

**Summary of Key Issues from
Skagit County TDR Focus Group Meetings
January 7, 2014**

Overall Observations

- Some participants, particularly in the development group, emphasized that TDR was taking something away from receiving area landowners/developers, requiring them to pay for increased development potential that could be granted “for free” through zoning.
- Others, particularly in the ag and forestry groups, acknowledged that TDR could provide sending area landowners more options for ownership and management of their land, and would be a way to compensate or reward sending area landowners for conservation, rather than taking away development rights through downzones as in the past.
- While each group had skeptics of TDR, each group also had supporters of the TDR/Density Fee concept.
- Most participants saw ease-of-use benefits to a Density Fee approach or option. Many saw benefits to a combined TDR/Density Fee program. The smaller number who preferred the TDR mechanism did so because:
 - It relies more on free market transactions, and
 - It implies less administrative involvement and cost than density fee, especially if there’s a need to create a new conservation entity – such as a Forestland Legacy Program – for conserving lands with density fee revenues.
- The current slow development market and limited number of receiving areas currently under consideration may not generate many TDR transactions in the near-term.
- However, decisions to implement or not implement TDR now can affect TDR success 5, 10 or even 20 years into the future. More urbanized communities are now realizing this lesson as they try to implement TDR.
- If Skagit County creates a density fee program, questions remain about how fee revenues could be used to conserve lands other than Ag-NRL, if that were a desired goal – which it appears to be for many project participants. Options could include:
 - Broadening the focus of the Farmland Legacy Program to include other resource lands; or
 - Creating a counterpart program that focuses on conserving forest lands and other value resource lands.
- There are two somewhat conflicting views of TDR as it relates to sending area lands and landowners:
 1. Only development rights that may be exercised (actually built under current rules/regs) should be eligible for sale through TDR; vs

2. TDR can be a way to help out rural landowners whose development rights have been limited by current rules/regs. Although those rules/regs may not be permanent, often they correspond with long-term land conservation goals, so helping out those landowners can also be consistent with long-term conservation.

This is a fundamental policy issue the County needs to address if/as it moves to implement TDR.

Developer Group Discussion Summary¹

- Obstacles and objections to TDR:
 - Market needs to stabilize before TDR can be effective here
 - Skagit is rural; not a major growth center
 - Too few receiving areas being considered:
 - More cities need to be involved
 - May be greater opportunities for use of TDR for rural development
 - A great deal of land in Skagit County is already limited or restricted from development. It's unclear that additional conservation through TDR is necessary or appropriate.
- Additional opportunities that should be considered include:
 - CaRDs, Rural Villages (specifically mentioned: Big Lake, Clear Lake)
 - Sedro-Woolley (recently reduced impact fees and school improvements make it attractive for development)
 - Downtown residential development in all cities.
- Predominant developer attitude at meeting: TDR represents unfair or inappropriate taking of property values/rights from landowners/developers; creates disincentive to desired development pattern, not incentive.
 - Exception may be for additional rural development opportunities (where current GMA limits are stricter than market demand).
 - Use for urban commercial seems less viable than for urban residential (or maybe it's just a less familiar concept). In Burlington, commercial application of TDR would require establishing a Floor to Area Ratio (FAR) cap that doesn't currently exist (although neither does the market currently exist to exceed the proposed cap).
- A smaller number of the development group appeared to support the goals and premises of TDR:
 - That denser urban development is necessary to conserve rural and resource lands;
 - The development market is moving in that direction;
 - Urban infill and intensification represents a more fiscally sound development approach for cities; and
 - TDR balances sending and receiving area landowner financial needs/goals.
- Whether generally for or against TDR, most developer participants agreed the density fee approach would simplify process for developers and provide more certainty by letting them know up front what it's going to cost.

¹ Also reflects input from 1/15 meeting with Rob Janicki, Janicki Logging and Construction.

Forestry Group Discussion Summary²

- Focus of TDR should be on maintaining active forest management and timber production on forest land, vs. moving forest lands into “preservation” status.
- Additional work is needed among forest landowner groups to prioritize forest land conservation goals through TDR. Suggested focuses include:
 - Maintaining a fixed edge between rural residential lands and larger blocks of managed forest lands; preventing fragmentation and leapfrog development. Lake Cavanaugh and Snoqualmie in King County were cited as *undesirable* examples.
 - Linking conserved forest lands to compliance with the Endangered Species Act and other environmental or ecosystem conservation goals.
- Small forest landowners expressed strongest interest in TDR, which could provide additional financial, economic, management options to these landowners, provided a program is voluntary. It could be especially helpful in generational transfers of forest lands.
- Opinions were more mixed among the representatives of forest landowning companies. Some saw great uncertainty in their ability to continue managing for timber production into the future due to increasingly strict regulations.
 - Some of these participants supported non-permanent conservation easements or at least the ability to buy back development rights sold through TDR if circumstances changed.³
- A differing perspective came from Rob Janicki, who said due to the state’s habitat conservation plan there’s much greater certainty in forest management than there has been in a long time. That, coupled with the fact that forest lands are a commodity that will hold their value over the long-term, even against inflation, means forest land is a very good long-term investment.
 - With a voluntary program, landowners can hedge uncertainty by choosing not to participate in TDR or only selling some of their development rights.
- In discussing conservation of forest lands, it’s important to note the economic benefits to the County of maintaining long-term forest management and timber harvests (jobs and taxes, timber for mills) vs. the one-time nature of residential development.

² Also reflects input from 1/15/14 meeting with Rob Janicki, Janicki Logging and Construction.

³ One small landowner participant objected to the idea of a non-permanent easement or buy-back option, saying neither would assure the important goal of permanent forest land conservation.

Agriculture Focus Group Summary

- Some participants expressed concerns that:
 - Ag-NRL development rights purchased in Skagit County through TDR may be sold outside of Skagit County (this is not allowed by state law and it's unclear what County goal it would serve even if allowed);
 - Success of TDR could cause County to drop Farmland Legacy Program, then TDR could be used to manipulate Ag-NRL purchase prices.
 - Creation of TDR program could siphon away staff resources for Farmland Legacy.
 - County should look at receiving areas other than Bayview Ridge, including some rapidly growing rural areas.
 - Dependence on development market may mean a robust TDR program is a long way off.
- Why do Ag-NRL development rights purchased through TDR appear to have a lower value than Ag-NRL development rights purchased through FLP?
 - Less restrictive conservation easement through TDR;
 - Different geographic location of likely TDR vs. PDR sales;
 - Market pressures will focus TDR transactions on lower-value Ag-NRL development rights, whereas Farmland Legacy Program often targets likely-to-convert lands.
- Rozema: this is a good thing, not a bad thing. A TDR program could create new opportunities for Ag-NRL property owners who:
 - Are outside of the area where most FLP purchases have been concentrated to date, or
 - Do not want as restrictive an easement as comes with FLP purchase (including the new restrictions associated with federal funds).
- A TDR program could also help conserve land being actively farmed in the Rural Reserve and Rural Resource-NRL zones, which the FLP program does not apply to.
- A program could be structured a couple of different ways relative to Farmland Legacy and ag land conservation:
 - 1) Some or all of the fees generated from the density fee program could be provided to the Farmland Legacy Program for Ag-NRL purchases. This would strengthen the FLP program, not weaken it.
 - 2) With the private-market TDR component, the County could include or exclude Ag-NRL from eligible sending areas.
 - a. Excluding Ag-NRL would provide a firewall between the TDR program and the FLP program, preventing negative interactions between those two "markets."
 - b. However, the TDR option would not be available to Ag-NRL landowners – even those who do not want to or are unable to sell their development rights to Farmland Legacy.

Comparison of PDR and TDR

- PDR (Farmland Legacy) has a very successful track record of Ag-NRL conservation since its creation in 1996, conserving more than 10,000 acres.
- A benefit of PDR is its dedicated funding source (the Conservation Futures tax, plus state and federal grant dollars).
- However, recent restrictions placed on federal dollars requiring buffer strips along drainage ditches are “very undesirable” to many farmers.
- Conservation priorities can be more carefully targeted with a PDR program than a TDR program (where conservation purchasers are market driven).
- Because appraisals are required with the use of public dollars, landowners are assured of fair market value.

Some characteristics of TDR:

- A program would be locally created and supported through local development right purchases so Skagit County can set the terms of the easements.
- The TDR easement would likely be simpler and less restrictive than the FLP easement, focusing solely on retiring residential development rights. This may be more attractive to some landowners.
- Some willing landowners who haven’t ranked highly enough to sell development rights to Farmland Legacy may find willing buyers through a TDR program.
- TDR could focus on conserving active agricultural lands in the Rural Reserve and Rural Resource-NRL zones, whereas FLP only applies to Ag-NRL lands.
- TDR transactions are market-funded and do not require tax dollars.
- Because TDR is market driven, it requires an active development market to work. It may take some time for the TDR market in Skagit County to mature and start generating significant support for land conservation.