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TECHNICAL MEMORANDUM

Date:	June 12, 2025
To:	Bruce Emery, Director, Clallam County Department of Community Development Tim Havel, Deputy Director, Clallam County Department of Community Development
Cc:	Dan Nickel, Director, Long Range Planning (Facet)
From:	Donna Keeler, Senior Planner; Alex Capron, Senior Planner; Matt Covert, Senior Planner/Project Manager
Project Name:	Clallam County Comprehensive Plan Periodic Update
Facet Number:	2401.0469.00

Analysis of Clallam County’s Transfer of Development Right’s Program

WHAT IS A TRANSFER OF DEVELOPMENT RIGHTS PROGRAM?¹

Transfer of Development Rights (TDR) is a program that facilitates and promotes the voluntary sale of the right to develop all or a portion of a property (the “sending site”) to a party that is eligible to develop another property (“receiving site”) more intensively than would otherwise be allowed. Sending areas are properties that a community determines it wants to conserve, such as farms, forestland, or wildlife habitat. Receiving areas are properties a community determines are better suited for locating additional growth and/or density, often in urban areas. Receiving areas typically have adequate infrastructure and services to accommodate increased growth.

In response to public concerns about growth and impacts of development, between 1990 and 2010, numerous jurisdictions in Washington State adopted TDR programs to address the loss of forests, farms, wetlands, wildlife habitat and overall quality of life. The concept expanded statewide in 2008 when the Washington State Legislature directed the creation of a regional TDR program in Central Puget Sound focusing on King, Kitsap, Pierce and Snohomish Counties and the 71 cities within their boundaries.

A TDR program can benefit both parties. Landowners of sending sites can sell their development potential of their property while retaining ownership and continuing to use the land for other purposes, such as farming, agriculture and forestry. Purchasers of the development rights gain

¹ Bratton et al (2009)

additional development incentives for projects in receiving areas that typically would not be allowed, such as additional density, or height.

Three main features of a TDR program include that it is:

1. Voluntary. Transactions take place between willing buyers and sellers.
2. Market-based. Individual property owners, developers, or other parties may freely negotiate prices for the purchase and sale of development rights.
3. Flexible. Jurisdictions can customize the element of the program to reflect their conservation and development objectives and the market condition and growth patterns of their particular area.

CLALLAM COUNTY'S TRANSFER OF DEVELOPMENT RIGHTS PROGRAM

On July 28, 1998, the Clallam Board of County Commissioners adopted Ordinance 643 establishing a Transfer of Development Rights (TDR) program, codified under Clallam County Code (CCC) Chapter 33.26. The purpose of the program was to encourage the conservation of long-term commercially significant lands in the Sequim-Dungeness Regional Planning Area by allowing owners of such lands to realize the equity in the land's development potential without conversion to non-agricultural uses. The ordinance also sought to protect critical areas within the Port Angeles Regional Planning Area by allowing owners of such lands to realize the equity in the land's development potential without conversion to non-agricultural or non-forestry related uses. Lastly, the ordinance sought to encourage appropriate growth in urban areas.

To date, Clallam County's TDR program has not been used (in other words, no development has occurred on any receiving sites that utilized the transfer of development rights provisions). The reasons for this lie primarily with a lack of demand and market for purchasing TDR credits from receiving areas to be used by developers in in exchange for increased density within the Sequim and Port Angeles sending areas prescribed within CCC 33.26.070. The TDR program also may have inadequate incentives for development density increases.

As a relatively slow-growing county, a significant number of parcels still exist within the receiving sites found within Port Angeles and Sequim that are undeveloped or underdeveloped. Sequim and Port Angeles, while both experiencing growth, may need the receiving areas refined or updated in coordination with each city's current zoning and future land use maps to re-establish these areas as good candidates for desired growth.

Conversely, unlike Puget Sound jurisdictions and their successes described below, Clallam County has seen an overall decline in both population growth trends over the past 20 years, especially in the employment sector. Per Figure 12 of the Clallam County Demographic Profile (May 2024) less growth has occurred over the past decade when comparing 2000 - 2010 and 2010 - 2020.

Fast-growing counties such as King and Snohomish Counties in the Puget Sound region have multiple municipalities utilizing the TDR program, driven in-part by a strong employment sector. Reasons for these successes that Clallam County may consider are described below.

TDR SUCCESS

Washington Department of Commerce TDR guidance (<https://www.commerce.wa.gov/growth-management/ecosystem-planning/tdr/>) provides success stories of jurisdictions that have established exchange rates valuing land in the UGA or city higher to increase willingness by developers to participate, receiving additional dwelling units per acre, floor area, and height. Clear TDR credit minimum criteria to establish eligibility for qualifying as a potential sending site, as well as allocation rates for formulating buildable acreage (not to include critical areas, for example) and formulas where a 20 acre zoning formula results in one dwelling unit per five acres in rural areas, resulting in a 100 acre property being eligible for 20 TDR credits (100 divided by five), or 20 development rights.

In 2013, City of Seattle entered an interlocal agreement with King County. [PLACEHOLDER – MORE INFO TO COME HERE]

CLALLAM COUNTY'S CONSERVATION FUTURES PROGRAM

Unlike the TDR program reliant on market conditions and overall development demand to exceed standard zoning allowances, the Conservation Futures program establishes a clear link between open space and resource lands and funds these development right purchases via a variety of statewide and local levee systems. The success of this program stems from multiple parties working towards a common goal in conservation districts, land trusts, tribes, and the landowners themselves furthering the Counties adopted priorities for the, "*Preservation of Viable Producing Farmlands within Clallam County as per Definition in RCW 84.34.020 Preservation of Viable, but currently non producing Farmlands in Clallam County*" As adopted in December of 2021, effective until December 2030.

Conclusion

The County should consider a one-year feasibility period, engaging with Commerce to develop potential fixes for its unused TDR program. If no success or utilization remains, the County may be better served repealing CCC Chapter 33.26 and leveraging existing successes, such as the Conservation Futures Program.