Making Transfer of Development Rights Work in Your Community
Agenda

• What is Transfer of Development Rights?
• Context of TDR in Washington
• How to make TDR work in your community
• Case studies
• Open discussion
About Cascade Land Conservancy

- Washington’s largest independent land conservation organization
- 5 regional offices
- Have developed or helped create TDR programs at the state, county, and city level

Conserving Great Lands, Creating Great Communities
What is TDR?

A Development Right is an interest in property; it is the right under current law to use property for residential, commercial, and industrial purposes.

Transfer of Development Rights (TDR):
- Is a means of removing / transferring rights
- Is market-based
- Connects conservation with growth
- Is flexible and adaptable
Basics of TDR

- Property rights are more than just physical property
- Development potential can be separated and transferred
Basics of TDR

Development Rights

Development rights severed from property & Conservation Easement Recorded

Sending Area

$ Dollars

Receiving Area
The Basic Ingredients

1. Sending Sites
   • Supply of development rights

2. Receiving Sites
   • Demand for development rights

3. The Marketplace
   • Where and how transactions occur
How TDR Works:

Sending-site landowner:

- Development rights removed
- Receives $ for transferring development rights
- Retains ownership
- Retains other property rights
- Conservation easement
How TDR Works:

Receiving-site landowner:

• Buys development rights
• Receives a value-added incentive
  • (Density, FAR, height, parking, etc.)
TDR: A National Perspective

- Used since 1968
- Approximately 200 operating programs
- Over 390,000 acres conserved

Washington

- 16 programs currently
- Over 143,000 acres conserved
TDR in Washington

Communities throughout the state are investing in TDR

- Clallam County
  - Bellevue
  - Black Diamond
  - Issaquah
  - Redmond
  - Sammamish
  - Seattle
  - Normandy Park

- King County
  - Bellevue
  - Black Diamond
  - Issaquah
  - Redmond
  - Sammamish
  - Seattle
  - Normandy Park

- Kittitas County
  - Tacoma
  - Puyallup

- Pierce County
  - Tacoma
  - Puyallup

- Snohomish County
  - Arlington
  - Snohomish
  - Mountlake Terrace
  - Everett

- Thurston County
  - City of Vancouver
  - City of Mt. Vernon

- Kitsap County
  - Bainbridge Island
  - Port Orchard

- Whatcom County
Overview of Central Puget Sound TDR

- Policy Advisory Committee and Legislation, RCW 43.362
- Regional TDR Program/Alliance – EPA Grant
- State TDR Resources:
  - Clearinghouse
  - Interlocal Terms and Conditions Rule
  - Direct Technical Assistance
  - TDR Project Grants for Cities
Policy Advisory Committee/Legislation

- 2007 Legislation – Commerce to work with advisory committee
- 2008 Policy Advisory Committee recommendations to Governor and Legislature
- 2009 Legislation – Commerce to work with PSRC, and to provide technical assistance, clearinghouse of information, TDR exchange web site, interlocal terms and conditions rule
Committee Recommendations (2SHB 1172)

- Voluntary participation by counties and cities
- Conservation priorities for sending areas should be regionally and locally determined
- Receiving areas should be in cities, who will choose sending areas for receiving TDRs
- Commerce will provide technical assistance and coordination of outreach. (TDR Handbook is available)
- Sending and receiving area ratios should be negotiated between county and city. Commerce to provide optional template adopted through rulemaking
- Include performance measures to track success and make adjustments as needed
Other Committee Recommendations

• Provide PERF funding for programmatic EIS in receiving areas

• State funding incentives for cities – state REET on TDR sales and state sales tax on construction

• Include TDR receiving areas as eligible for infrastructure funding if other infrastructure ideas move forward

• TDR bank is not recommended until state funding is available
Focus on Regional Transfers

Sending areas – land designated by the counties as sending areas that are:

- Agricultural or forest land of long-term significance;
- Rural land being farmed or managed for forestry;
- Land whose conservation meets other state and regionally adopted priorities; and
- Land that is in current use as a manufactured/mobile home park.

Receiving areas - incorporated cities and towns
Alliance Partners: PSRC, Commerce, Snohomish County, Pierce County, King County, and Cascade Land Conservancy to:

• Implement and enhance county TDR programs
• Build capacity in cities to receive development rights from farms, forest land and open space
• Provide information resources to cities and counties
• Interlocal Terms and Conditions Rule
TDR Project Grants for Cities – 2nd EPA Grant

- $1 million for grants to cities
- King, Pierce, Kitsap and Snohomish cities
- Eligible activities consistent with regional program:
  - New TDR policies and regulations consistent with regional program
  - Revision of existing TDR policies or regulations
  - Infrastructure funds in receiving areas
- 10 grants awarded
TDR Project Grants to Cities

Arlington
Everett
Issaquah
Mountlake Terrace
Normandy Park
Port Orchard
Puyallup
Seattle
Snohomish
Tacoma
Lessons Learned: Inter-jurisdictional issues

- Benefits to cities for receiving density
- Inclusion of sufficient receiving areas and not too much sending area
- Relationship to existing TDR programs
- Relationship to existing density bonus menus
Lessons Learned: TDR Success Factors

Essential For Success

• Demand for bonus development
• Customized receiving areas

Extremely Important

• Strict sending-area regulations
• Few alternatives to TDR
• Market incentives

Regional TDR Program Implementation

• Regional marketplace
  • Continued development and implementation of county TDR programs
  • Planning grants, planning outcomes for cities using EPA grant funding for receiving areas

• Future direction – more funding sources
  • ESSHB 2538 (Comprehensive planning for compact, high-density urban development)
  • Planning and Environmental Review Fund
  • TIF/TDR – HB 2850 & SB 6602
Keys to Successful TDR Program Design

- Public engagement
- Clear growth goals
- Clear conservation goals
- Understand the Marketplace
Keys to Successful Implementation

Administration
- Efficiency
- Monitoring
- Transaction records

Public support
- Outreach
- Education
- Access to information
Example: City of Snohomish redevelopment

Planning for growth

- Population 9,000
- Historic character
- Resource legacy
- Proximity to Everett
Example: City of Snohomish redevelopment

Pilchuck District

• Neighborhood redevelopment
• Subarea plan
• Blend of uses
• Establish maximum densities before introducing TDR
Example: Kittitas County

- Kittitas County wants to retain its rural culture
- Interested in market-based options not regulating
- Cascade Land Conservancy design a program in ‘07
- Adopted its TDR program December 2009
Farming and forestry have defined Kittitas County for over 100 years.
Facts and figures

• The county is home to 900 farms covering nearly 200,000 acres
  • Drivers: grass hay, cereal grain, and livestock
  • Timothy hay industry: est. $30 million annually

• Kittitas County has 153,000 acres of private forestlands
  • Harvest volumes have declined since 2000
  • Still, 13 million board feet harvested in 2007
Growth Has Occurred

Kittitas County Population Growth (1900-2009)

Sources: US Census Bureau, WA Office of Financial Management
Growth Is Expected

Kittitas County Population Growth (2010 - 2030)

Estimates: WA Office of Financial Management
Importance for Economic Development

“We are centrally located in Washington State with the Cascade Mountain Range to the west and the Columbia River to the east. We invite you to the scenic Kittitas Valley where you can enjoy an abundance of outdoor activities for any season.”

– Ellensburg Chamber of Commerce

“The Upper County is the gateway to a vast wilderness area. Few other areas offer the abundance of recreational opportunities available here.”

- Cle Elum-Roslyn Chamber of Commerce
TDR Program Goals

Primary goals:
- Conserve working lands
- Promote development in areas appropriate for growth

Success:
- Growth is responsibly planned
- Property rights are protected
- Rural landowners are fairly compensated
Program Framework

Sending Sites

• Irrigated Farms
• Working Forests

Criteria for Property:

• Is in 20-acre or 80-acre zoning
• Is a minimum of 20 acres in size
• Qualifies for “current use” taxation
• Has development value
Program Framework cont’d

**Receiving Sites**
- Cities
- Urban Growth Areas
- Planned Communities
  - Master Planned Resorts
  - Planned Unit Developments
- Approved Rural Development
  - Rezones
  - Clusters
Program Administration

• **Transaction Process**
  • *Private Market with limited County support:*
    • Private buyers and sellers negotiate deals
    • County support in the form of information

• **Easements**
  • TDR sales are real estate *transactions* (perpetuity)
  • Easements are only for *development*, owner retains other property rights
  • Hardship provision
Transfer Example: Parker Ranch

• 1,500-acre forested & range, family-owned property

• CLC purchased 24 TDR credits from 480 acres

• Ranch continues operation, pine forest conserved

Photo: Yakima Herald-Republic
Case Study Summary

• TDR can work for a wide range of communities
• Key is understanding the community’s needs
TDR Resources for Cities and Counties

• TDR web site, www.commerce.wa.gov/tdr
  • Resource Guide
  • Clearinghouse of materials: Examples of TDR policies, regulations, subarea plans, certificates, conservation easements, etc.
  • TDR brochures
  • Citizen’s Guide to TDR
• Commerce Interlocal Terms and Conditions Rule
• Commerce technical assistance
• Cascade Land Conservancy, www.cascadeland.org
Thank you

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Questions?

How can TDR help address your community’s concerns?
What obstacles to TDR might exist in your community?
How can a TDR program augment other resource land protection efforts?
What is TDR again?
Despite Growth Management

- Migration: ~84% of growth (2000-2009)
- 7,500 acres identified as ag land (2004-2007)
- 1,900 acres identified as upland forest (2004-2007)

Sources: WA Office of Financial Management, CLC analysis of Kittitas County Assessor data
Kittitas TDR Process

- Sending Site Application
  - Not Qualified
  - Certified

- Letter of Intent - # of Dev Rights
  - Qualified

- Sending site owner can start marketing Dev Rights

- Conservation Easement Recorded, TDR Certificates to Sending site owner

- TDR Certificates sold to Receiving site owner

- Receiving site owner can develop at approved higher density