RESOLUTION #1676

APPROVAL OF THE RECOMMENDATIONS OF THE CONSERVATION FUTURES PROGRAM ADVISORY COMMITTEE AND INITIATING A PURCHASE OF DEVELOPMENT RIGHTS PROGRAM FOR FARMLAND PRESERVATION

WHEREAS, on December 2, 1996, by Ordinance #16380, the Skagit County Board of Commissioners enacted a property tax levy known as the Conservation Futures Tax as authorized by RCW 84.34.230 for the purpose of acquiring interests or rights in real property to protect farmland and critical areas; and

WHEREAS, Ordinance #16380 created the Conservation Futures Fund and called for establishment of a program advisory board to assist in program implementation; and

WHEREAS, the Skagit County Conservation Futures Program Advisory Committee ("the Committee") was appointed by the Skagit County Board of Commissioners on March 5, 1997, by Resolution #16475; and

WHEREAS, the Committee was charged with developing a recommended program plan for use of the Conservation Futures Fund, including criteria for selection of farmlands and critical areas to be preserved through County purchase of development rights; and

WHEREAS, the Committee met regularly during the period from April through July, 1997 in developing its recommendations on program design; and

WHEREAS, the Committee’s recommendations on program design were submitted to the Board of Commissioners in a report entitled “Skagit Farmland Legacy”, dated August 15, 1997; and

WHEREAS, the Skagit County Board of Commissioners held a public hearing on September 29, 1997 to take public comment on the recommendations contained in the “Skagit Farmland Legacy” report.

NOW, THEREFORE, BE IT RESOLVED AND HEREBY ORDERED by the Board of County Commissioners as follows:

1. Program Approved. The purchase of development rights (PDR) program recommended by the Conservation Futures Program Advisory Committee in its report “Skagit Farmland Legacy”, dated August 15, 1997, is hereby approved. (Attachment “A”)

2. Program Implementation Responsibilities. The Conservation Futures Program Advisory Committee will take the lead role in implementing the approved Skagit Farmland Legacy program. The Committee will continue
to report to the Skagit County Board of Commissioners. Administrative support and oversight will be provided by the Skagit County Administrator, an ex officio member of the Committee. Consistent with the program authorized herein, the Committee will be responsible for hiring staff to initiate and carry out the Skagit Farmland Legacy program under the direction of the committee. Subject to review and approval by the Skagit County Administrator, the Committee is authorized to develop and implement a cost effective program budget within the limits of the Conservation Futures Fund: PROVIDED THAT final selection of properties for development rights acquisition must be approved by the Skagit County Board of Commissioners.

WITNESS OUR HANDS THE OFFICIAL SEAL OF OUR OFFICE THIS 24th day of November, 1997.

BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON

Harvey Wolden, Chairman

Robert Hart, Commissioner

Ted W. Anderson

ATTEST:
Patti Chambers, Clerk of the Board
Skagit Farmland Legacy

Recommendations
of the Conservation Futures Program Advisory Committee
on Creating a Purchase of Development Rights Program
for Farmland Preservation

Skagit County, Washington
August 15, 1997
Skagit County Board of Commissioners

Bob Hart, First District
Harvey Wolden, Second District
Ted W. Anderson, Third District

Conservation Futures Program Advisory Committee

Randall Good
David Hedlin (Vice Chairman)
Curtis Johnson (Chairman)
Carolyn Kelly
Alan Merritt
Keith Wiggers
Chip Wiles

Ex Officio Committee Members

Roxanne Michael, Director Planning and Permit Center
Mike Woodmansee, County Administrator

Staff Support

Tom Karsh, Assistant Director Planning and Permit Center

Consultant Support

Nancy Fox, Cedar River Associates
Tom Byers, Cedar River Associates
Gene Duvernoy, Duvernoy Land Use and Environmental Services
# Recommendations of the Conservation Futures Program
## Advisory Committee

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## Appendices

A. Glossary
B. List of Major Highways
C. Sample Conservation Easement (Appendix C published under separate cover)
I. Background

This report presents the recommendations of the Conservation Futures Program Advisory Committee on design of a purchase of development rights (PDR) program to preserve prime agricultural lands and critical areas in Skagit County, to be funded through the County's recently enacted Conservation Futures Tax. The recommendations address site selection criteria and process, terms of conservation easements, program finance and a plan for staffing and implementation. In addition, the report provides recommendations on leveraging funds from other fund sources and maximizing the effectiveness of development regulations and incentives in support of the program. Key terms highlighted in bold type on this page are defined in Appendix A.

Program Concept
PDR programs have been established in many localities across the country as a means of protecting farmland for long-term agricultural use. PDR is a voluntary program which enables property owners to sell their development rights to the County, while holding fee simple title to the land and continuing to farm. The easement places permanent restrictions on future use and development of the land in order to protect its agricultural character and productivity. Easements are held by the County in perpetuity and are not transferable. The property owner continues to own the land and may sell the farm if he or she chooses, but the development restrictions run with the land.

Project History
In December, 1996, the Skagit County Board of Commissioners adopted legislation (Ordinance No. 16380) enacting the Conservation Futures Tax. Collection of the new property tax, levied at a rate of $0.0625/$1000 of assessed valuation, began January 1, 1997. The legislation also called for creation of a citizens advisory committee to make recommendations to the Board of Commissioners on design of a PDR program to preserve farmland and critical areas, funded through Conservation Futures Tax revenues.

The Conservation Futures Program Advisory Committee was appointed in March, 1997 (Board of Commissioners Resolution No. 16475). The committee includes representatives of each Councilmember district, the Skagit County Soil Conservation District, the Skagit Land Trust, the Skagitonians to Preserve Farmland, and one at-large member. Meeting approximately every two weeks from mid-April through July, the committee developed these recommendations on program design.

Next Steps
It is expected that the Board of Commissioners will review these recommendations, hold a public hearing and take action on the recommendations in September of this year. This will enable the program to be launched this fall, with the first farms protected through purchase of development rights under the program in mid-1998.
II. Program Principles

The committee established a set of program principles to guide its work in designing the PDR program. These principles are intended to clarify the goals and basic parameters of the program:

1. The program must be voluntary, including only those landowners who wish to participate.

2. A primary goal should be to preserve and enhance a critical mass of farmland to sustain the farm-related businesses and activities that are necessary to support the agricultural industry in Skagit County.

3. Key farmlands which are under pressure for residential or commercial development should be targeted by the program.

4. To be effective, the program must offer a financially attractive option for farmers and landowners.

5. The program is only one of many tools necessary to preserve farming and farmland in Skagit County. It should be closely coordinated with other local programs (i.e., tax incentives, agricultural zoning, economic development assistance, etc.).

6. To the maximum extent possible, the program should leverage other public and private fund sources and property owner incentives.

7. The design and implementation of the program should be based upon successful models of other programs around the country.

8. A long-term local commitment will be required to successfully implement the program and provide for ongoing monitoring and enforcement.
III. Site Selection Criteria

A clear set of site selection criteria is needed to define which lands are eligible to participate in the program, and which lands should receive priority for funding. The criteria must reflect the core values of the program, must be understandable, and must be specific enough to provide a basis for distinguishing among competing properties submitted for consideration.

Site selection criteria from a number of other jurisdictions were reviewed as a starting point for this list, which was then tailored to reflect the particular characteristics of Skagit County farming and farmland. The recommended criteria include both an Eligibility Requirement, which defines the properties eligible for consideration in the program, and a series of Evaluation Criteria, which provides a basis for ranking competing properties.

The evaluation criteria attempt to strike a balance between two of the key program principles guiding the committee’s work: the desire to preserve a critical mass of farmland, and the need to target key farmlands which are currently under pressure for development. It is recognized that those lands under the most immediate threat of development will tend to be more expensive than less threatened properties, and targeting these lands for acquisition may reduce the overall number of acres to be preserved. However, the committee concluded that both goals are important; therefore the criteria strive to protect threatened lands, particularly buffer areas surrounding urban centers, while also taking into consideration the cost effectiveness of each purchase.

The proposed criteria rely upon a numerical evaluation system in order to simplify the site evaluation process and to make it fair and understandable. It should be noted, however, that the criteria cannot possibly anticipate or address all of the unique characteristics which are likely to be presented as actual property submittals are reviewed. Therefore the numerical guidelines under each criterion should be viewed as guidelines. with the common sense of the reviewers being called into play as numerical ratings are assigned. The proposed point system reserves 20% of the evaluation points (20 points out of a possible 100) for site selection committee discretion, so that the strategic value of each property can be carefully weighed in the final rankings. (See Section IV on Site Selection Process.)

Recommended site selection criteria:

Eligibility Requirement

To be eligible to participate in the PDR program, a property must be zoned by the County as “Agricultural Natural Resources Land.”
Evaluation Criteria
Note: The characteristics listed under each factor are intended to serve as benchmarks for the rating; Point levels in between the levels noted may be applied.

I. Quality of Farmland (Total points available = 20)

A. Soil quality

75+% of site is classified "prime soil*"................................. 5 points
50-75% of site is classified "prime soil*"............................. 3 points
under 50% of site is classified "prime soil*".......................... 0 points

* As defined by the USDA Natural Resource Conservation Service (formerly the Soil Conservation Service).

B. Size of farm
(This refers to the size of a contiguous parcel submitted for consideration. Parcels which are physically separated shall be considered under separate applications to the program.)

100 + acres............................................. 10 points
70-100 acres........................................... 7 points
40-70 acres........................................... 4 points
25-40 acres.......................................... 1 point

C. Economic productivity: Is the site being actively farmed for economic purposes?

Farm yields $30,000/year or more in gross receipts............... 5 points
Farm yields less than $30,000/year in gross receipts........... 0 points

D. Proximity to farmland or other property restricted as open space.
(Includes properties subject to an existing conservation easement or variance restriction, lands publicly owned as open space, and farms under application for the PDR program.)

Site is adjacent to restricted property............................. 5 points
Site is within 1,500 feet of restricted property ................... 3 points
Site is within 2,500 feet of restricted property ................... 1 point
II. Threat of Conversion (Total points available = 40)

A. Proximity to urban development

Farm is located within 600 feet of intensive commercial (non-agricultural) development, commercial zoning, or urban growth boundary.......... 10 points

Farm is located 600 to 1,500 feet from intensive commercial (non-agricultural) development, commercial zoning, or urban growth boundary........... 7 points

Farm is located 1,500 to 2,500 feet from intensive commercial (non-agricultural) development, commercial zoning, or urban growth boundary.......... 4 points

B. Proximity to major highways or highway intersections

(For purposes of this evaluation, “major highways” means roads with a daily traffic volume of 3,000 or more trips. A list of roads currently meeting this definition is included as Appendix A to this report.)

Property is within 1,500 feet of an intersection of I-5 or State Route 20 or State Route 534.............................10 Points

Property is within 1,500 feet of the intersection of two other major highways.................................8 Points

Property fronts on a major highway...............................6 Points

Property is within 2,500 feet of a major highway.............4 Points

C. Availability of sewer service

Sewer service is available to the property........................10 Points
Sewer lines are located within 1,500 feet of the property.....7 Points
Sewer lines are located within 2,500 feet of the property.....4 Points
Sewer lines are located within 4,000 feet of the property.....1 Point

D. Urgency of sale and/or ease of conversion

Imminent sale, personal circumstances of owner, ease of conversion due to suitability of the site for septic fields, presence of substandard lots, etc. create immediate threat of conversion to non-farm use..................Potential Points: 0 to 10.
III. Scenic and Environmental Values (Total points available = 10)

A. Critical areas: A wetland or Fish and Wildlife Habitat Protection Area* of significant environmental value is located on the property. Native Growth Protection Areas* including such features shall also be considered. [* as defined in the County’s Critical Areas Ordinance and/or Comprehensive Plan]

- Large critical area feature with exceptional value............5 points
- Moderate size critical area feature with some value........3 points
- No critical areas on site...........................................0 points

B. Scenic value

- Property offers exceptional scenic views from a major highway or other public viewpoint............................................................5 Points

- Property offers some scenic views from a major highway or other public viewpoint...............................................................3 Points

- Property does not offer scenic views from a major highway or other public viewpoint..........................................................0 Points

IV. Financial Considerations (Total points available = 10)

A. Bargain sale/Opportunities for Leveraging
Due to a bargain sale and/or opportunities for leveraging other fund sources, the purchase price for development rights is:

- 50% or less of full value .................. 10 Points
- 50-70% of full value..................... 6-9 Points
- 70-90% of full value...................... 2-5 Points
- 90-99% of full value...................... 0-1 Point

V. Site Selection Committee Discretion (Total points available = 20)

In addition to the criteria listed above, the Site Selection Advisory Committee shall assign 0-20 points to each site to reflect the strategic value of the property and/or other site-specific conditions not adequately reflected in the criteria listed above. In assessing the strategic value of a farm, the committee will consider the extent to which preservation of an individual site -- because of its location, history, visibility, function, etc. -- would contribute toward protection of other highly productive farms in Skagit County.
IV. Site Selection Process

The experience of most jurisdictions with existing PDR programs is that, after an initial start-up period, applications generally outpace the funds available for purchase of development rights. A site selection process must therefore provide a means of choosing which sites to fund from a list of available properties.

Two key issues were addressed by the committee in setting a framework for the site selection process: (1) Should applications for the program be accepted on a “rolling” basis, or “batched” in a series of competitive rounds?; and (2) Should the value of the development rights to be purchased be determined through site-by-site appraisals, or through a pricing formula? Following are the committee’s recommendations on these questions and the overall site selection process.

A. Applications Rounds

The committee determined that batching applications into a series of 2 -3 application rounds early in the program, funded by selling bonds to be retired with Conservation Futures Tax revenues, was preferable to accepting applications on a rolling basis as money becomes available. Batching of the applications will give the County an opportunity to compare the value of different sites and, if sufficient interest is generated, foster competition among interested property owners. Such competition may encourage property owners to offer their development rights at reduced prices in order to improve their chances of being selected for acquisition.

Recommendation 1: The County should offer two or more application rounds as needed to utilize all of the bond funds available for the first phase of acquisitions. (See Section IX for recommendations on bonding.)

Recommendation 2: Applications should be accepted on an ongoing basis, with clearly publicized deadlines for the next review cycle. The deadlines will be six or more months apart.

Recommendation 3: Following the first round of acquisitions, the County should reassess its process and the site selection criteria and determine the need for refinement or revision of the criteria.

B. Valuation of Development Rights

The committee concluded that there are significant advantages to developing a pricing formula rather than relying on site-by-site appraisals to determine the price of development rights for each property. Development of such a formula will require some additional investment of time and resources at the front-end of the program, specifically
technical assistance from a real estate appraiser. However, the potential benefits appear to far outweigh this expense.

The advantages of a pricing formula include: Saving significant costs over the life of the program by eliminating the need for site-by-site appraisals (at approximately $1,500/site); Letting property owners calculate the price of development rights before deciding whether to apply to the program; Providing greater predictability for property owners and the County; Cutting down on wasted time and money by avoiding review of applications and negotiation with property owners who ultimately withdraw because they are dissatisfied with the price; and speeding up the overall application and real estate transaction process.

In order to develop a pricing formula, the County will need to invest in some technical assistance. Development of the formula will require conducting sample appraisals, undertaking analyses to determine the primary variables affecting price of development rights in different parts of the County, and calibrating a formula to accurately reflect those variables. The key variables are likely to be: number of building sites eliminated, amenities making the site attractive for development, residential appeal of the site, and cost of development on the site.

Recommendation 4: The County should provide the necessary resources for technical assistance to enable the Advisory Committee to develop a pricing formula as soon as possible.

Recommendation 5: The pricing formula should be simple and fair, and automated to allow potential applicants and program staff to examine and compare the price of various land configurations.

Recommendation 6: The pricing formula should be approved by the Board of Commissioners before the first application round is opened. The pricing formula should be reviewed (and amended if necessary) on an annual basis.

C. Outline of Site Selection Process

Assuming the elements recommended above, the site selection process should be organized generally as follows:

1. Preapplication Process
   • The application process, pricing formula, and application deadline are publicized and application packets are distributed by program staff. (See Section VIII, Program Staffing)
   • Interested property owners meet with program staff as needed for assistance in completing the application or evaluating their options.
2. Application Submittals
- Property owners submit completed applications.
- Applications indicate whether any deviation from the standard easement provisions is sought and, for bargain sales, what discount the landowner is willing to offer. (See Section V, Conservation Easements)

3. Preliminary Screening
- Program staff reviews the application and confirms eligibility of the site.
- Program staff completes preliminary review and assigns points to the objective factors in the rating sheet.
- Program staff engage in discussions with property owner, if necessary, concerning any special easement conditions requested.

4. Advisory Committee Review
- The Conservation Futures Program Advisory Review Committee reviews and confirms (or adjusts) the preliminary site evaluations, assigns discretionary points if appropriate, and finalizes the ranking of sites.
- Applicants will have an opportunity to review and respond to the rating of their property. The committee will establish procedures for considering such input and making corrections to site evaluations if warranted.
- The Advisory Board completes recommendations on sites for purchase of development rights.
- Working closely with the affected property owners, program staff prepares a baseline conditions report which documents the characteristics and current conditions on each site recommended for acquisition of development rights.
- Program staff seeks written confirmation that property owner is willing to sell his/her development rights.

5. Board of Commissioners Approval
- The Board reviews the Advisory Committee recommendations and takes action to approve or modify the list of sites recommended by the committee.
- Formal offers are sent to property owners.
- Title research and documentation is completed.
- Final documents are prepared and recorded by the County, and filed with the Conservation Futures Program office.
V. Conservation Easements

A conservation easement is a legal agreement signed by a property owner which restricts certain activities and uses on the property. It is the legal mechanism by which the County will purchase the development rights to farmland under the Conservation Futures Program.

The committee recommends that the key elements listed below be included in a standard conservation easement for the program. Sample easement language is included in Appendix C. The standard easement should be the starting point for negotiation with property owners; it is recognized that individual circumstances and preexisting uses may require minor variations from the standard provisions. Some variations may impact the price of the easement as determined by the pricing formula.

Conservation Easements: Key Provisions to be Included

1. **Purpose**: The purpose of the easement is to preserve the site for long-term agricultural use. An additional purpose shall be to protect any significant critical area feature on the property identified as a basis for giving priority to the site in the site evaluation process.

2. **Permitted uses**: Uses to be permitted shall include only soil-dependent agricultural uses and auxiliary functions as identified in the easement. Examples of permitted uses include:
   - planting, raising and harvesting fruits, vegetables and other field crops;
   - breeding and raising of livestock, bees and poultry;
   - tree cutting and timber harvest;
   - processing, storage and sale of agricultural products produced principally on the site;
   - residential uses existing at the time the conservation easement is established:
     - and
   - bed and breakfast establishments providing transient accommodations, with up to five bedrooms.

3. **Prohibited uses**: All uses inconsistent with the purposes of the easement are prohibited. Examples of prohibited uses include:
   - any new housing on the site (existing houses may be expanded or replaced);
   - kennels;
   - recreational uses such as golf courses and athletic fields; and
   - mining.

4. **Impervious surface**: The area covered by structures and impervious surfaces such as asphalt, concrete or gravel shall be limited to 5% of the site.
5. **Stewardship:** The property must be maintained for long-term agricultural productivity. No activities violating sound agricultural soil and water conservation management practices shall be permitted. Compliance with a conservation plan approved by the Skagit County Soil Conservation District would be evidence of compliance with this standard, but such plans are not required.

6. **Signs:** Billboards and other commercial signs, except those directly related to a business on the property, shall not be permitted.

7. **Notifications required:** The property owner is responsible for notifying program staff 30 days before any of the following actions occur:
   - sale or conveyance of the property;
   - construction of any buildings, structures or improvements; or
   - grading or paving.

8. **Subdivision:** Subdivision and short platting of property is prohibited. Lot boundary adjustments with an adjacent farm subject to a conservation easement are permitted.

9. **Access to the site:** Nothing in the easement shall convey the right of public access. Program staff shall have the right, with prior notice, to visit the site on an annual basis to monitor compliance with easement restrictions and shall have the right to visit at other times if there is cause to believe a violation is occurring.

10. **Termination:** Conservation easements shall be effective in perpetuity. The easement can be terminated only if a court with jurisdiction determines that agricultural use of the site is no longer possible. If this occurs, the property owner must purchase back the development rights to the property at the market value for such rights at the time the easement is terminated. The County will return any such proceeds to the Conservation Futures Fund for use in purchasing development rights on other eligible sites under the program.

11. **Amendments:** The conservation agreement may be amended in the future by agreement between the County and the property owner, but only if the effect of the amendment would be to better serve the stated purpose(s) of the easement. Amendments which would reduce the effectiveness of the easement in meeting its purpose shall not be permitted.
VI. The Role of Critical Areas

In authorizing the Conservation Futures Program, the Skagit County Board of Commissioners identified both farmlands and critical areas as eligible properties for participation in the program, leaving the Advisory Committee to make recommendations on what role critical areas should play in the program. The committee has given careful consideration to this issue, recommending measures to support critical area conservation efforts while keeping the focus of initial Conservation Futures acquisitions on agricultural lands.

Given that strong public support for farmland preservation was the principal impetus for enacting the Conservation Futures Tax to support farmland preservation, and given that available funds can protect only a small percentage of the County’s prime farmland (about 2-5% in initial acquisitions), the committee has designed the proposed program with agricultural lands as the clear focus of the initial acquisition program. Nevertheless, the program is also designed to actively support critical area objectives and to allow increased investment in critical areas in the future. Critical areas are addressed in the following ways:

1. Critical areas are recognized as a valuable asset in the site evaluation and rating system. The site selection criteria specifically give credit for the presence of critical area features (wetlands, wildlife habitat and riparian corridors) on a farm. Sites which support both agriculture and sensitive environmental features will thus be given priority for acquisition. Specific protections for valuable critical area features will be incorporated in the conservation easement for any selected site.

2. The program will actively seek to leverage funds available from other sources to match or supplement Conservation Futures funds. A number of fund sources identified in this report are specifically directed at preservation of wetlands and critical wildlife habitat. By taking advantage of these programs, the County can do “double duty” with its investment. If the presence of a critical area feature on a site results in matching funds from another fund source, this will further raise the site’s ranking in the evaluation process.

3. The committee recommends that the site selection criteria should be reevaluated after the initial acquisition program based on bonding is complete, providing an opportunity to increase the weight given to critical areas in future acquisitions. Even if the current revenue stream is fully committed to bonding for agricultural land preservation, additional revenues beyond those required to retire this debt are expected to begin accruing soon, due to increases in property values within the County. If assessed value were to rise at 10% per year, reflecting the average rate of growth in Skagit County over the past 20 years, excess revenues from Conservation Futures will be more than $250,000/year 5 years from now and close to
$700,000/year 10 years from now. These additional funds can be targeted to the areas of greatest need in the future.
VII. Monitoring and Enforcement

Conservation easements are forever, and therefore require an ongoing partnership between the County and participating property owners to insure the long term stewardship of these lands. The County has a responsibility to enforce the easements, ensuring compliance with easement restrictions and prompt resolution of any violations which do occur, in order to protect the public's significant financial investment in this program. Furthermore, the long-term success of the program will be enhanced by establishing a supportive relationship and open communications with the County's farming community.

Key functions in ongoing stewardship of agricultural lands subject to conservation easements include the following:

- **Monitoring** – Visiting each site at least once every two years to determine compliance with the terms of the easement; documenting property conditions in a report to be kept on file in the Conservation Futures Program office; taking photographs and including them in the file.

- **Enforcement** – Following up on any potential violations of the easement conditions and attempting to resolve problems with the property owner; taking legal action if necessary to enforce the easement.

- **Interpretations** – Working with property owners to resolve uncertainties about what is permitted under the easement.

- **Outreach** – Educating realtors and new property owners about easement restrictions.

- **Complaints** – Responding to any complaints from neighbors or the general public about potential violations of the easement.

- **Permit review** – Reviewing applications for development permits, subdivisions, etc. to determine consistency with easement restrictions. (This function should be carried out primarily by the County’s Planning and Permit Center staff as part of the permit process.)

- **Amendments** – Responding to requests for amendments (if any).

A rough estimate of staffing needed to steward the properties protected by the initial acquisition program is .25 FTE (full-time equivalent). Estimated cost is about $20,000 in today's dollars, including benefits and clerical support. This cost will increase somewhat in the future as more properties are added to the program after the initial rounds of acquisition.

**Recommendation 1:** The ongoing functions of monitoring and enforcement of conservation easements are critical to the success of the program. The County must make a long-term commitment to staffing the stewardship of lands participating in the program.
Funding Stewardship Activities: A key issue discussed by the Committee is how the County should fund stewardship activities. The committee’s preference is to set-aside funds with each acquisition to provide sufficient investment income over time to support stewardship activities. However, the Conservation Futures Tax cannot be used for this purpose according to state law.

Recommendation 2: The County should seek to identify a dedicated fund source to support ongoing stewardship activities.

Recommendation 3: Until a fund source is identified, the County should provide adequate funding for stewardship from its General Fund through the annual County budget process.
VIII. Program Staffing

Staffing Needs

Staffing needs of the program will be the most extensive during the first three years of the program when the initial acquisition program is underway. During this time, it is estimated that the staffing requirements to carry out the program are about 1.5 FTE (full-time equivalents), including a full-time program director and half-time clerical support. Staffing requirements will be reduced following the initial acquisition program; ongoing staffing (including monitoring and enforcement) will require a half-time director and some limited clerical support.

Options

In considering staffing options, the committee assumed that new program functions cannot be absorbed by existing County staff. The options identified for new staffing include: (1) hiring 1.5 new County staff positions to complete the work; (2) contracting out some elements of the work to outside consultants or existing service organizations; and (3) contracting out the full program administration through an RFP (request for proposal) process.

Staffing Costs

Assuming full County staffing of the program, a director position at approximately Range 28 in the County’s salary schedule would be required. Staffing costs under this option, including benefits and clerical support, would be about $70,000/year for the first three years of the program. (Note: This cost represents less than 5% of the total initial acquisition costs, which is generally considered a reasonable target for PDR programs.) Additional costs of operating the program would include office space, furniture and equipment. Property-specific acquisition costs such as those associated with title research and developing the real estate transaction documents would also be incurred. Efforts should be made to achieve in-kind contributions from title companies, law firms, etc. whenever possible to support the transaction process.

If the County contracts with an outside organization for some or all of the program functions, staffing and other operating costs may be somewhat different. It is possible that an existing organization could absorb this program with some greater efficiency than the County, thereby reducing program costs. However, it is not possible to accurately estimate the cost of a service contract. This would be determined through the RFP process.
Recommendations

Recommendation 1. The committee recommends entering into a service contract as the preferred option for program staffing.

A service contract is favored over staffing by County personnel because: the process for contracting is faster than the hiring process for County staff; a contract arrangement avoids the need to cut back or lay off County staff when workload demands are substantially reduced after the first three years of the program; and a service contract would lend itself more easily to creating an “independent” identity for the program, thereby facilitating communication with farmers and helping to keep the program well-focused.

Whichever staffing option is utilized, the Committee identified several important requirements which should be met:

- Program staff must have good knowledge of Skagit County and of County government;
- Communication skills are extremely important;
- The staff must be able to work well with and provide a strong linkage to the farming community; and
- There must be continuity in program staffing.

The Committee indicated its interest in being involved in the hiring process for program staff.

Recommendation 2. The County should consider housing the Conservation Futures Program at the Agricultural Service Center, with the Skagit Soil and Water Conservation District.

The committee identified the Skagit Soil and Water Conservation District, located at the Agricultural Service Center, as a logical place to locate the Conservation Futures program. The district already has a solid base of communication with the farming community, and is recognized as support agency for farmers. Given the voluntary nature of the Conservation Futures Program, this office might be a good match. There could also be economies associated with locating the staff where they could share support staff and facilities with another program.
IX. Financing the Program

The Conservation Futures Tax enacted by the Skagit County Board of Commissioners last year is the dedicated fund source for this program. Initial estimates are that the tax will bring in about $380,000 in its first year, an amount which will likely grow over time as the assessed valuation of property in the County increases.

The Committee considered two options for structuring the program: (1) a “pay as you go” option based on incoming tax revenues; and (2) sale of bonds pledged against incoming tax revenues to provide significant acquisition resources early in the program.

Recommendation 1: The Committee recommends that the County sell bonds against 100% of current CFT revenues (supporting approximately $4.5 million in bonds with a 20 year term to fund the acquisition program and administration of the program. This option has the following advantages over the “pay as you go” option:

- The $4.5 million will allow the County to begin to preserve a critical mass of farmland. Acquisitions relying exclusively on incoming revenues would proceed much more slowly;
- A larger initial program allows the County to preserve more lands that are threatened today, that may be sold or developed in the next 3 - 5 years.
- Interest rates are generally low today, relative to long term historical averages.
- The cost of development rights is relatively low now, but is likely to rise significantly in the future. Bonding will allow Conservation Futures dollars to go further.

Recommendation 2: To the extent possible, bonds should be sold on an “as needed” basis, timed to coincide with the PDR application rounds. The first bond sale should occur after the first round of applications has been received and preliminarily reviewed. Interfund loans from other County accounts may be needed to bridge the gap if funds are needed before bond funds are available.

Recommendation 3: A variety of flexible and creative payment options should be offered to meet individual property owner needs. Many jurisdictions with PDR programs offer property owners a variety of options with regard to the timing of payments for their development rights. “Installment sales”, in which the payments are spread out over a period of time rather than paid up front as a lump sum, can provide significant tax savings or deferrals for property owners and at the same time reduce the County’s need for large sums of money up front. For example, a County may agree to pay an owner interest on the value of their development rights for a period of 20 or more years, followed by a single lump sum payment of principal at the end of the purchase agreement. Tax benefits due to deferral of capital gains tax accrue to the property owner, while the interest payments may be tax-exempt. The County also has a range of options on how to finance the extended payments; one county purchases heavily discounted “zero coupon” bonds to cover its eventual payoff of PDR sales.
X. Leveraging Conservation Futures Dollars

The Conservation Futures Tax is expected to generate about $380,000/year beginning in 1997, supporting a potential bond sale of approximately $4.5 million. If development rights on agricultural lands sell for an average of $1,000 - $2,000/acre, the Conservation Futures Program will provide for the purchase of development rights on approximately 2,225 - 4,500 acres of land, or about 2% to 5% of the County’s designated agricultural lands, in its first phase of acquisition. While this sum is significant, it still represents only a small percentage of the prime farmland targeted for preservation. For the Conservation Futures program to be successful in the long run, every effort must be made to leverage additional funds from other sources. Development regulations and incentives must work in tandem with the Conservation Futures program (See Section XI.) Furthermore, the County cannot do it alone; its program will be strengthened by working in partnership with local land trusts and other affected agencies.

**Recommendation 1:** The County should work in active partnership with existing land trusts in the County, the Skagit Land Trust and the Skagitonians to Preserve Farmland, as well as applicable resource agencies and organizations to maximize the overall effectiveness of farmland preservation efforts in Skagit County.

As the County moves forward with implementation of the Conservation Futures Program, it should be recognized that existing land trusts in Skagit County can and will continue to play an important role in farmland preservation. While the County with its taxing authority has a unique role to play, the land trusts may be more successful at some other functions such as private fund-raising, educating farmers about the program, promoting the gifting of development rights, and monitoring conservation easements. In developing its implementation plan for the Conservation Futures Program, the County should aim to take advantage of the special strengths of each entity, to minimize any overlap or duplication of efforts, and to maximize overall the effectiveness of the program. The program should also seek maximum coordination with resource agencies and support organizations such as the National Resource Conservation Service (NRCS), the U.S. Fish and Wildlife Service, the State Department of Fish and Wildlife, Pacific Coast Ventures, the Skagit County Farm Bureau, the Cattleman’s Association, the Farm Crops Association and the Dairy Federation.

**Recommendation 2:** The County should aggressively seek to leverage resources from other fund sources to augment funds available from the Conservation Futures Tax.

Leveraging funds from other fund sources, however modest, can help to extend the overall impact of the Conservation Futures program. Leveraging can occur either by securing matching funds to augment CFT revenues on a particular site, or by enabling the County or other organizations to accomplish additional acquisitions through alternative fund sources. Applicable fund sources are summarized below.
<table>
<thead>
<tr>
<th><strong>Fund Source (Administering Agency)</strong></th>
<th><strong>Description</strong></th>
<th><strong>Eligibility</strong></th>
<th><strong>Funding</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Federal</strong></td>
<td></td>
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</tr>
<tr>
<td>Wetlands Reserve Program (National-Resource Conservation Service)</td>
<td>• Provides funds for purchase of 30-year or permanent easements, and funding for wetland restoration. • Requires wetland restoration.</td>
<td>• Farmed or converted wetlands • Degraded wetlands on current or former agriculture land • Related riparian and upland areas</td>
<td>• $119 million in FY 10/96-9/97, for purchase of up to 130K acres • The Executive-recommended budget includes $154 million for next FY, for purchase of up to 212K acres</td>
</tr>
<tr>
<td>Farmland Protection Program</td>
<td>Matching funds for easement purchase</td>
<td>• Land with prime, unique or other productive soil • Public agency must have pending offer for easement purchase • Land must be subject to NRCS-approved conservation plan</td>
<td>• $35 million, for purchase of up to 340K acres through the year 2002 • $2 million available in FY 10/96-9/97</td>
</tr>
<tr>
<td>Floodplain easements (Federal Emergency Management Agency, Army Corps of Engineers and other federal agencies)</td>
<td>Easement purchase</td>
<td>Floodplain where purchase would relieve imminent hazard to life and property from flooding and erosion</td>
<td>Emergency appropriations for disaster relief</td>
</tr>
<tr>
<td><strong>State</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Watershed Plan Implementation Grant Program (IAC: Interagency Committee for</td>
<td>Matching funds for purchase of conservation easements in riparian habitat</td>
<td>• Projects implementing an approved watershed plan • Salmon habitat</td>
<td>• $4 million for next biennium (7/97 to 7/99) • Applications for</td>
</tr>
<tr>
<td><strong>Outdoor Recreation</strong></td>
<td><strong>zones, and for restoration and enhancement of habitat</strong></td>
<td><strong>restoration is the focus</strong></td>
<td><strong>this program are due in October</strong></td>
</tr>
<tr>
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</tr>
<tr>
<td><strong>Washington Wildlife and Recreation Program (IAC)</strong></td>
<td>Habitat Conservation Account provides funding for projects which support wildlife habitat preservation and restoration, including easement purchase</td>
<td>Three program categories: - Critical habitat - Natural areas - Urban habitat</td>
<td>$45 million for next biennium; 1/2 reserved for Habitat Conservation Account Next application deadline is May 1, 1998</td>
</tr>
<tr>
<td><strong>Aquatic Lands Enhancement Account (Dept. of Natural Resources)</strong></td>
<td>Wetlands stewardship grants provide matching funds for projects (acquisition and capital costs)</td>
<td>Land must be connected to navigable waters Projects must provide access (e.g., could provide for public viewing of birds)</td>
<td></td>
</tr>
<tr>
<td><strong>County</strong></td>
<td>With voter approval, the County could add 1% to the existing REET tax (currently .25%) for open space preservation</td>
<td>Open space preservation</td>
<td>If the REET open space tax was enacted through a public vote, it could raise over a million dollars/year for PDR acquisitions and/or stewardship of ag properties</td>
</tr>
<tr>
<td><strong>Private</strong></td>
<td>May include cash donations, donations of land or development rights</td>
<td>Varies according to donor - Easement must be drafted to meet IRS regulations</td>
<td></td>
</tr>
<tr>
<td><strong>Individual – direct donations</strong></td>
<td>&quot;Life estates&quot; enable a landowner to donate land to a land trust, while retaining use of the land until they die</td>
<td>Properties donated for conservation purposes, meeting IRS regulations</td>
<td></td>
</tr>
<tr>
<td>Private Foundations</td>
<td>Program-related investments provide low- or no-interest loans to land trusts for land acquisition</td>
<td>Varies according to foundation program priorities</td>
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- Under "Charitable remainder trusts," donated properties provide revenue stream to donor until donor's death.
XI. Development Regulations and Incentives

Just as it is important for the Conservation Futures Program to leverage all available funds to supplement available conservation Futures revenues, it is also critical that the program be closely coordinated with the County’s regulatory program. Each can support the other if closely coordinated, or undermine each other if not.

Skagit County is currently undertaking revisions to its development code to bring the code into compliance with its newly adopted Comprehensive Plan. As part of this effort, the County will revise its development regulations pertaining to agricultural lands to better carry out the Comprehensive Plan goal of preserving land for long term agricultural production. Several suggested changes, which were recently submitted to the Board of Commissioners in a committee resolution, are described below.

Recommendation 1: Revise the code provisions pertaining to creation of substandard lots.

The Agricultural Land Preservation section of the County’s zoning code (Section 14.04.112(6)) needs to be strengthened to improve implementation and enforcement, as per ongoing discussions with the Skagit County Board of Commissioners. The existing code section provides a special exception for creation of substandard (1 acre+/−) lots in the Agriculture zone, making it easier to divide off homesites from agricultural property and potentially creating economic value for the owners of such land.

The Committee recommends that this special exception should apply only to the portion of an agricultural site occupied by an existing house, so as not to facilitate new residential use in the Agriculture zone. In addition, standard easement language should be developed and recognized by ordinance to insure more enforceable and permanent restrictions on the remainder of the site. Property owners interested in utilizing this code provision should be subject to uniform property restrictions. Other code revisions such as establishing a minimum lot size for the residual agricultural site should be considered.

Recommendation 2: Establish a Transfer of Development Rights Program for farmland.

For Agricultural properties with building rights which have not yet been exercised, transfer of development rights to sites outside the Agriculture zone should be allowed and encouraged. Development rights should be transferred to either rural areas of the County or to urban growth areas to avoid locating additional homes in the Agricultural zone and to reduce the number of development rights subject to purchase under the Conservation Futures Program. When agricultural properties are divided by a zone boundary, shifting of
development rights within the property to avoid development in the agricultural zone should similarly be permitted.

Developing a transfer of development rights program (TDR) program should be a high priority of the County as it begins work on development regulations to implement the recently adopted County Comprehensive Plan. In addition to helping to preserve farmlands for agricultural use, this program will insure equity for farmland owners.

Recommendation 3: Establish tighter controls on property division in the Agriculture Zone.

The lack of controls on property division in the Agriculture zone is a serious problem. Lot division can result in new homesites located far from a public road, requiring access to be built through agricultural lands and creating conflicts with agricultural use. County regulations and a review process should be established to insure that new parcels do not diminish the long-term viability of the land for agricultural use through irregular lot shape, inappropriate location of access or creation of use conflicts. The regulations should insure that any potential building sites are reserved within 200 feet of a public road. In addition, controls on property division should prohibit creation of substandard lots for sale, to avoid creating pressure for variances to allow building on substandard tax lots in the future. Deed restrictions must, in the future, be noted on the official title for the property.

Recommendation 4. To enable the County to efficiently enforce conservation easements, the zoning code should be modified to clearly provide authority for the County to enforce easement restrictions in the course of reviewing development permits.

Without explicit authority to do so, the County may not be able to deny or condition a development permit which is inconsistent with the terms of a conservation easement on the site. In addition to clarifying code authority, the County needs to be able to quickly identify sites subject to conservation easements in the course of permit review. The County’s property data base should be modified to “red flag” all sites subject to a conservation easement, so that easement restrictions are automatically identified when a permit application is submitted.
XII. Implementation Plan

The following chart summarizes and provides a schedule for the many tasks to be completed in initiating and carrying out the Conservation Futures Program. Since getting started depends upon the availability of adequate program staffing, the Committee urges the County to move forward quickly with program staffing (see Section VIII). The Committee stands ready to assist the County in further shaping and overseeing the development of the program.

<table>
<thead>
<tr>
<th>Phase</th>
<th>Schedule</th>
<th>Activities</th>
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</table>
| **Phase 1: Adoption of Program Plan and Program Staffing** | • Program plan recommendations submitted mid-August and adopted mid-September, 1997  
• Program staffing secured by the end of October, 1997 | • Skagit County Board of Commissioners holds public hearing and adopts program plan.  
• County Administrator completes staffing process (RFP or other). |
| **Phase 2: Program Start Up** | November 1997 - March, 1998 (5 months) | • The Conservation Futures Advisory Committee continues to meet and provide program oversight.  
• Advisory committee meets to develop pricing formula for conservation easements. (Formula must be approved by the Board of Commissioners.)  
• Advisory Committee finalizes wording of standard conservation easement with legal review by the County Prosecuting Attorney.  
• Program staff develop public information materials (brochure describing program, application form, pricing formula worksheet, etc.).  
• Maps and other resource materials are produced and assembled for use by staff, applicants and the public.  
• Public outreach campaign (press conference, mailings, workshops, etc.) is conducted to solicit applications. |
<table>
<thead>
<tr>
<th>Phase 3: Initial Acquisition Program</th>
<th>Phase 4: Monitoring and Enforcement/ Ongoing Acquisitions</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Mid-1998 to mid-2000.</td>
<td>• Mid-2000 on</td>
</tr>
<tr>
<td>• Tentative deadline for first round applications June 30(^{th}), 1998 (or sooner).</td>
<td>• 2 - 3 application rounds are conducted.</td>
</tr>
<tr>
<td>• Preliminary review of applications is conducted by staff, followed by review and ranking by Advisory Committee and action by the Board of Commissioners.</td>
<td>• Conduct (annual) site visits and complete documentation.</td>
</tr>
<tr>
<td>• CFT bonds sold as needed.</td>
<td>• Resolve any violations.</td>
</tr>
<tr>
<td>• After Round 1, Advisory Committee refines program plan and pricing formula if needed.</td>
<td>• Provide interpretations and complaint resolution.</td>
</tr>
<tr>
<td>• After final round, Advisory reevaluates site selection criteria and process.</td>
<td>• Reassess site selection criteria and revise process for ongoing acquisitions.</td>
</tr>
</tbody>
</table>
XIII. Summary of Committee Recommendations

Following is a summary of key recommendations contained in this report:

Site Selection Criteria (Section III):
1. All lands zoned by the County as "Agricultural Natural Resources Land" should be eligible to participate in the program.
2. A series of recommended evaluation criteria should be applied to rank properties for participation in the program. Priority should be assigned based on the quality of the farmland, threat of conversion to other uses, scenic and environmental value, financial considerations and strategic value of the site.

Site Selection Process (Section IV):
1. The County should offer two or more application rounds as needed to utilize all of the bond funds available for the first phase of acquisitions.
2. Prior to the first application round, the County should support the Conservation Futures Advisory Committee in developing a pricing formula for valuation of development rights. A simple and fair pricing formula should be developed and adopted by the Board of Commissioners before accepting applications to the program.
3. Applications should be accepted on an ongoing basis, with clearly publicized deadlines for the next review cycle. The deadlines will be six or more months apart.
4. The application review process will involve preliminary screening and evaluation by program staff, review and ranking by the Conservation Futures Program Advisory Committee, and final review and approval of applications by the Board of Commissioners.
5. Following the first round of acquisitions, the County should reassess the site selection process and criteria and make any necessary refinements.

Conservation Easements (Section V):
1. A standard conservation easement based on the model provided in Appendix C should be utilized in the program. Permitted uses and all other provisions of the easement should support the underlying goal of preserving prime agricultural lands for long term agricultural productivity.
2. Conservation easements are intended to be permanent. They should incorporate strict provisions limiting the conditions under which termination or amendment of the easement may occur.

Monitoring and Enforcement (Section VII):
1. The County should seek to identify a dedicated fund source to support the ongoing stewardship of agricultural lands in the program, including monitoring and enforcement of conservation easements.
2. Until a fund source is identified, the County should provide adequate funding for stewardship from its General Fund through the annual County budget process.
Program Staffing (Section VIII):
1. The committee recommends entering into a service contract as the preferred option for program staffing.
2. The County should consider housing the Conservation Futures Program at the Agricultural Service Center, with the Skagit Soil and Water Conservation District.

Finance (Section IX):
1. The Committee recommends that the County sell bonds against 100% of current CFT revenues (supporting approximately $4.5 million in bonds with a 20 year term) to fund the program.
2. To the extent possible, bonds should be sold on an “as needed” basis, timed to coincide with the PDR application rounds.
3. A variety of flexible and creative payment options should be offered to meet individual property owner needs.

Leveraging Funds (Section X):
1. The County should work in active partnership with existing land trusts in the County, the Skagit Land Trust and the Skagitonians to Preserve Farmland, as well as applicable resource agencies and organizations to maximize the overall effectiveness of farmland preservation efforts in Skagit County.
2. The County should aggressively seek to leverage resources from other fund sources, including local, state, federal, and private, in order to augment funds available from the Conservation Futures Tax.

Development Regulations and Incentives (Section XI):
1. The County should revise existing zoning code provisions pertaining to creation of substandard lots in the Agriculture zone to limit their applicability to existing houses, to standardize conservation easement restrictions and to establish a minimum lot size for the residual agricultural sites created.
2. The County should establish a Transfer of Development Rights (TDR) program for farmland to enable property owners to transfer building rights from agricultural lands to other zones.
3. The County should establish tighter controls on property division in the Agriculture Zone in order to protect the long-term viability of the land for agricultural use.

Implementation (Section XII):
1. The County should establish a clear implementation schedule including a commitment to staffing the program this fall so that development right acquisitions can begin in 1998.
2. Following the initial rounds of acquisition based on bond sales, the County should reassess the site selection criteria and particularly the role of critical areas in the program.
Appendix A
Glossary

Agricultural Land
Agricultural land, as used in this report, means land which is zoned Agricultural Natural Resource Land (A-NRL) under the Skagit County Zoning Ordinance (Skagit County Code Chapter 14.04).

Assessed Valuation
Assessed value is the value of a piece of property as determined by the County Assessor, providing the basis upon which property taxes are calculated. The assessed valuation of the County as a whole is the sum total of the assessed value of all properties in the County.

Conservation Easement
A conservation easement is a legal agreement signed by a property owner which restricts certain activities and uses on the property. It is the legal mechanism by which the County will purchase the development rights to farmland under the Conservation Futures Program. Under this program, conservation easements would apply in perpetuity.

Conservation Futures Tax
The Conservation Futures Tax (CFT) is a property tax authorized by RCW 84.34.230 which can levied by a county to fund the acquisition of property or development rights for conservation and open space purposes. The tax may be levied up to a maximum rate of .0625% of assessed valuation.

Critical Areas
Critical areas are environmentally sensitive lands designated by the County for protection. In Skagit County, critical areas include wetlands, aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas and geologically hazardous areas.

Development Rights
Development rights means the unused development potential of a piece of property, based on its zoning and other applicable regulations.

Purchase of Development Rights (PDR) Program
Purchase of development rights is a voluntary program which enables property owners to sell their development rights, while holding fee simple title to the land and continuing existing uses on the property. A conservation easement is placed on the property, restricting future use and development of the land. Easements are held by the County (or a non-profit land trust) in perpetuity and are not transferable. The property owner continues to own the land and may sell it if they choose to, but the development
restrictions run with the land. PDR programs are often established as a means of protecting farmland for long-term agricultural use.
Appendix B

Major Highways with 3,000 or more vehicle trips per day (June 24, 1997)

- Interstate 5
- State Route 20
- State Route 11 (Chuckanut)
- State Route 536 (Memorial Highway)
- State Route 534 (Conway-McMurray Rd.)
- Cook Road
- Pioneer Highway north to Conway
- La Conner Whitney Road
- Highway 99 (from Cook Rd. to Bow Hill Rd.)
- McLean Road
- Fir Island Road
- Chilberg Road south of Calhoun Rd.
- Best Road
- Peterson Road
- Francis Road
- Old Highway 99