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HEARING EXAMINER

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July 11, 2013

**BY HAND DELIVERY**

City of Seattle Hearing Examiner  
40th Floor, Seattle Municipal Tower, 700 Fifth Avenue  
P.O. Box 94729  
Seattle, WA 98124-4729

**Re: Appeal of the City of Seattle's Determination of Non-Significance for the Proposed Amendment of the Pike/Pine Overlay District Land Use Code**

Dear Hearing Examiner:

The Richmark Company hereby appeals the Department of Planning and Development's ("DPD") June 20, 2013 Determination of Non-Significance ("DNS") for the proposed land use code amendment relating to "character structures" in the Pike/Pine Overlay District (hereinafter the "Amendment").<sup>1</sup> This appeal is submitted on behalf of the Appellant by Stoel Rives, LLP pursuant to RCW 43.21C.075, WAC 197-11-680 and SMC 25.05.680, and it is requested that all future correspondence be sent to the attention of Ramona Monroe at the address shown below.

As set forth in greater detail below, the Richmark Company challenges the DPD's DNS as clearly erroneous in that it fails to adequately analyze key environmental impacts resulting from limiting the bulk and density of development in the Pike/Pine Overlay District, including, but not limited to, adverse impacts resulting from the displacement of development into less developed areas. As such displacement causes adverse impacts to traffic, air, and other valuable environmental resources not considered in the DNS and associated environmental checklist,

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<sup>1</sup> Neither the "Notice of Proposed Land Use Code Test Amendment and Determination of Non-Significance" nor the "Analysis and Decision of the Director of the Department of Planning and Development" related to the Amendment provide a file number or other reference information. A copy of the decision being appealed is attached hereto.



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under the Washington State Environmental Policy Act ("SEPA"), the DPD must withdraw its findings and engage in additional environmental review.

The Appellant's information is:

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The environmental checklist for this proposed legislation focuses on potential impacts in the affected area, ignoring the potential ripple effects to other portions of the metropolitan area. By limiting the floor area of buildings in the Overlay District, the proposed legislation will force development to move outward to other areas. The environmental review fails to consider the resulting environmental impacts.

The Pike/Pine area is highly urban and in close proximity to the employment center of downtown Seattle. This location makes it a popular residential area. Residents that live in the Pike/Pine neighborhood and work in downtown Seattle have both shorter commute times and alternative means of commuting. The proposed legislation will "reduce development potential on very large lots, particularly lots over 30,000 square feet. On the largest lots, it may not be possible for a project to achieve the maximum FAR allowed, especially without the use of incentives, or unless the lot is divided into two separate development sites." Analysis and Decision of the Director of the Department of Planning and Development at 8. The Richmark Company's property is more than 43,000 square feet in size and will be directly affected by the legislation.

Shifting residential densities to other parts of the metropolitan area necessarily increases the environmental effects associated with longer daily commuting, particularly increased traffic congestion, pollution, and noise. In addition, shifting density to other areas increases impacts to the resources of those areas that are not present in the highly urbanized setting of the Pike/Pine neighborhood. Increasing densities in other areas impacts air, water, vegetation, wildlife,



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transportation, noise, recreation, and public services in those areas. The environmental review completely ignores these issues.

On page 20 of the environmental checklist, the applicant acknowledges that increased density in the Overlay District "is more efficient in controlling energy consumption (e.g., employee and residents' commute trips) relative to development in more far-flung regional locations." However, the checklist and analysis fail to recognize the transfer of density that will result from limiting the size of buildings in the Overlay District and the consequent environmental effects of such action.

The Richmark Company has significant economic, environmental and community interests in the DPD's DNS determination as it has owned and operated a commercial label printing company and commercial building in the Pike/Pine Overlay District since 1957. The Richmark Company is located at 1110 East Pine Street, Seattle, WA 98122, which is zoned as Neighborhood Commercial 3, a land use designation directly affected by the Amendment. Additionally, as a member of this business community for more than 60 years, the Richmark Company is deeply committed to the responsible development of the District in a manner that preserves the neighborhood's character while promoting the continued economic development of this important commercial center.

Given the significant deficiencies found in the DPD's DNS, the Richmark Company requests that the City of Seattle withdraw its DNS and undertake additional environmental review to consider environmental impacts omitted from the current decision.

Very truly yours,

STOEL RIVES LLP

Ramona L. Monroe (WSBA # 23752)

Attorneys for Appellant  
The Richmark Company

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

**Project Proposal:** 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 the Seattle Municipal Code to address issues primarily related to the bulk and scale of new development and the use of incentives for retaining character structures in the Pike/Pine Conservation Overlay District (District) in order to strengthen measures for maintaining and enhancing the character for the Pike/Pine neighborhood. Additional measures are included to clarify existing provisions and to provide additional opportunities for the development of appropriately scaled nonresidential projects within the District.

The following approval is required:

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

**SEPA DETERMINATION:**  Exempt  DNS  MDNS  EIS

**BACKGROUND**

In July, 2009, the City Council adopted legislation that, among other things, expanded the boundaries of the original Pike/Pine Overlay District and created a new regulatory emphasis for the area as the Pike/Pine Conservation Overlay District. New provisions limited the scale of new development and encouraged projects to retain existing older structures, identified in the Code as "character structures".

The second phase of work, adopted in 2010, included an update of the neighborhood design guidelines, with the addition of new guidelines, primarily related to height, bulk and scale, addressing the type of development promoted by the 2009 legislation. Adjustments to the 2009 standards were also made to clarify them and make them more consistent with neighborhood objectives.

The third phase, adopted in 2011, included actions to establish a program for the transfer of development potential (TDP) within the Pike/Pine Conservation Overlay District as an additional incentive for retaining “character structures.” A Conservation Core was also established within the district to further promote new development that was more compatible with existing conditions.

Councilmembers Tom Rasmussen and Sally Clark are now sponsoring amendments to the District in response to issues raised by the unprecedented development activity occurring in the Pike/Pine neighborhood. The primary focus of this action is to address issues related to the scale of projects on development sites that are much larger than what was anticipated in the previous legislation. In addition, there are actions that allow for new opportunities for commercial development in the area to offset the preponderance of residential development that has occurred since the overlay was first established.

### **Proposal Description**

The proposal includes the following specific actions:

1. Require that all character structures on a lot be partially retained when zoning incentives are used, and give the Design Review Board the flexibility to grant departures from this requirement with guidance from proposed new criteria in the code; and
2. Reduce the bulk of buildings on large lots by further limiting the amount of floor area that can be built above a height of 35 feet by:
  - Allowing only one portion of a structure to extend above 35 feet in height, regardless of site size.
  - Eliminating the current exception to floor size limits that allows portions of a new structure that extend over an existing character structure to be exempt from floor size calculations.
  - Add maximum width and depth limits on lots within the Conservation Core for portions of a structure above 35 feet in height on lots that do not include a character structure.
3. Lift the current limit on the floor area ratio (FAR) for nonresidential uses to allow more square feet of commercial use on lots that are 18,000 square feet or less in size. The change would apply only to lots where the new development would not result in the removal of a character structure. It would promote more employment and daytime activity to balance the large amount of residential units, restaurants, and entertainment businesses that have been built recently, without increasing the pressure to demolish character structures.
4. Remove regulatory barriers by stating that portions of character structures that are retained as part of a larger development are considered to be existing structures for the purposes of applying street-level development standards. As a result, developers would not have to choose between changing a character structure in order to meet current standards and having to request design departures from the Design Review Board.

5. Exclude street level floor area in character structures that are retained as part of a new development from the calculation of floor area used to determine the number of small commercial spaces required at street level, if the original structure was designed to accommodate large spaces at street level.
6. Allow automotive sales and service uses to locate in character structures, to support retention of Pike/Pine's "auto row" character.
7. Make the regulations easier to use by combining all the standards for retaining character structures into a single code section. This new section would provide more guidance about retaining character structures when zoning incentives are used.
8. Clarify the regulations by making technical corrections.

The chart in Attachment A summarizes the proposed amendments to the Land Use Code by section.

### 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. Since May 16, 2013, a draft proposal was available for public review. This proposal was discussed at a meeting with the Pike/Pine Urban Neighborhood Committee (P/PUNC) held on May 21, 2011. Follow up meetings were also held with additional stakeholders seeking to comment on the original draft proposal.

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 expected to be scheduled in August, 2013.

### 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. The initial disclosure of the potential impacts from this action was made in an environmental

checklist dated June 17, 2013. The information in the checklist, a copy of the proposed text changes, a Staff Report prepared by Council Central Staff, and the experience of the lead agency with review of similar legislative actions 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 (See Attachment A). These amendments 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 and based on the results of this SEPA determination analysis, the proposed amendments are not identified to have any substantial short-term adverse impacts upon the environment. Future potential developments that might be indirectly affected by this legislation and subject to SEPA would be evaluated for their short-term environmental impacts as part of project-related reviews, and related mitigation would be identified as needed.

### **Long-term Impacts**

The proposed amendments to the various sections of the Land Use Code in this legislation are not expected to have significant long-term adverse impacts on any element of the natural or built environment. Most of the recommended code changes clarify and strengthen existing code language and correct oversights from previous amendments, to better achieve the original intent of adopted provisions.

The proposed actions 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.

With respect to differences in the characteristics of future potential development with the proposed amendments, a minor net difference in built-environment impacts could occur, depending on the sizing of future development. At the same time, most of the built-environment implications in terms of land use and housing, and regarding consistency with plans and policies, would be positive in nature. 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. These impacts are described in more detail below, along with a discussion of potential long-term natural environment impacts.

Conserving existing structures should help reduce energy expenditures associated with the demolition and removal of existing buildings.

## **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 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 amendments 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, and scale.

**Land Use.** The proposed amendments, under limited conditions, remove current restrictions on the amount of nonresidential uses permitted in new development. This change will increase opportunities for a greater diversity of uses in the district, thereby



adding to the employment population and generating greater daytime activity to support local businesses beyond the restaurants and entertainment uses that support evening activity and have begun to dominate the mix of commercial uses.

Prior to the 2009 amendments, nonresidential uses were limited throughout the original overlay to an amount that was less than half of that allowed for residential uses. Under the 2009 amendments, nonresidential development was, under limited conditions, permitted the same maximum FAR limit allowed by the underlying zoning (4.25 FAR in the NC3 65 zones), but only on small lots of 18,000 square feet or less on the edges of the District. Furthermore, as an incentive for small scale infill development, small lots of 8,000 square feet or less in the NC3 65 zone within the District were also allowed to be developed with nonresidential uses, with no FAR limit, provided that the lot to be redeveloped was either vacant or only used for parking. To date, no nonresidential projects have taken advantage of these special allowances.

Under the proposal, the greater FAR of the underlying zone for lots of 18,000 square feet or less would be available without restrictions on location within the District, provided that: 1) no character structures are removed, and 2) on lots with more than one character structure, at least one character structure must be retained as an entire structure. It is important to consider the magnitude of potential impacts related to this change in terms of how the mix of uses might be altered in the area, since different uses generate different types of impacts. Furthermore, as an area identified for a residential emphasis in the Comprehensive Plan, it is important to ensure that such changes would not deter the Pike/Pine neighborhood from achieving Comprehensive Plan growth targets for housing.

DPD examined how the proposed changes might alter the development capacity in the District, which provides an indication of the area's potential for accommodating different amounts and types of uses. Adjustments were made to the DPD model used to determine development capacity to reflect changed conditions under the proposal.

Lots meeting the size criteria (18,000 square feet or less) were identified, and the same assumptions applied regarding the percentage of lot area that would be developed with residential uses (75%) versus nonresidential uses (25%). However, for the nonresidential lot area, instead of the 2 FAR limit that now applies to nonresidential uses in the model, it was assumed that the maximum FAR allowed by the underlying zoning would be achieved (4.25 FAR in most cases). This is higher than the limits typically assumed for similar commercial areas in the citywide analysis (2.5 FAR), which is based on a generalization of the densities observed in real development in a wide variety of locations. The higher FAR assumed for these lots in Pike Pine is appropriate because of the development climate in the area. In addition, given the limited number of sites that would be affected, it is assumed that new nonresidential development would likely build to the maximum limits allowed to take advantage of this special opportunity in an area where such uses would otherwise be restricted. Furthermore, it was assumed that all other lots in the District identified as potentially available for redevelopment (those lots

over 18,000 square feet) would be developed for residential uses, which is more consistent with observed conditions in the area since the overlay was established.

Using the assumptions described above, the estimated increase in capacity for nonresidential uses as a result of the proposed changes would be slightly over 200,000 square feet. While there is theoretically capacity for nonresidential development under current conditions, very little has occurred to date beyond limited amounts of commercial space in mixed use residential projects. In an area where there has been essentially no significant development of nonresidential projects in almost two decades, perhaps the most significant change would be that some nonresidential projects might actually occur. However, while allowing the higher FAR may increase the attractiveness of building a nonresidential project, given the limits imposed on eligible sites, the types of projects would likely be small hotel or office projects geared to a specialized market, since the lot size limits and requirements for retaining existing character structures would not likely attract more standard development targeting a broader market. The end result may be a limited number of higher density (4.25 FAR) nonresidential projects, perhaps three or four, dispersed within the District. The amount or concentration of new uses that could result would not make a significant difference in impacts in the area.

While, over the long term, the proposed amendments may provide some additional opportunities for more nonresidential projects, it would only be to a minor degree, and mixed use/residential development is expected to continue to dominate, as it has over the last several years. Of the 22 projects just recently completed, currently under construction, or in the permit pipeline, only two, or nine percent, are nonresidential. The nonresidential projects include a gymnasium addition to Northwest School and a small mixed use project that is primarily for office and retail use, with three residential units.

While the proposed changes do allow for a limited increase in opportunities for nonresidential development, incentives allowing greater floor area for residential projects remain. Projects using the incentives frequently exceed the maximum FAR assumed for residential use, reinforcing this use as the preferred choice for development. Current development conditions substantiate the strong demand for housing in the area; the total of new units added since 2011, units now under construction, and units in projects now applying for permits is about 2,400. Furthermore, from observations of recent development, the residential densities achieved in actual projects in the area are consistently higher than the densities assumed in the development capacity model (likely due to both the greater floor area of projects and average unit sizes that are lower than what is assumed for residential development in the capacity model). Since the area has already exceeded the current Comprehensive Plan growth targets for housing, which call for adding new units for 600 households between 2004 and 2024, the proposal will not diminish the area's ability to meet Comprehensive Plan growth targets.

**Height, Bulk, and Scale.** The amendments further encourage the conservation of existing built resources and emphasize compatible development that reflects the

neighborhood's established development context and unique character. 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, measures are proposed to address the unintended consequences of new development on lots that are much larger than the original provisions anticipated, and, through the use of the incentives, are achieving a project scale that is increasingly regarded as in conflict with the neighborhood's established development context. The proposed amendments address this issue primarily through additional limits on floor sizes above 35 feet in height, the elimination of certain incentives allowing for increases in the floor size limit when a new structure extends over portions of an existing character structure, and requirements that all character structures on a lot be retained, either partially or in whole, if the incentives are to be used.

The proposed adjustments to bulk controls and changes to the use of incentives generally maintain existing development potential on lots that are typical in size to those that have been recently developed, are currently under construction, or that have issued permits, which is generally between 14,000 and 21,000 square feet. The changes, however, will likely reduce development potential on very large lots, particularly lots over 30,000 square feet. On the largest lots, it may not be possible for a project to achieve the maximum FAR allowed, especially without the use of incentives, or unless the lot is divided into two separate development sites. Four large sites in the district, including two sites once occupied by large auto sales and service uses, range between 30,000 and 54,000 square feet in size, and now have vested projects that would not be affected by the proposed changes. Without lot assembly, there are few redevelopable sites of this size remaining in the area (only two parcels over 30,000 square feet have been identified, although more would be possible if existing contiguous lots identified as potential candidates for redevelopment were assembled into a single development site).

The proposed amendments would discourage further lot assembly to create exceptionally large sites, which would help promote greater compatibility between new projects and the existing development context. Within the Conservation Core, existing development standards already discourage the assembly of lots into large development sites. To the extent that the amendments contribute to new development that is more compatible with the desired neighborhood scale and character, the impacts of the proposed action would be positive. Future projects developed pursuant to the provisions of the proposal will require permits, review and project approvals as provided for in the Seattle Municipal Code and will be subject to environmental review as required.

## **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. No significant reduction in development capacity for housing is anticipated due to the proposal to increase the amount of floor area allowed for nonresidential uses, largely because of the established demand for housing in the area, the incentives for residential development that would remain in place, and the limited number of sites likely to be eligible to take advantage of the allowed FAR increase for nonresidential uses.

## **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. While the amendments would allow opportunities for some commercial developments to achieve the higher FAR limits allowed for nonresidential uses by the underlying zoning, generally speaking, any potential impacts of increased capacity for nonresidential uses will be minimized by the limited number of sites that would meet the eligibility, and the more or less dispersed distribution of these sites within the area. Consequently, no significant adverse impacts are expected from this amendment. Furthermore, 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.

## **Consistency with the Seattle Comprehensive Plan**

The intent of the City's SEPA Land Use 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.

While the proposal emphasizes the neighborhood's conservation objectives (see discussion under height, bulk and scale), it also 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. Measures proposed to address concerns about the scale of recent development and the use of incentives for retaining character structures are targeted to address issues related to uncharacteristically large redevelopment sites, and

would not have a significant impact on overall development potential in the area. Proposals to allow additional opportunities for nonresidential development would not alter the area's ability to meet residential growth targets, and could, in fact, enhance the area's ability to meet employment growth targets. Overall, 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 \_\_\_\_\_  
Dennis C. Meier, Strategic Advisor  
Department of Planning and Development

Date \_\_\_\_\_

**Attachment A: Summary of Proposed Land Use Code Amendments**

	<b>Code Section</b>	<b>Amendment Description</b> (“District” refers to the Pike/Pine Conservation Overlay District)
1.	23.41.012 Design Departures	Delete the criteria for reviewing departures from the standards for retaining a character structure, and move them to the proposed new section 23.73.015 to make the Code easier to use by locating provisions related to retaining character structures in one place.
2.	23.47A.005 - Street Level uses in Commercial zones	Amend the Commercial chapter of the Code to make two provisions consistent with current District regulations:  1) Clarify that automotive retail sales and services may be allowed at street level in Pedestrian zones in new structures that retain a character structure, in recognition of Pike/Pine’s history as Seattle’s original “auto row”; and  2) Change the list of “Principal Pedestrian Streets” to match the map in the Overlay District. This removes inconsistencies that affect Boylston and Summit Avenues and East Union Street.
3.	23.73.002 – Purpose and Intent	Amend the description of “character structures” to say they are buildings that have been in existence since 1940, rather than that they are buildings that are 75 or more years old (see also amendment #13).
4.	23.73.005 – Adoption of rules to implement District Regulations	Clarify that DPD Director’s Rule 3-2012, which lists the character structures that may not be demolished if a developer uses a zoning incentive, may be amended not only by adding buildings to the list but by removing them as well. The process for doing amending the list is already included in the Director’s Rule.
5.	23.73.006 – Application of regulations	Correct the cross references in this Section to add the number of the Chapter in the reference.
6.	23.73.008 – Uses at street level	Make it easier for projects that retain character structures to meet the requirement that space be provided at ground level for small businesses 2,000 square feet or less in size, as follows:  1) Clarify that if a character structure originally had a large single space at ground level (such as an auto showroom), the space does not need to be included in the amount of floor area used to determine the number of small spaces required in the

	<b>Code Section</b>	<b>Amendment Description</b> (“District” refers to the Pike/Pine Conservation Overlay District)
		<p>project, and that the space does not have to be partitioned into smaller spaces.</p> <p>2) Clarify that the 50-foot limit on the frontage of an individual business on Pike and Pine Streets does not apply to a character structure, if it was designed for use as a single large space.</p>
7.	23.73.009 – Floor Area Ratio (FAR)	<p>1) Allow an increase from 2 FAR for nonresidential uses to 3, 4.25, or 4.5 FAR (depending on the underlying commercial zone) for small lots (18,000 square feet or less in size), in order to gain a better balance between residential and commercial activities, as follows:</p> <ul style="list-style-type: none"> <li>• Removing the current condition that requires the small lot to be located on the boundary of the District, or across from a nonresidential zone.</li> <li>• Clarifying that the lot area occupied by a character structure that is retained in its entirety on the lot would not count toward the 18,000 square foot lot size, so that property owners would not be penalized for retaining a character structure.</li> <li>• Requiring that character structures on the lot be maintained either partially or in their entirety if the exception is used, and stating that if more than one character structure is located on the lot, at least one entire character structure must be retained.</li> </ul> <p>2) Clarify the current FAR exemption for nonresidential uses within a character structure to state that it applies only if the nonresidential use does not displace existing housing that was in the structure <i>on the date the proposed bill is adopted</i>. Setting a specific date would prevent an owner from converting a residential building to nonresidential uses and forcing tenants out of a building in order to qualify for the FAR exemption.</p> <p>3) Change the provision allowing all residential uses to be exempt from the FAR limit for projects that do not remove character structures listed in DPD Director’s Rule 3-2012, to state that the exemption applies only if all character structures on the lot are retained, unless the Design Review Board allows demolition as a departure according to subsection 23.73.015.F.</p> <p>4) Add a cross-reference to the proposed new section 23.73.015 that provides in one place the provisions for “retaining a</p>

	<b>Code Section</b>	<b>Amendment Description</b> <b>(“District” refers to the Pike/Pine Conservation Overlay District)</b>
		character structure,” both partially and entirely.
8.	23.73.010 – Floor size limits outside the Conservation Core	<p>In order to keep the bulk of new development more in scale with the neighborhood, particularly on large lots:</p> <ol style="list-style-type: none"> <li>1) Retain the floor size limit of 15,000 square feet above a height of 35 feet, but allow <i>only one</i> portion of a structure on a lot to extend above 35 feet in height, regardless of site size (subsection 23.73.010.A).</li> <li>2) In the exception that allows a 15% increase in the floor size limit (subsection 23.73.010.B.1), remove the first two of the four conditions for earning the exception. The deleted conditions are related to the design of new development and to site conditions (such as location on the edge of the District), which are better addressed by requesting that the Design Review Board grant a departure from the standards. The remaining two conditions for the exception, which focus on the provision of arts-related uses and low-income housing, would remain, and would be granted without the need for a discretionary decision by the DPD Director.</li> <li>3) In the exception allowing a 15% increase in floor size for arts-related uses, make a technical correction by using the term “artist studio dwelling” rather than “artist live/work space”, in order to match the definitions in Section 23.84A.032.</li> <li>4) State in the exception that allows a 25% increase in the floor size limit for retaining a character structure (subsection 23.73.010.B.2) that the exception cannot be used if any character structure on the site is demolished, unless the Design Review Board allows demolition as a departure according to subsection 23.73.015.F (note that the 25% increase is available for residential and mixed-use projects, and not projects that are developed to the higher FAR limit for nonresidential uses).</li> <li>5) In the exception that allows a 25% increase, delete the provision that permits new square footage built over a character structure to be exempt from the maximum floor size limit. This provision has created an unintended incentive to build on top of character structures.</li> <li>6) Clarify that the different exceptions for increases in the floor size limits cannot be combined.</li> </ol>



	<b>Code Section</b>	<b>Amendment Description</b> <b>(“District” refers to the Pike/Pine Conservation Overlay District)</b>
		7) Delete the explanation of what is required to qualify as retention of a character structure, and instead add cross-references to the proposed new Section 23.73.015 that puts these provisions in one place.
9.	23.73.012 – Structure width and depth limits	Clarify this section as follows: 1) Reorganize the section so that it is clear which regulations apply inside and outside of the Conservation Core area. 2) Within the Conservation Core area, clarify that the exemption for portions of a new structure that extend over a character structure from measuring the width or depth limits can only be used for one character structure. 3) Change the width and depth limits for lots in the Conservation Core area that do not include a character structure. Currently such lots are not subject to a width and depth limit; the proposal would add this requirement for portions of structures above 35 feet in height. 4) Add cross-references to the proposed new Section 23.73.015 that explains the provisions for “retaining a character structure” to the subsections that exempt character structures from the calculations of maximum width and depth.
10.	23.73.014 – Height exceptions	Clarify this section as follows: 1) Make non-substantive clarifications. 2) In the height exception that allows an additional 4 feet in height to accommodate nonresidential uses on the ground floor, state that character structures that are retained as part of a new project will be treated as existing structures for purposes of transparency requirements. 3) State that the 10-foot height incentive for retaining a character structure cannot be used if any character structure on the site is demolished, unless the Design Review Board allows demolition as a departure according to subsection 23.73.015.F. 4) Delete the explanation of what is required to qualify as retention of a character structure, and add a cross-reference to the proposed new Section 23.73.015 that puts these provisions in one place.
11.	23.73.015 –	Add a new Section that:

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	Retaining a character structure	<p>1) Puts in one place all the provisions for retaining character structures (either a portion or entirely) for the purpose of receiving an exemption or an incentive.</p> <p>2) Adds new conditions in subsection 23.7.015.A for the retention of an <i>entire</i> character structure, including:</p> <ul style="list-style-type: none"> <li>• Maintenance of all exterior facades;</li> <li>• Limits on significant structural alterations or additions;</li> <li>• Allowance for limited additions, such as filling in air courts or similar spaces not visible from the street; and</li> <li>• Prohibiting projections of a new structure over the character structure, except for architectural features such as balconies.</li> </ul> <p>3) Uses the current provisions from Section 23.73.010 to describe what is required for a <i>portion</i> of a character structure to be considered retained (subsection 23.73.015.B), with the following additions:</p> <ul style="list-style-type: none"> <li>• In the requirement that new structures must be set back at least 15 feet from the street-facing facades of the character structure, allow architectural projections such as cornices, eaves, and balconies to project into the 15-foot setback; and</li> <li>• In the requirement that the original floor-to-ceiling height of the character structure be maintained, provides an exception for provision of access to persons with disabilities.</li> </ul> <p>4) States in subsection 23.73.015.C that for both full and partial retention of a character structure, the structure must be maintained as approved in the Master Use Permit, and in a manner that complies with applicable codes for the life of the project.</p> <p>5) In order to make it easier to preserve the historic aspects of character structures, adds a provision in subsection 23.73.015.D that retained portions of character structures are considered "existing structures" for the purposes of applying the street-level standards in the underlying commercial zone. This would prevent the need for changes to the character structure in order to meet the standards for transparency and blank walls.</p> <p>6) Provides guidance for departures from the standards for</p>

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		retaining a character structure (subsection 23.73.015.E).  7) Provides criteria for the Design Review Board determination on whether a character structure may be demolished on a lot while still allowing the use of incentives for additional height and upper level floor size (subsection 23.73.015.F).
12.	23.73.024 – Transfer of development potential (TDP)	1) State that using transferred development potential allows the receiving site to take advantage of the exception allowing a 25% increase in the upper level floor size limit (subsection 23.73.024.A).  2) State that on the receiving site, all character structures must be retained as entire structures, unless the Design Review Board approves a departure according to subsection 23.73.015.F.  3) Add cross-references to the proposed new Section 23.73.015 that explains the provisions for “retaining a character structure” (subsection 23.73.024.B).
13.	23.84A.008 “C” [Definitions]	Change the definition of “character structure” to state that such buildings have been in existence since 1940, rather than “for at least 75 years”. This clarifies that the focus of the District is on structures that are related to Pike/Pine’s history as Seattle’s original “auto row”.