

MEETING SUMMARY

TDR/PDR Multi-Stakeholder Work Group

Wednesday May 3, 2017, 2:30-4:30 PM

Planning and Development Services – Annex Conference Room

Attendees – Members	Perspective	Present
Chris Behee	City of Bellingham	<input checked="" type="checkbox"/>
Michael Jones	City of Blaine	<input checked="" type="checkbox"/>
Rollin Harper	Cities of Everson, Nooksack, and Sumas	<input checked="" type="checkbox"/>
Jori Burnett	City of Ferndale	<input checked="" type="checkbox"/>
Dave Timmer	City of Lynden	<input checked="" type="checkbox"/>
Bill Henshaw	Building Industry	<input checked="" type="checkbox"/>
Betty Sanchez	Realtors	<input checked="" type="checkbox"/>
Myrle Foster	Rural Property Owner	<input checked="" type="checkbox"/>
Ralph Black	TDR User	<input checked="" type="checkbox"/>
Phil Thompson	Economist	<input checked="" type="checkbox"/>
Steve Powers	Affordable Housing	<input checked="" type="checkbox"/>
Brad Rader	Agriculture	<input checked="" type="checkbox"/>
Karlee Deatherage	Environmental	<input checked="" type="checkbox"/>
Rud Browne	Council Member	<input checked="" type="checkbox"/>

Attendees – Alternates/Representatives	Perspective	Present
None		<input type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>

Quorum Present	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
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Attendees - Staff	Present	Attendees - Staff	Present
Matt Aamot	<input checked="" type="checkbox"/>	Mark Personius	<input type="checkbox"/>
Chris Elder	<input checked="" type="checkbox"/>		<input type="checkbox"/>

Attendees – Guests	Organization (if applicable)	Present
Nick Bratton (via conference call)	Forterra	<input checked="" type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>
		<input type="checkbox"/>

Meeting is called to order a little after 2:30 pm by chairperson Ralph Black. Group members, including new Economist representative Phil Thompson, introduced themselves.

Approval of April 5 Meeting Summary

The April 5 meeting summary was approved without changes.

As a follow-up to a question at the April 5 meeting, staff consulted with the County's Finance Department and Prosecuting Attorney's Office. They indicated that Conservation Futures funds cannot be used to hire consultants to study barriers to functioning TDR receiving areas.

Presentation by Nick Bratton of Forterra

Nick Bratton, Policy Director with Forterra, gave a PowerPoint presentation via conference call. Nick indicated that Forterra has been involved in TDR programs/issues at the city, county, and state level.

Opportunities & Solutions

Nick indicated that demand is the most important of all the factors in creating a successful TDR program. There needs to be demand for the incentives offered. Even effective TDR programs go through good years and bad years. King County has the most successful TDR program in the country, but even they had zero TDR transactions in 2008. But there is a lot of demand, and the King County program is very active, at the current time.

Staff asked if there could ever be a possibility of transferring development rights from Whatcom County sending areas to Seattle receiving areas. Nick said he could see this possibly happening in the future. There is already an existing regional TDR program in the central Puget Sound area. [Staff note: RCW 43.362 is entitled "Regional Transfer of Development Rights Program," which covers King, Kitsap, Snohomish, and Pierce counties].

Rud Browne asked about concern he hears that TDRs add to the cost of housing. Nick responded that TDR programs are purely voluntary. If the market is there, and the developer can profit from the incentives offered, they will use the program. If they can't profit from the TDR program, they simply will not use it.

Staff asked about the effectiveness of TDR programs for small cities. Nick has seen TDR programs adopted for small cities. For example, the city of Snohomish (population of about 9,000) has adopted a TDR program, offering the incentive of additional building height when TDRs are purchased. The program hasn't been used yet, but there's potential for the future.

Administrative models vary from jurisdiction to jurisdiction. These include:

- Letting TDR buyers and sellers find each other on their own;
- Government provides support in helping TDR buyers and sellers find each other (i.e. a register to help buyers and sellers connect); and
- High level of government involvement – King County has three staff members dedicated to the TDR program.

Program marketing may involve an informative website and explaining the program to land owners. In Pierce County, TDRs are required for urban growth area (UGA) expansions and rezones. Staff clearly explains the requirements for purchasing TDRs to applicants for UGA expansions and rezones, so they are not upset later when they actually have to purchase the development rights.

Early successes, such as a pilot project, and public support also go a long way towards achieving successful TDR programs.

Chris Behee indicated that the TDR/PDR program in Bellingham benefits the Lake Whatcom Watershed. PDRs accomplish the same thing as TDRs, but are easier to administer.

Jori Burnett stated that Ferndale is trying to increase densities, but developers are not even achieving the base zoning densities allowed at the current time. Are TDRs a disincentive to achieving higher densities?

Michael Jones shared Jori's concerns. He also asked what benefits would city residents and City Council members see from a TDR program? In Blaine, there is not a demand for higher buildings or increased densities.

Chris Behee indicated that a city could simply raise the density to encourage more development. Dave Timmer agreed.

Bill Henshaw indicated that banks are still reluctant to lend on certain types of developments, like spec condos.

Rud Browne indicated that we could compare historic density trends to anticipated future densities in order to get an idea of the potential value added by a TDR program.

Dave Timmer stated that, in Lynden, developers are not building to the densities allowed by zoning.

Jori Burnett indicated that development standards would need to be in place to accommodate higher densities in receiving areas. Cities would need to consult with their public works departments about infrastructure needs for such higher densities.

Chris Behee indicated that maintaining infrastructure for lower densities costs the city more over the long term.

TDR Banks

Nick indicated that a TDR bank is an entity that buys and sells development rights. TDR banks have several advantages. There is greater convenience for developers. For example, a developer in South Lake Union can get 60 TDRs from a single bank – they don't need to search for multiple land owners to put together enough TDRs. Additionally, TDR banks have discretion to spend the proceeds on higher priority conservation properties (as opposed to a developer potentially purchasing TDRs from lower priority conservation areas). However, when a bank is a public entity (like a county), they need an appraisal because they cannot pay more than fair market value for development rights. Appraisals may cost \$3,000 to \$7,000. There needs to be enough transactions to justify a TDR bank. Nick recommended not forming a TDR bank for an emerging TDR program, as it may be an inefficient use of public resources.

Exchange Rates and Credit Values

A TDR credit is worth whatever the TDR buyer and seller are willing to agree on. It is simply a real estate transaction.

If a development right from a sending area costs \$30,000 but only increases the receiving area's development value by \$10,000, the developer will never buy it. However, TDR exchange rates provide a multiple to make the incentives profitable for the developer. In this theoretical example, if the exchange rate was 6:1 (6 extra units at the receiving area for every 1 development right purchased from a sending area), then the transaction would be profitable for the developer.

A market analysis is needed to establish an appropriate exchange rate. Additionally, the market analysis, and associated exchange rates, would need to be updated periodically to account for changing market conditions.

A market analysis can also help inform a local jurisdiction's selection of incentives offered through the TDR program. Incentives for purchasing TDRs from sending areas may include the following benefits in the receiving areas:

- Additional dwelling units;
- Increased building height;
- Increased floor/area ratios (FARs);
- Increased impervious surface; and/or
- Reduced parking requirements.

Political Barriers

TDR programs need to reflect market demand, but also need to take into consideration political realities (such as perceived additional housing cost burdens). Different interests may ask for exceptions. It takes political will to have a successful TDR program. Shifts in leadership can also impact TDR programs. For example, one city in the Puget Sound region received a state grant to develop a TDR program, and then the Council turned over and terminated the contract. Now, the Council is interested in a TDR program again. Elected leaders and their priorities can shift.

Cities often ask how they will benefit from a TDR program.

Rud Browne indicated that coordinating with cities will be a critical issue for the County.

Open session to take public comment

There were no public comments.

Whatcom County's Existing TDR & PDR Programs – Preliminary draft discussion paper

Existing TDR Program

Staff reviewed the preliminary draft discussion paper relating to the County's existing TDR and PDR programs. The Growth Management Act indicates that a comprehensive plan should provide for innovative techniques, including TDRs. The Whatcom County Comprehensive Plan also contains a number of policies relating to TDRs.

Whatcom County has adopted a number of ordinances relating to TDRs over the last 35 years. The 1st ordinance was adopted in 1982. In 1997, the URMX zone in the Bellingham UGA was designated as a TDR receiving area. In 1999, the Lake Whatcom Watershed was designated as a sending area. In 2004, an ordinance was adopted requiring TDRs (with certain exceptions) for UGA expansions and some rezones. In 2005, sending areas were designated in the Birch Bay area.

There are two categories of TDR provisions in the County Code: Voluntary provisions and mandatory provisions.

Developers may utilize the voluntary provisions to increase the number of residential units allowed in a receiving area by purchasing TDRs from a sending area. Theoretical examples for the Bellingham UGA (outside city limits) and Birch Bay UGA receiving areas were provided. However, since the City of Bellingham does not extend public

water and sewer outside city limits, the TDR receiving areas in the Bellingham UGA do not function. Only 18 development rights have actually been transferred.

The mandatory provisions require TDRs for UGA expansions and certain rezones. However, because of the exceptions, these “mandatory” provisions have not resulted in the transfer of any TDRs.

Existing PDR Program

In 1992, Whatcom County established the Conservation Futures property tax. Approximately \$1 million in Conservation Futures tax will be collected in 2017. At the beginning of 2017, the fund balance was about \$2.8 million. The fund is used for the purchase of development rights (PDR) program and the acquisition/maintenance of parks.

Rud Browne indicated that, even if a TDR program provides value for a developer and a farmer, we need to ask what is the value to cities? If we can't find value for the cities, a TDR program won't work. Rud also raised the issue of the potential to bank development rights purchased through the PDR program to recoup the County's investment by selling them later.

Work Group members asked for several modifications to the preliminary draft paper including:

- Michael Jones indicated that the density allowed in the Birch Bay receiving area with TDRs is unrealistic and others agreed;
- Rollin Harper asked to reference the 3:1 exchange ratio in the Birch Bay example (3 dwelling units can be added to the receiving area for every 1 development right purchased from a sending area); and
- Rollin also asked for a chart showing what percentage of Conservation Futures funds have gone to the PDR program v. parks funding over the years.

Potential development rights in existing TDR sending and receiving areas

Chris Behee reviewed potential development rights in the Lake Whatcom Watershed sending area and Bellingham receiving areas. The City of Bellingham retains TDR receiving area status when annexing property from the UGA. In the City, both TDR and PDRs may be utilized in certain areas. The PDR program involves a developer writing a check to be used by the City for acquiring property in the Lake Whatcom Watershed. In the Lake Whatcom Watershed, there are an estimated 1,631 potential

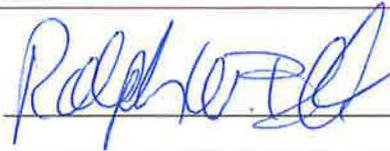
dwelling units in the sending area supply. Within the existing city limits, receiving areas can accommodate and estimated 6,801 to 7,378 development rights (the higher figure reflects the City rules that increased density can be accommodated in urban villages through the PDR program, but not through the TDR program). Chris noted that receiving areas in the Bellingham UGA are not eligible for urban levels of development until annexation, because the City's policy generally prohibits extension of water and sewer outside city limits. However, if the Bellingham UGA receiving areas were annexed, the total number of development rights that could be accommodated in receiving areas would increase to between approximately 9,366 and 9,943.

Next Meeting

June 7, 2017.

Meeting Adjourned at 4:30 pm by Ralph Black

Signed: _____



Ralph Black, Chairperson