



City of Bothell™

# City of Bothell Determination of Significance and Adoption of Existing Document Transfer of Development Rights Code

## Date of Issuance

May 16, 2023

## Lead Agency and Proponent

City of Bothell

## Agency Contact

Ashley Winchell, Deputy Community Development Director, Community Development Department  
[ashley.winchell@bothellwa.gov](mailto:ashley.winchell@bothellwa.gov)  
(425) 806-6407

## Description of Proposal

The Canyon Park Subarea Plan includes policies addressing transfer of development rights (TDR) for essential public facilities that cannot meet minimum development thresholds designed to help the center achieve activity units (population and jobs) as required by the Puget Sound Regional Council Regional Growth Center Strategy. Essential public facilities include typically difficult to site facilities such as regional transit authority facilities, airports, solid waste facilities, etc. (RCW 36.70A.200).

The City of Bothell is proposing to implement the Subarea Plan actions by creating a code that would establish a TDR program using a section of code reserved for such a purpose: BMC 12.48.180 Transfer of development rights. Sending sites would be essential public facilities in the Canyon Park Subarea. Receiving sites would be medium and high density areas, particularly where transportation impacts can be addressed.

The proposed code would also amend the calculation of Floor Area Ratio at BMC 12.48.140 to recognize the TDR program. The TDR Program would allow for increases in the maximum floor area ratio (FAR, or the floor area of a building on a parcel divided by the area of the parcel) based on incentives as allowed in BMC Table 12.48.130. While the maximum FAR allowed on a site could be increased to gain additional residential or commercial space on TDR receiving sites the maximum building height would not change.

## Location of Proposal

The Canyon Park Subarea is located in the Snohomish County portion of the City of Bothell and is fully within the urban growth area. The area is encompassed by SR 524 and Thrashers Corner to the north including shopping areas to the north and south of SR 527; the general alignment, if extended of 31st Avenue SE to the east; 228th Street SE to the south including commercial areas on both sides; and the general alignment, if extended of 8th Avenue SE on the west. It is traversed by SR 527, I-405, and by

North Creek.

## Document Being Adopted

Title: Canyon Park Subarea Planned Action Final Environmental Impact Statement

Date adopted document was prepared: December 7, 2020

Description of document being adopted: The City of Bothell prepared the Canyon Park Subarea Planned Action Final Environmental Impact Statement to address policies and codes and future development allowed in the subarea. The document was appealed to the Growth Management Hearings Board (Case No. 21-3-0006) but the Board found in favor of the City of Bothell.

The adopted document is available at: <http://www.ci.bothell.wa.us/1176/Canyon-Park>.

## Determination

The City of Bothell has determined that this proposal is likely to have a significant adverse impact on the environment. We have identified and adopted this document as being appropriate for this proposal after independent review. An addendum to the Final EIS has been prepared per WAC 197-11-625 and is available at the project website: <http://www.ci.bothell.wa.us/1176/Canyon-Park>.


The document meets our environmental review needs for the current proposal and will accompany the proposal to the decision makers in lieu of preparation of a separate Environmental Impact Statement (EIS).

This Determination of Significance and Adoption Notice is issued under WAC 197-11-630(3)(a) and consequently the general EIS preparation process does not apply. There is no comment period but there will be no agency action for seven days of date of this notice.

## Responsible Official

Ashley Winchell, AICP

Date: May 16, 2023

Signature: 

You may appeal this determination of significance by 4:00 pm, 14 calendar days after issuance. With respect to any appeal, you should be prepared to make specific, factual objections. SEPA appeals must be submitted precisely as outlined and detailed in BMC Title 14.02 and BMC Title 11 including payment of the applicable appeal fee. Contact Ashley Winchell, Deputy Community Development Director, [ashley.winchell@bothellwa.gov](mailto:ashley.winchell@bothellwa.gov), to read or ask about the procedures for SEPA appeals.

## To the Canyon Park Subarea Planned Action Final Environmental Impact Statement December 7, 2020

**Addendum Issue Date: May 16, 2023**

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### Introduction and Proposal

The Canyon Park Subarea Plan includes policies addressing transfer of development rights (TDR) for essential public facilities that cannot meet minimum development thresholds designed to help the center achieve activity units (population and jobs) as required by the Puget Sound Regional Council Regional Growth Center Strategy. See sidebar for the subarea plan TDR policies. Essential public facilities include typically difficult to site facilities such as regional transit authority facilities, airports, solid waste facilities, etc. (RCW 36.70A.200).

The City of Bothell is proposing to implement the Subarea Plan actions by creating a code that would establish a TDR program using a section of code reserved for such a purpose: BMC 12.48.180 Transfer of development rights. Sending sites would be essential public facilities in the Canyon Park Subarea. Receiving sites would be medium- and high-density areas, particularly where transportation impacts can be addressed. The proposed code would also amend the calculation of Floor Area Ratio at BMC 12.48.140 to recognize the TDR program. The TDR Program would allow for increases in floor area ratio (the volume of a building on a parcel) based on incentives as allowed in BMC Table 12.48.130. While FAR could be increased to gain additional residential or commercial space on TDR receiving sites the maximum building height would not change.

### Relationship to Final EIS

The Final EIS evaluated a preferred Live/Work Mitigated alternative that become the proposal in the Subarea Plan and was in the range of more intense alternatives studied.

#### **BOTHELL CANYON PARK SUBAREA PLAN: TDR ACTIVITY UNIT TRANSFER PROGRAM**

Some land uses, such as essential public facilities like the Snohomish County Public Utility District No 1 electrical substation, the Northshore School District Bus Base, or the City of Bothell maintenance shops, may not be capable of meeting minimum development levels—either floor area ratios or residential densities—because of their unique operations. To meet the PSRC RGC framework criteria obligations, Bothell should create an Activity Unit TDR program.

#### **Action**

**LU-TDR-1** Establish “receiving” sites in the High and Medium density designations as eligible to receive activity unit credits.

**LU-TDR-2** Create an Activity Unit-based TDR program where the City is the “holder and distributor” of these credits.

**LU-TDR-3** Encourage these credits to be used to assist affordable housing and/or affordable commercial space objectives.

The Final EIS reviewed impacts to the natural and built environment of the Preferred Alternative. This section describes how the Proposal fits into the environmental evaluation of the Final EIS.

**Similar Height, Footprint, and Development Capacity:** The TDR program is designed to fulfill the subarea plan actions and regional growth strategy requirements for the Canyon Park Regional Growth Center to achieve minimum activity units while retaining fundamental parameters of growth and design in the subarea. For example, building height and footprints (e.g., building coverage or setbacks) would not change on the sending or receiving sites. Building volume, and capacity for housing or jobs, would be greater on receiving sites equivalent to the allowed but unused capacity on sending sites, such that total growth would be similar to that studied in the Final EIS. The Subarea Plan and Bothell Municipal Code were amended to address the planned development and growth and the **land use patterns and policy** evaluation would be similar. The potential for population, housing, and jobs and the resulting total demand for **public services and utilities** would not change compared to the Final EIS within the subarea since development capacity would be moved around but not increased. Utility design standards and certificates of adequacy as well as planned action mitigation would still apply. Fulfilling the subarea plan, the TDR program could encourage affordable housing.

**Critical Area, Stormwater, and Aesthetic Design Standards Continue to Address Growth:** Applicable regulations designed to address the natural environment (e.g., critical areas, stormwater manual, planned action mitigation) would not change, and footprints of development would not change, meaning the evaluation of impacts to the **natural environment and stormwater** would be consistent. Land use and **aesthetics and urban design** effects would be similar to the preferred alternative in the Final EIS since height and building footprints would not differ, and design standards are intended to reduce bulk (e.g., building modulation).

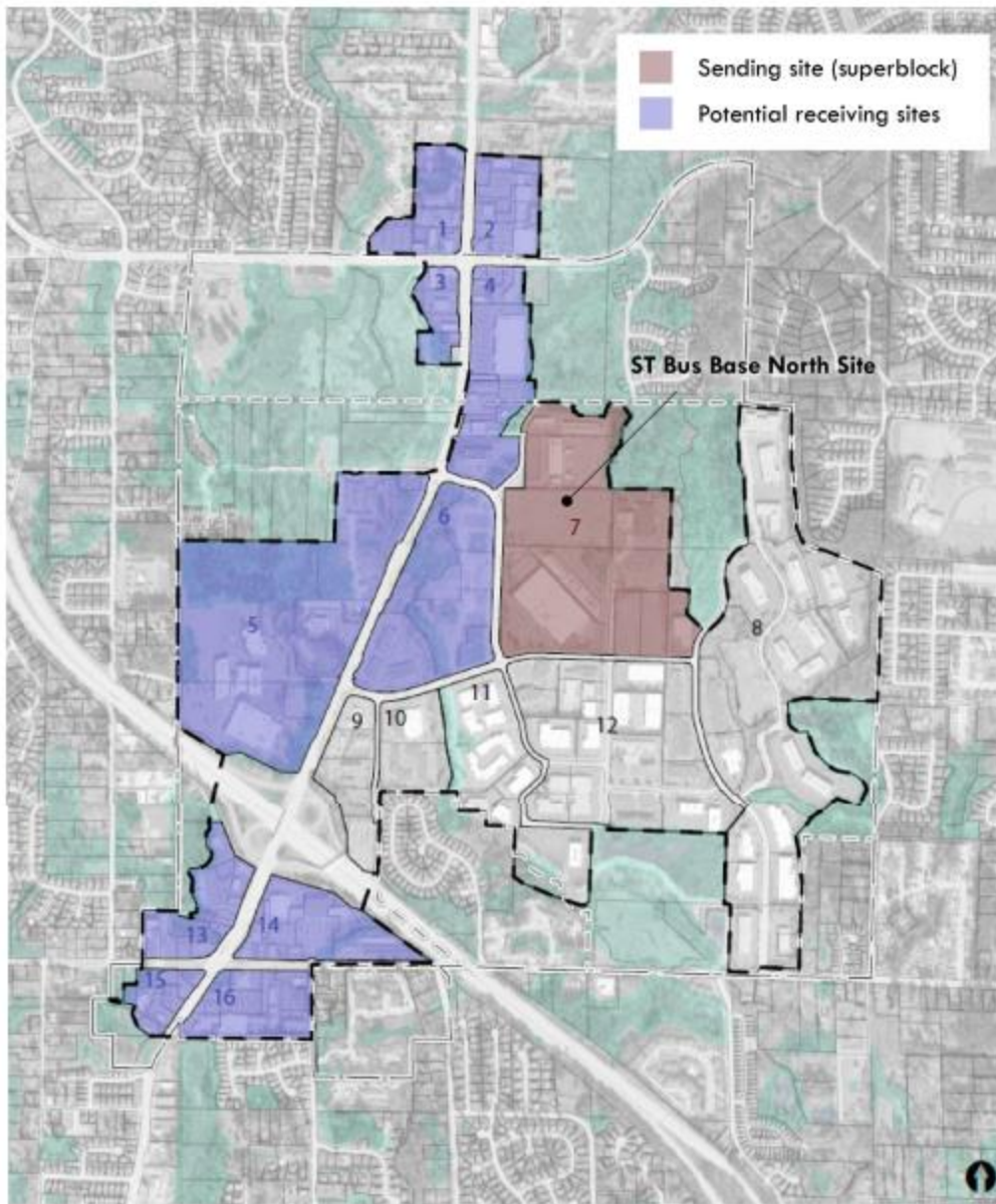
**Transportation:** The location of growth could affect corridors or segments and levels of service (LOS) as shown in the July 27, 2022 Canyon Park Transfer of Development Rights – **Transportation Analysis** by Fehr & Peers (Attachment A). See Exhibit 1 below for references to the superblocks used in the analysis.

The various TDR scenario results tested were largely determined to be close to that of the Final EIS. Transfers of activity units from sending areas to receiving areas in blocks abutting the Park and Ride (Blocks 9, 10, and 11) have been restricted in the TDR code due to the Final EIS evaluation; these blocks would not be receiving sites in the proposed TDR code. Additionally, while transfers to Block 5 would not result in reducing corridor LOS, there are concerns about potential impacts to traffic at intersections that may require additional management; as such, the proposed code does not include these areas (but could potentially be amended in the future to include them).

Scenarios testing receiving area blocks 1–4, 6, and 13–16 show minor differences in LOS results with the Final EIS, and are very close to LOS standards; it is anticipated that no substantial changes would be necessary to achieve the desired LOS in the Final EIS results. The City’s concurrency process and design standards will require a transportation impact analysis to confirm LOS is met for future projects. This along with the planned action trip cap and mitigation are anticipated to achieve Final EIS results.

Given the City LOS standards, concurrency process, and planned action trip cap and mitigation, plus the restriction of TDR receiving areas in Blocks 9–11, the TDR proposal is not anticipated to result in transportation impacts beyond that of the Final EIS.

**Exhibit 1. Transportation Block Map**



Source: Fehr & Peers, 2021.

## Signature


**Addendum Finding:** The purpose of an addendum is to provide additional information or analysis that does not substantially change the analysis of significant impacts and alternatives in the existing environmental document. The proposal for the TDR code was anticipated in the Subarea Plan and is similar to the Preferred Alternative studied in the Final EIS; resulting impacts, code requirements, and planned action mitigation still apply.

**Addendum Prepared by:**

Lisa Grueter, AICP, BERK Consulting, Inc.

Date: April 3, 2023

**City of Bothell, SEPA Responsible Official:**

Signature: 

Date: 05-16-2023

# Attachment A

July 27, 2022 Canyon Park Transfer of Development Rights –  
Transportation Analysis by Fehr & Peers

# Memorandum

Date: Revised July 27, 2022  
To: Andrew Bjorn, BERK Consulting  
From: Kendra Breiland and Carmen Kwan, Fehr & Peers  
Subject: **Canyon Park Transfer of Development Rights – Transportation Analysis**

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We have reviewed the potential effects of transferring development rights from Site 7 to potential receiving sites within the Canyon Park Subarea Plan. This analysis was conducted based on direction received from BERK Consulting on August 13, 2021 (**Attachment A**). This memo documents our analysis and findings for scenarios.

## Analysis

Fehr & Peers evaluated four potential scenarios:

- **Scenario 1:** Site 7 receives less development intensity, due to the placement of the Sound Transit maintenance facility, and an additional 250 units of multifamily development occurs in the vicinity of Thrasher's Corner (superblocks 1-4)
- **Scenario 2:** Site 7 receives less development intensity, due to the placement of the Sound Transit maintenance facility, and an additional 250 units of multifamily development occurs in the vicinity of SR 527 Canyon Park east side (superblock 6)
- **Scenario 3:** Site 7 receives less development intensity, due to the placement of the Sound Transit maintenance facility, and an additional 250 units of multifamily development occurs in the vicinity of SR 527/228th St SE (superblocks 13-16)
- **Scenario 4:** Site 7 receives less development intensity, due to the placement of the Sound Transit maintenance facility, and an additional 220,000 square feet of office development occurs in the vicinity of SR 527 Canyon Park west side (superblock 5)





## Trip Generation

To analyze each of these scenarios, we calculated the difference in trip generation for each site compared to what was assumed in the December 2020 Final Canyon Park Subarea Planned Action EIS. The calculation included the following steps:

- **Step 1: Reduction in trips from Site 7, which was applied to all scenarios:**
  - Implementation of the Sound Transit Bus Base North Project would displace 625 office jobs compared to what was assumed in the EIS (see Attachment A). While the Bus Base North Project will include 250 jobs, these jobs will have a very different trip generation profile than the office uses previously assumed.
  - To calculate the removal of trips related to office uses, we converted the office jobs to office square footage, by assuming 4 jobs per 1,000 square feet. Thus, the amount of office square footage removed was 156,000 square feet.
  - Using the Institute of Transportation Engineers Trip Generation Manual 10<sup>th</sup> Edition, General Office (Land Use 710), that land use reduction is associated with a reduction of 179 PM peak hour trips (28 entering and 151 exiting).
  - The PM peak hour trips associated with the Sound Transit Bus Base North project were then added back in: 35 total trips (15 entering and 20 exiting).
  - **The total reduction in PM peak hour trips from Site 7 was 144 trips (8 fewer entering, and 136 fewer leaving)**
- **Step 2: Calculate increase in trips related to 250 multifamily units which would occur at various locations in scenarios 1, 2, and 3:**
  - To calculate the increase in trips related to 250 multifamily units, we again applied the Institute of Transportation Engineers Trip Generation Manual 10<sup>th</sup> Edition, Mid-Rise Apartment Rate (Land Use 221), to estimate an increase of 110 PM peak hour trips (67 entering and 43 exiting).
  - **The total increase in PM peak hour trips was 110 trips (67 entering and 43 exiting), which was applied to Thrasher's Corner: superblocks 1–4 in Scenario 1, SR 527 Canyon Park (east side): superblock 6 in Scenario 2, and SR 527/228th St SE: superblocks 13–16 in Scenario 3.**
- **Step 3: Calculate increase in trips related to 225,000 square feet of office development that would occur in the vicinity of SR 527 Canyon Park (west side): superblock 5 in Scenario 4.**
  - To calculate the increase in trips related to 225,000 square feet of office development, multifamily units, we again applied the Institute of Transportation Engineers Trip Generation Manual 10<sup>th</sup> Edition, General Office (Land Use 710), that land use reduction is associated with an increase of 259 PM peak hour trips (41 entering and 218 exiting).



- **The total increase in PM peak hour trips was 259 trips (41 entering and 218 exiting), which was applied in the vicinity of SR 527 Canyon Park (west side): superblock 5 in Scenario 4.**

## Traffic Analysis

The next step was to distribute the changes in trips from each site following the trip distribution assumptions documented in the December 2020 Final Canyon Park Subarea Planned Action EIS and evaluate whether the revised trip assignments under each scenario resulted in meaningful differences in traffic operations compared to the FEIS Preferred Scenario for the horizon year 2043.

## Findings

This section reports the findings of our analysis comparing the performance of transportation facilities under the above scenarios to the FEIS Preferred Scenario for the horizon year 2043.

### Public Road Intersection Performance

**Table 1** compares PM peak hour traffic operations at intersections studied in the FEIS among the following scenarios: FEIS 2043 Preferred Alternative and Scenarios 1-4. Intersection level of service and delay results were calculated using the same methods applied for the FEIS, which applied HCM 2000 methods, unless otherwise noted.

As the table shows, intersection level of service results were very similar between the Preferred Alternative and the four scenarios. There were only two locations where the scenarios resulted in new LOS F operations that were not reported for the Preferred Alternative:

- **228<sup>th</sup> Street SE & 31<sup>st</sup> Avenue SE:** LOS F operations for scenarios 3 and 4. The FEIS reported that this intersection would operate at LOS E in 2043 under the Preferred Alternative. Additional trips in superblocks 13–16 in Scenario 3 and more office-oriented development in superblock 5 under Scenario 4 would likely send more trips down 228<sup>th</sup> Street SE, impacting this intersection.
- **214<sup>th</sup> Street SE & SR 527:** LOS F operations for scenario 4. Additional trips related to more office-oriented development in superblock 5 would send more trips through this intersection.

The table also notes locations and scenarios where average intersection delays increased by more than 10 seconds. These locations are noted with italicized and underlined text.



**Table 1: PM Peak Hour Level of Service - Intersections**

<i>Intersection</i>	<i>Preferred Alternative</i>		<i>Scenario 1</i>		<i>Scenario 2</i>		<i>Scenario 3</i>		<i>Scenario 4</i>	
	<i>Delay</i>	<i>LOS</i>	<i>Delay</i>	<i>LOS</i>	<i>Delay</i>	<i>LOS</i>	<i>Delay</i>	<i>LOS</i>	<i>Delay</i>	<i>LOS</i>
<b>208th Street/SR 524 &amp; Filbert Dr</b>	62	E	65.5	E	66.1	E	67.9	E	67.9	E
<b>208thSt SE/SR 524 &amp; SR-527*</b>	70	E	73.3	E	67.4	E	67.7	E	67.5	E
<b>228thSt SE &amp; 4th Ave W</b>	22	C	22.9	C	22.2	C	22.5	C	22.5	C
<b>228thSt SE &amp; Meridian Ave*</b>	37	B	36.7	D	36.7	D	36.9	D	36.8	D
<b>228thSt SE &amp; 4th Ave SE*</b>	18	B	21.3	C	18.8	B	18.8	B	18.8	B
<b>228thSt SE &amp; 9thAve SE</b>	76	E	76	E	75.1	E	76.3	E	76.3	E
<b>228thSt SE &amp; Bothell-Everett Highway</b>	130	F	136.3	F	138.4	F	135.8	F	135.8	F
<b>228thSt SE &amp; 15thAve SE</b>	17	B	25.2	C	25.1	C	26.5	C	26.5	C
<b>228thSt SE &amp; 19thAve SE*</b>	58	E	58	E	58.6	E	59.4	E	58.5	E
<b>228thSt SE &amp; Fitzgerald Rd</b>	63	E	60.3	E	61.2	E	61.3	E	61.3	E
<b>228thSt SE &amp; 29thDr SE*</b>	46	D	45.5	D	45.7	D	45.7	D	46.4	D
<b>228thSt SE &amp; 31stAve SE*</b>	76	E	78.2	E	78.6	E	<b>81.5</b>	<b>F</b>	<b>80</b>	<b>F</b>
<b>228thSt SE &amp; 35thAve SE</b>	40	D	49.1	D	49.1	D	50	D	50	D
<b>228thSt SE &amp; 39thAve SE*</b>	53	D	53.9	D	54.3	D	54.1	D	53.9	D
<b>214thSt SE &amp; SR-527*</b>	53	D	46.4	D	46.4	D	47.1	D	<b>141.5</b>	<b>F</b>
<b>220thSt SE &amp; SR-527</b>	123	F	131.9	F	<u>136</u>	<i>E</i>	<u>138.2</u>	<i>E</i>	<u>144.1</u>	<i>E</i>
<b>I-405 NB Ramps &amp; SR-527</b>	109	F	77.9	E	79.8	E	106	F	89.6	F
<b>I-405 SB Ramps &amp; SR-527*</b>	8	A	7.7	A	7.8	A	12.3	B	7.6	A
<b>240thSt SE &amp; Bothell-Everett Highway</b>	47	D	42.6	D	42.9	D	43.6	D	43.6	D
<b>NE 191stSt &amp; Bothell Way</b>	57	E	52.4	D	52.4	D	52.8	D	52.8	D
<b>NE 185thSt &amp; Bothell Way</b>	55	E	57.3	E	57	E	56.9	E	56.9	E
<b>NE 183rdSt &amp; Bothell Way</b>	16	B	20.5	C	19.7	C	19.6	C	19.6	C
<b>Main St &amp; Bothell Way</b>	29	C	13.9	B	13.9	B	13.7	B	13.7	B
<b>SR-522 &amp; Bothell Way</b>	61	E	60.5	E	60.7	E	61.4	E	61.4	E

Notes:

\* Intersection level of service results reported with HCM 2010 methods for both the FEIS and this scenario analysis.

Source: Fehr & Peers, 2021.

**Table 2** shows the vehicle-weighted average concurrency corridor LOS results for the Preferred Alternative and Scenarios 1-4. As there were relatively small changes in intersection LOS delay



between the scenarios evaluated, the total entering intersection volumes at each location were held constant to simplify the corridor LOS analysis (total corridor volumes may have varied by three percent or less between scenarios). All corridors are expected to operate at LOS E, with the scenarios' 1-4 corridor delays varying by a few seconds compared to the Preferred Alternative. In Scenario 4 the SR 527 corridor, adjacent to the added office development land use, had the largest increase in delay of eight seconds compared to the Preferred Alternative. Since the City's corridor LOS standard is E for all of the evaluated concurrency corridors, none of the scenarios would result in new LOS impacts at the corridor level.

**Table 2: PM Peak Hour Level of Service - Corridors**

Corridor	Preferred Alternative (LOS/Delay)	Scenario 1 (LOS/Delay)	Scenario 2 (LOS/Delay)	Scenario 3 (LOS/Delay)	Scenario 4 (LOS/Delay)
<b>SR 524</b>	E (66)	E (70)	E (67)	E (68)	E (68)
<b>228th Street Corridor</b>	E (62)	E (64)	E (65)	E (65)	E (65)
<b>SR 527</b>	E (71)	E (69)	E (69)	E (72)	E (79)

Source: Fehr & Peers, 2022.

### Internal Roads Analysis

For the internal street analysis, our team considered how many additional trips would be entering the business park. Under Scenarios 1, 2, and 3, the transfer of development rights would result in a net reduction in trips entering the business park, since site 7 trips were decreasing by 144 trips in the PM peak hour and the 250 multifamily units would only add 110 trips, of which the majority would never enter the business park. Thus, these scenarios were determined to have a net positive impact on streets within the business park.

For scenario 4, we considered the impact of superblock 5 producing an additional 259 trips (218 out and 41 in). According to the Vistro model developed for the FEIS, only 33.71% outbound and 25% inbound trips associated with superblock 5 will use internal streets. Therefore, 73 outbound and 11 inbound additional trips will be added to the network.

We then calculated the reduction in trips related to Site 7: 144 trips (136 out and 8 in). Vistro shows that 53.52% outbound trips and 63.51% inbound trips associated with superblock 7 will use internal streets. Therefore, 73 outbound and 5 inbound additional trips will be removed from the network.



Once these two calculations were run, we found that trips removed and added will cancel out, and that Scenario 4 would result in adding 6 trips to internal streets beyond what was considered in the FEIS. Thus, Scenario 4 would have a similar effect on internal streets operations to what was evaluated for the Preferred Alternative in the FEIS.

## Attachment B

April 27, 2022 Canyon Park Transfer of Development Rights –  
Draft code

# Bothell Canyon Park TDR: Municipal Code for Implementation

**Working Draft | April 27, 2023**

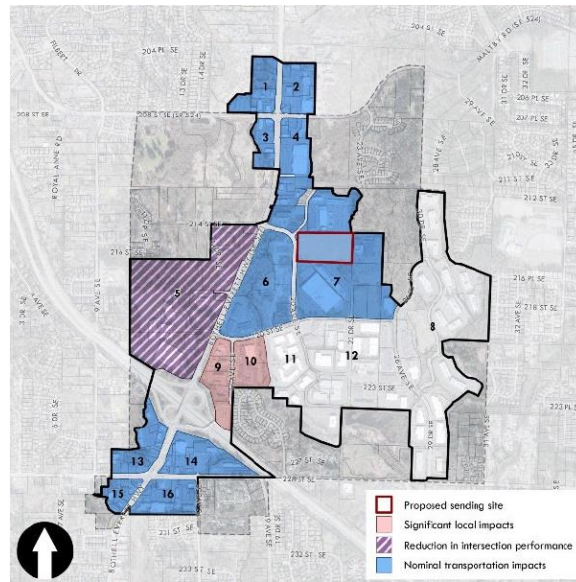
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*The following amendments are proposed to BMC Chapter 12.48 Canyon Park Subarea Regulations to implement a Transfer of Development Rights program.*

## **12.48.180 Transfer of development rights.**

- A. Purpose.** The purpose of the transfer of development rights (TDR) program in the Canyon Park Subarea is to advance the goals and policies in the city's Comprehensive Plan, including the Canyon Park Subarea Plan, regarding affordable housing, local employment, transit accessibility, and essential public facilities. It is also intended to help this area fulfill requirements under the Puget Sound Regional Council's Regional Growth Centers framework for planned target densities.
- B. Definitions.** Where used in BMC 12.48.180, the following terms shall have the meanings indicated below in this subsection.
1. "Certificate of TDR availability" refers to a document issued by the director confirming the development rights (including, but not limited to, increased floor area, and related off-street parking reductions) available on a sending site.
  2. "Certificate of TDR receipt" refers to a document issued by the director and executed, acknowledged, and recorded by the owners of a receiving site and a sending site to document the transfer or sale of development rights from a sending site to a receiving site.
  3. "Development rights" are the right of the owner of a sending site to develop building floor area on the sending site in accordance with **Chapter 12.48.140 BMC**, expressed as gross floor area square footage.
  4. "Director" means the community development director or their designee.
  5. A "Governmental owner" is either the State (or its agencies) or any county, municipal corporation, regional transit authority, or other governmental entity created under State law that owns a sending site.
  6. "Governmental restriction" means any law, regulation, or policy governing the surplus, sale, or transfer of a governmental owner's interests in real property.
  7. "Incentive" means the increased floor area, and related off-street parking reductions, available to a receiving site through a certificate of TDR receipt used in compliance with this section.
  8. "Receiving sites" are certain lots that are benefitted by a transfer of development rights from a sending site as evidenced by a certificate of TDR receipt. A sending site may also be a receiving site so long as the requirements of BMC 12.48.180(D) are met.
  9. "Sending sites" are those certain lots that are eligible to transfer development rights to a receiving site pursuant to this chapter.
  10. "TDR covenant" is a recorded document signed by the owner of the sending site and the director that evidences a severance of development rights appurtenant to the sending site.
- C. Sending Sites.**
1. Land is eligible for participation in the TDR program as a sending site if included in **Figure 12.48.180(C), Eligible Sending Sites**, and in compliance with all criteria in subsection (C)(2) of this section.

**(Fig. 12.48.180(C) Eligible Sending Sites)**



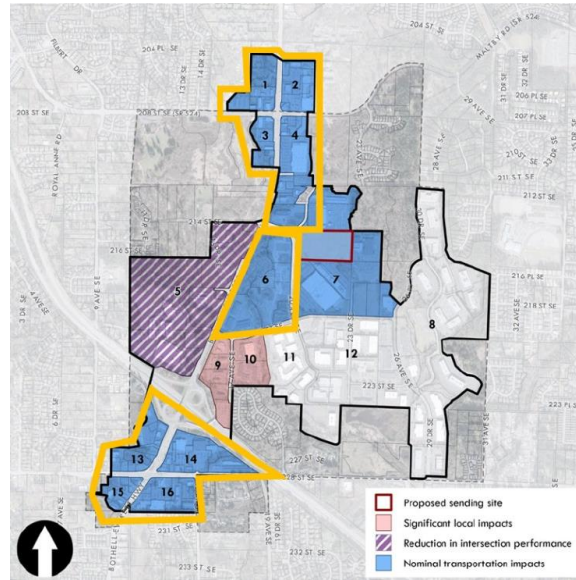
2. The following criteria must also be met:
  - a. The development rights available on the sending site under BMC Table 12.48.130 shall not have been either:
    - (1). Previously sold or otherwise permanently transferred by an owner of the sending site; or
    - (2). Restricted or otherwise encumbered by recorded easements, deed restrictions, equitable servitudes, or similar measures.
  - b. The sending site shall not include improvements that exceed the maximum base FAR for the site as defined under **Table 12.48.130**.
  - c. The land shall not have been granted a reasonable use exception under BMC 14.04.140. Nothing in this subsection shall require that a reasonable use exception equal the economic value of the development credits granted under this section.
  - d. If the owner of an eligible sending site is a governmental owner, the city cannot deny an application for a certificate of TDR availability (under BMC 12.48.180(F)) or refuse to sign a TDR covenant (under BMC 12.48.180(G)) due to any governmental restriction.
  - e. If the sending site owner is a governmental owner, the governmental owner and the city may enter into an interlocal agreement governing the severance and/or transfer of any development rights as authorized or required by this section. The interlocal agreement may also be used to calculate development rights appurtenant to any sending site covered by the interlocal agreement and may be considered as a certificate of TDR availability for the purposes of this chapter.

**D. Receiving Sites.**

1. Owners of lots depicted on **Figure 12.48.180(D), Eligible Receiving Sites** are eligible to apply to the city for participation in the TDR Program to obtain development rights as a receiving site. All prospective receiving sites must comply with the provisions in subsection (D)(2) of this section and any other eligibility criteria that may be established by the Director from time to time.



**(Fig. 12.48.180(D) Eligible Receiving Sites) \*\*PLACEHOLDER MAP\*\* Receiving sites outlined in yellow.**



2. Except as may otherwise be provided by the Incentives discussed in BMC 12.48.180(l), development of a receiving site shall remain subject to all applicable development regulations of the Bothell Municipal Code.

**E. Calculating Development Rights.**

1. Provided that compliance with the dimensional requirements contained in **Table 12.48.130** is achieved and maintained (except in the case of a development permitted to transfer development rights pursuant to BMC 12.48.140(B)(3)), the owner of a sending site is entitled to transfer or sell development rights to the owner of a receiving site, in increments of 1,000 square feet of floor area, for each 1,000 square feet of floor area that was allowed to be developed, but was not used, in the development of the sending site. Fractional transfers of less than 1,000 square feet of floor area are not allowed.
2. Development rights available for transfer from a sending site shall be calculated as follows:
  - a. The total area of critical areas, required buffer areas, and wetland mitigation areas located, or proposed to be located, on the sending site shall be subtracted from the total area of land in the sending site.
  - b. The number calculated in subsection (E)(2)(a) shall then be multiplied by the maximum base FAR for the underlying zone set forth in Table 12.48.130.
  - c. The net floor area associated with existing development on the sending site, or with pending applications for development on the sending site, shall then be subtracted from the number calculated in subsection (E)(2)(b), with the result being the development rights available for transfer from the sending site in increments of 1,000 square feet.

**F. Certification of TDR Availability for Sending Sites.**

1. Prior to the recording of a TDR covenant, or any transfer or sale of any development rights, the owner of a sending site must file an application with the city for the issuance of a certificate of TDR availability. The director shall establish the submittal requirements necessary for the application and any required application forms. If the owner of a sending site enters into an interlocal agreement with the city as provided in BMC 12.48.180(C)(3), it shall not be required to comply with this subsection.

2. The director will verify ownership and eligibility of the sending site and will calculate the quantity of development rights available for transfer in accordance with BMC 12.48.180(E). The director's review and issuance of a certificate of a certificate of TDR availability shall be a ministerial, Type I process under Title 11 BMC.
3. The director will issue the owner of the sending site a certificate of TDR availability stating the quantity of development rights the sending site is eligible to transfer.
4. A sending site for which the city has issued a certificate of TDR availability shall be limited to development consistent with the purpose and intent of this section and with the criteria originally used as the basis for issuing the sending site a certificate of TDR availability. Failure to use the sending site in a manner consistent with the original certification may result in the city, at the discretion of the director, refusing to sign a TDR covenant.
5. The certificate of TDR availability shall terminate when whichever of the following occurs first:
  - a. Five years from the date of issuance;
  - b. When there has been a formal severance of development rights from the sending site, as evidenced by the recording of a TDR covenant on title to the sending site; or
  - c. When the director determines, based on the requirements set forth in this chapter, that additional development of the sending site invalidates the assumptions underpinning the certificate of TDR availability.

**G. Severance of Development Rights from Sending Sites; Transfer of Development Rights to Receiving Sites.**

1. To complete a severance of development rights from a sending site, the director must have previously issued a certificate of TDR availability for the sending site. So long as the owner of the sending site is in possession of a valid certificate of TDR availability, when the owner of the sending site is prepared to sever development rights from a sending site, it shall execute, and the director shall be required to execute and record in the real property records of the county where the sending site is located, a TDR covenant to sever the development rights from the sending site.
2. The TDR covenant shall indicate the development rights to be formally severed from the sending site, measured in thousands of square feet, in accordance with the restrictions of BMC 12.48.180(1), and any restrictions conditioning the use of the development rights (including without limitation any applicable governmental restriction).
3. Any receiving site obtaining a transfer of development rights shall be issued a certificate of TDR receipt by the director, which shall be signed and acknowledged by the owners of both the sending site and the receiving site. The certificate of TDR receipt shall state the quantity of development rights granted to the receiving site, any restrictions conditioning the receiving site owner's use of the development rights granted therein (including without limitation any applicable governmental restriction), and shall be recorded in the real property records of the county where the sending site and the receiving site are located.
4. With the consent of the director, a certificate of TDR receipt held by the owner of a receiving site may be transferred one or more times to other eligible receiving sites. The director's consent shall be withheld only where the development rights to be transferred have been used completely by the receiving site, the prospective receiving site is ineligible as described in BMC 12.48.180(D), or where otherwise necessary to ensure compliance with this section. Any transfer of a certificate of TDR receipt shall be acknowledged by the transferor, the transferee, and the city and shall be recorded in the real property records of the county where the transferor and transferee receiving sites are located.
5. A building permit application submitted by the owner of a receiving site desiring to use development rights transferred under this section shall contain a statement describing the amount of transferred development rights

proposed to be used, how the development rights are proposed to be used, and how the use of transferred development rights meets the city's development standards and goals under the Canyon Park Subarea Plan.

6. Applicants are not required to own or control a certificate of TDR receipt at the time of applying for a discretionary land use approval. Any vested rights to which the applicant is entitled under state law shall not be affected by the presence or absence of a certificate of TDR receipt at the time a complete application is submitted. Instead, the city shall condition any discretionary land use approval on the applicant's receipt of all required development rights for the applicant's project prior to the city's issuance of any ministerial permits for the receiving site.
7. The city shall maintain a registry documenting the ownership history of all transferable development rights by serial number from when they are severed from the sending site to their use on a receiving site.

**H. Sending Site Development Restrictions.**

1. Upon the recording of a TDR covenant, the minimum FAR and the maximum base FAR under BMC 12.48.130 for the sending site shall be decreased by the amount development rights listed in the TDR covenant.
2. The owner of a sending site upon which a TDR covenant has been recorded shall not undertake any division, subdivision, or partitioning of the sending site, whether by physical or legal process, which includes, but is not limited to, any subdivision, short subdivision, platting, binding site plan, testamentary division, or other process by which the property is divided into lots or in which title to different portions of the sending site are not held in unified ownership, unless such land division allocates development restrictions between the divided parcels of property in a manner consistent with the terms of the TDR covenant and is approved of the director in their reasonable discretion.
3. The owner of a sending site upon which a TDR covenant has been recorded may elect to use some or all of the development rights previously severed from the sending site so long as the TDR covenant is formally amended or released in a recorded document signed by the owner of the sending site and the director. The director shall execute any such amendment or release requested by the owner of the sending site, so long as all of the development rights previously severed from the sending site have not been transferred or sold to another receiving site and the previously-severed development rights are needed to complete the construction of additional floor area on the sending site.

**I. Receiving Site Incentives.**

1. A certificate of TDR receipt held by the owner of a receiving site may be used, subject to the limitations of this section and other requirements in the Bothell Municipal Code, as authorization to construct additional commercial and residential floor area in exceedance of the maximum base FAR allowed on the receiving site under BMC 12.48.130, up to and including the square footage of floor area represented on the certificate(s) of TDR receipt to be used.
2. Additional floor area authorized via a certificate of TDR receipt that exceeds maximum base FAR defined in **Table 12.48.130** is exempted from providing the required minimum off-street parking spaces for this additional floor area as defined in **Table 12.48.250**. This exemption shall apply proportionately for the parking requirements for each use in the entire development provided under **Table 12.48.250**.

Note that the following changes to BMC 12.48 should be edited as follows:

**12.48.130 Dimensional regulations for Canyon Park Subarea zone.**

Measure	RMU-H	RMU-M	OR-H	OR-M	OR-L	E-M	E-L	Additional Provisions
<b>DEVELOPMENT INTENSITY AND HEIGHT</b>								
Minimum floor area ratio (FAR)	0.6	0.5	0.6	0.5	0.4	0.5	0.4	BMC 12.48.140.
Maximum base FAR	2.5	2	2.5	2	0.6	2	1	BMC 12.48.140.
Maximum FAR with incentives	There is no set maximum FAR for each zone other than those parameters set forth for the incentive provisions in 12.48.180 and 12.48.190.							
Maximum building height (feet)	85X	85X	85X	85X	55	100	100	BMC 12.14.110 and 12.14.120. X85' and no more than 7 stories.
Maximum building coverage (%)	There is no maximum percentage standard for building coverage and hard surface coverage. However, the building and hard surface coverage will be limited by setbacks, required landscaping and open space, compliance with storm water management provisions (see City of Bothell Storm Water Design Manual), critical areas provisions (see Chapter 14.04 BMC), and market conditions, and compliance with other zoning and site design regulations in this chapter.							
Maximum hard surface coverage (%)								
* * *								

**12.48.140 Floor area ratio calculations.**

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**J. Minimum FAR Applicability**

1. Owners or developers of Essential public facilities, as defined by state and local regulations, that have demonstrated the facility cannot feasibly or practicably comply with the minimum floor area ratio requirements of this chapter shall be required-permitted to develop such site with a floor area that is feasible and practicable for the proposed essential public facility. In this case, said owner or developer may sever development rights through the recording of a TDR covenant and to transfer or sell those development rights in accordance with the requirements of BMC 12.48.180 ~~and~~ in an amount equal to determined by the Director, but no less than the difference between the proposed floor area for the essential public facility and the gross minimum floor area that otherwise would be required pursuant to the minimum floor area ratio requirements of this chapter.