



Legislative Department
Seattle City Council
Memorandum

Date: August 16, 2011

To: Councilmembers Sally J. Clark, Tim Burgess, and Sally Bagshaw
Committee on the Built Environment (COBE)

From: Rebecca Herzfeld, Council Central Staff

Subject: **August 18, 2011, COBE Meeting: Proposed Transfer of Development Rights Program in the Pike/Pine Conservation Overlay District**

Introduction

At the COBE meeting on July 27, 2011, staff provided an overview of the legislation sponsored by Councilmember Tom Rasmussen to establish a Transfer of Development Potential (TDP) program for the Pike/Pine neighborhood. The goal of the proposal is to provide additional incentives for maintaining the Pike/Pine neighborhood's existing stock of "character structures" (defined as buildings that are at least 75 years old), while continuing to protect the area's special character. A public hearing on the proposal was held on August 15, 2011. This memo addresses five issues that were raised in public comments and provides staff recommendations about these issues.

Overview of Proposed Pike/Pine TDP Program

The proposal would establish a TDP program that would apply only in the commercial zones within the boundaries of the Pike/Pine Conservation Overlay District (District). Both sending and receiving sites would be located in this area. The proposal would also designate a smaller area within the District, called the Conservation Core. This area has the highest concentration in Pike/Pine of character structures that were identified in a 2011 Historic Resources Survey as having potential historic value. Any character structure within the Conservation Core would be eligible to sell development potential. In addition, the legislation would establish new limits on structure width and depth in the Conservation Core and would prohibit receiving sites within the Core, in order to address the greater need for compatibility with existing development there.

A site would be eligible to sell development potential if it meets one of the following conditions:

- It contains a designated landmark structure
- It is located anywhere in the Overlay District, and contains a character structure identified in the 2011 Historic Resources Survey that has a high degree of architectural integrity, represents the Pike/Pine neighborhood's building typology, and is compatible with nearby structures in the Pike/Pine neighborhood (these structures will be listed in a Department of Planning and Development (DPD) Director's Rule)
- It is located within the Conservation Core and contains any character structure.

The sending site could transfer the unused amount of floor area available on the lot based on floor area ratio (FAR) limits. If the character structure is a designated landmark, the amount that could be

transferred would be doubled. The map attached to this memo shows the proposed Conservation Core and eligible sending sites.

The owner of a TDP sending site would be required to bring the character structure into compliance with applicable codes and to maintain the structure for a minimum of 50 years with no significant alterations. If the structure is a designated landmark, the Landmarks Board may require elements of the building to be preserved or restored.

A property owner would be eligible to buy development potential if their lot is in an NC3 zone allowing a height of 65 feet that is located outside the Conservation Core, and if the new project using the development rights does not result in the demolition or significant alteration of a character structure. On receiving sites, an additional 10 feet above the current 65 foot height limit, for a total of 75 feet, would be permitted (note that this is a change due to public comment about the May DPD draft, which proposed a height of 85 feet on TDP receiving sites). In order to accommodate the transferred development potential, the floor area being transferred to a receiving site may exceed the usual FAR limit. The square footage gained from transferred development potential could only be used for housing, not commercial space, in keeping with the goals of the Pike/Pine Neighborhood Plan.

Issues raised in public comments

Five issues that have been raised about the proposal at the public hearing on August 15 are discussed below.

Issue #1: Should all character structures in the Overlay District be eligible sending sites?

As noted on page 1, under the proposed legislation some character structures that are located outside the Conservation Core would not be eligible TDP sending sites. The following criteria for eligible sending sites outside the Core are proposed in subsection 23.73.005.A:

1. The structure retains a high degree of architectural integrity;
2. The structure represents the Pike/Pine neighborhood's building typology, which is characterized by use of exterior materials and design elements such as masonry (especially brick) and timber structures; multi-use loft spaces; very high, fully-glazed storefront windows; and decorative details such as cornices, emblems and embossed building names;
3. The structure is compatible with the architectural scale, rhythm, and patterns of nearby structures in the Pike/Pine neighborhood.

In order to identify the structures that meet these criteria, the Council and DPD contracted with Mimi Sheridan, the historic preservation consultant who did the original survey of historic resources in Pike/Pine in 2002, to update her previous work. The updated survey removes three buildings that were demolished or significantly altered in the past ten years. It also adds twelve buildings to the list of character structures that meet the criteria, for a net increase of nine eligible TDP sending sites, all of which are located outside the Conservation Core.

Two people commented that there should be no distinction between character structures, and that all buildings 75 years old or older should be eligible sending sites. While this would treat all properties that contain structures over a certain age equally, there are several drawbacks to this approach. The first is that allowing every character structure to transfer development potential would dramatically increase the amount of square footage available for sale. As shown on Table A below, 53 more buildings would become eligible sending sites. As a result, the total available development potential would increase by

57%, to approximately 3.2 million square feet. To put this in perspective, since 1985 when the TDR program was established in Downtown, only 1.4 million square feet of rights have been sold there, in an area over seven times larger than Pike/Pine where much bigger buildings are permitted. In addition, an increase of this magnitude in the number of rights available for sale could reduce the value of the rights and diminish the incentive for property owners to sell them.

Table A: Comparison of available TDP in Pike/Pine under the proposed legislation versus if all character structures are eligible sending sites		
Type of Lot	Number of Lots	Estimate of available TDP in square feet (SF)
Character structures within the proposed Conservation Core	59	1,291,200 SF
Character Structures located outside the Conservation Core that meet the criteria in the Land Use Code	31	607,900 SF
Landmark Structures (all located outside the Conservation Core)	3	141,700 SF
TOTAL available TDP under Proposed Legislation	93	2,040,800 SF
Character structures located outside the Conservation Core that do not meet the criteria in the Land Use Code	53	1,161,300 SF
TOTAL available if all character structures are eligible sending sites	146	3,202,100 SF
Percent Increase in square footage of TDP available to sell if all character structures are eligible		57%

A second drawback of expanding the number of eligible sending sites is the nature of some of the character structures that were not included on the list. For example, some are single family homes that do not contribute to the “auto-row” character of Pike/Pine, but would have a large number of square feet to sell because of their small size. Others are one-story commercial buildings that have lost the value related to their original design and function due to extensive alterations. In contrast, the downtown TDR program recognizes that the opportunities to sell development rights are limited, and only designated landmarks and contributing buildings within a historic district can participate. The proposed Pike/Pine TDP program has expanded the opportunity to sell rights over what is allowed downtown, but still proposes to limit the program to those structures that are most important to neighborhood character.

The third concern about expanding the program to all character structures is that it would make it more difficult to convince other neighborhoods of the value of accepting rights from Pike/Pine if the program is expanded at a later date (selling rights outside of the neighborhood is also discussed in Issue #5 below). The value of preserving every building over 75 years old in Pike/Pine may not be apparent to those in other neighborhoods, particularly if they are interested in preserving historically significant buildings in their own areas.

Issue #2: Should use of square footage gained through TDP be limited to housing?

One comment asked about the rationale for restricting the transferred square footage to residential use. The commenter pointed out that while most developers will want to build housings, some “may see fit to create office or live-work lofts, and they should be able to decide based on market demand.”

The proposal limits the use of transferred square footage to housing because of the direction provided in the Pike/Pine Neighborhood Plan. When the Plan was adopted in 1999, the neighborhood was very concerned that commercial development would overwhelm their community. The Pike/Pine Overlay District, which was adopted to implement the neighborhood plan, limits commercial uses to a floor

area ratio (FAR) of 2, rather than the usual 4.25, in order to prevent this from happening. The intent of the proposed program is follow the direction set in the Pike/Pine neighborhood plan by limiting the use of TDP to housing and not increasing the capacity for commercial development. If the transferred square footage could be used for commercial development, the maximum amount of nonresidential square footage that could be added to the neighborhood would be about 215,000 square feet over 20 years.

Issue #3: Should the proposed boundaries of the Conservation Core be expanded?

At the public hearing, a suggestion was made to include the south half of two blocks along Union between 10th and 12th Avenues, as well as the former BMW dealership building on East Pike Street near Harvard Avenue East.

In proposing the boundaries of the Conservation Core, the focus was on the area in the center of the Overlay District along Pike and Pine Streets and Broadway, which included a large number of character structures that met the criteria in the Code. This area also has active commercial uses along almost every street front, and generally has smaller parcels and less land assembly compared to the area outside the proposed Core.

The proposed additional half blocks between 10th and 12th Avenues were not proposed for inclusion in the Conservation Core because they are close to the edge of the District, and contain larger sites that could take advantage of the current incentives for incorporating character structures. The BMW dealership building is a block west of Broadway and is in the area where the neighborhood plan envisions north-south streets that are more residential.

Issue #4: Should the proposed structure width and depth limits in the Conservation Core be removed, or be applied throughout the Overlay District, including on receiving sites?

The current regulations in the Overlay District regulate building bulk in two ways: buildings along Pike and Pine Streets are limited to a width of half a block, and a maximum floor size limit applies above a height of 35 feet on larger lots (those over 15,000 square feet in size). Exceptions to these limits are allowed if a project incorporates a character structure. The proposal would retain these regulations. In addition, within the Conservation Core, it would add a width limit of 120 feet for structures that do not abut Pike or Pine Streets, and a structure depth limit of 128 feet. Character structures that are retained on a lot would not count toward the width and depth limits.

Two comments from the public hearing addressed structure width and depth limits. The first one suggested that the width and depth limits proposed for the Core area also be applied to receiving sites outside of the Core. A similar idea was originally proposed in the draft circulated for public review in May, 2011, when the proposal would have allowed an additional 20 feet of height on receiving sites, and the portion of the structure allowed above the height limit would have been subject to a width and depth limit. However, the community feedback was that 85 feet was too tall, and the direction was to trade off allowing a somewhat bulkier building on the receiving site for lower height. The current legislation follows this direction. It would permit only ten additional feet in height on receiving sites without extra bulk limits. Imposing additional bulk limits along with a 75 foot height limit, would significantly reduce the capacity for receiving development rights purchased from eligible character structures, making the use of TDP less attractive to developers.

The other comment about the proposed width and depth limits was that they either be applied throughout the Overlay District, or not at all. Because of the pattern of parcel size and assembly

outside of the Conservation Core, applying more stringent width and depth standards would substantially restrict the scale of new development. This would likely warrant additional analysis and public review to fully evaluate the impacts. Applying the more stringent standards might also work against the use of incentives that are already in place that permit new buildings to be bigger if they incorporate a character structure on the same lot. The additional floor area allowed in this situation was seen as a necessary economic incentive to offset the additional costs of retaining an older structure in the development.

The other option proposed in the comment would be to drop the additional width and depth limits in the Conservation Core. If these additional bulk limits are dropped, there would be no deterrent to assembling larger development sites, and it is more likely that over time the scale of the development in this area will increase and that a larger number of character structures will be demolished.

Issue #5: Should the program allow TDP to be sold outside of the Pike/Pine neighborhood?

As noted in Issue #1 above, the community has advocated for expanding the TDP program outside of Pike/Pine so that receiving sites could be located in other neighborhoods. Because Pike/Pine is a relatively small neighborhood, this would expand the market for development rights without putting undue pressure on the character of the area. The City hired a consultant in 2008 to analyze the idea of allowing rights from Pike/Pine to be sold Downtown. The consultant found that the downtown market would be flooded with too many rights from Pike/Pine, which would drive down the price of the rights and limit their usefulness in both areas, so this idea was discarded.

Establishing a TDP program that operates within Pike/Pine provides the basis for expanding it at a later date to allow for additional receiving areas beyond Pike/Pine. If the Council is interested in such an expansion of the program, a resolution could be adopted that calls for further review of this idea. The resolution could build on the work plan called for Resolution 31291, which the Council adopted as part of the update to zoning in South Downtown. This resolution called for the Executive to submit proposed legislation to the City Council that would “amend the Land Use Code to streamline incentive zoning terminology, clarify and consolidate incentive zoning requirements, and create a simplified, cohesive set of affordable housing incentive programs that are easier to understand and use”. This effort could include consideration of how neighborhood TDP and TDR programs should be applied and prioritized given the other goals of incentive zoning. A draft resolution is attached to this memo for your review.

Next Steps

Staff will respond to the direction provided today for future discussion of the Committee.

Attachments: Map of proposed Conservation Core and eligible sending sites
Draft resolution

RESOLUTION _____

A RESOLUTION addressing the expansion of the area to which development potential may be transferred from the Pike/Pine Conservation Overlay District.

WHEREAS, in response to the 1991 Pike/Pine Planning Study sponsored and conducted by a coalition of Pike/Pine neighborhood and civic groups, residents, and business and property owners, the Pike/Pine Overlay District was established to preserve and enhance the area's mixed-use character; and

WHEREAS, in March 1999, the City Council adopted Ordinance 119413 amending the City's Comprehensive Plan to include key goals and policies from the 1998 Pike/Pine Urban Center Village Plan that reaffirmed the neighborhood's commitment to mixed-use development and identified additional priorities including: sustaining the character of Pike/Pine through implementing urban design recommendations and policy changes, and considering a "conservation district" for the neighborhood; and

WHEREAS, in July 2009, the City Council adopted Ordinance 123020, renaming the overlay district the Pike/Pine Conservation Overlay District, expanding its boundaries, and adding provisions that: limit the scale of new projects, encourage new projects to retain existing structures as part of a development site, provide spaces for small businesses at street level, accommodate facilities serving the arts, and further the preservation and enhancement of the unique character of the Pike/Pine neighborhood; and

WHEREAS, in September, 2010, the City Council adopted Ordinance 123392 that revised the Neighborhood Design Guidelines for the Pike/Pine Urban Center Village to: better reflect conservation goals, and update the text and illustrations to clarify community priorities; and

WHEREAS, establishing a transfer of development potential (TDP) program will further the conservation goals of the Pike/Pine neighborhood; and

WHEREAS, in addition to creating incentives for workforce housing, the Council and Mayor are interested in developing incentive programs that provide public benefits, such as public open space, use of transferable development rights to preserve rural areas, preservation of historic buildings and neighborhood character, and preservation or development of spaces for cultural and arts organizations; and

WHEREAS, the Mayor intends to submit area-wide rezone legislation to the Council in the next several years for the South Lake Union Urban Center, the Northgate Urban Center, the University District Urban Center, and light rail station areas that are expected to include public benefit incentive programs; NOW THEREFORE,

1 **BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEATTLE, THE**
2 **MAYOR CONCURRING, THAT:**

3 Section 1. It is the Council's and the Mayor's intent to consider the option of allowing the
4 sale of development rights and development potential from neighborhood programs such as the
5 Pike/Pine transfer of development potential program, outside of neighborhood boundaries, as
6 part of the Executive's work on amending the Land Use Code to streamline incentive zoning
7 terminology, clarify and consolidate incentive zoning requirements, and create a simplified,
8 cohesive set of affordable housing incentive programs that are easier to understand and use as
9 called for in Resolution 31291.
10

DRAFT

1 Adopted by the City Council the ____ day of _____, 2011, and
2 signed by me in open session in authentication of its adoption this _____ day
3 of _____, 2011.

4 _____
5 President _____ of the City Council
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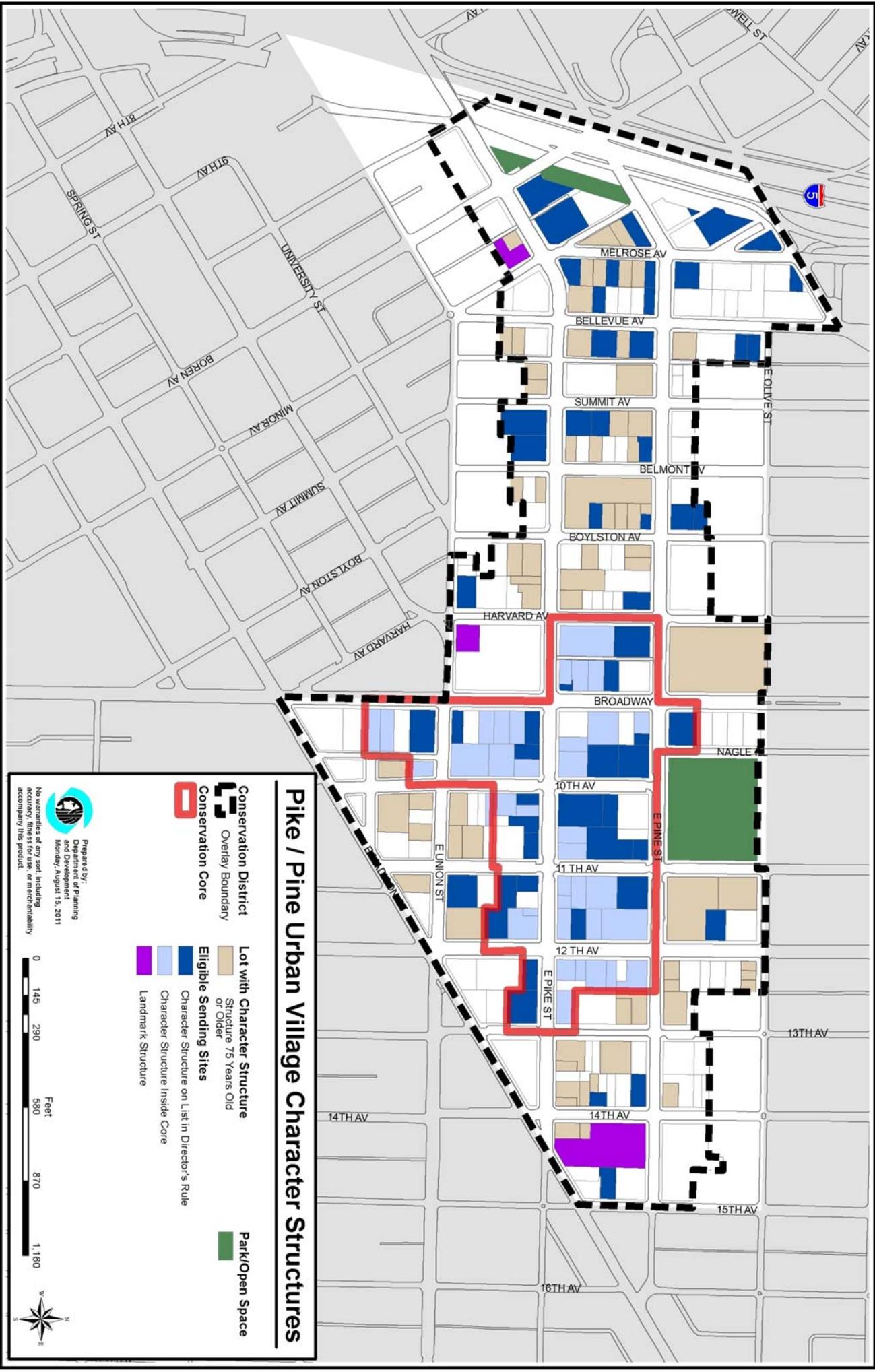
7 **THE MAYOR CONCURRING:**
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9 _____
10 Michael McGinn, Mayor
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12 Filed by me this ____ day of _____, 2011.
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14 _____
15 Monica Martinez Simmons, City Clerk
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Pike / Pine Urban Village Character Structures

 Conservation District Overlay Boundary
 Conservation Core
 Lot with Character Structure
 Eligible Sending Sites
 Park/Open Space

 Character Structure on List in Director's Rule
 Character Structure Inside Core
 Landmark Structure

 Structure 75 Years Old or Older

Prepared by:
 Department of Planning
 and Development
 Monday, August 15, 2011

No warranties of any sort, including
 accuracy, fitness for use, or merchantability
 accompany this product.

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