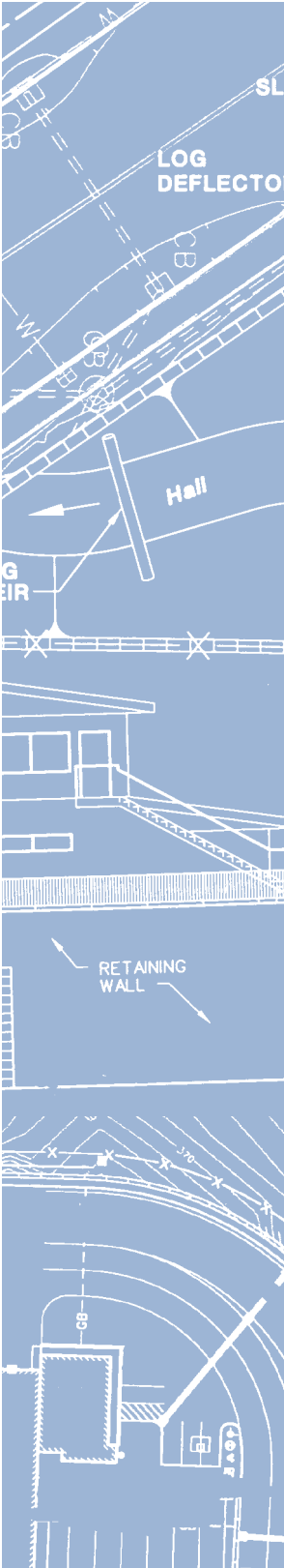




Transfer of Development Rights (TDR) ^{Bulletin} #69



Q: What is Transfer of Development Rights?

A: It is the process by which the development potential is severed from one property and transferred to another. The transfer seeks to achieve community land use goals that discourage development of important natural resource lands, considered “sending” sites, and encourage development of lands appropriate for more intense use, considered “receiving” sites.

Q: Why “sending” and “receiving” areas?

A: Sending and receiving areas are identified in advance on the Comprehensive Plan Land Use Map to provide notice to landowners and others that the transfer opportunity exists. The sending area delineation, an overlay to other land use designations such as farmland, indicates that development may be restricted through the use of the TDR program. The receiving area delineation is also an overlay to other land use designations such as low density urban residential and denotes that such land may be developed at the maximum density allowed under the Comprehensive Plan through the use of TDR. The receiving area may be located within a city.

Q: How does this “transfer” of development rights occur?

A: The transfer occurs between willing sending and receiving area landowners. The two negotiate an acceptable price, with the receiving area landowner paying the sending area landowner for the number of development rights being transferred. The sending area landowner benefits by receiving additional income beyond the traditional natural resource use. The receiving area landowner benefits by being able to develop land at a greater density than would otherwise be allowed.

Q: What is the goal of a TDR program?

A: The goal of a TDR program is to use market forces to help conserve important natural resource lands and redirect future growth to the most suitable areas.

Q: What is Snohomish County’s TDR program?

A: Snohomish County has been establishing a TDR program in phases. The initial phase consisted of a sending area delineation on floodplain farmland in the Arlington vicinity and the opportunity for farmland owners to sell their development rights. The second phase established a Comprehensive Plan designation of the receiving area to the east of Arlington. To complete this phase and wholly establish a TDR program, the City of Arlington and Snohomish County developed an Interlocal Agreement (ILA) and implemented regulations that outlined how TDR’s are to be used. This package of regulations and the ILA were approved in 2006. For the Arlington receiving area, at least 25% of the new single family residential dwellings in the receiving area and at least 50% of new multiple family dwellings in the receiving area must come from TDR’s.

Q: What is the schedule for completion of the TDR program?

A: Under the current Arlington area ILA and implementing regulations described above, landowners are able to propose urban level development in the receiving area and realize greater development potential than without them. Further refinements, including expansions to the sending and receiving areas to the program are possible in upcoming years.

Q: Is landowner participation in Snohomish County's TDR program voluntary or mandatory?

A: Sending area landowners have the option to offer their development rights for sale. If they choose not to participate, their land would retain current development potential. Regulations affecting receiving area lands require that TDRs be a condition of development approval in the receiving area.

Q: Is the County buying development rights?

A: The County has some funds available to purchase, hold, and potentially transfer development rights. Sending area farmlands under eminent threat of conversion are being targeted for this acquisition effort. This program, however, has quite limited funding and is intended to help jump-start private sector transactions.

Q: How would participating sending area properties be constrained from future development?

A: Participating landowners must grant to Snohomish County a Transfer of Development Rights Conservation Easement that would prevent any use or condition that could impair the agricultural production capability of the land. Key prohibitions are subdivision and the construction of non-farm structures. The landowner would retain fee simple ownership and the right to use the property for any agricultural use and carry on all normal agricultural practices consistent with regulations such as zoning, flood hazard, and shoreline.

Q: Would the granting of the TDR conservation easement authorize the general public to access the property?

A: No. The landowner would retain the right to exclude any member of the public from trespassing on the property. The landowner would also retain the right to sell, lease, or otherwise transfer the property to another individual.

Q: If I'm an interested farmland owner, what should I do next?

A: The first step would be to confirm that the property lies within the eligible TDR sending area. If so, the property owner should learn more about the program from the TDR Program Manager and consider submitting a TDR application to the Snohomish County Department of Planning and Development Services (PDS).

Q: How would a landowner obtain more information or apply to the TDR program as a sending area landowner?

A: The TDR Program Manager can be reached as follows:

Phone: (425) 388-3311, ext. 2203

Email: planning.div@co.snohomish.wa.us

In Person or Mail:

Long Range Planning Division

4th Floor County Admin-West Building

3000 Rockefeller Ave., M/S #604

Everett, WA 98201-4046

Q: What happens if a landowner submits an application as a sending area landowner?

A: PDS staff would review the application for completeness. When complete, PDS would calculate the number of development rights that are eligible to be transferred. A TDR letter of intent that documents this number and agrees to the issuance of a corresponding number of TDR certificates in exchange for a sending site conservation easement would be issued to the applicant. The applicant could then use this letter to market the development rights to potential purchasers. The actual issuance of TDR certificates, however, would occur only after County acceptance of a conservation easement.

Q: What is the basis for calculating the number of development rights that can potentially be transferred?

A: The calculation is somewhat complex but is based on the acreage of the proposed sending site minus any existing or proposed dwelling units (subject to Agriculture-10 acre zoning requirements), any area already subject to an easement restricting development, or any area within a designated floodway. Using the resulting “net” acreage, the number of transferable development units is then derived based on the net acreage total multiplied by the transfer density of 0.4. This number is the resulting Certified Development Rights available to market to receiving area landowners.

There is another calculation method for lots that are less than 10 acres but over 12,500 sq. ft., created before March 15, 2005 and not counted in the above calculations. The number of these types of lots is then multiplied by the transfer ratio of 4. This is equivalent to the transfer density of 0.4, which is based on 0.1 dwellings per acre on A-10 zoned land. See Calculation of “Certified Development Rights” worksheet for calculation steps.

Q: Is there a document that provides greater detail on this process?

A: Yes. Snohomish County Code 30.35A.030 establishes the sending and receiving area provisions of the TDR program. This code may be viewed by conducting a search on the County homepage: www.co.snohomish.wa.us.

Q: How do I purchase TDR Certificates?

A: The County, consistent with SCC 30.35A.070, will make available its purchased TDR Certificates through a public auction sale. An interested party could also inquire with Sending Area landowners for potential certificates, or contact the TDR Program Administrator at 425-388-3311 ext. 2203 for additional information.

This bulletin is intended only as an information guide. The information may not be complete and is subject to change. For complete legal information, refer to the Snohomish County Code.