

# Skagit County TDR Report Outline – Preliminary/Draft

## 1. TDR Overview

- a. What is TDR?
- b. What is the rationale for TDR?
- c. Why are we considering it here and now?
- d. History of TDR in Skagit County
- e. TDR examples from elsewhere
- f. Would a TDR program work here in Skagit County?
- g. What are the major arguments against implementing TDR?

## 2. Conservation Goals and Sending Areas

- a. Recommended conservation goals of a TDR program
- b. Why is additional conservation needed?
- c. Identification and designation of sending areas
- d. Broad approach vs. more targeted, prioritized approach
- e. Determining eligibility for sale of development rights
- f. TDR conservation easements

## 3. Development Goals and Receiving Areas

- a. Where would the receiving areas be?
  - i. Under current consideration
  - ii. For possible inclusion in future
- b. What developer incentives would be offered? (conversion commodities)
- c. Why would developers be interested in participating in a TDR or Density Fee program?
- d. Why would a city choose to participate or not?
  - i. Why cities other than Burlington are not currently interested in joining with County
- e. The market for TDR (market analysis summary and recommendations – maybe this should be a whole separate section)

## 4. Transaction mechanisms: TDR and Density Fee

- a. TDR described
  - i. Simple buyer-seller
  - ii. Buyer-seller with public support
- b. Density fee
- c. Advantages/disadvantages of each
- d. Some benefits of a hybrid approach
- e. Options for achieving conservation with density fee funds
  - iii. Farmland Legacy Program (FLP): Ag-NRL only

- iv. Separate county conservation program, either under the Conservation Futures umbrella or stand-alone
- v. Contract out conservation purchases to a third-party organization

**5. Interaction of new TDR program and existing TDR, Density Credit, and Conservation Programs**

- a. Farmland Legacy
- b. Burlington Ag Heritage Credit Program
- c. Mount Vernon TDR program
- d. Skagit Land Trust, other community programs

**6. Administration/Level of County involvement**

- a. Tracking of development right sales, transfers, and conservation easements
- b. Marketing program
- c. Other administrative functions
- d. Level of County administrative support (estimated annual FTE cost)

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## TDR Report Recommendations – Preliminary/Draft

### Option 1: No action

- **Take no action on TDR at this time.**

#### Rationale<sup>1</sup>:

- Skagit is a rural county; TDR programs are generally most effective in urban areas.
- There are too few cities participating, too few receiving areas, and inadequate demand for development within those receiving areas, for a program to be viable at this time.
- Areas such as Burlington that are in the floodplain should not be receiving areas – those are the wrong areas in which to encourage more development.
- Encouraging more residential density through TDR will not be successful and is not desirable in Skagit County cities. Most city residents do not want more residential density in their neighborhoods. Higher density residential areas often look and feel cramped and have inadequate parking.
- A TDR program focusing on Ag-NRL could undercut the success of the Farmland Legacy Program by reducing political support for Farmland Legacy.
- Some forest landowners may not be interested in selling development rights in perpetuity.
- The Skagit County Comprehensive Plan and development code does an adequate job of protecting natural resource lands and environmentally sensitive areas. Additional conservation through TDR is unnecessary.
- Development opportunities in rural areas have been greatly reduced through the implementation of GMA and the Comprehensive Plan, and through increasingly strict environmental and land use regulations since then. More limitations on rural development, even voluntary ones that compensate rural landowners, are unnecessary and undesirable.
- Receiving-area landowners subject to planning and zoning decisions that increase the development potential and associated economic value of their property should receive the full economic benefit; a portion of that value should not be retained for conservation in the public benefit.
- TDR may sound good in concept but it is overly complicated for Skagit County to undertake at this time, particularly in the face of other, more pressing land use planning challenges.

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<sup>1</sup> These are some of the most commonly cited objections to implementing TDR in Skagit County.

## **Option 2: Implement a limited density fee program**

- 1. Establish a policy framework and implementing code for a Skagit County Density Fee program.**
- 2. Continue, or at the city's choice, expand the Burlington Agriculture Heritage Density Credit Program. Encourage and allow other cities to join over time.**
- 3. Apply a Skagit County density fee requirement for Rural Upzones and urban residential development at Bayview Ridge (if any).**
- 4. County and City of Burlington fee revenues could be provided to the Farmland Legacy Program for Ag-NRL development right purchases, or could be used by a new or broadened Skagit County conservation program for purchase of development rights on other natural resource lands.**
- 5. Participation by sending area landowners would be entirely voluntary.**
- 6. Skagit County could consider broader application of Density Fee and TDR in the future (including additional applications identified in Option 3 below).**

### Rationale:

- Although some of the most successful TDR programs are centered around large cities, a growing number of rural communities are implementing TDR or Density Fee programs and a number of those have a growing track record of success.
- TDR can work wherever there is growth, and where access to additional development potential is tied to a requirement to purchase TDRs or density credits. Markets fluctuate over time and the development market will be strong again in Skagit County. As existing zoning capacity is used up, developer interest in TDR or Density Fee opportunities will increase
- It's never too early to begin a TDR or Density Fee program. Starting with a limited number of receiving areas is a way to gain experience and public familiarity with the concept and its implementation. Based on experience in other Puget Sound counties, additional county and city receiving areas likely will be added over time. Many urbanized jurisdictions now considering implementing TDR or Density Fee programs wish they had done so 10 or 20 years ago.
- The Skagit County Comprehensive Plan does an admirable job of protecting natural resource lands, rural character, and environmentally sensitive areas. A TDR or Density Fee program will provide an added tool for conserving lands of special significance. The Skagit County Comprehensive Plan and Countywide Planning Policies, and the GMA, all encourage consideration and use of TDR to complement zoning. Land conservation achieved through TDR is permanent whereas zoning is not. It is generally believed that residential development in natural resource lands, even at the low densities allowed under the Comprehensive Plan and development regulations, can undermine long-term natural resource management.
- TDR/Density Fee provides another option for rural and natural resource land owners who want to conserve their lands. A voluntary TDR/Density Fee program is landowner friendly, respects

private property rights, and can provide a new source of revenue for landowners. TDR/Density Fee also taps the private development market to support conservation at a time when many sources of public conservation funding are in decline and little appetite exists for tax increases at any level of government.

- TDR is complex, whereas a Density Fee program would be simpler to implement and to use for many developers. It is also more understandable to the public.
- A Density Fee program requires a mechanism to purchase development rights with the fee revenues generated. One option is to provide revenues to the Farmland Legacy Program which already exists and has a proven track record of Ag-NRL land conservation. If the County wants to enable conservation of lands in addition to Ag-NRL, it should consider additional options for purchasing development rights with density fee revenues, including:
  - 1) Broadening the focus of the County's Conservation Futures program (which houses Farmland Legacy) for the use of any *new* density fee revenues;<sup>2</sup>
  - 2) Creating a new County program outside of Conservation Futures that's focused on the conservation of forest and other (non-Ag-NRL) natural resource lands; or
  - 3) Considering contracting out the process of development right purchases using density fee revenues to a separate entity such as a land trust.

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<sup>2</sup> This recommendation does not contemplate modifying the Conservation Futures of Farmland Legacy Program's focus in its use of *existing* County, state and federal funding sources.

### Option 3: Implement Combined TDR and Density Fee Program<sup>3</sup>

1. Establish a policy framework and implementing code for a Skagit County TDR and Density Fee program.
2. Continue or at city's choice expand Burlington's Ag Heritage Program. Encourage and allow other cities to join over time.
3. **TDR and Density Fee Receiving Areas:**
  - a. Current
    - i. City of Burlington (mixed use residential; possibly commercial)
    - ii. Bayview Ridge UGA residential (if any);
    - iii. Rural residential upzones
  - b. Possibilities for further consideration:
    - i. CaRD density bonuses in Rural (Non-Resource) lands
    - ii. Rural commercial upzones
    - iii. UGA expansions
    - iv. Any future County policy/zoning changes that create additional development potential should be considered for TDR application
4. **Sending Areas** *(still under some consideration)*
  - a. SF-NRL, RRc-NRL, IF-NRL inside fire district
  - b. Rural Reserve: active agriculture and forest lands
  - c. Ag-NRL: all; some; or none? *(subject to further discussion)*
  - d. *Question: should there be further prioritization of the above?*
5. **Participation by sending area landowners would be entirely voluntary.**
6. **Potential conservation mechanism for density fees**
  - a. Burlington: City choice (could consider options ii and iii for "new" fee revenues)
  - b. County options:
    - i. Farmland Legacy Program (FLP) for Ag-NRL purchases; or
    - ii. New County conservation program, either under Conservation Futures umbrella or stand-alone; or
    - iii. Contract develop right purchases out to third-party organization (e.g. a land trust).

#### Rationale:

The rationale for Option 3 includes all of the bullets under Option 2 plus the following:

- Option 2 is a good starting but it does not provide a TDR option, which some developers may find preferable. Developers looking to purchase a large number of development rights can sometimes negotiate a better price through a private TDR market transaction than buying density credits based on a set fee schedule. Some may philosophically prefer the

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<sup>3</sup> This option is intended to reflect the concepts supported by 5 of the 8 TDR Advisory Committee members present at the January 9, 2014 meeting.

more free-market nature of a TDR transaction than purchasing credits. Offering both a Density Fee and TDR option could increase participation among developers.

- Implementing a TDR program could facilitate conservation of forest lands and other natural resource lands (in addition to Ag-NRL) through the designation of a broader range of sending areas. Once sending areas are established, it is the responsibility of developers looking to purchase development rights to find a willing buyer and negotiate a sales price. If a developer were unable to find a willing seller, they could always use the density fee option if the price of density credits met their financial needs.

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