



Skagit County Planning & Development Services

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Supplemental Staff Report – TDR Docketing

Response to public comments on docketing of TDR and density credit policies and code

To: Board of County Commissioners
From: Kirk Johnson, AICP, Senior Planner
Re: Response to Public Comments on TDR/density credit docketing
Date: December 19, 2014

As noted in the Department's 2014 Docket recommendations memo dated December 2, 2014, docketing of TDR and density credit program policies and code is consistent with Resolution [R20140298](#), adopted by the Board on September 29, 2014.

Nonetheless, a number of public comments were made on substantive issues related to TDR and density credit policies and code during the public hearing and written comment period on the 2014 Docket; this memo responds to some of the major themes of public comment.

The list of commenters and written comments may be viewed on the [2014 Docket webpage](#) on the Planning & Development Services website (www.skagitcounty.net/planning).

Comments supportive of the TDR and density credit docketing proposal:

- The proposed program would be voluntary. It will provide additional choices and options to rural property owners who are interested in conserving their land.
- The program will help to conserve Skagit County's natural resource lands and the wildlife that rely on the natural landscape.
- A TDR program can help with the generational transfer of family-owned forest lands, keeping the land in forestry.
- There are very few financial resources available for forest land conservation.
- A TDR and density credit program can be designed in a way to complement the Farmland Legacy Program.
- Many people in the Puget Sound region live in counties with working TDR programs.
- When development pressure from the south hits Skagit County again, we should have every tool available to direct it away from farmland, including TDR.
- Growth will happen in Skagit County. It's better to put a program in place now than trying to play catch up once it happens.
- Federal conservation dollars are in decline, especially in the last several years. Competition for tax dollars is increasing. TDR will help to engage the private market in land conservation.

- The Skagit Land Trust is often visited by landowners who don't qualify for Farmland Legacy because their property isn't zoned Ag-NRL. The land trust doesn't have enough resources to help many of these landowners. More conservation tools are needed; TDR would help.

The above comments are consistent with and support docketing of the proposal.

🗨️ **The one place where TDR might work is in the former Agricultural Reserve (or "Secondary Ag") lands, which allowed a density of 1 unit per 20 acres. Many of these lands were added to Rural Reserve which allows 1 unit per 10 acres—or 2/10 with a Conservation and Reserve Development.**

One element of the proposal would enable landowners in Rural Reserve who have active farm or forestry uses on their land to voluntarily sell their residential development rights through a TDR or density credit program and opt into a natural resource land designation, consistent with the comment.

🗨️ **TDR isn't needed, or at least shouldn't be implemented until the County first implements a density credit program with revenues going to the purchase of development rights from forest or farm land.**

A density credit program of this sort is a part of the proposal. If the proposal is docketed, one option the Planning Commission or Board could consider is only implementing the density credit portion of the program at this time.

🗨️ **A city could contribute density credit revenues to a forest legacy program.**

This comment is consistent with the density credit portion of the proposal.

🗨️ **A TDR program is inconsistent with and will harm the Farmland Legacy Program. No further work should be done regarding application of a TDR program to Ag-NRL.**

The majority of the TDR Advisory Committee members, including two farming representatives, concluded that a properly-designed TDR and density credit program would complement the Farmland Legacy Program. Nonetheless, if the proposal is docketed, one option available to the Planning Commission or Board would be to exclude Ag-NRL as a TDR sending area, eliminating any potential for negative interactions. The program could still help protect quality farm land and active farming uses in Rural Reserve and Rural Resource-NRL, which aren't eligible for participation in Farmland Legacy.

🗨️ **A TDR program is unnecessary because of, and will in fact fatally undermine, existing comprehensive plan and zoning protections for Ag-NRL and other natural resource lands.**

These catastrophic predictions don't stand up to logical scrutiny. The Skagit TDR report and the majority recommendation on which the docketing proposal is based acknowledge the importance and success of these existing policies and programs, support their continuation, and recommend TDR as one additional conservation tool that can help complement the existing framework.

Strong planning and zoning are the fundamental tools for protecting farmland and other resource lands. Additional tools like purchase of development rights (PDR) and TDR can help to complement and support strong planning and zoning. Skagit County has such protections in

place. Neither a PDR nor TDR program will be effective in their absence, and neither will cause the fragmentation of the landscape and destruction of viable resource industries where such zoning protections already exist.

🗨️ **Friends of Skagit County wanted to be included in the TDR program from the very beginning. The TDR committee was limited. It's not a good way to do business.**

The commenter did not submit an application letter to serve on the TDR Advisory Committee. One of the Friends of Skagit County Board members and current board president¹, Ed Stauffer, did submit a comment letter, was selected, and did serve on the TDR Advisory Committee.

🗨️ **Rural landowners can donate their development rights to conserve their land. The Board of County Commissioners can institute a tax to fund a forest legacy program.**

Most landowners are not financially able to donate development rights. The Board could consider implementing a tax for forest land conservation, but that is not a part of the proposal under consideration for docketing. TDR looks to engage the private market in conservation.

🗨️ **There was no discussion by the TDR Advisory Committee about whether TDR would work in a rural county like Skagit.**

The committee held extensive discussions on this issue and differences of opinion existed among members. Those different opinions are discussed in the report and are reflected in the [majority and minority recommendations](#). The Committee majority concluded that a TDR program could be effective in Skagit County over time. Examples of successful rural TDR programs are included in Appendix E of the [Skagit TDR report](#).

🗨️ **TDR will force rural residents off their land.**

The proposed program would be voluntary in nature. No one would be compelled to sell development rights. Moreover, the program would only deal with unexercised development rights; it would have no applicability to existing residences.

🗨️ **The contract with Forterra shouldn't have been extended in November, prior to a Board decision on whether to docket the TDR proposal.**

The contract amendment extended the expiration date to 2015, in case the Board decides to docket the TDR proposal. The amendment did not increase the dollar amount or add to the scope of work.

🗨️ **Heather Ballash supervises Forterra staff.**

This is untrue. Ballash is an employee of the Washington Department of Commerce, a state agency. Forterra is a non-profit, non-governmental organization.

🗨️ **Heather Ballash was involved in efforts to approve wetland mitigation banks in Skagit County.**

This is untrue. Heather Ballash has had no involvement with wetland mitigation banks in Skagit County.

¹ Friends of Skagit County website, accessed 12/17/2014.

🗨️ **Forterra successfully lobbied the State Legislature to allow Fully Contained Communities in forest lands in four counties.**

This is untrue. Forterra has never championed legislation that resulted in changes to the Growth Management Act allowing expanded opportunities for Fully Contained Communities (which are already allowed under GMA, per RCW 36.70A.360). Forterra did support unsuccessful state legislation to allow existing development rights on rural and natural resource lands to be voluntarily transferred and clustered in new rural villages, to reduce development impacts on resource lands and the rural landscape. In 2009, Cascade Land Conservancy (Forterra's name at the time) supported Snohomish County's ordinance *overturning* regulations that had allowed Fully Contained Communities in rural parts of that county.