

Meeting Summary - Final
Skagit County TDR Advisory Committee

Thursday, March 14, 2013

Skagit County Commissioners Administration Building

1:30 – 4:30 pm

Committee members present: Charlie Boon, Martha Bray, Wayne Crider, Charlie Guildner, Mike Hulbert, Kim Mower, Kathy Mitchell (for Ed Stauffer).

Project staff and advisors: Kirk Johnson; Josh Greenberg

Members of the public: George Waldron, Ellie Herr

Meeting Objectives

- Make further progress in identifying potential TDR sending areas
- Review key themes of previous sending area discussion (Nov. 8)
- View and discuss maps that help inform sending area selection
- Provide additional guidance to staff for further sending area research and mapping

Sending Area Overview

Kirk walked through the document titled “Major Themes from Nov. 8 Sending Area Discussion,” as a refresher for the day’s further discussion of potential sending areas. He then summarized the document titled “Some Thoughts on Potential Goals and Objectives of Conservation Through TDR.”

See those two documents for details.

The second document generated a discussion of whether a TDR program would focus just on the sale and transfer of a property’s **residential** development right, or would it also include other use and development rights associated with the property?

For instance, what if the zoning code allowed construction of a barn for agricultural use or a sawmill on forest land?

It would depend on what the conservation easement stated. But there was general agreement that a TDR program should involve the sale and transfer of the property’s residential development right while leaving other rights intact.

Several other questions were considered:

- Would the program use a standard conservation easement, or would a unique one be negotiated with each transaction?

Martha said she thought it would be simpler and more efficient to use a standard conservation easement for all TDR transactions. Kirk said that's his understanding of how most TDR programs operate.

- Would negotiation on the price of a development right be between the buyer and seller, or would there be a pre-established price?

Kirk said that under a standard TDR program the price would be negotiated between buyer and seller. For instance, he understands that's how Mount Vernon's TDR program has operated.

There are TDR program variations where prices are pre-established. For instance, TDR banks and fee-in-lieu programs (like Burlington's density credit program) provide ease of use by not requiring a developer who wants extra density to have to seek out a willing seller and negotiate a price. Instead, the bank or program does that work.

Wayne said potential sellers would need to know what they're selling. He had heard of an Island County situation where property owners sold development rights for much less than their market value.

Others responded that in a private market transaction, the County can't be holding the seller's hand. There would need to be a balance between "buyer (or seller) beware" and consumer protection.

Kathy said it would be important to know the fiscal or revenue impacts of a TDR program. Shifting residential development from the county to a city would shift tax revenue from the county to the cities and could hurt the county financially.

Charlie Guildner responded that wasn't necessarily the case. Although the county receives a smaller share of tax revenue from development within cities, the overall value of the urban development might be greater, and the county's overall revenue share might be greater as well.

Martha said the cost side also needs to be considered. It's generally understood that residential development costs more to provide services to than it generates in revenue – especially low density residential development. So moving residential development from the county to the cities might have an overall positive fiscal impact for the county.

Review of Maps – Josh Greenberg

Josh walked through the different maps he developed for the project in consultation with Kirk, and briefly described the source for and/or purpose of each map:

GIS Maps for Skagit TDR Project

	Title	Source/Purpose
1.	Proximity to cities/urban areas (2 and 4 mile buffers)	To help consider a criterion for proximity of TDR sending sites to urban/receiving areas
2.	Land Ownership	Shows the land base of potential sending areas
3.	Population growth patterns, new dwellings 2000 – 2010	From Skagit County Assessor’s data, shows where residential growth has occurred over the past decade
4.	Skagit County agricultural lands	Ag-NRL lands plus Rural Resource-NRL and Rural Reserve lands with certain ag characteristics
5.	Selected Forest lands in Skagit County	Secondary Forest lands plus Rural Resource-NRL and Rural Reserve lands with certain forestry characteristics
6.	High value, high conversion risk forest lands	Identified in “Rural Technology Initiative” study by UW College of Forest Resources for Washington State Legislature and DNR ¹
7.	Priority watersheds	Identified by Washington Department of Ecology “Watershed Characterization”
	7.1 Water quality	In both, darker areas are more vulnerable to change due to disturbance or development
	7.2 Water flow	
8.	Protected/conserved lands in Skagit County	Lands already conserved by conservation easements, public ownership, open space zoning, and other mechanisms
9.	Adopted UGA Open Space Concept Plan map (with 2 and 4 mile buffers added)	Illustrates potential open space lands in close proximity to cities

General Discussion

Charlie Boon said not all properties may have development potential. If you can’t do anything with the property, TDR shouldn’t be an equity building enterprise.

Kim agreed: If you don’t have a property right to build, you don’t have one to sell.

Someone mentioned the situation facing Fisher-Carpenter Basin properties – they might not have an exercisable development right now but they may later if water becomes

¹ <http://www.ruraltech.org/projects/wrl/sfr/pdf/RetentionReport.pdf>. One of the recommendations from the executive summary of this report is: “Support the central Puget Sound Transfer of Development Rights (TDR) pilot project.”

available in the future. In a situation like this, how do you determine if a lot has a development right or not?

Mike said in Ag-NRL there are lots with theoretical development rights that can't actually be developed – they are outside of the dikes, or are really low and hard to drain.

Kathy said there needs to be a filter – a way to determine for purposes of the TDR program whether a development right is exercisable or not, and therefore eligible to be sold and transferred through the program.

Kirk said he would discuss the issue with County planning staff and bring some ideas back to the committee for further discussion on this topic.

City participation

The issue of city participation in the program came up. Wayne said Mount Vernon is not participating because it already has many development right credits on the books from the city's own TDR program and they don't want to accept more.

Charlie Boon said he's not comfortable with increased residential densities in cities. He doesn't like the examples he's seen. They're too crowded and there isn't enough room for cars to park.

Charlie Boon also doesn't think that city areas in the floodplain should be receiving areas. Putting more development there will simply increase the amount of damage in a major flood. For these reasons, Charlie is still not sold on the TDR concept.

Wayne said he is not either, in part because of the experience with the Mount Vernon program where a builder has purchased development rights but is unable to use them.

Josh said it's important to ask participating cities what conservation goals they are interested in. Since Burlington has agreed to participate in the TDR project, Burlington should be asked what conservation goals it is interested in, in addition to the agricultural lands immediately surrounding the city.

As a resident near the Bayview Ridge area, Josh said he is very interested in public open space and greenbelts, particularly to buffer existing residential areas if Bayview is going to become the location for future residential or industrial development with the help of TDR.

Martha said she supported identifying potential city/UGA open space areas as TDR sending areas.

Wayne said “you have to have proximity” between sending and receiving areas. The concept of specifying that sending areas should be within a certain distance of cities or urban growth areas seemed to be generally accepted by others as well.

Agricultural lands

Kim said the idea of adding land to Ag-NRL zoning came out of Envision Skagit 2060. That’s one of her primary reasons for participating in the TDR project. Owners of property with productive soils should be given the opportunity to opt into Ag-type zoning by selling their development rights and reducing the development potential of their land. She said one of her sons spent time in Africa and “any soil here is better than in Africa.”

Reviewing the conserved lands map (#8), Mike said one source of conserved lands not shown on the map is the “39/1’s” – where a 1-acre lot has been segregated off for residential use and a conservation easement placed on the remaining 39 acres. He wondered how much Ag-NRL land has been conserved that way.

Regarding the idea of conserving larger blocks of undeveloped land, Mike said there is a value to keeping smaller blocks at least in terms of ownership. Concentration of ownership is not always a good thing.

Charlie Boon said he doesn’t see why an Ag-NRL property owner would sell to a TDR program. It wouldn’t pay as much as Farmland Legacy does.

Kim responded that Farmland Legacy has more strings attached – in terms of a more restrictive conservation easement. TDR wouldn’t have that. The landowner should be given the option.

Kirk asked if TDR could be available for Ag-NRL lands east of Sedro-Woolley where Farmland Legacy has been much less active.

Mike said Farmland Legacy is active and does provide an option for Ag-NRL landowners around Sedro-Woolley and farther east. There are lands preserved in the Sedro-Woolley area. Any landowner can apply to Farmland Legacy Program.

Kim said she would support making TDR an option for Ag-NRL lands but appreciates the concerns that Mike and others have. She especially supports making TDR available to Rural Reserve and Rural Resource landowners because she thinks those soils are worth protecting.

“We need to avoid the King County situation where they chopped up the ag lands,” she said. “There’s new blood in farming, people working on small acreage, incubator lands, a new wave.”

Mike said the Farmland Legacy Program has been successful at conserving more than 8000 acres. Agriculture is an economic engine: it generates more taxes than it costs. Farmland Legacy is one of the most successful PDR programs in the country.

He doesn't know if TDR can be successful. Most of the cities are not willing to be receiving areas. TDR might siphon political support from Farmland Legacy. Politicians might say: TDR is protecting ag lands. We don't need Farmland Legacy, or we can use it for other things than ag land protection.

Charlie Guildner observed: in other words, you would need rock solid insurance that a TDR program wouldn't draw funds or political support away from Farmland Legacy.

Forest lands

There was discussion of the definitions in Map 6 of "high risk of conversion" and "high value" for forestry. The text in the map describes them as follows:

- High risk of conversion: "determined by a differential between working forest value and appraised market value greater than \$2,500 per acre."
- High value: "Determined by an internal rate of return for forestry of 5% or greater."

Kathy wondered what was "at risk" in the Chuckanut Drive area where many of the parcels already have residential development. There were also questions about the large block of red area at the southern end of March's point and whether that was truly high risk/high value forest land.

Martha said she supported including at risk forest lands as TDR sending areas. She and would like to see the Rural Technology Initiative's at risk forest mapping overlaid on Skagit County's designated forest lands.

Environmental resources and open space

Kim wondered whether including "priority watershed areas" as a TDR sending area criterion would gain Skagit County points in its implementation of the Voluntary Stewardship Program. (This is a program that Skagit County has opted into as a way to promote salmon habitat and agriculture as opposed to a more regulatory approach).

Kirk said the state puts quite a bit of emphasis on the "Watershed Characterization" process and so that might be the case.

Kirk said he, Josh and Martha planned to further explore the Watershed Characterization data for potential use through the TDR project. Other committee members are welcome to join in that effort. They would bring a more developed

proposal back to the Committee for how the watershed characterization might apply to selection of TDR sending areas.

Next Steps

There was general discussion at the end of the meeting on next steps. There appeared to be support among those present for the idea that sending sites should be relatively close to receiving areas (cities and urban growth areas) along the lines of the “proximity to cities/urban areas” map #1.

Committee members present appeared to show general support for continuing to explore the sending areas discussed at the meeting, including agricultural lands, forest lands, open space areas within or near urban growth areas, and priority watersheds. However, committee members identified outstanding questions on each of the above, as identified earlier in these meeting notes, that project staff should follow up on and report back to the full committee about.

One important next step is to consult with interested members of the advisory committee who were unable to attend the March 14 meeting. (A follow-up meeting is scheduled for Thursday, April 18).

Another is touching base with receiving area representatives to determine what their conservation priorities are. These include Burlington, the Bayview Ridge UGA, and Skagit County. Kirk will start by talking with Margaret Fleek for Burlington, and consulting with the County Commissioners on the latter two.

Public Comments

George Waldron said he and other members of the public would like to see a map showing land available for private development that is not restricted by water limitations or other regulations.

Kirk said he would talk to Josh about whether such a map exists or could be developed.

Ellie Herr said she worried that rural lands could lose all value and be abandoned due to the cumulative impact of various regulations on use and development.

The meeting adjourned at 4:30 pm.