

## Meeting summary

### Regional Transfer of Development Rights Policy Advisory Committee

Thursday, November 13, 2008

Attendees: Chair Mike Flynn, Mary McCumber, Michelle Conner, Nathan Torgelson, Mayor Margaret Larson, Don Stuart, Ivan Miller, Leonard Bauer. Commissioner Steve Bauer, Dick Carkner, and Judd Kirk were unable to attend.

Staff: Heather Ballash

Guests: Mark Beardslee, Bill Blake, Pete Lymberis, Darren Greve, Nicholas Bratton, Taylor Carroll, and Stefan Moritz.

#### **Public comment**

Carla Okigwe, Housing Development Consortium, said thank you for having the paper on affordable housing and TDRs prepared. They support conservation goals. Their main concern is when TDR or other density bonus programs for conservation and housing are the same and could compete with each other. In the report, there are some red flags regarding inclusionary housing and rent control. These are not legal in Washington State and should be deleted. She will submit detailed comments in writing.

The Committee discussed Commissioner Steve Bauer's comments to Heather Ballash about the recommendation that receiving areas be limited to cities. The Committee discussed the issue and reaffirmed their recommendation to limit receiving areas to cities for purposes of the regional TDR program. The focus of the program is on inter-jurisdictional transfers, but does not limit a county from designating receiving areas in the urban growth area under a local program. The Committee noted that they had several meetings to discuss the issue and the recommendation should not be changed. Mike Flynn will call Commissioner Bauer to explain it to him.

#### **Staff report**

Heather Ballash reported that the draft report from the Committee was under review for submittal to the Governor and the Legislature on December 1, 2008. She also reported that CTED has made a request to the Governor's Office for legislation to implement the Committee's recommendations, but that the legislation is not available for public review because it has not been approved. The Governor must approve all agency request legislation before it can go forward.

Heather invited staff from King County, Snohomish County and the City of Arlington to provide an update on their programs to the Committee.

Darren Greve, Transfer of Development Rights Program Manager for King County, first commended the authors of the paper. He stated that affordable housing and TDR

programs can co-exist and have co-existed in King County for years. The incentives are side by side, but affordable housing has a little more weight.

Mr. Greve provided information on a comprehensive plan update that includes changes to the King County TDR policies. The update was adopted by the Council in October and including the following changes:

- A pilot program is created for a minor expansion of the Black Diamond urban growth area contingent upon the developer buying TDRs. This would have to occur in the next four years.
- A provision is included for a TDR to be used as a mitigation option for a development project's greenhouse gas emissions that exceed a set threshold. A fixed amount of carbon reduction would be allocated to a TDR based on reduced vehicle miles traveled. This will fit within the County SEPA Ordinance for greenhouse gas emissions.
- A TDR could be purchased to obtain a traffic concurrency certificate in rural areas currently off limits for development – not additional density above what zoning allows. The TDR would be bought from land in the same travelshed, resulting in a net reduction of traffic. The TDR would allow the buyer to obtain a short plat now. The rural concurrency map for the County changed as part of the comprehensive plan update. The TDR could not be used for additional density and can only be used where concurrency creates a de facto moratorium.
- The density bonus for TDRs is increased from 150 to 200 percent in selected urban centers that have transportation-oriented development and walkability amenities, etc.
- A TDR can be purchased to increase an accessory dwelling unit from 1000 to 1500 square feet in the rural area.
- Areas zoned RA-10 will be able to sell one TDR per five acres.
- Areas zoned RA-2.5 can sell TDRs. This applies to the Vashon Island shoreline, for example.

Bill Blake, City of Arlington, and Mark Beardslee, Snohomish County, reported to the Committee regarding a public meeting held in Arlington on October 30 to talk about the TDR program. They received very thoughtful comments from farmers, developers, and citizens regarding implementation of the program. A handout was provided that summarizes the comments from the meeting.

### **Presentation and discussion of paper on affordable housing and TDRs**

Taylor Carroll and Nicholas Bratton, staff for CLC, presented a draft paper to the Committee entitled *Analysis of the Impacts of Transferable Development Rights Programs on Affordable Housing*. CLC staff were charged with looking at the relationship between TDRs and the provision of affordable housing, and of exploring how a TDR program can have a neutral impact on affordable housing or even help provide more affordable housing. The paper will be a basis for CTED technical assistance to communities to develop TDR programs.

The Committee provided feedback as follows.

Taylor and Nicholas were thanked for working closely with Seattle staff. Seattle is a good example of how the two programs can co-exist, e.g. the downtown Seattle program.

This compliments other efforts such as addressing climate change, that is trying to encourage more compact development. The Futurewise legislative proposal is for more compact development. The right mix of densities helps affordable housing. They did a good job of addressing the cost of growth issue.

Table 1 mixes 2008 income with 2006 housing figures – they should be for the same year. The housing numbers have changed a lot and should be more current.

The Theo Eicher study is purely econometric versus the kind of approach that the Washington Chapter of the American Planning Association uses based on correlations. For the buildable lands inventories, the property owners' predeliction to sell is the only market factor considered when there are others. Supply can affect pricing. Types of housing are forms of construction, not types of affordable housing. Try to moderate costs through subsidies, rather than with more supply. Pay attention to Judd Kirk's comments about streamlined permitting and affordability. Per Judd's presentation, think of ways cities can permit the uplift of value – drive toward mixed-use or commercial with some residential rather than towards higher density. Don't look at TDRs as a way to increase density, but to preserve land. It may provide affordable housing, but it doesn't need to.

If the paper was reviewed by affordable housing stakeholders they should be listed.

The paper helps a lot for Seattle. It is great to have recommendations about how jurisdictions tackle this issue.

CTED has TDR and affordable housing information. This paper brings them together.

We could have recommendations out of this for specific jurisdictions from CTED, e.g. for those wanting to be receiving areas and participate in affordable housing incentives. For example, if the Housing for Everyone Finance Tool (HEFT) passed.

When we talk about affordable housing programs, be clear about whether the product is affordable at time of purchase or mandatory with caps on future sales. With an increase in the gap between incomes and pricing, what is affordable today won't be affordable tomorrow. Need models based on affordability at the time of sale and remaining so over time. Seattle has a 50-year rent restriction based on income. Florida requires units be resold at affordable levels. The jurisdiction can purchase them. The first-time buyer becomes a one-time buyer because they can't make the step up to the next home when they sell if they don't have the equity.

CLC staff noted that a supplemental empirical study is being prepared by a University of Puget Sound economics professor. It looks at King County data on homes built with

TDRs and without TDRs in new subdivisions over the last 10 years. It will be available soon.

### **Committee Work Plan for Remaining Months**

CTED staff and the Committee are funded until June 30, 2009. The Committee discussed what they should work on in the remaining months. They made the following list of unresolved issues or tasks that need to be further explored by the Committee. Some initial discussion occurred around some of the issues. These could be the basis for a second phase of recommendations or CTED technical assistance for TDR programs.

- How do the uses of a regional TDR program compare to other existing land strategies to protect rural and resource lands and implement the Growth Management Act?
- What is the perpetuity of a development right in the receiving area? What happens if it becomes non-conforming. Can it be transferred to other parcels within the same receiving area? How fungible is the right?
- What about the perpetuity of a conservation easement on a sending parcel?
- Are there a sufficient amount of incentives for:
  - Counties to align with the regional TDR program;
  - Cities to participate;
  - Communities/neighbors to support; and
  - Developers to participate.
- What additional tools could cities adopt for funding amenities (including those in the AWC memo to the Committee)?
- Should TDRs be tied to urban growth area expansion?
- Are the problems around the use of Washington Wildlife and Recreation Program funds for TDRs from the Recreation and Conservation Office resolvable?
- Are there opportunities for the public and stakeholders to comment on the report? Did we get it right?
- How do we identify the infrastructure need tied specifically to TDR increments of density? How does it relate to overall infrastructure needs (and amenity needs) for an “urban center” that may be a receiving area? What is the need for up-front planning funds?
- Need “credible” sending areas to prioritize public spending.
- How does this coordinate with existing purchase of development rights (PDR) programs? Local and statewide urban TDR would contribute to statewide PDR program.
- Take advantage of and capture value from “givings” of property value – e.g. light rail station locations, UGA expansions, etc. Use the captured value to accomplish public benefit of resource and rural land.
- CTED technical assistance should address how to avoid impacts to the provision of affordable housing from TDRs.
- How do we advise local governments about the permitting process, such as creating a “by right” system?

- TDR bank issues – how do we resolve issues around creating a TDR bank in the future and what is the process for resolving those issues?
- TDR and ecosystem markets – how can TDR be used as a “mitigation tool”. E.g. King County’s new approach regarding concurrency or carbon credits. How does it relate to emerging ecosystem markets?
- Should we be quantifying the conservation need - i.e., how much do we want to transfer?
- Should the Committee reconsider inclusion of unincorporated UGAs as eligible receiving areas?

These items will be addressed in a remaining work plan organized into:

- Analysis
- Policy recommendations
- Funding ideas/recommendations
- Assistance/outreach

The report should be shared with the public and stakeholders for their response. Will this work for them and will they use the program?

**Next Meeting:**

**February 12, 2:00 p.m. – 5:00 p.m., (Puget Sound Regional Council)**