

Date: June 2, 2014

To: Mayor Ed Murray, City Council, Council Central Staff (Land Use)

From: Brennon Staley, Department of Planning & Development

Subject: Summary of Discussion from the Working Group on TDR and On-site Amenity Incentives

The Working Group on TDR and On-site Amenity Incentives was formed in early 2014 to provide input and guidance on updating the elements of incentive zoning relating to transferrable development rights (TDR) and On-site Amenities. The Working Group was comprised of 12 members representing a diversity of expertise from the development, architectural, legal, historic preservation, open space, cultural space, and green building communities. The membership list is at the end of this document.

The Working Group met 4 times in March and April of 2014. Given the scope of the issues and limited time, the Working Group did not attempt to create a set of consensus recommendations, but rather held a robust discussion articulating a diversity of perspectives that should be used as a foundation for developing a specific proposal and providing guidance on the strengths and weaknesses of potential policy options.

The following document is a summary of the discussion held by the group. Thoughts and perspectives are grouped into areas of agreement, areas of interest, and areas of limited discussion to highlight areas where there were higher levels of discussion and agreement.

ISSUE 1: IS THE SUPPLY OF AND DEMAND FOR TDR APPROPRIATE? SHOULD THE RANGE OF ALLOWED TDR SITES BE EXPANDED OR FOCUSED

Areas of Agreement

- While the issue of supply and demand is clearly important, there is insufficient data to make a determination about whether the total potential supply is appropriate given the complex factors that affect decisions relating to TDR.
- Better knowledge and communication about the TDR market and more predictable pricing could be a benefit to TDR sending site property owners and developers.
- The group suggested that the City engage in outreach to property owners to raise awareness of the TDR program and the process for certification.
- The group suggested that the City consider the potential for an expanded TDR bank (potentially with dedicated staffing) to improve knowledge, encourage a greater supply of certified TDR, reduce transaction costs, and potentially leverage other funding sources.
- The group agreed that the potential costs of acquiring TDR and/or providing on-site amenities needed to be considered in conjunction with the pricing of housing and child care incentives to ensure the overall program works.

Areas of Interest

- There was interest in considering opportunities to set a fixed price or price range for TDR consistent with housing and child care fee-in-lieu.

Areas of Limited Discussion

- The City might consider payment in lieu of TDR as an option to ensure that there is always one option that is available. The City might also consider allowing this payment to be used to fund a diversity of projects (not just future TDR acquisition).
- The City might look for more examples of cities with TDR programs.

ISSUE 2: SHOULD THE EXISTING RESIDENTIAL AND COMMERCIAL TDR MARKETS BE CHANGED OR COMBINED? SHOULD THE EXISTING GEOGRAPHIC TDR MARKETS BE CHANGED OR COMBINED?

Areas of Agreement

- A simplified TDR program could be a benefit to both TDR sending site property owners and developers as the current program is very difficult to understand and it is challenging to gauge the value and supply of specific TDR due to different restrictions in different areas.
- Combining the residential and commercial markets could be beneficial if it:
 1. results in a more understandable and effective TDR market;
 2. doesn't create a significant oversupply of TDR;
 3. doesn't significantly reduce the ability of properties in South Downtown to participate;AND
 4. doesn't conflict with existing state or constitutional rules, such as requirements for demonstrating a nexus
- Allowing TDRs from Downtown to be sold to South Downtown would be an appropriate simplification of the program provided that it did not create a significant oversupply of TDR due to additional TDR becoming available from neighborhoods such as Belltown.
- The City needs to consider other options for encouraging historic preservation in addition to TDR sales.

Areas of Interest

- There was interest in considering the possibility of combining the First Hill market with Downtown and South Downtown if it didn't create a significant oversupply of TDR and didn't significantly reduce the ability of properties in South Downtown to participate. In general, participants felt that concentrating TDR sales in certain neighborhoods could occur with a larger TDR market, but that this was not necessarily a bad thing. Overall, a larger market could make it easier for potential sellers and buyers to connect throughout the Center City area.
- Multiple participants stated that incentives should focus on full preservation of landmark structures not just retention of façade.

Areas of Limited Discussion

- The City might consider a tiered system that allows transfers over a large geographic market, but encourages transfers with nearby properties.
- The City might consider using REET, levy, or other sources to create a fund for capitalizing a TDR bank or funding historic preservation through other means, potentially in coordination with the Unreinforced Masonry initiative.

- The City might consider allowing a limited window of opportunity to sell TDR from certain sites to encourage action.

ISSUE 3: SHOULD AREAS WITHOUT INCENTIVE ZONING BE ALLOWED TO SELL INTO AREAS WITH INCENTIVE ZONING?

Areas of Agreement

- The Committee agreed with the staff recommendation NOT to allow any TDRs to be transferred from areas with no incentive zoning to areas with incentive zoning to ensure that neighborhoods that grow also receive the amenities that make dense neighborhoods livable and to mitigate additional pressure to demolish historic structures caused by the upzone.

ISSUE 4: HOW IS THE AMENITY OPTION FUNCTIONING? ARE WE GETTING THE TYPE AND QUALITY OF AMENITIES THAT WE WANT?

Areas of Agreement

- The group felt that having a diversity of amenity options was good and that the overall variety of amenity options was generally working well (although there was lots of discussion about specific options that could be added, removed, or modified)
- The City should allow some flexibility for developers to incorporate unique, activating amenities into open spaces such as playgrounds, ping pong tables, or water features.

Areas of Interest

- Shopping corridors and atriums: while the group agreed that existing examples of shopping corridors and atriums were not sufficient public benefits to warrant extra floor area, there was interest in considering whether the guidelines could be improved to get more valuable spaces as an alternative to removing this option entirely
- There was interest in considering opportunities to allow a fee-in-lieu option for open space
- Many group members expressed that saving a façade should not be sufficient for gaining extra floor area, although there was also a recognition that it can be very challenging to save the entirety of certain buildings as part of redevelopment

Areas of Limited Discussion

- Public Bathrooms: while nobody objected to the idea of removing this option, there was a recognition that public bathrooms were important and they could be supported through other programs or fee-in-lieu revenues
- Human Service Uses: while nobody objected to the idea of removing this option, there was a recognition that human service uses were important and they could be supported through other programs or fee-in-lieu revenues; a couple members also highlighted the importance of being strategic about the location of these types of facilities due to their controversy and the importance of locating them near shelters and other services
- Off-site restoration and preservation of a landmark performing arts theater : The City might consider making this option more usable or providing additional TDR for landmark performing arts theaters to sell as an alternative

- On-site restoration and preservation of a contributing structure: This option could be beneficial for encouraging preservation, but could also be difficult to use in many situations
- The City might consider developing a plan for how through-block connections and small parks on separate lots could be more connected.
- The City might consider encouraging more family-friendly open spaces, playgrounds, and amenities including potentially incentivizing larger “family-sized” units
- The City might revisit the amenity ratios in the code to see if there are some options we want to incentivize more than others
- Other potential amenities to consider incentivizing include:
 - Dog parks
 - Senior-friendly design
 - Accessibility beyond ADA-compliance
 - Features for hearing- or sight-impaired such as a hearing loop, which creates a “hot spot” for hearing aids
 - Amenities to encourage 24/7 use such as bowling alleys or entertainment uses
 - Open space on rooftops

ISSUE 5: HOW COULD AN OPEN SPACE IMPACT FEE IMPACT THE PROGRAM?

Areas of Agreement

- While there was no consensus on the appropriateness of an open space impact fee generally, the group agreed that, if an open space impact fee was implemented, it should be viewed as providing a different type of benefit than an impact fee. Specifically, the group felt that there was a need for small, private-maintained open spaces that would not be diminished by a small number of larger parks in downtown. It was also noted, however, that it would be important to make sure that the programs did not together create a burden that would prevent projects from being viable or violate the legal principles of nexus and proportionality.

Areas of Interest

- There was interest in allowing on-site open space or fee-in-lieu payment, if available, to count toward open space impact fees.

Areas of Limited Discussion

- The group identified a number of issues that should be addressed in considering whether an open space impact fee should be implemented:
 - Long-term operations and maintenance costs for Parks
 - Impact of incentive zoning and impact fee costs on viability of development
 - Ability of City to use fees in reasonable time frame
 - Fairness of changing new development for new parks vs. charging all park users
 - Ability to implement impact fees in areas without incentive zoning
- The City might consider how impact fee or fee-in-lieu money could be used flexibly, such as for right-of-way improvements or public-private partnerships.

ISSUE 6: HOW SHOULD WE EVALUATE NEW OR EXPANDED INCENTIVE OPTIONS?

Areas of Interest

- Various committee members offered thoughts to consider in evaluating new or expanded incentives. The list below captures ideas raised during discussion; however, the committee did not suggest that these were the only items to consider or necessarily the most important.
 - Incentives should create a benefit for the local neighborhood
 - Incentives should leverage the creativity of the development community
 - Incentives should allow a response to local desires and conditions
 - Consider a preference for benefits that the City can't provide by itself or could be more quickly achieved by the private market
 - Consider whether there is a scarcity of certain things in a neighborhood
- Various committee members expressed interest in considering options for incentivizing different types of public benefits through floor area bonuses or FAR exemptions. The following is a list of type of public benefits discussed and the comments that related to each benefit:
 - Green Building
 - climate change is a pressing issue
 - green building incentives should be performance-based
 - requirements should be very high level (supporting bold leadership) but still doable
 - District Energy
 - would create value for the neighborhood by creating sharable infrastructure
 - complex issue given limited utility provider options
 - fee-in-lieu could be best solution for creating infrastructure
 - Family-friendly amenities
 - many can only be provided by developers
 - Affordable retail, entertainment, rehearsal, or cultural space
 - could help organizations building "roots" in a neighborhood
 - opportunity to create a more 24/7 neighborhood
 - there are a number of existing performing arts organization that are likely to lose their space and will need new space
 - many of these uses have traditionally occupied older buildings, so it may be worth considering how we can create space in existing buildings
 - extending FAR exemption to second story could help
 - there should be a preference for non-profits that need help but have financial capacity to stick around and proven track record
 - Public realm improvements
- Many working group members felt the program should allow the flexibility for developers to respond to local needs
- The committee expressed interest in opportunities for developments to provide a variety of public benefits off-site such as providing open space in areas that will have better location or light access or subsidizing rehearsal space in buildings where it might be more affordable; this approach could still provide additional incentives for amenities that are close to the development
- The City should strive to have better construction coordination among public and private projects; City could require better mitigation of traffic and circulation impacts or change timing of projects to avoid multiple ROW obstructions in close proximity

Areas of Limited Discussion

- The City could consider other approaches to further incentivize creation of public benefits such as reduced capacity charges, reduced sewer hook-up fees, or design flexibility
- The City could consider options to allow more rooftop uses
- Incentive zoning could also have more requirements about what you can't do
- Preservation of existing amenities might be preferable to creation of new amenities in some cases
- The City could consider ways to achieve multiple benefits in a single project such as using a TDR bank to purchase TDR for properties that also meet URM requirements, provide public space, or have fund for long-term maintenance or creating a flexible funding pool that can be combined with floor area bonuses; this process could involve paying above market prices for these sites
- The City could consider ways to support the development of shared systems such as district energy or internet between multiple property owners
- The City could consider opportunities to pro-actively and holistically assess the types of public benefits that might be most appropriate on certain sites
- The case studies down by SCIPDA could be helpful in updating the program and educating the public

**Working Group on TDR and On-site Amenity Incentives
Membership List**

<i>Name</i>	<i>Organization</i>
Bernel Goldberg	Seattle Art Museum
Brian Geller	2030 District
Chris Rogers	Point32
Eugenia Woo	Historic Seattle
Grace Kim	Schemata Workshop, Planning Commission
Holly Golden	Hillis Clark Martin Peterson
Jane Lewis	Pine Street
John Savo	NBBJ
Josh LaBelle	Seattle Theater Group
Maria Barrientos	Barrientos Development
Sharon Colman	Vulcan
Tom Nelson	Mithun

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