

Ag Land Program – Technical Review Committee

Meeting Notes

Monday, May 19, 2008

2:30 – 4:30 pm

Members Attending:

<input checked="" type="checkbox"/> Larry Stoner	<input checked="" type="checkbox"/> Dick Yoder	<input type="checkbox"/> Greg Ebe
<input checked="" type="checkbox"/> John Gillies	<input type="checkbox"/> Bill Querhn	<input checked="" type="checkbox"/> Bob Tull
<input checked="" type="checkbox"/> Vicki Hawley	<input type="checkbox"/> Doug Dostal	<input checked="" type="checkbox"/> Chuck Antholt

Others Attending:

<input checked="" type="checkbox"/> Paul Grey	<input type="checkbox"/> Mary Dickenson	<input checked="" type="checkbox"/> Henry Bierlink
<input checked="" type="checkbox"/> Samya Lutz	<input checked="" type="checkbox"/> David Stalheim	<input type="checkbox"/>

x = attending

o = absent with notice

1. Review agenda, May 5 meeting notes – Henry walked the Committee through the rough time allocation for the agenda items. The Meeting Notes for the May 5 meeting were found sufficient. David noted the reference to the Right to Farm notices had been addressed and that the proper notices to those purchasing land in ag areas was being issued. Henry noted the workplan and our progress in it.

2. Identify the number of potential housing units (densities) we seek to move, purchase, etc. from the ag and rural zones. Discuss value of these densities.

Samya and David passed out completed tables which addressed the questions concerning the scope of our task. Samya walked the members through the logic in the tables and the final conclusion that we would need between \$600-\$900 million to purchase all the available development rights in the ag and targeted rural zones.

There were questions about how water rights were incorporated into these tables. The answer is that they are not, nor are other constraints/embellishments like CAO limitations, location, view, etc. These values are in part reflected in the estimated cost per development right as they were incorporated into the appraisals in the PDR program which provided the base information on which the estimated values were calculated.

“How do we determine where to prioritize our efforts?” was the question posed by the data. It was suggested that we ask the Ag Advisory Committee to provide their opinion. Another idea was to develop a matrix of factors that we would want to consider in evaluating what parcels are priorities for development right purchase or transfer.

Factors suggested include:

- Location – proximity to commercial ag operations, traffic concerns
- Threat of imminent conversion
- Family, history – desire to maintain family farm

- Soil quality
- Water rights

Dick suggested we consider (re)moving existing old homes from ag areas that are no longer useful or needed, together with compensating the owners for the development rights. This idea relates to existing allowances for the Ag Short Plat which needs to be reviewed & changes suggested.

The TRC was encouraged to think of more factors compatible with those already identified. It was also noted that we should be seeking to protect a diversity of parcels sizes and not only focus on large parcels. There is some market for small acreages near urban centers for fruit and vegetable farms marketing directly to consumers.

TABLE A. Gross Development Rights by Zone

Zone	Acres	Theoretical Total DRs (Acres/Zone)	Actual Total DRs ¹
Agriculture	81,509	2,038	4,523
Rural Study Areas	21,950	3,181	4,025
<i>R5A</i>	<i>9,864</i>	<i>1,973</i>	<i>2,525</i>
<i>R10A</i>	<i>12,086</i>	<i>1,209</i>	<i>1,500</i>
TOTAL	103,459	5,219	8,548

TABLE B. Gross Available Development Rights by Zone

Zone	Built Out Parcels	Available DRs ²	# Parcels w/ Available DRs
Agriculture	2,296	2,132	2,075
Rural Study Areas	2,024	1,766	926
<i>R5A</i>	<i>1,351</i>	<i>1,024</i>	<i>535</i>
<i>R10A</i>	<i>673</i>	<i>742</i>	<i>391</i>
TOTAL	4,320	3,898	3,001

TABLE C. Gross Development Rights Valuation by Zone

Zone	Available DRs	Average Value/DR ³	Total Value
Agriculture	2,132	\$200,000	\$426,400,000
Rural Study Areas	1,766		
<i>R5A</i>	<i>1,024</i>	<i>\$73,000</i>	<i>\$74,752,000</i>
<i>R10A</i>	<i>742</i>	<i>\$100,000</i>	<i>\$74,200,000</i>
TOTAL	3,898		\$575,352,000

¹ Actual Total DRs = the existing and potential development rights based on current zoning.

² Of these available DRs, 2,712 are owned by taxpayers who receive tax benefits through the Open Space Taxation program under Commercial Farm & Ag or Open Space Farm & Ag designations.

³ Rough numbers based on rounded average valuations from previous PDR appraisals and preliminary valuations.

TABLE D. Number of Parcels by Parcel Size Area

Parcel Size	Ag Zone	RSAs - Rural Zone	# Parcels ⁴
< 5	1,692	1,650	3,310
5.01 - 10	696	669	1,262
10.01 - 15	390	229	606
15.01 - 20	394	117	511
20.01 - 25	224	71	295
25.01 - 30	188	35	223
30.01 - 35	165	27	192
35.01 - 40	287	43	330
> 40.01	565	82	592
TOTAL	4,601	2,923	7,321

TABLE E. Gross Available Development Rights by Parcel Size Area

Parcel Size	# Parcels	Built Out Parcels	Available DRs	# Parcels w/ Available DRs
< 5	3,310	2,401	909	909
5.01 - 10	1,262	901	418	361
10.01 - 15	606	236	402	370
15.01 - 20	511	201	361	310
20.01 - 25	295	80	312	215
25.01 - 30	223	65	197	158
30.01 - 35	192	51	195	141
35.01 - 40	330	141	319	189
> 40.01	592	244	785	348
TOTAL	7,321	4,320	3,898	3,001

TABLE F. Gross Development Rights Valuation by Parcel Size Area

Parcel Size	Available DRs	Average Value/DR ⁵	Total Value
< 5	909	\$60,000	\$54,540,000
5.01 - 10	418	\$75,000	\$31,350,000
10.01 - 15	402	\$100,000	\$40,200,000
15.01 - 20	361	\$150,000	\$54,150,000
20.01 - 25	312	\$200,000	\$62,400,000
25.01 - 30	197	\$250,000	\$49,250,000
30.01 - 35	195	\$300,000	\$58,500,000
35.01 - 40	319	\$350,000	\$111,650,000
> 40.01	785	\$400,000	\$314,000,000
TOTAL	3,898		\$776,040,000

⁴ Of these Ag & RSA parcels, 3,592 receive tax benefits through the Open Space Taxation program under Commercial Farm & Ag or Open Space Farm & Ag designations.

⁵ Rough numbers based on rounded average valuations from previous PDR appraisals and preliminary valuations.

3. Review American Farmland Trust's Farmland Protection Toolbox – Henry reviewed each of the tools included in the AFT toolbox with some discussion about how they are used here. He encouraged the TRC to suggest other tools they may be aware of as well. The tools reviewed were:

AGRICULTURAL DISTRICT PROGRAMS – Not available in WA

Agricultural district programs allow farmers to form special areas where commercial agriculture is encouraged and protected. Typically, programs are authorized by state law and implemented at the local level. Enrollment in agricultural districts is voluntary. In exchange for enrollment, farmers receive a package of benefits, which varies from state to state.

AGRICULTURAL PROTECTION ZONING (APZ) – We understand this as our land use zoning, (i.e. ag zone, rural zone, etc.)

Agricultural protection zoning refers to county and municipal zoning ordinances that support and protect farming by stabilizing the agricultural land base. They designate areas where farming is the primary land use and discourage other land uses in those areas. APZ limits the activities that are permitted in agricultural zones. The most restrictive regulations prohibit any uses that might be incompatible with commercial farming.

CLUSTER ZONING

Cluster zoning ordinances allow or require houses to be grouped together on small lots to protect open land. The portion of the parcel that is not developed may be restricted by a conservation easement. Cluster developments are also known as cluster subdivisions, open space or open land subdivisions.

Cluster subdivisions can keep land available for agricultural use, but generally they are not designed to support commercial agriculture. The protected land is typically owned by developers or homeowners' associations. Homeowners may object to renting their property to farmers and ranchers because of the noise, dust and odors associated with commercial agricultural production. Even if the owners are willing to let the land be used for agriculture, undeveloped portions of cluster subdivisions may not be large enough for farmers to operate efficiently, and access can also be a problem. For these reasons, cluster zoning has been used more successfully to preserve open space or to create transitional areas between farms and residential areas than to protect farmland.

COMPREHENSIVE PLANNING – The basis for our zoning decisions. We know this as the Whatcom County Comp Plan

Comprehensive planning allows counties, cities, towns and townships to create a vision for their joint future. Comprehensive plans, which are also known as master or general plans, outline local government policies, objectives and decision guidelines, and serve as blueprints for development. They typically identify areas targeted for a variety of different land uses, including agriculture, forestry, residential, commercial, industrial and recreational activities. Comprehensive plans provide a rationale for zoning and promote the orderly development of public services.

A comprehensive plan can form the foundation of a local farmland protection strategy by identifying areas to be protected for agricultural use and areas where growth will be encouraged. It may include policies designed to conserve natural resources and provide affordable housing and adequate public services. Some counties have used the comprehensive planning process to encourage their cities and towns to develop designated urban growth areas or boundaries (UGBs) and adopt APZ. Others have incorporated the use of purchase of agricultural conservation easements (PACE) and transfer of development rights (TDR) into their master plans.

CONSERVATION EASEMENTS – Voluntary, the approach espoused by the Whatcom Land Trust

Conservation easements are deed restrictions that landowners voluntarily place on their land to protect important resources. They are used by landowners ("grantors") to authorize a qualified conservation organization or public agency ("grantee") to monitor and enforce the restrictions set forth in the agreement.

to keep land available for agriculture. Grantors retain the right to use their land for farming, ranching and other purposes that do not interfere with or reduce agricultural viability. They hold title to their properties and may restrict public access, sell, give or transfer their property, as they desire. Producers also remain eligible for any state or federal farm program for which they qualified before entering into the conservation agreement.

FARM VIABILITY PROGRAMS – not used here
Farm viability programs provide technical assistance

and, in some cases, small grants to improve the profitability of farm operations. These programs are administered by departments of agriculture, extension and/or nonprofit organizations. Typically, teams of experts work with operators to evaluate the current operation and develop individualized plans. Funds may also be available to implement practices or undertake capital projects identified in the planning process. Some of the programs include farmland protection and resource conservation components. The Massachusetts Farm Viability Enhancement program, for example, awards implementation grants in exchange for term easements. All viability programs assume that changes at the farm level—be it better management of existing resources or a new direction in marketing and/or products offered—can lead to enhanced farm profitability.

The first two agricultural viability programs were developed in Massachusetts and Minnesota in the mid 1990s. Subsequent programs have been adopted by Connecticut, Maine, New Jersey, New York and Vermont. In the 2002 Farm Bill, a federal Farm Viability Program was created, authorizing the Secretary of Agriculture to provide grants to eligible entities with approved farm viability programs. The federal program has not yet been implemented.

GROWTH MANAGEMENT LAWS – WA State passed GMA requiring resource land and critical areas protection

Growth management laws are designed to control the timing and phasing of urban growth and to determine the types of land use that will be permitted at the local and regional levels.

MITIGATION LAWS AND POLICIES – AAC has considered this approach. This may include restricting non-ag uses in the ag zone.

Farmland mitigation laws and policies attempt to compensate for the conversion of agricultural land to another use by requiring permanent protection of “comparable” agricultural land. In 1995, city officials in Davis, Calif., enacted an ordinance that requires developers to permanently protect one acre of farmland for every acre of agricultural land they convert to other uses. Developers can place an agricultural conservation easement on farmland in another part of the city or pay a fee in lieu of direct protection. King County, Wash., has a “no net loss of farmland” policy in its comprehensive plan. The policy prohibits the conversion of land subject to APZ unless an equal amount of agricultural land of the same or better quality is added to the county’s agricultural production zones.

PURCHASE OF AGRICULTURAL CONSERVATION EASEMENT PROGRAMS (PACE) – We know this as the PDR Program

Purchase of agricultural conservation easement programs pay farmers to protect their land from development. PACE is known by a variety of other terms, the most common being purchase of development rights (PDR). Landowners voluntarily sell agricultural conservation easements to a government agency or private conservation organization. The agency or organization usually pays them the difference between the value of the land for agriculture and the value of the land for its “highest and best use,” which is generally residential or commercial development.

RIGHT-TO-FARM LAWS – both a State and a County RTF law

Every state in the nation has at least one right-to-farm law. State right-to-farm laws are intended to protect farmers and ranchers from nuisance lawsuits. Some statutes protect farms and ranches from lawsuits filed by neighbors who moved in after the agricultural operation was established. Others protect farmers who use generally accepted agricultural and management practices and comply with federal and state laws. Many right-to-farm laws also prohibit local governments from enacting ordinances that would impose unreasonable restrictions on agriculture.

State right-to-farm laws are a state policy assertion that commercial agriculture is an important activity. The statutes also help support the economic viability of farming by discouraging neighbors from filing lawsuits against agricultural operations. Beyond these protections, it is unclear whether right-to-farm laws help maintain the land base.

Local right-to-farm ordinances can serve as a formal policy statement that agriculture is a valuable part of the county or town economy and culture. Some require that a notice be placed on the deed to all properties in agricultural areas, cautioning potential buyers that they may experience noise, dust, odors and other inconveniences due to farming and ranching operations. At a minimum, local ordinances help educate residents about the needs of commercial agriculture and reassure farmers that their communities support them.

TAX RELIEF

Circuit Breaker Tax Relief Credits – not used here
Circuit breaker tax programs offer tax credits to offset farmers’ property tax bills. Four states

have circuit breaker programs. In Michigan, Wisconsin and New York, farmers may receive state income tax credits based on the amount of their real property tax bill and their income. In Iowa, farmers receive school tax credits from their local governments when school taxes exceed a statutory limit. The counties and municipalities are then reimbursed from a state fund. In Michigan, landowners who wish to receive circuit breaker credits must sign 10-year restrictive agreements with their local governments to prevent farmland conversion. In Wisconsin, counties and towns must adopt plans and enact agricultural protection zoning to ensure that tax credits are targeted to productive agricultural land. Like differential assessment laws, circuit breaker tax relief credits reduce the amount farmers are required to pay in taxes. The key differences between the programs are that most circuit breaker programs are based on farmer income and are funded by state governments.

Differential Assessment – we know this as Open Space ag reduction on property taxes

Differential assessment laws direct local governments to assess agricultural land at its value for agriculture, instead of its full fair market value, which is generally higher. Differential assessment laws are enacted by states and implemented at the local level. With a few exceptions, the cost is borne at the local level. Differential assessment programs help ensure the economic viability of agriculture. Since high taxes reduce profits, and lack of profitability is a major motivation for farmers to sell land for development, differential assessment laws also protect the land base. Finally, these laws help correct inequities in the property tax system.

The discussion of these tools elicited questions about the past use of the Natural Heritage Tax (also known as Conservations Futures) and the process surrounding the County's bonding process. It was recognized that the County was balancing many competing interests in land management and that implementation of these tools would have to be done within a much broader context than simply protecting ag resource lands.

The role of the TRC in this broader discussion is not clear. For example – what should be our role in suggesting “receiving areas” for TDR's? It was suggested that a database of potential receiving areas be prepared in the same manner as the tables that were prepared for the Ag and Target Rural zones. It was also noted that the County has a steering role in growth management and that it has the opportunity to develop and implement a comprehensive vision for how and where growth should occur.

Owners of farmland demand fewer local public services than residential landowners, but they pay a disproportionately high share of local property taxes. Differential assessment helps bring farmers' property taxes in line with what it actually costs local governments to provide services to the land.

TRANSFER OF DEVELOPMENT RIGHTS (TDR) – Only used in Lake Whatcom locally. Been discussed and of high interest to County Council. Bob recommended a review of CTED's website for TDR discussions particular to receiving zones.

<http://www.cted.wa.gov/site/1060/default.aspx>

Transfer of development rights programs allow landowners to transfer the right to develop one parcel of land to a different parcel of land. Generally established through local zoning ordinances, TDR programs can protect farmland by shifting development from agricultural areas to areas planned for growth. When the development rights are transferred from a piece of property, the land is typically restricted with a permanent agricultural conservation easement. Buying development rights generally allows landowners to build at a higher density than ordinarily permitted by the base zoning in designated receiving areas. Many TDR transactions are between private landowners and developers. Local governments approve transactions and monitor easements. A few jurisdictions have created “TDR banks” that buy development rights with public funds and sell them to developers and other private landowners.

4. Out-of the box Idea Discussion – There was some discussion about the Natural Resources Bank idea that was discussed in the past meeting. The concept, and ideas similar to it, is being discussed in several venues with some movement towards state legislation in 2009. Bob noted that a study on affordable housing might also provides us some information that could augment our work.

5. Public Involvement and education – Paul distributed the initial copies of the recent survey. He encouraged the TRC to read over the results, which are presented by the target audiences , and jot down thoughts and questions about the data. The information generated in this survey will become the basis for future public forums on the ag land protection.

6. Resources – Available
 - Natural Heritage Plan – 1991 – copies at 3/3 mtg.
 - Purchase of Development Right Program summary – distributed 2/11
 - AAC Rural Land Study – distributed 2/11
 - TDR Program Market Value Estimates – 2003 – Pruetz report – distributed 3/3
 - Agricultural Transfer of Development Right Presentation: The Snohomish County Experience – available through WFF office – 4/21
 - Proposed Ag Land Work Program – a Powerpoint Presentation by Kraig Olason to the County Council, October, 2006 – 4/21
 - Tables A-F - Gross Development Rights Analysis – 5/19
 - American Farmland Trust’s Farmland Protection Toolbox -5/19
 - Maps:
 - potential build out in the ag zones
 - open space ag areas
 - CAO – Wetlands
 - CAO – Frequently Flooded Areas
 - CAO – Wildlife Habitat Conservation Areas

7. Resources – Needed?

Meeting Schedule

June 2	July 7	August 4	September 1
June 16	July 21	August 18	September 15