

The Seattle City Council Upzones Downtown, South Lake Union, and University District in Exchange for Mandatory Housing Affordability

Legal Alert
April 11, 2017

Up Next: Uptown

Yesterday the Seattle City Council enacted the Downtown/South Lake Union Rezone, just a few months after it enacted the University District rezone. The City has also released a preliminary rezone map for Uptown, which the City Council is scheduled to adopt later this year.

In exchange for the rezones, the City will require developers to provide on-site affordable housing or pay funds for affordable housing to the City. This rezone/affordable housing value exchange is commonly known as the “Grand Bargain” and the housing provision is commonly known as Mandatory Housing Affordability (MHA). MHA generally applies to the first square foot of developed property regardless of whether the development uses the additional development capacity authorized by the rezone.

This eAlert identifies the rezones and their associated MHA requirements. The rezones also amend substantive development regulations, including height, floor area ratio, floor plates, and additional required amenities. If you have any questions about the rezones or MHA, please contact [Steve Gillespie](#), member of Foster Pepper’s [Land Use](#) group.

DOWNTOWN / SOUTH LAKE UNION REZONE

Below is a summary of the approved development capacity increases, which vary by zone:

One premise of the Grand Bargain was that Downtown/SLU payments should end up approximately the same as those currently made under the Incentive Zoning program, which would require between three percent and five percent of units in

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a Downtown/SLU residential project to be “affordable.” With some exceptions, the approved numbers are generally in that range. To see the complete schedule for each zone, click [here](#). A summary appears below:

UNIVERSITY DISTRICT REZONE

The University District rezone map, shown below, now includes MHA suffixes – M, M1, and M2:

All development in rezone area is now subject to the following MHA payment or performance requirement that corresponds to the suffix:

UPTOWN REZONE

Like the enacted University District rezone, the *draft* Uptown Rezone, shown below, also includes MHA suffixes:

The rezone is still pending, but the City has signaled that it intends to adopt the following MHA requirements:

MHA REQUIREMENTS

In all rezoned areas, MHA affordable units must be no more than 60 percent of the area median income (AMI) for units greater than 400 square feet, or no more than 40 percent AMI for units 400 square feet or less. These units may not be used to satisfy the City’s multi-family tax exemption program requirements.

While the numbers for Downtown/SLU are generally consistent with the Grand Bargain (which only applied to areas then under incentive zoning—Downtown and SLU), both the performance percentages and the payment-in-lieu for Downtown/SLU are far lower than those the City is implementing elsewhere. In downtown Seattle, the highest MHA requirements is \$13.25/square foot. In contrast, the approved University District figures require \$20.00/square foot for the M1 suffix. And the proposed Uptown numbers go as high as \$29.75/square foot for the M1 suffix.

Because of the serious legal concerns under Washington state law related to the mandatory program, the substantially higher MHA requirements outside of Downtown/SLU may put the Grand Bargain itself at risk as developers who did not sign the deal consider their options in court.

ADDITIONAL INFORMATION

Please contact [Steve Gillespie](mailto:steve.gillespie@foster.com) at steve.gillespie@foster.com or 206.447.5942 if you have any questions regarding the City’s rezones, mandatory housing affordability, or the City’s complex entitlement process.