



Opportunities for Transfer of Development Rights in Ellensburg
Draft Discussion Document for MAKERS
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Background

MAKERS is currently consulting the City of Ellensburg, WA on opportunities for revising its development code, including opportunities for incentive zoning to help the city achieve a series of community goals. MAKERS approached Cascade Land Conservancy in February 2011 to discuss opportunities for including transfer of development rights (TDR) into the city's incentive structure.

Kittitas County passed a TDR program in 2009 to assist its growth management efforts. The program enables the county to connect planned growth and development with the conservation of valued agricultural and forest resource lands. A key long-term priority of the transfer of development rights program is to transfer development potential from the county's resource lands to urban areas appropriate for development. Transfers of development rights between the county and Ellensburg would ideally involve an interlocal agreement between the parties to formalize agreed-upon terms and responsibilities.

Primer on TDR

TDR is a market-based growth management tool that connects development with conservation. With limited exception, its effectiveness hinges on (a) demand for new development for which (b) additional capacity is needed.

Key features of TDR include:

- *TDR is voluntary.* Landowners choosing to participate enjoy the benefits TDR affords; however, those choosing not to participate are entitled to use their property as permitted by current zoning and development regulations.
- *TDR is market-based.* TDR allows property owners to buy and sell development rights in an open marketplace. Individual property owners may freely negotiate prices for the purchase and sale of these rights.
- *TDR is flexible.* TDR can be designed to accommodate the needs of each community and is limited only by market demand and creativity. Its applications, however, should reflect goals of the community and support comprehensive plan objectives.

Success factors include:

- Appropriate TDR program design and implementation
- Community support
- Zoning and regulatory compatibility
- Appropriate incentive structures
- Demand for development

Factors limiting success include:

- Inadequate receiving areas
- Insufficient demand for development/density
- Lack of infrastructure and amenities to support increased density or intensity of use
- Improper incentive structure within TDR / improper exchange rates
- Improper incentive structure across incentives / competition between incentivized goals

Discussion

Implementing TDR into code can be approached in one of two ways:

- It can supplement existing code, creating incentive zoning opportunities beyond what may have been initially envisioned for a given area
- It can be incorporated as part of new code

The latter is preferable in many respects, as TDR can be integrated into an overall approach for reaching community goals as opposed to being considered in isolation. Ellensburg is thus well-positioned to consider TDR in its pending code revisions.

That said, TDR requires purposeful incorporation; it can prove a failing proposition if incorporated in a manner that does not reflect comprehensive planning objectives, market demand, land values, and the costs of development.

Any serious consideration of TDR in Ellensburg will require further investigation than has been conducted to-date. With that caveat, Cascade Land Conservancy offers the following initial considerations based on two documents provided by MAKERS:

- A document entitled "Commercial and Multifamily Zones: Preliminary Update Considerations" (undated)
- A document entitled "Concepts for Density Bonuses?" (undated)

Potential Applications by Zone

As mentioned, TDR can be successfully used anywhere demand for development exists for which capacity is needed. In other words, if demand to build beyond current zoning or development regulations exists, so too an opportunity for TDR exists.

MAKERS proffers several zone changes in its preliminary documents. Each represents a potential opportunity for TDR. More discussion follows, but for the meanwhile potential opportunities include:

- Commercial:
 - T-C. Consider adding a height limit, but create opportunities for greater height, where appropriate, via TDR
 - C-C-2. Consider height limits, but create opportunities for greater height, where appropriate, via TDR
 - I-L. Create opportunities for more intensity of use, such as office or retail, as appropriate, via TDR
 - C-N. Consider retaining current uses and place size limitations as a base condition, allowing for increased intensity of use via TDR, as appropriate

- Residential:
 - R-O. Consider retaining current uses and place size limitations as a base condition, allowing for increased intensity of use via TDR, as appropriate
 - R-H. If the zone is kept, consider height or FAR base maximums, an exceedance of which is available via TDR, as appropriate
 - R-M. Consider retaining current uses and place size limitations as a base condition, allowing for increased intensity of use via TDR, as appropriate

Cascade Land Conservancy is not in a position to assess the viability of these potential opportunities. A complete understanding of the benefits, trade-offs, market forces, comprehensive plan requirements and other external variables all factor into the appropriateness of such applications.

Other Potential Applications

TDR need not apply only to greater height or intensity of use. It can be justifiably used for surface parking maximum exceedance, structured parking minimum reductions, setback reductions—any host of things. Cascade Land Conservancy did not identify any such opportunities from the documents provided by MAKERS.

Further opportunities for consideration were highlighted in the Gap Analysis Summary in MAKERS' preliminary update considerations. These include

- *Encourage housing type variety.* A mix of housing options creates market opportunities for developers. Properly employed, TDR can be used as the means to accessing such options otherwise unavailable to developers.
- *Create affordable housing opportunities.* Research analyzing TDR use for residential units in King County revealed the average cost of TDR-based used were relatively less expensive than non-TDR units in the same neighborhoods. A primary reason is units tend to be smaller and more numerous while fixed land costs remains constant. TDR thus can potentially be employed in a workforce housing strategy (though is unlikely to be as effective in a subsidized housing strategy).
- *Allow for neighborhood commercial development outside of Downtown.* TDR can be used to justify such an intensity of use in otherwise residential neighborhood zones. Coincidentally, this was a recommendation from an Ellensburg Councilmember to Cascade Land Conservancy in a 2007 discussion.
- *Allow for office park/business park development.* TDR can be used to justify such an intensity of use in otherwise residential neighborhood zones.

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Other Considerations

Any use of TDR must support both the comprehensive plan and must complement—as opposed to undermine—the many objectives Ellensburg strives to achieve in an update of its development regulations. Cascade Land Conservancy strongly recommends any serious consideration of TDR be coupled with serious investigation as to how it can best be implemented.