



Regional Transfer of Development Rights in Puget Sound

*A Regional Alliance of Puget Sound Counties, Cities, the Puget Sound
Regional Council, Forterra and Department of Commerce*



Department of Commerce
Innovation is in our nature.

Puget Sound Regional Council
PSRC

FORTERRA
CREATING GREAT COMMUNITIES
and CONSERVING GREAT LANDS

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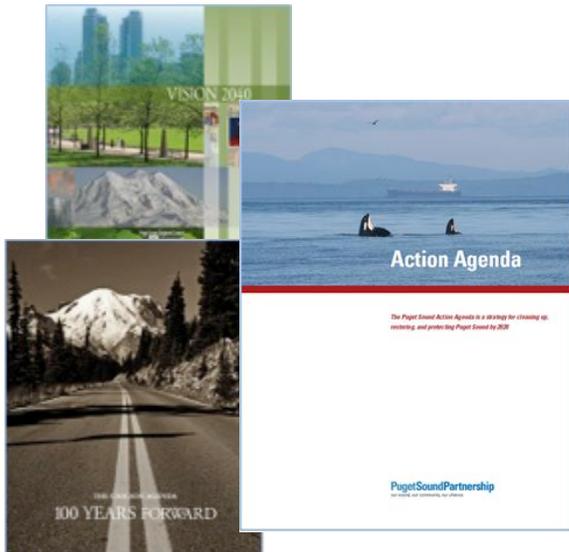
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Executive Summary

Overview

The challenge in Puget Sound is to accommodate the more than 1.5 million new people expected to live here by 2025, and adapt to a changing climate, without increasing pressures on Puget Sound from habitat and land use, storm water, toxic pollution, and transportation². Between 2000 and 2006, Puget Sound counties added 315,965 people, a rate of more than 50,000 people per year. Many farm and forest land areas are being converted to residential and commercial development. Between 1991 and 2001, 190 square miles of forest land in the Puget Sound basin was converted to other uses, equaling 2.3 percent of remaining forests.³

Counties and cities have been working together on Puget Sound conservation goals through the regional transfer of development rights (TDR) since King County and the Cities of Seattle and Issaquah adopted interlocal agreements in 2001. This report provides a history and summary of the regional accomplishments to date, with a focus on TDR programs recently adopted by cities (see [City Case Studies](#)) under a U.S. Environmental Protection Agency (EPA) Watershed Management Assistance Agreement⁴.



Forterra began working with counties and cities on regional TDR as a market-based conservation strategy to implement its [Cascade Agenda](#), adopted in 2005 with goals for the next 100 years. The Puget Sound Regional Council (PSRC) and Washington State Department of Commerce (Commerce) became involved in regional TDR when Commerce was directed by legislation in 2007 to work with an advisory committee to develop a regional TDR marketplace in central Puget Sound that includes, but is not limited to, supporting strategies for financing infrastructure and conservation⁵. TDR implements multi-county planning policies PSRC adopted in [VISION 2040](#).

² The 2012 Action Agenda for Puget Sound, Puget Sound Partnership.

³ *State of the Sound 2007*, Puget Sound Action Team.

⁴ EPA Assistance Agreement PO-00J093-01-0.

⁵ RCW 43.362.020(1)(a).

Legislation implementing the consensus recommendations of the advisory committee was passed by the Legislature and signed into law by the governor in 2009⁶, contingent upon Commerce finding another funding source to implement it. Through an EPA West Coast Estuary Initiative grant, this Watershed Management Assistance (WMA) grant and a WMA grant to King County, all intended to implement the [Puget Sound Action Agenda](#), the regional partners (King County, Pierce County, Snohomish County, Kitsap County, PSRC, Forterra and Commerce) have been able to implement the legislation and keep regional TDR moving forward.

Regional Accomplishments

All four central Puget Sound counties (King, Pierce, Snohomish, and Kitsap) have adopted TDR policies and regulations, and 10 cities have in place or are working on regional transfer of development rights in three of the counties.

- Over 180,000 acres of farmland, forestland, and open space are under conservation easement.
- 2,628 transferable development right credits have been purchased from farmland, forestland, and open space.
- Over 250 credits have been transferred into cities and unincorporated urban growth areas.

Benefits of Regional TDR

Regional TDR benefits landowners, developers, cities, counties, and neighborhoods:

- The Action Agenda recognizes that maintaining land in farming and forestry through reduces stormwater runoff and protects water quality.
- Regional TDR encourages cross-jurisdiction coordination, including protection of lands outside a city's boundaries that they care about.
- Cities participating in TDR make the regional market for conservation and development larger than an individual jurisdiction.
- TDR programs help cities grow wisely while preserving lands important to their residents. Builders can provide more homes and space for local businesses by purchasing development rights from farm, forest, and open space landowners.
- Through voluntary transactions, TDR allows owners of farms, forests, and open spaces to receive financial return and continue to own and use the land.
- TDR programs allow developers to increase development capacity in their projects with purchases of development rights from farm, forest, and open space landowners.

⁶ Chapter 43.362 RCW, as amended in 2009.

Next Steps for TDR in Puget Sound

Counties and cities continue to work on regional TDR programs using EPA Watershed Protection and Restoration Grants. King County is recruiting more city partners, and using the Landscape Conservation and Infrastructure Program ([LCLIP](#)), to accomplish its goal of achieving a critical mass of development capacity for regional TDRs. King County is also working to integrate its regional TDR program with programmatic compensatory mitigation actions.

Snohomish County is implementing its newly adopted countywide TDR program, including work with the cities. Pierce County is working to recruit more cities and further implement its program. The Cities of Mountlake Terrace and Tacoma are evaluating the feasibility of participation in the Landscape Conservation and Local Infrastructure Program. Skagit County is working with the City of Burlington. Forterra continues to work with the counties and to reach out to the Cascade Agenda cities to consider participation in TDR.

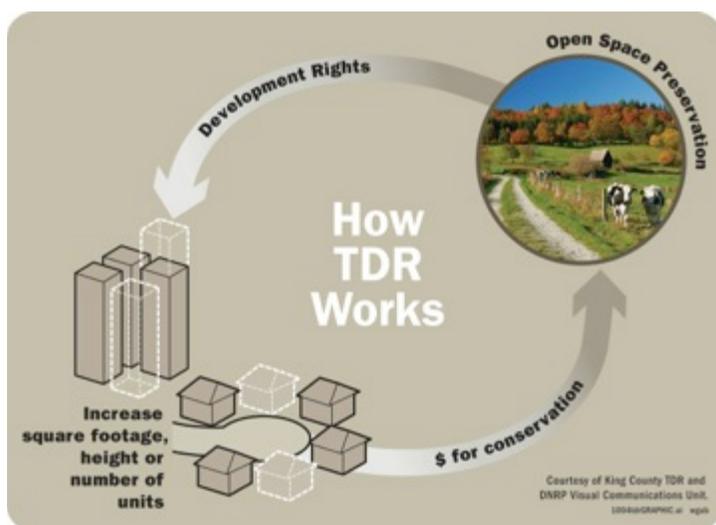
The biggest challenge remains resources for local governments to implement TDR, but especially for cities planning for increased development capacity. Infrastructure financing is still difficult to obtain as federal, state, and local legislators deal with ongoing budget issues.

Introduction

What is TDR?

Transfer of development rights (TDR) is a market-based land use tool that cities and counties use to develop compact communities while conserving natural resource and open space lands. A TDR program contains several elements. A community identifies areas that it wants to conserve, such as privately owned farms, forestland, open space or other lands, depending on the local program. These lands, known as “sending areas,” provide jobs, food, outdoor recreation, timber, and open space.

Through voluntary transactions, landowners in sending areas sell their right to build homes on their land to developers in urban areas. Landowners receive money from the sale and continue



to own and use their land, while developers in urban areas pay for the right to build more homes or commercial space than zoning would otherwise allow. These “receiving areas” designated for development rights are identified by the community as being better suited for locating additional growth, and are often located in cities. Planning for more compact development in receiving areas should result in more walkable communities with access to transit, a variety of shops and services,

amenities such as open space and street trees, and a reduced need to drive.

Under some programs, development rights can be converted to additional building height or commercial floor space, or revised parking or stormwater requirements. Receiving areas should have, or should be planning for, the infrastructure and services capacities to meet the needs of increased growth.

Conversion Commodities

In most TDR programs that seek to protect open space or natural resource land in sending areas, the sending-area development right available for sale is the right to build a residential unit. In some TDR programs, however, the development right for sale from the sending area can be converted into another type of commodity in the receiving area. For example, a TDR created by extinguishing the right to build a residential unit in a residential area could be converted into the right to build additional commercial floor area or additional building height in the receiving area.

The use of such “conversion commodities,” may help stimulate the TDR market by providing receiving-area landowners with more options for TDR use. A receiving-area developer can make a project “pencil” (that is, make a project “pencil out” as profitable) through additional office or retail space, reduced parking ratios. These could be provided among other development rights, rather than just increased residential density, which is what TDRs are traditionally used for.

In theory, a conversion commodity could include a waiver or relaxation of anything that can be regulated or restricted through the land use process for which a developer would be willing to pay. Some such commodities are already used in TDR programs around the country. For example, the City of Issaquah allows TDR to be used to increase impervious surface limits on a receiving site. Others are not currently used in TDR programs but could be because they are regulated or restricted by the land use regulation system.

Commodities that can be purchased in TDR programs include:

- Commercial Floor Area (CFA)
- Building Height
- Parking Ratio
- Impervious Surface
- Parkland and Open Space
- Setbacks
- Floor Area Ratio (FAR)
- Impact Fees and Concurrency Conformance

When conversion commodities function properly, they save developers money while conserving open space.

What is Regional TDR?

Regional TDR involves the transfer of development rights across jurisdictional boundaries. Regional TDR in Puget Sound has been focused on transfers from county-designated sending areas to city-designated receiving areas. The intent is to reduce development potential in rural and natural resource lands by transferring that potential to receiving areas in cities where urban densities and infrastructure are planned.

The state focus for receiving areas has been on cities in central Puget Sound because the Legislature enacted the recommendation of the Policy Advisory Committee to focus state efforts on cities. As the providers of urban services under the GMA, cities are best equipped to plan for and accommodate increased residential and commercial density.

There are a few other regional TDR programs in the country. The Pinelands National Reserve in New Jersey was created by Congress under the National Parks and Recreation Act of 1978. The reserve is the first national reserve in the nation, underlain by aquifers containing 17 trillion gallons of water. It encompasses approximately 1.1 million acres covering portions of seven counties and all or parts of 56 municipalities. The Pinelands Commission created by the state of New Jersey adopted a mandatory TDR program for the municipalities to protect the aquifer.

The Tahoe Regional Planning Agency cooperatively leads the effort to preserve, restore, and enhance the unique natural and human environment of the Lake Tahoe region. The governors and lawmakers in California and Nevada approved a bi-state compact that created a regional planning agency to oversee development at Lake Tahoe in the late 1960s. In 1969, the U.S. Congress ratified the agreement and created the Tahoe Regional Planning Agency. The Tahoe Regional Plan, updated in December 2012, encourages property owners to transfer development rights from sensitive or outlying areas to existing town centers with the goal of restoring these lands. However, all municipalities in the Tahoe Region are required to participate in the TDR program.

Puget Sound is a nationally recognized estuary under the federal National Estuary Program. It is a resource of national significance similar to the Pinelands National Reserve and Lake Tahoe Region. However, regional TDR in Puget Sound is voluntary. As it appears to be the only voluntary regional program of its kind for counties and cities in the country, the work being done here in the Puget Sound is leading edge in its scope and accomplishments.

Why Regional TDR? What are the Benefits?

The benefits of a successful regional transfer of development rights program are the conservation of rural, agricultural, and forest lands⁷. Removing the development rights from these lands will help keep them in farming and forestry. It will also help provide drinking water and aquifer protection, and reduce stormwater runoff to Puget Sound. Transferring growth to urban areas where public facilities and services are available will facilitate vibrant, economically viable compact communities. Directing growth to compact communities where people can live close to where they work or have access to transportation choices will reduce vehicle miles travelled, reducing fuel consumption and emissions that contribute to climate change.

Benefits for Counties

Regional TDR is a tool counties can use to meet their conservation goals because it increases the market demand for development rights from sending areas. Counties are charged under the GMA with designating and conserving agricultural and forest land of long-term commercial significance. They are required to maintain and enhance natural resource industries, as well as protect them from incompatible adjacent uses. While TDR provides a tool for counties to incentivize landowners to keep their land in farming or forestry, regional TDR makes the market for conservation and development larger than the market that county receiving areas alone provide.

King County won a 2013 Governor's Smart Communities Award for the County's White River Forest project that permanently preserves 43,000 acres of the White River Forest through TDR.

Benefits for Cities

TDR programs help cities grow wisely while preserving lands important to their residents. Builders can provide more homes and space for local businesses by purchasing development rights from farm, forest, and open space landowners.

TDR benefits cities by:

- Encouraging cross-jurisdiction coordination, including protection of lands outside a city's boundaries that they care about.
- Supporting the \$280 million agricultural industry that provides fresh produce and meat to farmers markets and local grocers.

⁷ Given the economic and environmental importance of these lands, PSRC published a natural resource lands trends report in 2011 that explores the resource land designation criteria, changes in the amount of land, changes in designations, residential development, and parcel sizes of resource designated land in the four counties. See [Natural Resource Lands Trends in Central Puget Sound](#).

- Supporting the \$365 million forest industry that provides timber and protects water quality.
- Protecting water and habitat resources that are part of the regional identity and economy.
- Conserving lands that provide focus for local celebrations and festivals and family-friendly experiences.

Three cities have won a Governor’s Smart Communities Award for work they did in TDR receiving areas:

- Bellevue’s Bel-Red Corridor Plan received the award for comprehensive planning in 2010.
- Tacoma’s Mixed-use Centers Update Project received the award in 2010 for implementation of a comprehensive plan.
- The City of Normandy Park won a 2013 award for its Manhattan Village subarea plan and planned action ordinance that includes receipt of TDRs from King County.

Certain cities can take advantage of infrastructure funding through the Landscape Conservation and Local Infrastructure Program ([LCLIP](#)) if they choose to participate.

Benefits for Landowners

Farming and forestry in the central Puget Sound region is threatened by development pressure, increasing land values and taxes, and a shrinking land base. TDR has the potential to help. Through voluntary transactions, TDR allows owners of farms, forests, and open spaces to sell their right to develop. In exchange, they receive financial return and continue to own and use the land.

TDR benefits landowners by:

- Providing money for protecting their land and lowering their tax burden.
- Removing development pressures that impact long-term economic viability.
- Making it more affordable for farmers and foresters to purchase land they want to farm or maintain in forestry.
- Maintaining control over the terms of sale and price of development rights.
- Maintaining a high quality of life for future generations.

Benefits for Developers

TDR programs allow developers to increase development capacity in their projects with purchases of development rights from farm, forest, and open space landowners.

TDR benefits developers by:

- Increasing the number of units or square footage in a project.
- Increasing project profits.
- Making projects more “green.”
- Making compact development projects more attractive to communities.

TDR is:

- Used in large and small developments.
- A way to add flexibility in the permitting process.
- Available for residential and commercial projects.
- Permanent and supported by state law.

For more information about incentives/benefits that cities and counties can provide for developers in receiving areas, see [Transfer of Development Rights Incentives That Jurisdictions Can Provide for Developers](#) on the Commerce Regional TDR website.

Benefits for Neighborhoods

Comprehensive planning for more compact development in receiving areas should result in more walkable communities with access to transit, a variety of shops and services, amenities such as open space and street trees, and a reduced need to drive.

TDR can be used to encourage the kind of development a community envisions with incentives for building that supports a planned mix of uses or access to transit. TDR can support existing plans for the neighborhood, such as plans for open space and parks, trails, and transit. Concentrated development can take advantage of existing infrastructure, and move development out of areas critical for watershed protection.

An effective TDR program requires adequate resources be devoted to the program’s design and implementation, including planning, funding, and implementation for capital facilities in receiving areas. Capital facilities include water, sewer, roads, transit, recreation, community services, and schools.

What Benefits Have Been Realized from Regional TDR?

The Highlights

All four central Puget Sound counties (King, Pierce, Snohomish, and Kitsap) have adopted TDR policies and regulations, and 10 cities have in place or are working on regional transfer of development rights with the counties.

- Over 180,000 acres of farmland, forestland, and open space are under conservation easement.
- 2,628 transferable development right credits have been purchased from farmland, forestland and open space.
- Over 250 credits have been transferred into cities and unincorporated urban growth areas.

The legislation authorizing regional TDR directs the Department of Commerce (Commerce) to develop quantitative and qualitative performance measures. The Regional TDR Alliance developed these measures that counties and cities report biannually to Commerce.

Acres Under Conservation Easement

The number of acres under TDR conservation easement provides a measure of success in conserving urban open space in cities and counties, rural land, and resource lands through TDR programs. Rural land includes working farm and forest land, as well as open space and habitat. Three of the four counties have conservation easements in place as shown in Table 1⁸.

Table 1: Number of Acres Under TDR Conservation Easement

County	Urban Open Space	Rural Land	Agricultural Land	Forest Land	Total
King	121	2576	170	181,754	184,621
Pierce	0	90.1	120.5	0	210.6
Snohomish	0	0	74	50	124
Total	146.5	2666.1	290.5	181,804	184,955.6

⁸ Kitsap County is not included because it has not yet experienced any acquisitions or transfers.

Transactions that Have Occurred

King County has had the most transactions to date with a program that has been active since 1998. Table 2 shows the number of transactions since 1998. A “transaction” occurs whenever a TDR changes hands from an owner to a buyer, including transactions between speculators until they are finally used. Most transactions involve more than one TDR. Table 2 includes all transactions whether regional (county to city) or intra-jurisdictional (county to county). The number of transactions is broken out between public and private transactions. Public transactions include acquisitions by a bank or any other acquisition using public funds, such as the use of state grant funds by a non-profit. Private transactions are between a developer and the owner of the land.

Table 2: Transactions in the Three County TDR Programs

County	Public Transactions (including bank and Forterra transactions)	Private Transactions	Total
King	12	66	78
Pierce	3	0	3
Snohomish	2	0	2
Total	17	66	83

Credits that Have Been Purchased

Public credits are those credits that have been purchased by a local government, by a bank established by the local government, or by a non-profit with government funds. Private credits are those credits that have been purchased directly by a private developer from a landowner. Table 3 shows the number of credits bought and sold since 1998.

Table 3: Credits Transactions in the Three County TDR Programs

County	Public Credits ⁹	Private Credits	Total
King	2,055	464	2,519
Pierce	103	0	103
Snohomish	66	0	66
Total	2,224	464	2,688

For more information about market trends in the King County TDR program, go to TDR Market Information on the [King County TDR website](#).

⁹ Including acquisitions by Forterra

TDR Credits Transferred and Used in a Project

While Table 3 provides information on the total number of TDR credits transferred from county sending areas, Table 4 shows the number of those credits that have been transferred into the county unincorporated urban growth area (UGA) and city receiving areas. To date, only King County has transferred TDR credits into receiving areas.

Table 4: King County Credits Transferred to City Receiving Areas

Receiving Area	Number of Credits
King County UGA	122
Seattle	68
Issaquah	63
Total	253

Development in City Receiving Areas

Cities tailor allowable uses of TDR credits to encourage the type of development they want in the receiving areas. Although most of the development that has occurred to date using TDR credits from King County is residential, the cities in all four counties have adopted a variety of types of development that will be encouraged in receiving areas as listed in Table 5.

Table 5: Development in City Receiving Areas

Type of Development	Units (e.g. residential, square footage, height)	Amount
New residential units	Residential units	136
New residential units in relation to units development rights extinguished in sending areas	Ratio of residential units extinguished in sending vs. used in receiving areas	1 unit extinguished for every 2 units created 68/136
Additional commercial floor area	Square footage of commercial area	496,000
Additional building height	Feet of building height	≈225
Number of required parking spaces reduced	Parking spaces reduced	0
Number of additional parking spaces allowed	Parking spaces allowed	5
Amounts of additional impervious surface allowed	Square feet of impervious surface allowed	1000

Regional TDR Programs Adopted

Three of the counties have interlocal agreements with cities to transfer development rights, and more are in process. Ten cities adopted or updated policies and regulations for receiving areas that will accept county TDR credits, using 13 EPA grants from PSRC, Commerce, and King County. Of those 10 cities, seven have adopted or are very close to adopting TDR programs that will accept TDR credits from the counties.

Subarea Plans and Up-Front Environmental Review

All nine cities, including the seven cities using EPA Watershed Management Assistance funds, that have adopted or are about to adopt regional TDR have developed and adopted subarea plans or rezones for their TDR receiving areas. Subarea plans are plans for neighborhoods or distinct areas within a city or county that further refine zoning and capital improvements, and can include design guidelines, streetscape design, and other amenities for the community.

Subarea planning for a TDR receiving area benefits the community and developers by providing a process to gain community buy-in to development with TDR¹⁰. The process provides more certainty for developers and the community. The planning process allows the community to discuss what types of development they would like to see in the plan and to discuss TDR as a tool for developers to implement the plan. Subarea planning also provides a process that can be used to conduct more detailed up front environmental review under the State Environmental Policy Act (SEPA).

Some sort of up-front environmental review was conducted on almost all of the subarea plans adopted by the cities. Up-front environmental review, also called defined mitigation, provides more certainty to developers and the community¹¹. The review includes and addresses any impacts to the natural or built environment that will be generated by allowed development, including a development project receiving extra development capacity by using a TDR credit.

The **Manhattan Village Subarea Plan/EIS** and planned action, including TDR, envisions redevelopment of an area with a mix of commercial and residential development, including vacant buildings and underutilized parcels in Normandy Park. The City seeks an increasingly intense level of development that promotes a dynamic urban environment and achieves a compact form, satisfying the community's needs for housing diversity and economic vitality.

¹⁰ See [Transfer of Development Rights Incentives That Jurisdictions Can Provide for Developers](#) for more information about subarea planning and up-front environmental review for TDR receiving areas.

¹¹ A study recently completed by the Department of Commerce in July 2010, [State Environmental Policy Act Case Studies](#), found that predefined mitigation in all eight case study cities resulted in greater certainty and predictability for developers, and a decrease in the number and scale of required environmental assessments and technical studies at the project level.

The Seattle City Council adopted a **substantial rezone of South Lake Union** that allows for increased density and greater building heights through an incentive zoning program, including the use of regional TDR. The legislation is an important step for the South Lake Union neighborhood as it continues to develop as an Urban Center and a dynamic hub of economic development for Seattle and the region.

The **Central Issaquah Plan** will guide the long-term evolution of the City of Issaquah's 1,100-acre commercial core from a collection of strip malls, parking lots, and office buildings into a more sustainable urban area that will meet the community's needs for environmental protection, jobs, housing and rapid transit. For developers, the plan means streamlined review and permitting processes and an expansion of the TDR receiving area, as well as increased code flexibility to fulfill the vision.

The **Bel-Red Corridor subarea plan** adopted by the City of Bellevue involved extensive environmental review, and includes a TDR receiving area. The plan adopted in 2009 establishes a vision for new mixed use neighborhoods supported by light rail, new streets, parks and open space.

The City of Arlington adopted a **subarea plan for West Arlington** that is a cohesive long range plan to effectively manage growth and unify development within the sub-area. It incorporates principles of New Urbanism, Smart Growth, and Sustainability, and promotes diversity in terms of housing options and business types. It has resulted in an expansion of the TDR receiving area for county credits.

Mountlake Terrace's **Freeway/Tourist Area** is part of the City's designated Subregional Growth Center as defined in VISION 2040, designated for regional funding sources to meet the community vision for additional retail, housing choices, employment opportunities, and transportation choices. Special zoning provisions and a planned action provide incentives for developers in the Freeway/Tourist Area, in addition to TDR.

The City of Snohomish adopted its **Pilchuck District** subarea plan and planned action ordinance with TDR for a historic district along the Centennial Trail. The neighborhood planning effort for the Pilchuck District was intended to shine a light on the area, to capitalize on its positive aspects, to bring its disparate parts into harmony over time, and to create opportunities for public and private investments and improvements that will make it a more distinctive and enjoyable place to live, work, and play.

The City of Tacoma is in the final stages of adopting the **MLK Subarea Plan and FEIS**. The purpose of the MLK Subarea Plan is to anticipate, support, and guide the long-term redevelopment of the MLK District. The plan will serve as a statement of the City's commitment

to and direction for future development in the MLK Subarea in addition to serving as a resource for potential investors, property owners, the community and other public agencies. The MLK subarea is a designated mixed-use center and TDR receiving area.

The vision for the **Sammamish Town Center** is a vibrant, urban, family friendly gathering place in a healthy natural setting. The City of Sammamish's sense of community reflects a balance between its natural and urban characteristics. The vision includes preservation and enhancement of the Town Center's natural setting by focusing new development away from natural resources and critical areas, including the use of TDR and other tools.

History of Regional Transfer of Development Rights in Puget Sound – How Did We Get Here?

The challenge in Puget Sound is to accommodate the more than 1.5 million new people expected to live here by 2025, and adapt to a changing climate, without increasing pressures on Puget Sound from habitat and land use, storm water, toxic pollution, and transportation¹². Between 2000 and 2006, Puget Sound counties added 315,965 people, a rate of more than 50,000 people per year. Many farm and forest land areas are being converted to residential and commercial development. Between 1991 and 2001, 190 square miles of forest land in the Puget Sound basin was converted to other uses, equaling 2.3 percent of remaining forests.¹³

Local governments need as many land use tools as possible to slow the conversion of rural, farm, and forest land. Upcoming updates to land use plans and regulations, starting in 2015 in central Puget Sound, provide an opportunity for counties and cities to consider new or to enhance existing conservation tools. The current economy and housing market provide an opportunity to put in place market-based tools that will be available when the market improves.

The Washington State Growth Management Act (GMA) requires counties and the cities within them to adopt comprehensive plans and development regulations that meet 14 goals and a number of requirements. The goals include conservation of productive forest and agricultural lands and discouragement of incompatible uses;¹⁴ encouragement of development in urban areas where adequate public facilities and services exist or can be provided efficiently;¹⁵ and reduction of sprawl.¹⁶

TDR programs are recognized and encouraged in the GMA as an innovative land use management technique¹⁷ that transfers development from areas a community wants to conserve to urban areas where growth should be encouraged, consistent with GMA goals. All four central Puget Sound counties have adopted a TDR program, as have a number of cities and a few other counties around the Sound. Statewide, 27 programs have been adopted.¹⁸ Seventeen of these are regional TDR programs, meaning that TDRs are authorized to transfer across jurisdictional lines between a county a city.

¹² The 2012 Action Agenda for Puget Sound, Puget Sound Partnership.

¹³ *State of the Sound 2007*, Puget Sound Action Team.

¹⁴ RCW 36.70A.020(8)

¹⁵ RCW 36.70A.020(1)

¹⁶ RCW 36.70A.020(2)

¹⁷ RCW 36.70A.090

¹⁸ For an inventory of TDR programs adopted in Washington State, see [Transfer of Development Rights \(TDR\) in Washington State: Overview, Benefits, and Challenges](#).

Most of the Washington State programs are aimed at agricultural land preservation or environmental protection. Some reflect other goals, such as affordable housing (Seattle), historic preservation (Seattle and Vancouver), and watershed protection (Whatcom County). Programs that have protected the greatest amount of acreage for conservation are located in King County.



King County

Conservation Goals

The King County Comprehensive Plan, which recognizes the many values of forest lands, commits to promoting forestry and reducing conflicts with resource uses, and calls for conservation of working forest through acquisition of development rights and for King County to demonstrate leadership in the provision of a regional open space system. King County committed to conserve 200,000 acres of forest landscape as part of the 2004 Cascade Foothills Initiative. With its latest acquisition in the White River, as noted below, it has met that target.

TDR in the Tool Box

King County developed a pilot TDR program in 1988. The King County Council directed the Department of Natural Resources and Parks to develop a TDR program for implementation through a community planning process.

- A “Transfer of Development Credits” (TDC) program was established, which allowed density transfers only into unincorporated urban residential areas of King County.
- This early program allowed both urban and rural sending sites.
- The code provided for a 1:1 transfer ratio.
- Sending sites were required to subtract unbuildable acreage prior calculating TDCs, e.g. wetlands, streams, steep slopes.
- Sending sites in the R-1 zone were initially only allocated 1 TDC per acre (now 4 TDRs/acre); and rural receiving sites were allowed in Rural Area 2.5 and 5 acre zones.

Between 1988 and 1995 only one transfer was completed.

In March 1996, the Council appropriated \$125,000 to match \$125,000 from the Washington State Legislature to fund a “Transfer of Development Rights Receiving Area Plan” which included a market analysis and public process. The King County Comprehensive Plan policies called for the TDR mechanism to allow rural to rural transfers as well.

A 1997 Receiving Area Plan process resulted in revisions to the TDR program:

- Market analyses indicated a need for a 2:1 transfer ratio to encourage transfers from rural areas into urban areas.

- Identified a need to establish a “regional” TDR approach whereby cities would be compelled to participate and the need to pursue a pilot program with a city within King County to work out the model.
- Identified the need to establish a TDR Bank to help finance transactions countywide.

In 1999, the Council appropriated \$1.5 million to the TDR program to purchase and “deposit” credits in the King County TDR bank. The King County Council also:

- Authorized a series of pilot projects focused on reaching agreements with cities to accept additional density.
- Dedicated \$500,000 as amenities to urban communities willing to accept rural density credits.

The Council converted the pilot program in July 2001 into permanent status and established much of the TDR code language in current code. Major changes included:

- Changed name from Transfer of Development “Credits” to “Rights.”
- Focused efforts into cities, with TDR bank and amenity funding language.
- Established a 2:1 transfer ratio for “rural” TDRs (i.e., two additional urban units per one rural unit transferred).
- Removed language that netted out unbuildable sensitive areas.
- Removed urban sending sites (except for properties with R-1 zoning).
- Changed the Rural Area one acre zoning allocation to 4 “urban” TDRs per acre.
- Allowed properties in the Agricultural (A) zone to transfer one TDR per five acres rather than at density allowed by zoning.

Also in 2001, the County successfully negotiated and entered into interlocal agreements with the cities of Seattle and Issaquah. Under the Seattle agreement, 68 TDR credits were transferred and used in projects in South Lake Union such as the Olive 8 and Aspira. That agreement sunset in 2006, but the County is working with Seattle to adopt a new interlocal agreement. Sixty-three TDR credits were transferred and used in the Issaquah Highlands development to build an additional 8000 square feet of commercial floor area per TDR credit. The Issaquah agreement is still in place, but is being updated.

In the ensuing years up through 2008, the program showed meaningful market results and significant land protection. During that time period 54 private transactions occurred. Private credits are those credits that have been purchased directly by a private developer from a landowner. Those transactions resulted in 411 TDR private credits being bought and sold.

In 2008, King County Council adopted the new comprehensive land use plan with a host of new TDR policies and code language. Some of these policies include:

- Use of TDRs to help meet greenhouse gas emissions targets for new development projects.
- Use of TDRs to satisfy traffic concurrency requirements for development in rural areas.
- Higher transfer ratios in Rural Area 10 acre zones.

However, in 2008 the market plummeted with the economy, resulting in zero TDR transactions for the year. Since development demand drives the TDR market, the TDR market directly reflects the oscillations in the local real estate markets. There have been a few transactions since 2008, but the market has remained slow.

The better news is that the TDR market, over the medium and longer terms (3-10 years), has tremendous potential for growth. As the housing market continues to strengthen in King County, as it will undoubtedly do with the County as a regional and international employment center, developer demand for additional density via TDR will also grow.

TDR Transactions

King County has issued certificates for development rights from significant tracks of land, with some acquisitions using the TDR bank. The first major acquisition was from Hancock Timber for the Snoqualmie Tree Farm in 2004. The County acquired 990 TDRs, conserving 91,354 acres of forest land. TDRs from the County's purchase of development rights from the 250-acre Sugarloaf Mountain in the Cedar River watershed – Seattle's watershed – were used by developers in Seattle's Denny Triangle per the initial interlocal TDR agreement between King County and Seattle.

King County issued 514 TDR certificates to Plum Creek in 2008 in the Green River watershed for 45,000 acres of forest land – the City of Tacoma's watershed. The company will still own, manage and be able to log its land in southeast King County, but future housing development is precluded forever, and no tax money is involved.

In 2009, King County bought the development rights on 4,000 acres at the headwaters of the Raging River for approximately \$3.6 million. The state Department of Natural Resources purchased an estimated \$22 million for the entire property from Fruit Growers Supply, which will remain in forest production. These development rights are being held by King County's TDR bank for future sale into the Bel-Red Corridor per the King County-Bellevue interlocal agreement adopted in 2010.

TDR enabled the owners of the "Nature's Last Stand" farm, the husband-and-wife team of John Huschle and Anna Davidson, to buy the land in order to keep it active as a farm that provides locally grown food for years to come. The farm has consistently supplied Seattle's farmers markets with fresh local food for over 16 years. They had been leasing for years, but were able to buy this land in 2010 because the sale of the development rights from the property made the land more affordable.

King County Executive Dow Constantine and the Camp Fire USA Central Puget Sound Council signed a land preservation agreement in 2011 that will permanently protect one mile of pristine Puget Sound shoreline on southwest Vashon Island from development and allow Camp Sealth, a recreational and environmental education camp, to continue its legacy of providing the region's youth with fun and

educational outdoor activities. EPA funds, through King County's Watershed Management Assistance (WMA) grant, helped the County purchase the Camp's development rights. The City of Normandy Park has entered into an interlocal agreement with King County to accept these rights in its Manhattan Village subarea. Normandy Park also used WMA grant funds from King County and Commerce to complete the Manhattan Village subarea plan and rezone.

King County and Puget Consumers Co-op Farmland Trust partnered in 2012 to acquire development rights and preserve the 110-acre Carnation-area Jubilee Farm, one of the region's largest and longest-running community-supported agriculture operations. King County's TDR Program and the trust contributed equal amounts of funding to complete the \$340,000 deal and preserve the 107-acre Jubilee Farm.

In March 2013, King County Executive Dow Constantine announced that he had reached an agreement with Hancock Timber to permanently protect 43,000 acres of the White River Forest east of Enumclaw from development. This project received the Governor's Smart Communities Award for implementing a comprehensive plan in June 2013.

The White River Forest has been managed as a working forest for nearly 100 years. Until this project was complete, it was the largest swath of unprotected forestland remaining in King County. The \$11 million deal used \$9.89 million in Conservation Futures Funds and \$1.25 million in Parks Levy Funds.

Along with previous conservation easements secured at Snoqualmie Forest, Raging River Forest and Plum Creek Forest, as well as other King County-owned forestland, and city, state and federally owned forest lands, conservation of the White River Tree Farm completed a "wall against sprawl" ensuring public conservation of a nearly contiguous north-south wall of forestland in eastern King County.

Work with the Cities – Creating More Capacity

As a result of the County's success with acquiring development rights for the bank and issuing certificates, the County has needed to work with more cities to develop the market capacity for accepting these development rights.

During the economic downturn years, the County worked diligently with cities to increase the receiving area capacity for TDR credits for when the market rebounds. This work has included cities within both King and Pierce Counties.

King County successfully negotiated and adopted an interlocal agreement with the City of Bellevue to receive credits in the Bel-Red Corridor Plan in 2010. In 2011, the City of Sammamish adopted and the County approved an interlocal agreement to accept TDR credits in the City's Town Center.

King County received an EPA Watershed Management Grant to acquire development rights, and to work with Pierce County and the cities of Normandy Park, Tacoma and Puyallup on regional TDR. This has resulted in the Cities of Tacoma in 2012 and Normandy Park in 2013 agreeing to accept development rights from the County.

The County has been working with the cities of Seattle and Issaquah on updated interlocal agreements to accept development rights with funds for the cities from the Commerce EPA grant. The county received an NEP Watershed Protection and Restoration Grant from Commerce and Ecology in 2012 to work with the City of Kirkland on an interlocal agreement. The County is also pursuing an interlocal agreement with the City of Bothell.



Pierce County

Conservation Goals

Pierce County adopted its Agriculture Strategic Plan in 2006 to increase the economic viability of agriculture in response to the loss of agricultural land, especially along the urban fringe. Pierce County has enjoyed a long tradition of agriculture – some family farms are over 100 years old. The focus of agricultural activity has long centered on the Puyallup Valley, which benefits from fine silty and sandy, alluvial soils. Much of the production of vegetables, berry fruits, nursery plants and other crops remains concentrated here. Yet agriculture is present in other parts of Pierce County, too.

In Pierce County, industry observers confirmed that the amount of land devoted to agricultural production is declining. About 48,000 acres of agricultural land remain, with 29,000 of these acres still in production. Farmland, especially sites with highly productive soils in the Puyallup Valley, is being converted for developed uses. Upland pasture land is also being developed. A systematic examination of the local agricultural sector resulted in a number of recommended strategies, including TDR.

The countywide planning policies and county Comprehensive Land Use Plan call for a TDR program to provide public benefits by permanently conserving resource and rural agricultural lands, in addition to recreational trails, open space and habitat areas.

TDR in the Tool Box

The 2006 Washington State Legislature appropriated funds for TDR pilot programs in Pierce and Snohomish counties. Each county received \$100,000. Pierce County used the funds to hire Forterra to develop a TDR program. The program was adopted in 2007 and went into effect in April 2008.

Designated sending areas include:

1. Agricultural Resource Land or Rural Sensitive Resource.
2. Forest Lands.
3. Alderton-McMillin or Mid-County Community plan areas zoned as rural residential, meeting statutory definition of open space, and used for agriculture.
4. Private land that extends or is close to and enhances public trails systems.

5. Land identified as habitat for species listed by Washington Department of Fish and Wildlife, U.S. Fish and Wildlife Service or a tribe, and is appropriate for preservation or acquisition.
6. Recreational Conservation Lands.
7. Lands designated in an interlocal agreement with a city.
8. Tribal lands that meet one of the above criteria.
9. Conservation Futures properties that meet criteria 1- 8.
10. Washington State Department of Natural Resources trust land that meets criteria 1-7.

Agricultural Resource Land and Rural Sensitive Resource in the Alderton-McMillin and Mid-County Community plans are high-priority sending sites.

Receiving areas within the County include rural areas and expansions of the UGA – any time an upzone is requested in the unincorporated area, the applicant must go through the comprehensive plan amendment process and use TDR if the amendment is approved. Maximum densities may be achieved in Major Urban Centers, Community Centers, and Mixed-Use Districts with TDR.

The program provides for a TDR bank to facilitate transactions between landowners and developers.

In the last two years, the King County EPA funds have been crucial for Pierce County to:

- Identify, map, and prioritize ecological sending sites.
- Establish TDR bank administrative procedures, process, and tracking and monitoring of certificates.
- Appraise four identified priority TDR sending sites in Pierce County.
- Use site economic analysis provided by the appraisal data to establish a TDR Transfer Ratio with the City of Tacoma.
- Provide opportunities to seek out and build partnerships to leverage funding for other acquisitions (i.e., Puget Consumers Co-op Farmland Trust, Forterra).
- Consummate a conservation easement for the Reise Farm Site and sign agreements with Puget Consumers Co-op Farmland Trust to receive 73 development rights.
- Coordinate and collaborate with the Regional TDR Alliance partners.

TDR Acquisitions

Pierce County's first TDR acquisitions were conducted by Forterra in 2009. Together these totaled 30 development rights representing 90 acres of habitat and forest land.

Forterra used state capital funds to purchase the development rights on 25.75 acres owned by the Van Eaton family near Eatonville. The property is 94 acres in total and had been historically managed as a working forest, last harvested in the 1980s. To complement the TDR acquisition, Forterra partnered

with Nisqually Land Trust, which purchased the fee ownership of the property with a goal of maintaining it as working forest. The fee acquisition occurred in phases, and was completed in 2012.

Forterra also purchased six development rights on 64.38 acres from the Soler family in South Prairie.

Pierce County received funds through the King County EPA grant that leveraged County Conservation Futures funds to acquire development rights for its TDR bank. The EPA funds were crucial to consummating a signed conservation easement for the Reise Farm Site, and signing agreements with PCC Farmland Trust to receive 73 development rights. The County acquisition of the development rights reduced the development value of the property, allowing Puget Consumers Co-op Farmland Trust to buy the property at an affordable price.

The Reise Farm is a 120 acre working farm and habitat. A local farmer currently leases the site and produces blueberries, corn, pumpkins and squash for sale in local markets. The blueberries located in the central portion of the property are approximately 70 years old, and some of the varieties are considered heritage species. The property also contains habitat values, with forested wetlands and the headwaters of Ball Creek that drains into the main stem of the Puyallup River. Much of the property is within 1000 feet of the urban growth area (UGA), and was highly threatened with the pressure to convert prior to Puget Consumers Co-op Farmland Trust partnering with the County to buy the property.

The acquisition of the development rights by the County is the first deposit in the county TDR bank. The rights can be sold to a developer, generating funds to acquire additional development rights from county farm, forest land, and habitat.

The County is actively negotiating with additional landowners to complete acquisition of farmland in priority sending areas.

Work with the Cities

Pierce County worked with the Cities of Tacoma and Puyallup on interlocal agreements with the King County EPA grant funds. The County was successful in partnering with Tacoma on development of a market study. The County's work with the City resulted in adoption of an interlocal agreement to transfer development rights from the County to the City in 2012. The interlocal agreement with Pierce County provides for the acceptance of 369 TDR credits from the County, at which point the agreement will be reviewed and may be extended by the two jurisdictions.

County staff have engaged in discussions with elected officials, planning staff and city managers of Fife and University Place regarding the possibility of TDR programs.



Snohomish County

Conservation Goals

Conservation of agricultural and forest land has been an important goal for Snohomish County for more than three decades. The County has implemented a number of regulatory and incentive programs to conserve farm and forest land. Incentive programs include Purchase of Development Rights, open space taxation, and Focus on Farming. [Focus on Farming](#) is a website maintained by the County Economic Development Division that serves primarily as a one-stop business information site for anyone working in Snohomish County's agricultural industry.

TDR in the Tool Box

Snohomish County entered into its first interlocal agreement in 2006 with the City of Arlington to conserve farmland in the Stillaguamish Valley adjacent to the City. In exchange for an expansion of the UGA, the County entered into an interlocal agreement with the City to transfer development rights from the Stillaguamish Valley to the extended UGA. However, due to development constraints in the expanded UGA, no transfers have occurred since the agreement was adopted.

Snohomish County used the 2006 state pilot program funds to develop a countywide TDR program, but did not adopt the program due to opposition from landowners and developers. Snohomish County did adopt a provision in 2009 that would allow the County to designate additional sending areas by Council motion, with possible future consideration of a countywide program. There were no receiving areas specified for the new sending areas.

In May 2010, the County developed new policies and regulations for increased density in designated Urban Centers in the unincorporated UGA. The policies include designation of Urban Centers as TDR receiving areas, increasing the capacity for the County to accept development rights. Zoning regulations set minimum, maximum, bonus, and super bonus zoning limits. If developers wish to build above maximum base zoning they can do so by choosing from a table of incentives (including TDR) to gain additional density. The code update also creates a density fee that developers can pay in lieu of incorporating bonus features into the project.

The County hired Forterra to review its PDR and TDR programs, and to make recommendations for a countywide TDR program that would look at expanding the designated sending areas for conservation. One objective was to identify ways in which the County's PDR and TDR programs could not only be made more effective individually, but how they could better work together. In May 2011, Forterra made a number of recommendations for better implementation of the TDR program, including criteria for establishing sending areas, encouraging cities to pursue TDR policies that protect county sending areas, and revising exchange ratios and bonus densities in county receiving areas. Forterra also recommended that the County retain private transactions as its only market mechanism with county support in response to stakeholder preferences.

The County adopted revisions to its TDR program to expand the program countywide in October 2012 as follows:

- Designating all future UGA expansions that add residential land capacity as TDR receiving areas.
- Designating all Urban Centers as TDR receiving areas and requiring development approvals in Urban Centers to be consistent with TDR policies.
- Allowing owners of qualifying rural land to opt into the TDR program and have their land re-designated as resource land.
- Allowing lands to be added to the commercial farmland designation as part of the TDR program if they are at least five acres.
- Adding policies for continuing the Arlington pilot program and administering it independently of the countywide TDR program.
- Under the countywide TDR program, designating all designated farm and forest land as a TDR sending area.
- Allowing the County to designate additional sending areas for the countywide TDR program by interlocal agreement, development agreement, or code amendment.
- Allowing density greater than allowed by the current comprehensive plan and development regulations in receiving areas only through participation in the TDR program.

TDR Acquisitions

Snohomish County used Conservation Futures funds to purchase development rights from a farm in the Stillaguamish valley. The County spent approximately \$2.1 million to acquire 49 development rights from 74 acres. The goal is to transfer these rights into Arlington through the County's TDR pilot program with the City.

In 2009, Forterra acquired 17 development rights on 60.89 acres of the Hidden Valley Camp with state capital funds. The camp, which is nestled in the Cascade Mountain foothills and is bordered on three sides by state Department of Natural Resources land, manages its property for forestry in addition to camp operations.

Work with the Cities

Snohomish County worked with four cities that were awarded Commerce EPA grants to plan for receiving areas – Arlington, Everett, Mountlake Terrace, and Snohomish. The original intention was to update the existing interlocal agreement with Arlington. However, the County decided that adoption of the Commerce Interlocal Terms and Conditions Rule would require it to adopt only once rather than adopting separate interlocal agreements with the cities. The Cities of Arlington and Mountlake Terrace agreed, and have adopted the rule. The Commerce rule is currently under consideration by the County.

The County and City of Snohomish chose to adopt an interlocal agreement rather than the rule as negotiations had been ongoing prior to the EPA grant. The City adopted the interlocal agreement in July 2012, and the County adopted it in January 2013.



Kitsap County

Conservation Goals

Kitsap County adopted its Strategic Agricultural Plan and Inventory in August 2011. Kitsap County has a long history of addressing elements of the food system through interactive roundtables, community plans, surveys of farm producers and other public outreach to the agricultural community. With the assistance of a \$25,000 grant from the Washington State Conservation Commission, Kitsap County was able to combine and overlay these efforts into a strategic community-based agricultural plan.

The plan recommends a number of strategies to assess viable ways to preserve farmland countywide and bolster the food chain. One strategy would expand Comprehensive Plan policies and development regulations regarding local farming and foods, including refocusing the transfer of development rights program.

TDR Program

Kitsap County adopted TDR regulations in December 2006 as part of an update of its comprehensive plan, development regulations, and zoning. The regulation designated all parcels located within rural designated lands and zoned Rural Wooded, Rural Residential, Rural Protection, or Forest Resource as sending areas based on their zone's permitted density. Receiving areas are limited to urban growth areas and rezones to a higher density. UGA expansions may also require TDR at the discretion of the Board of Commissioners.

Part of the TDR program was appealed to the Growth Management Hearings Board. In August 2007, the hearings board determined the program was partially invalid and non-compliant with the Growth Management Act (GMA). The board decision directed the County to resolve the TDR Program as it relates to the 40-year period of development right reuse. On February 13, 2008, the Board of County Commissioners deliberated and approved a modified TDR program that clarified Comprehensive Plan policies of the program's overall intent, and replaced a 40-Year deed restriction for property development right reuse with a provision that the conservation easement must be in perpetuity.

Using EPA funds passed through Port Orchard from Commerce, the County revisited its TDR sending area designations and developed new goals and policies for conserving agricultural land utilizing TDR. These amendments were approved by the Board of County Commissioners in December of 2012. The County also developed code to further its receiving site program that would incentivize agricultural land for TDR use with a ratio of 2:1. These proposed regulations will be rolled up into the County's next GMA update process for consideration.

No transfers have occurred under the current program.

TDR Policy Advisory Committee

In the 2007 session, the Legislature passed Second Substitute House Bill 1636, calling for the creation of a regional TDR marketplace and program that builds upon existing programs. The legislation codified in Chapter 43.362 RCW directed Commerce to establish an advisory committee that included a wide-cross section of stakeholders, including counties, cities, farmers, developers, environmentalists, realtors, and others.

The TDR Policy Advisory Committee adopted a consensus set of recommendations in a December 2008 report to the Legislature and the Governor¹⁹. The recommendations support the concept of creating a voluntary, incentive-based regional TDR program in the central Puget Sound region that is separate, but compatible, with existing local TDR programs. However, given the financial status of cities and counties, the committee believed that the state needed to provide some financial and technical assistance incentives in to generate a sufficient number of transactions to address the conservation need.

Some of the advisory committee's recommendations were enacted in Second Substitute House Bill 1172 during the 2009 session and codified in amendments to Chapter 43.362 RCW. This bill was legislation requested by Commerce. The bill had the Governor's support contingent upon finding a source of funding other than state funds. Key provisions of the bill included:

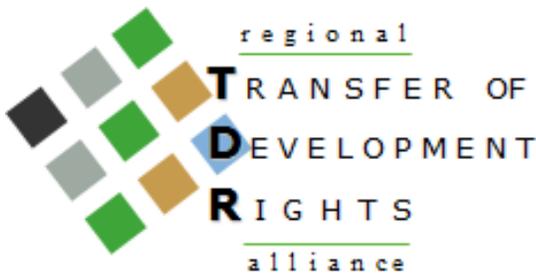
- Sending areas are limited to county-designated natural resource and rural lands.
- Receiving areas are limited to cities.
- Participation is voluntary.
- Commerce is directed to develop a clearinghouse of TDR resources on its website.
- Commerce is directed to develop an interlocal terms and conditions rule that counties and cities may adopt by reference in lieu of an interlocal agreement to facilitate cross-jurisdictional TDR transfers.

¹⁹ [Creating a Regional Transfer of Development Rights Program in Central Puget Sound: Recommendations from the Transfer of Development Rights Policy Advisory Committee](#), December 2008.

EPA Grants for TDR

Consistent with the Governor’s direction regarding HB 1172, the Legislature did not include any of the financial incentives that were recommended by the Policy Advisory Committee – namely, funding for Commerce to implement the program under HB 1172, financial incentives for cities to develop TDR programs, and financial incentives (such as infrastructure funding) for cities that accept transfers from county-regulated lands. The legislation provided for implementation contingent upon finding another funding source.

West Coast Estuary Initiative Grant – The Regional TDR Alliance



Recognizing the state could not provide funding for the regional program, a set of partners applied to the U.S. Environmental Protection Agency (EPA) for a West Coast Estuary Initiative grant in 2008. Partners included the Puget Sound Regional Council (PSRC) as lead applicant, King County, Pierce County, Snohomish County, Forterra, and Commerce. The partnership was successful and a \$570,000, two-year grant (with \$200,000 in local match) was secured to implement the regional TDR program.

Key provisions of the grant included:

- Presentation and marketing materials to recruit participation from cities, landowners, and developers.
- Technical assistance materials for cities and counties.
- A Commerce website with a clearinghouse of TDR resources for cities and counties, and performance measures report.
- Commerce and PSRC provision of direct technical assistance to cities and counties.
- Assistance for Snohomish and Pierce Counties to continue to develop and implement their programs.
- A Commerce rule that cities and counties could adopt by reference in lieu of an interlocal agreement to transfer development rights.
- Outreach to landowners and developers.
- PSRC provision of GIS/quantitative analysis and performance measures

The grant partners met quarterly during the course of the grant to track progress, share information and coordinate outreach to the cities. This included the development of regional TDR brochures, and a series of workshops in all three counties, plus Kitsap County. As a result of this collaboration, the partners agreed that the proper description of their work was the “Regional TDR Alliance” rather than

a program. This was because there was no formal state program and the work was being done through an alliance of the county TDR programs, rather than a single regionally-adopted program.

PSRC administered the grant, organized and led the TDR Alliance meetings, worked with Commerce on technical assistance, and provided quantitative analysis on growth and economic trends in sending and receiving areas. This included a natural resource lands trends report in 2011 that explores the resource land designation criteria, changes in the amount of land, changes in designations, residential development, and parcel sizes of resource designated land in the four counties²⁰.

Snohomish County used the funds to enhance its TDR program by designating additional sending areas, to work with the City of Snohomish on an interlocal agreement, and to identify additional county receiving areas in its urban centers. Pierce County worked to implement the program it had adopted in 2008, establishing a TDR bank and administrative procedures. King County used the funds from the grant to assist Pierce and Snohomish Counties in the further development and implementation of their programs.

Forterra continued to work with jurisdictions in the region to implement new TDR programs, including the Cities of Sammamish, Snohomish, and Tacoma. It also continued to work with jurisdictions seeking to improve their TDR programs, including Pierce County and the City of Seattle.

Commerce developed and maintains a website with TDR resources at www.commerce.wa.gov/tdr. Commerce adopted the Interlocal Terms and Conditions Rule²¹ for cities and counties to adopt in lieu of an interlocal agreement to transfer development rights in September 2010, with sample resolutions for [counties](#) and [cities](#) and an [Interlocal Agreement Checklist](#) posted on the website. Commerce worked with the partners to develop performance measures that are posted on the website. All tasks and deliverables were completed and the grant ended in June 2012.

Watershed Management Assistance Grant – City Planning for TDR Receiving Areas

Recognizing that cities still need incentives to participate in a regional TDR program, the TDR Alliance partners coordinated to apply for two separate Watershed Management Assistance Grants to implement the 2008 Action Agenda. The Action Agenda specifically called for support of the regional TDR program²². The results of those efforts are the main focus of this report (see [City Case Studies](#)),

²⁰ See [Natural Resource Lands Trends in Central Puget Sound](#).

²¹ Chapter 365.198 WAC.

²² Near Term Action A.2.9 - Support and implement recommendations from the Washington State Department of Community, Trade, and Economic Development TDR Policy Advisory Committee. Prioritize state funds for cities with TDR programs, and provide funds for counties and cities to implement TDR programs or to complete Environmental Impact Statement/State Environmental Policy Act (SEPA) analyses within TDR-receiving neighborhoods.

with additional related information about other regional TDR efforts to paint the full picture of regional TDR in Puget Sound.

PSRC, Commerce, and Forterra partnered to apply for a grant to pass through to cities to plan for TDR receiving areas. The partners were successful and received an award of \$1 million (with \$333,000 in match from Commerce and Forterra) that was passed through Commerce in grants to 10 cities. For ease of reference, these are referred to as “Commerce grants” in this report as Commerce directly administered the grants.

King and Pierce Counties partnered to apply for funds for each of the counties to acquire development rights for their respective TDR banks and for administrative processes, as well as to partner with four cities to plan for TDR receiving areas. They received an award of \$1 million to fund these efforts. Half of the funding went to cities for developing TDR capacity and partnerships with cities. King County used the funds to acquire development rights from Camp Sealth on the shoreline of Vashon Island, and to develop interlocal agreements with the Cities of Normandy Park and Seattle.

For Pierce County, the funds have been crucial to establishing administrative procedures, appraising priority sending sites, consummating conservation easements, and signing agreements with Puget Consumers Co-op Farmland Trust to receive development rights. For ease of reference, the grants to the three cities are referred to as “King County grants” as King County was the lead applicant and grant administrator for the partners.

The cities were awarded funds from the Commerce and King County grants for TDR planning as follows:

- Arlington – Commerce funding for up-front environmental analysis, capital facilities planning, market analysis, policy development, and working towards an updated interlocal agreement with Snohomish County for the West Arlington subarea for TDR (Commerce \$130,000).
- Everett – Commerce funding for a feasibility study of what will make TDR receiving areas viable (Commerce \$30,000).
- Issaquah – Commerce funding for up-front environmental analysis, market analysis, and working towards an updated interlocal agreement with King County for a TDR receiving area in the Central Issaquah Subarea plan (Commerce \$100,000).
- Mountlake Terrace – Commerce funding for a planned action EIS and ordinance, sending and receiving area identification, subarea planning, market analysis, and working towards an interlocal agreement with Snohomish County for a TDR receiving area around the new transit center and in the Freeway/Tourist District (Commerce \$100,000).
- Normandy Park – Commerce and King County funding for a market study, planned action EIS and ordinance, subarea planning, zoning and design guidelines, TDR regulations, stormwater low-impact development planning, and working towards an interlocal agreement with King

County for TDR in Manhattan Village, the future downtown (Commerce \$100,000 and King County \$49,000).

- Port Orchard – Commerce funding for TDR policies and regulations for a receiving area in the downtown, sending and receiving area identification, and working towards an interlocal agreement with Kitsap County (Commerce \$97,000).
- Puyallup – Commerce and King County funding for a planned action EIS and ordinance, TDR policies and regulations, and working towards an interlocal agreement with Pierce County for receiving areas in downtown and South Hill (Commerce \$100,000 and King County \$119,000).
- Seattle – Commerce funding for a market analysis, subarea planning and TDR policies and regulations, and working towards an interlocal agreement with King County for South Lake Union and Northgate (Commerce \$153,100). Seattle was awarded additional unspent funds from the cities to develop cost estimates and engineering design for priority [LCLIP](#) projects in South Lake Union (Commerce \$65,000).
- City of Snohomish – Commerce funding for water utility planning for a TDR receiving area, and working towards an interlocal agreement with Snohomish County in the Pilchuck District (Commerce \$100,000).
- Tacoma – Commerce and King County funding for a market analysis of mixed-use centers as regional TDR receiving areas, a draft code for the City TDR program that incorporates in-city and county-based TDR receiving sites, subarea planning and upfront environmental review for a TDR receiving area in the Hilltop/Martin Luther King Mixed-Use Center, and working towards an interlocal agreement with Pierce County (Commerce \$100,000 and King County \$109,000).
- Bothell and Sammamish – King County used unspent grant funds for the Cities of Bothell and Sammamish to complete studies of the feasibility of participating in [LCLIP](#) (King County \$39,000).

National Estuary Program Puget Sound Watershed Protection and Restoration Grant

The state Department of Ecology (Ecology) and Commerce are managing funds received from EPA to coordinate a six-year implementation strategy to protect and restore watersheds that drain into Puget Sound. This strategy is based on working in partnership with local and tribal governments and other regional entities to implement practical solutions that advance the priorities of the Puget Sound Action Agenda. Commerce and Ecology are implementing programs across four activity areas, including land use and working lands. After two rounds of competitive grant awards, grants have been awarded for land use and working lands that includes work on TDR programs as follows:

- Skagit County is working to study and develop a countywide TDR program to conserve natural resource lands. The County will consider county receiving areas, but it also working with the City of Burlington as a possible recipient of regional TDRs from the County.
- King County is integrating regional TDR and programmatic compensatory mitigation actions, and will demonstrate how these two distinct efforts can be combined to accomplish greater

environmental benefits at lower costs to taxpayers than when used in isolation. The County is also working with the City of Kirkland to develop a TDR interlocal agreement.

- Snohomish County adopted countywide TDR policies, and is now working on development regulations to implement those policies.
- The Cities of Tacoma and Mountlake Terrace are conducting studies of the feasibility of participation in the Landscape Conservation and Local Infrastructure Program.

Forterra Acquisitions and TDR Resources

In 2007, the Washington State Legislature appropriated \$4 million for Forterra to work with family forestry organizations and local governments to demonstrate proof of concept for transferring, securing, or leasing development rights and conservation easements from forest landowners who want to keep their lands in forest management.

\$1 million in state general operating funds was used by Forterra to work with landowners, developers and counties to develop TDR programs that would allow the acquisition and transfer of development rights from family forest land. The funds were also used to develop a series of white papers to assist the TDR Policy Advisory Committee in their deliberations, and to produce a TDR resource guide²³.

Most of \$3 million in state capital funds was used by Forterra to acquire development rights in Snohomish, Pierce and Kittitas Counties. Upon the sale of those rights, Forterra must deposit the proceeds into a revolving account for the acquisition of more development rights. To date, 151 acres of family forest land in Pierce and Snohomish counties have been conserved with these funds. Commerce managed the contracts for these funds that ended June 30, 2009.

²³ See the Regional TDR webpage at www.commerce.wa.gov/tdr.

Landscape Conservation and Local Infrastructure Program

One of the greatest challenges for cities planning for increased density in TDR receiving areas, and increased density in general, is funding for the infrastructure to support that increased density. Reductions in federal, state, and local revenues due to legislation, citizen’s initiatives and the economy have exacerbated the problem.

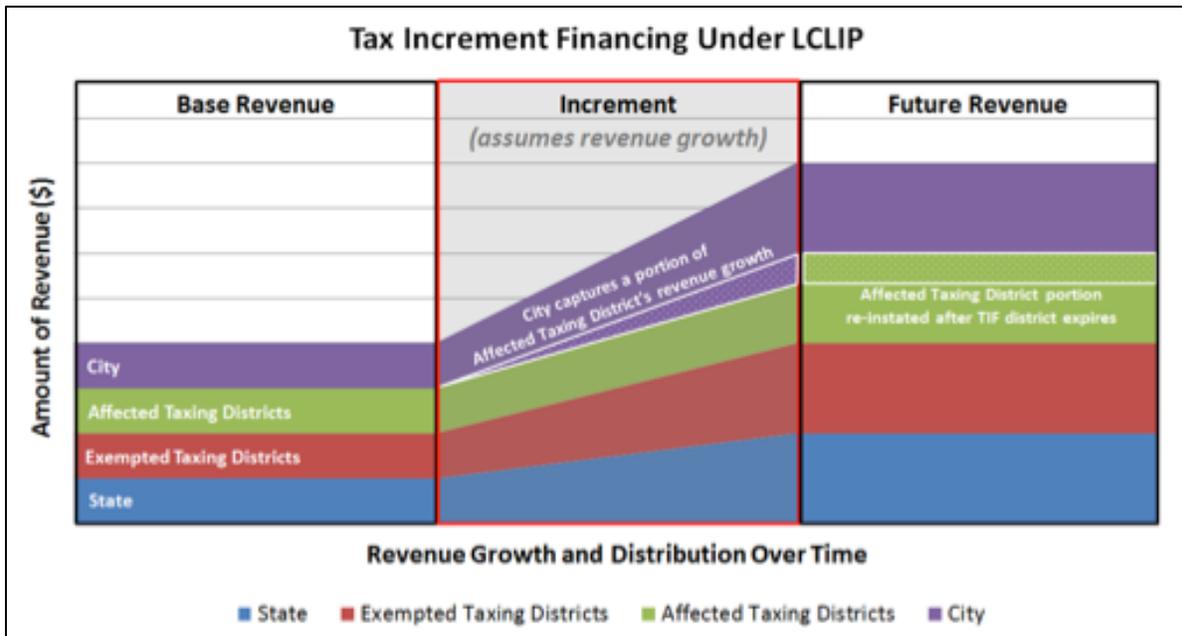
The Landscape Conservation and Local Infrastructure Program (LCLIP) legislation passed by the legislature and signed into law by the Governor in 2011 provides a financing tool for certain cities in King, Pierce, and Snohomish Counties to invest in infrastructure in designated TDR receiving areas. Eligible cities are cities with a population and employment of 22,500 or more in the three counties. Consistent with the regional TDR program in Chapter 43.362 RCW, transfers must be from county sending areas to incorporated city receiving areas.

King, Pierce, and Snohomish Counties were required to calculate the number of development rights from agricultural and forest land of long-term commercial significance eligible for transfer to receiving areas as of January 2011. Counties that have conserved at least 50 percent of their agricultural and forest land of long-term commercial significance may identify an additional 1,500 development rights from designated rural land with high conservation values²⁴. The counties reported the total number of transferable development rights to the Puget Sound Regional Council (PSRC) by September 1, 2011. In consultation with the eligible counties and receiving cities, PSRC allocated the development rights among the eligible receiving cities based on growth targets, as determined by established growth management processes, and other relevant factors²⁵.

A city may choose to participate in the program by accepting all or at least 20 percent of its allocated share of development rights, adopting a plan for infrastructure in the receiving area sufficient to utilize its TDR obligation, and creating one or more local infrastructure project areas. The bill provides an incentive for cities to agree to accept more than 20 percent of their allotment of TDR (from PSRC’s process) – or more than 20 percent for their “sponsoring city allocated share”. The city may receive proportionately more tax revenues if they accept a higher percentage of the allocated share.

²⁴ To date, King County is the only county that has reached the 50 percent threshold.

²⁵ For more information about the regional allocation by PSRC, see Appendix A.



As of the date of this report, eight cities are either implementing LCLIP, considering LCLIP adoption, or are evaluating LCLIP's feasibility – Seattle, Bothell, Issaquah, Sammamish, Kirkland, Mountlake Terrace, Tacoma, and Bellevue.

What's Next for Regional TDR?

More Counties and Cities Working on TDR

As noted above, more counties and cities are working on regional TDR programs using EPA Watershed Protection and Restoration Grants. King County is recruiting more city partners, using the [LCLIP](#) tool, to accomplish its goal of achieving a critical mass of development capacity for regional TDRs. King County is also working to integrate its regional TDR program with programmatic compensatory mitigation actions. The County will demonstrate how TDR and compensatory mitigation can be combined to accomplish greater environmental benefits at lower costs to taxpayers than when used in isolation.

Snohomish County is using its grant funds to implement its newly adopted countywide TDR program, including work with the cities. Skagit County is working with the City of Burlington to consider regional TDR. The Cities of Mountlake Terrace and Tacoma are evaluating the feasibility of participation in LCLIP.

Forterra continues to work with the counties and to reach out to the Cascade Agenda cities to consider participation in TDR.

Infrastructure Funding Needs for Cities

The biggest challenges remain resources for local governments to implement TDR, but especially for cities planning for increased development capacity. Infrastructure financing is still difficult to obtain as federal, state and local legislators deal with ongoing budget issues.

LCLIP is a tool that the City of Seattle recently adopted and other cities are considering. The Cities of Mountlake Terrace and Tacoma are using NEP Watershed Protection and Restoration Grants to study the feasibility of the program. But cities will also need to continue to pursue other sources of infrastructure financing to support increased density with or without TDR.

Arlington

Overview of the Program and Grant Accomplishments



The City of Arlington has a strong interest in conserving farm land in the Stillaguamish Valley adjacent to the City. In exchange for an expansion of the urban growth area (UGA), the City entered into an interlocal agreement with the County to transfer development rights from farm land in the valley to the extended UGA. However, due to development constraints in the expanded UGA no transfers have occurred since the agreement was adopted in 2006.

The City's commitment to make TDR work and conserve the Stillaguamish Valley continues. Arlington was awarded a Commerce EPA grant to implement the 2011 West Arlington subarea plan, including a market analysis, regulations that include TDR, and an updated interlocal agreement with the County.

The City conducted a market analysis that includes a feasibility study for [LCLIP](#). [Updated TDR regulations](#) were adopted on February 19, 2013. The City is close to adopting a form-based code for West Arlington. The City also adopted the Commerce Interlocal Terms and Conditions Rule by reference on February 19, 2013, thereby expanding the sending areas from which they would receive development rights to natural resource lands in Snohomish, King, and Pierce Counties. Proposed adoption of the Commerce rule is under County consideration.

Sending Areas/Conservation Goals

The Stillaguamish Valley has over 100 years of agricultural use in and around the sloughs, streams, and remnants of remaining forests that once covered the river valley. With time, changes have come to the valley. This has spurred the Arlington community to work together with Snohomish County and landowners to save the remaining farmland and agricultural industry while preserving the natural beauty that comes with the river valley. The City's commitment to conserve farmland has been

extended through the adoption of the updated TDR program to conserve farm and forest land in three counties – Snohomish, King, and Pierce. The resolution adopting the Commerce Interlocal Terms and Conditions Rule places no limits on the number of development rights that the city is willing to receive.

Development Potential in Receiving Areas/Exchange Ratios

The City’s updated TDR regulations reflect the following exchange ratios in Table 6.

Table 6: West Arlington Receiving Area TDR program Exchange Rates

Receiving Zone(s) and Type of Exchange/Location of Sending Area	Sending Area Ratio	Receiving Area Ratio/Bonus Density from Farmland TDRs	Receiving Area Ratio/Bonus Density from Forestland TDRs
SD – Single Purpose Residential <u>from Pilot Sending Area</u>	1 Certificate per 10 Acres/parcel	1 Certificate = 10,000 sq. ft. of gross floor area	N/A
West Arlington T4 - T6 <u>from Pilot Sending Area</u>	1 Certificate per 10 Acres/parcel	6 Additional Units =acre/Certificate	N/A
SD – Single Purpose Residential from Stillaguamish Watershed sending area	1 Certificate per 10 Acres/parcel	1 Certificate = 8,000 sq. ft. of gross floor area	1 Certificate = 4,000 sq. ft. of gross floor
West Arlington T4 - T6 from Stillaguamish Watershed Sending Area	1 Certificate per 10 Acres/parcel	5 Additional Units =acre/Certificate	2 Additional Units =acre/Certificate
SD – Single Purpose Residential from King or Snohomish County regional program areas. (Not Pilot Sending Area)	See current County Ordinances	1 Certificate = 4,000 sq. ft. of gross floor area	1 Certificate/2,000 sq. ft. of gross floor area
West Arlington T4-T6 from King or Snohomish County Regional Program. (Not Pilot Sending Area)	See current County Ordinances	2 Additional Units/acre/Certificate	1 Additional Units/acre/Certificate

City Goals and Vision

The City still places a high value on conserving farm land in the Stillaguamish Valley. However, it has included farm and forest land in Snohomish, King, and Pierce counties in its sending areas. The extension to the other counties is due, in part, to the requirements for participation in the [LCLIP](#) program that would provide infrastructure funding for West Arlington.

Working with the Community/Neighborhoods

The City held three public meetings, including a visioning workshop and design charrette. The meetings were well attended. The City had developed an active citizen base through its previous development of the West Arlington subarea plan that served it well in this process.

City Observations from Working on a TDR Program

The most significant challenges for the City were the setting of the exchange values, and convincing stakeholders that the program has to be attractive to the sending area participants. The multiple players and sending area types in the regional program make setting exchange rates complicated. A jurisdiction has to establish exchange ratios to assure equity, as well as using the exchange ratios as a tool to protect what is most important to the jurisdiction.

The second challenge was getting people to understand the importance of sending area landowners' involvement in establishing the program. The incentive for landowners to participate is limited. If it is only up to the receiving area users seeking certificates, the emphasis for exchange ratios will be on affordability. The retirement for many conservation landowners is based on the development value of the land. They will not participate if they are not compensated for the true value their land has if developed.

The TDR process was easier for Arlington as they participated on the Commerce regional technical and policy teams that developed the regional program and the Commerce rule. It was very easy for the City to adopt the Commerce rule rather than spend a lot of time re-writing their existing interlocal agreement with the County.

A city contemplating participation in regional TDR should find out from their citizens what they think is important to save, and what they are willing to accept in additional density in order to preserve it. In contemplating a TDR program, communities need to think 100-200 years in the future to see the value. Around the world there are examples of how development has gone up instead of out. These examples of Growth Management principles are a result of the need to protect resource lands after experiencing war, famine and disease. There is a growing population in the United States that is becoming aware of the need to conserve resource lands in the face of what may come in the future.

Bellevue

Overview of the Program and Grant Accomplishments



The City of Bellevue adopted a [subarea plan for the Bel-Red Corridor](#) that includes TDR as part of the floor area ratio, or FAR density, incentive. The Bel-Red Corridor Plan provides for the transformation of a 900-acre urban infill area into mixed-use, transit-oriented neighborhoods, while restoring ecological functions, and creating thousands of new jobs and housing units. The plan components include a new subarea plan, land use code, development incentives, design guidelines, and capital plan.

The Bel-Red Corridor Plan received a Governor's Smart Communities Award for comprehensive planning in 2010.

Sending Areas/Conservation Goals

The City identified the following sending areas as conservation priorities from which it will receive development rights:

- The Greenway Focus Area, which is composed of the following three sending site areas: the Lower Snoqualmie Farm and Forest Area, the I-90 / SR 18 Area, and the Mount Si to Rattlesnake Mountain Connector Area.
- The White River Focus Area which is composed of the following three sending site areas: the Mud Mountain-Grass Mountain Area, the Highway 410 Area, and the Greenwater Area.

Under the interlocal agreement with King County adopted by the City in 2009, the total bonus building area in the Bel-Red Subarea and Land Use districts allowed with the use of rural TDR credits is limited to either 75 rural TDR credits or 100,000 square feet of bonus building area earned through the use of rural TDR credits, whichever is arrived at first.

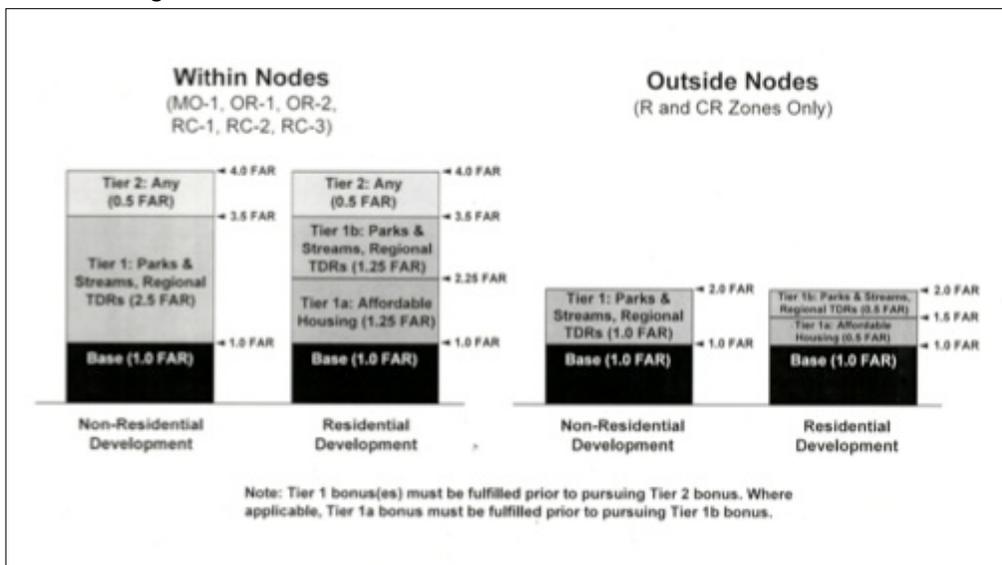
Development Potential in Receiving Areas/Exchange Ratios

The City spent a significant amount of time and effort on crafting a strong, well defined, and innovative incentive system to deliver desired policy outcomes, while presenting a clear and predictable process to prospective developers. The Bel-Red incentive system prioritizes the restoration of streams and ecologically sensitive areas, provision of parks and open space, and the provision of affordable housing. The incentive system was crafted with outreach to developers and business and property owners for feedback. Detailed pro forma analysis of proposed density bonuses was used to ensure that the new incentive system would be economically supportive of new development. The analysis focused on the change in the residual land value of a project at a base development level and at a higher, intensified level.

Once a preliminary incentive system was crafted, the City convened an independent panel of reviewers from the Urban Land Institute, and refined the framework based on their feedback. This resulted in a system that had buy-off from the development community and the city policy makers, who were guided by the principle that new development should help provide new amenities in the area.

The Bel-Red Corridor plan creates a tiered program of incentives for residential and non-residential development within and outside of specific “nodes” identified in the zoning code. Tier 1 bonuses must be fulfilled by the developer before they can pursue Tier 2 bonuses. That is, a development within a single project limit must first fully utilize Tier 1 amenity bonuses before using Tier 2 amenity bonuses. To achieve the maximum FAR for the district, amenities from Tier 1 and Tier 2 must be provided at the specified ratio for every additional square foot to be built beyond the base limit.

Bel-Red Incentive Zoning with TDR



Regional TDR credits from the County are available in Tier 1 within zoning nodes and within residential zones outside the nodes. Outside the identified nodes, only Tier 1 may be pursued. Additional FAR for development in nodes is capped at 4.0, and outside nodes at 2.0 FAR.

City Goals and Vision/TDR benefits



As one of five designated metropolitan centers under the central Puget Sound region's growth strategy, Vision 2040, the City of Bellevue is working to use its urban land efficiently, and to integrate land use and transportation planning consistent with the regional vision.

By 2030 the Bel-Red area is expected to generate:

- 10,000 new jobs and 5,000 new housing units in a transit-oriented development form.
- Renewal of a brownfield infill location that is currently in decline.
- Two new transit-oriented centers and one of the largest mixed use development opportunities in the state (Spring District).
- Restored streams and ecological functions.
- New parks, trails, bike paths, and amenities that help transform the area to create dynamic and livable neighborhoods and better connect the area to the rest of the City.
- Significant new economic development opportunities for the Puget Sound region and Washington State.

Working with the Community/Neighborhoods

The Bel-Red Subarea Plan is the product of a three-year collaborative planning process. The successful transformation of Bel-Red from an underutilized industrial corridor to a series of new urban neighborhoods is not just about implementation of transit-oriented development. The extensive public outreach and community involvement of the project created many opportunities for people to participate meaningfully in the growth and change of the City. Outreach and participatory efforts connected people to government in significant ways, created interest and investment in the area, and most importantly, served as a model for effective public input in City decision making.

The planning effort was led by a specially created steering committee, who convened and facilitated many meetings of stakeholders to get focused community input, and by six city boards and commissions, who worked together and separately to create opportunities for community participation. The Bellevue City Council also enabled public access to the planning effort. The Council received briefings at key milestones in the project, including a joint meeting with Redmond City Council at which issues of mutual concern were discussed.

The process used both traditional and previously untapped ways to reach out to people, including opportunities for in-depth interaction at workshops, open houses, and public hearings; an expanded website; panel meetings; and joint meetings of the City's boards and commissions. The Bel-Red Plan's extensive public involvement is significant. The plan is powerful because the urban future it imagines is based not just on innovative planning ideas, but on unique insights gathered from this community engagement.

City Observations from Working on a TDR Program

The most significant challenge was setting aside a share of the zoning incentive system for the regional TDR program rather than utilizing the entire Bel-Red incentive system on needs internal to the planning area. This is because the area rezoned brought with it an enormous need for new amenities and infrastructure, and the incentive system was one key element of meeting these new internal needs. Without new development helping to pay for these amenity and infrastructure needs, the rezone would likely not have been feasible. Every dollar spent on regional TDRs was one less dollar available to be spent on needs internal to the Bel-Red planning area and critical to enabling the rezone to occur in the first place.

Several elements helped address this challenge:

- The King County offer of funding to jump-start open space acquisition in the area, in return for accepting a share of regional TDRs, helped offset some of the lost internal revenues.
- Setting a maximum limit on the number of regional TDRs (75) limited the total amount of incentive revenues that could be spent on TDRs rather than internal needs.
- Identifying specific rural sending areas of interest to the Bellevue community made the benefits of regional TDRs more tangible than they otherwise would have been.

A second challenge was the complexity of establishing a regional TDR system. While the general idea of regional TDRs is fairly straightforward, it is much more difficult to convey to the public the mechanics of such a system in the detail needed for the land use code. Addressing this challenge required multiple City Council study sessions with very clear materials.

The county assistance proved critical to adoption of the Bel-Red regional TDRs. There is a balance between conveying the local benefits and the regional benefits of regional TDRs, so having the County

interlocal agreement identify specific rural sending sites that are of interest to the Bellevue community was helpful.

For a city contemplating participation in regional TDR:

- Start with the broader planning goal and make it relevant and tangible. Establish and communicate the critical relationship between local planning goals and regional growth management; show how regional TDRs are a tool to help realize these goals.
- Secure needed competencies in development economics to ensure the regional TDR program is well grounded in the market.
- Anticipate some tension between local needs and the broader regional needs met through regional TDRs.

Everett

Overview of the Program and Grant Accomplishments



Two market studies by Snohomish County in 2007 and the Department of Commerce in 2008 looked at the feasibility of a TDR program in downtown Everett. The Snohomish study concluded that developers are currently not building up to the maximum density allowed in downtown zones because rents are not high enough to support the higher cost of concrete and steel construction necessary for buildings over seven stories. However, developers indicated that a TDR program might be feasible in higher density residential zones.

The 2012 study funded by a Commerce grant looked at mixed use prototypes in downtown Everett with five floors of apartments over a

two floor base. The analysis concluded that "...based on existing market conditions, the project is currently not economically feasible. Rents would have to go up 40 percent to 50 percent to create sufficient revenues that would be the foundation of a TDR model."

The City used EPA grant funds from Commerce for a consultant to study the market feasibility of TDR outside the downtown. The study looked at five different zoning classifications as follows:

- C-2ES zone near the Everett Station where no residential is currently allowed (other than live-work units or projects on sites two acres or larger), and where a major transit station and related public investment is in place.
- C-1 zone (general commercial), B-2 zone (community business with residential), and E-1 zone with proposed mixed-use overlay (transit-oriented and pedestrian-friendly, commercial and residential mixed-use) on Evergreen Way along the SWIFT Bus Rapid Transit route.
- R-3 zone (medium density multi-family) which is extensive and where the current allowed density is low.
- R-2 zone (medium density single family) where duplexes could be allowed on smaller lots.

- R-1 zone (low-density single family) where cottages could be developed at twice current densities to expand the range of available housing alternatives.

As a result of the study, the City Council adopted a resolution in August 2012 stating that “[T]here are opportunities for the use of Transfer of Development Rights to encourage growth in targeted areas where growth is desired in Everett through an inter-jurisdictional program with Snohomish County.” The resolution directs city staff to initiate contact with Snohomish County to determine how an inter-jurisdictional TDR program could work in a manner that benefits both jurisdictions.

While they have had general presentations and discussions with several neighborhoods on growth targets and reasonable measures for neighborhood infill, the City will not specifically engage the neighborhoods about the TDR potential in specific neighborhoods until they conduct their GMA plan update process. Based on the large increases in residential capacity called for by the Vision 2040 Regional Growth Strategy, TDR may have a role in increasing residential capacities. However, a variety of other strategies that provide more meaningful increases in capacity that have proven effective in Everett and elsewhere will also be required for Everett to come close to meeting the regional expectations.

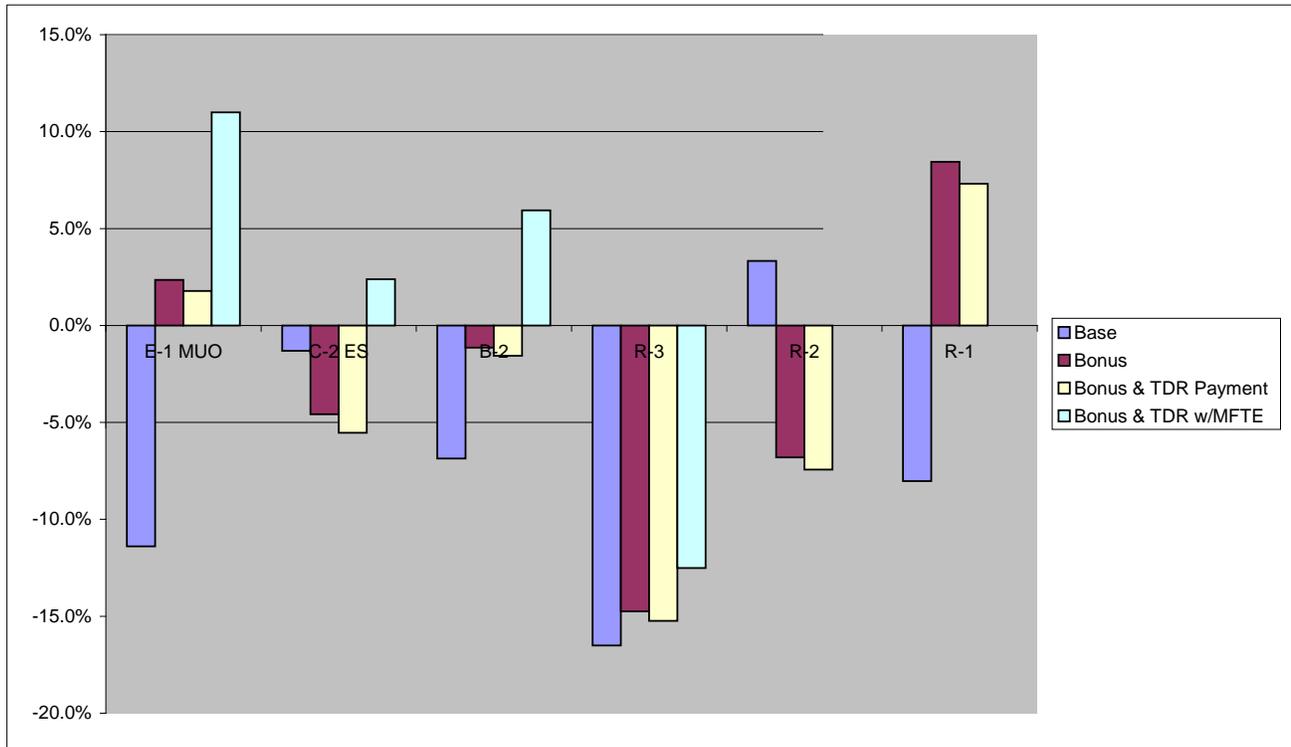
Sending Areas/Conservation Goals

The city recognizes the importance of preserving farm and forest land, and sees that TDR programs are a means to achieve this goal, and as a tool to guide growth to urban areas. Since the last GMA update, all subarea plans and implementing regulations have recognized the value of TDR, and have created a placeholder for an inter-jurisdictional TDR program with Snohomish County.

The B-3 (Central Business District), BMU (Broadway Mixed Use), and the E-1 / MUO (Evergreen Way and Mixed Use Overlay) zones all provide for use of TDR as a bonus incentive to increase permitted residential or non-residential capacity. While the details of the program have not yet been developed, the City could place a higher priority on TDR credits transferred from agricultural and forest lands in the County than on other resources. The City has not yet developed the policy choices for consideration in the TDR program with Snohomish County.

Development Potential in Receiving Areas – Summary of Financial Results

Table 7: Entrepreneurial Return as Percent of Development Cost Development Scenarios



The TDR feasibility study found that higher density scenarios achieve improved economic performance in most cases, but fall short of targeted entrepreneurial return of 10 percent, per Table 7. The cases that show the strongest performance are those that take advantage of the Multifamily Tax Exemption program. The E-1 MUO scenario achieves a rate of return that exceeds 10 percent.

The E-1 MUO scenario benefits from a very low parking ratio. The R-1 Cottage Housing scenario also performs well. It achieves a large increase in density without requiring an expensive construction solution.

For many of the other scenarios with the tax exemption program, the target return could be achieved with realistic potential increases in rents beyond assumed levels.

The E-1 MUO is the only case that supports a positive value for the TDR credits at \$5,200. Assuming a sending site value of \$15,000 per unit, the equivalent transfer rates would be 2.9 receiving site units per sending site unit.

Ultimately it is the multifamily tax exemption program that makes the bonus schemes even marginally feasible. Application of both a TDR and a tax exemption program would have the effect of funding rural land preservation through the foregone tax revenues from the tax exemption, rather than the payments from developers.

City Goals and Vision

TDR fits with the City’s goal to increase density and create vibrant neighborhoods. Under certain circumstances, an inter-jurisdictional TDR program with Snohomish County to allow development rights in agriculture and forestry areas within unincorporated Snohomish County to be transferred to receiving areas in the City may be both economically viable and desirable to encourage redevelopment in targeted areas of Everett.



Working with the Community/Neighborhoods

The resolution adopted by the City states that there are potential changes to city development regulations that are identified in the consultant report that could make the use of TDR more economically viable, but such changes have not been presented in detail to the public or neighborhoods that could be affected by such changes. Additional analysis and public outreach is necessary before the City can determine if establishing an inter-jurisdictional TDR program with Snohomish County is in the best long term interests of the City.

City Observations from Working on a TDR Program

At the present time, other higher priority work program items demand more immediate attention than TDR. TDR will be part of a menu of strategies that can be used to increase permitted densities as part of the comprehensive plan update and implementation programs, but the City need's to prioritize its growth target and residential capacity changes at this time.

Lessons learned from the feasibility include that there is not a proven market for TDR in Everett at this time. However, there are areas where TDR may be viable in the future.

It is unlikely that the regional TDR program would create enough demand in Everett to fund significant infrastructure investment through the [LCLIP](#) program. The number of TDR credits Everett would have to accept is too large and there are too many other measures available for a developer to add density to a project that are less costly, or that would more directly benefit their project than purchasing TDR credits. There are also other methods of infrastructure financing available to the City that do not create the obligations and commitments that result from the possible failure to sell all the development credits. Perhaps there are adjustments the City can make in the current codes that would make TDR more feasible, but these would have to be evaluated for locally defined priorities – for example, affordable housing vs. farmland preservation.

If a city is serious about TDR as a means to increase density, and the goal of farmland or forest land preservation is a higher priority than other bonus elements that are often used to increase density (affordable housing, public open space, private open space, public art, etc.), then limit the way density increases are permitted to fit those priorities. If a developer does not have to buy a TDR credit to increase density, they will probably spend the money on a design element that directly benefits their project rather than pay the same amount for a TDR credit that will not yield a similar benefit to the development.

In a city like Everett where rents are not high enough to generate demand for greater density than already allowed by zoning, TDR is not a useful tool. That can change over time, but under GMA, cities must balance their priorities among worthy but potentially competing objectives. TDR may work among a menu of incentives, but in the City's case, it cannot be the only incentive. It just has not proven to be something developers are willing to pay for in Everett.

Issaquah

Overview of the Program and Grant Accomplishments



The City of Issaquah was an early participant in a regional approach to TDR. Under a 2001 interlocal agreement with King County, the City accepted 63 TDR credits that were used in the Issaquah Highlands development. The developer was able to build an additional 8,000 square feet of commercial floor area per TDR credit. While that initial agreement with the County is still in effect, the City accepted the Commerce grant to expand the City receiving area under the Central Issaquah Plan (CIP), to develop a planned action for the CIP, and to increase the number of TDR credits it could accept from the County.

The City used the grant funds to do a [TDR market study](#), and to use up-front SEPA analysis to evaluate and compare impacts of alternatives for using TDR in the CIP. The City adopted the combined [FEIS and subarea plan](#) for central Issaquah, including a planned action ordinance, on December 17, 2012.

Development and design standards to implement the plan, including density bonus provisions for TDR, were adopted on April 15, 2013. Revisions to the TDR regulations to facilitate TDR transfers that promote design and development consistent with the City's vision and established in the Comprehensive Plan; Olde Towne Design Standards; Urban Villages; and the CIP are proposed to be adopted in late summer, 2013.

An updated interlocal agreement with King County to accept additional TDRs in Issaquah is before the City Council as of the date of this report.

Sending Areas/Conservation Goals

The City's initial conservation goal was to protect the Issaquah Creek Watershed. That goal is maintained in the updated TDR regulations. Sending areas include King County Rural and Resource zones in the Issaquah Creek Basin. However, the CIP and the updated interlocal agreement could expand sending areas and conservation goals to include the Squak Mountain forested area.

Development Potential in Receiving Areas/Exchange Ratios

The updated TDR regulations allow use of TDRs to meet the provisions of an approved development agreement or to exceed allowable development limits. A number of conversion commodities may be obtained with TDR as follows:

- **Residential Units:** One TDR may be approved for one additional residential unit through a City of Issaquah Commission review up to an increase of 25 percent of the base density, or as specifically allowed through a development agreement or the CIP.
- **Building Height and/or Gross Floor Area:** TDR may be used in a variety of multi-family residential, mixed-use residential, retail, and commercial zones for building height and/or gross floor area. One TDR may be approved for 2,000 square feet, and additional height in some zones, if it complies with all development standards, including the “wedding cake” setbacks, through an Administrative Adjustment of Standards²⁶. One TDR may be approved for 1,000 square feet, and additional height in some zones, with a deviation in building height adjustment standards, including deviation of the “wedding cake” setbacks through an AAS, or through a development agreement subject to through a City of Issaquah Commission review. For properties in the CIP, see below.
- **Impervious Surface Limits:** TDR may be used to increase impervious surface limits on a receiving site in CIP zones and a number of other zones. Lower percentages are approved through an AAS, and higher percentages require a City of Issaquah Commission review. For properties in the CIP, see below.
- **Properties in the CIP:** For commercial, retail, other non-residential, residential, and mixed-use residential, TDR may be used for two thirds of the public benefit required for a density bonus.

City Goals and Vision/TDR benefits

The Central Issaquah Plan will guide the long-term evolution of the City’s 1,100-acre commercial core from a collection of strip malls, parking lots and office buildings into a more sustainable urban area that will meet the community’s needs for environmental protection, jobs, housing, and rapid transit.

This plan is Issaquah’s opportunity to create a vibrant urban center, while also protecting its current neighborhoods and natural environment. For developers, the plan means streamlined review and permitting processes, as well as increased code flexibility to fulfill the vision. The plan means increased opportunities for conservation in the Issaquah Creek Watershed, and increased opportunities for density of development in the urban core, through an improved TDR program.

²⁶ The purpose of the Administrative Adjustment of Standards is to provide for flexibility in modifying the Development and Design Standards while maintaining consistency with the vision, goals and policies of the Central Issaquah Plan. The vision, goals, and policies within the Central Issaquah Plan are fixed, methods to implement can be flexible.

Working with the Community/Neighborhoods

The Central Issaquah Plan process began with three public workshops held in July 2007, November 2007, and March 2008. The purpose of the workshops, respectively, was to develop guiding principles for the plan, map where and what kind of redevelopment, and at what densities, should occur, and review and confirm those conclusions. The City Council endorsed the guiding principles in 2007.

In 2009, the Mayor appointed a task force consisting of property owners, business owners, environmentalists and interested citizens. Their mission was to connect the guiding principles and planning concepts established during the three community workshops into a draft plan, and related design and development standards for Central Issaquah.

The Task Force spent nearly 1000 volunteer hours over the course of a year preparing a recommendation for the Mayor. The recommendation includes an overall vision, visions for the ten districts, and a starting point for development regulations and design guidelines for the redevelopment of central Issaquah. The task force presented its final recommendation to the Mayor in November 2010, at which point the Planning Policy Commission began its review of the task force recommendation and, subsequently, the Central Issaquah Plan. The City's work with the CIP Task Force laid the ground work with the public for adopting the CIP and TDR regulations in 2013.

City Observations from Working on a TDR Program



Adopting Issaquah's first TDR program was accomplished due to the successful momentum of the Mitchel Hill TDR transfer from King County to Issaquah. The interlocal agreement with King County was a natural outcome from city/county collaboration on the Mitchel Hill TDR transfer. The initial phase of developing a local TDR program was working with environmental groups and developers to find out what TDRs would be used for, so the City could create the "demand" and

also to find out TDRs environmental worth, so the City could create the "supply." This also created ownership in the program for these environmental groups and developers.

Although several King County TDRs have been transferred to the City since entering into the interlocal agreement, the national economic recession slowed land development, including the City's TDR program. Instead of the original momentum from the building boom years, the economic down turn allowed a more detailed look at our TDR program in an attempt to make the process more streamlined for applicants and easier to understand the benefits in using TDRs.

Issaquah, in partnership with Forterra, Berk, and King County, is considering [LCLIP](#) at this time, reviewing the analysis showing costs and benefits to the City. The challenge being faced by decision makers is whether the economic market for another building boom and use of TDRs is around the corner or farther in the future. Issaquah hopes to make a decision on whether to participate in LCLIP in 2013.

The City would advise other cities considering TDR to work directly with King County and Commerce staff, as they are helpful and collaborative. Their experience and resources have been a major part of Issaquah's success. Also, work with local developers and environmental groups early in the process to help determine the "demand" and "supply" piece for the TDR program to work.

Mountlake Terrace

Overview of the Program and Grant Accomplishments



The City of Mountlake Terrace built on the considerable amount of planning and environmental review that it has done for its Town Center and transit center. The City used Commerce grant funds to conduct a [TDR market study](#), and to develop and adopt an [FEIS for the Freeway/Tourist District](#) adjacent to the Town Center and transit center. The City adopted the TDR regulations for designated receiving areas in the Freeway/Tourist District on December 3, 2012. A planned action ordinance based on the FEIS was adopted for the Freeway/Tourist District on February 4, 2013.

Adoption of a planned action will streamline permits for developers in the Freeway/Tourist District, including developers choosing to use TDRs in their projects.

Sending Areas/Conservation Goals

Sending areas identified by the City include all land designated by King, Snohomish, and Pierce Counties as agriculture or forest lands of long-term commercial significance and rural lands that meet the sending area criteria for [LCLIP](#) in RCW 39.108.050.

The City adopted by reference the Commerce Interlocal Terms and Conditions Rule to accept development rights from the Counties on December 17, 2012. There is no limit on the number of development rights that may be accepted from counties. Adoption of the rule by reference is currently under consideration by Snohomish County.

Development Potential in Receiving Areas/Exchange Ratios

The TDR regulations provide as follows for exchange ratios in the receiving area:

- For sending areas situated in Snohomish or King Counties, one TDR allows 10,000 square feet of bonus commercial area or two bonus dwelling units.

- For sending areas situated in Pierce County, one TDR allows 5,000 square feet of bonus floor area.

City Goals and Vision/TDR benefits

The TDR program was established as an incentive for protecting farms, forests, rural lands, and environmentally critical areas while encouraging greater development within appropriate areas of Mountlake Terrace. It is also a potential way to obtain infrastructure financing through LCLIP.

Working with the Community/Neighborhoods

The City used newsletters, an open house, a web page, and public meetings to reach out to the public for input on the planned action and TDR program.

City Observations from Working on a TDR Program

The most significant challenges to adopting a TDR program were the public hearing process; the reporting and billing requirements, considering that other staff were primarily working on the grant project; designating the receiving areas and what the exchange ratios would be; and managing the EIS consultant because of frequent staff changes. The City overcame the challenges by continuing to move forward with the project. They knew what had to be completed for the project and what the project deadlines were, so they made sure to meet the project requirements.

A city contemplating participation in regional TDR should make sure that they have adequate staffing to manage their consultants and to complete all of the reporting requirements and public process; have a concept of how their plan may end up as a finished product so that their TDR has a direction from the onset. If a city has the infrastructure resources and thinks that TDR can work in their community, then TDR will be a benefit to the city.

The TDR grant was very beneficial to the City. They were able to develop a market study and an EIS for the Freeway Tourist District, which produced a TDR plan that can be a success in the City. County staff was always a pleasure to work with, and the City appreciated their input and assistance with the project.

Next Steps

The City is evaluating how the LCLIP program can be implemented in its Town Center and Freeway/Tourist District under a 2013 Watershed Protection and Restoration Grant award grant from Commerce and Ecology. This will help determine how the City might pay for infrastructure to support increased development in TDR receiving areas.

Normandy Park

Overview of the Program and Grant Accomplishments



The City of Normandy Park had an interest in developing a subarea plan for Manhattan Village. Manhattan Village is an area with a mix of commercial and residential development, including vacant buildings and underutilized parcels.

With decreased revenues resulting from initiatives and legislation, the City made economic development planning a priority. The City took advantage of Commerce and King County grants to conduct a [market study](#), and develop a subarea plan and planned action ordinance for Manhattan Village that includes receipt of TDRs from King County.

This process was designed to prepare the [subarea plan/EIS](#) and immediately adopt implementing regulations and programs. The subarea plan adopted by the City on May 17, 2012, established policy objectives, responding to community direction and fine-tuning comprehensive plan elements for the subarea. The zoning amendments, design standards and TDR program (adopted November 27, 2012), will create a vibrant, walkable environment accessible to all Normandy Park by encouraging high quality design with careful consideration of the pedestrian experience. The planned action ordinance adopted on December 11, 2012, will provide incentives for new infill and re-development along the First Avenue South corridor.

The City's TDR program includes use of TDR for both residential and commercial development. Regional TDR is the only incentive that the City offers for increased density of development, such that the TDR program is not competing with other City incentive programs.

Sending Areas/Conservation Goals

The City chose the near-shore and shoreline properties surrounding Vashon Island in King County as the sending area from which it would receive TDRs. This rural area is important to the ecology of Puget Sound and is part of the rural scenic and open space views from the City across the waters of Puget Sound.

The City signed an interlocal agreement to accept Vashon Island development rights from King County in January 2013. Up to 75 TDR credits may be used for increased residential density or commercial development capacity in the Manhattan Village receiving site.

Development Potential in Receiving Areas/Exchange Ratios

The interlocal agreement anticipates the City receiving up to 75 TDR credits for increased residential density or commercial development capacity in the Manhattan Village receiving site. TDR credits may be used for bonus height or density in the Neighborhood Center (NC), Mixed-Use (MU), and High-density Multi-family (RM-1800) zones. Bonus heights range from 40 to 75 feet in neighborhood center and high-density multi-family zones, depending upon adjacent land uses. Bonus density is allowed per Table 8.

Table 8: TDR Density Incentive Table

Receiving Zone	NC	MU	RM-1800
Bonus Density	4300 sf	2,500 sf or 2.5 units*	2,500 sf or 2.5 units
<i>*Bonus units in the Mixed Use zone must be used for cottage housing developments consistent with the zoning code.</i>			

Working with the Community/Neighborhoods

Normandy Park began this process with a skeptical community. The process used an active engagement program to rebuild trust and begin planning for the subarea’s future, expanding the conversation to discuss land use, transportation, economic development, community design, storm water management, capital facilities, utilities, and neighborhood conservation.

Normandy Park began this process facing at least four major hurdles:

- Many in the community were distrustful of the City, concerned that leaders intended to condemn property and relocate City Hall, integrating it and a nearby park with the Manhattan Village shopping center.
- With 98 percent of available land zoned residential and trends showing significant “bleeding” of sales revenue to surrounding shopping venues, optimizing the Manhattan Village center was seen as a critical part of maintaining fiscal solvency for the City.
- A similar, recent development along the City’s southern edge had proven disappointing to residents, failing to meet community expectations regarding design, and (so far) function and economic success.
- A center with the type of density needed to spur redevelopment and provide TDR compatibility meant a brand-new archetype be embraced by residents acclimated to “park-like” low-density development.



The process used an active engagement program to rebuild trust and, eventually, to solicit constructive feedback on planning for the subarea's future. Commonly used workshop techniques were implemented in highly effective ways, giving residents an opportunity to vent, express ideas, and work together to consider ways to solve issues. More than 200 agitated community members attended the first workshop, yet these same residents ultimately welcomed the plan, the dramatic (for Normandy Park) changes it facilitates and the implementing zoning and TDR programs the city subsequently adopted.

City Observations from Working on a TDR Program

TDR can be a controversial and complicated concept in some communities. In particular, communities like Normandy Park are sensitive to dense development since this type of community was originally incorporated with values and desires to maintain a rural character.

The concerns about increased density and complexity of the TDR program were addressed during the numerous public meetings by city staff, consultants, and King County TDR Program Manager Darren Greve. It was important for the community to clearly understand the reasons why TDR was necessary to achieve the goals of the subarea plan and that TDR was not a trigger for increased affordable housing.

Lessons learned/advice for other cities:

- Involve the community early in the process.
- Spend time working with the community to explain the program and rule. This process took two years to complete and without the significant time spent communicating with community members it would not have been supported.
- Make sure consultant contracts are aligned with the scope of work and requirements of the grant. The City negotiated a contract with a consultant for assistance with the subarea plan prior to clearly understanding the requirements of the county program or Commerce rule. This resulted in misalignment of the consultant's scope of work and the grant requirements of the

County and Commerce. Reporting and consultant deliverables became a challenge as a result of the misalignment.

- Spend time up front to select a competent consultant to conduct the TDR analysis and work with county staff to make sure the consultant selected has the knowledge and experience necessary.

Sammamish

Overview of the Program and Accomplishments



The City of Sammamish has developed a subarea plan for the Sammamish Town Center, which includes incentives for increasing residential and commercial capacity. The City developed the TDR program as part of its package of incentives for increasing capacity in the Town Center.

The purpose of the TDR program is to provide a market-based tool to permanently preserve partially developed or undeveloped land with important public benefits, such as farmland, forestland, open space, and wildlife habitat, through the private acquisition of the development rights on those lands.

Properties eligible for preservation through the TDR program are located both within the city limits of Sammamish and in unincorporated King County. Properties within Sammamish are expected to provide increased protection of particularly sensitive sub-basins on the Sammamish plateau. The lands within unincorporated King County are made up of large tracts of undeveloped open space and former forest lands that are expected to create an “emerald necklace” to the east of Sammamish. It is expected that the TDR program will result in the subsequent transfer of development rights to lands more suitable for development in the Town Center.

The [Town Center subarea plan](#) was adopted by the City Council in June 2008 and the [TDR program](#) for Town Center was adopted in 2011.

City Goals and Vision/TDR benefits

The community’s adopted vision statement indicates that the Sammamish Town Center is designed to be a vibrant, urban, family friendly gathering place in a healthy natural setting. The City’s sense of community reflects a balance between its natural and urban characteristics. The vision includes preservation and enhancement of the Town Center’s natural setting by focusing new development away from natural resources and critical areas. The TDR program provides a tool for preserving the natural setting both within the City and adjacent to the City in King County.

Sending Areas/Regional Conservation Goals

The City of Sammamish is on the edge of the urban growth area, and is striving to achieve its GMA-mandated goals of balancing growth with appropriate environmental protection. Sammamish is unique in that several of the streams on the west edge of the City provide critical habitat for Sammamish Kokanee. Further, the western slopes of the City above Lake Sammamish are critical for the protection of water quality in Lake Sammamish. Lake Sammamish is on the list of impaired and threatened waters (stream/river segments, lakes) that the Clean Water Act requires all states to submit for EPA approval. The TDR sending sites within Sammamish provide for increased protection of these critical sub-basins, while still allowing for appropriate development.

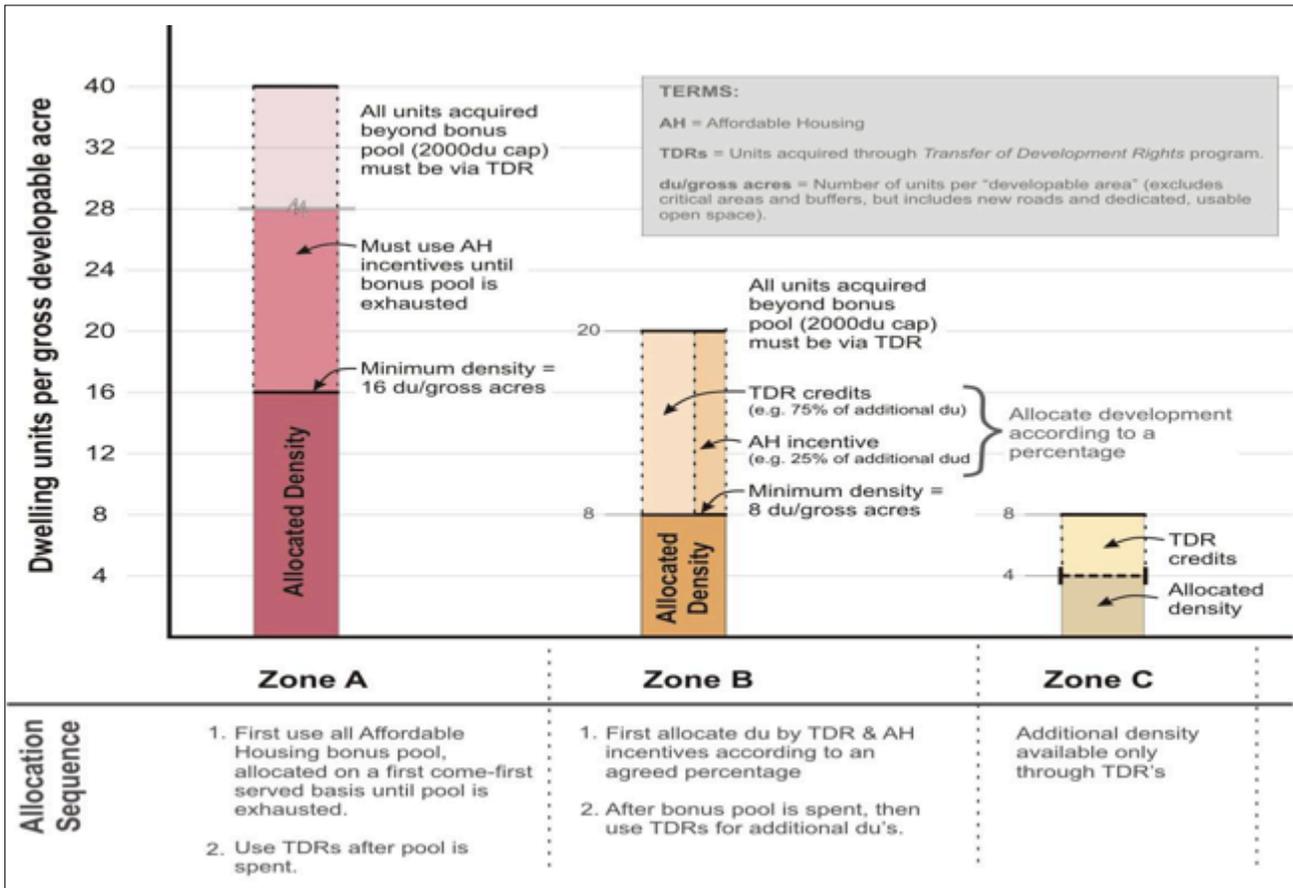
King County's rural and resource areas are recognized by the City as containing important countywide public benefits such as forestry, agricultural, wildlife habitat, and scenic resources and recreational opportunities. In an [interlocal agreement with King County](#), the City has provided for the protection of a sending area directly to the east of the City, south of State Route 202, and north of Issaquah-Fall City Road. This area of rural King County, which is adjacent to Soaring Eagle Park (also known as Section 36) is largely undeveloped, forested, and creates an "emerald necklace" on the east side of the Sammamish plateau. Properties within this area that possess recreational trail opportunities, possess significant ecological value, or are used for forest or farm land purposes that benefit the city and its residents are considered priorities. The interlocal agreement provides for the receipt of 75 TDR credits from this area.

Development Potential in Receiving Areas/Exchange Ratios

The City of Sammamish's Town Center (TC) plan provides incentives for increasing density above the allocation, through the provision of affordable housing and TDR. TDRs may come either from unincorporated King County (through the King County TDR program) or from qualifying sites within the City.

- In the TC-A zone, the developer must first use affordable housing incentives until the bonus pool is exhausted before acquiring additional units through the acquisition of TDRs.
- TDRs may also be used in the TC-B and TC-C zones, without a requirement to use affordable housing first.

Sammamish Town Center Zoning with TDR



The receiving sites in the Town Center A, B, and C zones use Table 9 to calculate the unit or commercial square footage yield from TDR sending sites.

Table 9: Receiving Site Incentive Table

		Sending Zoning			
		R-1	R-4	R-6	KC Lands
Receiving Zoning	Commercial	7,716 sq. ft.	3,560 sq. ft.	2,600 sq. ft.	3,560 sq. ft.
	Zone C	4 du	2 du	1 du	2 du
	Zone B	7 du	3 du	2 du	3 du
	Zone A				5 du

Working with the Community/Neighborhoods

The Comprehensive Plan and initial vision for the future Town Center was prepared by the City's Planning Advisory Board and adopted by the City Council in 2003, and was itself a product of numerous community discussions, environmental analysis, and direction from the goals contained in the GMA. This plan was informed by a continuation of those public discussions, Sammamish Town Center Committee meetings, and Planning Commission and City Council briefings.

The City initiated the Town Center planning process in August 2004 by establishing a 20-member citizen task force to help guide and advise the City Council as it developed a vision for the "Special Study Area," which was to become the future Town Center Study Area. In January 2005, the task force made their final recommendations as the City continued to solicit public input and feedback.

After the adoption of a Town Center Vision Statement in March 2007, the City continued to employ a number of strategies to involve and gather input from many interested parties. These strategies included the maintenance of a project website, property owner forums, public open houses, a visual preference survey, attendance at a Sammamish Youth Board meeting, property owner and citywide surveys, community bus tours, a design charrette, and a series of public discussion forums. With this public input and extensive analysis of market conditions, infrastructure needs, and design options, city staff and consultants were able to develop four Town Center alternatives. The preferred alternative included a TDR system to use market forces to better protect ecological resources and open space with public benefits.

In April 2007, the City Council adopted the Preferred Town Center Alternative – which called for a balance of civic and community amenities, retail and office opportunities, residential choices, and environmental functions and values in the future Town Center. The City Council also directed the planning team to move forward with drafting the Sammamish Town Center Plan and a TDR program. During winter and spring, 2008, the Planning Commission reviewed the draft plan and submitted recommendations to the City Council. The council amended and adopted the plan in June 2008, adopted the Town Center regulations in December 2010 and adopted the TDR program in September 2011.

City Observations from Working on a TDR Program

The most significant challenges for the City in adopting a TDR program were:

- TDR programs are inherently complex, in that you are essentially creating a private market authorizing trade of a publicly created commodity (zoning). So simply explaining it correctly is

hard. Also, creating the mechanisms (sending site certification, rules to authorize use of TDR credits, conservation easement language, etc.) each involve local choices and analysis.

- The City did its best to use graphics and pictures, and to make incremental decisions. They also used documents and code language from other jurisdictions, and relied on experts to help staff and decision-makers work through the complexity.
- In general, under TDR land will be preserved in counties where the sending sites are located, and consequently cities will get more density as receiving sites. It is critically important that cities understand and are able to document why adding more units to the City will provide a net overall benefit. A reasonable nexus (i.e., a proximate location or a strong policy connection for say salmon recovery) between sending and receiving areas helps to ensure that benefit is clear and meaningful.
- The [LCLIP](#) law is complex and implementing it locally involves a number of choices, some of which involve risk or the perception of risk. The Legislature has tended to create these highly complex financial tools which, while well intentioned, may not prove as effective as a simpler tool.

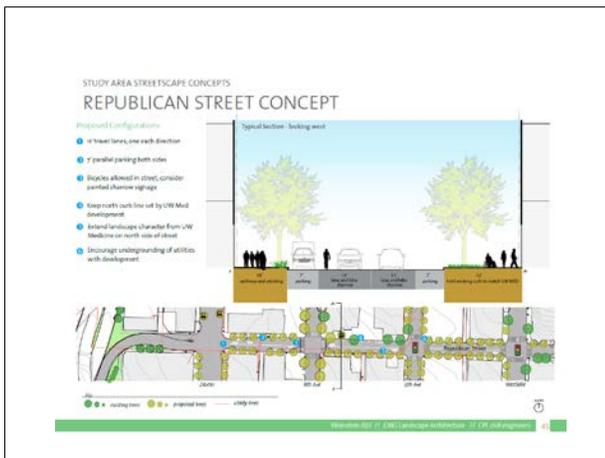
Overall, the City had a very good experience working with King County. The County has both listened to local concerns and initiated helpful responses and offers to overcome those issues. As with any interlocal agreement, it is important for local leaders to clarify objectives and goals, and then let the staff work on the details to achieve those goals.

For a city contemplating regional TDR, it will take some time and energy, but it is worth it for the regional benefit TDR will provide. It might be helpful for the state or Puget Sound Regional Council to provide a series of workshops on TDR and LCLIP to help spread the word and encourage local participation.

Seattle

Overview of the Program and Grant Accomplishments

The City of Seattle was an early participant in a regional approach to TDR. Under a 2001 interlocal agreement with King County, the City created a market for 68 TDR credits that were used in Denny Triangle for projects such as the Olive 8 and Aspira projects. While that initial agreement sunset in 2006, the City accepted the Commerce grant to conduct a market study of South Lake Union, downtown, and other areas of the City for future receiving area potential, to conduct streetscape design for the area, and to consider for adoption a new interlocal agreement for TDR with the County.



The market study includes an assessment of the City's participation in [LCLIP](#), including how it can provide infrastructure funding for South Lake Union and downtown development. Additional funds made available under the grant program were used to develop engineering and cost estimates for LCLIP projects in South Lake Union.

The City Council adopted a [rezone of South Lake Union](#) on May 6, 2013. The substantial rezone allows for increased density and greater building heights through an incentive zoning program, including the use of regional TDR. The legislation is an important

step for the South Lake Union neighborhood as it continues to develop as an urban center and a dynamic hub of economic development for Seattle and the region. The zoning changes:

- Advance the City's growth management strategy as set out in the Comprehensive Plan and South Lake Union Neighborhood Plan.
- Promote a neighborhood that will provide a more diverse mix of housing and employment.
- Support the continued growth of the City's economy.
- Encourage a safe and active pedestrian environment.
- Create new infrastructure financing tools that, together with affordable housing incentives and direct city investments, will:
 - Provide the critical public infrastructure needed to support the area's dramatic growth.
 - Ensure South Lake Union remains an attractive and livable neighborhood for all who live and work there.

In the process of assessing participation in the LCLIP program, it became apparent to the City that the TDR capacity and property tax revenue value in South Lake Union was insufficient to make the LCLIP program viable. Accordingly, the City has included both South Lake Union and downtown as TDR receiving areas for the LCLIP program.

An interlocal agreement with King County to accept TDRs in South Lake Union and downtown is anticipated to be transmitted to the King County Council and the Seattle City Council in June, 2013.

Sending Areas/Conservation Goals

Seattle's TDR program is designed to permanently conserve land in the following types of sending areas:

- Agricultural-, Forest-, and Rural-zoned lands within King County.
- Agricultural- and Forest-zoned land in Pierce and Snohomish Counties in accordance with these respective county TDR programs, except that Rural-zoned lands in Pierce and Snohomish counties may be allowed in the future if the requirements of RCW 39.108.050 are met²⁷.

The interlocal agreement anticipates a regional TDR program with the capacity to permit development that uses at least 800 regional TDR credits over a 20-year period.

Development Potential in Receiving Areas/Exchange Ratios

The South Lake Union neighborhood is one of the most active real estate markets in the state. Designation of this area and the Seattle downtown for receipt of TDRs from King County creates significant capacity to conserve agriculture and forest land. Purchase of development credits from one of three counties allows the developer additional square feet of residential or commercial development. Although the exchange ratios are likely to vary over time to response to market conditions, the initial ratios will be as indicated in Table 10 for residential and Table 11 for commercial development.

²⁷ RCW 39.108.050 provides that counties that have conserved at least 50 percent of their agricultural and forest land of long-term commercial significance may identify an additional 1,500 development rights from designated rural land with high conservation values.

Table 10: Regional Transferable Development Credit Exchange Ratios – Residential

County of Origin	Type of Credit	Square Feet per Credit
King County	Agricultural credits	1640
	Forest or Rural credit, provided that the proceeds from the sale are used to purchase Agriculture credits	1500
Pierce County	Agricultural credits	420
	Forest credit, provided that the proceeds from the sale are used to purchase Agriculture credits	860
Snohomish County	Agricultural credits	980
	Forest credit, provided that the proceeds from the sale are used to purchase Agriculture credits	860

Table 11: Regional Transferable Development Credit Exchange Ratios – Commercial

County of Origin	Type of Credit	Square Feet per Credit
King County	Agricultural credits	1120
	Forest or Rural credit, provided that the proceeds from the sale are used to purchase Agriculture credits	1030
Pierce County	Agricultural credits	290
	Forest credit, provided that the proceeds from the sale are used to purchase Agriculture credits	590
Snohomish County	Agricultural credits	670
	Forest credit, provided that the proceeds from the sale are used to purchase Agriculture credits	590

City Goals and Vision/TDR benefits

The South Lake Union incentive zoning program, including TDR, will provide affordable housing and new infrastructure investment (investment in roads, sidewalks, and other neighborhood amenities). This will support growth of 12,000 households and 22,000 jobs over the next 20 years.

Inclusion of TDR in downtown will also support the creation of new streetscape and park investments.

Working with the Community/Neighborhoods

The City's work with the South Lake Union neighborhood has been going on since 2004, when the Seattle City Council designated the South Lake Union Neighborhood as one of the City's six urban centers. This designation reflected the recent growth in both jobs and housing in the neighborhood and signified that South Lake Union will continue to receive a regionally significant share of growth in the future.

In January 2008, the Department of Planning and Development began working with the South Lake Union Community to develop a height and density recommendation that would advance the Comprehensive Plan and Neighborhood Plan goals for future development of the neighborhood. This work resulted in the development of the South Lake Union Urban Design Framework, which included recommendations for urban design, transportation investments, and potential incentive zoning benefits, and rezone legislation that was adopted by the City Council in 2013.

City Observations from Working on a TDR Program

The City of Seattle's work on developing a TDR program identified the following key challenges:

- Competition among amenities – the City of Seattle has had incentive zoning programs, allowing additional floor area where developers provide public benefits such as affordable housing, on-site open space, streetscape investments, and historic preservation, since the 1970s. Considering regional TDR as an additional option can result in difficult discussions about the relative value of each type of benefit and conflicts between stakeholder groups.
- Balancing local and regional priorities – incentive zoning has been very popular as it helps to ensure that growing communities receive the investments necessary to make dense communities feel vibrant and livable. Shifting the benefits from local investments such as open space to regional benefits such as farm and forest protection would not have been possible with the LCLIP tool which provided alternative local benefits.
- Finding resources for developing and implementing programs – significant resources are needed to undertake the economic modeling to support the program, develop the interlocal agreement and legislation, train staff, provide customer service to developers, track funding, and monitor the program over time.

The following represent the key lessons learned in responding to these challenges:

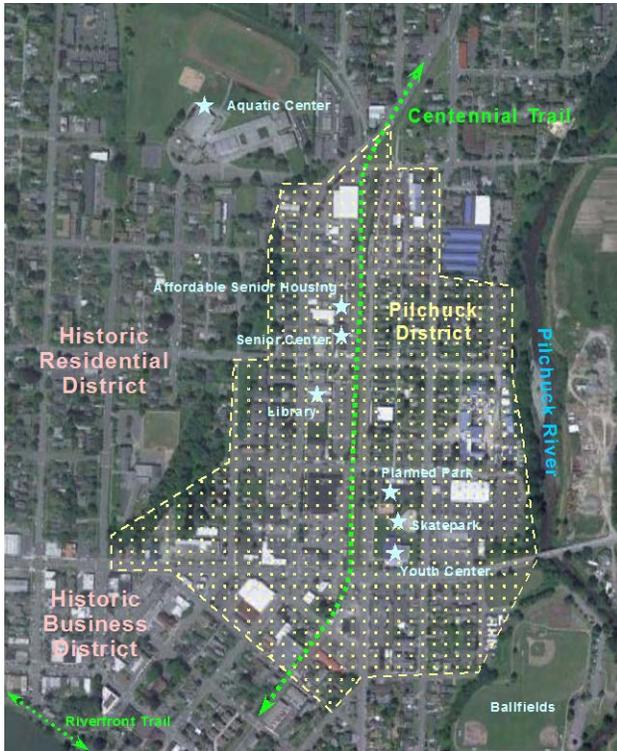
- Significant economic modeling is necessary to understand the impacts of TDR programs. At a minimum it is important to have an economic consulting team to understand the value of additional development potential and the cost of TDR credits over time to establish the program. Developing a LCLIP program requires this effort plus modeling of development expectations, long-term tax rates, and fiscal modeling. Seattle utilized a consultant team consisting of a real estate economist, government finance economist, and a TDR expert to

provide this expertise and developed a detailed model that allowed for risk modeling of all variables.

- Analysis of LCLIP should be done on a city-wide basis. The key to making LCLIP viable is sizing the program to capture significant tax revenues. While every city will be different, Seattle found that the program needed to be very large to be viable. Additionally, the state-enabling legislation makes it very difficult to add additional project areas at a future date, so all opportunities should be considered at one time.
- LCLIP can result in a more flexible funding source than traditional incentives, but also favors certain types of investments. One reason that Seattle decided to implement the LCLIP program is that it creates a pool of flexible funding that can be used by the City to fund key priorities. Since traditional incentive programs can be limited by state legal requirements in the types of benefits they can produce, this flexibility can be a significant benefit. On the other hand, the LCLIP programs demonstrated that it may be more appropriate for funding amenities that are traditionally implemented by cities (parks, community centers, utilities, corridor improvements) and less effective in implementing amenities that might be more cheaply implemented by developers (small privately-owned/publicly-accessible open space, sidewalk improvements, affordable housing, historic preservation).
- LCLIP programs need to be managed over time to achieve program goals. Since market conditions can vary substantially over a 25-year period, it is important to plan to analyze and modify the program on a periodic basis to ensure that project goals are met.
- Due to the complexity of the LCLIP tool and vagueness of the state-enabling legislation, Seattle found that the specifics of any LCLIP program need to be negotiated between the City and the County. City staff recommend that cities include county representatives in all aspects of modeling and program development to ensure it meets the needs of both governments. Ultimately, interlocal agreements will need to be approved by elected officials in both governments for the program to work.

City of Snohomish

Overview of the Program and Grant Accomplishments



The City of Snohomish began planning for TDR in 2009 when it received a grant from Forterra to develop a subarea plan, infrastructure analysis, and planned action for the Pilchuck District²⁸. The Pilchuck District is a neighborhood comprised of an unusually wide assortment of land uses – single-family, multi-family, industrial, commercial, and an assortment of public functions.

The City adopted the [Pilchuck District Comprehensive Plan Goals and Policies, Subarea Plan and Planned Action Ordinance, Design Standards, and Development Regulations](#) on March 15, 2011. The City adopted [TDR regulations](#) on December 20, 2011, under which the City identified receiving areas and established incentives for use of TDR certificates in the Pilchuck District. The City adopted an interlocal agreement with the County in July 2012. The interlocal agreement was adopted by the Snohomish County Council in January 2013.

The City developed a water system plan for development in the Pilchuck District TDR receiving area with Commerce grant funds. This infrastructure planning will support development at increased densities with TDR.

Sending Areas/Conservation Goals

The City is interested in conserving county working farms and forest land, and certain open space and natural areas, which is in the interest of all Snohomish County residents.

²⁸ Forterra awarded \$149,995 of the state capital funds it received to Snohomish for this work.

The interlocal agreement with Snohomish County and the City's TDR regulations provide for the initial acceptance of 17 TDR credits from county forest lands, acquired and currently held by Forterra. Following absorption of all of the initial credits, the City reserves the right to adopt criteria to limit county sending sites eligible for TDR to city receiving areas. However, the City and County agree to work cooperatively with each other to identify sending areas that further the conservation goals of both the City and County.

City Goals and Vision

The neighborhood planning effort for the Pilchuck District was intended to shine a light on the area, to capitalize on its positive aspects, to bring its disparate parts into harmony over time, and to create opportunities for public and private investments and improvements that will make it a more distinctive and enjoyable place to live, work, and play. The plan also implements goals and strategies contained in the City's adopted Strategic Plan to:

- Encourage urban densities near the downtown.
- Support a livable, pedestrian-friendly community.
- Support downtown redevelopment potential and options, including redevelopment potential for Second Street.
- Support a vibrant live/work community.
- Strengthen the community's orientation to its rivers.

Development Potential in Receiving Areas/Exchange Ratios

The subarea plan, planned action and TDR provisions for the Pilchuck District create the capacity for conserving agricultural and forest lands by providing for additional development potential as follows:

- Each TDR credit associated with a development application determined complete prior to January 1, 2017, has an exchange rate of 18,000 square feet of gross floor area above the third story.
- Each TDR credit associated with a development application determined complete on or after January 1, 2017, has an exchange rate of 14,000 square feet of gross floor area above the third story.

Working with the Community/Neighborhoods

The City held an open house in November 2009 to gather public comments, including input on how to make the district more pedestrian-friendly, design and aesthetics issues, land use patterns, and a name for the district. Subsequently, the City hosted 24 public meetings with neighborhood groups and before the City Council and various advisory boards to solicit community input on the subarea's form, function, policies, and regulations.

City Observations from Working on a TDR Program

The City's most significant challenge in adopting a TDR program was determining an appropriate exchange rate for credits. Among the project stakeholders were proponents of economic development who resisted making the TDR credits a significant cost for, and perceived deterrent to, new development, and those who were more concerned with absorption of the greatest number of TDR credits. Those more sensitive to the development cost side favored a high exchange rate and those more concerned with accommodating the greatest number of credits advocated for an exchange rate close to the developer "indifference point" identified in the economic analysis. Ultimately, the adopted exchange rate was a compromise between the two perspectives.

Another challenge, related but not exclusive to establishing a TDR program, was the process of garnering community support for increased development potential in the TDR receiving area. This was a slow process of ongoing community discussion until citizens and the City Council achieved a level of comfort with the proposed change in the vision for future land use and urban form. In this case, it took several years of ongoing outreach and discussion until widespread buy-in to the concepts was achieved. However, once there was agreement on what the build-out of the subarea should look like, there was reluctance in certain quarters to impose the TDR costs associated with the maximum development potential.

Once the development policies and regulations for the subarea and the TDR program were adopted, the process of executing an interlocal agreement with Snohomish County was non-contentious.

Tacoma

Overview of the Program and Grant Accomplishments



The City of Tacoma first adopted provisions for transfer of development rights receiving areas as part of its mixed-use centers designation in 2010. The work done under the Commerce and King County grants in 2011-2012 sought to build on that foundation by refining the City's current approach to include transfers within the City and from county-designated natural resource lands. The City explored approaches where these TDR transactions would occur in exchange for higher density, height, and other benefits to developers.

The City used funds from the King County grant to develop a [market analysis of TDR](#) sending areas and receiving areas that generated estimated TDR prices and values. Exchange rates and demand analyses were used to present a detailed framework for a proposed TDR program in Tacoma.

On September 25, 2012, the City adopted a [TDR administrative code](#) establishing procedures for the operation of the City's TDR program. The program provides for transfers from sending areas in Pierce, King and Snohomish Counties, as well as from within the City for conservation of habitat and landmarks. On September 18, 2012, the City adopted an [interlocal agreement with Pierce County](#), and [adopted by reference the Commerce Interlocal Terms and Conditions Rule](#) to facilitate transfers between King and Snohomish Counties and the City.

The City used funds from the Commerce grant to develop a [subarea plan for the Martin Luther King/Hilltop mixed-use center](#) that consolidates a myriad of policies pertaining to the area into a single document with a single vision statement. The plan provides specific, implementable action strategies designed to achieve the vision. The plan includes a planned action environmental impact statement (EIS). The Planned Action designation indicates that adequate environmental review has been completed and further environmental review under the SEPA, for each specific development proposal or phase, will not be necessary if it is determined that each proposal or phase is consistent with the development levels specified in a Planned Action Ordinance. The planned action will streamline the permit process for developers, including developers using TDRs in their project.

Sending Areas/Conservation Goals

Consistent with GMA goals, Tacoma's TDR program is designed to permanently conserve land in the following types of sending areas:

- Agriculture and forest resource lands in Pierce, King, and Snohomish counties.
- Air rights from landmark sites in Tacoma's downtown and mixed-use centers.
- Habitat corridors located inside Tacoma.

The interlocal agreement with Pierce County provides for the acceptance of 369 TDR credits from the County, at which point the agreement will be reviewed and may be extended by the two jurisdictions. There is no limit on the number of development rights that may be accepted from King and Snohomish Counties, but the resolution adopting the Commerce rule by reference does not go into effect until either of the two counties also adopts the rule by reference. Adoption of the rule is currently under consideration by Snohomish County. The City left open the option of also entering into an interlocal agreement with King County or Snohomish County to transfer development rights.

Development Potential in Receiving Areas/Exchange Ratios

The subarea plan, planned action and TDR provisions in MLK/Hilltop, as well as the TDR administrative provisions for all of the mixed-use centers, creates the capacity for conserving agricultural and forest lands in Pierce, King, and Snohomish Counties by creating additional development potential as follows.

- Bonus floor area in the mixed-use centers and downtown receiving areas is permitted in the following increments: 3,750 bonus square feet for each Pierce County TDR; and 10,000 square feet for each King County TDR.
- Alternatively to purchasing TDRs, a developer can pay \$2.00 per square foot of bonus floor area, to be deposited into the City's Open Space Fund for TDRs. Revenue accrued for TDRs must be used for TDR purchases from in-city and/or TDRs from the counties.

City Goals and Vision

Tacoma's Mixed-use Centers Update Project received the Governor's Smart Communities Award in 2010 for implementation of a comprehensive plan. The project set forth a balanced set of innovative regulatory approaches to promote new growth and development in the City's 16 mixed-use centers. The TDR program builds upon these innovative approaches with the inclusion of TDR.

The TDR program implements and goes beyond the City's 2008 Climate Action Plan provision to initiate a regional TDR program by including all three counties' sending areas.

Working with the Community/Neighborhoods

The City's work with the neighborhoods started with the Mixed-Use Centers Update Project. City staff and consultants went to great lengths to fully involve all affected parties, interest groups, and the general public by combining the more traditional GMA public participation processes (e.g., public notices, public hearings, and SEPA and state agency review) with innovative methods that included two interactive 3-D models, a 24-hour planning inquiry phone line, and extensive community meetings. When it came time to develop the TDR administrative code, it was a matter of adopting the administrative procedures for TDR that were already allowed in mixed-use centers and downtown as a result of the Mixed-Use Centers Update Project.

A similar public participation process was used with the MLK Subarea Plan, including an extensive survey of residents, businesses and non-governmental agencies, and several open houses for the community to participate in design charrettes and review final proposals.

City Observations from Working on a TDR Program

Given all the work already done by Commerce, some of which is set forth in the Commerce Interlocal Terms and Conditions Rule, adopting a TDR program was very straightforward. For a city contemplating participation in regional TDR, putting the mechanism in place in advance of major new developments is advantageous.

Next Steps

The City is studying the functionality of the [LCLIP](#) program in the City of Tacoma under a 2013 Watershed Protection and Restoration Grant award grant from Commerce and Ecology. This will help determine how the City might pay for infrastructure to support increased development in TDR receiving areas.

Port Orchard

Overview of Grant Accomplishments

The City of Port Orchard received a Commerce grant to study its downtown for possible designation as a TDR receiving area. Some of the funds were passed through to Kitsap County to provide them with the resources to work with the City. City staff conducted a market survey and developed a market study for TDR in the downtown. Staff drafted a TDR program ordinance and proposed resolution to adopt Commerce's Interlocal Terms and Conditions Rule by reference. The planning commission recommended approval by the City Council.

Upon consideration of the TDR ordinance, the City Council voted not to adopt the program. Some Council members indicated that TDR might be more appropriate in other parts of the City than the downtown. They discussed the possibility of looking at TDR again in the future. There was also concern that they had worked hard on the downtown regulations and this would make changes to those regulations.

The County used the funds to work with the City on adopting the Commerce Rule Interlocal Terms and Conditions Rule by reference. The County revisited its TDR sending area designations and developed new goals and policies for conserving agricultural land utilizing TDR. These amendments were approved by the Board of County Commissioners in December of 2012. The County developed code to further its receiving site program that would incentivize agricultural land for TDR use with a ratio of 2:1. These proposed regulations will be rolled up into the County's next GMA update process for consideration.

City Observations from Working on a Regional TDR Program

There were many concerns with the impacts to the downtown receiving area without any real perceived benefit to the City. The benefits that were identified were an asset to the private developer, not to the City – while it would be City infrastructure that would be impacted negatively. The issue of parking supply for increased demand was a big issue for the City Council.

For a city contemplating participation in regional TDR, involve the City Council and Planning Commission early on in the process and provide them with the opportunity to assist with developing the scope of the project. The TDR program is too complex and overwhelming to involve the City Council toward the end of the adoption process.

The main things that would have made the program more successful for the City would have been to:

- Have the City Council attend the presentations by Commerce.
- Clearly lay out the expected benefits to the City.
- Involve the Planning Commission, City Council, and public together from the start of the local program development.

Puyallup

Overview of Grant Accomplishments

The City of Puyallup received Commerce and King County grant funds to study its downtown and South Hill for possible designation as TDR receiving areas. The City hired a consultant to do a market study, develop a planned action EIS and ordinance, and develop TDR regulations for the downtown.

Prior to consideration of the proposed TDR regulations, several City Council members became concerned about the impacts of increased development in the downtown. They decided to discontinue the TDR study and terminated the grant.

Appendix A



ACTION ITEM

March 22, 2012

To: Executive Board

From: Bob Drewel, Executive Director

Subject: Proposed Regional Allocation of Transferable Development Rights – the Landscape Conservation and Local Infrastructure Program

AT ISSUE

In the 2011 legislative session, the Washington State Legislature passed and the Governor signed the *Landscape Conservation and Local Infrastructure Program* (LCLIP – codified in 39.108 RCW). This program provides a new voluntary infrastructure financing tool that is predicated upon a jurisdiction accepting transferable development rights (TDRs) from county designated natural resource and rural lands.

The Puget Sound Regional Council is required to allocate the total number county-calculated, theoretically available TDRs to eligible cities on a regional basis. The deadline for this allocation is March 2012.

At its March 8 meeting, the Growth Management Policy Board made a consensus recommendation that the Executive Board adopt the attached *Regional Allocation of Transferable Development Rights*.

ACTION

The Executive Board of the Puget Sound Regional Council adopts the Regional Allocation of Transferable Development Rights per RCW 39.108.070. (See Attachment 1)

DISCUSSION

Since July 2011, Puget Sound Regional Council staff has worked with stakeholders to develop a recommended methodology and allocations. This included working with countywide planning groups, the Regional TDR Alliance, LCLIP eligible cities, PSRC's Regional Staff Committee, and PSRC's Growth Management Policy Board and Executive Board.

A draft proposal was brought to the Growth Management Policy Board in January 2012 and the Board deferred action in order to provide staff additional time to work with affected eligible stakeholders. During the past two months, a variety of factors were explored and staff were successful in securing agreement on a set of adjustments to the initial methodology and allocations.

The updated methodology and allocations were brought to the Growth Management Policy Board for action at their March 8 meeting. At the meeting, the Growth Management Policy Board made a consensus recommendation that the Executive Board adopt the attached *Regional Allocation of Transferable Development Rights*.

NEXT STEPS

When adopted by the Executive Board, the Puget Sound Regional Council is required report each city's allocation to eligible cities and to the Washington State Department of Commerce.

If you have questions or comments, please contact Ivan Miller at (206) 464-7549 or imiller@psrc.org.

Attachment 1: Regional Allocation of Transferable Development Rights per RCW 39.108.070

Attachment 1

Regional Allocation of Transferable Development Rights per RCW 39.108.070

March 1, 2012

Per the requirements of Chapter 39.108.070 Revised Code of Washington, related to the Landscape Conservation and Local Infrastructure Program, the following regional allocation of eligible transferable developments are provided for eligible cities in the three¹ eligible counties.

Table 1: Allocation for Cities Meeting Eligibility Threshold in 2011

<i>City</i>	<i>Allocation</i>	<i>City</i>	<i>Allocation</i>
Arlington	273	Marysville	593
Auburn	596	Mercer Island	92
Bellevue	1,081	Mill Creek	92
Bothell	365	Monroe	212
Burien	273	Mountlake Terrace	92
Covington	92	Mukilteo	92
Des Moines	213	Puyallup	364
Edmonds	189	Redmond	587
Everett	1,491	Renton	849
Federal Way	444	Sammamish	215
Issaquah	452	SeaTac	561
Kenmore	213	Seattle	3,440
Kent	519	Shoreline	231
Kirkland	501	Tacoma	1,843
Lake Stevens	252	Tukwila	405
Lakewood	370	University Place	232
Lynnwood	461	Woodinville	218
Maple Valley	92		

Table 2: Allocation for Cities Targeted to Meet Eligibility Threshold in the Plan Horizon

Note: These allocations will take effect *when* the city meets eligibility threshold.

<i>City</i>	<i>Allocation</i>	<i>City</i>	<i>Allocation</i>
Bonney Lake	176	Sumner	236
Fife	166		

Support for Revisiting Allocations in 2017

The regional TDR allocation is based upon a number of factors that are fixed in time – the number of theoretically available TDRs from eligible sending area lands under existing county TDR programs, the number of eligible cities that meet the population and employment threshold within the planning horizon, and the first round of growth targets adopted in the central Puget Sound region to begin to align with the VISION 2040 regional growth strategy.

Given that each of these factors will change, and given the complexity of this new theoretically market-based tool, there was general support among the stakeholders in PSRC's LCLIP process for revisiting the county calculations and regional allocations. This work would likely be done in 2017, after the next round of comprehensive plans are updated.

Regional Allocation Methodology, per RCW 39.108.070

In the 2011 legislative session, the Washington State Legislature passed and the Governor signed Engrossed Substitute Senate Bill 5253 – the Landscape Conservation and Local Infrastructure Program (LCLIP). The program, now codified in RCW 39.108, provides a new voluntary infrastructure financing tool that is predicated upon a jurisdiction accepting transferable development rights (TDRs) from natural resource and rural lands.

RCW 39.108.030 to .050 require eligible counties to calculate and report to the Puget Sound Regional Council the total number of development rights that may be available on eligible natural resource and rural lands. RCW 39.108.070 then requires the Puget Sound Regional Council to regionally allocateⁱⁱ among eligible receiving cities the total number of development rights reported by eligible counties.

Each receiving city allocated share is to be determined by the Puget Sound Regional Council, in consultation with eligible counties and receiving cities, based on growth targets, determined by established growth management processes, and other relevant factors as determined by the Puget Sound Regional Council in conjunction with the counties and receiving cities. The allocation is to be reported to the cities and to the Washington State Department of Commerce on or before March 1, 2012.

A. Determination of Eligible Counties and Cities

RCW 39.108.010 – Definitions, Subsection 2 states:

Eligible county means any county that borders Puget Sound, that has a population of six hundred thousand or more, and that has an established program for transfer of development rights.

Based on the statute, PSRC has determined the eligible counties to be as follows:

- King County
- Pierce County

- Snohomish County

RCW 39.108.010 – Definitions, Subsection 16 states:

Receiving city means any incorporated city with population plus employment equal to twenty-two thousand five hundred or greater within an eligible county.

Neither this section of the statute, nor any others, provides a date by which the city must meet the eligibility threshold. Based on this, allocations are provided for all cities that meet the eligibility threshold as of the effective date of the bill (July 2011) and to cities targeted to meet the eligibility threshold within their growth targets planning horizon.ⁱⁱⁱ

The "growth targets planning horizon eligible cities," include Fife, Bonney Lake, and Sumner. The cities will be eligible to accept the allocations and use the LCLIP tool when they meet the threshold. With these cities included, PSRC has determined the eligible receiving cities^{iv} to be as shown in the following table.

Table 3: List of LCLIP Eligible Receiving Cities

City	Current Year		Horizon Year	
	Population and Employment	Eligible?	Population and Employment ^v	Eligible?
Arlington	26,096	✓	44,552	
Auburn	109,180	✓	150,620	
Bellevue	253,766	✓	327,093	
Bonney Lake	21,175	x	26,429	✓
Bothell	60,191	✓	83,920	
Burien	43,023	✓	74,687	
Covington	22,646	✓	25,071	
Des Moines	35,466	✓	45,428	
Edmonds	52,463	✓	60,231	
Everett	191,890	✓	318,625	
Federal Way	119,871	✓	149,973	
Fife	20,774	x	26,390	✓
Issaquah	48,158	✓	74,190	
Kenmore	24,633	✓	34,417	
Kent	153,909	✓	214,822	
Kirkland	83,362	✓	152,757	
Lake Stevens	31,090	✓	47,386	
Lakewood	83,995	✓	105,697	

<i>City</i>	<i>Current Year Population and Employment</i>		<i>Horizon Year Population and Employment^v</i>	
	<i>Total</i>	<i>Eligible?</i>	<i>Total</i>	<i>Eligible?</i>
Lynnwood	61,019	✓	97,797	
Maple Valley	26,558	✓	29,865	
Marysville	70,433	✓	117,698	
Mercer Island	30,155	✓	32,857	
Mill Creek	23,572	✓	26,100	
Monroe	24,940	✓	37,660	
Mountlake Terrace	28,026	✓	32,140	
Mukilteo	29,602	✓	32,843	
Puyallup	61,181	✓	80,121	
Redmond	136,050	✓	179,055	
Renton	144,094	✓	202,976	
Sammamish	46,141	✓	56,588	
SeaTac	52,530	✓	98,008	
Seattle	1,114,923	✓	1,374,937	
Shoreline	72,475	✓	82,177	
Sumner	18,889	x	29,669	✓
Tacoma	309,093	✓	436,821	
Tukwila	64,943	✓	92,253	
University Place	37,594	✓	47,972	
Woodinville	23,743	✓	33,384	

B. County Calculation of Available Transferable Development Rights

RCW 39.108.030 to .050 define the parameters by which the eligible counties designate TDR "sending areas" and calculate and report the theoretically available TDRs that may be available. Section .030 states that the county must designate all agricultural and forest land of long-term commercial significance within its jurisdiction as sending areas for conservation under the eligible county's program. Section .050 allows up to 1,500 TDRs on rural lands to be included if a county has met certain conservation and planning thresholds; as of the date of the calculation, only King County meets these thresholds.

Sections .030 to .050 further requires that counties calculate the number of TDRs available through base zoning and/or the county's TDR program, plus any TDRs already publicly or privately held but not redeemed. The counties were to report the number of TDRs to PSRC by September 2011.

The counties worked collaboratively through the Regional TDR Alliance^{vi} to develop a generally consistent methodology that took into account the following factors:

- zone type (agriculture, forest, rural),
- allowed development rights under base zoning (# of units allowed under zoning),
- program multipliers (allowed TDRs in county TDR programs that could exceed units allowed under zoning)
- removal of publicly owned parcels (unless eligible under county TDR programs),
- removal of parcels that are already protected under known conservation easements,
- removal of parcels without development potential because of size thresholds,
- determination of remaining development potential and net acreage on parcels with existing units (i.e., the number of additional units that could be built on the remaining net undeveloped acreage)
- inclusion of publicly and privately held TDRs, and
- inclusion of rural TDRs, where eligible.

Each of the counties used this calculation methodology, although minor differences remained given the differences in each of the county's zoning, resource land designation criteria, land development pattern, and TDR programs. Based on the consistent methodology, the following table shows the number of theoretically available TDRs that were reported to PSRC by the three eligible counties.

Table 4: County Calculation and Reporting on Available Transferable Development Rights

	<i>Number of TDRs</i>	<i>Sending Area Acreage</i>	<i>Share of TDRs</i>	<i>Share of Acreage</i>	<i>Percentage as Share of:</i>
King County	7,643	270,783	31.0%	33.4%	<i>Region</i>
Agricultural	2,313	24,143	30.3%	8.9%	<i>County</i>
Forest	2,259	99,829	29.6%	36.9%	<i>County</i>
TDR Bank	1,053	93,802	13.8%	34.6%	<i>County</i>
Privately held	518	45,509	6.8%	16.8%	<i>County</i>
Rural	1,500	7,500	19.6%	2.8%	<i>County</i>
Pierce County	5,371	230,507	21.8%	28.4%	<i>Region</i>
Agricultural	2,614	10,951	48.7%	4.8%	<i>County</i>
Forest	2,757	219,556	51.3%	95.2%	<i>County</i>
Snohomish County	11,619	310,245	47.2%	38.2%	<i>Region</i>
Agricultural	7,165	56,469	61.7%	18.2%	<i>County</i>
Forest	4,427	253,430	38.1%	81.7%	<i>County</i>
Local Forest	10	281	0.1%	0.1%	<i>County</i>
Privately held	17	65	0.1%	0.0%	<i>County</i>
Region	24,633	811,535	100.0%	100.0%	<i>Region</i>
Agricultural	12,092	91,563	49.1%	11.3%	<i>Region</i>
Forest	9,453	573,096	38.4%	70.6%	<i>Region</i>
Banked + Private	1,588	139,376	6.4%	17.2%	<i>Region</i>
Rural	1,500	7,500	6.1%	0.9%	<i>Region</i>

C. Compilation of Growth Targets

- PSRC is required to regionally allocate the total number of eligible development rights based on "growth targets...and other relevant factors" to eligible cities. Initial discussion with stakeholders in the fall of 2011 resulted general agreement to use growth targets and take a narrow technical approach, rather than to incorporate as-of-yet undefined other relevant factors. Based on this,
- PSRC worked with the eligible counties to compile their growth targets and develop a consistent, normalized set of population and employment figures.
- In Pierce and King counties, growth targets were recently updated to align with VISION 2040 and were therefore ready for use (note: however, final technical adjustments were still being made during the fall of 2011; these adjustments were completed in February 2012 – see footnote viii).

- In Snohomish County, growth targets were last adopted in 2006 (planning for the year 2025), and interim information was made available in 2010 titled *Vision 2040 Preliminary Growth Distribution Working Paper* in (planning for the year 2035). The targets in the working paper provide a preliminary, unofficial breakdown of possible post-2025 population and employment growth based on the VISION 2040 regional growth strategy. Beginning in October, PSRC worked with the membership of Snohomish County Tomorrow planning group to determine whether to use the adopted 2025 numbers or the 2035 numbers. In November, the Snohomish County Tomorrow Policy Advisory Committee made a consensus recommendation that the 2035 numbers be used for the regional allocation process.
- Having determined which targets to use for the eligible counties, PSRC staff made a number of technical revisions in order to create one consistent set of growth targets. Revisions included conversions from housing targets to population targets (in King County), consistent employment categories (in Pierce County), and consistent target horizon years (among all counties).
- The resulting measure, *Average Annual Targeted Levels of Population and Employment Growth per City*,^{vii} was applied to the total number of available TDRs (24,633) reported by the counties. Using this approach, if a jurisdiction is targeted to receive 5% of total regional growth, the jurisdiction was allocated 5% of total regional TDRs. The resulting initial draft TDR Allocations were published in December 2011; these were finalized in February 2011 to reflect the final King County residential targets.^{viii}
- D. Inclusion of "Other Relevant Factors"
- After the initial draft allocations were released, PSRC continued to work with stakeholders regarding the inclusion of "Other Relevant Factors." A number of potential factors were considered^{ix} in the period between January 2011 and February 2012. Shown below are the factors considered and the general agreement on whether to use or reject each one.

Table 5: Description and Conclusions Regarding Other Relevant Factors

<i>Factor</i>	<i>Conclusion</i>
General Agreement to Use	
Allocation to "planned" eligible cities	Allocate to cities that meet threshold based on growth targets. This allows three cities in Pierce County that were close to the eligibility threshold to use LCLIP <u>when</u> they reach the threshold. This broadens the number of eligible cities in Pierce County from 4 to 7, which slightly reduces other cities allocations. This factor is consistent with the statute that requires that PSRC allocate the total number of available TDRs to eligible cities but does not specify a date for eligibility.
Use a county sending-area "market discount factor"	This factor reduces the county calculation of TDRs by 25% and reflects the facts that not all landowners will participate and that county unincorporated lands will absorb a portion of the theoretically available TDRs. The market reduction factor reduces the total number of county reported TDRs for allocation from 24,633 to 18,576 . This factor is consistent with county practices under Buildable Lands (an analogous process of quantifying development potential) and consistent with the statute which requires counties to calculate the total number of TDRs "that may" be available.
Capped minimum allocation	Allocate .005% of the total number of TDRs to cities that had allocations below .005%. With the Sending Area Market Discount Factor noted above, the capped minimum is 92 TDRs. This ensures that cities that capture the county property tax increment support a meaningful level of conservation through TDR. This factor is consistent with the "other relevant factors" language in the statute.
General Agreement to Reject	
<i>Factor</i>	<i>Conclusion</i>
<ul style="list-style-type: none"> - County recalculations using base zoning - County recalculations to remove "smaller" parcels - Minimum allocation + share of remainder - Using "surplus capacity beyond the target" - Retain original proposal (with final King County targets) - Using a within-county calculation and allocation method 	<p style="text-align: center;">These factors were rejected based on a variety of technical, legal, or policy considerations.</p>

The net effect of the three Other Relevant Factors (i.e., the "planned" eligible cities, the .005% capped minimum allocation, and the sending area 25% market reduction factor) is shown in the following table. Also shown is how this compares to the revised final growth target-based allocations.

Table 6: Net Effect of Supported Other Relevant Factors

	<i>Final Target Allocations (2011 Eligible Cities)</i>	<i>All Supported Other Relevant Factors (All Cities)</i>	<i>Difference (# change)</i>	<i>Difference (% change)</i>
Arlington	295	273	(-22)	-8%
Auburn	824	596	(-228)	-28%
Bellevue	1,617	1,081	(-536)	-33%
Bonney Lake	-	176	-	-
Bothell	447	365	(-81)	-18%
Burien	296	273	(-23)	-8%
Covington	83	92	9	11%
Des Moines	197	213	16	8%
Edmonds	158	189	31	20%
Everett	2,287	1,491	(-797)	-35%
Federal Way	575	444	(-131)	-23%
Fife	-	166	-	-
Issaquah	588	452	(-136)	-23%
Kenmore	197	213	16	8%
Kent	699	519	(-179)	-26%
Kirkland	669	501	(-168)	-25%
Lake Stevens	260	252	(-9)	-3%
Lakewood	453	370	(-84)	-18%
Lynnwood	604	461	(-142)	-24%
Maple Valley	108	92	(-16)	-15%
Marysville	819	593	(-226)	-28%
Mercer Island	73	92	19	26%
Mill Creek	50	92	42	85%
Monroe	196	212	16	8%
Mountlake Terrace	88	92	5	5%
Mukilteo	78	92	15	19%
Puyallup	445	364	(-81)	-18%
Redmond	809	587	(-222)	-27%
Renton	1,238	849	(-389)	-31%
Sammamish	200	215	15	7%

	<i>Final Target Allocations (2011 Eligible Cities)</i>	<i>All Supported Other Relevant Factors (All Cities)</i>	<i>Difference (# change)</i>	<i>Difference (% change)</i>
SeaTac	767	561	(-206)	-27%
Seattle	5,475	3,440	(-2,036)	-37%
Shoreline	227	231	4	2%
Sumner	-	236	-	-
Tacoma	2,864	1,843	(-1,021)	-36%
Tukwila	512	405	(-107)	-21%
University Place	228	232	4	2%
Woodinville	206	218	12	6%
All Cities Totals	24,633	18,576	(-6,635)	-25%

Based on the figures shown in the preceding table, these three factors (shown in the column "All Supported Other Relevant Factors") are included in the proposed Final Allocation of Transferable Development Rights. The proposed Final Allocations are shown in Tables 1 and 2.

E. Adoption Process

At its March 8 meeting, the Growth Management Policy Board made a consensus recommendation that the Executive Board adopt the attached *Regional Allocation of Transferable Development Rights*.

[PROPOSED] At its March 22, 2012 meeting, the Executive Board adopted the regional allocations.

F. Notes and Sources

- i The three eligible counties include King, Pierce and Snohomish Counties. Kitsap County and its cities are not eligible per Revised Code of Washington 39.108.010.
- ii Revised Code of Washington 39.108, sections .070, .005 (2)(b), .010 (17)(18)(20), .030, .090 (7)
- iii Sources for county Growth Targets:
- *King County: Countywide Planning Policies Table LU-1 Adopted 2011 Targets.*
 - *Pierce County: County Council Ordinance 2011-36, Exhibit A, Table 1 and Table 3.*
 - *Snohomish County: Vision 2040 Preliminary Growth Distribution Working Paper, Attachment 4*
- iv Notes for 2011 Eligible Cities:
- a) *For the 2011 eligible cities, eligibility is based on 2011 Population Data from the Office of Financial Management (per RCW 39.108 (9) and 2010 Employment Data (per RCW 39.108 (3)) from the Economic Services Department, as adjusted and geo-coded by PSRC.*
 - b) *RCW 39.108 (3) states that employment data is to be based on Office of Financial Management (OFM) records. However, official employment data is not provided by OFM, but rather by the Economic Services Department.*
 - c) *PSRC has used 2010 employment figures. The 2011 employment figures will not be available until after the statutory reporting date.*
- v See footnote iii for county Growth Target sources.
- vi Members of the Regional TDR Alliance include: King County, Kitsap County, Pierce County, Snohomish County, Forterra, the Washington State Department of Commerce, and the Puget Sound Regional Council. Given that Kitsap County and its cities are not eligible under RCW 39.108, Kitsap County has not been actively involved in the LCLIP discussions.
- vii See footnote iii. Additionally, Local growth targets under GMA are structured differently in each of the three eligible counties. Working with the counties, PSRC created a consistent set of targets through three primary conversion and adjustments:
- a) *Convert to equivalent population and employment values. King County population targets were developed from adopted housing targets using conversion factors provided by county staff. Pierce County's total employment targets were converted to "adjusted employment" (using a conversion factor published in the adopted targets package) to create consistency.*
 - b) *Using the population and employment values at common planning horizons, create a standardized measure: Average Annual Targeted Levels of Population + Employment Growth per City.*
- viii During this December 2011 to February 2012 period, PSRC finalized the King County city residential targets to address persons-per-household assumptions, annexations and other technical issues. Based on these adjustments, growth shifted among King County cities. The overall amount of growth in these cities (i.e., growth shifted from ineligible unincorporated King County to eligible King County cities) is higher than what was provided in December 2011 by about 17,000 residents. This slightly increases King

County cities' share of total TDRs. No changes were made to King County employment targets, and no changes were made to Pierce or Snohomish counties employment or populations targets.

- ^{ix} PSRC held four meetings in the period between January and February 2012 with the eligible cities and counties and the Regional TDR Alliance.