

**DRAFT Meeting Notes:
June 4 TDR Advisory Committee Meeting**

Attendance

- Committee members: Allen Rozema, Margaret Fleek, John Doyle, Bruce Lisser, Joe Woodmansee, Paul Kriegel, Kendra Smith, Martha Bray, Kim Mower, Ed Stauffer, Wayne Crider,
- Staff: Kirk Johnson, Nick Bratton
- Public: Ellen Bynum

Report Content and Tone

The first part of the meeting focused on comments or questions Committee members had about the report's contents or tone.

Committee members' comments were generally very positive about the report overall.

Kim asked for clarification in the text of the term "open space" used on p. 19, which Kirk will provide for the final version.

Some committee members felt the report focused too much on concerns about and objections to TDR given that most committee members support implementing a County TDR program (as evidenced by discussion of the recommendations later in the meeting). Others felt the coverage was fair and balanced and that it is important to document that the Committee considered all aspects of TDR including potential challenges to implementing a workable program.

Kirk said he would review the Objections section to consider modifying some of the language to reflect "concerns" and "challenges" rather than outright objections, while still noting that some people consulted through the process either do not think TDR is warranted at this time or do not support the concept overall.]

Kim and Ed both said many rural and natural resource landowners are feeling pressure on a variety of economic and regulatory fronts these days. It is very important to emphasize that a TDR program would be voluntary in nature for sending area landowners. Kim asked for clarification of the term "public benefits" associated with land conservation (p. 19). To the private landowner participating in TDR, the benefit is helping them to maintain the economic viability of their private business. Some private landowners might view reference to "public benefits" as implying that private land conserved through TDR would be available for public access or even come under public ownership.

- Kirk suggested addition of a Committee recommendation that a TDR program should only be voluntary in nature and indicating that a TDR conservation easement does not grant public access or bestow any public ownership on the land. Committee members indicated support for such a policy.

There was also suggestion to include a discussion of "common myths and concerns" about TDR. That may be best addressed through an Appendix containing frequently asked questions.

Paul said he would like to see Rural Reserve and Rural Resource-NRL lands included as receiving areas. His company owns land in both designations, some of which is surrounded by a variety of rural densities and would be a logical place for development rights to be transferred to. (He has addressed this in his written statement.)

Martha questioned the addition of Mineral Resource Lands (pages 9 and 19) as potential sending areas, noting that the IRS disallows the donation of conservation easements on land that has been “mined out.” Others felt mineral resource lands were worthy of conservation and that designated mineral resource lands are only located within the other natural resource land designations. There was no resolution on this issue. Committee members could include specific comments on this subject in a written statement.

Some Committee members questioned whether potential floodplain sending areas mentioned on p. 22 would continue to have exercisable development rights following implementation of a flood protection plan through the Skagit General Investigation (GI) process or following substantial rate increases that are occurring in the federal flood insurance program. Kirk agreed to research this issue and clarify the report as needed.

Option 1: No action

Wayne Crider said unless a program would be used by developers now, he didn’t think it should be put in place at this time. Maybe in a few years when the development market picks up. (Wayne’s position was reaffirmed by the SICBA Board at a June 10th meeting.)

Ed Stauffer said he does not support any TDR program for Skagit County as the County already has a successful working conservation plan in place countywide for the public benefit. However, he does not oppose city planners suggesting TDR's to property owners within their Urban Growth Areas.

Committee member Charlie Boon, who could not attend the meeting, sent an email indicating he did not think TDR is needed at this point.

The following other Committee members present said they supported the County implementing a program at this time and that the best option was **Option 3** which would have both a TDR and density credit component. That includes the following: Allen Rozema, Margaret Fleek, John Doyle, Bruce Lisser, Joe Woodmansee, Kendra Smith, Martha Bray and Kim Mower.

Paul Kriegel said of the options provided for Committee review, Option 3 was the best. However, he would prefer to see a program that uses a 50-year conservation easement for forest land, after which the development rights are restored, and that allows Rural Reserve and Rural Resource-NRL lands to be TDR receiving areas.

Option 3: Combined TDR and Density Credit Program

Here are the key elements of the Option 3 recommendation for which the above-noted committee members expressed their support:

- Skagit County should implement a program that has both a TDR and a density credit component, giving developers two different ways to obtain greater development potential. (Wayne Crider said if a program moves forward, this is his preferred approach as well.)
- Initial receiving areas would consist of Rural Upzones and the City of Burlington, the latter subject to policy established by the Burlington city council. (Margaret Fleek said the city will be looking at all TDR and density credit options explored in the Heartland TDR market analysis through its 2016 comprehensive plan and code update.)
- Policy language should encourage and enable additional cities to join over time.
- Explore additional receiving area opportunities in the future, including possible TDR linkages to UGA expansions, other city receiving areas, and additional units of development potential through Conservation and Reserve Developments (CaRDs) and perhaps other rural-to-rural transfers.
- Sending areas should include all of the county's Natural Resource Land designations: SF-NRL, RRc-NRL, IF-NRL (within a fire district) and Ag-NRL.
 - This will help to create a more viable market with a broad range of development right purchasing options.
 - Those Committee members who support the recommendation also support including Ag-NRL as a sending area on the belief that will complement rather than compete with Farmland Legacy, providing a mechanism to conserve active ag lands in Rural Resource-NRL and Rural Reserve, and providing another option for Ag-NRL landowners interested in conserving their land.
- Owners of Rural Reserve lands with active agriculture or forestry uses should also be able to "opt in" to the program.
- Sending areas should be located within some proximity (e.g. 2 or 4 miles) of urban growth areas and the growth corridors of I-5 and Highway 20, as those are the resource lands most likely to experience conversion pressures over time.
- The County should establish a conservation mechanism similar to Farmland Legacy – but separate from Farmland Legacy and Conservation Futures – that would use density credit revenues to conserve natural resource lands other than Ag-NRL. This would not affect Farmland Legacy and Conservation Futures which would continue to operate as they do now.

Some specific caveats or conditions include:

- The program should be voluntary in nature; no landowner should be forced to sell development rights or place a conservation easement on their land.
- Sending areas should not include Rural lands generally, but only those Rural Reserve lands with active agriculture and forestry uses, and only at the voluntary initiative of the property owner.
- It needs to be made very clear that placing a conservation easement on a property does not grant public access or ownership and the easement only would retire the residential development right while continuing to allow other resource uses of the land. The easement would not dictate resource management practices.
- As already noted, the program should be designed and implemented in a way that complements rather than competes with Farmland Legacy.

Comments and Reasons

Committee members generally said they would not expect to see a lot of TDR transactions in the near future. The economy is still recovering, Bayview Ridge residential development is no longer a TDR receiving-area option, and there already is a lot of existing residential capacity within the cities. However, they think it's important for the county to show foresight and put policy and code provisions in place that can be used by developers as market conditions become more favorable. They also felt the County would show leadership by implementing a program and that might encourage additional cities to consider TDR over time.

Some specific comments:

Bruce – he's skeptical whether it would be used now but thinks the County needs to be forward looking and put a program in place for when demand picks up. Also important to open the door and allow cities to participate at any time in the future.

Margaret – Burlington is working on its 2016 comprehensive plan update right now. The city's future is in in-city living, meaning more medium-density housing around the downtown. That's a perfect opportunity to use a TDR or density credit mechanism. The city could grant that density outright, but the linkage to TDR or density credits will generate resources for ag land conservation around the city.

Kendra – she had reservations about TDR at the time of the first study by Mary Heinrich but feels that many of the earlier concerns have been addressed especially with the market analysis done for the current project. There's a lot of farmland and a limited source of funding for Farmland Legacy. Kendra now believes TDR will complement Farmland Legacy and help to conserve forest lands.

Public Comment

Ellen Bynum commented that she has never found an example of a TDR program that has permanently protected farmland, that Committee members don't appear to understand the implications of their recommendations, and that implementing TDR could undermine the County's entire natural resources economy. At the same time, she seemed not to oppose a density credit program like Burlington's where revenues are raised through the sale of density credits and used by a purchase of development rights (PDR) program to permanently conserve resource land.

Bruce responded that Mount Vernon's TDR program has permanently conserved agricultural land within the Mount Vernon city limits.

Kirk added that whether the mechanism is TDR or PDR, the end result is the same on the sending-site property: voluntary sale of the residential development right and conservation of the land through a permanent conservation easement held by the County. It's on the purchase/receiving end where the approaches differ; PDR often retires the development right whereas TDR allows it to be transferred and used elsewhere, but only within a designated receiving area.

Kirk thanked all Committee members for their participation in and contributions to the project. He said he would be back in touch to schedule a time, probably in early July, to present the report to the Board of County Commissioners and discuss it with them.

Meeting adjourned.