



DATE: October 27, 2010

TO: Chair Ferris and Members of the Planning Commission

FROM: Carol Helland, Land Use Director  
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Development Services Department

SUBJECT: Performing Arts Uses Land Use Code Amendment

The Director of the Development Services Department (DSD) initiated a Land Use Code Amendment (LUCA) to modify the development standards applicable to performing arts uses located outside of the Civic Center Design District where they can already be accommodated. The objective is to implement Comprehensive Plan policy changes that were adopted as part of the Downtown Implementation Plan (DIP) work completed in 2004.

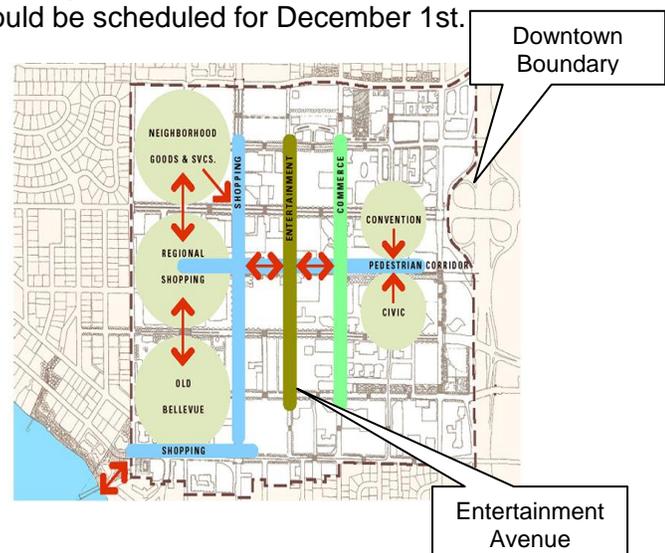
At its September 15<sup>th</sup> meeting, the Planning Commission reviewed LUCA concepts proposed to accommodate the Tateuchi Center and suggested some areas where more information or alternative code language should be provided. During its preliminary review the Planning Commission focused on three main issues: 1) Limiting the applicability of this LUCA to minimize potential impacts on lower intensity uses and the pedestrian environment envisioned for the Downtown; 2) Controlling the impacts through narrowly tailored dimensional deviations necessary to accommodate the performing arts function; and, 3) Activating the street through design requirements and uses that complement scheduled performances to provide interest at the sidewalk when performance events are not scheduled.

## ACTION REQUESTED

Staff requests direction on the draft code language provided in response to Planning Commission feedback, and on whether to set a public hearing date for the LUCA as revised. If it is appropriate to move toward a public hearing, one could be scheduled for December 1st.

## SCOPE AND APPLICABILITY

The Planning Commission expressed concern about the scope and applicability of the LUCA initiated to accommodate the proposed Tateuchi Center. In response to those concerns, staff has restricted the scope of the proposal to performing arts center uses, so that the LUCA would not provide expanded flexibility to a broader range of "other cultural uses" such as art museums. This LUCA scope reduction would limit the number of facilities that could take advantage of the expanded dimensional flexibility, and would thereby limit potential impacts of the proposal on the Downtown pedestrian environment.



Staff has also restricted the applicability of the LUCA by limiting performing arts uses to sites abutting the Entertainment Avenue, 106<sup>th</sup> Ave NE, between the south side of NE 10<sup>th</sup> Street and the north side of NE 2<sup>nd</sup> Street. The more narrowly tailored scope and applicability is better aligned with Comprehensive Plan Policy: S-DT-44: Provide incentives for 106th Avenue NE to develop as Downtown's *Entertainment Avenue*. This narrowly tailored approach to scope and applicability would still accommodate the Tateuchi Performing Arts Center use at its desired location. In addition, the broader scope and applicability question is not foreclosed from future consideration at such time as the Downtown Livability work program is initiated, and a more holistic approach to review of the regulatory scheme could be undertaken.

## **DIMENSIONAL DEVIATIONS/DESIGN AND USE REQUIREMENTS**

This section describes each of the dimensional deviations from the current code that would be necessary to accommodate the unique functional characteristics of performing arts uses. The applicable section of 106<sup>th</sup> Avenue NE has three Downtown land use districts: DNTN-01, DNTN-02 and DNTN-MU. Each of these districts would require added dimensional flexibility as described in greater detail below.

### **1. Façade Stepback**

Currently the Land Use Code requires a 25 foot Side/Rear (façade) stepback for buildings that exceed 75 feet in height that is applicable to all floors above 40 feet (LUC 20.25A.020.A.2). This requirement is intended to encourage open space and light in the Downtown.

There are provisions in the current LUC for this requirement to be modified per the "Exceptions to Dimensional Requirements (LUC 20.25A.020.B.2.c) *if*:

- i. The applicant can demonstrate that the resulting design will be more consistent with the Design Review Criteria of LUC 20.20A.110, and
- ii. The building design, with the modification, will create sufficient spacing between towers to encourage a feeling of an open and airy Downtown."

Staff anticipate that most structures housing performing art uses would not be able to meet the second criteria needed to modify the façade stepback requirement. Because of the bulky nature of these structures it would be difficult to provide the intended spacing between a performing arts structure and adjacent uses.

In order to mitigate for impacts associated with granting a façade stepback modification, staff proposes that performing arts center building designs be required to minimize identified impacts to abutting structures. Modification review and approval is proposed to be conducted through the Design Review process that is required for all development that occurs in the Downtown.

### **2. Building Floor Area per Floor**

The Maximum Building Floor Area per Floor above 40 feet is presently 22,000 gsf/f, and lowers to 20,000 gsf/f above 80 feet in height in the DNTN-MU Zone. The square footage is consistent at 22,0000 gsf/f at both 40 and 80 feet for the DNTN-)1 and DNTN O-2 zones.

At the September 15<sup>th</sup> meeting of the Planning Commission, staff illustrated why these floor area limit requirements are incompatible with the functional needs of buildings that house performing arts uses. Structures for these uses are driven by technical requirements and design objectives relating to building function. Instead of floor area limits for performing arts uses, staff recommends unlimited floor area up to a maximum permitted height of 100 feet. Refer to section 4 below for additional building height limitation details. Staff also proposes to mitigate impacts associated with resulting larger floor plates would by requiring the street level design to meet requirements applicable to Type A streets in order to ensure that the pedestrian environment is not compromised. Refer to section 5 below for additional details regarding design and use requirements.

### **3. Floor Area Ratio (FAR)**

The maximum FAR for nonresidential uses in the DNTN-0-1 zone and DNTN 0-2 zone is 8.0 and 6.0 respectively. The maximum FAR for nonresidential uses in the DNTN-MU District is 3.0.

The FAR maximums for nonresidential uses in the DNTN-01 and 02 zones are likely sufficient for any performing arts use in those zones. However, the current maximum FAR for nonresidential uses in the DNTN-MU District is not sufficient to accommodate the Tateuchi Center proposal, nor would it be for any similar structure supporting a performing arts use. Impacts associated with the size and scale of performing arts structures allowed under this LUCA are proposed to be mitigated by placing a height limit on these types of structures as described in section 4 below, and by imposing the design and use requirements described in section 5 below.

### **4. Building Height**

The maximum building height for a nonresidential use in the DNTN-0-1 zone and DNTN 0-2 zone is 300 feet and 250 feet respectively. The maximum building height for a non-residential use in the DNTN-MU zone is 100 feet.

The maximum building height is not an issue in the DNTN-MU zone. However, it is an issue in the DNTN-01 zone and DNTN-02 zone. Absent controls in these zones the unlimited floor plate provided to performing arts uses could allow for very tall and bulky buildings. Consequently, staff proposes that the revised LUCA control the height of structures that accommodate performing arts uses to maintain a 100 foot threshold in every land use district where these performing arts structures are permitted. The revised LUCA is proposed to maintain the provision available to all structures in the Downtown to increase the minimum height by an additional 15 feet in height or 15%, whichever is greater. This increase is only granted if the applicant can demonstrate that the additional height accommodates architecturally integrated mechanical equipment, interesting roof forms, significant floor plate modulation, significant façade modulation, or other such unique architectural features, and that the resulting design exceeds the quality and design requirements of LUC 20.25A.110.

### **5. Design and Use Requirements**

Staff recommends that performing arts structures that require dimensional deviations be required to meet the existing design guidelines for Type A frontage, pursuant to the Design Guidelines Building/Sidewalk Relationships, in order to mitigate potential impacts

on the street level pedestrian environment. The current Design Guidelines for a Type A street frontage require that:

1. Street level edges of the entire project limit shall incorporate retail activities;
2. The following characteristics shall be incorporated into the design of the structure: windows providing visual access, street walls, multiple entrances, differentiation of ground level, canopies, awnings or arcades;
3. The following characteristics should be incorporated into the design of the sidewalk: special paving treatment, seating;
4. The Guidelines for Building/Sidewalk Relationships are to be used in conjunction with other guidelines adopted by the City. In the event the guidelines conflict with more specific guidelines, then the more specific guidelines, now or as amended in the future, take precedence.

For the purposes of applying the Building/Sidewalk Design Guidelines, “retail activities” required by guideline number 1 include “theaters.” If the Planning Commission desires to include heightened pedestrian generating activity when the theater is dark, an additional use requirement would need to be added to accomplish this goal. This could require that some amount of the foyer be open to the public daily to provide access to retail space such as a gift shop or coffee cart. Staff would appreciate additional direction from the Planning Commission on whether a heightened use requirement is desired for inclusion in this LUCA.

### **Proposed Code Language**

A. LUC 20.25A.020 footnote 9 references subsection B.2 for exceptions to the minimum setbacks above 40 foot requirement. We added condition “e,” followed by qualifying statements and restrictions.

- e.
  - i. *Setback requirements above 40 feet may be modified for Performing Arts Uses meeting the locational requirements of LUC 20.25A.020.B.1.e.i; and*
  - ii. *the applicant can demonstrate that the resulting design will be more consistent with the Design Review criteria of LUC 20.25A.110; and*
  - ii. *interesting roof forms, significant floor plate modulation, significant façade modulation, or other such unique architectural features are provided to minimize impacts to abutting structures.*

B. LUC 20.25A.020 footnote 9 references subsection B.1 for exceptions to the maximum building floor area per floor above 40-foot requirement. We started there by adding item “e,” followed by qualifying statements and restrictions:

- e. *Performing Arts Center uses may have unlimited floor area up to 100-feet in height, measured from average finished grade, provided that:*
  - i. *The proposal site abuts 106<sup>th</sup> Ave NE, between the south side of NE 10<sup>th</sup> Street and the north side of NE 2<sup>nd</sup> Street*
  - ii. *The floor plate exception applies only to that portion of the building which contains the performing arts uses and subordinate uses do not exceed 25% of the total area; and*

- iii. The ground floor design is consistent with the Building/Sidewalk Design Guidelines for "A" rights-of-way, excluding the arcade provision.*
- iv. The exception from the floor area limitation is necessary to accommodate the performing arts center use, or equipment functionality related to that use.*

C. The Land Use Code dimensional chart for Downtown (20.25A.020) limits the Floor Area Ratio to 3.0 for nonresidential uses. Since there is a direct relationship between floor plate size and FAR, staff proposes to allow for increased FAR for cultural uses with larger floor plates. An FAR up to 4.0 for the DNTN-MU zone is suggested for these uses (midway between residential and non-residential FAR). However, staff proposes that any floor area over an FAR of 3.0 should be earned through the FAR Amenity bonus system and required to provide public benefits. The FAR amenities suggested by staff include: pedestrian-oriented frontage, plaza, enclosed plaza, sculpture, water feature, and landscape area.

LUC 20.25A.020.B.3 provides for Floor Area Ratio Exceptions, we have added condition "c," followed by qualifying statements and restrictions.

- c. i. In the area of Downtown-MU zone, Performing Arts Uses meeting the locational requirements of LUC 20.25A.020.B.1.e.i, the maximum Floor Area Ratio may be increased to 4.0. The Floor Area Ratio bonus must be earned through participation in the FAR Amenity Incentive System to provide public benefits. Incentives may be earned by providing any of the following: pedestrian oriented frontage, plaza, enclosed plaza, sculpture, water feature, and landscape features.*

D. Suggested definition for Performing Arts Center to be added to LUC 20.50.040:  
*Performing Arts Center. Any facility intended and designed for the presentation of live performances of dance, drama, and music.*

## **COMPARISON OF CODE PROVISIONS TO TATEUCHI CENTER PROPOSAL**

To aid in the Commission during its deliberations, staff have prepared a comparison between the revised LUCA proposal, and the development proposal submitted for the Tateuchi Center. In some cases, design modifications would be required to comply with the LUCA proposal developed in response to the Planning Commission feedback. This comparison is provided in Attachment A.

## **NEXT STEPS**

Staff requests direction on the draft code language provided in response to Planning Commission feedback on the LUCA initiated by DSD to accommodate structures that house performing arts uses and abut the Downtown Entertainment Street. If staff has adequately responded to questions and issues raised by the Planning Commission following the discussion on November 3rd, we ask that a public hearing be scheduled and that the Planning Commission proceed with review of the proposed amendment.

<b>Code Deviation Needed</b>	<b>Requirement w/Proposed LUCA</b>	<b>Tateuchi Center Design Consistency with Proposed LUCA</b>	<b>Tateuchi Center Design Revisions Required to Comply with Proposed LUCA</b>
Height	100' Limit with additional 15' for architecturally integrated mechanical equipment	114'	Complies
FAR	4.0 with any FAR over 3.0 earned	4.0 FAR	Tateuchi Center will need to review their provided amenities to show compliance.
Floor Plate Size Above 40 feet.	Not regulated for Performing Arts uses.	N/A	Complies
Floor Plate Size Above 80 feet.	Not regulated for Performing Arts uses.	N/A	Complies
Façade Stepback	No Stepback required.	No Stepback	Complies with requirements.
Conformance with Type "A" Right of Way design	Retail Activities at Street Edges Windows Providing Visual Access Street Walls Multiple Entrances Differentiation of Ground Level Canopies, awnings or arcades Special paving treatment Seating	Yes – theater use Partly Yes N/A (Single Tenant Bldg) Yes No Yes Yes	Complies Provided on NE 10 <sup>th</sup> Complies N/A Complies Continuous weather protection to be added Complies Complies