Director's Report
INTERLOCAL AGREEMENT
AND IMPLEMENTING LEGISLATION FOR
A LANDSCAPE CONSERVATION AND LOCAL
INFRASTRUCTURE PROGRAM (LCLIP)
FOR SOUTH LAKE UNION AND DOWNTOWN

JUNE 2013

Overview

The Department of Planning and Development (DPD) is proposing to implement a Landscape Conservation and Local Infrastructure Program (LCLIP) in South Lake Union and Downtown, as authorized by Chapter 39.108 of the Revised Code of Washington (RCW). This program would generate funding for infrastructure improvements by capturing a portion of the increased King County property tax resulting from the increased assessed value of new development, in exchange for implementing a regional Transfer of Development Rights (TDR) program. This program will result in increased revenues of approximately $xx.xxM available to the City to implement infrastructure improvements in the SLU and Downtown areas, and is anticipated to support conservation of approximately xx,000 acres of rural farms and forests.

This program would be implemented by adopting three separate, but related ordinances. These ordinances are:

1. An ordinance authorizing the Mayor to execute an interlocal agreement with King County agreeing to terms for the TDR and infrastructure funding programs;
2. An ordinance accepting an allocation of regional TDR credits to be obtained through the Regional TDR program and adopting a plan for development of public infrastructure to be financed by the infrastructure funding program; and
3. An ordinance adopting the Local Infrastructure Project Area (LIPA) which designates the area in which property tax revenues are generated and allows the Regional TDR and infrastructure funding programs to commence.

Ordinances to adopt an interlocal agreement with Pierce and Snohomish County will be forwarded separately. The agreements with Pierce and Snohomish County will govern the transfer and use of regional TDR credits but will not result in the transfer of property tax.

While the South Lake Union Rezone legislation recently adopted by the City Council as Ordinance 124172 implemented TDR program standards, these standards would not go into effect and the City would not be eligible for infrastructure funding until this proposed legislation goes into effect. The LCLIP program, including the regional TDR and infrastructure funding elements, would commence on the effective date of the ordinance.

Background

In 2008, the City Council adopted resolution 31104 expressing the City's intent that additional height and floor area allowed through future rezones should only be allowed when a project provides public benefits through incentive zoning. Properties subject to incentive zoning have a base height and floor area ratio (FAR) and a maximum height and FAR. FAR is a ratio that is used to regulate the amount of floor area in a building compared to the size of the site or lot. The FAR number multiplied by the area of the lot results in the amount of floor area allowed. In order for a property owner to gain extra height or a higher FAR beyond the base height or FAR, they must contribute public amenities in proportion to the amount of extra floor area gained. In some cases, there are also certain minimum requirements that must be met under the incentive zoning program.

In 2011, the state legislature passed a bill creating the LCLIP program, allowing cities that establish regional TDR programs to receive infrastructure funding. The overall purpose of the Regional TDR and infrastructure funding programs is to preserve farm and forest land by transferring development capacity from these lands to cities, and generate funds for local infrastructure projects in the communities where the additional development capacity is increased This program allows the City to capture a portion of the increased property tax resulting from the increased assessed value of new construction and use the tax revenue to fund identified local infrastructure projects. This process is also known as Tax Increment Financing or TIF since the City would finance improvements from the additional increment of property tax coming from new development. To access these funds, cities are required to create a market for regional TDR credits, in order to protect farm and forest land, through incentive zoning or other mechanisms. .

After the LCLIP legislation was passed by the State, the City began analyzing the potential benefits of implementing LCLIP in Seattle. To assist in the effort, DPD retained Heartland Consulting, BERK Consulting, and Forterra to create a fiscal model to understand how LCLIP could be applied in multiple areas of the City. Based on model results it was determined that:

1. A program area including both Downtown and South Lake Union was necessary in order to create a program that would yield sufficient public benefit. Downtown has the largest active incentive program in the City and DPD was in the process of developing a program for South Lake Union that would have substantially increased incentive zoning capacity;
2. It was not practical to consider potential future rezones in the model as state law requirements would limit the ability to expand the program in the future and still meet required deadlines for acquiring TDR credits; and

3. LCLIP would result in infrastructure funding that could more effectively implement projects identified by the community as key priorities, as compared witha traditional incentive zoning program alone.

Consequently, DPD developed a proposal for implementing LCLIP in South Lake Union and Downtown.

In 2013, the City Council adopted a rezone for South Lake Union based on planning that has been on-going since 2008. The proposal includes LCLIP as part of the new incentive zoning program proposed to support the increased height and density recommendations. For more details on the proposed South Lake Union incentive zoning program, see the Director's Report on Zoning Changes to the South Lake Union Urban Center at: www.seattle.gov/dpd/cityplanning/completeprojectslist/southlakeunion/. In addition, the South Lake Union rezone proposal modifies the existing incentive zoning program for Downtown last updated in 2006, to include Downtown in the LCLIP program.

The State law enabling the implementation of LCLIP, RCW 39.108, identifies procedural requirements that must be met. To meet these procedural requirements and allow the Council to assess the proposed incentive zoning program as part of the South Lake Union rezone legislation, DPD proposed specific standards for using regional TDR credits through incentive zoning as part of the rezone legislation that was passed by Council on May 6, 2013 as Council Bill 117603. These standards would not, however, become effective until a LIPA is adopted. In the interim, the South Lake Union incentive zoning requirements could be met through acquiring landmark or open space TDR credits and the Downtown incentive zoning program would continue in its current form.

Summary of Proposal

The three pieces of legislation implementing this proposal would together:

- Allow the City to generate $xxM in revenue for local infrastructure projects included in the plan for development of public infrastructure over what time period?;
- Accept an allocation of 800 regional TDR credits by the Puget Sound Regional Council that may be used in the LIPA;
- Adopt proposed changes to incentive zoning programs in South Lake Union and Downtown to require that a portion of additional floor area gained through incentive zoning, be achieved through acquisition of regional TDR credits;
- Adopt a plan for developing public infrastructure within the LIPA that is funded by a portion of County property tax revenues;
- Specify the taxing districts that would be impacted by the infrastructure funding program and the date funding would commence; and
- Create the LIPA.

Together, these actions would satisfy the state requirements for creating a LCLIP program and allow it to commence.

Regional TDR Program
The Regional TDR program would require that the following portion of extra floor area be gained through acquisition and extinguishment of regional TDR credits:

- In South Lake Union, 40% of residential extra floor area and 25% of nonresidential extra floor area gained through incentive zoning (this represents all the extra floor area not gained through affordable housing)
- In Downtown, the first increment of nonresidential floor area gained through incentive zoning in all Downtown Office Core 1 and 2 zones (DOC1, DOC2) and in certain Downtown Mixed Commercial zones with various height limits (DMC 340/290-400, DMC 125, DMC 160, and DMC 240/290-400)

The amount of floor area to be gained by using regional TDR credits in Downtown would vary by zone as follows:

Zone	FAR amount above the base zoning achieved by regional TDR
All DOC1 zones	1.0
All DOC2 zones	0.75
DMC 340/290-400	0.50
DMC 125, DMC 160, DMC 240/290-400	0.25

To obtain extra floor through acquiring regional TDR credits, applicants would be required to purchase certified credits from King, Pierce, or Snohomish Counties and document that these credits have been permanently extinguished following the transfer and use of the TDR credits through a document provided by a County government. Allowing the transfer of regional TDR credits from all three counties is a requirement of the state legislation that authorizes LCLIP programs. For the first 200 credits used in the City's Regional TDR program, credits could only be purchased from agricultural land or from forest or rural land where the proceeds from the sale of these credits are used to purchase credits from agricultural land. The purpose of this initial limitation is to help develop a market for agricultural credits. Currently, there are a large number of forest credits that are available for transfer but very few agricultural credits. By allowing credit holders to sell their forest credits and reinvest in agricultural credits, we can help develop a larger market for agricultural credits so they can later compete in the market.

Commented [mf2]: Isn't there a preference for KC-owned credits initially?

Applicants would receive extra floor area in proportion to the amount of credits extinguished according to exchange ratios listing in the Seattle Municipal Code. Although these exchange ratios will likely to be modified periodically to adjust to market conditions, the initial ratios will be as follows:

Regional Development Credit Exchange Ratios – Residential (Initial)		
County of Origin	**Type of Credit (Agricultural, Forest, or Rural)**	**Square Feet of development rights earned per credit**
King	Agricultural	1,640
	Forest or Rural, provided the entire proceeds from the sale shall be used to purchase new agricultural credits	1,500
Pierce	Agricultural	420
	Forest, provided the entire proceeds from the sale shall be used to purchase new agricultural credits	860
Snohomish	Agricultural	980
	Forest, provided the entire proceeds from the sale shall be used to purchase new agricultural credits	860

Regional Development Credit Exchange Ratios – Nonresidential (Initial)		
County of Origin	**Type of Credit (Agricultural, Forest, or Rural)**	**Square Feet of development rights earned per credit**
King County	Agricultural	1,120
	Forest or Rural, provided the entire proceeds from the sale shall be used to purchase new agricultural credits	1,030
Pierce County	Agricultural	290
	Forest, provided the entire proceeds from the sale shall be used to purchase new agricultural credits	590
Snohomish County	Agricultural credit	670
	Forest, provided the entire proceeds from the sale shall be used to purchase new agricultural credits	590

After the first 200 credits are extinguished, the exchange ratios would be modified to allow the purchase of forest or rural credits even where they are not reinvested in agricultural credits. If the exchange ratios were not modified prior to this time, they will automatically change after 200 credits are extinguished to the exchange ratios shown in the tables below.

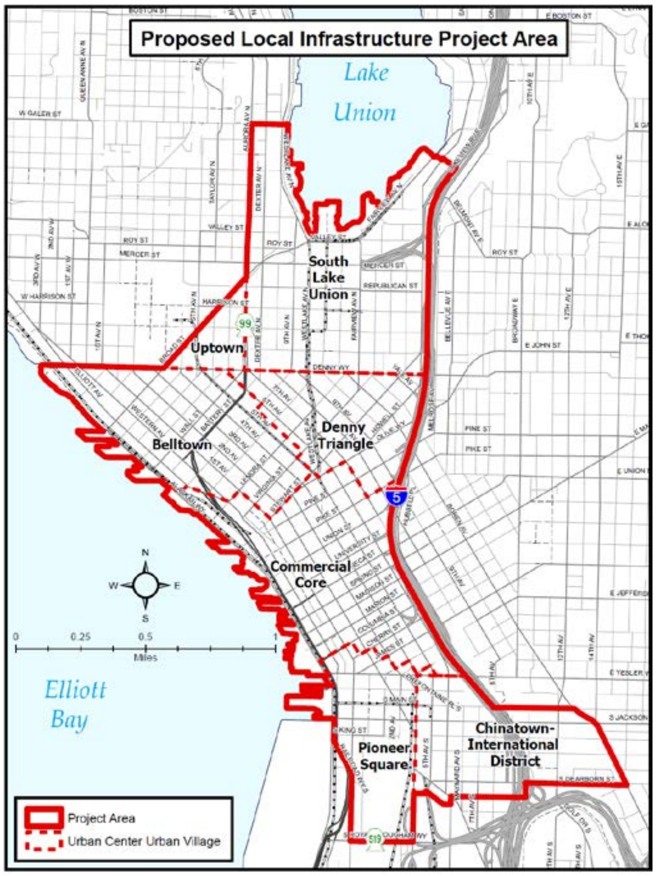
Regional Development Credit Exchange Ratios – Residential (after first 200 credits)		
County of Origin	**Type of Credit**	**Square Feet of development rights earned per credit**
King	Agricultural	1,640
	Forest or Rural, provided the entire proceeds from the sale shall be used to purchase new agricultural credits	1,500
	Forest or Rural	1,020
Pierce	Agricultural	420
	Forest	800
Snohomish	Agricultural	980
	Forest	800

Regional Development Credit Exchange Ratios – Nonresidential (after first 200 credits)		
County of Origin	**Type of Credit**	**Square Feet of development rights earned per credit**
King	Agricultural	1,120
	Forest or Rural, provided the entire proceeds from the sale shall be used to purchase new agricultural credits	1,030
	Forest or Rural	700
Pierce	Agricultural	290
	Forest	550
Snohomish	Agricultural	670
	Forest	550

Tax Increment Financing

In exchange for implementing the Regional TDR program, the City would be entitled to receive 17.44% of property tax revenue from new development occurring in the LIPA for up to 25 years according to the standards of RCW 39.108. While regional TDR credits can be purchased from King, Snohomish and Pierce counties, all revenue would come from King County.

The boundary area of the proposed LIPA is shown below.



This funding would be contingent on meeting certain thresholds over time. The initial length of the program would be 10 years. The program would be extended to:

- 15 years if 400 credits are obtained within 9.5 years;
- 20 years if 600 credits are obtained within 14.5 years; or
- 25 years if 800 credits are obtained within 19.5 years.

King County would agree to consider each threshold met if, prior to each deadline, at least 70%-80% of the TDR credits necessary to meet the local property tax threshold had been obtained (the exact percentage varies by threshold) and the City requested in writing that the threshold be considered met. If this option is used, the City would be required to obtain sufficient TDR to meet the threshold prior to terminating the program.

It is anticipated that this program will result in $27.5M in revenue from King County property taxes over 25 years. At a discount rate of 3%, this is equivalent to $15.7M in 2012 dollars. The Director's Report provided for the South Lake Union Rezone indicated that the City might be required to set aside a portion of City property tax revenue in proportion to the amount of King County property tax; however, discussions since the South Lake Union Rezone Director's Report was produced have revealed that this is not necessary.

Money generated through this program would be split between projects in South Lake Union and Downtown based on the amount of regional TDR generated. It is estimated that this split will result in 60% of the funds or $16.5M ($9.4M in 2012 dollars) being allocated to South Lake Union projects and 40% of the funds or $11.0M ($6.3M in 2012 dollars) to Downtown projects.

The proposed legislation includes a project list detailing the projects on which these funds could be spent. The types of projects included in the project list are summarized below with priority projects in bold:

Revenue Years	Agency	Estimated Total Revenue (2012 Dollars)	Proposed Projects by Area	
			South Lake Union	Downtown
0-10 years	SDOT	$2.9M	• **Green Streets** (Thomas & 8th) • Bike, Pedestrian, and Transit Improvements (Harrison & Denny)	• 3rd Avenue Improvements (Capital Projects & Programs)
11-20 years	Parks	$7.8M	• **Community Center** • Park Improvements and Acquisitions	
21-25 years	SDOT	$5.0M	• Transportation Improvements – specific improvements to be determined later	

In general, the City plans to spend money as it is received; however, opportunities to use bonding to implement projects prior to the receipt of funds will be considered on a project-by-project basis.

Conclusion

This proposal would support the implementation of a new infrastructure financing tool that together with affordable housing incentives and direct City investments, can provide the critical public infrastructure needed to support the area's dramatic growth and ensure it remains an attractive and livable neighborhood for all who live and work there while also supporting the economic and environmental health of the region.