

# APA Washington 2010 Conference

**Resurgent Washington: Implementing Smart  
and Healthy Growth – October 5, 2010**



**Making Transfer of Development  
Rights Work in *Your* Community**



**Department of Commerce**  
Innovation is in our nature.



# Agenda

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- 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

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- 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?

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

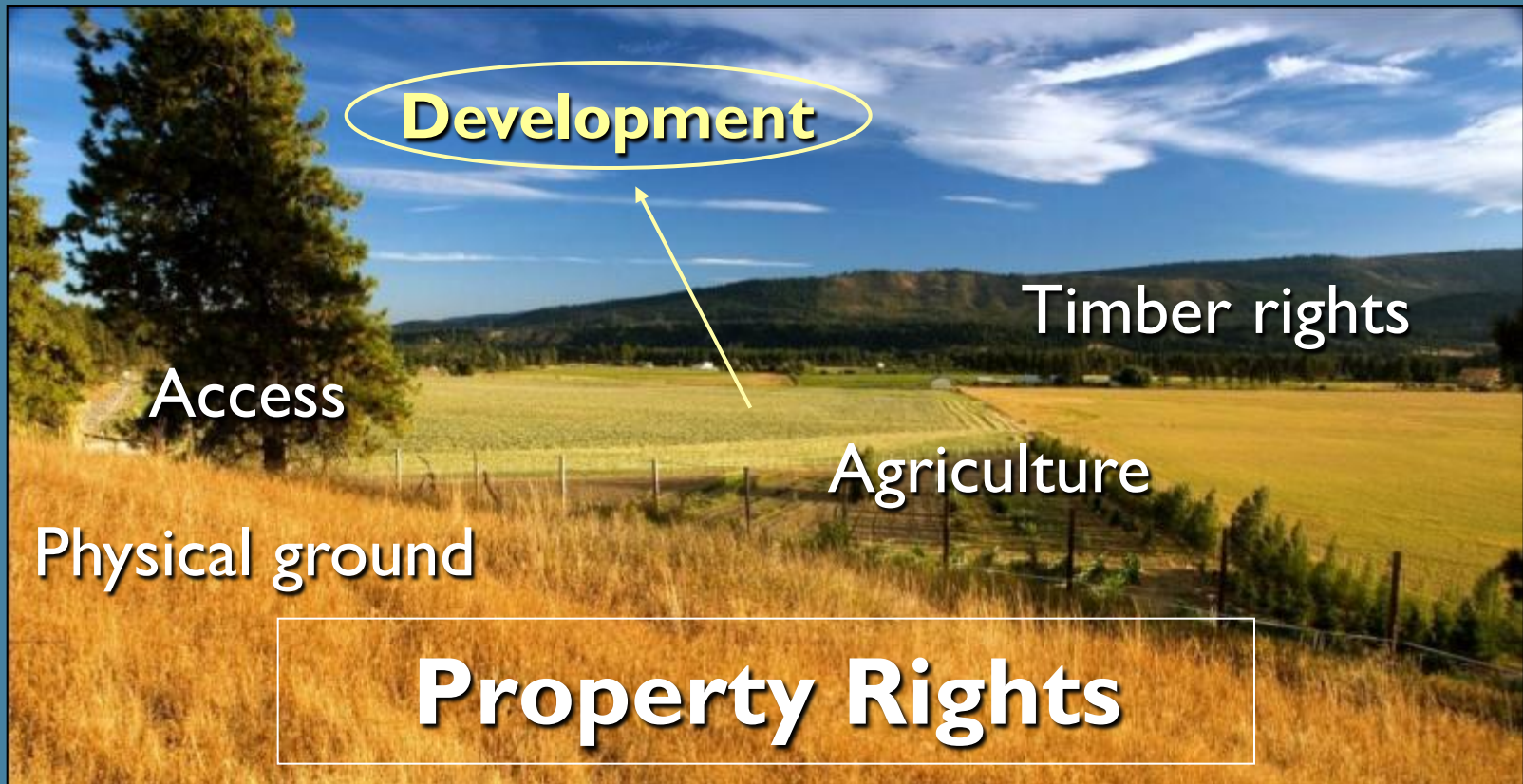
**Transfer of Development Rights (TDR):**

- 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**



**Receiving Area**

**\$ Dollars**



# The Basic Ingredients

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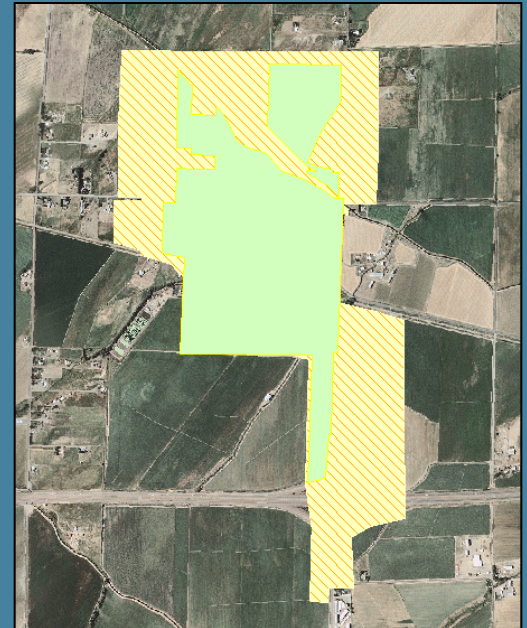
## 1. Sending Sites

- Supply of development rights



## 2. Receiving Sites

- Demand for development rights



## 3. The Marketplace

- Where and how transactions occur

# How TDR Works:

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## Sending-site landowner:

- Development rights removed
- Receives \$ for transferring development rights
- Retains ownership
- Retains other property rights
- Conservation easement





# How TDR Works:

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## Receiving-site landowner:

- Buys development rights
- Receives a value-added incentive
  - (Density, FAR, height, parking, etc.)



# TDR: A National Perspective

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

## Washington

- 16 programs currently
- Over 143,000 acres conserved

# TDR in Washington

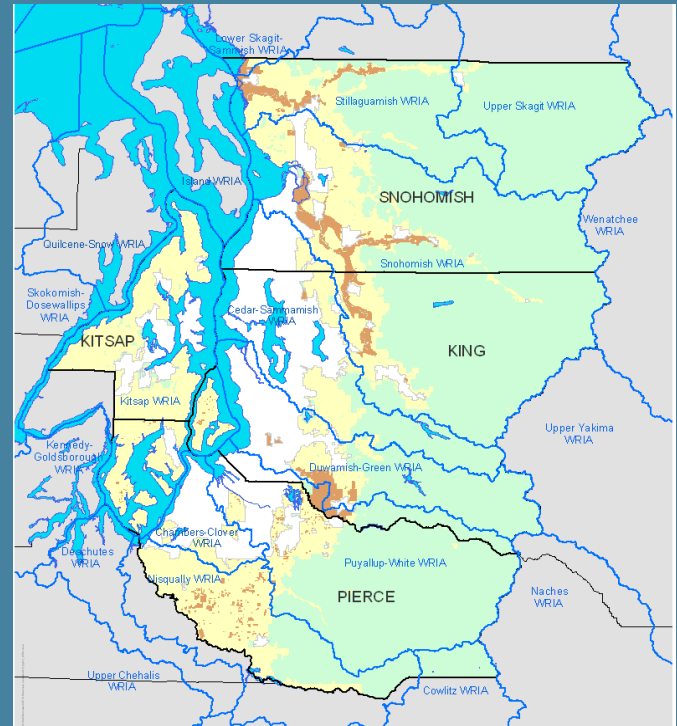
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## Communities throughout the state are investing in TDR

- Clallam County
- King County
  - Bellevue
  - Black Diamond
  - Issaquah
  - Redmond
  - Sammamish
  - Seattle
  - Normandy Park
- Kitsap County
  - Bainbridge Island
  - Port Orchard
- Kittitas County
- Pierce County
  - Tacoma
  - Puyallup
- Snohomish County
  - Arlington
  - Snohomish
  - Mountlake Terrace
  - Everett
- Thurston County
- Whatcom County
- City of Vancouver
- City of Mt. Vernon

# 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)

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- 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

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- 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

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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



# Regional TDR Alliance – EPA Grant

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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 – 2<sup>nd</sup> EPA Grant

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- \$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

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Arlington

Everett

Issaquah

Mountlake Terrace

Normandy Park

Port Orchard

Puyallup

Seattle

Snohomish

Tacoma



# Lessons Learned: Inter-jurisdictional issues

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- 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

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- 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

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- Public engagement
- Clear growth goals
- Clear conservation goals
- Understand the Marketplace



# Keys to Successful Implementation

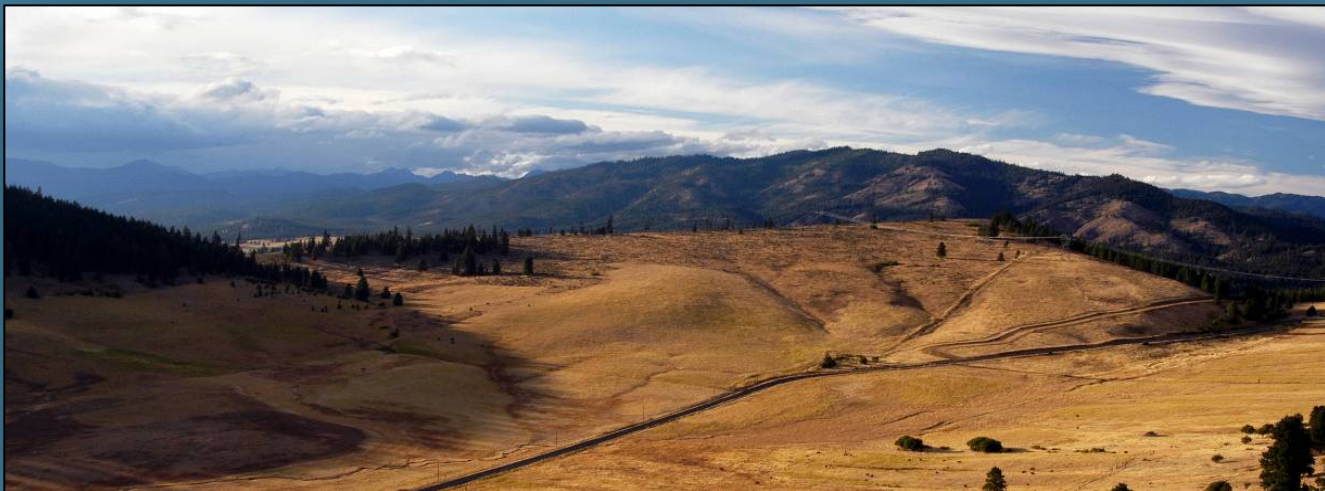
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## Administration

- Efficiency
- Monitoring
- Transaction records

## Public support

- Outreach
- Education
- Access to information





# Example: City of Snohomish redevelopment

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## Planning for growth

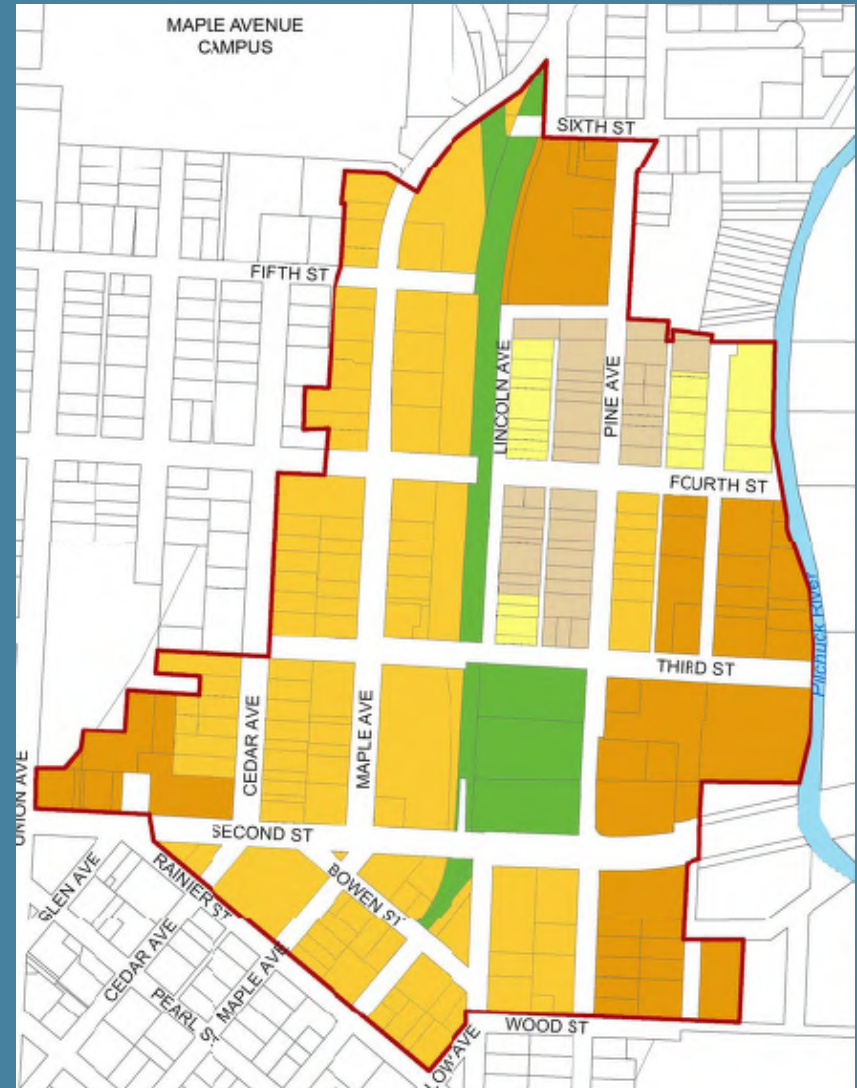
- Population 9,000
- Historic character
- Resource legacy
- Proximity to Everett



# Example: City of Snohomish redevelopment

## Pilchuck District

- Neighborhood redevelopment
- Subarea plan
- Blend of uses
- Establish maximum densities before introducing TDR



# Example: Kittitas County

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- 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





# The Big Picture

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Farming and forestry have defined Kittitas County for over 100 years.





# Facts and figures

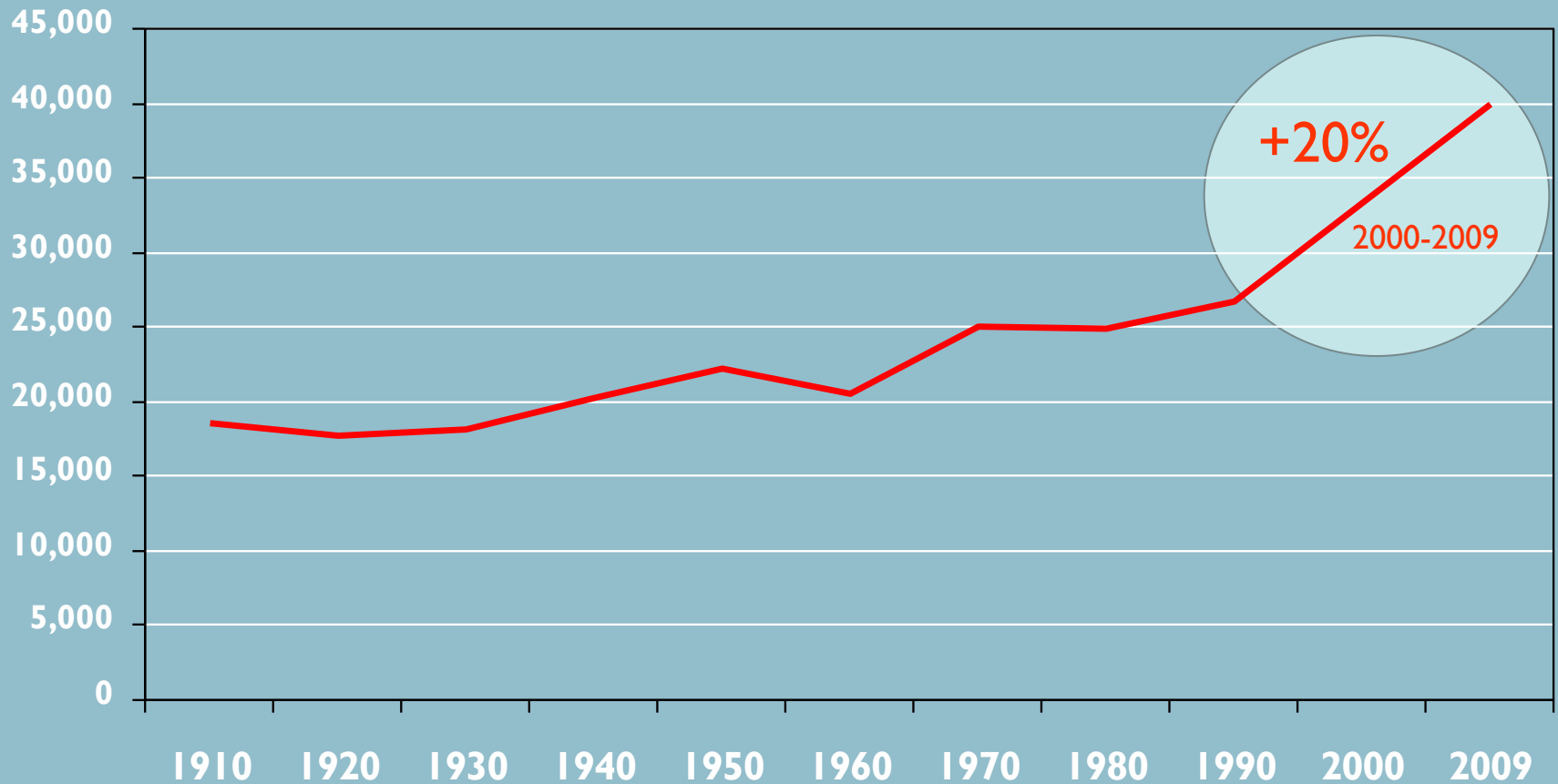
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- The county is home to 900 farms covering nearly 200,000 acres
  - Drivers: grass hay, cereal grain, and livestock
  - Timothy hay industry: est. \$30 million annually
- Kittitas County has 153,000 acres of private forestlands
  - Harvest volumes have declined since 2000
  - Still, 13 million board feet harvested in 2007



# Growth Has Occurred

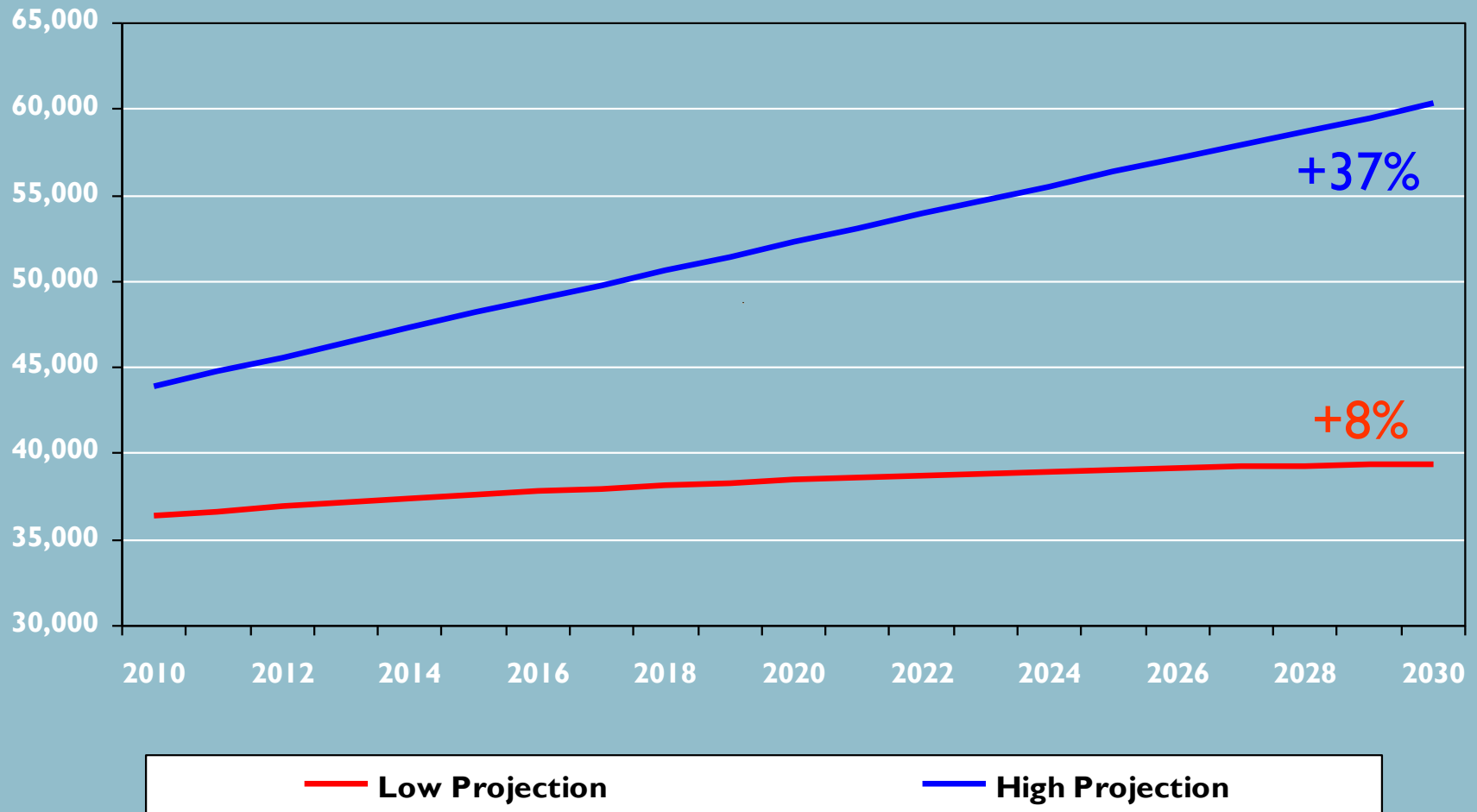
Kittitas County Population Growth (1900-2009)



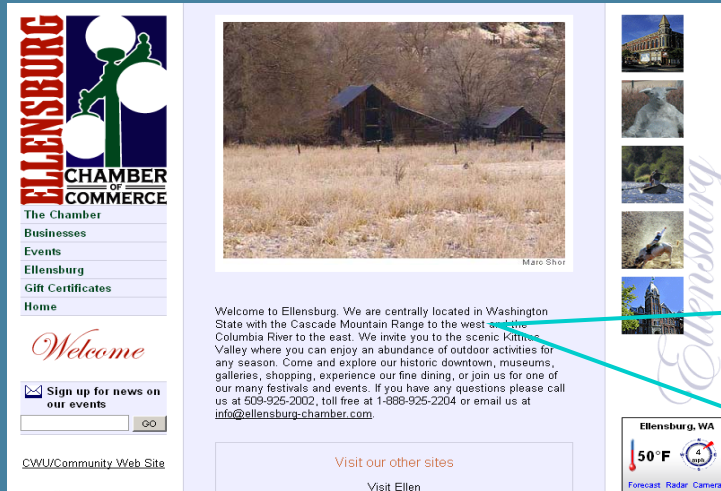
Sources: US Census Bureau, WA Office of Financial Management

# Growth Is Expected

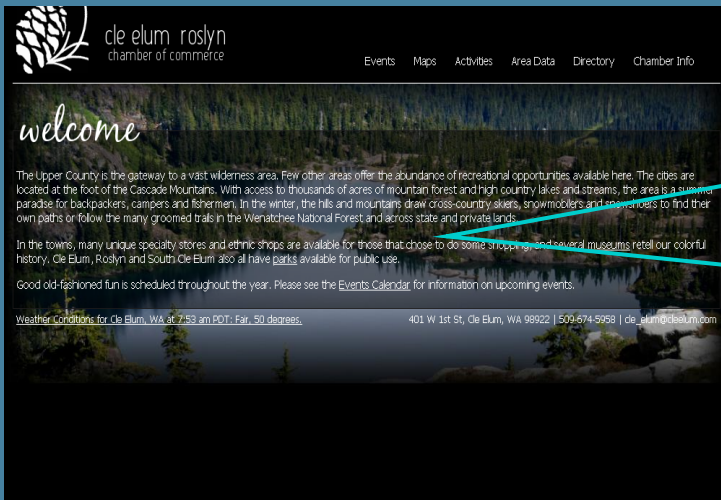
Kittitas County Population Growth (2010 - 2030)



# 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

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## Primary goals:

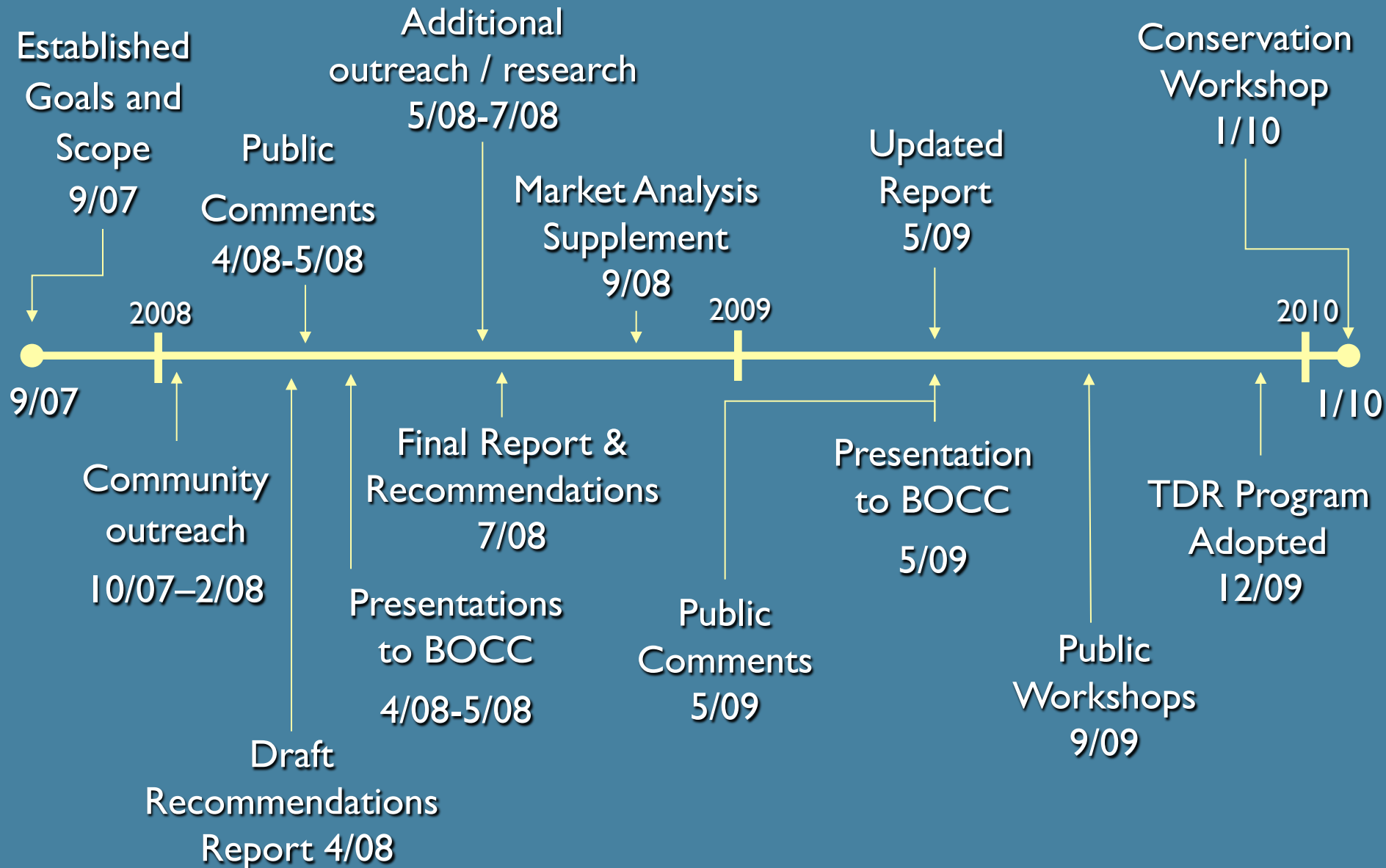
- Conserve working lands
- Promote development in areas appropriate for growth

## Success:

- Growth is responsibly planned
- Property rights are protected
- Rural landowners are fairly compensated



# Program Development



# Program Framework

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## 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

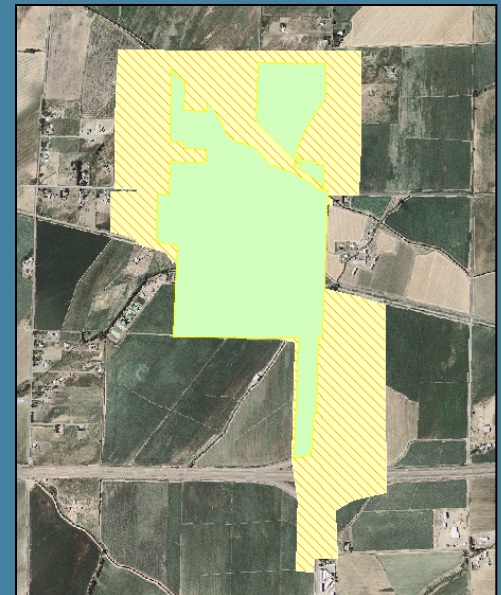


# Program Framework cont'd

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## Receiving Sites

- Cities
- Urban Growth Areas
- Planned Communities
  - Master Planned Resorts
  - Planned Unit Developments
- Approved Rural Development
  - Rezones
  - Clusters





# Program Administration

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- **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

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- 1500-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

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- TDR can work for a wide range of communities
- Key is understanding the community's needs



# TDR Resources for Cities and Counties

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- TDR web site, [www.commerce.wa.gov/tdr](http://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](http://www.cascadeland.org)



# Thank you

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# Questions?

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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

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

# Kittitas TDR Process

