



PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT

Planning Division

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MEMORANDUM

Date: March 17, 2009

To: Interested Parties

From: Tim Stewart, Director

RE: Transfer/Purchase of Development Rights Study

Background

The City has implemented a number of measures over the years to protect and improve water quality in the Lake Whatcom Watershed. One of the most successful of these measures is the Lake Whatcom Watershed Property Acquisition Program. To date, the City has expended over 18 million dollars to purchase or protect 1,450 acres of land with a total of about 700 development rights.

Another Lake Whatcom protection measure that has been discussed for some time is a transfer of development rights (TDR) program. The goal of this program is to reduce the development potential in the Lake Whatcom Watershed by setting up a system whereby private property owners would work with other property owners to transfer existing residential development rights from the watershed to other areas of the city where development is preferred. The City (and County) have designated a number of preferred areas (called "TDR receiving zones"). A good example is the Purchase of Development Rights (PDR) program recently adopted in the Old Town urban village area. The City has also recently annexed portions of our urban growth area that are designated as TDR receiving zones. For example the Bakerview/James (King Mt.) area was annexed on March 6. This area is the largest TDR receiving zone in the City. As a result of these annexations, the time is right to review the existing TDR program to determine what changes might help the program be more successful.

In 2008, Planning staff contracted with Greg Easton of Property Counselors in order to gain an independent review and feasibility analysis of the current TDR program. The focus of the analysis is on the recently annexed TDR receiving zones (like the Bakerview/James area). The report is now complete and ready for review (see attached).

The TDR/PDR Feasibility Report

The consultant was directed to respond to three main issues relative to the current TDR program:

1. Does the current TDR/PDR program provide enough of an incentive for property owners in the recently annexed areas to purchase development rights? What are the appropriate development rights purchase ratios and price?
2. Would the elements of the PDR program adopted with the Old Town Urban Village Master Plan work in the recently annexed areas?
3. What other elements of a TDR/PDR program would enhance its potential for success?

The report identifies key elements that are present in other successful TDR programs in use around the state.

1. Suitable receiving sites for the density transfer
2. Cooperation between governmental jurisdictions when required
3. Favorable market conditions
4. Financial incentives to encourage use of the program
5. TDR banking function
6. Community support for higher densities in the receiving zones

Conclusions

The report contains a number of conclusions with respect to a TDR/PDR program in the recently annexed areas. The conclusions and recommendations begin on page 5. In summary, the report concludes that a TDR program is not likely to be successful given current market conditions and current zoning in the annexed areas. Even so, the consultant recommends that the City set up a program so that it is in place when more favorable market conditions occur.

The report further concludes that a PDR program, similar to the one adopted in Old Town, should be considered for the annexed areas. Such a program could allow property owners/developers in the receiving zones to purchase additional density by contributing to the City's Lake Whatcom Watershed Property Acquisition Program. The City would then use those funds to purchase additional property and/or development rights in the watershed.

Next Steps

Staff will review the TDR/PDR report, conclusions and recommendations with the Planning Commission beginning on April 9. At that time, we will identify Land Use Code changes that would be needed to establish a PDR program for the annexed receiving zones. Once review of the code changes is completed by the Commission, staff will schedule meetings for review by the City Council later this year.