

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR
OF THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

- Project Proposal:** Pike/Pine Transfer of Development Potential (TDP): Amendments to the Pike/Pine conservation Overlay District (23.73) in the Land Use Code
- Project Sponsor:** City of Seattle Department of Planning and Development.
- Location of Proposal:** Pike/Pine Urban Center Village: Neighborhood Commercial 3 zones (NC3 and NC3P) within the Pike/Pine Conservation Overlay District

SUMMARY OF PROPOSED ACTION

The proposal is a legislative action to amend Sections 23.73.009, 23.73.010, 23.47A.012, 23.84A.038 of the Seattle Municipal Code, and to add new Sections 23.73.012, 23.73.014, 23.73.016, 23.73.018, and 23.73.024 to provide for a transfer of development rights (TDP) program within the Pike/Pine Conservation Overlay District. The proposal includes the following specific actions:

1. Amend 23.73.009 Floor area ratio, and add a new Section 23.73.014 Height exceptions, to allow additional floor area and height on eligible receiving sites through the use of TDP from lots with a character structure that qualify as eligible sending sites;
2. Amend 23.73.010 Floor size limits, and add a new section 23.73.012 Structure width and depth limits, to establish a Conservation Core in which new development would be subject to additional bulk limits;
3. Add a new Section 23.73.024 Transfer of development potential, to establish conditions for TDP sending and receiving sites, including provisions to determine the amount of TDP available to transfer from an eligible sending site and to allow for a height increase from 65 feet to 75 feet for eligible receiving sites to accommodate floor area obtained as TDP from eligible sending sites.
4. Add new sections 23.73.016 Amenity area, and 23.73.018, Location of parking to better organize existing provisions.

The following approval is required:

SEPA - Environmental Determination - Chapter 25.05, Seattle Municipal Code.

SEPA DETERMINATION: Exempt DNS MDNS EIS

BACKGROUND DATA

In July, 2009, the City Council adopted legislation that, among other things, expanded the boundaries of the Pike/Pine Conservation Overlay District, limited the scale of new development, and encouraged new projects to retain existing older structures, identified as character structures, as part of the development site. These changes were the first phase of work undertaken by the Department of Planning and Development (DPD) to implement proposals in the Pike/Pine neighborhood plan related to protecting neighborhood character and promoting an appropriate type and scale of development.

The second phase of work included an update of the current neighborhood design guidelines, as well as the addition of new guidelines, primarily related to height, bulk and scale, that addressed conditions related to development encouraged under the legislation adopted in 2009. This legislation, adopted in 2010, also included amendments to the Land Use Code that addressed issues related to the application of the new standards, raised during the review of an actual development proposal. These changes were intended to clarify and reinforce the original amendments and make them more consistent with neighborhood objectives.

During the initial two phases of work, DPD was also asked to investigate the Pike/Pine community's interest in a transfer of development rights (TDR) program linked to the Downtown TDR program as a potential conservation tool. With consultant assistance, a report was prepared entitled *Pike/Pine Conservation Study: Phase 2*, and is available at the DPD website:

<http://www.seattle.gov/dpd/Planning/PikePineConservationOverlayDistrict/RelatedDocuments/>

Based on this analysis, DPD concluded that such a program was not likely to be effective, given the limited ability of the downtown program to absorb additional TDR beyond the available downtown supply. DPD did, however, agree to give further consideration to a more limited program that would only operate, at least initially, within the boundaries of the Pike/Pine Conservation Overlay District. A background paper examining a range of alternative approaches to developing such a program was published for public review and distributed at a community meeting in June, 2010. The background paper outlined how TDP programs work, estimated the supply of development rights in Pike/Pine, described the challenges to creating a successful program, and provided options for discussion. The paper is available on the DPD website at:

<http://www.seattle.gov/dpd/Planning/PikePineConservationOverlayDistrict/Overview/>
under "draft background report for public review."

The proposed action addressed in this analysis is the final phase of work to implement Pike/Pine neighborhood plan proposals for protecting neighborhood character. The proposed amendments would establish a program for the transfer of development potential (TDP) between sending and receiving sites located within the Pike/Pine

Conservation Overlay District to provide further incentives for retaining certain existing “character structures.” Related amendments address the bulk of new development on eligible receiving sites that would be allowed increases in height and/or density through the use of TDP, in addition to measures that further promote compatibility between new development and existing conditions within an area proposed to be designated as the Conservation Core.

Proposed Action

The proposal is a legislative action to amend Sections 23.73.009, 23.73.010, 23.47A.012, 23.84A.038 of the Seattle Municipal Code, and to add new Sections 23.73.012, 23.73.014, 23.73.016, 23.73.018, and 23.73.024 to provide for a transfer of development rights (TDP) program within the Pike/Pine Conservation Overlay District. The proposal includes the following specific actions:

An amended Section 23.73.009 Floor area ratio, and a new Section 23.73.014 Height exceptions, would allow additional floor area and height on eligible receiving sites to accommodate floor area gained through the use of transferred development potential (TDP) from eligible sending sites;

An amended Section 23.73.010 Floor size limits, and a new Section 23.73.012 Structure width and depth limits, would establish a Conservation Core for a portion of the area within the boundaries of the Pike/Pine Conservation Overlay District where new development would be subject to additional bulk limits.

A new Section 23.73.024 Transfer of residential development potential, would establish criteria for sites allowed to sell unused development potential (sending sites), which then could be “transferred” to sites that would be allowed additional height and/or density (receiving sites) to accommodate the additional floor area. Eligible sending sites would be limited to sites occupied by any character structure located within the Conservation Core and sites located outside the Conservation Core that are occupied by character structures that meet specific criteria based on the Department of Neighborhoods inventory of historic resources. This section also establishes how to determine the amount of TDP available to transfer from an eligible sending site. Eligible receiving sites would be limited to sites in NC3P and NC3 zones with a 65 foot height limit located outside the Conservation Core, provided that the site could be developed without resulting in the demolition or significant alteration of a character structure.

Two new Sections, 23.73.016 Amenity area and 23.73.018 Location of parking would be added without changing the substance of these provisions to better organize this chapter of the Code.

Public Comments

The proposed amendments to the Pike/Pine Conservation Overlay District are part of an extensive community effort to implement key elements of the Pike/Pine neighborhood plan related to the conservation of neighborhood character and existing buildings. A draft proposal was available for public review since May 5, 2011, and was discussed at a public meeting held on May 23, 2011.

Proposed changes to the Land Use Code require City Council approval. Public comment will be taken on the proposed amendments during future Council committee meetings and at a Council public hearing scheduled for August, 2011.

ANALYSIS - SEPA

The following describes the analysis conducted to determine whether or not the proposal would have a *probable significant adverse environmental impact*. This threshold determination is based on:

- *the proposal*, as described above and in other documents;
- the information contained in the *SEPA checklist*;
- additional information, such as analyses prepared by City staff; and
- the experience of DPD staff in reviewing similar documents and actions.

This proposal is the adoption of legislation and is defined as a non-project action. This action is not specifically addressed as a Categorical Exemption (SMC 25.05.800); therefore it must be analyzed for probable significant adverse environmental impacts. A threshold determination is required for any proposal that meets the definition of “action” and is not categorically exempt.

The disclosure of the potential impacts from this proposal was made in an environmental checklist dated June 20, 2011. The information in the checklist and the experience of the lead agency with review of similar projects forms the basis for this analysis and decision.

This is a substantive change to the Land Use Code, to amend the provisions of the Pike/Pine Conservation Overlay District and certain related land use regulations. This amendment may result in potential impacts and warrants further discussion. However, this proposal is not expected to adversely impact the natural environment or built environment in a significant manner.

Short-term Impacts

As a non-project action, the proposed amendments will not have any short-term impact on the environment. Future development affected by this legislation will be reviewed under existing laws and substantial development projects will be subject to SEPA to address short-term impacts on the environment.

Long-term Impacts

The potential long-term adverse impacts that might result from the proposal are not significant. These amendments encourage the conservation of existing built resources and emphasize compatible development that respects the neighborhood's established development context and unique character. Use of the transfer of development potential provides an incentive to maintain existing structures, by allowing lost development potential on the sending site to be reclaimed through limited height and floor area increases permitted on a receiving site. Conserving existing building resources and permitting new development that accommodates growth and is well integrated with the existing development context are public benefits that enhance the quality of the neighborhood environment.

The proposed actions are not anticipated to result in adverse impacts on any element of the environment and reflect the objectives of the Pike/Pine Neighborhood Plan, and the City of Seattle Comprehensive Plan in encouraging and supporting mixed-use urban environments in which housing, commercial uses, and essential neighborhood goods and services are located in close proximity to promote walking, bicycling, and transit use. These objectives are balanced with the neighborhood's priority for conserving the area's existing, unique character and identity—which is generally expressed in its historic buildings and is seen as critical to its livability and success. On the whole, this type of environment should encourage greater substitution of pedestrian trips for automobile trips, helping to limit transportation impacts of future development.

Conserving existing structures should help reduce energy expenditures associated with the demolition and removal of existing buildings. Given the nature of programs that allow the transfer of development potential, the objective of conserving existing development is achieved without an overall loss of development potential in the area, since the restriction on future development on the receiving sites is balanced by the increased allowance for development on the receiving site. Consequently, the proposal does not diminish the area's ability to accommodate future growth to meet Comprehensive Plan growth targets.

ELEMENTS OF THE ENVIRONMENT

Adoption of the proposed amendments would result in no immediate adverse short-term environmental impacts because the adoption would be a non-project action. The discussion below generally evaluates the potential long-term impacts that might conceivably result from differences in future development patterns due to the proposed amendments.

Natural Environment

Earth, Air, Water, Plants and Animals, Energy, Natural Resources, Noise, Releases of Toxic or Hazardous Materials

The proposed amendments are unlikely to result in any significant adverse natural environmental impacts. The proposed changes would result in no direct impacts, and are unlikely to result in significant indirect or cumulative adverse impacts related to earth, air (including greenhouse gas emissions), water, plants/animals, fisheries, energy, natural resources, sensitive areas, noise, or releases of toxic/hazardous substances. The proposed amendment is a non-project action that would amend the provisions of the Pike/Pine Conservation Overlay District and certain related land use regulations. Since the amendments apply to a large area within the Pike/Pine neighborhood, it is possible that elements of the natural environment on future sites identified for development could be impacted. Development of specific projects on individual sites is subject to the City's existing regulations, such as the Stormwater, Grading and Drainage Ordinance, the Environmentally Critical Areas Ordinance, and Noise Ordinance, and will be subject to environmental review (if they meet or exceed thresholds for environmental review). From a development capacity perspective, the proposed amendment would not result in significant changes to development capacity.

Built Environment

Land Use, Height/Bulk/Scale

The proposed changes would result in no significant direct adverse impacts and are unlikely to result in indirect or cumulative impacts related to land use or height/bulk/scale. Under certain limited circumstances, development on lots that qualify as receiving sites in areas zoned NC3P 65 located outside a proposed Conservation Core could achieve increases in density, bulk, and/or height. Receiving sites would be permitted increases in floor area beyond current FAR limits and up to a 10 foot increase in height to accommodate unused development potential from eligible sending sites. The permitted increase in height and floor area on potential receiving sites would be offset by the reduction in development potential on lots from which the development potential has been transferred—the sending sites. Allowing the transfer of development potential from sending sites is intended to provide an incentive to retain existing older structures,

defined as character structures, which are developed at a lower scale than what the zoning currently allows for new development.

Under the proposal, the maximum increase in height permitted would be 10 feet (about a 15% increase above the current 65 foot height limit). On the limited number of lots that are eligible receiving sites, this increase would allow structures in the NC3 zones with a 65 foot height limit to reach a height of 75 feet to enable these sites to accommodate floor area transferred from qualifying lots with character structures. In these zones, a height exception already allows an increase in height to 75 feet under special conditions related to maintaining a character structure on a lot with new development.

For projects that use TDP, additional floor area would be permitted above the current FAR limit of 4.75 established for mixed use in the NC3P 65 zone. The maximum amount of floor area that could be added through the use of TDP would be determined by the height limit and applicable bulk standards. Based on the typical size of lots that may be eligible receiving sites, and the development standards that are proposed to apply to receiving sites, it is estimated that the maximum amount of added floor area gained through TDP would not likely exceed the equivalent of 0.75 to 1.05 FAR (a 16% to 22% increase over the current 4.75 FAR limit). The range in the amount of potential increase is due to variations in site size and the ability to maximize floor area within the proposed bulk limits. For reference, the maximum FAR now permitted for mixed use development in an NC3 65 zone within a station area overlay district is 5.75, an additional 1.0 FAR above the maximum 4.75 FAR that would otherwise apply. In an NC3 zone with an 85 foot height limit, the maximum FAR is 6.0, 1.25 FAR above the maximum FAR permitted for mixed use in a zone with a 65 foot height limit.

Given the limited number potential eligible receiving sites, estimated by DPD to be about 29 sites, and the magnitude of the potential height increase, which at 10 feet would be approximately one additional story, no significant adverse impacts are anticipated as a result of the allowed increases in height and floor area. Generally, there would be no development with added height and floor area unless there was a concurrent decrease in development potential on a sending site, where an existing structure would remain at a lower height and FAR than otherwise allowed by the zoning. However, because the proposed amendments would allow a receiving site to gain two square feet of additional floor area for every one square foot transferred from a designated landmark structure, using TDP from a designated landmark structure could result in a slight net increase in density. The potential impact of this increase is not expected to be significant however, both because of the limited number of eligible receiving sites and the limited number of designated landmarks on eligible sending sites in the area, which currently is four structures.

On sending sites, the current height of existing structures would be unchanged, which would retain structures with FARs and heights that are below what the zoning allows,

thereby maintaining variations in height and density within the district as new development occurs over time.

Furthermore, to avoid any additional development pressure on lots occupied by character structures due to increases in height and density allowances, the use of TDP is not allowed on lots occupied by character structures, unless the structures are maintained without major alterations.

The proposal would also establish a Conservation Core to further prohibit the use of TDP within an area where further increases in height and floor area might be incompatible with the existing development character. Within the Conservation Core, additional development standards are also proposed to further promote compatibility between new development and the existing character of the area. To the extent that TDP is used, desirable older structures would be retained, especially in the Conservation Core where most lots would qualify as sending sites.

Housing

The proposed changes would result in no direct negative impacts and are unlikely to result in indirect or cumulative impacts related to housing. Generally, proposed provisions are intended to encourage the retention of existing structures for all uses, including housing. Any additional floor area allowed on receiving sites through the use of TDP would be limited to residential use, so the use of TDP as an incentive to retain existing character structures would not reduce the capacity for housing in the area; any reduction in development capacity related to the preservation of existing structures on sending sites would be offset by the added development capacity on receiving sites. For character structures in residential use that are located on eligible sending sites, the use of TDP may provide an incentive to retain existing housing resources.

Transportation, Public Services and Utilities

The proposed changes would result in no direct adverse impacts on transportation, public services or utilities, because the changes are non-project actions. Individual projects may be subject to environmental review if the SEPA thresholds are triggered. Projects subject to SEPA could be conditioned to mitigate any adverse impact on the natural or built environment.

In sum, the potential for significant adverse additional impacts on transportation and utility infrastructure is negligible since there is essentially no net gain in floor area resulting from the transfer of development potential; the TDP mechanism allows for permitted density on one site in the area to be moved to another site. While the proposed transfer of development potential between lots could increase the density of development on receiving lots, this increase would be balanced by a decrease in development potential on the sending lot, resulting in no net change in permitted density in the area overall. However, the proposal does include a provision to allow a receiving site to gain two

square feet of additional floor area for every one square foot transferred from a designated landmark structure, which could result in a slight net increase in density through the use of TDP from designated landmark structures. This potential outcome, however, would likely be uncommon, given both the limited number of eligible receiving sites, estimated to be about 29 sites distributed throughout the area, and the limited number of eligible sending sites with designated landmarks in the area, which now is limited to four structures.

Generally speaking, potential impacts of higher densities that may be accommodated on receiving sites will be minimized by the limited number of sites that would meet the eligibility requirements as a receiving site, and the more or less dispersed distribution of these sites throughout the area. Consequently, no significant adverse impacts are expected from this amendment.

Consistency with the Seattle Comprehensive Plan

SEPA Land Use Policy states the City's policy is to ensure that proposed uses in development projects are reasonably compatible with surrounding uses and are consistent with any applicable, adopted goals and policies in Section B of the land use element of the Seattle Comprehensive Plan regarding Land Use Regulation for the area in which the project is located (SMC 25.05.675J). The proposal applies to property in the Pike/Pine neighborhood; therefore, it is relevant to consider the goals and policies of the Comprehensive Plan relating to the Pike/Pine neighborhood. Under the City's Comprehensive Plan, the Pike/Pine neighborhood is a designated Urban Center Village within the Capitol Hill/First Hill Urban Center.

One of the primary objectives of the proposed amendments is to further Neighborhood Plan directives to maintain existing buildings in the area and to promote new development that is compatible with the area's established character. For example, Comprehensive Plan Policy P/P-P2 states: "Seek to preserve the architectural and historic character of the neighborhood by exploring conservation incentives or special district designations." To further these objectives, the transfer of development potential is proposed as an additional incentive for retaining existing structures are proposed, along with related limits on development bulk. Specific measures in the proposal addressing landmark structures are also consistent with policies in the Cultural Resources Element of the Comprehensive Plan, which encourage actions to protect landmark structures and provide incentives for rehabilitating landmarks and adapting them to new uses.

While the proposal emphasizes conservation objectives, it retains the Pike/Pine Neighborhood Plan's priority for promoting housing and mixed use development, and is consistent with the Comprehensive Plan goals and policies related to the area, as expressed in area designations and growth targets. Allowing the transfer of unused development potential from eligible sending sites provides an incentive to retain existing character structures of value to the community. On the other hand, with the additional

height and/or density allowed on eligible receiving sites to accommodate the floor area transferred from sending sites, there would be no net loss in overall development potential within the area, maintaining sufficient development capacity for the Pike/Pine Urban Center Village to continue to meet Comprehensive Plan growth targets.

DECISION - SEPA

The decision was made after review by the responsible official on behalf of the lead agency or a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirements of the State Environmental Policy Act (RCW 43.21C), including the requirement to inform the public agency decisions pursuant to SEPA.

Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030 2c.

Determination of Significance; this proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030 2c.

Signature signature on file
Dennis C. Meier, Strategic Advisor
Department of Planning and Development

Date _____