



# Skagit County Planning & Development Services

DALE PERNULA, AICP *Director*

JACK MOORE, CBCO *Building Official*

## Memo

To: Planning Commission  
From: Kirk Johnson, AICP, Senior Planner  
Re: Conservation and Development Incentives (CDI) Program Proposal  
Date: November 10, 2015

## Contents

Deliberations Process .....	1
Key Issues for Planning Commission Deliberations.....	2
Supplemental Materials.....	3
BOCC Directive to Develop CDI Program.....	4
TDR Advisory Committee Majority Recommendation.....	5

## Deliberations Process

The Planning Commission has discussed the CDI program at four meetings since June and has conducted a public hearing. As you know, the Department’s CDI proposal has two parts: (1) Comprehensive Plan policies and (2) development regulations, i.e. the code. State law allows the Comprehensive Plan to be modified only once per year, while the development code can be updated at any time.

The County Commissioners have indicated they would like to be able to consider at least the CDI policies before the end of this year, so they would like the Planning Commission to send them a recommendation on at least the CDI policies by December 1. If the Board of County Commissioners subsequently approves those policies, the Planning Commission could then take up the CDI code at later meetings in December or January.

The Department has structured the Planning Commission’s next two meetings as follows:

- **Tuesday, November 17:** Planning Commission to begin deliberations by reviewing public comments and supplemental materials and review Comprehensive Plan policies.
- **Tuesday, December 1:** Planning Commission to conclude deliberations and issue a Recorded Motion on at least the proposed CDI Comprehensive Plan policies.

Planning Commissioners can help facilitate the Board’s schedule by focusing their discussion on the proposed CDI Comprehensive Plan policies and only dipping into the details of the code if necessary to create a recommendation on the policies; or, if the Planning Commission thinks it possible, to complete a recommendation on both policies and code by December 1.

## Key Issues for Planning Commission Deliberations

The Department believes the following bulleted program summary will assist the Planning Commission in working through its deliberations:

1. Which transaction mechanism(s) should the program use? (policies 2H-2.1–2.2 on page 2)
  - a. private transactions, i.e., where a developer must find and extinguish a development right on resource land
  - b. County fees, i.e., where a developer pays a fee, and the County later uses that revenue to extinguish a development right on resource land
2. Development Priority Areas: in which areas should more development be allowed with purchase of development credits? (policies 2H-3.1–3.3 on page 3)
  - a. CaRDs in Rural Reserve (at \_\_ acreage threshold)
  - b. Rural infill in Rural Intermediate
  - c. Rural infill in Rural Village Residential
  - d. Rural residential upzones through Comprehensive Plan amendments
  - e. Non-municipal UGA expansions
  - f. Municipal UGA expansions (when agreed to by city/town)
  - g. Within municipalities, as implemented through city or town comprehensive plan and code
3. Conservation Priority Areas: in which areas should conservation be facilitated by purchase of development credits? (policy 2H-5.1 on page 5)
  - a. Agricultural-Natural Resource Land
  - b. Industrial Forest-NRL (within fire district and within 200 ft of road)
  - c. Secondary Forest-NRL
  - d. Rural Resource-NRL
  - e. Rural Reserve parcels eligible for the [Open Space Tax Program](#)
4. What overall recommendation does the Planning Commission want to make on the CDI policies? e.g., to adopt, adopt with modifications, or not adopt

## Supplemental Materials

For the **November 17** meeting, the Department has prepared and provided the following information for the Planning Commission's review, all of which are available on [the CDI program webpage](#):

- a list of aspects of the program that the County Commissioners selected to be included in the CDI proposal (next page);
- a letter from Mount Vernon Community & Economic Development Department Director Bob Hyde about Mount Vernon's TDR program and possible participation in the CDI program;
- a letter from Anacortes Planning, Community, & Economic Development Director Don Measamer about possible participation in the CDI program;
- maps showing Rural Reserve parcels potentially eligible for the CDI "Small Lot CaRD" provision if the thresholds are 3.5 and 7 acres, or 4.5 and 9 acres;
- a map of properties in Natural Resource zones and Rural Reserve enrolled in the Open Space Tax program;
- [written public comments](#) on the proposal received through Thursday, November 5 (including the written and spoken comments from the City of Burlington).

For the **December 1** meeting, the Department will also be able to provide:

- a Supplemental Staff Report with complete responses to public comments;
- a map of properties meeting proposed size thresholds for Rural Intermediate infill.

## **BOCC Directive to Develop CDI Program**

Excerpt from [Resolution R20140298](#) directing Planning and Development Services to draft TDR/Density credit policies and code for review and consideration:

...the Board of County Commissioners hereby...direct the Planning & Development Services Department to draft TDR and density credit program policies and code, based generally on the TDR Advisory Committee's majority recommendation [see next page], with the following additional guidance from the Board:

- a. The program must be voluntary in nature. A voluntary program would not take away any property rights but instead would provide additional options to sending-area landowners who want to conserve their land.
- b. Currently there is no option comparable to the Farmland Legacy Program to assist forest land owners interested in conserving their land. A TDR or density credit program would help to address this need, which appears to be of particular interest to small family forest landowners. Additional residences in commercial forest lands can make the practice of forestry more difficult. A voluntary conservation program would help to maintain the long-term viability of commercial forestry in Skagit County.
- c. The County's Farmland Legacy Program has been very effective at protecting Agricultural-Natural Resource Lands (Ag-NRL). A TDR or density credit program should complement, not harm Farmland Legacy.
- d. The federal government has recently placed additional restrictions on federal conservation dollars that make up a large percentage of the funds used by the Farmland Legacy Program. Those restrictions have made the program less attractive to many Ag-NRL landowners. Also, given the long-term federal budget situation, there is no guarantee that federal funds will continue to be available for farmland conservation in the amounts they have been in the past. A TDR/density credit program created and controlled by Skagit County can help to generate additional local resources for farmland conservation over time.
- e. There are still many details about TDR that need to be worked out and concerns that Commissioners have that must be addressed. The best way to do so is to develop draft policies and code and vet them through the legislative process. This will include additional consultation with the County's Agriculture and Forest Advisory Boards, other farm, forest and conservation organizations, the general public, the development community, city representatives and the Skagit County Planning Commission.
- f. Notwithstanding the above goals, an initial TDR/density credit program must be simple to implement, administer and use. The program can be expanded in the future as time, resources, and usage warrant.

## **TDR Advisory Committee Majority Recommendation**

Committee members who supported this recommendation were Martha Bray, John Doyle, Margaret Fleek, Bruce Lisser, Kim Mower, Allen Rozema, Kendra Smith, and Joe Woodmansee. From the report, *Skagit County Transfer of Development Rights: Project Findings and Program Recommendations*, July 11, 2014:

1. Skagit County should develop policy and code provisions to implement a combined TDR and density credit program at this time.
2. The initial two receiving areas would be (a) mixed-use zones within the City of Burlington and (b) Rural upzones in Skagit County. (This is a landowner-requested change from one rural zone to another zone that provides additional development potential.)
3. The program should work in coordination with Burlington's existing Agricultural Heritage Density Credit Program. Through its 2016 Comprehensive Plan Update process, Burlington will consider possible modifications or expansions of that program based on options explored by the Heartland TDR market analysis.
4. TDR exchange rates and density credit fees would be based on the Heartland TDR market analysis. For a program to be successful, it must offer positive economic incentives to receiving-area landowners and developers.
5. Skagit County should encourage other cities and towns to implement TDR or density credit programs in coordination with the County. County TDR policies should enable cities and towns to join with the County program to conserve land outside of city or town limits.
6. Skagit County should explore a wider array of receiving-area opportunities in the future, including urban growth area expansions, additional CaRD density bonuses, and infill development within Rural Villages.
7. TDR sending areas should include all designated Natural Resource Lands (IF-NRL, SF-NRL, RRc-NRL, and Ag-NRL), and Rural Reserve lands with active agricultural or forestry uses, that are in close proximity to urban growth areas and growth corridors (I-5 and SR-20).
8. Skagit County should use revenues raised through the sale of density credits for conservation of land in these same sending areas. The County should establish a conservation mechanism similar to – but separate from – the Farmland Legacy and Conservation Futures programs, that uses density-credit revenues to conserve natural resource lands in addition to Ag-NRL.
9. Implementation of a TDR and density credit program should be done in a manner that does not change the current operations of the Farmland Legacy Program and in fact complements that program.
10. Participation by sending-area landowners in a County TDR and density credit program should be entirely voluntary. Conservation easements would retire residential development rights while leaving other uses of the land – such as farming and forestry—unaffected. The easement would not grant public access to the land nor modify resource management practices.