Meeting Summary
Skagit County TDR Advisory Committee
Wednesday, September 19, 2012
Skagit County Commissioners Administration Building
1:30 – 4:30 pm

Committee members present: Charlie Boon, Martha Bray, Wayne Crider, John Doyle, Margaret Fleek, Charlie Guildner, Jana Hanson; Jennifer Hagenow, Mike Hulbert, Paul Kriegel, Bruce Lisser, Kim Mower, Allen Rozema, Kendra Smith, Ed Stauffer, Joe Woodmansee.

Project staff and advisors: Kirk Johnson; Taylor Carroll

Members of the public: Ellen Bynum; Kathy Mitchell; Ellie (last name unknown)

Handouts:

1. Agenda
2. Major TDR Work Plan Tasks & Project Timeline
3. Discussion Paper: Skagit County TDR Program Goals *(Draft)*
4. Skagit County TDR Program: Outreach Guidelines
5. Resolution R20120276 establishing a TDR advisory committee

Meeting objectives and agenda topics

See attached agenda.

Introductory Discussion

The meeting began with brief introductions of committee members, all of whom were in attendance. Kirk Johnson reported that Mark Personius was no longer available as a consultant to the project as he has taken a job with Whatcom County. Taylor Carroll explained that Forterra is working as a technical advisor to Skagit County and the committee, sharing its TDR knowledge and expertise, but not advocating a particular project outcome.

The committee agreed to meet on a regular basis on the second Thursday of every other month. The next meeting will be Thursday, November 8th, followed by Thursday, January 10th, etc. Meetings will run from 1:30 to 4:30 pm in the Board of County Commissioners Hearing Room, 1800 Continental Place, Mount Vernon, unless otherwise noted.

Margaret Fleek suggested the project develop or find a summary of all of the tools available for land conservation, including TDR, to help place TDR in the broader context. This will be important information for elected officials. Margaret recommended a 36 page report from MRSC (available from Kirk to anyone interested).

<u>Project Timeline and Key Program Elements</u>

Kirk handed out and reviewed a table of TDR program elements that the committee will consider, and an associated timeline ("Major TDR Work Plan Tasks & Project Timeline.") The committee will help explore key program elements including: program goals, interactions with other programs, sending and receiving areas, market analysis, developer incentives, and potential TDR program structures. The committee's work will help to inform development by project staff of TDR program and policy options by the fall of 2013. These options, along with the committee's thinking on them, will be presented to the Board of County Commissioners. Before the end of the 2013, the Board is scheduled to determine whether to move forward with formal development and consideration of a TDR program.

Bruce Lisser expressed concern that the market analysis was coming too early in the process, and should not be started until potential receiving sites were more clearly identified. Without viable receiving areas and a market, a TDR program will not function.

Taylor said out of 200 or so TDR programs in the US, only a handful are actually working, and those are the ones that pay serious attention to the economics. Kirk and Taylor acknowledged the importance of Bruce's point and said economic success was a key goal of this project. Rather than analyzing all possible receiving areas, and spreading project funds very thinly, it will be important to work with the county, cities, and the development community to determine where there is political acceptance and market demand for increased development.

Paul Kriegel asked how a value is established for development rights when some properties have much greater environmental resources and values associated with them. Taylor said TDR programs typically only purchase the development rights from a property and therefore the dollar value of environmental resources associated with the property doesn't come into play.

Martha Bray asked if the committee would only have one session for each major program element, such as sending areas. Kirk said no, the discussion would likely be an iterative process that involves revisiting some topics as more information becomes available.[1]

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[1] There was some discussion at this point about how TDR might affect other conservation programs. These comments are included later in the summary under the **TDR Interactions** heading.

TDR Program Goals Discussion

Discussion turned to the draft set of TDR Program Goals provided by email to committee members before the meeting ("Discussion Paper: TDR Program Goals").

Bruce said the goals document (like the schedule) seems overly focused on the conservation and sending side, and not enough on the receiving side. There needs to be some kind of balance between sending and receiving areas. Anacortes and Mount Vernon need to be involved as that's where much of the urban growth will occur.

Joe Woodmansee said in Skagit County, where there is so much land with significant natural resource and environmental value, there will always be more potential sending sites than receiving sites.

Jennifer Hagenow asked: can there be some efforts, such marketing by the cities, to make receiving areas more attractive?

Charlie Boon reported he sent out a message to clients that he is on the TDR committee. Several responded that they don't want to see more jammed-in residential neighborhoods where there's not enough parking for visitors, or where four-plexes are plopped down in single family residential neighborhoods.

Bruce suggested a stepped program, looking first at potential receiving sites that the County has land use authority over (such as Bayview Ridge UGA, rural upzones, or density bonuses for CaRD developments); then looking at potential receiving areas in cities that are willing to participate.

Jana Hanson suggested there could be incentives for additional rural commercial square footage and rural cluster developments.

Joe said markets are cyclical and there needs to be understanding that a TDR program might not be active at all times, so create a program that works when the market exists.
John Doyle said items like storm drainage requirements and impervious surface could be used as conversion commodities (developer incentives).

Taylor agreed that TDR developer incentives can include access to additional development potential, and reductions in development costs or requirements (such as parking requirements, impervious surface limits, etc.)

Bruce suggested using TDR for items other than residential density. In urban commercial areas, additional height or square footage, or reduced parking requirements, could be a huge incentive.

Paul said he likes the “market-driven” language contained in the Kittitas TDR goals example.

Allen Rozema said there needs to be political acceptance from all of the jurisdictions in Skagit County. Their public policy decisions help to create the market TDR would operate within. What can TDR help to achieve that is a win for the cities?

Kim Mower said the Envision Skagit citizen committee recommendations identified various potential sending areas that the committee could consider, including agricultural and forest lands as well as the floodplain. The Envision committee recommended that receiving sites could include the cities and some of the County’s Rural Villages.

Ed Stauffer pointed to draft goal 1 (TDR should be consistent with the comp plan) and 5 (identifying lands prioritized for protection through TDR). The comprehensive plan, land trusts, conservation easements are all currently in play. The existing comp plan ensures we don’t have sprawl. We’re not starting from nothing. Ed asked: What’s not working in rural zoning that TDR needs to address?

Kirk concluded goals discussion at this point. Paul and Martha had follow-up comments to Ed’s comment, which Kirk said they could address at the next meeting.

Based on the “goals” discussion, Kirk said he would bring back a revised goals narrative statement for the committee to consider further at the next meeting.

Potential TDR Program Interactions

Discussion moved to how a TDR program might interact, positively or negative, with existing programs such as the Burlington Density Credit program and Farmland Legacy.

Burlington Density Credit Program

Margaret gave a brief overview of the Burlington Ag Heritage Density Credit Program.[2] The program drew on extensive economic research funded by Skagitonians to Preserve Farmland, the Skagit Conservation District, and Skagit County. The cost to a developer of a density credit is based on the increased value of the property due to the additional development potential gained. The receiving area is a 49-square-block downtown area, as well as residential development in the Retail Core (C-1) and scattered locations of Multi-Family (R-3) zoning. Density credits can be purchased to place additional dwelling units in the Medium Residential Neighborhood Business (MR-NB) zone, the Downtown Business District (B-1), the General Commercial District (C-1) and the Multi-Family Zoning District (R-3). The program does not allow placement of apartments in residential areas, as Burlington "hates apartments" but likes small single family lots like the city it was based on, Burlington, VT.

In the 49-block old Downtown area, the parking requirements were substantially decreased to encourage higher density infill and redevelopment. The city does not currently apply any density credit purchases to commercial development – it wants to promote commercial development and doesn't want to create disincentives. However, that's a policy choice the city could revisit when the commercial market picks up.

To date, two density credits have been sold through the program which was created just as the economy tanked. Funds are provided to the Farmland Legacy Program for development right acquisition in a 1,800-acre area of Ag-NRL surrounding the city. The goal is to create a ring of permanently protected agricultural land around the city. (Margaret adds: "One of the programs that has great potential for the long term future is urban edge agriculture that provides agricultural products to the abutting city. There is a great list of potential partners, such as Skagitonians to Preserve Farmland, Viva Farms, Home Trust Skagit, Dike District #12, and as opportunities arise, this will happen!").

Farmland Legacy Program

Kendra Smith said that Farmland Legacy was created in 1997 based on numerous public surveys showing that farmland protection is a priority goal among the Skagit County public. The program makes use of a provision in state law allowing a county to create a Conservation Futures tax which can be used for acquisition of land or development rights to protect open space, including farmland. Skagit County has selected farmland protection as the goal of the Farmland Legacy Program (FLP) and recipient of the conservation futures tax revenues.

[2] Included here are some additional program details provided by Margaret when reviewing a draft version of this section of the meeting notes.

By 2012, the program has purchased development rights on 8,000 acres of Ag-NRL land. The program is entirely voluntary and optional for landowners who sell development rights. Originally the offering price for development rights was based on the number of points that a particular property scored in a ranking process. More recently, the program is partnering with state and federal funding sources which require appraisals to determine the fair market value of the development rights. Development rights purchased with federal funds cannot be resold.

The program also partners or has explored partnerships with organizations including Ducks Unlimited, The Nature Conservancy, and the Skagit Land Trust. The purchase price for one development right on Ag-NRL land tends to run about $95,000 to $100,000. [Elaboration from Kendra: "Please note that my answer to the cost associated to purchasing a development right in the farmland was based on a parcel approximately 40 acres. Parcel size does make a difference. Parcel location also makes a difference. The cost of the development is subject to other sales. The appraisal will disregard those sales that are extremely high or low… If you have more questions on this please let me know. The program does receive some dollars from private foundations so not all of the money is attached to public dollars. Kendra Smith, ASLA, AICP, (360) 419-3303."]

The program has a seven-member board called the Conservation Futures Advisory Committee that makes recommendations on development right purchases to the Board of County Commissioners. TDR committee member Mike Hulbert is one of those board members.

Mike said he has some questions and concerns about TDR and its potential impacts on Farmland Legacy and the protection of farmland, including: where has TDR worked in a similar setting as Skagit County? He has not heard of any such examples. He's concerned the County Commissioners might defund FLP if it has a successful TDR program under the rationale that "TDR is working." And he's concerned a TDR program's focus might not be agricultural lands with the greatest natural resource value; rather, development rights might be purchased based on other factors.

Kendra mentioned a previous Skagit County TDR study by Mary Heinricht in 2005 that concluded a TDR program might drive up farmland prices and therefore make the purchase of farmland for agricultural use more expensive.

Joe said if FLP is paying $95k to $100k for a development right, there's no way TDR will compete with it. The economics don't support a TDR market transaction paying that high a price for a development right.

Bruce agreed TDR is not that big a money maker.

Charlie Guildner noted the time value of money. He said a landowner who was interested in selling a development right but was not scoring high in the FLP prioritization process – and therefore could not anticipate a sale in the foreseeable future -- might look to TDR for a quicker transaction, even if at a lower price. In this way TDR could complement rather than complete with FLP.

Martha agreed that lands that don't currently rank as a top priority for FLP could still have significant conservation value and could be a candidate for purchase through TDR.

Charlie Guildner noted that the Farmland Legacy program uses public funds (either through the conservation futures tax or state or federal dollars), whereas TDR would generate funds through private market transactions. This is another way in which TDR is different from and could be complementary to FLP.

Charlie noted another difference in the two programs: FLP retires a development right, meaning one fewer house in the county. TDR would transfer that development right elsewhere.

Kim Mower said the Envision citizen committee recommended that TDR might be used for lands other than Ag-NRL, including forest land, floodplain, and lands with important environmental values. Since FLP focuses on Ag-NRL, maybe TDR could complement it by focusing on lands other than Ag-NRL.

Public Outreach

Kirk referred to the "Public Outreach Guidelines" document provided to the committee by email. The goal of outreach is to inform the broader community about the TDR project, receive community input, and make sure no one is left out of the loop. Committee members can help to provide some of that input themselves, through committee discussions, and can help identify community groups and industry sectors the project should reach out to.

Bruce said the development community should be engaged earlier in the process than is indicated, to help identify where demand and potential receiving areas are.

Allen said it was just as important to talk to the cities and towns to determine their potential interest in TDR. Developer priorities can't drive the process if they're not supported by city plans and policies.

Kirk said other groups that need to be kept informed include the Board of County Commissioners, Planning Commission, Skagit County Agriculture and Forest Advisory Board, the Conservation Futures Advisory Committee, and the Skagit Council of Governments. Kirk will do some of this work and asked that TDR committee members who sit on those respective committees help out.

Kirk said he plans to talk with the agriculture representatives on the committee about outreach to the ag community, with Martha Bray about conservation outreach, and with the business representatives (Joe, Bruce, Wayne, and Charlie Boon and Charlie Guildner) about outreach to the business, real estate and development sectors.

Public Comments

Ellen Bynum, Friends of Skagit County, suggested the book *Beyond Takings and Givings*, by Rick Pruetz*,* as a good source of information on TDR programs. She said there are few successful ag-focused TDR programs and suggested "taking ag off the table." The most successful TDR examples from the book involve transfers from urban growth areas into cities. The mechanisms for TDR and PDR (purchase of development rights, like Farmland Legacy) are quite different. PDR retires the development right whereas TDR transfers it elsewhere. It's important to learn the correct terminology. Friends of Skagit County has found no example of rural counties that have used TDR.

Kathy Mitchell suggested committee members keep a number of questions in mind:

- Are there any successful rural TDR programs?
- Who acts as the broker in the sale and transfer of development rights?
- Will TDR transactions be taxed?
- If so, how, and who receives the tax revenues?
- What are the property tax implications on the properties involved?
- What about unforeseen zoning changes?
- TDRs sound very complex. Who can members of the public talk to get additional information?

Ellie (did not catch last name) said she has a gut feeling that this is social engineering, moving people into the cities. Listening as an average citizen, it feels like you want to put me into the city. Our parents worked hard to get out of the cities. My immediate reaction is – you need to think carefully about this.

[Note from Kirk: I am available to meet with members of the public to answer questions about the project. Also, the sale of development rights would be entirely voluntary in nature, just as it is with the Farmland Legacy Program. The development rights that would available for sale and transfer are *unexercised* development rights. TDR (and PDR) programs do not move existing rural residents or homes.]

The meeting adjourned at 4:30 pm.

Attachment 1

Skagit TDR Program Advisory Committee Meeting
Wednesday September 19, 2012
1:30 pm – 4:30 pm
Board of County Commissioners Hearing Room

Meeting Objectives

1. Understand key TDR program elements the Committee will cover in the coming months
2. Brainstorm TDR program goals
3. Learn about Farmland Legacy and Burlington Ag Heritage program and potential TDR interactions
4. Discuss project outreach efforts

Agenda

1:30	**Agenda Review – Kirk Johnson**
1:35 – 2:00	**Key TDR program elements covered by the committee – Taylor Carroll and Kirk Johnson**
2:00 – 3:15	**TDR program goals – committee brainstorm – All**
3:15 – 4:00	**Program interactions with TDR – All** Brief presentations on Burlington Density Credit Program (Margaret Fleek) and Farmland Legacy Program (Mike Hulbert?); and discussion
4:00 – 4:30	**Project outreach** Homework to inform the discussion for next meeting
4:30	**Adjourn**