

MEETING SUMMARY

TDR/PDR Multi-Stakeholder Work Group

Wednesday January 3, 2018, 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 type="checkbox"/>
Jori Burnett	City of Ferndale	<input type="checkbox"/>
Dave Timmer	City of Lynden	<input checked="" type="checkbox"/>
Bill Henshaw	Building Industry	<input type="checkbox"/>
Betty Sanchez	Realtors	<input 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 type="checkbox"/>
VACANT	Agriculture	<input type="checkbox"/>
Karlee Deatherage	Environmental	<input checked="" type="checkbox"/>
Rud Browne	Council Member	<input checked="" type="checkbox"/>

Attendees – Alternates/Representatives	Perspective	Present
		<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"/>	Ryan Ericson (for part of the meeting relating to wetlands)	<input checked="" type="checkbox"/>

Attendees – Guests	Organization (if applicable)	Present
		<input type="checkbox"/>

Meeting was called to order at about 2:45 pm when a quorum was present.

Approval of December 6, 2017 Meeting Summary

The December 6 meeting summary was approved without changes.

Open session to take public comment

There were no public comments.

Proposed County Comprehensive Plan Amendments for the 2018 Docket

Staff drafted and handed out a specific proposal to amend Whatcom County Comprehensive Plan goals and policies to reflect the TDR/PDR Work Group's general direction to place primary emphasis on a density credit program, rather than a traditional TDR program. Michael asked how this would dovetail with the Work Group's process. Staff indicated that the Comprehensive Plan amendment proposal would be reviewed by the County Planning Commission and County Council in 2018. Council would make a final decision on the proposal in early 2019. The County Planning Commission/County Council review process will occur in parallel with the Work Group's process, which is expected to be completed in 2018.

Opportunities/Alternatives to a Workable TDR Program

Editor's note: Since accessory dwelling units (ADUs) can be located in either rural or urban areas, the ADU and Rural Incentives have been renamed since the December 2017 meeting summary as follows:

- *Old Rural Incentive # 1 is now called ADU Incentive # 1 - Allowing an increase in the size of ADUs from 1,248 square feet to 1,748 square feet.*
- *Old Rural Incentive # 2 is now called ADU Incentive # 2 - Allowing a non-resident investor to pay to retire one full development right in a rural or agricultural area in exchange for eliminating the requirement that either the main house or ADU must be owner-occupied.*
- *Old Rural Incentive # 3 is now called Rural Incentive # 1 - Allowing a density of one dwelling/2.5 acres in the Rural one dwelling/five acre (R5A) zone if one rural development right is retired for each additional rural development right granted.*

The Work Group previously recommended that ADU Incentive # 2 and Rural Incentive # 1 should be available only if a property owner retires one full development right from a rural or agricultural area.

This raised the question of what is the cost to retire a development right. Staff presented figures, based upon the cost of development rights purchased by the County's PDR program, from the most recent five year period (2013-2017) for:

1. Average development right easement cost. This was calculated to be approximately \$30,588.
2. Grand total average development right cost. This includes the easement cost *plus* land trust expenses, closing costs, appraisals, staff salary, and other administrative costs. This was calculated to be approximately \$58,945.
3. Total County average development right cost. This is the grand total average development right cost (# 2 above) *minus* the amount reimbursed by the federal government and donations. This was calculated to be approximately \$43,651.

Several Work Group members expressed uncertainty about the future of federal funding. Therefore, the grand total average development right cost should be considered. Ralph indicated that if an existing 5-acre parcel in the R5A zone could be split into two 2.5 acre lots, assuming it is otherwise buildable, paying full cost of \$58,945 to retire a development right elsewhere may be worth it in many areas of the County. Michael indicated that it may be appropriate to charge the full cost of a development right so that there is no net increase in residential development potential in the rural area.

The Work Group (with Rud abstaining) added the following language to the *Opportunity # 1 - Density Credit Program: General Information and Price* section of the preliminary draft report:

"The TDR-PDR Work Group recommends the following density credit prices for each bonus dwelling unit acquired:

- Birch Bay UGA: \$ 4,000
- Rural Areas: Grand total average development right cost over the most recent five year period (this figure for 2013-2017 was \$58,945)."

The Work Group also accepted Rollin's previously proposed language that:

A density credit program is an attractive alternative to a traditional TDR program, as it would simplify the process and avoid several of the pitfalls associated with TDR programs. Therefore, the County and cities should give serious consideration to the proposed density credit program and consider expanding the proposal to a variety of zoning districts. This could include utilizing a density credit program as an alternative to traditional upzones in areas deemed appropriate by the local jurisdiction. Additionally, the County and cities should primarily focus on the density credit model in the future and new incentives should be tied to a density credit program rather than the TDR program.

At the December meeting, Rud requested that the concept of protecting high quality wetlands in exchange for allowing encroachment on lower quality wetlands in UGAs be added to the Work Group's agenda. In response, staff drafted proposed language relating to this concept. County Planning & Development Services' Natural Resources Supervisor Ryan Ericson spoke with the Work Group on how existing wetland mitigation works and how the proposal could work. Ryan indicated:

- The Critical Areas Ordinance (CAO) allows mitigation for direct wetland alteration, such as filling a wetland. For example, if a 3:1 mitigation ratio is required, and a development proposal filled 2,400 square feet of wetland, 7,200 square feet of mitigation would be required.
- The CAO allows mitigation for wetland buffer impacts. For example, if a 1:1 mitigation ratio is required, and a development proposal encroached into 2,000 square feet of wetland buffer, 2,000 square feet of mitigation would be required.
- The CAO also allows mitigation by preserving high quality wetlands elsewhere, but at higher ratios.
- The Lummi Nation has a wetland mitigation bank, but its service area excludes the City of Bellingham and the area generally east of Deming (although exceptions may be granted). Additionally, this bank provides mitigation for direct wetland alterations (e.g. filling a wetland) but not for wetland buffer impacts. The Lummi Nation mitigation bank is currently the only one in Whatcom County.

- The State Department of Ecology and US Army Corps of Engineers only get involved in wetland mitigation projects when a wetland is being directly altered (e.g. filled). State and federal agencies are not involved in wetland mitigation for buffer impacts.
- The CAO option that allows mitigation by preserving off-site high quality wetlands can be implemented through a conservation easement or a conservation land division to protect the wetland from development.

Myrle asked if you could sell the wetland site. Ryan said you could, if it's in a conservation land division. Dave asked if the PDR administrator would be looking specifically for properties with wetlands. Rud responded that would be the case under the proposal (for any funds generated through such a new program).

Rud indicated that the problem is low quality wetlands in cities make it difficult to develop at times. He would rather preserve high quality wetlands elsewhere and allow higher density in the cities. Ralph indicated that the city of Bellingham is looking at the concept of a wetland bank. Several city planners raised the issue that there are already rules for wetland mitigation.

Ralph indicated that this concept warrants consideration. He supported the idea that a technical committee should be formed to look at the details of such a proposed program. The Work Group recommended the language proposed by staff, with the following changes:

The Work Group recommends that the County establish a technical group to ~~develop~~ explore a density credit proposal that ~~would~~ may allow a land owner to impact lower quality wetlands if they contribute funds to the Purchase of Development Rights Program used to protect higher quality wetlands. The Work Group recommends that the technical group consider the following, when developing this proposal:

- The geographic area where the program would apply, including whether cities could participate.
- The categories of wetlands that could be impacted under this program.
- Whether the program should only address wetland buffer impacts or should also address direct wetland alterations. State Department of Ecology is involved

when the wetland is filled or altered. Ecology is not involved when wetland buffer encroachments are proposed.

- The categories of wetlands that would be preserved through this program.
- The method of protecting wetlands under this program. It is recommended that the developer contribute funds to the County's Purchase of Development Rights Program. The PDR Administrator would use these funds to retire development rights and/or acquire easements on properties that contain wetlands designated for preservation under the program consistent with the Critical Areas Ordinance's "Wetland Mitigation" regulations (WCC 16.16.680).
- The density credit fees that should be charged for wetland buffer impacts and/or direct wetland alterations.
- Any code changes necessary to implement the proposal.

The Work Group amended the text under *Opportunity # 5 – Density Credit Program: Accessory Dwelling Units* as follows:

ADU Incentive 1 - Accessory dwelling units are currently limited to 1,248 square feet in these zoning districts. The TDR/PDR Work Group recommends increasing the size limit by 500 square feet to a maximum of 1,748 square feet if density credits are purchased. It is recommended that the price should be \$8/square foot up to the 500 square foot maximum. The Work Group recommends that this rural incentive should be available anywhere that accessory dwelling units are allowed in the County.

The Work Group indicated that the price should be on a square foot basis, so that a person constructing an additional 100 square feet does not pay the same price as a person constructing an additional 500 square feet. The Work Group reasoned that a bonus dwelling unit in the Birch Bay Resort Commercial zone can be purchased for \$4,000 under the recently approved density credit ordinance, which would equate to \$8 per square foot for 500 square feet.

Time-line for the Work Group's Recommendations

The Executive's original Work Group appointment letters from February 2017 indicated that the Group would meet over the next year. It appears that the Work Group will take longer than that to issue recommendations. Therefore, the Work Group set a goal

of finishing up in six more meetings (with the understanding that the Work Group would go through the end of 2018, if needed).

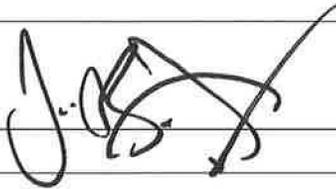
Next Meeting

February 7, 2018.

Rud asked that his other rural incentive concept (allowing a land owner who has two separate non-contiguous parcels to transfer density from one parcel to the other) be added to the February 2018 agenda, since the Work Group did not get to this agenda item today.

Meeting Adjourned at 4:30 pm

Signed: _____

A handwritten signature in black ink, appearing to be 'J. Burnett', written over a horizontal line.

Jori Burnett, Vice-Chairperson