ zone:

12 1. Except as expressly allowed in this subsection 23.49.178.C ~~((no))~~ a structure  
13 shall not exceed by more than ~~((fifteen-))~~ 15 ~~((-))~~ feet the height of the tallest structure on the  
14 block or the adjacent block front(s) ~~((- to a maximum of one hundred-))~~ (100 feet); ~~((provided~~  
15 ~~that))~~

16 2. ~~((a))~~ A structure within which a streetcar maintenance base use has been  
17 established may attain a maximum height of ~~((one hundred thirty-))~~ 130 ~~((-))~~ feet ~~((provided that~~  
18 ~~))~~ if the structure has, in residential or hotel use, gross floor area ~~((equivalent))~~ equal to the gross  
19 floor area in the structure above ~~((one hundred-))~~ 100 ~~((-))~~ feet.

20 D. In the ~~((one hundred-))~~ PSM 100 ~~((-))~~ to ~~((one hundred twenty-))~~ 120 ~~((-))~~ (height  
21 district)) zone, structure height over ~~((one hundred-))~~ 100 ~~((-))~~ feet to a maximum of ~~((one~~  
22 ~~hundred-))~~ 100 ~~((-))~~ feet.

1 ~~hundred twenty (120)~~ feet ~~((shall be))~~ is permitted if a minimum of ~~((seventy five (75))~~  
2 percent of the gross floor area of the structure is in residential use.

3 E. ~~((In the eighty five (85) to one hundred twenty (120) foot height district, structure  
4 height over eighty five (85) feet to a maximum of one hundred twenty (120) feet shall be  
5 permitted if a minimum of seventy five (75) percent of the gross floor area of the structure is in  
6 residential use.))~~ In the PSM 85-120 zone:

7  
8 1. The applicable height limit is 85 feet except as provided in subsections  
9 23.49.178.E.2 and 23.49.178.E.3.

10 2. The applicable height limit is 120 feet if a minimum of 75 percent of the gross  
11 floor area of the structure is in residential use, except as provided in subsection 23.49.178.E.3.

12 3. The applicable height limit is 240 feet for structures located within the area  
13 identified on Map A for 23.49.180 if the structures comply with the provisions of Section  
14 23.49.180.

15  
16 Section 4. A new Section 23.49.180 of the Seattle Municipal Code, is adopted to read as  
17 follows:

18  
19 **23.49.180 Additional height in the Pioneer Square Mixed 85-120 zone**

20 A. General Intent

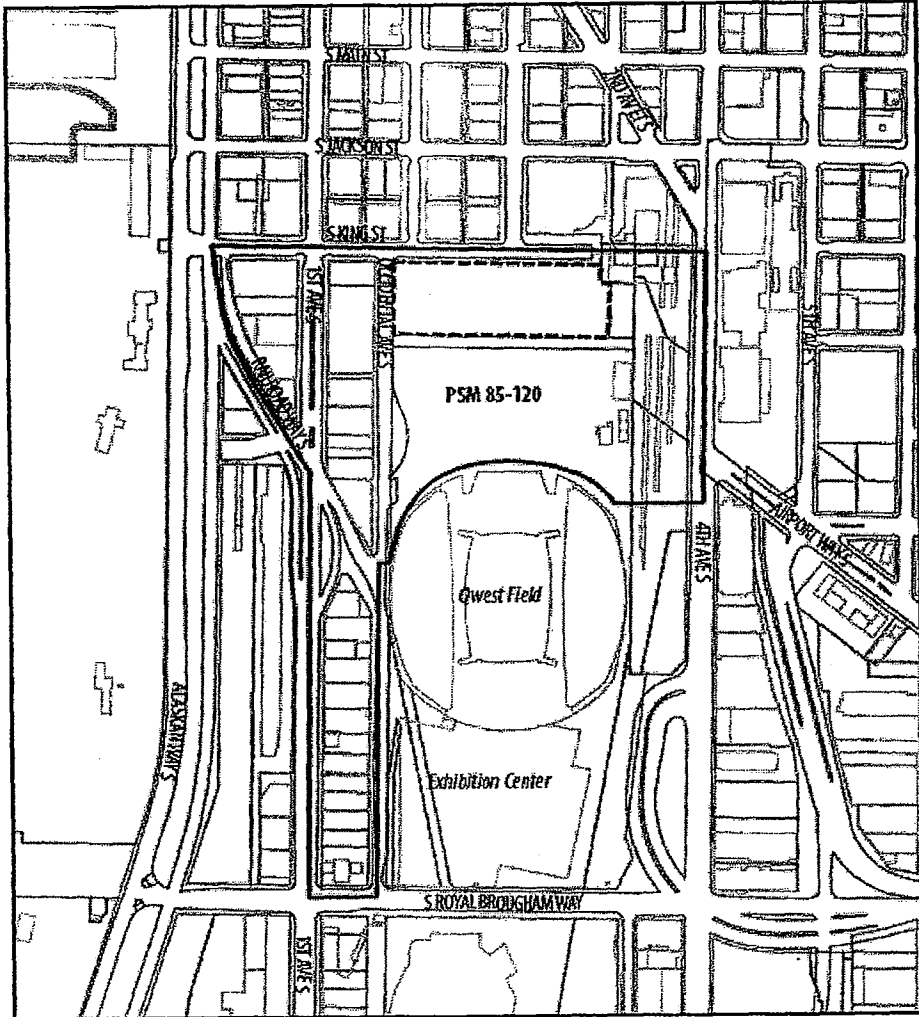
21 This section applies to the area identified on Map A for 23.49.180 within the Pioneer  
22 Square Preservation District if an applicant elects to develop a project using the height limits in  
23 Section 23.49.178.E.3. The purpose of this section is to provide added flexibility through an  
24 increase in the maximum height limit to promote a high density, mixed use, and mixed income  
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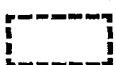
1 development that can contribute to the vitality of Pioneer Square.

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# Map A for 23.49.180



 Area where additional height is permitted according to the provisions of Section 23.49.180 of the Seattle Municipal Code

1 B. Structure height.

2 1. The maximum structure height is 240 feet for a proposed development for  
3 which all the following is true:

4 a. An amount of floor area in residential use equal to or greater than 2  
5 FAR is to be provided on the lot upon completion of the project. The project applicant shall have  
6 entered into an agreement with the City that is recorded against the property prior to issuance of  
7 the MUP, in which the owner agrees to provide the amount of residential floor area on the lot  
8 specified in Subsection 23.49.180.B.1.a, and agrees that failure to provide the amount of  
9 residential floor area before the expiration of the MUP will result in the loss of the ability to use  
10 any floor area built above the otherwise applicable height limit.

11 b. Provision is made for pedestrian circulation and for mitigation of scale  
12 and bulk impacts from the increased height through:

13 1) Pedestrian routes providing connections between the Weller  
14 Street pedestrian bridge and:

15 a) Occidental Avenue S., and

16 b) S. King Street; and

17 2) An open area extending through the lot aligned with the 2<sup>nd</sup>  
18 Avenue S. right-of-way and meeting the standards of subsection 23.49.180.G.6.c.

19 c. The proposed development complies with the standards of subsections  
20 23.49.180.C through 23.49.180.I.

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2. Rooftop features. Rooftop features are allowed to exceed the maximum structure height pursuant to subsection 23.49.008.D.

C. Lot area. If the applicant uses the height provisions of subsection 23.49.180.B to gain additional height above the otherwise applicable height limit, the entire area identified on Map A for 23.49.180, including any areas provided as open area or setbacks, or dedicated as street right of way, shall be used to determine compliance with applicable provisions of this section and Section 23.49.181.

D. Location of uses. If the applicant uses the height provisions of subsection 23.49.180.B to gain additional height above the otherwise applicable height limit, uses on the lot with a development using these height provisions are to be located on the lot as follows:

1. Commercial uses. Commercial uses are to be concentrated in the area with the most direct access to regional transit and where commercial development can buffer residential uses from rail operations at King Street Station.

2. Residential uses. Residential uses are to be concentrated close to existing housing on adjacent blocks and to contribute to a corridor of housing and amenities along Occidental Ave. S.

3. Street-level uses. Street-level uses are to be provided along street frontages and the edges of open areas aligned with adjacent street right-of-way.

E. Floor area ratio (FAR)

1                   1. Base and Maximum FAR. The base FAR for all uses on a lot, except for those  
2 uses expressly exempted, is 4. The maximum FAR for all uses on a lot, except for those uses  
3 expressly exempted, is 8.

4                   2. Limit on non-residential FAR. Non-residential chargeable floor area on a lot  
5 may not exceed a FAR of 4.

6                   3. Affordable housing incentive program. Development that includes residential  
7 use may exceed the base FAR to the extent the applicant qualifies for bonus floor area by  
8 providing affordable housing according to Section 23.49.181, subject to the FAR limit in  
9 subsection 23.49.180.E.1.  
10

11                   4. Exemptions and deductions from FAR calculations

12                   a. The exemptions and deductions from FAR calculations specified in  
13 subsection 23.49.011.B apply, except that residential use is not exempt and is considered  
14 chargeable floor area.  
15

16                   b. In addition to the exemptions from floor area calculations for parking in  
17 subsection 23.49.011.B.1.1, enclosed parking provided at or above grade as accessory parking for  
18 non-residential uses or as principal use parking replacing the surface spaces existing on the lot on  
19 June 25, 1998 is exempt from FAR calculations if it is separated from all streets abutting the lot  
20 by another use or is screened according to the provisions of subsection 23.49.180.G.9.  
21

22                   c. Street-level uses other than residential lobbies are exempt if they meet  
23 the requirements of subsection 23.49.180.F.  
24

25                   F. Street-level use requirements  
26



1                   1. One or more of the following uses are required at street-level on all street-  
2 facing facades and street-level facades facing the open area provided in accordance with the  
3 provisions of subsection 23.49.180.G.6.c:  
4                   a. General sales and services;  
5                   b. Human service uses and childcare facilities;  
6                   c. Retail sales, major durables;  
7                   d. Entertainment uses;  
8                   e. Eating and drinking establishments; and  
9                   f. On each street-facing façade or façade facing an open area, up to 20 feet  
10 of a residential lobby that provides principal access to residential uses in a structure may be  
11 counted as a required street-level use.  
12

14                   2. General standards

15                   a. A minimum of 75 percent of each street-facing façade at street-level  
16 where street-level uses are required shall be occupied by uses listed in subsection 23.49.180.F.1.  
17 The remaining 25 percent of the street-facing facade at street-level may contain other permitted  
18 uses and/or pedestrian or vehicular entrances.  
19

20                   b. Required street-level uses shall be located within 2 feet of the required  
21 street-facing façade or the street-level façade facing an open area, in accordance with subsection  
22 23.49.180.G.4.  
23

24                   c. Except for child care facilities, pedestrian access to street-level uses  
25 shall be provided directly from the street or other open area with access to a street. Pedestrian  
26

1 entrances shall be located no more than 3 feet above or below sidewalk grade or at the same  
2 elevation as any abutting open area.

3 d. Required street-level uses shall be located in a space with a minimum  
4 floor-to-floor height of 13 feet.

5 e. Required street-level uses shall be located in a space with a minimum  
6 depth of 15 feet.

7 f. For street-level uses on a street-facing facade, the average width of a  
8 business establishment shall be 60 feet or less, and the maximum width of any single business  
9 establishment shall be 100 feet. Portions of a business that are separated from the street by  
10 another business are not limited in width.

11 g. The gross floor area at street-level of any business establishment shall  
12 not exceed 10,000 square feet, except that if the business establishment includes a grocery store,  
13 the gross floor area at street level shall not exceed 25,000 square feet.

14 G. Development standards

15 1. Street-level setbacks.

16 a. Locations

17 1) A street-level setback with an average depth of 10 feet and a  
18 minimum depth of 6 feet shall be provided from property lines that do not abut a street.

19 2) A street-level setback of at least 9 feet and no more than 12 feet  
20 shall be provided from the street property line along Occidental Avenue S.

1                                   b. To qualify as a street-level setback, all portions of a structure must set  
2 back at street-level the required distance.

3                                   c. Setback areas may be used for pedestrian routes, vehicular driveways,  
4 and to provide landscaping to meet green factor requirements pursuant to subsection 23.49.180.I.

5                                   2. Upper-level setbacks.

6                                   a. The following upper-level setbacks shall be provided:

7                                   1) A minimum setback of 10 feet shall be provided from S. King  
8 Street for all portions of a structure above a height of 85 feet for a distance of at least 120 feet  
9 measured along S. King Street from the point where the street lot line intersects the eastern lot  
10 line of the lot.  
11

12                                   2) A minimum setback of 10 feet shall be provided from S. King  
13 Street for all portions of structures above 85 feet in height for a distance of at least 330 feet along  
14 S. King Street measured from the intersection with Occidental Avenue S.  
15

16                                   3) An average setback of 50 feet shall be provided from the  
17 eastern lot line of the lot for all portions of structures above a height of 85 feet. For the purposes  
18 of averaging, only 100 feet in depth of any setback shall be counted.  
19

20                                   4) A minimum setback of 15 feet is provided from Occidental  
21 Avenue S. for all portions of structures above 85 feet in height.  
22

23                                   5) A minimum setback of 30 feet is provided from Occidental  
24 Avenue S. for portions of structures above 120 feet in height.  
25

1                   3. Upper-level coverage limits, measured as a percentage of the total area of the  
2 lot, apply to portions of structures exceeding specified heights, in accordance with Table A for  
3 23.49.180.

Table A for 23.49.180 Upper Level Coverage Limits	
The maximum permitted lot coverage for all portions of structures within specified height ranges	
Height range	Maximum permitted lot coverage for all portions of structures located at the same height within specified height range
0 - 85 feet	No limit, except as required to provide open area pursuant to subsection 23.49.180.G.6
85 – 120 feet	65%
120 - 200 feet	50%
Greater than 200 feet	30%

15                   4. Street façades. Street-facing facades shall be provided on all street frontages.  
16 For purposes of this requirement, the street frontage includes the entire length of a street lot line,  
17 less any part of the street lot line where open area provided pursuant to subsection  
18 23.49.180.G.6.c abuts the street.

20                   a. Street-facing façade height. The street-facing facades of structures  
21 shall have a minimum height of 50 feet for 75 percent of each street frontage. The minimum  
22 street-facing façade height for the remaining 25 percent of each street frontage is 35 feet.

24                   b. Street façade setbacks.



1                                                4) Except as needed to accommodate required access to utility  
2 easements, no setback of a street-facing facade is permitted along S. King Street for 60 feet on  
3 either side of the intersection with the open area aligned with 2<sup>nd</sup> Avenue S. provided pursuant to  
4 subsection 23.49.180.G.6.c.

5                                                5. Façade modulation. For portions of structures exceeding a height of 85 feet,  
6 any street-facing façade located within 30 feet of a street lot line that exceeds a length of 120 feet  
7 shall be modulated. For the street-facing façade to exceed 120 feet, a portion of the façade shall  
8 either project forward of or set back from any other portion of the street facing façade a minimum  
9 of 10 feet measured perpendicular to the street property line for a minimum distance of 20 feet  
10 measured parallel to the street lot line. Balconies and decks are permitted within the modulated  
11 area. Modulated facades are not permitted to extend into required setbacks.

12                                                6. Open area. Open area at ground level shall be provided as follows:

13                                                a. To qualify as open area at ground level, the open area shall be located  
14 and configured to allow easy pedestrian access to project occupants from streets or other abutting  
15 public spaces, including access for persons with disabilities. The open area shall be open to the  
16 sky, except as provided in this subsection 23.49.180G.6.a, and have a minimum horizontal  
17 dimension of 15 feet and a minimum area of 600 feet. The following features are exempt from  
18 the requirement that the open area be open to the sky:  
19

- 20                                                1) Features in a surface parking area;
- 21                                                2) Temporary kiosks and pavilions;
- 22                                                3) Overhead weather protection attached to abutting facades;

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- 4) Art;
- 5) Seating and tables;
- 6) Landscaping; and
- 7) Any similar features approved by the Director that contribute to

the comfort and use of the space.

b. Open area at ground level shall be provided at the following locations:

- 1) The intersection of Occidental Avenue S. and S. King Street, in the northwestern corner of the lot; and
- 2) The intersection of the lot's eastern and southern lot lines, on the southeastern corner of the lot, unless a structure with a street level use is located there.

c. An open area at ground level with boundaries referred to as "edges" shall be provided in the area established by extending the street lot lines of 2<sup>nd</sup> Avenue S. through the lot from S. King Street to the southern lot line. The open area and facades abutting it shall meet the following:

- 1) For a minimum depth of 20 feet measured from each edge into the open area, the open area must be open for use by pedestrians and for landscaping.
- 2) The facades of structures abutting the open area shall have a minimum height of 35 feet and shall not set back more than five feet from the edges of the open area;





8. Blank Facade Limits.

a. For all facades abutting South King Street, Occidental Avenue South, and the open area provided pursuant to subsection 23.49.180.G.6.c, blank facades shall not exceed 15 feet in width, except that

1) a blank façade may be increased to 30 feet in width if the Director determines that the façade is sufficiently enhanced by architectural detailing, artwork, landscaping, or similar features that have visual interest; and

2) the width of a blank façade that includes a garage door may exceed 15 feet but is limited to the width of the driveway plus 5 feet. The total of all blank façade segments, including garage doors, shall not exceed 40 percent of the total width of all facades abutting South King Street, Occidental Avenue South, and the open area provided pursuant to subsection 23.49.180.G.6.c.

b. For all facades other than those specified in subsection 23.49.180.G.8.a, if the street level is occupied by uses other than parking, blank facades shall be limited to segments no more than 30 feet in width. Blank façade width may be increased to 60 feet if the Director determines that the façade is sufficiently enhanced by architectural detailing, artwork, landscaping, or similar features that have visual interest. The width of a blank façade that includes a garage door may exceed 30 feet but is limited to the width of the driveway plus 5 feet. If the street level is occupied by parking, the provisions for screening parking at street level in subsection 23.49.180.G.9.a apply.

1 c. Any blank façade shall be separated by transparent areas at least 2 feet  
2 wide. Only clear, non-reflective, non-tinted glass is considered to be transparent.

3 9. Screening and location of parking. All parking permitted on the lot shall be  
4 enclosed within a structure, except that within the open area provided pursuant to subsection  
5 23.49.180.G.6.c, surface parking serving abutting structures is permitted.  
6

7 a. Parking at street level.

8 1) Parking is not permitted at street level within a structure along  
9 street frontages and along the open area edges provided pursuant to subsection 23.49.180.G.6.c  
10 unless separated from the street or open area by other uses, except that garage and loading doors  
11 and access to parking need not be separated.  
12

13 2) Parking is permitted at street level within a structure along lot  
14 lines that do not abut a street, subject to the following requirements:

15 a) Parking abutting a lot line shall be screened from view  
16 at street-level except that garage and loading doors and permitted access to parking need not be  
17 screened.  
18

19 b) The facade facing the lot line shall be enhanced by  
20 architectural detailing, artwork, landscaping, or similar visual interest features.  
21

22 c) If parking is located within a structure at the intersection  
23 of the eastern and southern lot lines, separation by another use is required for a minimum  
24 distance of 20 feet along one of the intersecting lot lines.

25 b. Parking above street level.  
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1) On the portion of the lot west of the open area provided pursuant to subsection 23.49.180.G.6.c, parking is not permitted above street level along street frontages and along the western edge of the open area unless separated from the street or open area by another use. Parking is permitted above street level along other lot lines for a maximum of four stories.

2) On the portion of the lot east of the open area provided pursuant to subsection 23.49.180.G.6.c, parking is permitted in portions of a structure above 20 feet in height along S. King Street and in portions of a structure above the first story along other frontages for a maximum of four stories.

3) For all parking located on stories above street level that is not separated from the street by another use, screening of the parking through materials, fenestration, and other architectural treatments is required. The screening shall be designed as an extension of the primary facade of the structure and to provide visual interest.

H. LEED requirement. The applicant shall strive to achieve a LEED Gold rating or better, make a commitment acceptable to the Director that the proposed development will earn at least a LEED Silver rating or meet a substantially equivalent standard, and demonstrate compliance with that commitment, all in accordance with the provisions of Section 23.49.020.

I. Green Factor Requirement. The project shall achieve a green factor score of .30 or greater in accordance with the provisions of Section 23.86.019.

1 J. Development standard departures. As a special exception pursuant to Section  
2 23.76.004, the Director may waive or modify those development standards in Section 23.49.180  
3 that would be eligible for departures through the design review process pursuant to Section  
4 23.41.012, if they were applicable to a project subject to that process. The Director shall consult  
5 with the Pioneer Square Preservation Board and the Director of the Department of  
6 Neighborhoods prior to making a decision on a requested modification or waiver. The Director  
7 may grant a waiver or modification only if the Director determines that it will cause the project to  
8 better meet the intent of this Section 23.49.180 and the Design Guidelines for New Construction  
9 on the North Lot in Pioneer Square, as adopted by the Pioneer Square Preservation Board.  
10

11 Section 5. A new Subchapter V for Section 23.49 of the Seattle Municipal Code, is  
12 adopted to read as follows:  
13

14 **23.49.181 Bonus floor area for affordable housing in the PSM 85-120 zone**

15 A. Purpose; Scope of provisions; State law controlling. This section establishes an  
16 affordable housing incentive program for development on lots zoned PSM 85-120 that are  
17 subject to FAR limits pursuant to the provisions of Section 23.49.180. Chargeable floor area in  
18 addition to the base FAR is allowed for development that includes residential use, to the extent  
19 that the applicant qualifies by providing low-income housing as part of the development, in  
20 accordance with this section and subject to the provisions of section 23.49.180. In case of any  
21 irreconcilable conflict between the terms of this section and the authority granted in RCW  
22 36.70A.540, as it may be amended, the provisions of RCW 36.70A.540, as it may be amended,  
23 shall supersede and control. Unless the context otherwise clearly requires, references to RCW  
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1 36.70A.540 in this section mean that section in effect on the date as of which the provisions of  
2 this title apply to the application for a use permit for the project using the bonus floor area.

3 B. Permitting Conditions

4 1. Master Use Permit. The Master Use Permit application to establish any bonus  
5 floor area under this section shall include a calculation of the total amount of bonus floor area  
6 sought and shall identify the quantity and type of affordable housing to be provided to satisfy the  
7 conditions to such bonus floor area. The application shall include the proposed location of the  
8 affordable housing, including the location or distribution within the proposed building(s). The  
9 Director shall, at the time of issuance of any Master Use Permit decision approving any bonus  
10 floor area, issue a Type I decision as to the amount of bonus floor area to be allowed and the  
11 conditions to such bonus floor area. A declaration signed by the applicant and any other owners  
12 of the lot, on a form approved by the Director, specifying the amount of bonus floor area and the  
13 conditions, must be executed and recorded as a condition to issuance of the Master Use Permit  
14 for a development to include bonus floor area. The declaration may be amended, with the written  
15 approval of the Director, if a change in the total bonus floor area to be developed results in  
16 adjustment to one or more conditions.  
17

18 2. First Building Permit. Prior to issuance, and as a condition to issuance, of the  
19 first building permit for a structure using bonus floor area, the applicant and any other owner of  
20 the portion of the lot that will include the affordable housing for that bonus floor area shall  
21 execute and record an agreement in a form acceptable to the Director of Housing that shall  
22 commit to provide that affordable housing, and shall run with the land to bind successors. The  
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1 applicant shall submit an acceptable agreement, fully signed, as part of the building permit  
2 application, and if there is any change in ownership prior to the issuance of the building permit,  
3 the new owners shall execute the agreement or an addendum or substitute acceptable to the  
4 Director of Housing.

5  
6 C. Findings. Pursuant to the authority of RCW 36.70A.540, the City finds that the  
7 higher income levels specified in this section, rather than those stated in the definition of “low-  
8 income households” in RCW 36.70A.540, are needed to address local housing market conditions  
9 in the area to which this section applies.

10 D. Defined Terms

11 For purposes of this section:

12  
13 1. “Affordable housing” means a unit or units of low-income housing provided as  
14 a condition to bonus floor area.

15 2. “Base FAR” or “base floor area ratio” means a FAR of 4.

16  
17 3. “Bonus floor area” means all chargeable floor area allowed in addition to the  
18 base FAR.

19 4. “Income-eligible households” means:

20 a. In the case of rental housing, households with incomes no higher than  
21 80 percent of median income as defined in Section 23.84A.025.

22  
23 b. In the case of owner occupancy housing units, households with incomes  
24 no higher than the median income as defined in Section 23.84A.025.

25 5. “Low-income housing” means housing that serves income-eligible households.

1                   6. “Net bonus floor area” means gross square footage of bonus floor area,  
2 multiplied by an efficiency factor of 80 percent.

3                   E. Affordable Housing

4                   1. Amount. An applicant using bonus floor area shall provide an amount of net  
5 rentable floor area of low-income housing, applicable to units for sale or rent, equal to at least  
6 17.5 percent of the net bonus floor area obtained.

7                   2. Serving income-eligible households. For the purposes of this section, a  
8 housing unit serves income-eligible households only if either:

9                   a. For a period of 50 years beginning upon the issuance of a final  
10 certificate of occupancy by the Department of Planning and Development for a structure using  
11 the bonus floor area for which that affordable housing is provided, the housing is used as rental  
12 housing solely for income-eligible households at rent limited so that annual housing costs,  
13 including rent and basic utilities, do not exceed 30 percent of 80 percent of median income, and  
14 the housing unit and the structure in which it is located are maintained in decent and habitable  
15 condition, including basic appliances in the housing unit; or

16                   b. The unit is sold for owner-occupancy to an income-eligible household  
17 at an initial sale price limited so that the annual housing costs, including mortgage principal and  
18 interest, real estate taxes, insurance, plus homeowner dues if applicable, are not expected to  
19 exceed 35 percent of median income, according to a calculation based on reasonable assumptions  
20 and approved by the Director of Housing, and the unit is subject to a recorded instrument  
21 satisfactory to the Director of Housing with a term extending until 50 years after the issuance of a  
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1 final certificate of occupancy by the Department of Planning and Development for the structure  
2 using the bonus floor area for which that affordable housing is provided, providing for sales  
3 prices on any resale consistent with affordability on the same basis as the initial sale, allowing  
4 resales only to income-eligible households, and requiring that upon any resale, the housing unit  
5 be in decent and habitable condition, including adequate basic appliances in the housing unit.  
6

7 3. Location, size and other requirements. Affordable housing shall be provided  
8 on the same lot as the project using the bonus floor area in a range of unit sizes consistent with  
9 RCW 36.70A.540. The affordable housing shall comply with all requirements of RCW  
10 36.70A.540.  
11

12 4. Time of completion. The affordable housing shall be completed and ready for  
13 occupancy at or before the time when a certificate of occupancy is issued for any bonus floor area  
14 that is based on the affordable housing and as a condition to any right of the applicant to such a  
15 certificate of occupancy.  
16

17 5. No Subsidies for affordable housing; exceptions.

18 a. In general, and except as may be otherwise required by applicable  
19 federal or state law, no bonus floor area may be earned by providing affordable housing if:

20 1) Any person is receiving or will receive with respect to the  
21 housing any charitable contributions or public subsidies for housing development or operation,  
22 including, but not limited to, tax exempt bond financing, low-income housing tax credits, federal  
23 loans or grants, City of Seattle housing loans or grants, county housing funds, and State of  
24 Washington housing funds; or  
25  
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1                                 2) The housing is or would be, independent of the requirements for  
2 the bonus floor area, subject to any restrictions on the income of occupants, rents or sale prices.

3                                 b. As exceptions to the general rule in subsection 23.49.181.E.5.a:

4                                         1) Affordable housing provided as a condition to bonus floor area  
5 may consist wholly or in part of the same units used to satisfy terms under which the lot or a  
6 portion thereof was transferred by a public body;

7                                         2) The improvements on the lot may qualify for, and affordable  
8 housing provided as a condition to bonus floor area may consist wholly or in part of the same  
9 units used to satisfy conditions of, property tax exemptions pursuant to Chapter 5.73 SMC; and  
10

11                                         3) The prohibition on public subsidies for affordable housing does  
12 not include Internal Revenue Code Section 45D, New Markets Tax Credits.

13                                 c. The Director of Housing may require, as a condition of any bonus floor  
14 area, that the owner of the lot upon which the affordable housing is located agree not to seek or  
15 accept any subsidies, other than as described in subsection 23.49.181.E.5.b, related to housing.

16                                 The Director of Housing may require that such agreement provide for the payment to the City,  
17 for deposit in an appropriate sub-fund or account, of the value of any subsidies received in excess  
18 of any amounts allowed by such agreement.  
19

20                                 d. As an exception to the restriction on subsidies, the Director of Housing  
21 may allow the building or buildings in which the affordable housing is located to be financed in  
22 part with subsidies based on determinations that:  
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1) the total amount of affordable housing is at least 300 net residential square feet greater than the minimum amount of affordable housing that would be needed to satisfy the conditions of this section;

2) the public benefit of the affordable housing net of those subsidies, as measured through an economic analysis, exceeds the public benefit from the minimum amount of affordable housing; and

3) the subsidies being allowed would not be sufficient to leverage private funds for production of the affordable housing, under restrictions required in this section, without additional City subsidy.

6. Agreements. The Director of Housing is authorized to accept and execute agreements and instruments to implement this section. Issuance of the Master Use Permit, building permit, or certificate of occupancy for the project using the bonus floor area may be conditioned on satisfactory agreements and instruments signed by applicants and other owners.

7. Reports and fees. The housing owner, in the case of rental housing, shall provide annual reports and pay an annual monitoring fee to the Office of Housing for each affordable housing unit, as specified under Chapter 22.900G. In the case of affordable housing for owner-occupancy, the applicant shall pay an initial monitoring fee to the Office of Housing as specified under Chapter 22.900G, and the recorded resale restrictions shall include a provision requiring payment to the City, on any sale or other transfer of a unit after the initial sale, of a fee in the amount of \$500, to be adjusted in proportion to changes in the consumer price index from

1 2008 to the year in which the sale or transfer is made, for the review and processing of  
2 documents to determine compliance with income and affordability restrictions.

3           8. Identification of bonus floor area. The floor area that constitutes bonus floor  
4 area under this section shall be determined according to the order in which Master Use Permits  
5 are issued to establish the chargeable floor area, with the base FAR allocable to the earlier Master  
6 Use Permits. Within a structure or structures developed under a single Master Use Permit that  
7 involves both base floor area and bonus floor area:  
8

9                   a. if the complete applications for building permits for construction, not  
10 including any permits limited to excavation and shoring, are submitted at different times, then  
11 unless otherwise specifically identified in the Master Use Permit application and approved by the  
12 Director, the base floor area shall be allocated first to the structure or structures for which the  
13 earlier complete building permit applications are submitted; and  
14

15                   b. if the complete applications for building permits for construction, not  
16 including any permits limited to excavation and shoring, are submitted at the same time, then  
17 unless otherwise specifically identified in the Master Use Permit application and approved by the  
18 Director, the bonus floor area shall be the chargeable floor area, excluding any affordable  
19 housing, in the highest stories in the structure or structures, and if only a portion of a story  
20 consists of bonus floor area, it shall be allocated to each portion of that story in proportion to its  
21 chargeable floor area, excluding any affordable housing, within that story.  
22  
23

24           9. Obligation of Owners.

25                   a. Any owner of bonus floor area shall be in violation of this title if:  
26  
27  
28

1) any housing units to be provided as affordable housing for that  
bonus floor area are not timely completed and ready for occupancy, or are not subject to a  
recorded instrument binding on the owner thereof as provided in this section; or

2) at any time during the period specified in subsection  
23.49.180.E.2, any rental housing unit provided or to be provided under this section for that  
bonus floor area does not serve income-eligible households; or

3) any housing unit provided or to be provided as affordable  
housing for owner occupancy for that bonus floor area under subsection 23.49.181.E.2.b is  
initially transferred other than in a sale to an income-eligible household, and subject to a recorded  
instrument, consistent with that subsection.

b. Any owner of a housing unit provided or to be provided as affordable  
housing in accordance with this section shall be in violation of this title if either:

1) for a rental housing unit, at any time during the period specified  
in subsection 23.49.181.E.2 it does not serve income-eligible households; or

2) in the case a unit provided or to be provided for owner  
occupancy, the owner causes or permits the transfer of the unit, or of the right to occupy the unit,  
or any offer for any transfer, contrary to the terms of a recorded instrument then in effect  
pursuant to this section.

10. Rules. The Director, in consultation with the Director of Housing, is  
authorized to adopt rules to interpret and implement provisions of this section.

1 Section 6. Section 23.66.120 of the Seattle Municipal Code, which Section was last  
2 amended by Ordinance 117430, is amended as follows:

3 **23.66.120 Permitted uses**(-)

4 A. All uses are permitted outright except those that are specifically prohibited by Section  
5 23.66.122 and those that are subject to special review as provided in Section 23.66.124.  
6

7 B. Essential Public Facilities. Permitted essential public facilities shall also be reviewed  
8 pursuant to the provisions of Chapter 23.80, Essential Public Facilities.

9 ~~((B))~~ C. All uses not specifically prohibited or subject to special review under Section  
10 23.66.124 are permitted as both principal and accessory uses, except ~~((1-G))~~ gas stations, which  
11 ~~((shall be))~~ are permitted as accessory uses only in parking garages~~((; and~~  
12

13 ~~2. Principal use parking garages, which shall be permitted only after special~~  
14 ~~review by the Preservation Board pursuant to Section 23.66.124 of this chapter. Accessory~~  
15 ~~parking garages shall be permitted outright.))~~

16 ~~((C. Essential Public Facilities. Permitted essential public facilities shall also be~~  
17 ~~reviewed according to the provisions of Chapter 23.80, Essential Public Facilities.))~~  
18

19 Section 7. Section 23.66.122 of the Seattle Municipal Code, which Section was last  
20 amended by Ordinance 122330, is amended as follows:

21 **23.66.122 Prohibited uses**(-)

22 A. The following uses are prohibited in the ~~((entire))~~ Pioneer Square Preservation  
23 District as both principal and accessory uses:  
24

25 Retail ice dispensaries;  
26  
27

- 1 Plant nurseries;
- 2 Frozen food lockers;
- 3 Animal shelters and kennels;
- 4 ~~((Animal health services;))~~
- 5 ~~((Pet grooming;))~~
- 6
- 7 Pet daycare, except as permitted as a street level use in subsection 23.49.180.F if an
- 8 applicant elects to use added height under the provisions of Section 23.49.180:
- 9 Automotive sales and service, except gas stations located in parking garages;
- 10 Marine sales and service;
- 11 Heavy commercial services;
- 12 Heavy commercial sales;
- 13 Adult motion picture theaters;
- 14 Adult panorams;
- 15 Bowling alleys;
- 16 Skating rinks;
- 17 Major communication utilities;
- 18 Advertising signs and off-premises directional signs;
- 19 Transportation facilities, except passenger terminals, rail transit facilities, parking
- 20
- 21 garages, and streetcar maintenance bases;
- 22
- 23 Outdoor storage;
- 24 Jails;
- 25
- 26
- 27
- 28

- 1 Work-release centers;
- 2 General and heavy manufacturing uses;
- 3 Solid waste management;
- 4 Recycling uses; and
- 5 High-impact uses.

6  
7 B. Except for the uses listed in subsection 23.66.122.B.2, ((Commercial uses that are))  
8 automobile-oriented commercial uses are prohibited, ~~((Such uses))~~ includ~~((e))~~ing but ~~((are))~~not  
9 limited to the ~~((following:))~~automobile-oriented uses listed in subsection 23.66.122.B.1.

10 1. Examples of prohibited automobile-oriented commercial uses.

11 a. Drive-in businesses, ~~((except gas stations accessory to parking~~  
12 garages;))

13  
14 b~~((2))~~. Principal and accessory surface parking areas not in existence prior  
15 to August 10, 1981~~((, except that accessory use surface parking lots may be permitted in Subarea~~  
16 B shown on Map C if the lot satisfies the provisions of SMC Section 23.49.019, Parking  
17 quantity, access and screening/landscaping requirements)).

18  
19 c. Principal-use parking garages for long-term parking.

20 ~~((3.))~~ d. Motels.

21 2. Permitted automobile-oriented uses.

22 a. Gas stations accessory to parking garages;

23 b. Accessory-use surface parking in the Subarea B shown on Map C for  
24 23.66.122 and 23.66.150 either  
25

1 (1) if the accessory-use surface parking is in a location permitted  
2 by and complies with the standards contained in Section 23.49.180; or

3 (2) if the lot satisfies the provisions of Section 23.49.019, Parking  
4 quantity, access and screening/landscaping requirements; and

5 c. Principal-use parking garages for long-term parking in structures  
6 authorized pursuant to subsection 23.49.180.  
7

8 Section 7. Section 23.66.124 of the Seattle Municipal Code, which Section was last  
9 amended by Ordinance 119484, is amended as follows:

10 **23.66.124 Uses subject to special review((=))**

11 A. Principal-use parking garages for ~~((long-term))~~ short-term parking ~~((in areas south of~~  
12 ~~S. King Street, and principal-use short term parking garages ))~~ at any location, except principal  
13 use parking garages for short-term parking in structures authorized pursuant to Section  
14 23.49.180, ((shall)) require approval of the Department of Neighborhoods Director after review  
15 and recommendation by the Preservation Board ~~((=))~~ and  
16

17 ~~((B. A principal-use parking garage))~~ may be permitted if the following conditions are  
18 met:  
19

20 1. The use will not increase the ambient noise level in existing residences within  
21 line of sight of the proposed parking structure; and  
22

23 2. Exterior materials, height, wall openings and fenestration will reflect, to the  
24 extent possible, the character of the adjoining structures or structures on the adjoining block  
25 facing the site; and  
26



1                   3. Access will comply with the standards ~~((provided))~~ in Section 23.66.170 ~~((of~~  
2 this chapter)); and

3                   4. Automobile circulation within the garage will not be visible from the adjoining  
4 public streets.

5                   ~~((C))~~ B. Uses at ~~((the))~~ street level of approved parking garages ~~((shall be))~~ are limited to  
6 those uses permitted in the area, other than parking, to a minimum depth of ~~((twenty (±))~~ 20 ~~((±))~~  
7 feet along all street frontages, and along alleys and malls ~~((which))~~ that are limited solely to  
8 pedestrian use.  
9

10                  Section 8. Section 23.66.130 of the Seattle Municipal Code, which Section was last  
11 amended by Ordinance 122311, is amended as follows:  
12

13 **23.66.130 Street-level uses~~((:))~~**

14                  A.     1. Uses at street level in the area designated on Map B ~~((<sup>+</sup>))~~ for 23.66.130 ~~((shall~~  
15 ))require the approval of the Department of Neighborhoods Director after review and  
16 recommendation by the Preservation Board.  
17

18                         2. Street level uses in the PSM 85-120 zone within the area shown on Map A for  
19 23.49.180 are subject to the provisions of subsection 23.49.180.F if an applicant elects to use  
20 added height under the provisions of Section 23.49.180. Such street level uses require the  
21 approval of the Department of Neighborhoods Director after review and recommendation by the  
22 Preservation Board.  
23

24                  B. Preferred Street-level Uses.  
25  
26  
27

1. Preferred uses at street level must be highly visible and pedestrian oriented.

Preferred street-level uses either display merchandise in a manner that contributes to the character and activity of the area, and/or promote residential uses, including but not limited to the following uses:

a. Any of the following uses under 3,000 square feet in size: ~~(((A)))~~ art galleries and other general sales and service uses, restaurants and other eating and drinking establishment uses, and lodging uses;

b. Theaters.

2. Accessory parking garages that serve preferred street-level uses on streets or malls, parks or alleys designed for pedestrian uses are also preferred.

C. Discouraged Street-level Uses.

1. The following are discouraged at street level in the area designated on Map ~~B((+))~~ for 23.66.130:

a. Any use occupying more than ~~((fifty-))50((+))~~ percent of any block front;

b. Any of the following with gross floor area over ~~((three thousand))3,000((+))~~ square feet: general sales and services uses, eating and drinking establishment uses, and lodging uses;

c. All other uses with gross floor area over ~~((ten thousand-))10,000((+))~~ square feet;

1 d. Professional services establishments or offices that occupy more than  
2 ~~((twenty-))20((%))~~ percent of any block front; and

3 e. Parking garages that are not accessory to preferred uses.

4 2. Discouraged uses may be approved by the Department of Neighborhoods  
5 Director after review and recommendation by the Preservation Board if an applicant  
6 demonstrates that the proposed use is compatible with uses preferred at street level.  
7

8 D. Conditions on Street-level Uses. Approved street level uses in the area designated on  
9 Map B~~((<sup>†</sup>))~~ for 23.66.130 ~~((shall be ))~~are subject to the following conditions:

10 1. No use may occupy more than ~~((fifty-))50((%))~~ percent of the street-level  
11 frontage of a block that is ~~((twenty-thousand-))20,000((<sup>+</sup>))~~ square feet or more in area;  
12

13 2. Human service uses and personal service establishments, such as hair cutting  
14 and tanning salons, may not exceed ~~((twenty-five-))25((%))~~ percent of the total street-level  
15 frontage of any block front.

16 E. The following uses are prohibited at street level in the area designated on Map B~~((<sup>†</sup>))~~  
17 for 23.66.130:  
18

19 Wholesaling, storage and distribution uses;

20 Vocational or fine arts schools;

21 Research and development laboratories;

22 Radio and television studios;

23 Taxidermy shops;

24 Appliance repair shops;

25

26

27

28

1 Upholstery establishments; and

2 Other similar uses.

3 F. The street-level location of entrances and exits of all vehicular-oriented uses, where  
4 permitted, shall be approved by the Department of Neighborhoods Director after review and  
5 recommendation by the Preservation Board. View-obscuring screening may be required as  
6 needed to reduce adverse visual impacts on the immediate area.  
7

8 Section 9. Section 23.66.140 of the Seattle Municipal Code, which Section was last  
9 amended by Ordinance 122935, is amended as follows:

10 **23.66.140 Height**

11 A. Maximum Height. Maximum structure height is regulated by Section 23.49.178,  
12 Pioneer Square Mixed, structure height(~~, and shall be as designated on the Official Land Use~~  
13 ~~Map, Chapter 23.32~~)).

14 B. Minimum Height. No structure shall be erected or permanent addition added to an  
15 existing structure (~~(which)~~that would result in the height of the new structure of less than ~~((fifty~~  
16 ~~)~~50(~~)~~) feet, except as allowed in the PSM 85-120 zone under the provisions of Section  
17 23.49.180 for the area shown on Map A for 23.49.180. Height of the structure is to be measured  
18 from mean street level fronting on the property to the mean roofline of the structure.  
19

20 C. Rooftop Features and additions to structures.

21 1. The height limits established for the rooftop features described in this  
22 ~~((subs))~~Section 23.66.140 may be increased by the average height of the existing street parapet or  
23

1 a historically substantiated reconstructed parapet on the building on which the rooftop feature is  
2 proposed.

3 2. For development in the PSM 85-120 zone in the area shown on Map A for  
4 23.49.180 and subject to the provisions of Section 23.49.180, the height limits for rooftop  
5 features are provided in subsection 23.49.008.D. The standards contained in subsections  
6 23.66.140.C.1 and 23.66.140.C.4 do not apply to rooftop features on development subject to the  
7 provisions of Section 23.49.180.  
8

9 3. The setbacks required for rooftop features may be modified by the Department  
10 of Neighborhoods Director, after a sight line review by the Preservation Board to ensure that the  
11 features are minimally visible from public streets and parks within 300 feet of the structure.  
12

13 4. Height limits for rooftop features.

14 ~~((1-))~~a. Religious symbols for religious institutions, smokestacks and  
15 flagpoles may extend up to ~~((fifty-))~~50~~(( ))~~ feet above the roof of the structure or the maximum  
16 height limit, whichever is less, except as regulated in Chapter 23.64 of this Land Use Code,  
17 provided that they are a minimum of ~~((ten))~~~~(( ))~~10~~(( ))~~ feet from all lot lines.  
18

19 ~~((2-))~~b. For existing structures, open railings, planters, clerestories,  
20 skylights, play equipment, parapets and firewalls may extend up to ~~((four))~~~~(( ))~~4~~(( ))~~ feet above  
21 the roof of the structure or the maximum height limit, whichever is less. For new structures, such  
22 features may extend up to ~~((four))~~~~(( ))~~4~~(( ))~~ feet above the maximum height limit. No rooftop  
23 coverage limits apply to such features regardless of whether the structure is existing or new.  
24  
25  
26  
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1                    ~~((3-))~~c. Solar collectors, excluding greenhouses, may extend up to ~~((seven~~  
2 ~~(~~7(~~0~~))~~)~~ feet above the roof of the structure or the maximum height limit, whichever is less, with  
3 unlimited rooftop coverage, provided they are a minimum of ~~((ten(~~0~~))~~10(~~0~~)) feet from all lot  
4 lines. For new structures, solar collectors may extend up to ~~((seven(~~0~~))~~7(~~0~~)) feet above the  
5 maximum height limit, except as provided in subsection 23.66.140.C~~((10(a))~~4.j.~~((1~~1(~~0~~)) of this  
6 ~~section))~~, and provided that they are a minimum of ~~((ten(~~0~~))~~10(~~0~~)) feet from all lot lines.

7  
8                    ~~((4-))~~d. The following rooftop features may extend up to ~~((eight(~~0~~))~~8(~~0~~))  
9 feet above the roof or maximum height limit, whichever is less, ~~((when))~~if they are set back a  
10 minimum of ~~((fifteen(~~0~~))~~15(~~0~~)) feet from the street and ~~((three(~~0~~))~~3(~~0~~)) feet from an alley. They  
11 may extend up to ~~((twelve(~~12~~))~~15 feet above the roof ~~((when))~~if set back a minimum of ~~((thirty~~  
12 ~~(~~0~~))~~30(~~0~~)) feet from the street. A setback may not be required at common wall lines subject to  
13 review by the Preservation Board and approval by the Department of Neighborhoods Director.  
14 The combined coverage of the following listed rooftop features shall not exceed ~~((fifteen~~  
15 ~~(~~0~~))~~15(~~0~~)) percent of the roof area:

16  
17  
18                    ~~((a-))~~ 1) Solar collectors, excluding greenhouses;

19                    ~~((b-))~~ 2) Stair and elevator penthouses;

20                    ~~((e-))~~ 3) Mechanical equipment;

21                    ~~((d-))~~ 4) Minor communication utilities and accessory

22 communication devices, except that height is regulated according to the provisions of Section  
23 23.57.014.  
24

1 Additional combined coverage of these rooftop features, not to exceed ~~((twenty-~~  
2 ~~five-))~~25(~~(t))~~) percent of the roof area, may be permitted subject to review by the Preservation  
3 Board and approval by the Department of Neighborhoods Director.

4 ~~((5-))~~e. On structures existing prior to June 1, 1989 and on additions to such  
5 structures permitted according to ~~((S))~~subsection 23.66.140.C.~~((9))~~4.i or otherwise, new or  
6 replacement mechanical equipment and stair and elevator penthouses may extend up to ~~((eight~~  
7 ~~(t))~~8(~~(t))~~) feet above the elevation of the existing roof or addition, as applicable, when they are set  
8 back a minimum of ~~((fifteen-))~~15(~~(t))~~) feet from the street and ~~((three-))~~3(~~(t))~~) feet from an alley;  
9 or may extend up to ~~((twelve-))~~12(~~(t))~~)feet above the elevation of the existing roof or addition, as  
10 applicable, ~~((when))~~if they are set back a minimum of ~~((thirty-))~~30(~~(t))~~) feet from the street,  
11 subject to review by the Preservation Board and approval by the Department of Neighborhoods  
12 Director. On structures where rooftop features are allowed under ~~((this))~~subsection  
13 23.66.140.C.4.e~~((5))~~, the combined coverage of these rooftop features and any other features  
14 listed in subsection 23.66.140.C.4.d shall not exceed the limit provided in subsection  
15 23.66.140.C.4.d~~((-of this section))~~, as it may be increased pursuant to that subsection.  
16  
17  
18

19 ~~((6-))~~f. Residential and Office Penthouses.

20 ~~((a-))~~ 1) Residential penthouses may cover a maximum of ~~((fifty~~  
21 ~~(t))~~50(~~(t))~~) percent of the total roof surface and may extend up to ~~((eight-))~~8(~~(t))~~) feet above the  
22 roof ~~if~~~~((when))~~ set back a minimum of ~~((fifteen-))~~15(~~(t))~~) feet from the street property line, or  
23 ~~((twelve-))~~12(~~(t))~~) feet above the roof~~((-when))~~ if set back a minimum of ~~((thirty-))~~30(~~(t))~~) feet  
24 from the street property line.  
25  
26  
27  
28

1 ((b-)) 2) Office penthouses ((shall be ))are permitted only  
2 ((when))if the footprint of the existing structure is greater than ((ten thousand (-))10,000((-))  
3 square feet and the structure is at least ((sixty (-))60((-)) feet in height. When permitted, office  
4 penthouses shall be set back a minimum of ((fifteen (-))15((-)) feet from all property lines and  
5 may cover a maximum of ((fifty (-))50((-)) percent of the total roof surface. Office penthouses  
6 may extend up to ((twelve (-))12((-)) feet above the roof of the structure and shall be functionally  
7 integrated into the existing structure.

9 ((e-)) 3) The combined height of the structure and a residential  
10 penthouse or office penthouse, ((where))if permitted, shall not exceed the maximum height limit  
11 for that area of the District in which the structure is located.  
12

13 ((7-))g. Screening of Rooftop Features. Measures may be taken to screen  
14 rooftop features from public view subject to review by the Preservation Board and approval by  
15 the Department of Neighborhoods Director. The amount of roof top area enclosed by rooftop  
16 screening may exceed the maximum percentage of the combined coverage of rooftop features  
17 listed in subsection 23.66.140.C.4.d above. In no circumstances shall the height of rooftop  
18 screening exceed ((fifteen (-))15((-)) feet above the maximum height limit or height of an addition  
19 permitted according to ((S))subsection 23.66.140.C.((9))4.i or otherwise, whichever is higher.  
20

21 ((8-))h. See Section 23.57.014 for regulation of communication utilities  
22 and accessory devices.  
23

24 ((9-))i. For a structure that has existed since before June 10, 1985 and is  
25 nonconforming as to structure height, an addition to the structure may extend to the height of the  
26



1 roof of the existing structure if ~~((a))~~i) the use of the addition above the limit on structure height  
2 applicable under Section 23.49.178 is limited to residential use and ~~((b))~~ii) the addition  
3 occupies only all or a portion of the part of a lot that is bounded by an alley on one side and is  
4 bounded on at least two sides by walls of the existing structure that are not street-facing facades.

5  
6 ~~((10-))~~j. Enclosed Rooftop Common Recreation Areas for New Structures.

7 ~~((a-))~~ 1) ~~If~~~~((When))~~ included on new structures, enclosed rooftop  
8 common recreation areas and solar collectors incorporated into those areas and required under  
9 this subsection may exceed the maximum height limit by up to 15 feet. The structure must  
10 include solar collectors that provide 2 percent or more of the structure's total electrical energy  
11 consumption and the structure must meet a Green Factor requirement of ~~((0))~~.30 or greater, ~~((as))~~  
12 determined under Section 23.86.019. Each enclosed rooftop common recreation area must  
13 include interpretive signage explaining the sustainable features employed on the structure where  
14 that area is located. No commercial, residential or industrial use may be established within  
15 enclosed common recreation areas allowed to exceed the maximum height limit under this  
16 subsection.  
17  
18

19 ~~((b-))~~ 2) Elevator penthouses serving an enclosed rooftop common  
20 recreation area may exceed the maximum height limit by up to ~~((twenty-))~~20~~((0))~~ feet.

21 ~~((e-))~~ 3) Enclosed rooftop common recreation areas, mechanical  
22 equipment, and elevator and stair penthouses shall not exceed ~~((thirty-five percent-))~~35~~((%))~~  
23 percent of the roof area.  
24  
25  
26  
27



1 A. Structures located within Subarea A on Map C<sup>(1)</sup> for 23.66.150 shall cover the full  
2 width of the lot along street ~~((property))~~lot lines and shall abut ~~((open))~~street ~~lot~~~~((property))~~  
3 lines.

4 B. Structures located within Subarea B on Map C<sup>(1)</sup> for 23.66.150 shall abut street  
5 ~~lot~~~~((property))~~ lines for the full width of the structure's street-facing~~((front))~~ facade.

6  
7 C. For both Subareas, modifications to setback standards may be permitted by the  
8 Department of Neighborhoods Director following review and recommendation by the  
9 Preservation Board when the following criteria are met:

10 1. A larger setback will be compatible with and not adversely affect the  
11 streetscape; and

12 2. A larger setback will be compatible with other design elements, such as bulk  
13 and profile, of the proposed building.

14  
15 Section 11. Section 23.66.170 of the Seattle Municipal Code, which Section was last  
16 amended by Ordinance 122054, is amended as follows:

17 **23.66.170 Parking and access~~((:))~~.**

18  
19 A. Parking standards in the Pioneer Square Preservation District are set forth in Section  
20 23.49.019~~((of this Land Use Code))~~.

21 B. To mitigate the potential impacts of required ~~((accessory parking and))~~loading on the  
22 District, the Director of Neighborhoods, after review and recommendation by the Preservation  
23 Board, may waive or reduce required ~~((parking or))~~loading if ~~((in the following circumstances:~~  
24

1                   1. ~~After incorporating high occupancy vehicle alternatives such as carpools and~~  
2 ~~vanpools, required parking spaces exceed the net usable space in all below-grade floors; or~~

3                   2. ~~R))~~reasonable application of the ~~((parking or))~~loading standards will adversely  
4 affect the visual character of the District.

5                   C. ~~((When))~~If parking is provided it shall be subject to the requirements of Section  
6 23.54.030~~((of this Land Use Code))~~.

7                   D. Standards for Location of Access to Parking.

8                   1. Access to parking and loading from alleys, and from streets~~((which))~~that  
9 generally run east/west~~((+))~~ is preferred to access from avenues. ~~((When))~~If a lot abuts more than  
10 one ~~((+))~~right-of-way, the location of access shall be determined by the Department of  
11 Neighborhoods Director in consultation with the Director of Transportation. This determination  
12 shall be made according to the traffic classification of the street, depicted on Map D~~((+))~~ for  
13 23.66.170. Access shall be from rights-of-way classified as follows, from the most to least  
14 preferred, except when the Department of Neighborhoods Director, following review and  
15 recommendation by the Board, determines that access from the preferred right-of-way would  
16 create a hazardous condition: Alleys; Access streets; Class II pedestrian streets-minor arterial;  
17 Class II pedestrian streets-principal arterial; Class I pedestrian streets-minor arterial; Class I  
18 pedestrian streets-principal arterial; Principal transit street; Green Streets.

19                   2. Curbcut width and the number of curbcuts permitted per street frontage shall  
20 be governed by Section 23.54.030~~((of this Land Use Code))~~.

1                   3. The street-level location of entrances and exits of all parking garages,  
2 ((where))if permitted, shall be permitted only if approved by the Department of Neighborhoods  
3 Director after review and recommendation by the Preservation Board. View-obscuring screening  
4 may be required as needed to reduce adverse visual impacts on the immediate area.

5                   Section 12. Section 23.76.032 of the Seattle Municipal Code, which Section was last  
6 amended by Ordinance 122816, is amended as follows:

7 **23.76.032 Expiration and renewal of Type I and II Master Use Permits((-))**

8                   A. Expiration.

9                   1. An issued Type I or II Master Use Permit expires three years from the date a  
10 permit is approved for issuance as described in Section 23.76.028, except as follows:  
11

12                   a. Expiration of a Master Use Permit with a shoreline component is  
13 governed by WAC 173-27-090.  
14

15                   b. Expiration of a variance component of a Master Use Permit is governed  
16 by the following:  
17

18                   ((f))1) Variances for access, yards, setback, open space, or lot area  
19 minimums granted as part of a short plat or lot boundary adjustment runs with the land in  
20 perpetuity as recorded with the Director of the King County Department of Records and  
21 Elections.  
22

23                   ((f))2) Variances granted as separate Master Use Permits pursuant  
24 to ((S))subsection 23.76.004\_G expire three years from the date the permit is approved for  
25 issuance as described in Section 23.76.028 or on the effective date of any text amendment  
26

1 making more stringent the development standard from which the variance was granted,  
2 whichever is sooner. If a Master Use Permit to establish the use is granted within this period, the  
3 variance's expiration date shall be extended until the expiration date established for the use  
4 approval.

5  
6 c. The time during which litigation is pending related to the Master Use  
7 Permit or the property subject to the permit made it reasonable not to submit an application for a  
8 building permit, or to establish a use where a building permit is not required, is not included in  
9 the three year term of the Master Use Permit.

10 d. Master Use Permits with a Major Phased Development or Planned  
11 Community Development component established under Section 23.47A.007, 23.50.015 or  
12 23.49.036 expire as follows:

13  
14 ((f))1) For the first phase, three years from the date the permit is  
15 approved for issuance;

16 ((f))2) For subsequent phases, expiration shall be determined at  
17 the time of permit issuance.

18  
19 e. Temporary or intermittent use permits issued pursuant to Section  
20 23.42.040 expire on the date stated in the permit.

21  
22 f. Except as otherwise provided in this subsection 23.76.032.A.1.f, Master  
23 Use Permits for development pursuant to Sections 23.49.180 and 23.49.181 expire on the date set  
24 by the Director in the Master Use Permit decision, which date may be a maximum of 15 years  
25 from the date the Master Use Permit is ready to issue. The Director shall consider the complexity  
26

1 of the project, economic conditions of the area in which the project is located, and the  
2 construction schedule proposed by the applicant in setting the expiration date. If no expiration  
3 date is set in the Master Use Permit decision, the expiration date is three years from the date a  
4 permit is approved for issuance.

5  
6 1) In order for the Director to set the Master Use Permit expiration  
7 date, the applicant shall:

8 a) Submit with the application a site plan showing a level of  
9 detail sufficient to assess anticipated impacts of the completed project;

10 b) Submit a proposed schedule for complying with the  
11 conditions necessary to gain the amount of extra floor area and the extra height sought for the  
12 project.

13  
14 2) The expiration date of the Master Use Permit may be extended  
15 past the expiration date set in the Master Use Permit decision or the date established in  
16 subsection 23.76.032.A.1.f if:

17  
18 a) On the expiration date stated in the Master Use Permit  
19 decision, a building permit for the entire development has been issued and has not expired, in  
20 which case the Master Use Permit shall expire when the building permit expires, or

21 b) A complete application for a building permit that either  
22 is for the entire development proposed pursuant to section 23.49.180 or is for construction to  
23 complete the entire development proposed pursuant to section 23.49.180 is:  
24

1 i) submitted at least 60 days before the expiration  
2 date of the Master Use Permit; and  
3 ii) made sufficiently complete to constitute a fully  
4 complete building permit application as defined in the Seattle Building Code, or for a highrise  
5 structure regulated under Section 403 of the Seattle Building Code, made to include the complete  
6 structural frame of the building and schematic plans for the exterior shell of the building, in  
7 either case before the expiration date of the Master Use Permit, in which case the Master Use  
8 Permit shall expire when the building permit issued pursuant to the application expires or when  
9 the application for a building permit is canceled or withdrawn.

10  
11 2. On((At)) the ((end of the three year term))expiration date determined as  
12 provided in subsection 23.76.032.A.1, a Master Use Permit((s)) expires unless one of the  
13 conditions in ((subsections a through d of ))this subsection 23.76.032.A.2 exists:

14  
15 a. A building permit is issued before the ((end of the three year  
16 term))expiration date, or an application for a building permit is:

17  
18 ((f)1) submitted at least 60 days before the end of the three year  
19 term;

20 ((f)2) made sufficiently complete to constitute a fully complete  
21 building permit application as defined in the Seattle Building Code, or for a highrise structure  
22 regulated under Section 403 of the Seattle Building Code, made to include the complete  
23 structural frame of the building and schematic plans for the exterior shell of the building, in  
24 either case before the ((end of the three year term))expiration date; and



1 ((f))3 subsequently issued. In such cases, the Master Use Permit  
2 shall be extended for the same term as the building permit is issued. For highrise structures  
3 regulated under Section 403 of the Seattle Building Code, the building permit application may be  
4 a partial one, provided that it includes the complete structural frame of the building, and  
5 schematic plans for the exterior shell of the building.  
6

7 b. For projects that do not require a building permit, the use has been  
8 established prior to the expiration date of the Master Use Permit and is not terminated by  
9 abandonment or otherwise. In such cases the Master Use Permit does not expire.

10 c. The Master Use Permit is renewed pursuant to subsection 23.76.004.B.

11 d. A Major Phased Development or Planned Community Development  
12 component is part of the Master Use Permit, in which case subsection 23.76.004.A.1.d applies.  
13

14 e. The Master Use Permit was for development subject to Section  
15 23.49.180, in which case the provisions in subsection 23.76.032.A.1.f.1 apply.  
16

17 B. Renewal.

18 1. The Director shall renew issued Master Use Permits for projects that are in  
19 conformance with applicable regulations, including land use and environmentally critical areas  
20 regulations, and SEPA policies in effect at the time renewal is sought. Except as provided in  
21 subsections 23.76.032.B.2 and 23.76.032.B.3 below, Master Use Permit renewal is for a period  
22 of two years. A Master Use Permit shall not be renewed beyond a period of five years from the  
23 original date the permit is approved for issuance. ~~((except for))~~ This subsection 23.76.032.B  
24 does not apply to the second and subsequent phases of a Master Use Permit with a ((m))Major  
25  
26  
27

1 ~~((p))~~ Phased ~~((d))~~ Development (MPD) component ~~((, for which this subsection B does not apply)).~~

2 The Director shall not renew issued Master Use Permits for projects that are not in conformance  
3 with applicable regulations, including land use and environmentally critical areas regulations, or  
4 SEPA policies in effect at the time renewal is sought, except for second and subsequent phases of  
5 an approved Master Use Permit with a Major Phased Development component ~~((for which this  
6 subsection B does not apply)).~~

8 2. If an application for a building permit is:

9 ~~((f))a~~ submitted at least 60 days before the end of the two year term of  
10 renewal;

11 ~~((f))b~~ made sufficiently complete to meet the requirements of Section 106  
12 of the Seattle Building Code; and

13 ~~((f))c~~ subsequently issued,  
14 the Master Use Permit shall be extended for the life of the building permit. For highrise  
15 structures regulated under Section 403 of the Seattle Building Code, the building permit  
16 application may be a partial one, provided that it includes the complete structural frame of the  
17 building, and schematic plans for the exterior shell of the building.  
18

19  
20 3. The Director may renew a Master Use Permit for the temporary relocation of  
21 police and fire stations issued pursuant to Section 23.42.040 for a period not to exceed 12  
22 months.  
23

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Section 13. To the extent that any provision of affordable housing or payment under Section 23.49.181 may be considered a tax, that tax is imposed pursuant to the authority of RCW 36.70A.540.

Section 14. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within 10 days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the \_\_\_\_ day of \_\_\_\_\_, 2009, and signed by me in open session in authentication of its passage this \_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
President \_\_\_\_\_ of the City Council

Approved by me this \_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Gregory J. Nickels, Mayor

Filed by me this \_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_

Dennis Meier/DM  
DPD – North Lot ORD  
March 24, 2009  
Version #15

City Clerk

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2 (Seal)

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**North Lot Development Facts & Estimates Based Upon  
Revised MUP Application Dated May 8, 2009**

Seller: King County

Buyer: North Lot Development, L.L.C.

Developers: Opus NW & Daniels Development Co. (successor to Nitze-Stagen)

Property Size: approximately 167,513 sf or 3.85 acres

Project Details as Proposed under the MUP Application:

Total Gross Floor Area (GSF) - 1,119,712 sf

Residential Housing GSF - 660,556 sf

Office GSF - 426,355 sf

Retail GSF - 32,801 sf

Parking GSF - 324,875 sf

Number of Residential Units- 668

For Sale units- 564 (includes 100 affordable units)

For Rent units- 104

Total Parking Stalls - 886

For Residential Use - 392

For Office / Replacement Parking Use - 494

Total Estimated Project Costs (in 2008 dollars) - approximately \$441,004,604

Residential block costs- approximately \$273,913,286

Office block costs- approximately \$167,091,318

Estimated number of construction jobs to be created- approximately 2,700

Estimated number of permanent jobs created- 1,600

Estimated sales taxes paid on construction costs- approx. \$25,300,000

Economic benefits to the government not listed above include B&O, Retail Sales, Property and Utility taxes that will be generated annually from the project. For comparison those taxes approximated \$9.7 million in 2003 from the adjacent Union Station development (1.5 million sf). In addition the purchase of electricity, water and sewer services from the City were approximately \$1.5 million in 2003 for the Union Station development.