Council Meeting: 06/03/2014
Agenda: New Business
Item #: 11. a.

CITY OF KIRKLAND
Planning and Community Development Department
123 Fifth Avenue, Kirkland, WA 98033 425.587.3225
www.kirklandwa.gov

MEMORANDUM

Date: **May 22, 2014**

To: **Kurt Triplett, City Manager**

From: **Dorian Collins, AICP Senior Planner**
Paul Stewart, AICP Planning Deputy Director
Eric Shields, Planning Director
Tracey Dunlap, Director of Finance and Administration
Ellen Miller-Wolfe, Economic Development Manager

Subject: **TRANSFER OF DEVELOPMENT RIGHTS – RESOLUTION OF SUPPORT, (FILE CAM13-1936)**

RECOMMENDATION

It is recommended that the City Council receives a presentation and adopts the attached Resolution expressing the City Council's support for regional Transfer of Development Rights (TDR) and willingness to consider regional TDR policies as part of the Comprehensive Plan update and implementing development regulations.

It is a requirement of the EPA funding that the Council take action in some form (approval or denial) on regional TDR policies and regulations. The funding deadlines associated with the grant require that the City act at this time. However, this action is limited to approval/denial of a Resolution that simply indicates Council's general support of regional TDR and Council's intent to consider the actual implementation of regional TDR policies and regulations when the Council will adopt an updated Comprehensive Plan.

An overview of the study findings and recommendations will be provided by staff, the TDR Program Manager from King County (Darren Greve), and the lead consultant on the study (Morgan Shook, BERK Consulting and ECONorthwest) at the June 3rd meeting.

BACKGROUND DISCUSSION

The key conclusions from the study examining the feasibility of developing a Transfer of Development Rights (TDR) program within the Totem Lake Business District, paired with the establishment of a Landscape Conservation and Local Infrastructure Program (LCLIP) that leverages the use of TDR for infrastructure funding are:

- *The business district boasts a good location adjacent to I-405, as well as proximity to the region's aerospace hubs and downtown Bellevue and Redmond. However, it is unlikely to attract much new development in the near-term as it is not in a core location attractive to investors, is auto-centric with limited transit and lacks high-quality amenities.*
- *Traditional bonus mechanisms used in TDR programs would not be successful in the case of the Totem Lake Business District where demand is already met by existing regulations.*
- *Due to the limited potential for the placement of TDR credits from density bonuses throughout the business district, a modest TDR/LCLIP program could be created for one zone (TL 5) where development regulations contain a development cap. The program could be designed to work with major developments within this zone.*

Kirkland's Totem Lake Business District is a designated Urban Center, and is planned for higher levels and densities of population, housing, employment and activity. To support this vision, the City has adopted generous incentives for development and made substantial public infrastructure investments to catalyze the growth needed to achieve the goals for the district. In order to explore the promise of additional potential techniques to benefit Totem Lake, the City chose to study the feasibility of developing a Transfer of Development Rights (TDR) program within the area. In September of 2012, the City of Kirkland entered into an agreement with King County to study the development of a County-to-City TDR program for Totem Lake.

King County's regional program was created to direct development away from rural and resource lands in order to protect and restore Puget Sound watersheds, and into urban areas seeking revitalization and growth in employment and housing. More information about the County's program can be found here. To date, King County has accomplished transfers through interlocal agreements with Seattle and Issaquah, and has additional such agreements with Bellevue and Sammamish. Other TDR programs exist in many cities and counties throughout Washington State.

Under a TDR program, landowners in "sending areas" (parcels from which development rights will be transferred) are paid a development value for their property, while retaining the resource uses (such as farming, open space, or forest). When the development rights are removed from the parcel, a conservation easement is placed on the land, permanently protecting it from development. This preserves the rural character and open space. Developers who purchase these rights or "credits" then receive bonuses, such as additional height, residential units or square footage, to use in "receiving areas" (sites to which development rights will be transferred) determined to be more suitable for growth. Consequently, a successful TDR program depends on the willingness of a developer to pay the market value for credits in order to use them in a receiving area in addition to the development rights granted under the existing zoning.

Recently passed legislation supports TDR, by combining urban infrastructure financing tools with the transfer of development rights to achieve the GMA's goals of encouraging urban growth and conserving resource areas. This new infrastructure financing legislation, (ESSB 5253 – LCLIP - the Landscape Conservation and Local Infrastructure Program, enacted in 2011) entitles a city to receive a portion of the property tax levy of the county in which the City is located, and requires that this reallocated increment be applied to public infrastructure costs within the defined project area. To be eligible for the financing, the City must also agree to accept a specified amount of regional development credits. More information about the LCLIP program and how it might work in Kirkland is provided in Section 3-6 through 3-15 of Attachment A.

Using a combination of grant funds ($50,000 from EPA through King County) and City funds ($34,000), Kirkland hired a consultant team led by Berk and Associates to assist in evaluating the feasibility and benefits of a TDR program, paired with the use of LCLIP, for Totem Lake. The City expanded the study to include the evaluation of other infrastructure financing tools as well, which are addressed in the model the City has received from the consultant team. The main elements of the study included:

- Land use market assessment for Totem Lake
- Development of a TDR program
- Assessment of LCLIP (Landscape Conservation and Local Infrastructure Program) and other infrastructure financing tools.

Study Conclusions and Recommendations

The report prepared by the consultant team, BERK Consulting, appears as Attachment A to this memo. The report includes the findings of the market analysis and a review of existing Comprehensive Plan policies and recommendations for updated policy language needed to support TDR in Totem Lake. The report also includes recommendations for potential TDR sending areas that are eligible for LCLIP and located in areas that would support the City of Kirkland's conservation priorities (such as salmon habitat lands aligned with goals in the WRIA 8 Salmon Conservation Plan and Shared Strategy for Puget Sound, or lands within the City's water supply area identified by Cascade Water Alliance). Finally, the report includes an analysis of LCLIP, and provides recommendations for how the City might proceed with a modest TDR/LCLIP program.

The key conclusions of the study are:

1. Market Perspective (Section 1, Page 1-1)

The study found that while the Totem Lake Business District has a strong center focused in the Totem Lake Mall, the Evergreen Health Center and the district's location between Bellevue, Redmond and Bothell/Everett, it is not currently identified by developers and capital as a high-priority location within the region. The greatest strengths were identified as:

1) location, with good accessibility to and from I-405 as well as good visibility from the highway;
2) demographics, with relatively high median household income and strong housing unit growth rates providing employment and a reservoir of consumer expenditures; and

3) proximity to the region's aerospace hubs and downtown Bellevue and Redmond.

Among the challenges to attracting new and expanding businesses were found to be Totem Lake's place as a "tertiary node" within the Eastside. It is also an auto-centric place of employment, and lacks quality amenities such as dining and services oriented toward professional office users. The redevelopment of the Totem Lake Mall and expansion of the Evergreen Health Center were cited as actions that may help the area to overcome these obstacles.

Industry trends identified for Totem Lake include continued strength in aerospace, with the potential for the area to attract corporate offices and aerospace-related engineering or software/IT firms, and that precision electronics and product testing companies related to this industry will continue to be drawn to the district. The study also highlights the continued success of auto-dealerships, but cautions that expansion is not likely among existing dealerships. Health care is seen as a strong asset and continued support for the Evergreen Health Center is encouraged. Finally, the study predicts continued strong occupancy of existing high flex/tech space but suggests that there is a low likelihood of a speculative office building or complex in the area in the near term given the competitive landscape.

2. Development of a Totem Lake TDR Program (Section 2, Page 2-1)

The study acknowledged that tools such as TDR and infrastructure financing programs (LCLIP) could be helpful in supporting the City's goals of creating a vibrant community and promoting economic development, while protecting the region's resource lands. However, the greatest challenges to the use of TDR in Totem Lake are the existing development regulations in the business district. The last update to the Totem Lake Neighborhood Plan and subsequent area-wide rezones and amendments have resulted in very generous densities and height limits for development, which are already more than sufficient to capture current and projected market demand. It is unlikely that demand for growth will surpass base zoning. At the time the height limits were increased, the policy direction was strongly in favor of encouraging a revitalized business district, new development and affordable housing, and the bonuses were designed to support this commitment.

The key finding of the analysis indicates that additional height or bonus density, the traditional bonus mechanisms used in TDR programs would not be successful in the case of Totem Lake where demand is already met by existing regulations. The consultant report suggests that a modest TDR program could be established in the TL 5 zone alone, where a limit on development exists in the zone's cap on floor area ratio (FAR). The code and market assessment suggests that the TL-5 zone may present an opportunity for awarding bonus FAR as an incentive to developers. The consultants recommend that the City should consider amending the Zoning Code regulations in the TL 5 zone to allow for increases in the maximum Floor Area Ratio for development that participates in the Transfer of Development Rights program.

3. Landscape Conservation and Local Infrastructure Program (LCLIP) (Section 3, Page 3-1)

Given the limited opportunity to provide density bonuses in Totem Lake, the potential application of TDR/LCLIP focused on creating an impact fee exemption as the incentive. By statute, the City needs to pay the foregone fees and expend the impact fee funding within 10 years (increased by the State Legislature from 6 years). A further constraint is that an interfund loan would be necessary to upfront the City payment of the foregone fee and there is a three year limitation on interfund loans. The financial analysis of the revenue that might be brought to bear if LCLIP were used indicates that the LCLIP revenue is insufficient to cover foregone revenue gaps created by the exemption incentive within the required timeframe.

Results of several LCLIP revenue analyses show that the program would only generate net positive revenue to the City if the LCLIP district were drawn to capture development occurring not only in Totem Lake, but also the downtown commercial core. A best case scenario suggests that a 25 year program could generate roughly $4 million in net present value terms of new funding to the City. However, due to the compounding nature of the tax increment financing, most of the revenues occur in the later years of the program leaving the program in the red for at least the first 15 years and not able to meet both impact fee and interfund loan timeframes to cover program deficits. The risks of such an approach seem significant given the relatively small projected benefit generated.

Due to these challenges, the consultant is not recommending application of LCLIP at this time, but is suggesting that the City consider an "opportunistic approach" to creating an LCLIP program in the event of major development in the TL-5 zone. To mitigate financial risks, the City can structure the start of the LCLIP program with major developments that might use a significant amount of TDR credits in the TL5 zone at some point in the future. Timing the program to the start of a known large-scale development (and credit use) would allow the City to leverage on a known demand for TDR and scale their LCLIP program to maximize the funding benefits. This could be done in tandem with either a large planned public or private purchase TDR credits that would help the City calibrate its LCLIP program.

Resolution

Passage of the attached Resolution would indicate the City Council's support for regional Transfer of Development Rights (TDR) and the City Council's willingness to consider regional TDR policies as part of the Comprehensive Plan update and implementing development regulations. Exhibit A to the resolution contains draft policies and direction for regulations that could be considered through the Comprehensive Plan update process. While the County requests that strong language be used in the draft policies, including terms such as "should", rather than "could", County staff acknowledges that the City Council may choose to revise this language if desired.

Attachments

A. Totem Lake Transfer of Development Rights and Tax Increment Financing Study, May 12, 2014
B. Resolution
C. Exhibit A to Resolution

Attachment A

FINAL REPORT

City of Kirkland

Totem Lake Transfer of Development Rights and Tax Increment Financing Study

May 12, 2014

Contact Information

Morgan Shook (previously of BERK Consulting and now at ECONorthwest), Chris Fiori, Matt Hoffman, Skip Swenson, and Nick Bratton prepared this report. BERK Consulting and ECONorthwest gratefully acknowledges the substantial assistance provided by staff at Heartland and Forterra,

For more information about this report, please contact:

Morgan Shook (lead author)
ECONorthwest
500 Yale Ave N, First Floor
Seattle, WA 98109
206.395.9004
shook@econw.com

Michael Hodgins
BERK Consulting
2025 First Ave, Suite 800
Seattle, WA 98112
206.324.8760
michael@berkconsulting.com

Attachment A

Executive Summary

Totem Lake Transfer of Development Rights and Tax Increment Financing Study

TOTEM LAKE TDR AND TIF STUDY

Executive Summary

1.0 INTRODUCTION

The City of Kirkland's Totem Lake area is a designated Urban Center – an area designed to support higher levels and densities of population, housing, employment, and activity. Totem Lake is located in the geographic center of the City, and contains its largest business district. The area is anchored by the Totem Lake mall and Evergreen Hospital (also the City's largest employer), with pockets of commercial and residential land uses. Most of the Totem Lake commercial area is currently characterized by relatively low density and automobile orientation; however, this land use is a major contributor to the City's sales and business tax base.

Over the past decade, the City has committed to transform the business district and neighborhood of Totem Lake into a vital urban center, making it a home to higher levels of new residents and jobs. The City has laid out a strong and achievable vision for the area, and has suggested a myriad of strategic investments in public infrastructure and development incentives that may be able to support and catalyze the growth the City is seeking.

Taking another step toward realizing the vision of the Totem Lake Action Plan, the City has conducted a study examining the feasibility of developing a Transfer of Development Rights (TDR) program within the Totem Lake neighborhood, paired with the establishment of a Landscape Conservation and Local Infrastructure Program (LCLIP) that leverages the use of TDR for tax increment infrastructure funding. The main elements of this study include:

- Section 1 - A land use market assessment for the Totem Lake neighborhood
- Section 2 - The development of a TDR program
- Section 3 - An evaluation of LCLIP

The following summary presents the key findings and recommendations of the study.

2.0 KEY FINDINGS AND RECOMMENDATIONS

2.1 Market Perspectives

What is the area of study?

The Study Area covers approximately 607 acres with a variety of land uses. Of this acreage, 525 acres are located in the Totem Lake (TL) zone, with the remainder located in other City zoning designations. Exhibit 1 shows the study area. There are an estimated 9.2 million gross square feet of building area, and 1,516 residential units within the Study Area. The predominant property uses in terms of building square footage are industrial and hospital uses, which comprise 32% and 22%, respectively. Commercial and Office uses comprise 18% and 17% of the Study Area's total gross building square footage, respectively. Multifamily housing is present in the Study Area, but comprises only 12% of the total building stock.

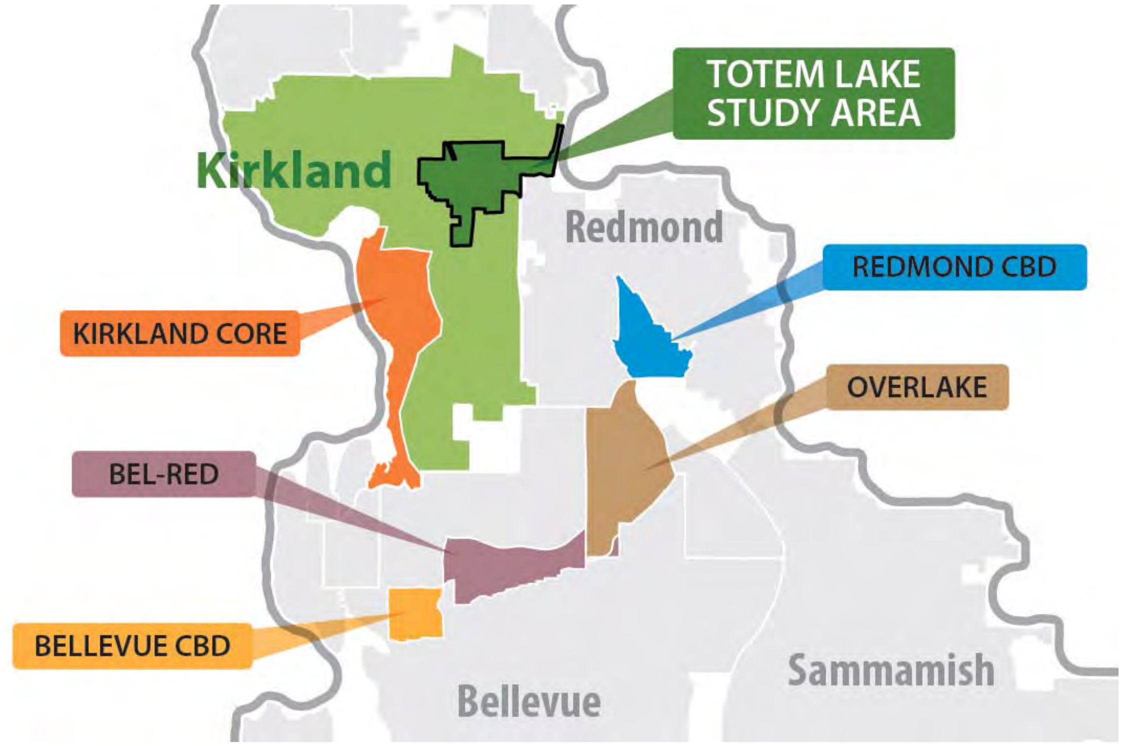
Exhibit 1: Study Area

Source: Heartland, 2013.

What is Totem Lake's competitive position?

Totem Lake's comparative areas include the Kirkland Core, Bellevue's CBD, the Bel-Red Corridor, Overlake, Redmond's CBD, and Central Issaquah. Exhibit 2 depicts these areas. From the perspective of commercial builders and businesses, development in the area is driven by strong regional transportation connections along with strong area demographics (e.g. an educated labor pool, relatively large population size, and high income levels). That said, it does face competition from the other key Eastside nodes, which have historically been more attractive. Each of these nodes have centers of gravity, from Bellevue's CBD as a regional employment center, to Overlake and the Redmond CBD's lift achieved in large part from Microsoft development and employment growth. The Study Area's center of gravity is the Totem Lake Mall, the Evergreen Health Center, and its major I-405 exchange location between Bellevue, Redmond, and Bothell/Everett. To date, developers and capital have not identified this area as a high-priority location.

Exhibit 2: Eastside and Commercial Nodes Map



Source: Heartland, 2013.

What are the area's biggest strengths?

The Study Area has a number of positive attributes that make it attractive to commercial users looking to expand or relocate. These include:

- Location: The Study Area fronts I-405 on the east and west side, providing strong accessibility to and from the highway as well as visibility from the highway;
- Demographics: There are Census blocks in the surrounding area that have median household incomes exceeding $85,000, along with relatively high anticipated housing unit growth rates which will provide both an employment base and a reservoir of consumer expenditures; and
- Proximity: The Study Area is well connected to the region's aerospace hubs of Payne Field and Renton/Kent Valley via I-405 and only 8 miles from downtown Bellevue and 5 miles from downtown Redmond.

What are the area's biggest challenges?

There are several hurdles to attracting new and expanding business to the Study Area. First, the Study Area can be considered a tertiary node within the Eastside. It is not a regional core location like

Bellevue's CBD which investors gravitate toward for capital placement, and is historically not an area which national companies look to locate in.

The Study Area is also an auto-centric place of employment, and there is a lack of quality amenities (e.g. dining and services oriented towards professional office users) in the Study Area. These obstacles can be bridged as the Study Area continues to evolve, aided most by the redevelopment of the Totem Lake Mall and the expansion of the Evergreen Health Center.

What's the long range likelihood for development in the area?

Based on an assessment of buildable land, historical trends, and current market fundamentals, a moderate growth forecast for the area estimates about 4 million square feet in future development over the next 25 years. A majority of this development is accounted for in the Totem Lake Mall redevelopment.

What are some industry trends that point to development in Totem Lake?

Aerospace

The Study Area's competitive assets include its location along the I-405, the affordability of rent relative to other Eastside nodes, and the demographics of the surrounding population – which is well educated, and includes a number of aerospace executives residing in the Eastside – suggesting that the Study Area could potentially be attractive to new and relocating firms. The types of aerospace businesses that may be a good fit for the Study Area include:

- Corporate offices or regional headquarters of international firms that want access to the supply chain;
- Engineering or software/IT firms focused on commercial or space flight could be attracted to office and/or flex space;
- Heavy manufacturing is not likely, but precision electrics and product testing firms are currently in the Study Area and others could be drawn to the area.

New-Car Auto Dealerships

Expansion is not likely from the dealerships that are currently in the Study Area. Given dealership franchise laws, movement of dealerships within the region is complicated and not often completed. Furthermore, the expansion of dealerships would likely slow the evolution of the Study Area as these uses typically utilize land for parking and single purpose buildings. While compatible with adjoining and surrounding office uses (to a degree – dealerships offer no amenity value to office users), dealerships are not particularly desired neighbors for multifamily complexes. We believe that the existing dealerships should be embraced, but any active recruitment of new dealerships should be carefully considered by city leadership.

Health Care

The Study Area is home to the Evergreen Health Center main campus. The presence of this regional asset in the Study Area should be attractive to investors considering medical office development. Given the strong regional market fundamentals for medical offices and the presence of the Evergreen Health Center in the Study Area, the City should consider working with the hospital to better understand how it can support both its own growth as well as encourage new, supporting medical office development near the campus.

High-Tech/Software

There are currently approximately 300 businesses within this sector that are located in Kirkland. A number of these companies are located along the Lake Washington corridor or in Kirkland's central business district; however, there are a number located in the Study Area as well. There is a low likelihood of a speculative office building or complex in the Study Area in the near term given the competitive landscape. However, existing users in flex/tech will continue to occupy existing office space in the Study Area, helping to keep vacancy rates low. With that in mind, the technology sector will likely continue to be a jobs driver for the foreseeable future and the region's reputation should remain. Given the strong vision for the Totem Lake Mall redevelopment, it cannot be ruled out that a major employer would be attracted to the Study Area for its accessibility and proximity to an educated workforce.

2.2 Transfer of Development Rights Program

Why use TDR in Kirkland (and Totem Lake)?

The City of Kirkland has identified the Totem Lake neighborhood as an important center for economic and population growth in the city. The City's vision for the area, as articulated in the Totem Lake Neighborhood Plan, is to capture opportunities for redevelopment, revitalization, and growth in employment and housing. Growth management tools such as transfer of development rights and infrastructure financing programs (LCLIP) can support the city's goals of creating a vibrant community and promoting economic development, all while protecting the region's resource lands that contribute to a high quality of life.

An effective TDR program can support Kirkland's efforts to encourage population and employment growth by providing incentives for the types of redevelopment that the city desires. Furthermore, it can support the city's conservation objectives and help conserve farms and forests that are essential to the sustainability of the region.

What areas should the City focus its TDR conservation efforts?

For this study, we focused on three priority conservation areas that are eligible under the LCLIP program, and are in alignment with the City's stated policy interests of:

- Protecting salmon habitat,
- Protecting its drinking water source, and
- Protecting productive farm and forest lands.

These areas of focus are supported by various plans and it is recommended that the City designate its TDR sending sites in:

- Resource lands and credits deemed eligible under LCLIP
- Salmon habitat lands aligned with goals in the WRIA 8 Salmon Conservation Plan and Shared Strategy for Puget Sound
- Lands within the City's future water supply area identified by Cascade Water Alliance

What are some constraints in creating a TDR Program for the City?

The City has identified the provision of affordable housing as a component of the Totem Lake Urban Center and has dedicated bonus density provisions to support that commitment as a development incentive. For TDR, it is important to design new incentives in such a way as to avoid creating competition among conservation and affordable housing goals. Density bonuses awarded under a potential TDR program could be limited to bonus density in areas without the affordable housing provision - and other commodities, such as modified parking ratios or other innovative approaches designed to place credits so that LCLIP can be used. This approach reduces competition between the two public policy goals, but also limits opportunities for using TDR.

How might the City proceed in creating a TDR Program?

In the case of Totem Lake, recent area-wide rezones allow for densities that are high enough to capture most of the current and projected market demand, and current density bonuses go to affordable housing as discussed above. It is therefore unlikely that demand for growth will surpass base zoning following the increase in by-right capacity established in the Totem Lake Neighborhood Plan – however, an opportunity exists to create a modest TDR program in an area of the City that avoids the issues discussed above. A code and market assessment suggests that the TL-5 zone may present an opportunity for awarding bonus Floor Area Ratio (FAR) as an incentive to developers. The City should consider amending the Zoning Code regulations in the TL 5 zone to allow for increases in the maximum Floor Area Ratio for development that participates in the Transfer of Development Rights program.

2.3 Landscape Conservation and Local Infrastructure Program

What is LCLIP?

LCLIP is a form of tax increment financing enacted in 2011. The program offers the use of tax increment financing to a city in return for: 1) the creation of a TDR program; and, 2) the acceptance of a specified amount in regional development rights. In exchange for the placement of development rights in LCLIP districts, the jurisdictional county agrees to contribute a portion of its regular property tax to the sponsoring city for use for a defined period. The program is only available to select cities in the central Puget Sound counties of King, Pierce, and Snohomish.

What are the benefits of LCLIP to the City?

Through the Totem Lake Neighborhood Plan the City of Kirkland has identified a number of infrastructure improvement needs to support its vision for the neighborhood. Changes to the street grid, improved connectivity, and drainage are a sample of areas where the City has highlighted needs for enhanced infrastructure. One approach the City could take to financing the investments required to adress these needs is through the use of LCLIP. As mentioned earlier, numerous tools exist in Washington to help cities finance infrastructure – however, LCLIP with TDR presents a near term opportunity to capture incremental tax revenues for infrastructure funding.

What are the key challenges for the City in terms of using LCLIP?

The TDR analysis is focused on ensuring that affordable housing and TDR benefits are not in competition through the provision of different bonuses in different geographies. The majority of the development bonus is used for encouraging affordable housing. For this study, it means that TDR use through traditional density bonus mechanisms would not generate meaningful placement of credits sufficient to meet the minimum use of TDRs under the LCLIP program (at least 20% of the 501 credits or roughly 100 credits). Therefore, the City explored achieving conservation goals through an innovative approach to infrastructure funding.

The approach taken for this analysis was to offer a voluntary exemption in impact fees to developers as a means for incentivizing the placement of TDR in Totem Lake through the creation of a fee in lieu payment that would be used by the City to purchase TDR credits required to meet the eligibly and threshold requirements of the LCLIP program. This approach would reduce the impact fee revenues collected by the City, replace them with funding available through LCLIP, and create better certainty of TDR placement when development happens.

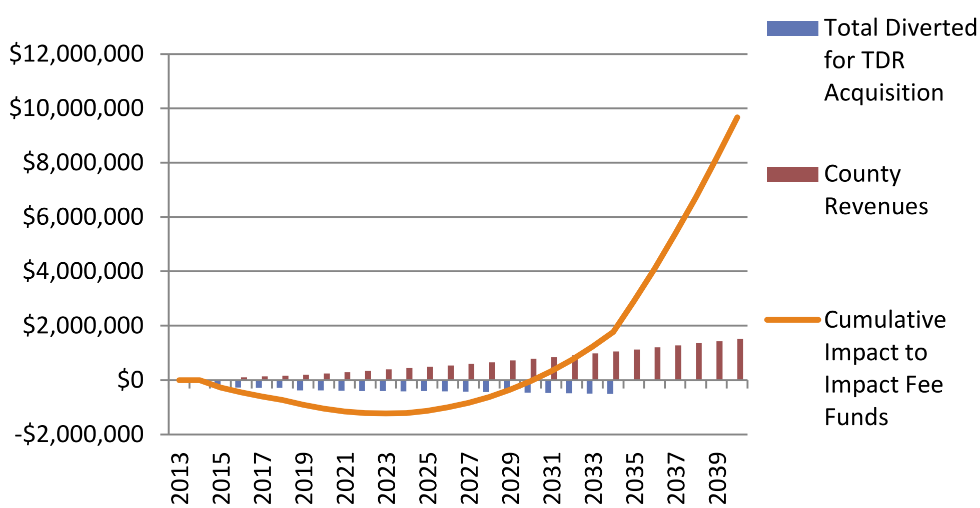
Is this innovative TDR and LCLIP approach workable?

At this time, the assessment does not see a workable programmatic approach for LCLIP in the Totem Lake area given financial conditions and legal limitations. However, the assessment shows that if future conditions change (development, financial, legislative, etc.), a programmatic approach may show some promise.

After creating an impact fee exemption, the City will need to replace the impact fee funding within 6 years in order to be compliant with state laws governing impact fee funds. A further constraint is a three year limitation on interfund loans that might be brought to bear if revenue from LCLIP is insufficient to cover foregone revenue gaps created by the exemption incentive (used to purchase TDR credits).

Results of several LCLIP revenue analyses show that the program would only generate net positive revenue to the City if the LCLIP district were drawn to capture development occurring not only in Totem Lake, but also the downtown commercial core. A best case scenario suggests that a 25 year program could generate roughly $4 million in net present value terms of new funding to the City. However, due to the compounding nature of the tax increment financing, most of the revenues accrue in the later years of the program, leaving the program in the red for at least the first 15 years and unable to meet both impact fee and interfund loan timeframes to cover program deficits (Exhibit 3).

Exhibit 3: LCLIP "Fund Balance for Totem Lake and Core Scenario



Source: BERK, 2013.

What is the path forward for LCLIP?

Due to the limited potential for the placement of TDR credits within the Totem Lake neighborhood from density bonuses, starting an LCLIP program is unlikely to meet eligibility requirements or generate significant amounts of revenue at this time. The development of an innovative TDR-Impact Fee in Lieu program for LCLIP has shown promise in its ability to generate significant new revenues. However, such a program is challenged to be compliant with laws governing the collection and spending of impact fees. Creating such a program at the current time is not advised.

With this grounding, it is suggested that the City take an "opportunistic approach" to creating an LCLIP program. To mitigate financial risks, the City can structure the start of the LCLIP program with major developments that might use a significant amount of TDR credits in the TL-5 zone. Timing the program to the start of a known large-scale development (and credit use) would allow the City to leverage on a known demand for TDR and scale their LCLIP program to maximize the funding benefits. This could be done in tandem with either a large planned public or private purchase of TDR credits that would help the City calibrate its LCLIP program.

In moving forward on LCLIP, the following conditions should be monitored and evaluated:

- Indications that confirm market interest in TDR, such as development applications that have been or are expected to be proposed that will need TDR credits in the proposed Totem Lake receiving area.
- Analysis of the expected use of TDR credits confirms a reasonably high likelihood of meeting the threshold requirements for TDR use in the LCLIP district.
- Infrastructure projects have been identified that qualify under the LCLIP program.
- A LCLIP district can be created that maximizes the projected LCLIP revenue to pay for infrastructure projects while meeting the requirements of the LCLIP legislation.
- As needed, a shared strategy approach with King County or another partner agency should be included in an approach to retiring TDR credits.

Table of Contents

SECTION 1: Market Assessment and Perspectives

SECTION 2: Transfer of Development Rights Program

SECTION 3: Tax Increment Financing and LCLIP Assessment

SECTION 1

Market Assessment and Perspectives

TOTEM LAKE TDR AND TIF STUDY

Market Assessment and Perspectives

1.0 INTRODUCTION

The overall purpose of this section is to assess and contextualize potential growth for the Totem Lake Neighborhood (Study Area) and to recommend a set of growth assumptions that can be used for evaluating potential TDR credit utilization. This section also includes an evaluation of the Study Area's position relative to its competition in the Eastside.

Within this section are six subsections that cover the broad range of topics related to Study Area growth and its position in the market. The subsections in this Section are:

- **Study Area Inventory and Development Patterns –** An assessment of development patterns and existing land use in the Study Area;
- **Land Capacity –** An evaluation of the City's most recent iteration of its land capacity analysis;
- **Key Assemblages –** An identification and evaluation of key land assemblages that may accommodate growth;
- **Housing and Job Growth –**An estimation of housing and job growth in the Study Area through the planning horizon (2035);
- **Market Assessment –** A comparison of the Study Area's growth and market dynamics relative to the rest of the Eastside; and
- **Potential Future Commercial Users –** A summary of the types of users currently in the Study Area and perspectives on potential future users based on regional trends and interviews.

2.0 STUDY AREA INVENTORY AND DEVELOPMENT PATTERNS

The Study Area comprises 291 unique parcels that total approximately 607 acres with a variety of land uses. Of this acreage, 525 acres are located in the Totem Lake (TL) zone with the remainder located in other City zoning designations.[1] Exhibit 1 shows the study area.

---

[1] The Cross Kirkland right of way and publicly owned land with a Park (P) zoning designation are excluded. The non-TL zones that are included in the Study Area include 53 acres of RM/RMA (Multifamily Residential) land, 23 acres of PR (Professional Office Residential) land, and 7 acres of privately owned P (Park/Public Use) land.

Exhibit 1: Study Area

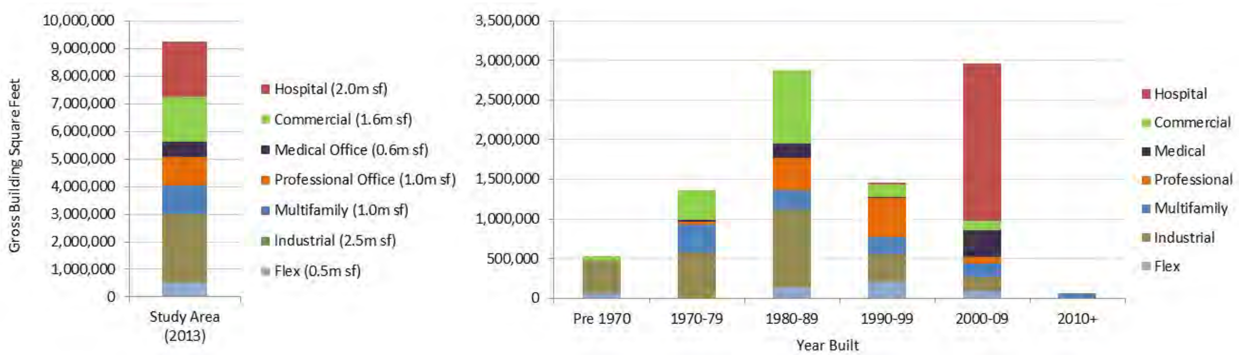
Source: Heartland, 2013.

There are an estimated 9.2 million gross square feet of building area and 1,516 residential units[2] within the Study Area, based on King County Assessor parcel data. The predominant property uses in terms of building square footage are industrial and hospital uses, which comprise 32% and 22% of the area, respectively. Commercial and Office uses comprise 18% and 17% of the Study Area's total gross building square footage, respectively. Multifamily is present in the Study Area and comprises only 12% of the total building stock.

The most active decade of development in the Study Area was in the 1980s, when 31% of the existing square footage was built. Development in the 2000s was dominated by the expansion of the Evergreen Hospital campus. Exhibit 2 depicts the existing distribution of building square footage in the Study Area as well as the development trends by use and by decade.

[2] The residential unit count includes units located at market rate and subsidized for rent complexes, condominium complexes, senior housing complexes, and rehabilitation facilities. Market rate units comprise 1,173 of the 1,516 total units.

Exhibit 2: Building Square Foot Distribution by Use + Development by Decade



Source: King County Assessor, Heartland LLC; 2013.

2.1 Industrial/High Tech

This land use is the most prevalent in the Study area, totaling 3.0 million gross square feet. In general this land use can be grouped into two categories – traditional industrial space and flex space. Those buildings in the Study Area categorized as traditional industrial buildings total 2.5 million gross square feet with the remaining 500,000 square feet occupied by flex industrial.

Traditional industrial space is used for light manufacturing or warehousing/distribution. These buildings are typically one or two stories with office space and supporting office built out space comprising less than 40% of the total building square footage.[3] The floor area ratio for these uses in the Study Area is observed to be between 0.1 and 0.7. Flex industrial space is oriented more towards office tenants that need some warehouse or production space. These could include high-tech users such as aerospace suppliers, medical device instrument companies, software and hardware, telecommunications, and corporate offices. These buildings range from one to three stories and the office space typically comprises at least 40% of the building.[4] Like typical industrial uses, the observed floor area ratio for flex buildings in the Study Area is between 0.1 and 0.6. These uses are scattered throughout the Study Area; however, industrial is the predominant use west of I-405 and south of NE 124th St as well as west of 128th Lane on the east side of I-405.

2.2 Hospital

As of 2011, the Evergreen Healthcare campus includes three buildings: the one-story, 20,000 square foot Medical Center built in 1991; the five-story, 293,000 square foot DeYoung Pavilion built in 2008; and the nine-story, 1.7 million square foot main building built in 2006. The campus is concentrated in the north central portion of the Study Area east of I-405 and is the center of gravity for medical office buildings in the Study Area (there currently is a substantial amount of vacant space in the campus).

2.3 Commercial

The majority of commercial square footage was delivered in the 1980s. The Totem Lake Mall is the most significant retail land use in the Study Area totaling over 300,000 square feet. There are two other major retail centers in the Study Area: the Totem Square shopping area (including the Dania Furniture store)

---

[3] King County Assessor, 2012 Annual Revalue Report High-Tech/Flex Properties, January 2012.

[4] Ibid

that totals 211,000 square feet, and the Fred Meyer shopping area that totals 312,000 square feet.[5] Auto dealers are also an important commercial user in the Study Area. There are seven new car showrooms[6] and two used car dealers in the Study Area. There are also a number of other stand-alone and strip retail buildings located throughout the Study Area. Finally, the four lodging uses (the Carton Inn, Comfort Inn, Motel 6, and Courtyard by Marriott) are included in the commercial use category.

2.4 Office

Office buildings comprise 17% of the total improved square footage in the Study Area, but are not a major consumer of land. This is best illustrated in Exhibit 3 below. In general, medical office uses are concentrated around the hospital and on NE 124th St and more traditional office uses are concentrated in and around the 405 Corporate Center located west of I-405 and south of NE 124th St.

2.5 Multifamily

Multifamily is not currently a prominent use in the Study Area. There are a total of 1,516 residential units in the Study Area totaling 1.0 million square feet.[7] There are only four apartment complexes in the Study Area that total 654 units. The density on these projects ranges from 12 units per acre to 18 units per acre. Ownership multifamily product in the Study Area is comprised of four condominium projects totaling 280 units. The density on these projects ranges from 7 to 13 units per acre. The remaining 582-multifamily units are comprised of senior housing facilities, four-plexes, a subsidized housing project, and a rehabilitation center. The most recent multifamily developments in the Study Area include the 61-unit St. Francis low income housing project, the 200-unit Aegis senior living project and the 29-unit Chelsea Courte II condominium.

Exhibit 3 on the following page illustrates the existing land uses in the Study Area. This map is based on Heartland's common ownership assemblage analysis. This assemblage analysis impacts parcels that the Assessor identifies as vacant or accessory parking in that if those unimproved parcels are found to be part of a larger assemblage tied to a commercial or residential use then all of the parcels in that assemblage are identified with a non-vacant land use.

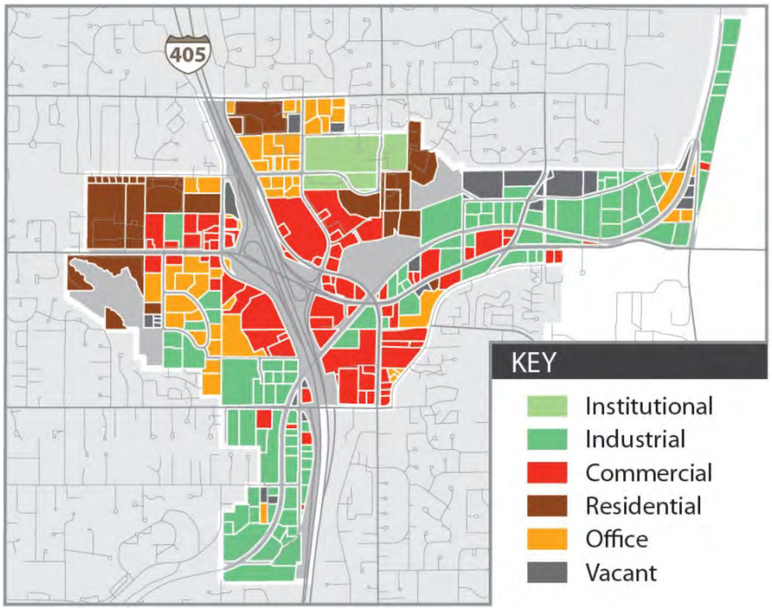
---

[5] Included in the Fred Meyer shopping area is the Fred Meyer store, Dunn Lumber, and Totem Hill plaza. The 100k square foot former Costco Furniture warehouse that the City of Kirkland is converting for municipal use is counted as office.

[6] Auto dealers in the Study Area include GMC Buick, Subaru, Hyundai, Ford, Infiniti, Toyota, Scion, Dodge, Jeep, Chrysler, Fiat, and Volkswagen.

[7] Residential units in this context includes four-plexes, market rate and subsidized multi-family, and senior housing. There is no single family housing in the Study Area.

Exhibit 3: Study Area Land Use Distribution Map



Source: King County Assessor, Heartland LLC; 2013.

3.0 LAND CAPACITY ASSESSMENT

Given the existing conditions summarized in Section 2.1, we next will evaluate the potential development capacity in the Study Area. A land capacity assessment is an important analysis to evaluate how the existing built environment and regulatory conditions compare to forward looking housing unit and employment targets and projections. Given our scope of work, we relied on the City's assessment of the buildable land and capacity estimates for the Study Area. We found that the City's methodology is generally consistent with buildable analysis best practices. To summarize the City's approach, it identified vacant parcels as buildable and those properties with an improvement to land value of less than 50% to be redevelopable. It then deducted critical areas and allocated land for potential right of way to arrive at buildable land area. Applying this technique identifies 76 buildable acres land of the Study Areas 607 acres.

The capacity for new development in the Study Area given current zoning is estimated to support up to 3,231 new residential units, 819,000 square feet of commercial uses, 1.7 million square feet of professional office, and 268,000 square feet of new industrial.[8] These figures assume that the Totem Lake Mall redevelopment plan will be realized in the future at its currently proposed development capacity. The overall net increase in improvements is illustrated in Exhibit 4.

---

[8] Estimates of total square footage capacity are derived from identification of buildable parcels and applying the corresponding zoning that specifies allowable capacity under zoning.

Exhibit 4: Study Area Build-out at Maximum Capacity

		Commercial	Professional Office	Industrial	Residential Units
(a)	Existing Stock	1,593,539	1,301,647	2,905,215	1,516
(b)	Capacity Estimate	818,933	1,658,553	268,244	3,231
(c)	Existing Stock Removal	(639,635)	(156,270)	(625,568)	(10)
(d)	Full Build-out	1,772,837	2,803,930	2,547,891	4,737
(e)	Net	179,298	1,502,283	(357,324)	3,221
(f)	Percent Change	11%	115%	-12%	212%

Notes
(a) Based on Assessor data and Heartland analysis
(b) City of Kirkland land capacity estimate
(c) Assumed demolition of existing buildings on redevelopment sites
(d) Full build out equals existing stock (a) + capacity analysis estimates (b) - existing stock demolition (c)
(e) Full build out (d) less existing stock (a)
(f) Overall percent change; net (e) / existing stock (a)

Source: City of Kirkland and Heartland, 2013.

The analysis presented in Exhibit 4 shows how the Study Area could evolve given the current land use code. This suggest that a full build-out the Study Area’s residential unit count could triple, the office square footage could double, while the commercial and industrial space could remain relatively unchanged. The following sections will begin to frame how the Study Area could build out through the planning horizon (2035) given potential near- to mid-term opportunity sites and market dynamics.

4.0 KEY LAND ASSEMBLAGES

Through an evaluation current land uses and ownership patterns we can identify potential key land assemblages. These assemblages represent locations where development of scale could occur, and thereby potentially utilize TDR credits, during the planning period.

At this time, the only current development activity in the Study Area is the O’Brien Group’s new Toyota 90,000 square foot dealership on the former Graham Steel site and the City’s Public Safety Building development in the building formerly occupied by Costco Furniture. The development pipeline beyond this project is thin. The only project under construction near the Study Area is the 118-unit multifamily development named Slater 116. This project is being built near southwest corner of NE 116th St and 124th Ave NE just beyond the Study Areas boundary.

The Totem Lake Mall redevelopment project is not currently in the permitting process; however, it is far and away the most significant land assemblage in the Study Area. Coventry Real Estate Advisors currently owns this roughly 25 acre assemblage that is improved with 300,000 square feet of retail. There is a development agreement with the City that would deliver 622,000 square feet of retail, 144,000 square feet of professional office, and 226 new residential units. By all indications, this development program is still being planned for by Coventry. Should this development be completed as originally envisioned it could serve as a catalyst for office and residential uses.

Beyond the above cited projects that are in the pipeline or anticipated to be redeveloped there are several potential assemblages that could see redevelopment in the earlier portion (five to ten years) of the planning horizon. The following map in Exhibit 4 and narrative identify and describe the conditions around several potential near to mid-term redevelopment sites and areas.

Exhibit 5: Potential Near to Mid-Term Development Sites

Source: Heartland, 2013.

There are relatively few near-term redevelopment opportunities on the west side of I-405 due to the current strong office, industrial, and flex market real estate fundamentals in the Study Area:

- Dunn Lumber: The Dunn Lumber site is located adjacent to Fred Meyer at the northwest corner of 120th Ave NE and NE 118th St. The 2.4 acre site is located in the TL4B zone. It is currently occupied, but the improvement to land ratio is under 33%.[9] The current owners have been operating on the site since 1978 and do not have any near term intentions of redeveloping this site.
- Window Vision Building + 116th Street ParMac Building: On the south side of NE 116th St and east of 120th Ave NE at 11795 NE 116th St is a 4.2 acre parcel in the TL10C zone that is commonly known as the Window Vision property. This property is improved with an industrial warehouse building that has an improvement to total value ratio of 18%. The current primary use of the property is for recreation with SkyMania Trampolines as the primary tenant. Given its location adjacent to the Eastside Subaru auto dealership to the west and the 116th Street ParMac light industrial building to the east the most likely redevelopment scenario under the current zoning would be an auto dealership. However, if an assemblage could be created with the 3.0 acre 116th Street ParMac Building property to the east this could be redeveloped into a multi-family complex. This building is also providing a recreation outlet to the community with two of the principle tenants being Eastside Basketball Club and Pump It Up bouncy house center.

[9] This list of example redevelopment sites is based on the assemblage's improvement to land ratio and our interpretation of its current use relative to its highest and best use. The improvement to land ratio cited 33% rather than the 50% that is used for a typical buildable lands analysis. This is to underscore the fact that the improvement is likely beyond its useful life for future users.

On the east side of I-405 we identified three areas where development may occur in the early portion of the planning horizon. These include:

- TL5 Cluster: The TL5 zone, which totals the 24.2 acres is a potential redevelopment site. This site is comprised of the 9.3 acre Totem Square retail center that totals 121,000 square feet of commercial space, the 4.9 acre Dania Furniture retail store that comprises 65,000 square feet of commercial space, the 5.6 acre Public Storage property, and the remaining 4.4 acres owned by four different property owners and improved with a mix of retail space. While (with?) the parcels this zone in total has an improved ratio in excess of 50% we believe this to be an excellent area for redevelopment given its location in the Study Area. However, there are a number of complexities associated with realizing all, or even a portion, of this property being redeveloped. These include the quantity of unique property owners, the likely need - and associated cost - to develop interior circulation infrastructure, and the need for the redevelopment economics to exceed the property's current uses. We have communicated with the current land owners of the Totem Square center and they indicated that they would be receptive to incentives that permit additional capacity; however, they have no near term intentions to redevelop their site.
- RJB Wholesale: In the TL7 zone there is the 3.4 acre RJB Wholesale property that is currently used by a piping wholesaler. The improvement is less than 5% - well under the 50% improvement value to total value threshold typically used to identify whether a property is considered redevelopable. Given this site's excellent exposure on the north side of NE 124th St east of Totem Lake Blvd NE and it's adjacency to the future Cross Kirkland Corridor it has strong potential for redevelopment. The owners have communicated that in the years past area auto dealerships have inquired about this property.

Another area that should be noted, but we have excluded from the above list is the 15.5 acre, 5-parcel cluster of property in the 7 zone. This cluster is located north of the Cross Kirkland Corridor and east of 132nd Place NE. While most of this property is improved with industrial uses with improvement to land values suggesting potential redevelopment, the property located in the middle of this cluster has recently been purchased by the O'Brien group and will be used to support its operations as a surface parking lot. By committing this 6 acre parcel to a low-accretive value use such as parking, the adjoining parcels will not likely see a lift in profile from developers looking for non-industrial land.

5.0 HOUSING UNIT AND JOB GROWTH

Understanding historical housing unit and job growth in the Study Area – and broader Eastside – is critical to estimating future growth and potential build out during the planning horizon. The housing unit estimates are based on both an evaluation of historical development trends in the Study Area, Kirkland and the Eastside; as well as the likely capture of future household demand.[10]

5.1 Housing Units

New residential development in the Study Area permits multifamily housing; therefore, the following analysis is focused on contextualizing existing multifamily housing conditions and estimated multifamily housing unit growth. As illustrated in the Property Inventory and Development Patterns section there

---

[10] Household demand projections were based on data from the Washington Office of Financial Management intercensal estimates (King County and the City of Kirkland), PSRC's revised household formation forecasts (King County), and DemographicsNow growth estimates (Kirkland).

are currently 1,516 residential units in the Study Area; of which 1,173 are market rate for-rent or ownership units. Approximately 85% of the units in the Study Area were developed before 2000. Based on our estimates[11], the Study Area's total residential units currently account for 8% of the City's approximately 15,000 market-rate multi-family housing units.

As illustrated in the Land Capacity Assessment section, the Study Area has capacity to accommodate up to 3,321 additional units. If the Study Area were to reach maximum capacity by the end of this planning horizon in 2035 an average of 147 units would need to be delivered each year between 2013 and the end of the planning horizon. The typical new construction mid-rise multi-family complexes in the Eastside have comprised an average of 140 to 150 units[12] so this would mean an average of one new project would be delivered per year during that period. Such a rapid evolution of the Study Area is not likely during the planning horizon based on historical trends, near and mid-term development market perceptions of the Study Area, and the supply of potential multifamily development sites in the Study Area. This land capacity based unit growth estimate is considered to be the "maximum" growth scenario for this analysis.

We have adjusted the housing unit growth estimate to form a "moderate" growth scenario. In this scenario we have estimated the total number of units in the Study Area to increase by 1,623 units through 2035. This would roughly double the unit count in the Study area from 1,516 total units to 3,078 units. This moderate scenario would suggest that the Study Area would build out to 48% of its maximum capacity by 2035. Based on this projection the Study Area would capture approximately 34% of the City's new multifamily development and it would represent 18% of the total multi-family units.[13] Using the average project size of 140-units, this moderate unit growth would estimate 10 new multifamily projects in the Study Area through 2035.

Exhibit 6: Study Area Housing Unit Growth Estimates

	2000	2010	2020	2035	2010-35 Δ
City of Kirkland*					
Total Units	21,831	24,345	28,986	32,647	8,302
Multi-family Units	9,824	12,173	14,783	16,976	4,804
Single Family Units	12,007	12,173	14,203	14,700	2,528
Study Area					
Multi-family: Max Capacity	1,426	1,455	2,544	4,747	3,292
Multi-family: Moderate Scenario	1,426	1,455	1,928	3,078	1,623

Source: Heartland, 2013.

Notes: * See Footnote 9.

5.2 Employment

In the Land Capacity Analysis section it was estimated that the Study Area has capacity for a total of nearly 7.6 million square feet of new development. Given the types of uses and the employment each

[11] Our estimates are based on our interpretation of King County Assessor data

[12] An average unit number based on a survey of recently completed mid-rise multifamily projects on the Eastside.

[13] To keep these estimates relative to past trends, we have defined the City in this data as the pre-2011 annexation area.

demand, we applied a square foot per employee metric to estimate the number of jobs that could be created if the Study Area were to be fully built out. Exhibit 7 depicts this analysis.

Exhibit 7: Study Area Employment Estimates at Maximum Capacity

Use Type	Square Feet	SF/Employee	Jobs
Commercial	818,933	400	2,047
Professional Office	1,658,553	200	8,293
Industrial	268,244	750	358
Residential	4,847,134	n/a	
TOTAL	7,592,863		10,698

Source: Heartland, 2013.

As we did with the multifamily unit development in the previous section, we tempered the maximum growth scenario based on the assumption that the Study Area will not likely be built out by 2035. Exhibit 8 shows the moderate growth scenario for the Study Area and the accompanying estimated job generation. This assumes that the Totem Lake Mall will be redeveloped in the next 10-years under the most recently proposed program. Under the moderate scenario the estimated commercial capacity is anticipated to be at 90% of the maximum capacity by 2035 (driven in large part by the mall development assumption). Professional office and industrial development is estimated to approach 76% and 95% of the maximum capacity, respectively, and residential development is estimated to be at 48% of maximum capacity by 2035.

Exhibit 8: Study Area Employment Estimates at Moderate Growth

Use Type	Square Feet	SF/Employee	Jobs
Commercial	736,549	400	1,841
Professional Office	1,255,103	200	6,276
Industrial	255,203	750	340
Residential	2,344,717	n/a	
TOTAL	4,591,571		8,457

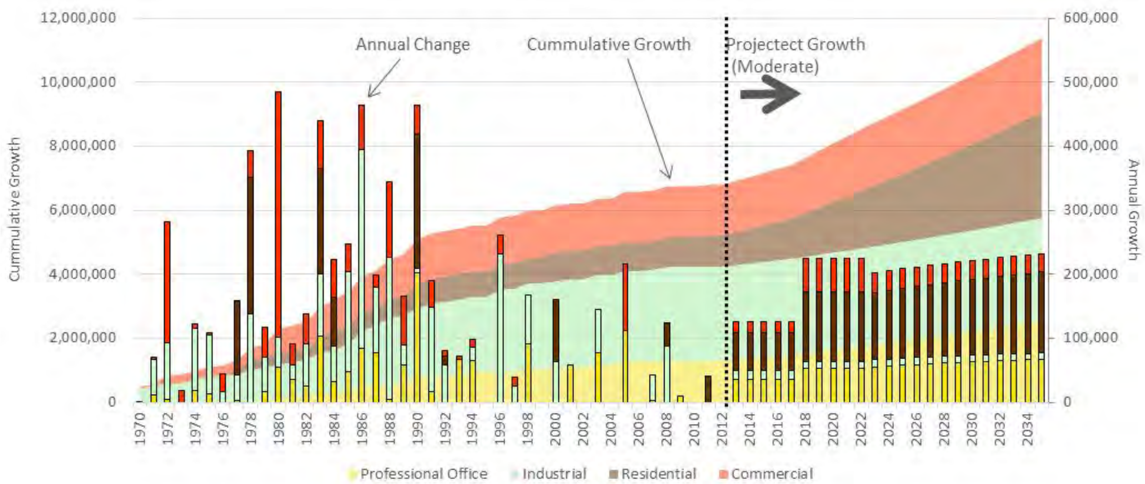
Source: Heartland, 2013.

Summary of Growth

This estimate of moderate growth in the Study area over the planning horizon is illustrated in Exhibit 9. This chart depicts the historical annual delivery of commercial and residential building square footage through 2012 with growth projections from 2013 through 2035.

Attachment A

Exhibit 9: Study Area Capacity Growth Estimate by Type (through 2013)



Source: Heartland, 2013

For historical context, Exhibit 10 shows the average annual delivery of square footage for the 25 years between 1984 and 2009 and the projected average annual delivery between 2010 and 2035. This illustrates the modeled evolution of the Study Area to include more residential and office – much of which will be driven by a completed Totem Lake Mall redevelopment and the continued growth of the Evergreen Medical Center

Exhibit 10: Average Annual Delivery of Square Footage Comparison

Use	1984-2009	2010-2035
Commercial	24,904	28,329
Professional Office	38,960	48,273
Industrial	64,910	9,816
Residential	16,693	91,735

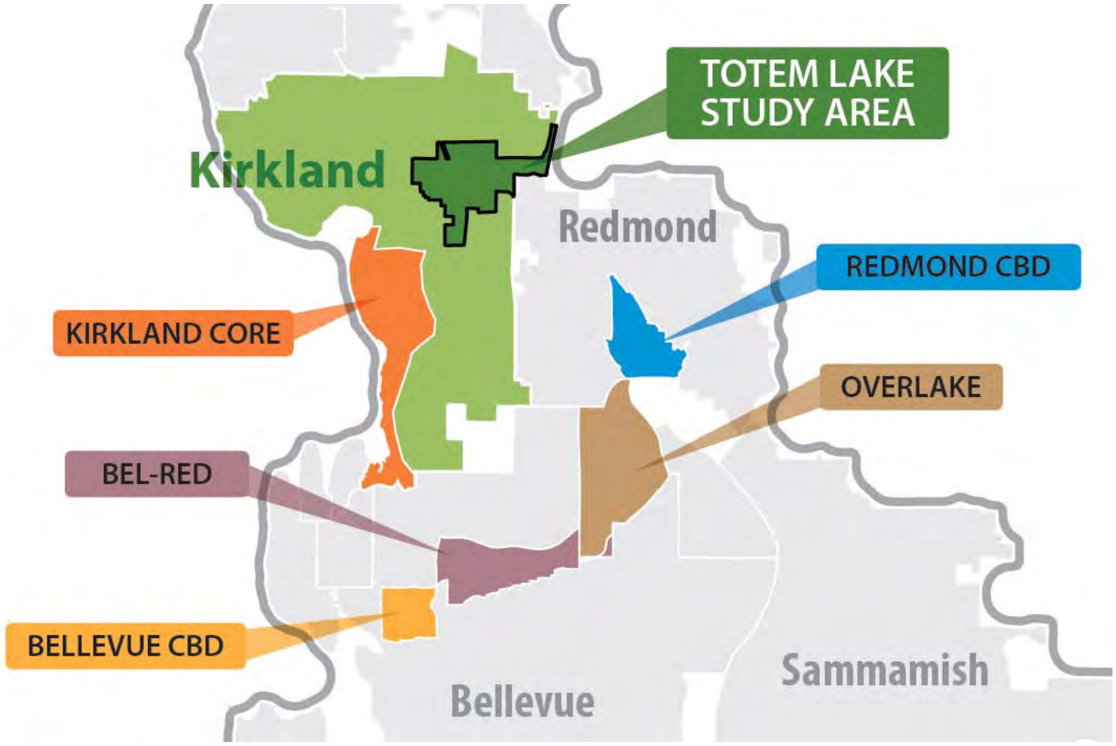
Source: King County Assessor, Heartland, 2013

The projected delivery of new development estimated in this section will be used in the LCLIP analysis conducted later in this report.

6.0 MARKET ASSESSMENT

In this section we compare the Study Area's commercial properties located in the Study Area with other Eastside commercial nodes ("nodes"). The comparative areas include the Kirkland Core, Bellevue's CBD, the Bel-Red Corridor, Overlake, Redmond's CBD, and Central Issaquah. Exhibit 11 depicts these areas.

Exhibit 11: Eastside and Commercial Nodes Map



Source: Heartland, 2013.

The table in Exhibit 12 is a summary table of this node comparison analysis. A close look at this table shows that each commercial node has a unique mix of land uses and none of the nodes have a relatively equal distribution of square footage among these uses. For example, Overlake is dominated by buildings characterized as flex-industrial and office. The industrial uses in this node are driven by one of the region's biggest employers, Microsoft which has millions of building square footage that is classified as industrial/high-tech. The Bel-Red Corridor today is a mix of industrial and commercial uses. In the coming years, this node is expected to undergo a land use evolution with more office and residential uses entering the mix as a result of regulatory changes, the development of The Spring District, and the anticipation of Sound Transit's East Link light rail. The three CBDs; Bellevue, Redmond, and Issaquah are a mix of commercial, office, and multifamily.

The Study Area is comprised primarily of industrial, commercial, and health care uses. No other node has such a relatively balanced concentration of these three uses. The Study Area does not have large set of multifamily uses, but this is due in large part to the historical zoning in Totem Lake area and the general bend towards commercial development around this I-405 interchange area.

Comparing the relative land area metrics, the Study Area has a healthy assessed value per acre of $2.1 million per acre. This is driven by the Evergreen Health Center, which comprises almost 25% of the Study Area's total assessed value. Excluding the Bellevue CBD, this metric is second only to Overlake, which is anchored by the development of the Microsoft campus. The Study Area also has a very strong commercial net square feet per acre when compared to its closest peers; Redmond CBD, Central Issaquah, and the Bel-Red Corridor. These commercial uses drive retail sales – especially the auto dealerships, which are prevalent in the Study Area.

Exhibit 12: Comparison of Commercial Improvements by Area

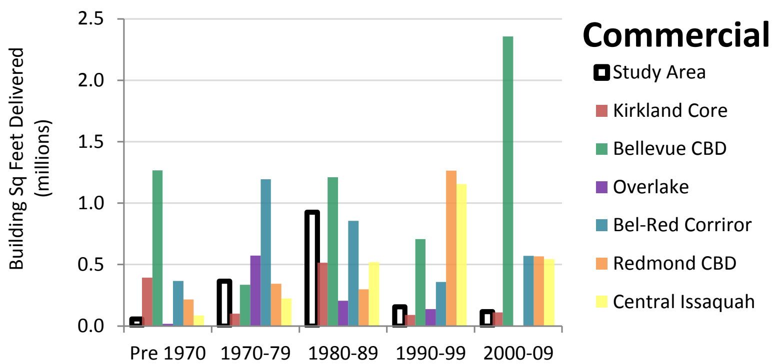
		Eastside	Study Area	Kirkland Core	Bellevue CBD	Overlake	Bel-Red Corridor	Redmond CBD	Central Issaquah
Commercial Space Distriubtion									
100,000's Net Square Feet	Commercial	310.5	15.7	10.4	43.2	9.3	31.1	24.2	25.6
	Office	389.1	13.6	23.6	80.7	44.7	16.6	21.2	17.1
	Multifamily	451.2	9.7	17.1	72.2	15.2	0.1	17.5	1.3
	Industrial	223.1	24.3	2.4	0.2	9.8	41.1	0.2	7.7
	Flex	135.0	4.2	0.0	0.0	59.8	0.0	0.0	2.5
	Hospital	30.2	13.1	0.0	0.0	4.6	0.0	0.0	0.0
Total		**1,539**	**81**	**54**	**196**	**143**	**89**	**63**	**54**
Multifamily Units		77,065	1,516	4,288	7,348	1,891	82	2,489	464
2013 Assessed Value Summary (m$)									
Land and Improvement Total		$27,301	$1,252	$1,175	$4,272	$2,029	$1,217	$1,139	$870
Relative Land Area Metrics									
Approximate Gross Acres		100,385	607	1,524	281	658	1,490	927	1,115
Commercial Net Sq Ft/Acre		1,533	13,271	3,512	69,848	21,795	5,967	6,798	4,861
Multifamily Units Ft/Acre		0.8	2.5	2.8	26.1	2.9	0.1	2.7	0.4
Total Assessed Value/Acre		$271,960	$2,061,931	$770,918	$15,202,963	$3,083,195	$817,041	$1,228,891	$780,306

Source: Heartland, 2013.

6.1 Historic commercial delivery

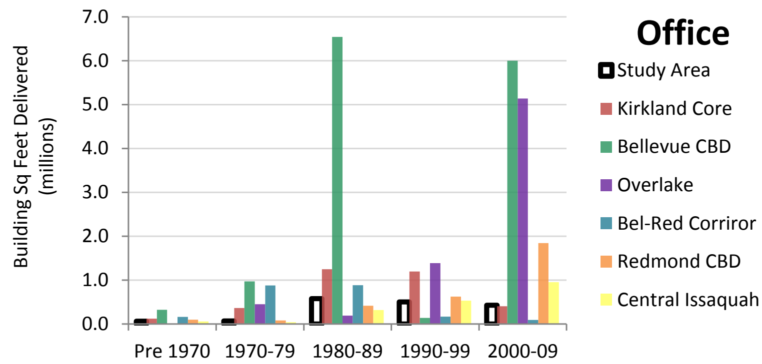
The Study Area comprises 14% of the industrial and flex industrial square footage in the Eastside, 3% of office square footage, and 5% of commercial square footage. Exhibit 13, Exhibit 14, and Exhibit 15 capture this finding and compares development in the Study Area with other Eastside nodes.

Exhibit 13: Historical Product Delivery by Product Type – Commercial



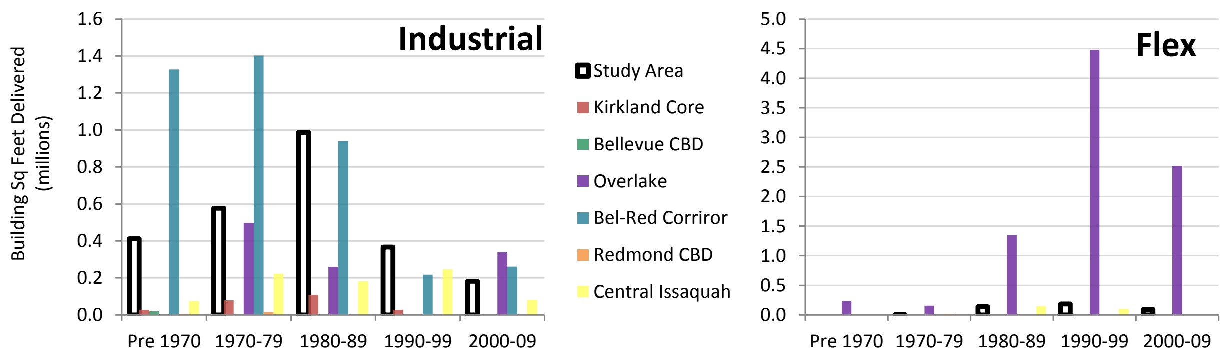
Source: Heartland, 2013.

Exhibit 14: Historical Product Delivery by Product Type – Office



Source: Heartland, 2013.

Exhibit 15: Historical Product Delivery by Product Type – Industrial/Flex



Source: Heartland, 2013.

These charts illustrate that most of the Study Area's development occurred before 2000; however there has been some limited commercial development activity after 2000. Newer office product has been centered around the Evergreen Hospital (the Evergreen Plaza medical offices and the Evergreen Professional building), but there have been two other non-medical office building developments (Valley View corporate center and Totem West professional center) as well as the high tech flex industrial Sammamish Ridge technical center – which is now home to Astronics. Commercial development, by this report's definition, has also been occurring with a Rite-Aid, self-storage, and Courtyard by Marriott all having been built in the Study Area. There have even been three residential projects in the Study Area constructed since 2000; however, none have been market-rate for-rent complexes. The Residence XII rehabilitation center (expansion planned), Aegis Lodge of Kirkland, and Imagine Housing's Francis Village.

This development has occurred because the Study Area is well connected regionally, being located along I-405 with strong area demographics from the perspective of commercial builders and operators. That said, it does face competition from the other key Eastside nodes, which have historically been more attractive. Each of these nodes have centers of gravity, from Bellevue's CBD as a regional employment center to Overlake and the Redmond CBD's lift achieved in large part from Microsoft development and employment growth. The Study Area's center of gravity is the Totem Lake Mall, the Evergreen Health Center, and its major I-405 exchange location between Bellevue, Redmond, and Bothell/Everett. To date, developers and capital have not identified this area as a high-priority location.

6.2 Market fundamental trends

Exhibit 16 depicts how the market fundamentals of commercial properties in the Study Area compare to the Eastside averages, excluding Bellevue's CBD. The Study Area gross asking rental rates are below average across all product types with the exception of flex space, which has rates nearly $0.20/per month higher than the remainder of the Eastside. The other key findings from this analysis involve the vacancy rate. The Study Area is below the Eastside average for all product types AND the retail and industrial uses are all below 10%, which is a key indicator suggesting rates will likely improve making these two uses viable for the foreseeable future. Stated otherwise, converting industrial and retail land to more dense office or multifamily is less likely to occur during this cycle.

Exhibit 16: Commercial Market Fundamental Trends

	2011	2012	2q2013	2003-13 Trend	2011	2012	2q2013	2003-13 Trend
	STUDY AREA				EASTSIDE x Bellevue CBD x Study Area			
Retail								
Count	13	13	13		322	341	341	
Total RSF	542,353	542,353	542,353		24,113,643	24,632,539	25,348,084	
Total Vacant	7,091	5,510	20,158		2,004,303	1,710,600	1,834,304	
Vacancy Rate	1.3%	1.0%	3.7%		8.3%	6.9%	7.2%	
Avg Gross Rent/sf/yr	$30.32	$30.04	$30.04		$34.05	$34.59	$34.71	
Yr Abs			(14,648)				(104,000)	
Office								
Count	24	25	25		759	787	787	
Total RSF	831,049	868,794	868,794		73,662,211	74,343,505	74,992,587	
Total Vacant	117,538	129,745	140,583		12,161,163	12,959,830	13,468,588	
Vacancy Rate	14.1%	14.9%	16.2%		16.5%	17.4%	18.0%	
Avg Gross Rent/sf/yr	$23.82	$23.44	$23.45		$24.35	$24.68	$24.71	
Yr Abs			(10,838)				(508,758)	
Medical Office								
Count	12	12	12		33	34	34	
Total RSF	322,361	322,361	322,361		1,846,679	1,870,457	1,870,457	
Total Vacant	29,768	33,550	43,407		503,420	644,379	641,640	
Vacancy Rate	9.2%	10.4%	13.5%		27.3%	34.5%	34.3%	
Avg Gross Rent/sf/yr	$27.61	$28.03	$28.03		$27.38	$28.21	$28.44	
Yr Abs			(9,857)				0	
Industrial								
Count	25	26	26		221	230	230	
Total RSF	1,199,343	1,212,200	1,212,200		25,186,909	26,471,216	26,547,990	
Total Vacant	136,340	117,833	82,597		3,123,088	3,980,555	3,696,426	
Vacancy Rate	11.4%	9.7%	6.8%		12.4%	15.0%	13.9%	
Avg Net Rent/sf/mo	$0.78	$0.77	$0.74		$0.81	$0.80	$0.80	
Yr Abs			35,236				284,129	
Flex								
Count	24	25	25		169	171	171	
Total RSF	1,319,268	1,353,209	1,353,209		25,057,112	25,140,199	25,158,601	
Total Vacant	404,249	200,195	206,065		4,766,571	4,398,275	4,364,861	
Vacancy Rate	30.6%	14.8%	15.2%		19.0%	17.5%	17.3%	
Avg Net Rent/sf/mo	$1.11	$1.11	$1.10		$0.80	$0.80	$0.82	
Yr Abs			(5,870)				33,414	

Source: OfficeSpace.com, 2013.

We also summarized the property profiles and asking rates for newer multifamily projects in Kirkland. Exhibit 17 shows that rental rates in Kirkland's CBD hover around $2.00 per square foot. Luna Sol, the most comparable project to a hypothetical market rate multifamily project in the Study Area, has an average asking rate of $1.70 per square foot. The average vacancy rates for the complexes in this data set, as of spring 2013, is under 5%.

Exhibit 17: Multifamily Profiles

Property	Address	Retail	Floors	Units	Completion	Studio	1 Bed	2 Bed	3 Bed	Average
The 101	101 Kirkland Avenue	Yes	5	66	2010					
					Units:	10	42	14	0	
					Unit SF:	594	780	1,129	0	
					Asking Rent:	$1,330	$1,858	$2,750	$0	$1,967
					$/SF:	$2.24	$2.38	$2.44	$0.00	$2.37
128 on State	128 State Street S	No	3	123	2007					
					Units:	9	81	33	0	
					Unit SF:	703	781	1,291	0	
					Asking Rent:	$1,295	$1,475	$2,350	$0	$1,696
					$/SF:	$1.84	$1.89	$1.82	$0.00	$1.87
Villaggio	4311 Lake Washington Blvd NE	No	3	292	2001					
					Units:	0	108	148	36	
					Unit SF:	0	734	1,051	1,479	
					Asking Rent:	$0	$1,441	$1,775	$2,528	$1,744
					$/SF:	$0.00	$1.96	$1.69	$1.71	$1.79
Westwater	221 1st Street	Yes	5	62	2001					
					Units:	17	19	24	2	
					Unit SF:	633	904	1,254	1,574	
					Asking Rent:	$1,383	$1,958	$2,596	$3,669	$2,102
					$/SF:	$2.18	$2.17	$2.07	$2.33	$2.14
Chelsea at Juanita Village	11718 97th Lane NE	Yes	5	196	2003					
					Units:	66	76	54	0	
					Unit SF:	557	871	1,121	0	
					Asking Rent:	$1,263	$1,563	$2,055	$0	$1,597
					$/SF:	$2.27	$1.79	$1.83	$0.00	$1.96
Juanita Village	9740 NE 119th Way	Yes	6	211	2005					
					Units:	20	88	93	10	
					Unit SF:	483	809	1,175	1,395	
					Asking Rent:	$1,000	$1,248	$1,655	$2,130	$1,445
					$/SF:	$2.07	$1.54	$1.41	$1.53	$1.53
Ondine	11690 98th Avenue NE	Yes	4	102	2012					
					Units:	7	86	9	0	
					Unit SF:	488	692	1,259		
					Asking Rent:	$1,180	$1,485	$2,425		$1,547
					$/SF:	$2.42	$2.15	$1.93	$0.00	$2.15
Pines at Totem Lake	12411 NE Totem Lake Way	No	4	29	2007					
					Units:	0	0	18	0	
					Unit SF:	0	0	1,251	0	
					Asking Rent:	$0	$0	$1,763	$0	$1,763
					$/SF:	$0.00	$0.00	$1.41	$0.00	$1.41
Luna Sol	11415 Slater Avenue NE	No	5	52	2010					
					Units:	16	20	16		
					Unit SF:	574	818	1,108		
					Asking Rent:	$1,200	$1,325	$1,600		$1,371
					$/SF:	$2.09	$1.62	$1.44		$1.71

Source: Dupre & Scott, ForRent.com, 2013.

7.0 POTENTIAL FUTURE COMMERCIAL USERS

This section explores the types of commercial users that are currently located in the Study Area, assesses national and regional trends in key sectors, and the types of companies that may locate in the Study Area in the future based on our market observations and conversations with sector experts. The Study Area has a number of positive attributes that make it attractive to commercial users looking to expand or relocate. These include:

- Location: The Study Area fronts I-405 on the east and west side providing strong accessibility to and from the highway as well as visibility from the highway;[14]
- Demographics: Census blocks in the surrounding area that have median household incomes exceeding $85,000 along with relatively high anticipated housing unit growth rates providing both an employment base and a reservoir of consumer expenditures; and
- Proximity: The Study Area is well connected to the region's aerospace hubs of Payne Field and Renton/Kent Valley via I-405 and it is only 8 miles to downtown Bellevue and 5 miles to downtown Redmond.

That said there are several hurdles to attracting new and expanding business into the Study Area. First, the Study Area can be considered a tertiary node within the Eastside. It is not a regionally core location like Bellevue's CBD which investors gravitate towards for capital placement, and is historically not an area which national companies looking to locate into the region seek out. This is a perception challenge. The Study Area is also an auto centric place of employment, with roughly 80% of the employees tracked driving alone and 13% vanpool or carpool to work.[15] As the region continues to grow, traffic is becoming more congested. The Study Area has a bus service but there are no plans for enhanced transit options such as light rail or bus rapid transit that may help facilitate more transit orientation. Finally, there is a lack of quality amenities (e.g. dining and services oriented towards professional office users) in the Study Area. These obstacles can be bridged as the Study Area continues to evolve aided most by the redevelopment of the Totem Lake Mall and the expansion of the Evergreen Health Center.

7.1 Study Area Snapshot

The top five employers in the Study Area include health care, aerospace, information technology and business solutions, medical research and product manufacturing and light industrial. Evergreen Healthcare dominates employment in the Study Area with approximately 2,270 jobs. It is important to note that this is the count of employment for the anchor employer of the Evergreen Health Center; however, there are a number of other healthcare sector jobs beyond this count that are related to the health center. The next largest employer is Astronics with 270 employees.[16] This is one of 11 Astronics locations world-wide and it develops advanced electronics for the aerospace industry. Market Leader

[14] 2012 estimates indicate this segment of I-405 sees average daily traffic count of approximately 175,000, KSS Fuels/Google Earth

[15] WSDOT Commute Transit Reduction data, 2011/2012 cycle for major employers located within the Study Area. This list includes EvergreenHealth, Market Leader, Inc., Pathway Medical Technologies, Inc., Nintendo of America Inc., and Astronics Advanced Electronic Systems. Combined, these companies total nearly 3,000 jobs.

[16] Astronics acquired this 14 acre property in February 2013 from the receivership portfolio of properties formerly owned by Mastro. Astroics connected the two buildings to form a 97,000 square foot regional headquarters.

employs over 160 people as it strives to improve the efficiency of real estate professionals. Nintendo of America's customer service center and warehouse are located in the Study Area and it employs 120 people. Finally, Pathway Medical Technologies, a company focused on researching and manufacturing medical devices employs just over 100 people.[17]

The above companies are the major employers in the Study Area and there are of course a number of other companies in the Study Area that employ fewer people. These business range from bricks and mortar retail to auto dealerships, from light industrial manufacturing to warehousing and logistics, and a spectrum of professional and medical office employers. Each of these businesses chose to locate in the Study Area for a variety of reasons, but in general the primary driver has been cited as lower rent and proximity to transportation corridors. The following explores recent trends in several key industry sectors that are active with employers currently in the Study Area as well as acting as a potential source for new businesses to locate here.

7.2 Sector Analysis

Aerospace

The aerospace sector is a priority at the State and County level for attracting and retaining businesses. To understand the importance of this sector on the state economy, Washington is home to 175 firms working directly in aerospace manufacturing employing 92,040 people. The aerospace cluster as a whole numbers 1,250 firms employing more than 131,000 people in the state.[18] The cluster includes manufacturing firms, suppliers, and companies specializing in the production of instrumentation and measurement equipment.

The region will likely be home to a substantial share of the global commercial airplane business, assuming the continued assembly of the 737 MAX, KC-46A tanker and the anticipated assembly and parts production for the 777X. This will help continue to drive employment in manufacturing, engineering, and other professional services that support this commercial airplane production. There are also emerging subsectors that will create opportunity for business growth in the region including advanced materials, unmanned aerial vehicles and systems, green aviation, public and private space exploration and propulsion, and software and system development. All of these subsectors will have a range of space needs, from traditional office to manufacturing.

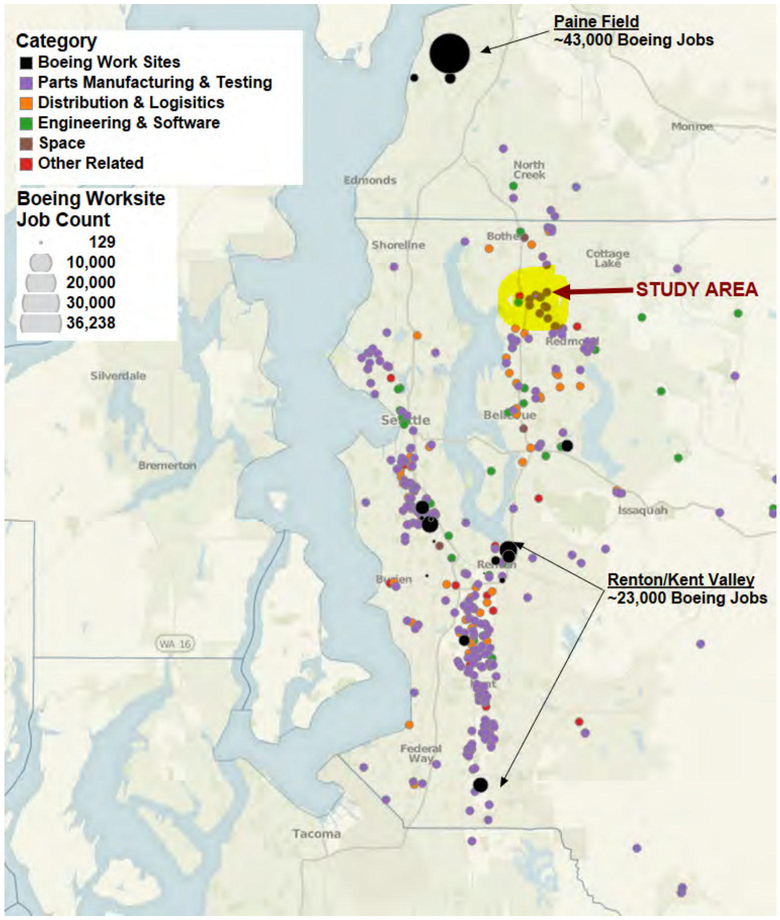
The City of Kirkland currently has 19 aerospace sector businesses. The distribution of these business by subsector are 11 active in parts manufacturing and testing, 4 in logistics and distribution, 2 engineering firms, a market research firm, and an aircraft leasing firm. These 19 businesses represent roughly 5% of the 387 active aerospace businesses in King County. In the Study Area there are 6 aerospace firms within its boundaries and two just beyond. This information, as illustrated in Exhibit 18 suggests that Kirkland, and specifically the Study Area, are supportive areas to the aerospace sector.

---

[17] The source of these employers and employment estimates is Washington Department of Transportation's 2011/2012 Commute Transit Reduction survey.

[18] The Washington Aerospace Industry Strategy, May 2013. Data as of June 2012 from the Washington State Department of Employment Security

Exhibit 18: King County Aerospace Business Locator Map



Source: Locus Analtyics, WSDOT Commute Transit Reduction Program

We conducted a series of interviews with active participants in the industry and the general consensus was that the Study Area's location along the I-405 corridor is strong, existing rents are relatively affordable compared to other Eastside nodes, and the demographics of the surrounding population – which is characterized as well educated[19] (with a number of aerospace executives residing in the Eastside) – suggesting that the Study Area to be potentially attractive to new and relocating firms. The types of aerospace businesses that may be a good fit for the Study Area include:

- Corporate offices or a regional headquarter of an international firms that want access to the supply chain;
- Engineering or software/IT firms focused on commercial or space flight could be attracted to office and/or flex space;
- Heavy manufacturing is not likely, but precision electrics, product testing firms are currently in the Study Area and others could be drawn;

Overall, the aerospace sector is one sector that we believe the City should spend its time and resources to recruit new firms to the Study Area.

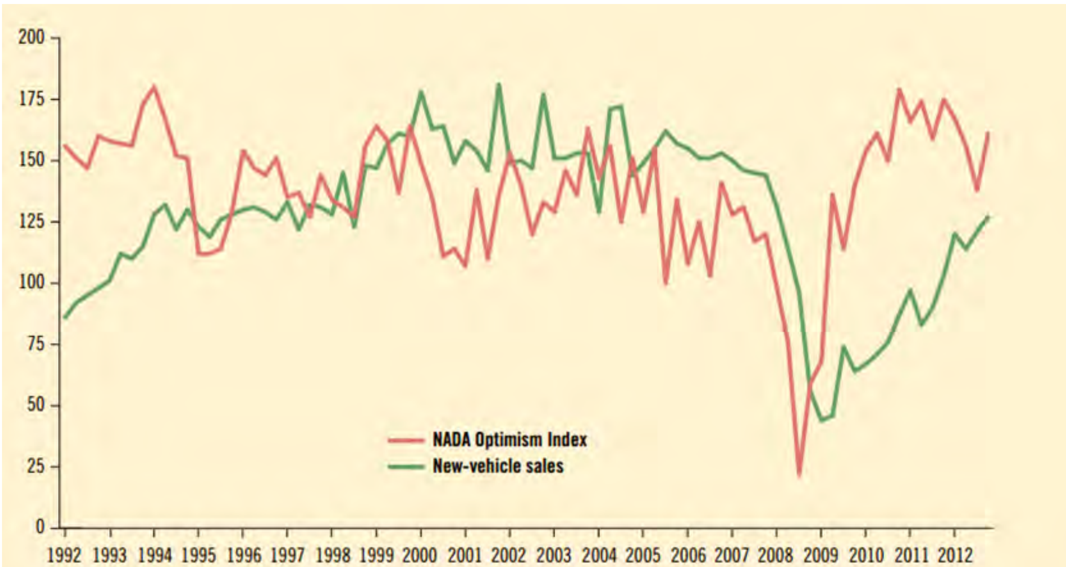
---

[19] According to DemographicsNow, nearly 55% of the population over the age of 25 and within a 20-minute drive has at least a bachelor's degree.

New-Car Auto Dealerships

Nationally, new-car dealership sector is rebounding nicely from the bottom that was reached in 2008. As Exhibit 19 illustrates, new-vehicle sales have nearly returned to historical norms and optimism is high in terms of sales volumes. Since 2011 the percent of dealers expecting profits to increase has been over 55% - a stark increase from the 28% and 19% tally from 2008 and 2009 respectively. In fact, this level of optimism is at its highest since the early 1990's.

Exhibit 19: Optimism index vs. new-vehicle sales

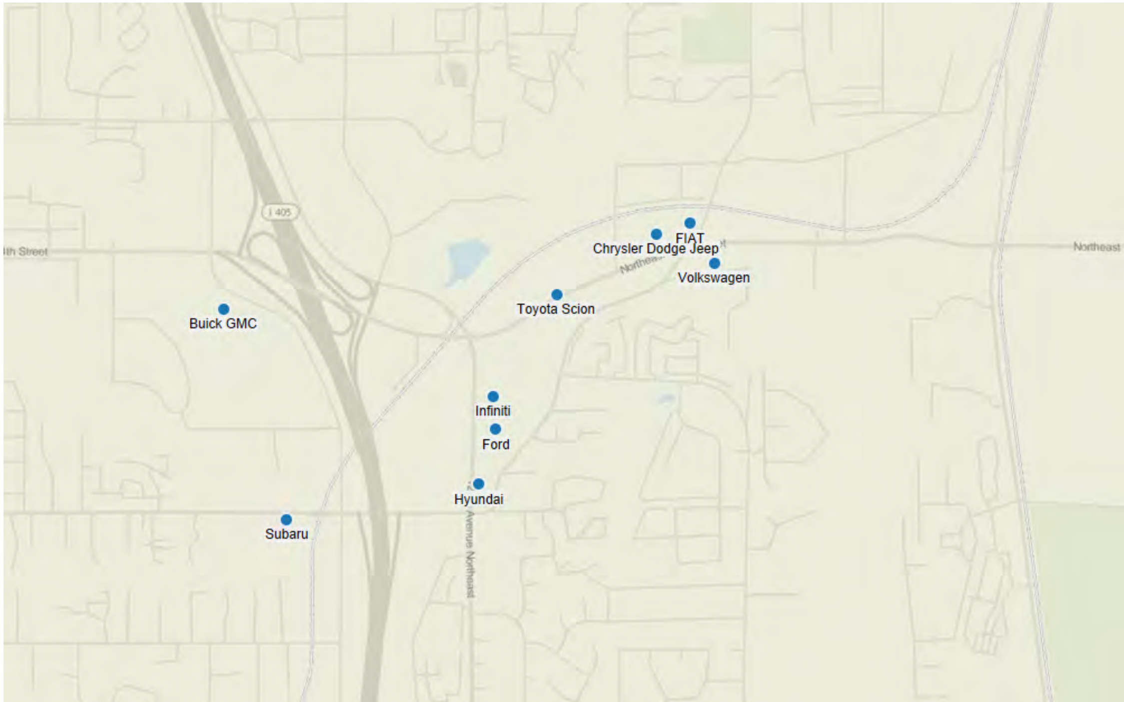


Source: NADA Industry Analysis Division; WardsAutos

While sales are increasing, the number of new-car dealerships has been on the steady decline, from a count of 23,500 in 1992 to the current count of 17,635. Of this national total, Washington represents 330 dealerships.

The Study Area is home to a cluster of 9 auto dealers. This land use is important to the City as it provides a stream of sales tax revenue. Exhibit 20 illustrates the location and make of these new car dealerships. Overall, the Study Area is home to all the major new-car dealers with the exception of Honda, Chevrolet (both of which are located 1.5 miles south of the Study Area), and Nissan. The nearest Nissan dealership is located in one of the Eastside's other major concentrations of new-car auto dealers, the Bel-Red Corridor.

Exhibit 20: Study Area New Car Dealership Locator Map



Source: Google Maps, Heartland, 2013.

From what we collected in conversation with two general managers in this area, the source of dealership expansion in this area is likely from the dealerships that are currently in the Study Area. Given dealership franchise laws, movement of dealerships within the region is complicated and not often completed. It was the opinion of those surveyed that the count of dealerships in the Study Area will not increase in the near future.

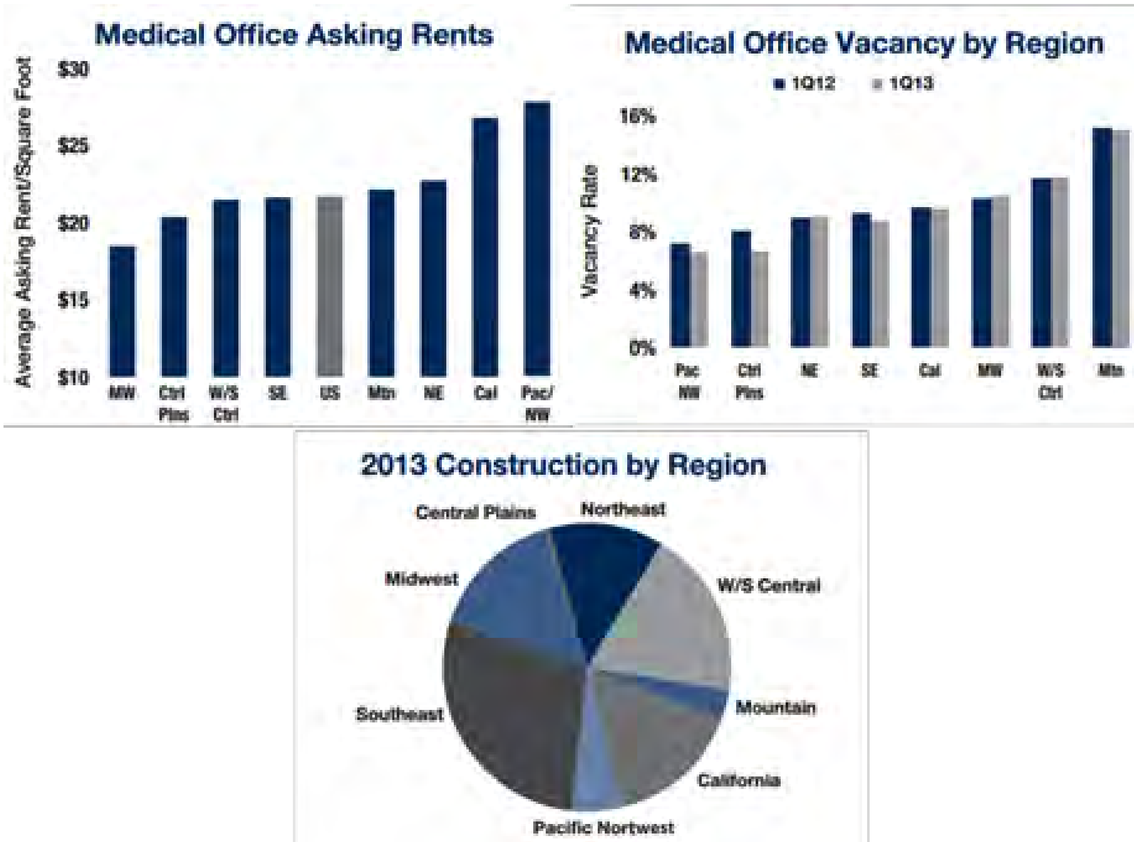
Further, the expansion of dealerships would likely slow the evolution of the Study Area as these uses typically utilize land for parking and single purpose buildings. While compatible with adjoining and surrounding office uses (to a degree – dealerships offer no amenity value to office users), dealerships are not particularly desired neighbors for multifamily complexes. We believe that the existing dealerships should be embraced, but any active recruitment of new dealerships should be carefully considered by City leadership.

Health Care

The outlook for the Health Care investment sector is strong for areas near well performing hospitals. This is due to health care reform bringing coverage to an estimated 27 to 30 million uninsured Americans, the growth of the aging of the baby-boomer generation, and an emphasis on preventative health care for the younger generations. One efficient way for hospitals to meet this demand is the hub and spoke model which hinges around outpatient care. By acquiring and constructing medical facilities like advanced imaging centers, physician offices, and satellite emergency departments, health systems can strategically coordinate a network of support to cater to the needs of their communities. This provides patients with enhanced access to care, and it acts as a filter for the parent hospital, providing cost-effective care to patients with less major symptoms. This clears up the emergency room and allows hospital physicians to focus on critical care patients, both of which contribute to the bottom line.

When combining the increasing demand for services with strong market fundamentals we can see that there will likely be continued interest in medical office development in this region. As Exhibit 21 illustrates, the market fundamentals in the Pacific Northwest relative to other regions are bested by no other region (high rents and low vacancy) and the construction pipeline is small compared to other regions.

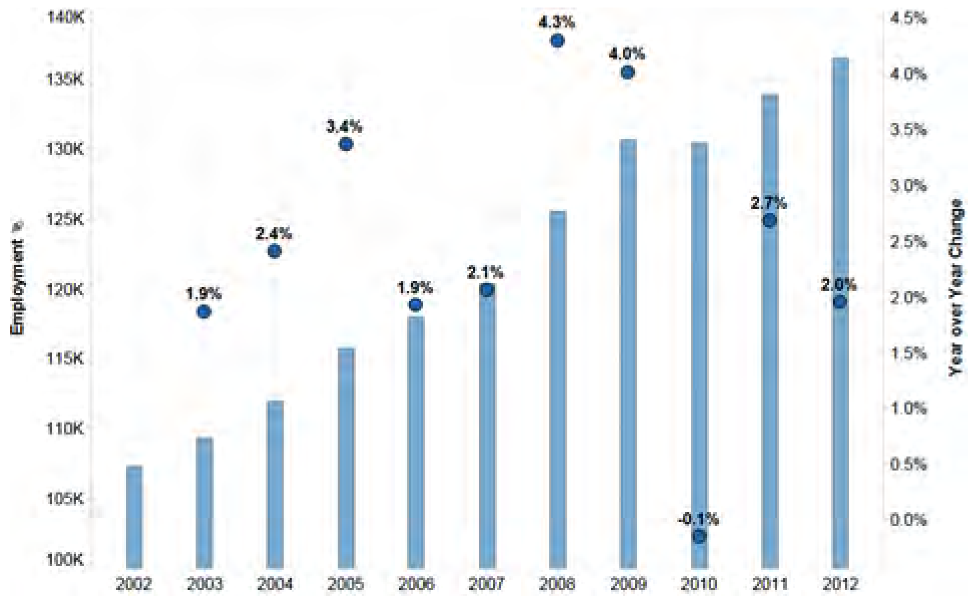
Exhibit 21: Medical Office Regional Market Fundamentals Comparison



Source: Marcus & Millichap, Medical Office Research Report, First Half 2013

The growth of employment in this sector is also important to note as it is an indicator of this sector's relevance in King County. Exhibit 22 illustrates this steady growth over the past 10 years. Between 2002 and 2012 a total of 29,000 jobs in this sector were created in King County, representing a 27% total increase over the 2002 count. When compared to the 65,000 countywide jobs that were added during the same period we can see that 48% of all new jobs created were in this sector.

Exhibit 22: Health Care Sector Job Trends in King County, 2002-2012



Source: BLS, Quarterly Census of Employment and Wages. NAICS Code 62

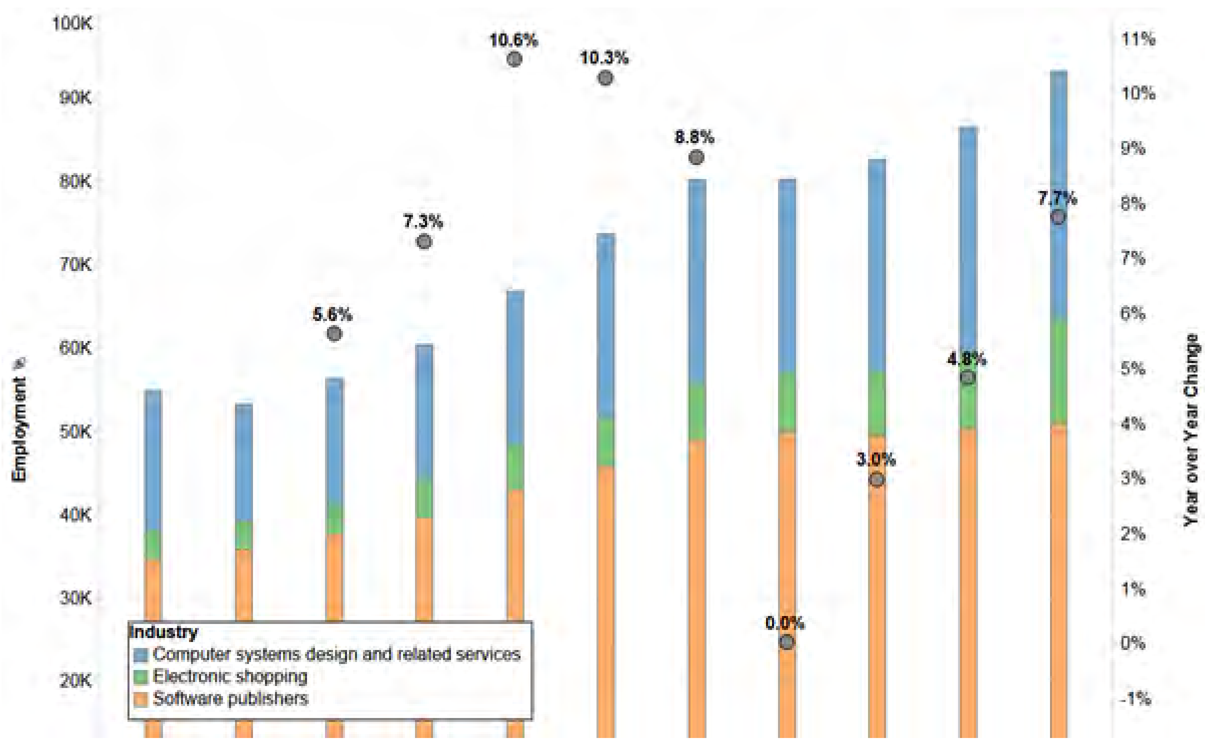
The Study Area is home to the Evergreen Health Center main campus. The presence of this regional asset in the Study Area should be attractive to investors considering medical office development. This medical center has 274 beds and had 16,029 admissions in the latest year for which data are available. It performed 4,054 annual inpatient and 2,599 outpatient surgeries. Its emergency room had 55,698 visits. It is the second ranked hospital in the state and was ranked as “high-performing” for 10 specialty areas. Given the strong regional market fundamentals for medical office and the presence of the Evergreen Health Center in the Study Area, the City should consider working with the hospital to better understand how it can support both its own growth as well as encourage new supporting medical office development near the campus.

High-Tech/Software

Seattle has a reputation nationally as a technology region. This was fostered by the growth of Microsoft and is now being bolstered by Amazon.com. There are hundreds of software and hardware companies that have been incubated and grown in this region; however, a recent trend of major Silicon Valley firms such as Facebook, Twitter, and Google all moving to this region illustrates how Seattle is viewed by the broader community. Its quality of life attributes that draw workers from around the world and the existing workforce that is already here are proving Seattle has gravity. Indeed, in May 2012 Forbes cited Seattle as the best city for tech jobs.

The proof of this growth is in the jobs numbers. The growth of employment in software and hardware technology related jobs is an indicator of this sector’s significant growth trajectory in King County. Exhibit 23 illustrates this tremendous growth over the past 10 years. In King County, between 2002 and 2012 a total of 12,800 jobs were added in the computer systems design and related services subsector, 16,400 jobs were created in the software publishing sector, and 9,200 jobs in the electronic shopping subsector for a total of roughly 38,400 jobs. This overall growth of technology jobs a 70% total increase over the 2002 count.

Exhibit 23: Technology Sector Job Trends in King County, 2002-2012



Source: BLS, Quarterly Census of Employment and Wages. NAICS Code 5112 and 5415

Technology firms in the region are a major driver for employment growth. These jobs drive office use in both urban core and suburban locations. The recent trend has been to locate technology business in urban areas rich in neighborhood amenities or on campuses where the company culture can be cultivated. Downtown Seattle and Bellevue are home to the majority of the major technology firms that are attracted to walkability and proximity to its workers.

However, this generalization may also be turned on its head when looking at Microsoft's emergence in the Overlake area of Redmond and recently Google's expanding presence in Kirkland. Major companies looking to locate to this region or expand from elsewhere in the region look at a wide range of factors from accessibility, to cost of existing or new space, to area amenities that will help it attract and retain its workers.

There are currently approximately 300 businesses[20] within this sector that are located in Kirkland. A number of these companies are located along the Lake Washington corridor or in Kirkland's CBD; however, there are a number located in the Study Area. Again, the drivers for technology businesses to the Study Area are more costly to occupy space relative to other locations and its access from I-405. The likelihood of a speculative office building or complex in the Study Area is not likely in the near term given the competitive landscape. However, existing users in flex/tech will continue to occupy existing office space in the Study Area helping to keep vacancy rates low. With that in mind, the technology sector will likely be a jobs driver for the foreseeable future and the region's reputation should sustain. Given a strong vision for the Totem Lake Mall redevelopment, it cannot be ruled out that a major employer would be attracted to the Study Area for its accessibility and proximity to an educated workforce.

---

[20] Count based on a Manta.com search of software and IT business

Attachment A

SECTION 2

Transfer of Development Rights Program

TOTEM LAKE TDR AND TIF STUDY

Transfer of Development Rights Program

1.0 INTRODUCTION

The overall purpose of this section is to provide a planning and policy context for a TDR program for the City of Kirkland, centered on the Totem Lake Neighborhood and to a set of policies, guidelines, and municipal code recommendations needed to implement a TDR program in Kirkland. It is anticipated that Kirkland will consider the creation of a TDR program during its update of the Comprehensive Plan (currently underway) and its adoption in 2015 by the City Council.

Within this section are four subsections that cover the broad range of topics related to the creation of a TDR program. The subsections in this Section are:

- **Policy Framework –** An assessment of need policy support for TDR and LCLIP in Kirkland
- **TDR Program Elements –** An overview and recommendations of major elements of a TDR program;
- **TDR Administration –** An overview, discussion, and recommendation for different TDR administration models for the City; and
- **TDR Code Package –** A code spelling out information on sending site eligibility, exchange rates, and city administration necessary for the City to adopt the TDR program.

2.0 POLICY FRAMEWORK FOR A TDR PROGRAM

2.1 Overview

The purpose of this section is to provide the City of Kirkland with a cohesive summary of how transfer of development rights (TDR) programs work and to identify the necessary steps for City staff to take as it formulates policy and program recommendations for City leaders. This document also serves to furnish an outline of, and content for, a TDR Program Recommendations Report to the City of Kirkland.

The document is the practical outline of how a TDR program works, the necessary analysis, and general program recommendations to facilitate the decisions the city will need to make when considering adoption and implementation of a TDR program. It explains the fundamental concepts of TDR, introducing and discussing technical and policy issues that should be addressed when designing a new TDR program. Importantly, it also identifies areas where specific recommendations will be useful to Kirkland.

Other practical resources included are documents that are essential elements of TDR programs, including draft ordinance language. Information contained in this document is drawn from a variety of sources and is catered to the specifics of how to design a program for Kirkland.

For an overview of how TDR works, see **Appendix A.**

2.2 Why use TDR in Kirkland

In response to public concern about population growth and the impacts of development, the Growth Management Act (GMA), Chapter 36.70A RCW, was enacted in 1990 and subsequently amended. The

GMA requires fully planning local governments to adopt comprehensive growth management plans and development regulations in accordance with the act's provisions.[1] The GMA recognizes and encourages "innovative land use management techniques" such as transfer of development rights (TDR) to help local governments achieve their planning goals.[2]

TDR goes beyond traditional zoning by compensating landowners who give up their right to develop, by protecting property from development in perpetuity, and by engaging the market to generate private funding for land conservation. By helping to concentrate development in areas best suited for growth, TDR can mitigate many of the public costs and impacts of sprawl. These include:

Infrastructure and service delivery costs

Following a pioneering study for the federal government in 1974,[3] numerous studies have documented the public costs of sprawl. In 2005, the Puget Sound Regional Council reviewed these studies and concluded that, while methodologies vary, sprawl is more costly than compact patterns of development.[4] Savings on the capital costs of infrastructure are particularly significant with compact development.

By using TDR to increase urban densities, the City can save on costs associated with providing public services as residents live in an area more concentrated then sprawling developments.

Additionally, the Washington State RCW 39.108, Landscape Conservation and Local Infrastructure Program (LCLIP), which ties TDR to infrastructure financing, provides cities with access to new revenue to make investments in capital facilities. Kirkland could benefit from the revenue potential of LCLIP to help pay for infrastructure improvements to help realize the vision of the Totem Lake Neighborhood.

Environmental quality

The environmental impacts of sprawl are well documented. Compact growth patterns use up to 21% less acreage than sprawling development.[5] Sprawling development leads to the creation of new impervious surface, increased flooding and increased storm water management costs. Sprawl also contributes to loss of wildlife habitat and development of critical rural and resource land. The security of the City's water sources and the area's vulnerability to flooding depend on the health of the watershed.

- The biological health of streams seriously declines once more than 10% of a stream's watershed is covered with paving and building, the equivalent of one single-family home per acre.[6]

---

1 Washington State Department of Commerce. Website accessed July 2012.

2 RCW 36.70A.090

3 Real Estate Research Corporation. The Costs of Sprawl: Environmental and Economic Costs of Alternative Residential Development Patterns at the Urban Fringe. 3 vols. Washington, D.C.: U.S. Government Printing Office, 1974.

4 Puget Sound Regional Council. VISION 2020 + 20 Update: Information Paper on the Cost of Sprawl. Puget Sound Regional Council, December 19, 2005.

5 Robert W. Burchell, Anthony Downs, Samuel Seskin, et al. Costs of Sprawl 2000. Washington, D.C.: Transit Cooperative Research Program, Transportation Research Board, National Research Council: TCRP Report 74, 2002.

6 Patrick Mazza and Even Fodor, Taking Its Toll: the hidden costs of sprawl in Washington State, 2000.

- The City of Kirkland contains multiple water bodies, including Totem Lake, Forbes Lake, Juanita Creek, Forbes Creek, Yarrow Creek, a number of wetland areas, and Lake Washington shoreline. These water bodies provide habitat for fish species, but face degradation due to water quality issues. Jurisdictional representatives interviewed in a University of Washington report "identified water quality as the main problem resulting from stormwater runoff in their area."[7] According to the Department of Ecology, urban stormwater runoff is a common reason behind violations of water quality standards.[8] As such, water quality degradation is a primary concern of stormwater managers and public works directors.[9]
- Preventing pollution from urban stormwater runoff, protection and restoration of habitat, and recovery of shellfish beds are the three major strategic initiatives of The Puget Sound Partnership 2012-2013 Action Agenda. Stormwater runoff is the primary source of pollution to Puget Sound, and preventing stormwater runoff will contribute towards 2020 ecosystem recovery targets for stream flow, marine water quality, freshwater quality, marine sediment quality, toxics in fish, swimming beaches, shellfish beds, Chinook salmon, orcas and birds. The Action Agenda identifies key strategies and actions for habitat protection and restoration include compact growth patterns, increased density, redevelopment, and rural lands protection. TDR could help protect upland rural areas, while promoting urban development within the city, helping advance regional goals. Additionally, LCLIP could potentially provide revenue for improving infrastructure to accommodate new and redevelopment within the city, helping to protect the watershed. [10]

Jobs and the economy

The Totem Lake Urban Center is a significant employment hub for the City. Evergreen Hospital in Totem Lake is the City's largest employer with 3,000 workers.[11] Additional growth in employment is expected to come from various industries, including: aerospace businesses like Astronics, which will add 300 jobs to the area;[12] additional health services such as an 83,000 SF Allied Health Building at Lake Washington Institute of Technology;[13] and technology jobs associated with the planned 180,000 SF office building for Google.[14]

In addition to these recent investments, job growth is expected to continue in various industries over the next decade. Based on the King County Countywide Planning Policies growth targets, Kirkland is expected to accommodate 8,361 new housing units and 22,435 new jobs by 2035, which averages out to

---

7 Booth, D. B., Visitacion, B., & Steinemann, A. C. (2006). Damages and costs of stormwater runoff in the Puget Sound region. Department of Civil and Environmental Engineering, University of Washington, Seattle, WA.

8 Ibid.

9 Ibid.

10 Puget Sound Partnership. Highlights of the 2012/2013 Action Agenda for Puget Sound, Strategy A4.2, 2012.

11 Urban Land Institute. ULI Technical Assistance Panel Recommendations: City of Kirkland – Totem Lake. Urban Land Institute, 2011.

12 City of Kirkland. Totem Lake 2nd Symposium Summary. 2012.

13 Ibid.

14 City of Kirkland Planning & Community Development. Website accessed March 2013.

about 363 housing units per year and 975 jobs per year. With this projected job growth, the Totem Lake Urban Center can expect to remain a significant employment hub for the City.

The Totem Lake area is positioned to benefit from the rapid growth that is expected. Given the projected growth, demand for development will increase. TDR can help the City achieve its growth targets by adding to residential and employment capacity in an efficient and compact form.

Transit connectivity

As a designated Regional Growth Center, the City of Kirkland must allow land use patterns that promote efficient transit service. According to Futurewise, dense land use patterns are an essential component in promoting transit ridership.[15] High-performing Transit-Oriented Communities (TOC) should be zoned to accommodate 15,000 residential units and 10,000 employment units within ½ mile of a transit station.[16] The increased densities needed to create a Transit-Oriented Community can be supported by moving development rights into the City through a TDR program, simultaneously satisfying the demand for dense development and reducing low density sprawl outside the urban center.

In a densely developed area, convenient transit supports resident and worker mobility, providing easy access to many amenities. The ability to live and work in an urban area makes for a desirable and vibrant community, which will attract both residents and visitors to the City.

In addition to supporting the dense urban center, efficient transit promotes regional connectivity. As population and jobs are expected to grow simultaneously, there is still likely to have some level of commuter activity in and out of the City. Transit connections with other residential and employment centers in the region will allow Kirkland residents to access jobs throughout the region and non-residents to access jobs in the City.

A voluntary, market-based TDR program will provide tools for Kirkland to promote economic growth while protecting important lands by fairly compensating owners for their lands' development potential. This program can also play a role in supporting the city's economy, reducing public expenditures associated with growth, and retaining quality of life.

Recognition of TDR at the State Level

The state legislature recognizes the importance of rural lands and rural character to the state's economy, its people, and its environment. To promote planned growth, the GMA identifies TDR as an innovative land use management technique that assists counties and cities in achieving GMA's planning goals.

TDR can help Kirkland address several GMA goals. Those advanced by a city TDR program include:

- Goal 1: Urban Growth
- Goal 2: Sprawl
- Goal 4: Housing
- Goal 5: Economic Development
- Goal 6: Property Rights

15 Futurewise, GGLO, Transportation Choices. Transit-Oriented Communities: A Blueprint for Washington State. Futurewise, GGLO, Transportation Choices, October 2009.

16 Ibid.

- Goal 8: Natural Resource Industry
- Goal 9: Open Space and Recreation
- Goal 10: Environment
- Goal 12: Public Facilities and Services

TDR in Other Washington Communities Cities and Counties

As of January 2012, Washington is host to TDR programs in 27 separate jurisdictions.[17] Most programs in Washington are aimed at resource land conservation and/or environmental protection, but some include other goals, such as affordable housing (Seattle), historic preservation (Seattle and Vancouver), and watershed protection (Whatcom County).

Programs in King County have conserved the greatest acreages, with a total of 184,000 acres. Top programs include: Black Diamond (1,600 acres), Redmond (415 acres), and Seattle (883 acres).[18] Five county-based programs rely on interlocal agreements, allowing density to be transferred from rural areas of the county into incorporated cities. King County, for example, has accomplished transfers through interlocal agreements with Seattle and Issaquah, and has additional such agreements with Bellevue and Sammamish.

2.3 Policy Support for TDR in Kirkland

Under the Growth Management Act, most local governments in Washington are required to plan for growth. One of the tools by which local governments meet this mandate is through the comprehensive planning process. Comprehensive plans serve to articulate the vision and objectives for a community and to identify public interests that government should serve.

Policies included in a comprehensive plan provide high-level guidance for how to achieve these objectives and inform regulations that implement the plan. In order to understand how new programs, particularly those involving growth, serve public interests it is essential to review them in the context of existing policies.

- Is current policy language consistent with the use of TDR?
- Does pursuit of TDR and infrastructure financing support the City's objectives?
- If the existing body of policy does not address the use of these programs, what additional guidance should the City consider?

In order to answer these questions, Forterra conducted a policy analysis of Kirkland's comprehensive plan and regional land use initiatives in which the City is involved. The analysis examined whether a TDR program and an infrastructure-financing program can support the objectives of the Kirkland Comprehensive Plan, as well as regional goals from the Puget Sound Partnership 2012/2013 Action Agenda and the WRIA 8 Salmon Conservation Plan and Shared Strategy for Puget Sound.

Where existing policy clearly articulates direction on growth, conservation, and land use as pertaining to TDR and LCLIP, the City has guidance for pursuing these programs. Where policy does not provide clear direction Forterra identified areas for clarification or new language to better define the City's priorities.

17 Forterra national TDR database, updated July 2013.

18 Acreages as of 2011; data were provided by local planners in each jurisdiction

Comprehensive Plan Review

The existing Kirkland Comprehensive Plan policies provide general direction for the City to pursue both the creation of a TDR program and participation in an infrastructure-financing program. At a high level, the Comprehensive Plan identifies goals and policies that a TDR and infrastructure-financing program would support across numerous sections, including the following chapters:

- Vision/Framework Goals
- Community Character
- Natural Environment
- Land Use
- Economic Development
- Parks, Recreation, and Open Space
- Capital Facilities

These sections of the Comprehensive Plan define approaches to accommodate population growth in Kirkland by increasing housing and job supply, while also protecting open space and natural areas within the city and natural areas throughout the region. For example, Vision/Framework Goal-14 directs Kirkland to plan for a fair share of regional growth, consistent with state and regional goals to minimize low-density sprawl and direct growth to urban areas.

A TDR program can help achieve this goal by creating market-based incentives for growth in the City that is consistent with the development patterns desired in the Totem Lake Neighborhood Plan. The Natural Environment chapter identifies goals to protect natural systems and features from negative impacts, including land development. Policies support system-wide approaches to effectively manage environmental resources to maintain environmental quality and protect fish and wildlife habitat. Existing policies also direct Kirkland to support regional watershed conservation efforts and to develop regulations and incentives to protect Kirkland's watershed resources.

The Economic Development chapter discusses specific strategies to promote economic activity and job growth in specific areas, while maintaining community character and urban vitality. Redevelopment and investments in infrastructure and capital facilities are identified as strategies to achieve commercial and economic development.

A TDR and infrastructure-financing program, such as Landscape Conservation and Local Infrastructure Program (LCLIP), can help achieve these goals by incentivizing redevelopment and providing funding for capital projects. While TDR is not explicitly highlighted as a specific tool for these development patterns, there is policy support for increased height and density. Additionally, policies encourage regional coordination to solve environmental, habitat, water quality, and general quality of life concerns.

A detailed comprehensive review and excerpts of specific policies can be found in **Appendix C: Policy Review.**

2.4 Recommendations for Comprehensive Plan Policies

The Kirkland Comprehensive Plan enumerates multiple objectives that TDR and infrastructure financing from LCLIP can help advance. Given the context of considering TDR in combination with LCLIP, it was found that five areas of additional policy support for TDR and LCLIP are needed.

- Explicit support for TDR
- Use of TDR for protecting resource lands

- Use of TDR for protecting habitat
- Use of TDR for advancing water quality goals
- Support for LCLIP

While the Plan identifies a broad range of growth and conservation goals in a regional context, adding policy language that specifically supports use of TDR would give the City greater clarity on using this tool to achieve their policy objectives. Additionally, should Kirkland choose to use the Landscape Conservation and Local Infrastructure Program (LCLIP), state legislation stipulates that cities shall accept TDR credits from farms, forests and some rural lands in the 3-county region (RCW 39.108).

Since these lands are not explicitly identified as conservation priorities in the Comprehensive Plan, additional language addressing this point will create the policy framework to support the City's participation in LCLIP. The city is also considering three sub-categories of LCLIP eligible sending sites: resource lands consisting of farm and forest lands, land within WRIA 8 that protect salmon habitat, and lands important for the city's future water supply (more detail on sending sites is in section 4.2).

Within the City, the Totem Lake Neighborhood Plan identifies zones that are appropriate for commercial development, increased FAR, employment centers, and transit-oriented development. It also highlights certain infrastructure needs, such as new streets. If the City of Kirkland moves forward with a TDR program, this area should be identified as a receiving area in the Comprehensive Plan. Additionally, TDR should be added to the Neighborhood Plan as an incentive program to achieve economic and commercial development policy goals.

Add ***bold and italicized*** language to the following comprehensive plan policies:

- Additional language indicating broad support for TDR as a tool to advance open space conservation goals:

> **VI. Policy LU-7.4:** Work with adjacent jurisdictions and State, federal, and tribal governments to identify and protect open space networks to be preserved within and around Kirkland.
>
> Preserving open space corridors inside in [*sic*] ***and surrounding*** the City need not conflict with private property rights or preclude the reasonable use of land. To this end, a variety of strategies should be considered that provide opportunities for negotiating "win-win" approaches to preservation and development ***including market-based tools such as Transfer of Development Rights***.

Additional language indicating support for TDR as a tool to protect resource lands by combining Policy PR-3.3, NE-2.8, and NE-2.1.1 into:

> **X. Policy XX-XX: Consider market-based conservation tools such as Transfer of Development Rights to protect farmland and forestland within the region, salmon conservation, and water quality purposes.**

- Add additional language indicating support for LCLIP:

> **XIII. Policy CF-5.3:** Use a variety of funding sources to finance facilities in the Capital Facilities Plan.
>
> The City's first choice for financing future capital improvements is to continue using existing sources of revenue that are already available and being used for capital facilities. These sources may include the following:
>
> - Gas tax;

- Sales tax;
- Utility connection charges;
- Utility rates;
- Real estate excise tax;
- Interest income;
- Debt;
- Impact fee for roads and parks;
- Grants***;***
- ***Infrastructure funding mechanisms.***

If these sources are inadequate, the City will need to explore the feasibility of additional revenues.

XIII. Policy CF-5.11: Where appropriate, the City may use infrastructure-financing programs to fund capital improvements in areas designated for growth.

- To support use of TDR for within the city, consider adopting the following policy to help advance the city's stormwater runoff goals:

V. Policy NE-2.4: Improve management of stormwater runoff from impervious surfaces by employing low impact development practices where feasible through City projects, incentive programs, ***such as Transfer of Development Rights,*** and development standards.

3.0 TDR PROGRAM ELEMENTS AND RECOMMENDATIONS

3.1 TDR Goals

The City of Kirkland has identified the Totem Lake neighborhood as an important center for economic and population growth in the City. The City's vision for the area, as articulated in the Totem Lake Neighborhood Plan, is to capture opportunities for redevelopment, revitalization, and growth in employment and housing. Growth management tools such as transfer of development rights and infrastructure financing programs can support the City's goals of creating a vibrant community and promoting economic development, all while protecting the region's resource lands that contribute to a high quality of life.

An effective TDR program can support Kirkland's efforts to encourage population and employment growth by providing incentives for the types of redevelopment that the City desires. Furthermore, it can support the city's conservation objectives and help conserve farms and forests that are essential to the sustainability of the region. For example, as a city located in WRIA 8, Kirkland's Comprehensive Plan identifies the importance of protecting lands that contribute to watershed health, especially to help support Salmon recovery.

A TDR program can help protect such lands and others that are key to maintaining the health of the Puget Sound. Success for the program is a scenario in which development patterns achieve increased walkability; economic growth and diversification; and more intensive land uses that make Totem Lake an attractive community in which to live, work, and do business.

When identifying goals of a TDR program it is also important to consider how they might interact with other public policies. This relationship works two ways: what effects might TDR policies have on existing policies and programs, and vice-versa? Identifying areas in which TDR policies might be in conflict with other public policies will allow Kirkland to avert issues of competition and will promote advancement of multiple objectives in complementary ways.

3.2 Identifying Sending Areas

Since the city is considering TDR and LCLIP together, the focus of the work to identify sending sites is limited to those sites eligible under the LCLIP legislation, which includes farm and forest land throughout Pierce, King, and Snohomish Counties, select rural lands within King County, and credits from King County's TDR bank. While eligible LCLIP sending areas span Pierce, King, and Snohomish Counties, the legislation provides cities the flexibility to give preference to certain areas within the region. Despite the eligible sending sites being located throughout the three counties, the financing provided to Kirkland under the program would only come from King County.

Should Kirkland wish to pursue LCLIP, the following sending areas and sources of TDR credits are required by state legislation to be eligible for transfer into cities:

- Farm and forest resource lands of long term commercial significance as identified by Pierce, King, and Snohomish Counties pursuant to RCW 39.108.050
- Select rural King County credits identified as top conservation priorities pursuant to RCW 39.108
- King County TDR bank credits

For this analysis, we focused on three priority conservation areas that are eligible under the program and are in alignment with the city's stated interests: 1) protecting salmon habitat, 2) protecting its drinking water source, and 3) protecting productive farm and forestlands. These areas of focus are supported by various plans such as, the WRIA 8 Salmon Conservation Plan, the City's membership in the Cascade Water Alliance, and the general public benefits of protecting local food and timber sources for local use and economic health of the region.

Within the city's identified receiving site, Totem Lake Neighborhood, Kirkland has a set amount of receiving area capacity to accommodate bonus density and growth achieved from placement of TDR credits. Under LCLIP, if the city wanted to maximize its revenue potential it would also want to ensure its ability to place 100 percent of its allocated number of 501 TDR credits (detailed in Section 3). Therefore, it's important to understand the trade-offs of choosing LCLIP-eligible sending sites and non-eligible sites. For example, if the City allowed developers within the receiving site to use TDR credits from non-LCLIP lands, receiving-area bonus capacity would be consumed by non-LCLIP eligible credits, thereby limiting the city's access to infrastructure funding through LCLIP.

Additional Sending Areas: Kirkland also has the opportunity to designate in-city sending sites. TDR can be used as a tool to achieve conservation of land adjacent to the Eastside Rail Corridor, and as the City moves forward with the Corridor Master Plan process, the City should determine whether it is in the City's interest to conserve adjacent lands that enhance or maintain the recreational experience.

Additionally, areas that have issues with stormwater drainage in the city can benefit from conservation of land by maintaining pervious surfaces to attenuate surface water flow and maintain groundwater infiltration. If the City decides to designate areas with stormwater drainage issues in the city as sending sites, the City would need to consider the conflicting policy implication of conserving land in the city and limiting development capacity while also encouraging economic growth and development.

3.3 Identifying Receiving Areas

While identifying areas for desired conservation is important, a TDR program cannot operate without a market for development rights. Identifying and assessing receiving areas is therefore a critical element of TDR program development.

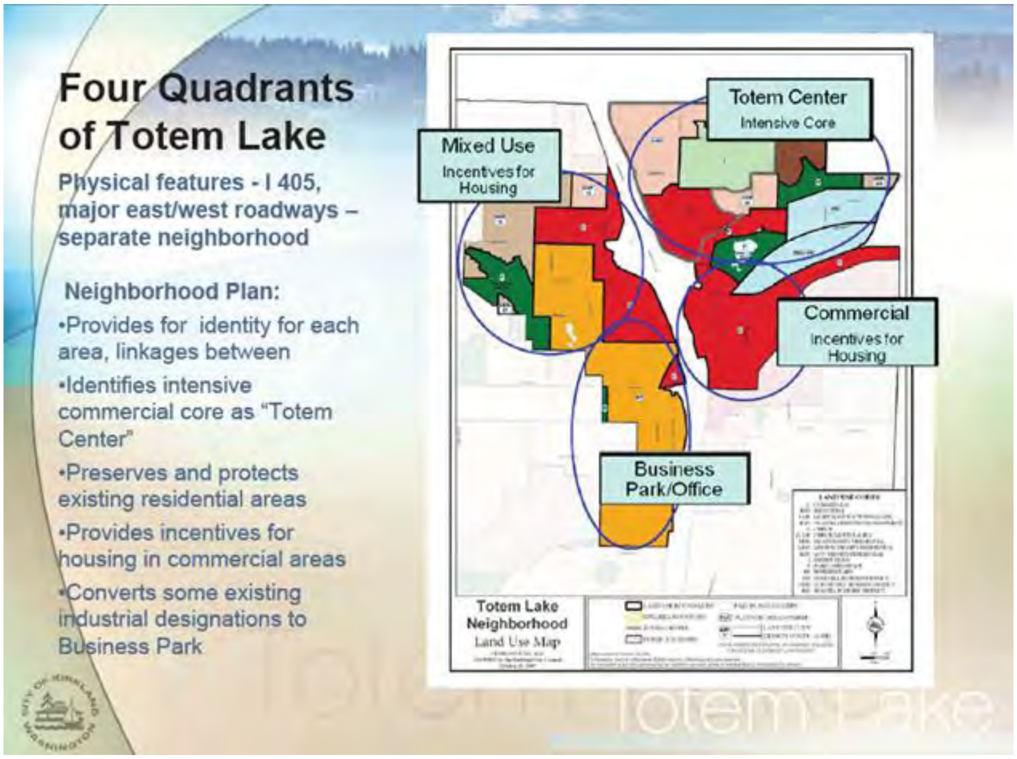
TDR and LCLIP can help Kirkland achieve this through investments in infrastructure that will support growth and give incentives to developers for building more residential and commercial capacity. Other Washington cities have adopted TDR programs, including Seattle, Issaquah, Bellevue, Tacoma, and Sammamish. These cities' programs encourage growth patterns that promote walkable, vibrant communities. For an analysis of Comprehensive Plan policies and their advancement of particular TDR receiving areas, see Policy Support for TDR in Kirkland.

Kirkland has identified the Totem Lake neighborhood as a priority for being a potential TDR receiving area. The neighborhood plan highlights four quadrants of the area with different redevelopment objectives. The neighborhood map shown below illustrates the proposed uses in each quadrant:

- Northwest- intensive mixed use with an emphasis on multifamily housing.
- Northeast- Totem Center is the proposed intensive core of the neighborhood, which contains Evergreen Hospital, a transit center, and Totem Lake Mall, where redevelopment is envisioned as a pedestrian-oriented mixed-use center.
- Southeast- includes Totem Square, where more intensive redevelopment is desired, and a combination commercial/high density multifamily zone.
- Southwest- includes a business park and the Parmac area in which industrial use will transition to office/business park.

Within the quadrants are a range of zoning classifications with different uses and emphases for redevelopment. This diversity in planned growth can be supported by TDR, as the tool's flexibility can provide different kinds of density bonuses that are tailored to the desired development patterns in each zone.

Exhibit 1: Four Quadrants of Totem Lake



Source: City of Kirkland, 2013.

The range of building heights established in the Totem Lake neighborhood plan introduces potential challenges for using TDR. Because of the revised height limits and residential densities allowed, the opportunity to capture market demand for additional development intensity of these two types is limited. Therefore the city may consider other types of incentives that create value for developers through cost savings to a project.

Incentives that Kirkland could offer that provide value to developers and would not compete with other existing incentives such as affordable housing, include:

- Impact fee alternatives
- Storm water fee alternatives
- Parking requirement flexibility
- FAR

Impact fees for new development are collected to offset certain effects that growth has on a community. As growth occurs, it places increased demand on infrastructure, services, and amenities. Kirkland spends revenue from impact fees in three areas: transportation and parks. The City could facilitate the use of TDR by exempting a portion of the impact fees collections and requiring TDR credit acquisition. The key questions to consider are:

- Can LCLIP fees be used for the same purposes as impact fees?
- Are LCLIP revenues the same or greater than the foregone impact fees?
- In considering whether to redirect a portion of impact fees towards TDR credit acquisition, the City should consider the benefits and limitations of this option within the context of LCLIP.

Advantages of this approach include:

- Potentially increases revenue for infrastructure via LCLIP (see following discussion),
- Reduces uncertainty for the City in terms of meeting its commitment to place TDR credits, and
- Authorized LCLIP expenditures include:
  - o Street, road, bridge, and rail construction and maintenance;
  - o Water and sewer system construction and improvements;
  - o Sidewalks, streetlights, landscaping, and streetscaping;
  - o Parking, terminal, and dock facilities;
  - o Park and ride facilities of a transit authority and other facilities that support transit-oriented development;
  - o Park facilities, recreational areas, bicycle paths, and environmental remediation;
  - o Storm water and drainage management systems;
  - o Electric, gas, fiber, and other utility infrastructures;
  - o Expenditures for facilities and improvements that support affordable housing as defined by WA law.
  - o Providing maintenance and security for common or public areas.
  - o Historic preservation activities authorized under WA law.

Limitations of this approach include:

- Geographical constraints. Infrastructure money generated through LCLIP may only be used for improvements within Totem Lake,
- While LCLIP is designed to support a wide range of infrastructure improvements, including road construction, transit, and streetscapes, it may not encompass every expenditure for which the City would otherwise use transportation impact fees, and
- The timing for collecting revenue from LCLIP will be later than when impact fees are collected and must be in compliance with provisions of state law as well as the city's financial policies.

Allowing provision of TDR credits in lieu of collecting impact fees is not a widely used conversion commodity among cities with TDR programs. In analysis of other programs, only two were found to use this approach, Oxnard, CA and Pacifica, CA. These cities both justified use of TDR in lieu of impact fee collection due to each of them resulting in similar public benefit outcomes. They also found that the actual impact to traffic resources was minimized due to how TDR was used to increase densities in already developed areas. Summaries of these programs are provided below:

Pacifica, CA

The Pacifica TDR program was initially developed to target the preservation of a 20-acre bluff-top and has since been expanded to protect other environmentally sensitive areas. Because receiving sites must be determined to already have adequate public services and infrastructure in place, capital improvement fees and in some cases, traffic impact mitigation fees, may be waived for developers using transferred credits.

Additionally, parkland dedication, open space, and landscaping requirements may also be waived since the conserved properties at sending sites achieve those same goals. Although the Pacifica TDR program is not mandatory, it provides an incentive option for developers to be exempted from paying those certain fees if they use the program and transferred credits. However, due to development limitations and low demand for additional density, there has been little use of the TDR program since developments in Pacifica in the recent past are often built below base density.

Oxnard, CA

Oxnard's TDR program focuses on preserving land and limiting the environmental impacts of new development in one of the City's beachfront subdivisions; the goal is to keep undeveloped vacant lots in this coastal area. Developers in designated receiving areas can receive as many as six transfer units from properties in the Oxnard Shores sending area but may alternately pay an in-lieu fee instead of directly purchasing TDR credits, which the City puts towards buying vacant lots in Oxnard Shores. Because this preservation contributes to the City's goals of creating more open space and recreational land in the coastal area, fees that would typically go towards open space and parks, are waived for developers using transfer credits since the City does not want to doubly charge those who are contributing to City-wide conservation goals through the use of the TDR program.

Additionally, "growth requirement capital fees" that are typically put towards the strengthening of local infrastructure, are waived when TDR credits are used since the program requires that receiving sites already have the existing infrastructure to accommodate extra units. Although this voluntary program attempts to incentivize the transfer of rights from these coastal properties, there have been few transfers because the oceanfront sending areas are too valuable for transfers to be appealing to those property owners.

3.4 Recommendations for Sending Areas

The City of Kirkland has the opportunity to support its conservation priorities by designating sending sites for the TDR program. While the Comprehensive Plan currently lacks language supporting the use of TDR to advance specific conservation priorities, the City has expressed interest in considering the following sending sites for the TDR program:

- Resource lands and credits deemed eligible under LCLIP (Exhibit 5)
- Salmon habitat lands aligned with goals in the WRIA 8 Salmon Conservation Plan and Shared Strategy for Puget Sound (Exhibit 6)
- Lands within the city's future water supply area identified by Cascade Water Alliance (Exhibit 7)

Before committing to these sending areas, the City of Kirkland should weigh several considerations. The City can designate additional sending areas beyond those required by the LCLIP program, but in order to be eligible for LCLIP, all agricultural and forestland in King, Pierce and Snohomish Counties must be included as sending sites as pursuant to RCW 39.108.

While the City can designate lands contributing to healthy water quality and salmon habitat as priorities for conservation, there are certain tradeoffs in prioritizing a subset of the required LCLIP lands. These include impediments to conservation of priority lands if the pool of willing landowners is insufficient to meet demand and buyers acquire desired credits elsewhere in the market. Too small of a credit supply may also lead to unrealistic price expectations among landowners, as sellers seek prices greater than what the market can bear. This would also result in buyers seeking credits from alternative sources.

Sending Site Rights and Values

Based on GIS analysis of available sending sites, it is estimated that the sending sites identified for Kirkland contain an adequate supply of development rights needed to satisfy demand (Exhibit 2).

Exhibit 2: Estimated Development Rights in Kirkland Sending Areas

Sending Sites	Number of Development Rights
WRIA 8	1,317
Cascade - Lake Tapps	903
Regional Resource Lands	24,600

Source: Forterra, 2013.

Furthermore, as discussed in greater detail in the receiving area section, high credit prices can affect a city's ability to place credits in urban projects. Higher credit prices require a greater incentive to make TDR economically viable for developers. In some cases, depending on the type of incentive, a city might need to give away so much development bonus per TDR credit that its capacity to absorb credits is reduced. Thus reducing the city's ability to utilize all of its allocated TDR credits and potentially reducing the amount of financing provided through LCLIP. Exhibit 3 summarizes and estimated range of values of development rights in these areas. The values are ordered on according to the lower quartile and a median price points for these credits. Only these ranges are shown since the represent the first tier of lower cost credits likely to be demanded by the market place.

Exhibit 3: Range of Sending Site Values

Sending Sites	Cost (first quartile)	Cost (second quartile)
WRIA 8	$37,600	$48,000
Cascade - Lake Tapps	$13,500	$20,700
Regional Resource Lands	$21,500	$36,200

Source: Forterra, 2013.

Ultimately, the final choice to prioritize subsets of the regional sending areas or lands not identified in LCLIP is a policy decision. We recommend the City to balance its specific conservation objectives with its infrastructure needs, growth goals, and the desired level of financing that will help achieve these goals.

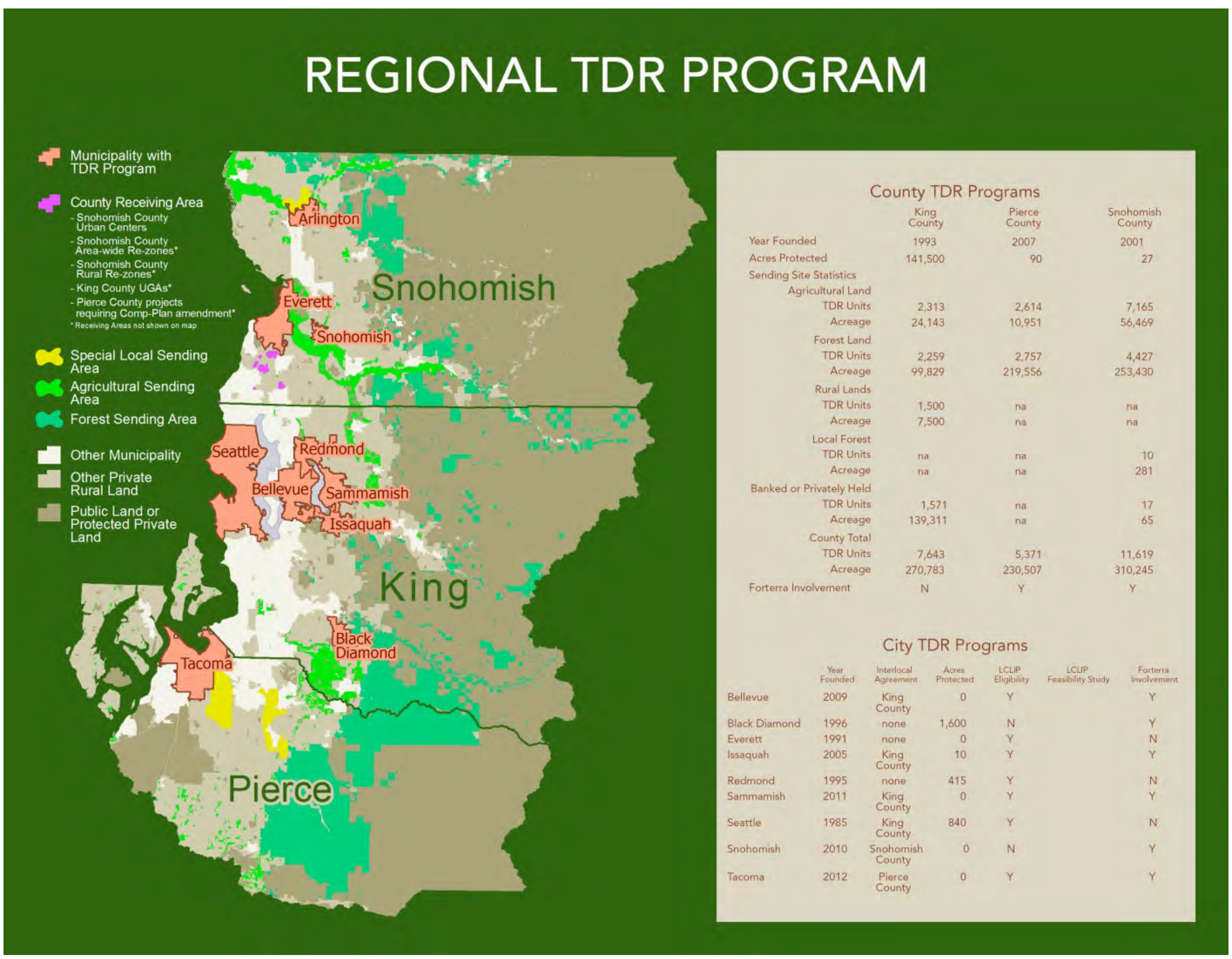
In the Central Puget Sound regional marketplace there are multiple sources of TDR credits. The following table summarizes current avenues by which the City, or developers in Totem Lake, could acquire credits.

Exhibit 4: Credit Source

Credit Source	Description
King County TDR exchange	Online marketplace connecting buyers and sellers of credits in King County. Not all credits listed on the exchange are eligible for LCLIP.
Pierce County TDR exchange	Online marketplace connecting buyers and sellers of credits in Pierce County.
King County TDR bank	All credits owned by bank are eligible. King County revolves proceeds of sales into future acquisitions.
Snohomish County	Although not a bank, the county owns a small number of farm TDR credits.
Private firms	Private organizations own certified TDR credits ready for sale and can act as facilitator to help connect buyers and sellers.
Individual landowners	Developers can seek out individual sellers on the private market.

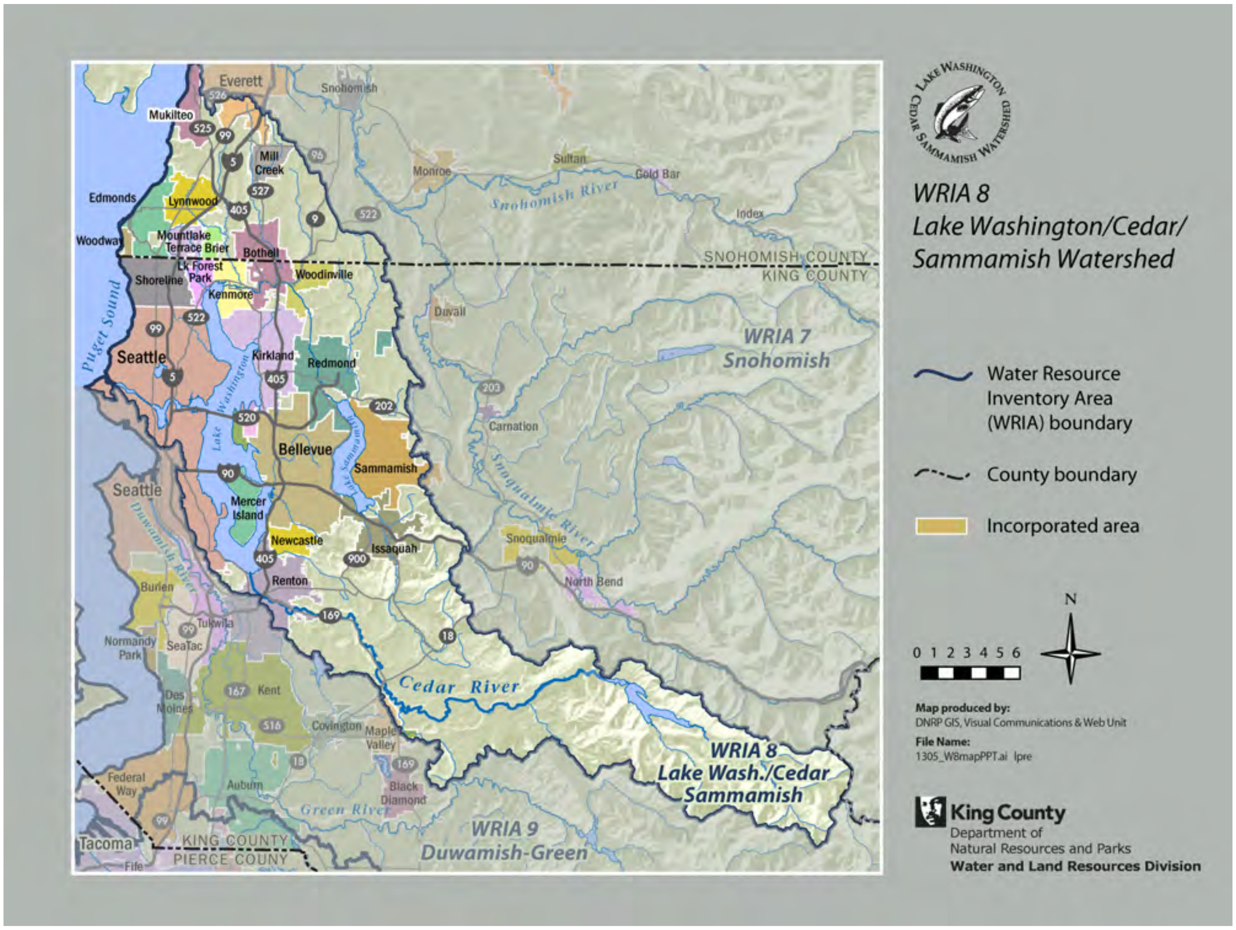
Source: Forterra, 2013.

Exhibit 5: Resource Lands Eligible Under LCLIP



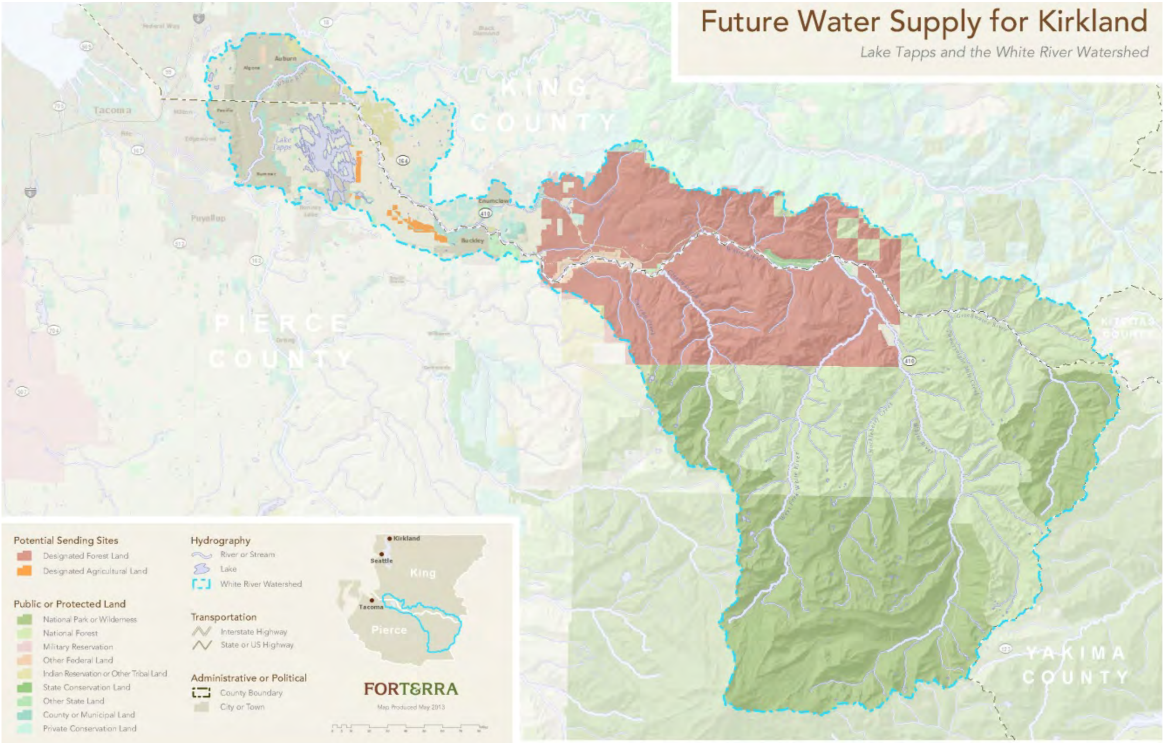
Source: Forterra, 2013.

Exhibit 6: Salmon Habitat in WRIA 8



Source: King County, 2013.

Exhibit 7: Cascade Water Alliance Lands



Source: Forterra, 2013.

3.5 Recommendations for Receiving Areas

Compatibility with Existing Incentives

The City has identified the provision of affordable housing as a component of the Totem Lake Urban Center, and as such it is important to design new incentives in such a way as to avoid creating competition among them. Development bonuses that a TDR program could offer, such as additional residential density, could potentially offer developers an alternative means to achieve higher intensities that would not advance the City's housing affordability objectives. In order to avert competition and create an incentive structure that supports both public policy goals, the City should consider a range of approaches to TDR program design. The main options for balancing these goals include:

- Award different bonuses to achieve different objectives
- Award the same bonuses, but in different geographies
- Award the same bonuses, but require both objectives be met on a project or area basis.

Different bonuses

Affordable housing can only be provided through construction of new residential units. The existing zoning allows for additional residential units to be constructed with the inclusion of affordable units. By contrast, bonuses awarded under a potential TDR program could be limited to bonus density in areas without the affordable housing provision - and other commodities, such as modified parking ratios, commercial floor area, setbacks, and impervious surfaces. This approach reduces competition between the two public policy goals, but also limits opportunities for using TDR.

Award the same bonuses

The City could retain the affordable housing element in that zone and award additional residential density for TDR in other areas of Totem Lake. Award the same bonus and prescribe how both are used- as a third alternative, the City could allow for both TDR and affordable housing residential density bonuses but set guidelines for how they are used. For example, both bonuses would be available to developers as long as a certain percentage of additional density was achieved through each. This distribution of bonuses could be balanced across a neighborhood.

Based on direction from City staff, the TDR analysis focused on ensuring both affordable housing and TDR benefits are not in competition by providing different bonuses and by using development bonuses in different geographies. The majority of development bonus is used for encouraging affordable housing. Use of TDR for the city explored achieving conservation goals through focusing on density bonuses in areas with no foregoing impact fees, reducing parking requirements, and limited development bonuses.

Focus on Implementing a Modest TDR Program in Totem Lake

The findings of this study suggest that there is limited near-term potential for LCLIP to generate new revenue for Kirkland to support infrastructure improvements that the City is planning to pursue. As explained in the Section 3 on LCLIP, the City's access to this new financing would entail additional complexity and financial risk that Kirkland would have to consider as part of a decision to participate in LCLIP. This section identifies what near-term measures the City could take that would allow it to realize the benefits of LCLIP without changes to its existing development regulations.

Understanding the constraints of the City's existing incentive zoning regime will help to further frame the discussion of near- versus long-term opportunities. A TDR marketplace (and, by extension, LCLIP) is driven by growth. Incentives can capture a portion of the demand for growth through bonuses for development beyond baseline zoning. This approach works best when demand for growth exceeds that zoning. In the case of Totem Lake, recent area-wide rezones allow for densities that are high enough to capture most of the current and projected market demand and current density bonuses go to affordable housing as discussed above. It is therefore unlikely that demand for growth will surpass base zoning following the increase in by-right capacity established in the Totem Lake Neighborhood Plan – however, there are a few zones that present some opportunity to place credits through density bonuses as described below.

Bonus Floor Area Ratio Incentive and Exchange Rates

Floor area ratio (FAR) is an incentive that can create value because it increases density and flexibility for developers. By achieving greater FAR in a project, a developer can configure the bonus floor area in ways that best reflect demand in the real estate market and can increase the amount of residential units or commercial floor space. New zoning limits established in the Totem Lake Neighborhood Plan increase density to the point where demand for additional density would be limited. Market analysis performed by Heartland and code analysis by MAKERS, however, suggests that in zone TL-5 there may be an opportunity for awarding bonus FAR as an incentive to developers.

Exchange rates are a critical component of a TDR program, as they help determine the value that participants gain from using the tool. Exchange rates are established for the identified receiving sites and their specific conversion commodities (units, floor area, parking, etc.). Based on the findings of an economic analysis, the proposed exchange rates for TDR transactions in the Totem Lake Urban Center are shown in the following table (Exhibit 8) that would use a FAR bonus. This receiving area eligible for FAR is targeted at the TL-5 zone.

Exhibit 8: Recommended TDR Exchange Rate for Additional FAR

Sending Sites	Cost of Development Right	Exchange Rate (Bonus Square Footage per Credit)
WRIA 8	$37,600	2,500
Cascade - Lake Tapps	$13,500	1,000
Regional Resource Lands	$21,500	1,400

Source: Forterra, BERK, Heartland, 2013.

It is recommended that the City use a "floating" exchange rate to deal with the multitude of sending site credit values over the three sending areas. The floating mechanism normalizes the value of the incentive relative to the cost to purchase the development right. The TL-5 zone allows for mixed use and a single value of the financial benefit of incentive zoning is used. The estimated value for additional bonus square footage used in this analysis is for $15 per square foot.

Additional Opportunities for a More Robust TDR Program

While bonus density is a common incentive in TDR programs, the nature of the tool is flexible and other types of bonuses are available to create value to developers and the City. In the absence of a private market for bonus density, the study explored ways the City could generate revenue by which it could fund TDR acquisition and thereby leverage additional financing from King County.

The market study for Totem Lake Neighborhood does not find that demand for growth at present exceeds current zoning. Conditions could change in the future that would support opportunities for a more robust TDR approach that would allow the City to consider a more expansive implementation of LCLIP. Such an approach may involve revisiting development regulations and policies established for the Totem Lake Neighborhood. Should Kirkland wish to pursue a higher level of participation in LCLIP this section identifies opportunities for different incentives to offer and TDR program mechanics to optimize credit absorption. The following range of options identifies alternatives to incentive zoning by which the City could secure the benefits of LCLIP without making substantial changes to development regulations.

Impact Fee Waivers and TDR Fee In Lieu Program

The project team identified the city's greatest opportunity to create demand for TDR credits is through substituting a voluntary TDR in lieu fee for an exemption of traffic and park impact fees, but only if the city participates in LCLIP since forgone impact fee revenue would have to be made up by new incremental property taxes from King County. A full analysis of this program is included in Section 3 of this report.

Should Kirkland pursue LCLIP, it will gain access to financing for infrastructure improvements via the county's share of new property taxes. If the City uses LCLIP revenue to invest in transportation improvements that might otherwise have been funded through impact fees, then there is effectively no loss in revenue. In fact, because an allocation of impact fees for TDR credit acquisition will give the City access to an even larger amount of revenue than the fees would generate, Kirkland can leverage that investment to expand infrastructure financing beyond what is currently available.

The findings of the analysis show that the City could leverage its collection of traffic impact fees to access greater revenues from King County through implementation of LCLIP – however, cash flow issues relative to impact fee laws and City financial policies make a programmatic approach not feasible at this time. However, this approach could be part of a broader strategy for TDR and LCLIP.

Stormwater Waiver Incentives

The City is currently assessing the viability of using Totem Lake as a stormwater mitigation asset. This study will be complete in the summer of 2014. We recommend the City assess the viability of using reduced stormwater mitigation in lieu of a TDR provision if Totem Lake is a feasible bank of credits.

4.0 TDR ADMINISTRATION

4.1 Introduction to Administration

Buying or selling development rights is at least as significant to buyers and sellers as a standard real estate transaction, and is potentially more complex. For sellers, a farm or large parcel of forestland may represent their most sizable asset. TDR offers an important opportunity to realize some of the value of that asset, but one requiring consideration of both legal and financial ramifications. For developers, the purchase of development rights is an added layer in the development process and may involve financing separate from property and development costs.

Given the importance of this decision, it is equally important to design TDR administrative processes that address the needs of the landowners and developers while meeting the goals of the county.

The following sections provide an overview of TDR administrative models and considerations, including recommendations. Specifically discussed are alternatives regarding:

- Transfer models
- A typical TDR deal
- Calculating sending site TDR credits
- Development Right Certificates
- Transfer process
- Deed restrictions
- Conservation easements
- Interlocal agreements

Alternatives discussed are based on input from Kirkland and experience analyzing and working with other jurisdictions.

4.2 Transfer Models

A variety of mechanisms exist to facilitate TDR transactions, ranging from buyer-seller direct sales to complex TDR banks. The following are suggested as key goals to consider when assessing and designing TDR transaction mechanisms:

- To the extent possible, simplify TDR transactions and reduce uncertainty for buyers and sellers.
- Support cross-jurisdictional exchanges where appropriate.
- Provide incentives for private market participation in TDR, such as engaging local realtors and escrow services in TDR marketing and sales.

The recommended process for completing a transaction under this framework involves two main players – a landowner and a developer – and support from public agencies (counties and the city). The transaction would generally take place through the following steps:

1. A property owner voluntarily decides to sell development rights.
2. The seller communicates an interest in selling development rights to the county TDR program administrator.
3. The county calculates the number of TDR credits available for sale on the property, issues a TDR certificate letter of intent to the seller, and adds the seller's name to a publicly available list of property owners interested in selling TDR credits. The seller may also choose to actively market his or her credits to potential buyers.
4. A developer decides to pursue a project to which TDR would add value. The developer contacts the county to express interest and may review market information about willing sellers.
5. After reviewing market information, the developer contacts a seller and the two parties negotiate the sale directly. The transaction moves forward if both parties agree on a price.
6. Before finalizing the deal, the seller (if a landowner) negotiates a conservation easement for the sending site with the county. This step is not necessary if buying from a bank or entity that already owns certified development rights.
7. The landowner accepts a conservation easement on the property and the county records the easement.
8. The county issues TDR certificates to the landowner, who may then transfer them to the seller upon closing of the sale.
9. The county monitors and enforces the easement to ensure compliance.
10. When TDR credits are applied to a project in a receiving site, that jurisdiction collects the TDR certificates, records their extinguishment, and returns them to the county. This protects against the same TDR certificates being sold multiple times.

While not included in this framework, real estate companies could potentially serve a role in this process. As with standard real estate transactions, sellers could list development rights with agents who, in turn, could market these rights to potential buyers. A vibrant TDR marketplace is likely required before the benefits of using real estate professionals are realized.

Option 1: Private transactions model

Private transactions are the core of traditional TDR programs. Under this model, a willing seller arranges to sell development rights to a buyer interested in building a project incorporating TDR. The parties negotiate a price and complete the transaction similar to any other real estate sale. Development approval is contingent upon the developer purchasing TDR credits from a seller who has county-issued certificates.

An example of a program using the private transactions model:

Montgomery County, Maryland, is one of the most successful TDR programs in the country. Its program has conserved over 50,000 acres of farmland and forestland despite providing minimal support to buyers and sellers. The success of this program may be in part attributed to the county's substantial downzoning of sending areas coupled with the required purchase of TDR credits in receiving areas.

Pros and cons of the private transactions model include:

Pros:

- Private transactions between a willing buyer and seller are the simplest form of TDR.

- Such transactions may allow for more creativity in deal-making than is possible under more complex models.
- County governments do not have to financially support the transaction process.

Cons:

- The absence of market information can be a hindrance to interested buyers and sellers.
- Connecting buyers and sellers can be difficult.
- Timing can be a problem; buyers are not always ready to buy when sellers are ready to sell and vice versa.
- Many programs operating under this model have been unsuccessful in creating a TDR marketplace.

Option 2: Private market model with city support

A second option is based on the private-market nature of the private transactions model, but incorporates a degree of city support to address the challenges created by a lack of information. This model makes sense for Kirkland to consider if it designates sending areas within city limits. If all or most sending areas are unincorporated county lands (or LCLIP eligible lands) then the respective counties will typically support density transfers on the sending side to the extent that their programs allow. In that case the city can still take the role of supporting the receiving side of the transaction.

As in the private transactions model, buyers and sellers work through the traditional negotiation and transaction process in a fashion similar to real estate deal-making. However, this process would be supported by the city, which would serve as an information repository. In this role, the city could track potential TDR credit buyers in the marketplace, based on permit applications, land ownership, and outreach to developers. The city would also serve as a technical resource that potential buyers and sellers could contact should they have questions about the TDR program and how to participate.

Examples of programs using the private market with public support model include:

- **Collier County, Florida,** has a successful TDR program that maintains a “central lands registry.” This information, which is easily accessible on county-run website, includes searchable lists of both buyers and sellers. The program also maintains information on lands conserved and recent sale prices, as well as sets minimum prices for TDR credits. Collier County, which does not purchase or sell development rights itself, has conserved more than 2,300 acres under this TDR model.
- **Redmond, Washington**, uses a website to provide information about the TDR marketplace. While the city does not actually buy and sell development rights, it does organize and promote a transparent marketplace. To promote the program, Redmond communicates with landowners in sending areas and lets them know how they may participate. The website also provides up-to-date viewing of recent transactions, including market participants, credits purchased, prices paid, and total acres conserved.
- **Arlington, Washington**, revised its interlocal TDR program in 2013 to expand both sending and receiving areas. Initially adopted as a pilot program in cooperation with Snohomish County, Arlington’s conservation priority focuses on 3,000 acres of farmland adjacent to the city in the Stillaguamish Valley. Recognizing that both sending and receiving area limitations were constraining program activity, the city added new lands to both. Because of the relatively modest size of the community and the city’s close ties to agriculture, the program is promoted by word of mouth and the city is actively recruiting development in the receiving area to use the program.

Pros and cons of the private market with city support model include:

Pros:

- Reduces uncertainty and supports participation by providing information that connects buyers and sellers.
- Creates an alternative for buyers searching for willing sellers independently, reducing uncertainty and streamlining the process.
- Such transactions may allow for more creativity in deal-making than is possible under more complex models, such as banks.

Cons:

- Represents some costs to the city in terms of resources and staff time.

Option 3: TDR bank model

TDR banks vary across jurisdictions, but they generally serve at least three functions: (1) provide information that makes the marketplace more efficient, (2) act as a buyer or a seller in strategic transactions to advance the goals of the TDR program, and (3) even out market fluctuations. The latter function differentiates banks from an information clearinghouse and is a unique role a bank may play in the marketplace.

There may be many reasons a jurisdiction wants to actively participate in the buying and selling of TDR credits. For example, a bank may be used to purchase development rights on high-priority parcels that the private market might not conserve. These development rights are held in the bank and later sold to private developers. Alternatively, a bank can help to even out economic cycles, serving as a TDR buyer when market conditions are weak and as a seller during periods of high demand. When larger projects requiring numerous development rights creates a complex transaction—particularly if acquiring the needed rights involves multiple sellers for the buyer to acquire the necessary supply of development rights—a TDR bank can function as a single seller, increasing efficiency. Furthermore, banks can make purchases in market downturns when both TDR credit prices and demand are low.

In most examples, a local jurisdiction or regional government is responsible for administering its TDR bank. Some communities, however, have contracted with private nonprofit organizations to operate their banks. This minimizes government involvement in the process, which in some communities can encourage participation. Banks are typically funded by the jurisdiction, but may also accept private donations of either capital or credits.

One reason Kirkland might want to consider creating a TDR bank is to optimize revenue opportunities in LCLIP. As explored in the receiving area discussion, the City could become a buyer of TDR credits if it redirects a portion of collected impact fees (through a fee in-lieu program – impact fee monies can not be spend on TDRs) for credit acquisition. Alternatively, the City could acquire TDR credits to meet program performance milestones instead of waiting for the private market to transfer credits. For example, Kirkland could purchase a percentage of its TDR commitment up front to maximize the period of time in which it can collect the property tax increment. As growth occurs in Totem Lake, the city can re-sell those credits to developers and recover the investment.

Examples of programs using a TDR bank model include:

- **King County, Washington**, established a TDR bank with $1.5 million of Conservation Futures tax revenues. The bank has purchased development rights on more than 90,000 acres of working forest. Private transactions have conserved approximately 2,000 additional acres. The King County TDR bank focuses on spurring private market transactions. Two bank sales have occurred since November 2006. The first was a sale of 31 development rights, valued at $930,000, supporting development of a residential complex in downtown Seattle. A second transaction, also in Seattle, resulted in the sale of 18 credits from the TDR bank, generating $396,000 that will be used to acquire additional development rights from resource lands in King County.
- **Cambria, California**, a private nonprofit has taken on the role of TDR bank. The bank started with a $275,000 grant from the California Coastal Commission. Through the purchase and donations of lots, the bank has been able to double this initial seed money and use it as a revolving fund. The nonprofit has sold more than 85,000 square feet of credits and retired more than 200 antiquated lots under this model.

Pros and cons of the TDR bank model include:

Pros:

- Reduces uncertainty and supports participation by serving as a central repository for information and TDR credit transfers.
- Allows for strategic purchases.
- Can streamline the transfer process, particularly for large developments where TDR buyers would otherwise have to broker deals with multiple sellers.

Cons:

- Increased administrative complexity.
- Generally requires seed money for initial funding, which may involve creating a new revenue source.

4.3 Recommendation: Private Market Model with City Support

City direction highlighted support for a private buyer-seller model, with City support to increase the chance of program success by promoting the TDR program, educating developers, and helping connect them to sellers.

Transfer Process

For development projects requiring or otherwise involving TDR credits, applications may be submitted without the purchase of TDR credits; however, the City will issue no associated development permits until the TDR credit requirement is satisfied. Applicants for bonus density may acquire TDR credits in the following ways:

- Purchasing TDR credits from eligible sending sites.
- Transferring TDR credits from eligible sending sites owned by a receiving site owner.
- Purchasing eligible, previously acquired, unexecuted TDR credits from an entity that holds them for resale, including the King County TDR bank, private organizations, or other county governments.

Interjurisdictional transfers

A transaction transferring TDR credits from an eligible, unincorporated-County sending site into the City will be reviewed and transferred using the City's development application review process, whereby the permit desk ensures County-certified credits or the appropriate fee is provided. The transfer may be subject to an interlocal agreement between a county and the city if one exists. Alternatively, Kirkland may choose to adopt by resolution the terms and conditions for interjurisdictional transfers established by the State of Washington in 365-198 WAC. This creates an efficiency for cities, as it authorizes transfers from all regional TDR program sending areas (as created in RCW 43.362) and will align Kirkland's regulations for future use of LCLIP should the city choose to use that program.

Interlocal Agreements

An interlocal agreement (ILA) is a legal contract between two or more local governments that specifies the conditions under which TDR credits may be transferred (typically from an unincorporated county into an incorporated city). The legislative bodies of each jurisdiction must endorse interlocal agreements. Such agreements have the advantage of defining specific terms of transfer that reflect shared conservation objectives of each jurisdiction. A tradeoff of the ILA approach is that it can constrain program flexibility and requires an investment of time and resources by both jurisdictions in its negotiation and adoption. This effect is multiplied if a city enters into ILAs with multiple counties.

Kirkland should consider the following elements in negotiating interlocal TDR agreements with counties:

- Complexity of drafting and negotiating an interlocal agreement
- Does the agreement support the City's conservation objectives?
- Alternative to interlocal agreements
- Relevance to LCLIP – does the agreement support the City's achievement of performance milestones?
- Requirement of LCLIP participation to adopt the state rule and/or executing interlocal agreements with all counties

Further Consideration: Hybrid of Private Market Model with City Support and TDR Bank

Paired with a more robust TDR program geared at leveraging LCLIP funding, the City may want to pursue a combination of models for facilitating transferring development rights. A Private Transactions Model with Public Support and a TDR Bank to address the need to collect fees for TDR purchases may be needed to account for City involvement in the buying and selling of TDR credits. This combination allows for a wide array of flexibility for the city to administer the program:

- Private buyer-seller with City support increases chance of program success by promoting the TDR program, educating developers, and helping connect them to sellers.
- The bank allows the City to choose to collect fees, which can be aggregated for TDR credit acquisition, which allows the city to align the timing of TDR purchases with timing of LCLIP threshold requirements.

5.0 TOTEM LAKE TDR CODE PACKAGE

The following are implementation materials necessary for the Cty to adopt the TDR program.

5.1 New Code Chapter on TDR

Based on review of the City's comprehensive plan, it is recommended that the TDR ordinance be added as a separate chapter within the Zoning Code in the currently vacated Chapter 111, near the affordable housing incentives Chapter, 112.

Chapter 11 – TRANSFER OF DEVELOPMENT RIGHTS

Sections:

Transfer of Development Rights

Transfer of Development Rights

xxx.yy.010 Purpose and Intent.

A. The purpose of the transfer of development rights (TDR) program is to implement a market-based tool to permanently preserve partially developed or undeveloped land with important public benefits, such as salmon habitat, farmland, forestland, and lands important for maintaining water quality, through the acquisition of the development rights on those lands ("sending sites") and the subsequent transfer of those rights to lands more suitable for development ("receiving sites").

B. The TDR provisions supplement land use regulations, salmon recovery habitat protection and restoration efforts and are intended to encourage economic growth through development in the Totem Lake Neighborhood by:

1. Providing an incentive process to conserve lands with a public benefit for property owners of land important for salmon species recovery, farmland, forestland, and/or lands important for watershed functions; and

2. Providing an administrative review process to ensure that transfers of development rights are evaluated and administered in a fair and timely manner in accordance with other City goals and policies.

xxx.yy.020 Applicability.

All new development on a site identified as a "receiving site" pursuant to xxx.yy.040 shall have the option to acquire a certified Transfer of Development Right or provide a TDR fee to increase the development potential or meet the TDR requirements to develop the receiving site. All private property owners owning a site that qualifies as a "sending site" pursuant to xxx.yy.030 and xxx.yy.050 shall have the option to request sending site certification and to sell the development potential of a sending site to an interested buyer. The development potential of a sending site may be transferred and credited to a receiving site only when the transfer is approved or the TDR fee paid in accordance with this chapter.

xxx.yy.030 Sending Site Categories and Criteria.

A. A sending site may be utilized within the City pursuant to KZC xxx.yy.060 provided the sending site meets the criteria for one of the following sending site categories below, and the provisions of section "B.".
   1) Inter-jurisdictional Sending Sites:
      a. Unincorporated King, Snohomish, or Pierce Counties land identified by the City Council in an Interlocal Agreement or in the TDR rule, 365-198 WAC (if adopted [Appendix E]).
B. To be eligible for the TDR program, all sending sites may be utilized within the City pursuant to KZC xxx.yy.060, shall be eligible sending sites under the County TDR program, eligible sending sites according to RCW 39.108, and provide a defined public benefit.
   1) A sending site is deemed to have a defined public benefit if the site is:
      a. Resource lands: land designated as agricultural land or forest land of long-term commercial significance or designated as rural that is being farmed or managed for forestry and eligible as a sending site under RCW 39.108; or,
      b. Habitat: land designated as agricultural land or forest land of long-term commercial significance or designated as rural that is being farmed or managed for forestry within WRIA 8 and eligible as a sending site under RCW 39.108; or,
      c. Water quality: land designated as agricultural land or forest land of long-term commercial significance located within the White River watershed and contributing to the Lake Tapps reservoir and eligible as a sending site under RCW 39.108.
C. Development rights acquired from eligible sending sites may be transferred to eligible receiving sites through the TDR transfer process. After completion of the conveyance of a sending site's development rights, the property shall be subject to the terms and conditions of the TDR conservation easement required under the County's TDR program.

xxx.yy.040 Receiving Sites.

A. Eligible receiving sites shall be:
   1. Properties within the TDR receiving-site boundaries in Totem Lake Neighborhood as defined by the TDR Map and zoned as follows:
      a. TL-5 Zone
      b. [Placeholder for future receiving sites]
B. Except as provided in this chapter, development of a receiving site shall remain subject to all use, lot coverage, height, setback and other applicable requirements of the Kirkland Municipal Code.
C. The owner of property within the TDR receiving site area must satisfy its TDR requirement to achieve the maximum density authorized pursuant to KZC xxx.yy, by providing TDR credits from any sending site or combination of sending sites or by paying the TDR fee according to xxx.yy.090.
D. A [Placeholder for future receiving sites] receiving site may accept density credits, up to the maximum density authorized pursuant to KZC xxx.yy, from any sending site or combination of sending sites.

xxx.yy.050 Calculation of Available Development Rights from Sending Sites.

The number of development rights that a sending site is eligible to sell under this program shall be calculated based upon the sending site category established pursuant to KZC xxx.yy.030, provided:

A. Inter-jurisdictional Sending Sites.
   1. The number of development rights eligible for sale on a sending site located on land identified by the City Council in an Interlocal Agreement with another jurisdiction, shall be determined pursuant to the Interlocal Agreement.
B. [Placeholder for future In-City Sending Sites]

xxx.yy.060 Sending Site Certification

B. Sending sites located outside of Kirkland
   1. All development rights transferred through an interlocal agreement or according to the TDR rule, 365-198 WAC (if adopted), with another jurisdiction from sending sites located outside of the city limits of Kirkland shall be transferred into Kirkland pursuant to the terms of the interlocal TDR agreement or the TDR rule, 365-198 WAC (if adopted) with the relevant jurisdiction.
A. [Placeholder for sending sites located within Kirkland]

xxx.yy.070 Documentation of Restrictions

A. TDR certificates issued to sending sites pursuant to an interlocal agreement or the TDR rule, 365-198 WAC (if adopted) with another jurisdiction shall have a conservation easement restricting the deed recorded with the home County and notice placed on the title of the sending parcel.

xxx.yy.080 Receiving Site Incentives

A. Development rights may be purchased to achieve TDR-based incentive densities allowed by Kirkland development regulations on receiving sites identified in xxx.yy.040.
B. Receiving site incentives:
   1. Totem Lake Neighborhood: Table A outlines TDR-based incentives for eligible receiving sites with the purchase of a development right.

Table A – Receiving site incentive table.

Receiving site incentive table

Sending Sites	Cost of Development Right	Exchange Rate (Bonus Square Footage per Credit)
WRIA 8	$37,600	2,500
Cascade - Lake Tapps	$13,500	1,000
Regional Resource Lands	$21,500	1,400

   2. [Placeholder for future receiving sites]
C. Modification of receiving site incentives:
   1. The Director is authorized to recommend that the City Council adopt a revised incentive table to address changing economic conditions or to further refine the receiving site incentives. The Director is also authorized to recommend that the City Council adopt

receiving site incentives for sending sites not currently identified in section "B" above. The incentive table shall not be revised more than once in a calendar year. The Director shall base the recommendation of a revised incentive table on the following economic analysis:

i. The expected marginal value of the receiving site incentives; and
ii. The prevailing cost per square foot commercial or residential development and the impact of the acquisition of TDR credits on a project's marginal returns; and
iii. The appropriate regional costs of development per commercial square foot or residential dwelling unit; and
iv. Current price of development rights from authorized sending sites; and
v. Consistency with the conservation principles and purpose and intent of this chapter.

2. Once adopted by the Council, the modified receiving site incentive table shall be used for calculation of receiving site incentives. Within 30 days of adopting a revised incentive table, the Director shall mail notification to property owners with an active TDR certificate letter of intent following adoption of a revised incentive table.
3. If adoption of a revised incentive table is requested by a developer or private property owner, the burden of preparing the economic analysis shall be on the developer or private property owner.
4. The Director shall keep a log of modified receiving site incentives and shall periodically report the modifications to the City Council.

xxx.yy.090 TDR Transfer Process

A. Receiving site landowners are required to purchase sending site TDR certificates to achieve TDR-based incentive densities and satisfy their TDR requirement prior to building permit issuance. Building permit applications may be submitted without the purchase of TDR certificates, but no permits for development associated with a TDR project shall be issued until the TDR certificate or payment requirement is satisfied.

1. The required TDR certificates may be acquired by:
   i. Transferring development rights from certified sending sites; or
   ii. Transferring development rights from certified sending sites owned by a third party; and
   iii. In all circumstances development rights must not have previously been executed for use in a particular project.

xxx.yy.100 TDR Administration

The Planning Director shall be responsible for:

A. Maintaining transaction records of TDR credits utilized in projects; and,
B. Providing an Annual Report to the City Council as part of the city's annual budget process. The Annual Report shall provide information on:
   1. The annual and cumulative amount of density bonus floor area, by use, permitted under the program;
   2. The amount and location of conservation achieved; and,

3. Whenever the city is participating in the LCLIP program, collect and provide all reporting requirements according to RCW39.108.110

xxx.yy.110 Technical Terms and Land Use Definitions

xxx.yy.XXX “Conservation easement” is a legal agreement between a landowner and a land trust or government agency that permanently limits uses of the land in order to protect its non-development values. It allows the landowner to continue to own and use the land, to sell it, or to pass it on to heirs. A conservation easement is placed on a sending site at the time development rights are sold from the property. The conservation easement typically prohibits any further development of the property but allows resource uses, such as farming and forestry, to continue.

xxx.yy.XXX "Development right" is an interest in and the right under current law to use and / or subdivide a lot for any and all residential, commercial, and industrial purposes.

xxx.yy.XXX “Interlocal agreement” is a legal contract between two or more local jurisdictions (cities and counties) that specifies the conditions under which development rights may be transferred (typically from an unincorporated county into an incorporated city). Interlocal agreements must be endorsed by the legislative bodies of both jurisdictions.

xxx.yy.XXX "Receiving site" means those lots where the procurement of development rights enables a permissible change in the allowed intensity on the property pursuant to the TDR chapter and all other controlling policies and law.

xxx.yy.XXX "Sending site" means designated lot or lots with development rights which landowners may sell in exchange for placing a conservation easement on the property or a portion of the property.

xxx.yy.XXX "TDR certificate" is a form of currency that represents development rights available for sale and use.

xxx.yy.XXX "TDR program" is a market-based program that permanently conserves lands with important public benefits by establishing a means to transfer development rights from eligible sending sites to eligible receiving sites through a voluntary process that fairly compensates landowners while providing a public benefit for communities.

xxx.yy.XXX "Transfer of Development Rights (TDR)" means the transfer of the right to develop or build from sending sites to receiving sites.

5.2 Amend Section 55.39 (TL5)

The City will consider amending the Zoning Code regulations in the TL 5 zone to allow for increases in the maximum Floor Area Ratio for development that participates in the Transfer of Development Rights program through King County. While the exact language will be developed, amending special regulation 6 of Section 55.39.10 of the TL 5 zone to read:

> Building height may exceed the limits set forth in General Regulation 3; provided, that development on the property within the Master Plan does not exceed:
>
> > a. The maximum floor area ratio (FAR) of 2.0, or 200 percent of lot size for office buildings over 65 feet in height. **A bonus maximum floor area ratio (FAR) of 3.0, or 300 percent of lot size for office buildings over 65 feet in height will be granted through participation in a TDR program as defined in KZC Chapter 111.**

SECTION 3

Tax Increment Financing and LCLIP Assessment

TOTEM LAKE TDR AND TIF STUDY

Tax Increment Financing and LCLIP Assessment

1.0 INTRODUCTION

The overall purpose of this section is to provide information on the formal tax increment financing programs enabled under state law and provide a more specific assessment of a Landscape Conservation and Local Infrastructure Program (LCLIP) for the City in conjunction with the potential development of a TDR program, as discussed in Section 2 of this report.

Within this section are six subsections that cover the broad range of topics related to the creation of a TDR program. The subsections in this Section are:

- **TIF Overview –** An overview of the tax increment financing program in Washington State
- **LCLIP Assessment –** An assessment of an LCLIP program in Kirkland with recommendations for how to implement LCLIP moving forward

2.0 TAX INCREMENT FINANCE ASSESSMENT

A public revenue model was constructed for this assessment that included a capital funding element that will allow for the assessment of current and proposed tax increment financing (TIF) mechanisms. At a minimum, the following mechanisms will be included in the capital-funding element:

- Community Revitalization Financing (CRF)
- Local Infrastructure Financing Tool (LIFT)
- Hospital Benefit Zone program (HBZ)
- Local Revitalization Financing program (LRF)
- Landscape Conservation and Local Infrastructure Program (LCLIP)

2.1 Overview of Tools

Below are descriptions of Tax Increment Financing legislation from Washington State. This section summarizes tax increment financing type programs in Washington prepared by the Research & Legislative Analysis Division of the Washington State Department of Revenue and provides additional information where warranted.

2.2 Community Revitalization Financing (CRF) Act

Community Revitalization Financing (CRF) is a form of tax increment financing created in 2001. The program authorized cities, towns, counties and port districts to create a tax “increment area”. By using revenues from local property taxes generated within the area, these local governments can finance public improvements within the area.

Key CRF Program Features

CRF increment areas are created and administered at the local level and they do not include a state contribution. State approval is not required to use CRF. Local governments must approve imposing at least 75 percent of the regular property taxes within the area. The incremental local property taxes under the CRF program are calculated on 75 percent of any increase in assessed value of new construction in the increment area. Any fire protection district with geographic borders in the "increment area" must agree to participate.

Availability of the Program

The program is available for local government only, and there are currently five increment areas located in Spokane County. Cities, counties, and ports are free to partner via ILA on the dedication of their respective tax increment funds.

2.3 Local infrastructure Financing Tool (LIFT) Program

The Local Infrastructure Financing Tool (LIFT) program is a form of tax increment financing created and made available in 2006 to help local governments finance local public improvement projects intended to encourage redevelopment or economic development.

Key LIFT Program Features

A sponsoring jurisdiction (city, town, county, port district, or federally recognized Indian tribe) creates a "revenue development area" from which annual increases in revenues from local sales/ use taxes and local property taxes are measured and used. The state's Community Economic Revitalization Board (CERB) approved a revenue development area and award of state contribution. Incremental local property taxes are calculated on 75 percent of the increases in assessed value that result from new construction and improvements to property within the revenue development area. The sponsoring local government estimates the incremental local sales and use taxes with assistance from the Department of Revenue.

Local government participation is voluntary and requires written agreement to participate in the sharing of incremental revenues for LIFT projects. To receive the state contribution, the local government imposes local sales and use tax that is credited against the state sales and use tax. The local government receives a limited amount of distributions from the local LIFT tax each fiscal year up to the lesser of: the amount of the CERB approved project award; the amount of local matching funds dedicated to the payment of the public improvements or bonds in the previous year; the highest amount of incremental state sales/ use and property tax revenues for one calendar year as determined by the sponsoring government and identified in an annual report submitted to CERB and the Department of Revenue.

The local funds and state contribution are used for financing local public improvements within the revenue development area. The public improvements could be financed on a pay-as-you-go basis, but only for the first five years of the state contribution. The state contribution ends in 25 years or when the bonds are paid off. The state can contribute up to $7.5 million to the LIFT program per state fiscal year, and $1 million per state fiscal year for each project.

Availability of the Program

Nine projects have been awarded state contributions under the LIFT program. These projects are located in Bellingham, Bothell, Everett, Federal Way, Mount Vernon, Puyallup, Vancouver, Yakima and Spokane County. The program is currently closed to applications. Any new project cannot be funded until one of the current projects fails and the money is made available to meet the $350,000 state contribution award. The legislature also extended the start date for construction on LIFT projects due to the impact of the 2008 economic recession.

2.4 Hospital Benefit Zone Financing (HBZ)

Hospital Benefit Zone (HBZ) is a form of tax increment financing enacted in 2006. It is similar to the LIFT program but it does not include incremental property tax revenues. It includes incremental sales and use taxes that are calculated and used. The HBZ program is intended to encourage private business development and the development of a hospital within a "hospital benefit zone."

Key HBZ Program Features

The program offers the use of tax increment financing to a city for the construction/ expansion of a hospital when a health care provider has received a certificate of need from the Department of Health (DOH). A city, town or a county creates a benefit zone called a "revenue development area" and finances public improvements. The HBZ project is awarded on a first-in-time basis.

Incremental sales and use tax revenues from the hospital benefit zone are measured by the Department of Revenue using local tax reporting codes. Participation is voluntary and requires a written agreement. In order to receive the state contribution, the local government that is sponsoring the HBZ imposes local sales and use tax that is credited against the state sales and use tax. This is how the local government receives the state contribution. The tax diverts state sales and use tax to the local government via a calculated sales tax credit.

Each fiscal year, the local government receives a limited amount of the following distributions from the local HBZ tax each year: the amount of the project award approved by the Department of Revenue; the amount of local matching funds granted to the payment of the public improvement or bonds in the previous calendar year and identified by the local government in an annual report; and the amount of incremental state revenues received in the previous calendar year from HBZ.

The state contribution ends after 30 years or when no longer needed for public improvements in the HBZ. The maximum state contribution per project is $2 million for each fiscal year. That is also the maximum amount the state can contribute statewide for the program.

Availability of the Program

Currently, the City of Gig Harbor and Pierce County are the sole participants. Franciscan Health Systems received approval from the DOH to build an 80-bed community hospital in Gig Harbor. This hospital is to serve the people of Gig Harbor, Key Peninsula and south Kitsap County. They city of Gig Harbor established an HNZ, and Franciscan Health Systems built the hospital.

Since HBZ programs are limited by the Department of Health issuing a "Certificate of Need", it does not happen very often due to the strict requirements. Currently, there is no move to provide state matching funds for this program.

Changes to the Program

The 2011 Legislature passed SSB 5525, which made changes to the HBZ program. The definition of public improvements has been changed to include construction, maintenance and improvement of state highways that connect to the HBZ. After the local government changes the adopted ordinance and holds a public hearing, modifications to the public improvements can be made. Local governments that levy the HBZ tax do not need to spend the tax revenue in the year they are received.

2.5 Local Revitalization Financing (LRF) Program

Second Substitute Senate Bill 5045 created the Local Revitalization Financing (LRF) Program. The LRF program authorizes cities, towns, counties and port districts to create a “revitalization area” (RA). It is very similar to the LIFT program. The LRF program allows certain increases in local sales and use tax revenues and local property tax revenues generated from within the “revitalization area”, additional funds from other local public sources, and a state contribution to be used for payment of bonds issues for financing local public improvements within the revitalization area.

Key LRF Program Features

To seek a state contribution, the local government that creates the revitalization area must apply to the Department of Revenue, which is responsible for the administration of the program. The program makes state contributions for seven demonstration projects and other competitive projects approved on a first-come basis. The incremental local property taxes under this program are calculated on 75 percent of increases in assessed value as a result of improvements and new construction to property within the revitalization area. It is voluntary to participate in the sharing of incremental revenues for this program, but opting out of participation requires action.

To receive the state contribution, the local government imposes local sales and use tax that is credited against the state sales and use tax. This local tax diverts the state sales and use tax to the local government. The local government receives a limited amount of distributions from this local tax each state fiscal year up to the lesser of: the amount of the award approved by the Department of Revenue; the amount of local matching funds dedicated to the payment of the public improvements or bonds in the previous year, and identified in an annual report submitted by the local government.

The state can contribute up to $6.63 million statewide for the LRF program per fiscal year. The maximum amount of state contribution for each demonstration project is specified in the bills and application awards ranges from $200,000 to $500,000 per project.

Availability of the Program

State contributions have been approved for eighteen projects. The projects are located in Auburn, Bellevue, Bremerton, Federal Way, Kennewick, Lacey, Mill Creek, Puyallup, Renton, Richland, Spokane, Tacoma, University Place, Vancouver, Wenatchee, Clark County and Whitman County. The State contribution is not currently funded, but cities are free to partner with other interested jurisdiction on the dedication of tax increment funds via ILA.

2.6 Landscape Conservation and Local Infrastructure Program (LCLIP)

Landscape Conservation and Local Infrastructure Program (LCLIP) financing program was created by the Engrossed Substitute Senate bill 5253 to allow local government to finance infrastructure investments in exchange for the placement of development rights in the Central Puget Sound. The program allows cities to create a LCLIP and allows some increases in local property tax revenues generated from the LCLIP. The tax increment financing part of this program is similar to the property tax component of LIFT and LRF.

Key LRF Program Features

This program permits the transfer of development rights (TDRs) from forest and rural farmlands to cities to be used within LCLIP. Cities are deemed eligible if they are in counties with a population larger than 600,000 people that border the Puget Sound. The city must have a population plus employment equal or greater to 22,500.

The incremental local property taxes for LCLIP financing are calculated based on the city ration multiplied by 75 percent of the increases in assessed value as a result of improvements to property or new construction within the LCLIP. The city ratio takes account several factors related to a city TDRs. Participating in the sharing of incremental local property taxes is mandatory for both the sponsoring county and city. Counties and cities must allow the use of all local property tax revenues unless they are excluded through an interlocal agreement. The LCLIP program does not include a sales tax component.

Availability of the Program

LCLIP Financing is only available in King, Pierce and Snohomish Counties. To date, only the City of Seattle has created a LCLIP program. However, several Puget Sound cities have evaluated its potential use including: Arlington, Bellevue, Burien, Bothell, Issaquah, and Sammamish.

3.0 LCLIP ASSESSMENT

3.1 Benefits of LCLIP in Kirkland

Through the Totem Lake Neighborhood Plan the City of Kirkland has identified a number of infrastructure improvement needs to support its vision for the neighborhood. Changes to the street grid, improved connectivity, and drainage are a sample of areas where the city has highlighted needs for enhanced infrastructure. One approach the city could take to financing investments addressing these needs is through LCLIP. As mentioned earlier, numerous tools exist in Washington to help cities finance infrastructure – however, LCLIP with TDR presents a near term opportunity to capture incremental tax revenues for infrastructure funding.

3.2 LCLIP Program Overview and Key Features

LCLIP is a form of tax increment financing enacted in 2011. The Washington State legislature created the LCLIP program based on its finding that:

> *The state and its residents benefit from investment in public infrastructure that is associated with urban growth facilitated by the transfer of development from agricultural and forest lands of long-term commercial significance. These activities advance multiple state growth management goals and benefit the state and local economies. It is in the public interest to enable local governments to finance such infrastructure investments and to incentivize development right transfer in the central Puget Sound through this chapter.*

The program offers the use of tax increment financing to a city in return for: 1) the creation of a TDR program; and, 2) the acceptance of a specified amount of regional development rights. In exchange for the placement of rural development rights in LCLIP districts, the jurisdictional county agrees to contribute a portion of its regular property tax to the sponsoring city for use for a defined period. The program is only available to select cities in the central Puget Sound counties of King, Pierce, and Snohomish.

The LCLIP program targets only a portion of the incremental property taxes generated from new development. The remaining portion of the property tax still accrues to the sponsoring city and to the jurisdictional county. Existing and incremental revenues flowing from sales, business and occupation, and utility taxes still accrue to the city, as well as other capital restricted revenues.

See Appendix D for additional program eligibility and reporting requirements.

LCLIP District Revenue Allocations

The value of new construction in an LCLIP district serves as the basis for the revenue calculation. The value of a building is a function of size and value per unit. Holding the scale of a building constant, the value of the building generally reflects the present value of the building's projected future net income. A key consideration in sizing the LCLIP district(s) is that the cumulative amount of assessed real property in LCLIP districts must not exceed 25% of the city's total assessed value (LCLIP districts are known as LIPAs).

LCLIP revenues are derived by allocating a portion of the city's regular property tax (e.g. current expense levy) to the LCLIP district. Once a district has been created by a city, 75% of the assessed value of new construction – multiplied by a city's Sponsoring Ratio – is allocated to the LCLIP district and used as the tax basis to distribute revenues from the regular property tax.

For example, suppose a newly constructed building generates $1,000 in regular property tax revenues on a property tax rate of $1.00. If this same building is valued at $1,000,000 for the purposes of new construction, then 75% (multiplied by the Sponsoring City Ratio, explained below) of the new construction would place $750,000 in the LCLIP assessed value base and lead to the distribution of $750 of the $1,000 paid in regular property tax to the LCLIP area. The remaining $250 would still go to the city's general fund. As noted, the Sponsoring City Ratio acts to modulate how much of the 75% of new construction gets added to the LCLIP assessed value base. The example above assumes a ratio of 1.0. Alternatively, a ratio 0.25 would reduce that $750 revenue apportionment to $188.

The calculation of LCLIP assessed value basis starts at the time that the district(s) is created. The dedication of city and county property tax revenues to the District commence the second year after the District is established.

Timing – Credit Placement Thresholds

Cities using the LCLIP tool must meet a series of performance thresholds in regards to permitting or acquisition of development rights if they want to start and extend the program revenues. These thresholds are assumed as follows:

- Threshold #1: Placement of 25% of the specified portion is required to start the program.
- Threshold #2: Placement of 50% of the specified portion is required by year 10 to extend it 5 years.
- Threshold #3: Placement of 75% of the specified portion is required by year 15 to extend it 5 years.
- Threshold #4: Placement of 100% of the specified portion is required by year 20 to extend it 5 years to its conclusion.

3.3 Factors Impacting Tax LCLIP Revenues

Sponsoring City Ratio

The sponsoring city ratio reflects the proportion of development rights a city has chosen to accept related to the receiving city allocated share, as determined by PSRC. The resulting ratio of "specified portion" to "allocated share" (anywhere from 0 to 1) acts to prorate the amount of new construction value that can accumulate to a LCLIP district. Accepting the full "allocated share" would maximize LCLIP revenues while taking something less than the full "allocated share" reduces the potential value of the program to a city. For example, if a city is allocated 500 rights (allocated share) but chooses only to accept 250 of them (specified portion), its resulting sponsoring city ratio is 0.5 (250 divided by 500).

The City of Kirkland's allocation from PSRC is 501 TDR credits.

Use of TDR

The number of TDR credits utilized is a function of several factors:

- **The size of the incentive zoning capacity increment.** The City must determine how much demand there may be for building beyond the zoning capacity that buyers may want to access.
- **The nature of the incentive associated with TDR.** Typical TDR incentives offer additional FAR or height; however, TDR can be connected with any variety of opportunities associated with development ("conversion commodities"). Other examples include connecting TDR with reduced setbacks, structured parking requirements, or impervious surface limitations.
- **The "exchange rate" for TDR.** The amount of incentive a developer receives per TDR credit utilized in large part determines whether or the extent to which TDR is used by developers. The incentive created by the TDR exchange rate must be equal to or exceed a developer's willingness to pay, otherwise TDR will not be used.

- **The structure of a TDR incentive.** A city can choose to either (1) fix the incentive received per TDR credit regardless of cost (e.g. 1,500 square feet per TDR credit) or (2) fix the incentive received scaled on TDR cost (e.g. $20 per square foot). Trade-offs exist, however. The program structure pursued has implications on the number of TDR credits used in the city. For example, if developers receive 1,500 square feet per TDR credit, and incentive zoning allows up to 15,000 additional square feet for TDR, a city is certain it has zoned capacity for 10 TDR credits. Conversely, if a city fixes the incentive at $20 per square foot and scales it to the price paid per TDR credit, a city is uncertain developers will use fewer or greater than 10 TDR credits to achieve the zoned capacity.

Development Factors

Estimates of future LCLIP revenues are driven by assumptions about the timing, scale, and quality of development. Outside of the LCLIP program parameters, the three main development-based determinants of revenue impact are:

- **Scale and Mix of Development.** The revenue impact is likely to change as developers contemplate differing types and amounts of residential and commercial development.
- **Value of Development.** The relative monetary value of different types and development products drives assumptions on assessed value of a project.
- **Timing of Development.** The timing of construction can either accelerate or delay the onset of LCLIP revenues. Delay reduces the revenues under the LCLIP time window by pushing out the impacts into the future, resulting in reduced years of benefits that are discounted more heavily. The opposite is true in a situation where development happens earlier.

It should be noted that changes to any of these (whether driven by future policy or market dynamics) can have a significant impact on the amount of LCLIP revenue generated. A difficult issue to disentangle from the analysis is the degree to which potential LCLIP improvements may facilitate (i.e. lower the overcall cost or feasibility) development by solving critical site and/or access issues.

3.4 Key Issues for a Kirkland LCLIP Program

The central issue discussed in Section 2 on the TDR program places some constraints on the development of a robust LCLIP program. Based on direction from City staff, the TDR analysis focused on ensuring that both affordable housing and TDR benefits are not in competition by providing different bonuses and by using development bonuses in different geographies. The majority of development bonus is used for encouraging affordable housing. For this study, it means that TDR use through traditional density bonus mechanisms would not generate meaningful placement of credit sufficient to meet the minimum use of TDRs under the program (at least 20% of the 501 credits or roughly 100 credits).

Therefore, the City explored achieving conservation goals through an innovative approach to infrastructure funding explained below.

3.5 Impact Fee Exemption for TDR Fee In Lieu Payment Scenario

The project team explored ways to use development incentives as incentives for TDR placement. These types of incentives seek to lower the cost of development – requiring lower average rents to make projects feasible. The approach taken for this analysis was to offer a voluntary reduction in impact fees to developers as means for incenting the placement of TDR in Totem Lake through the creation of a fee in lieu payment that would be used by the City to purchase TDR credits to meet the eligibly and threshold requirements of the LCLIP program. This approach would reduce the impact fee revenues collected by the City and replace them with funding available through LCLIP and create better certainty of TDR placement when development happens.

The TDR Fee In Lieu program would work something like this:

- The City would create a new zone structure that allows for a differential impact fee rate when used in conjunction with the placement of development credits (TDR) in Totem Lake.
- A voluntary program would offer a discount on current impact fees if contributions to an in-lieu of a TDR fund were made. A slightly reduced fee would have to be made in order to induce the voluntary contribution.
- The new zone structure with a reduced impact fee rate would represent the value of the impact fee exemption that would at the very least be offset by LCLIP funding. The City would collect and administer fee payment transfers to back to the impact fee funds and the acquisition of TDR Credits used to leverage LCLIP funding.

Cash Flow Issue

By creating an impact fee exemption, the City needs to replace the funding within 6 years in order to be compliant with state laws governing impact fee funds. However, a further constraint is actually a 3 year limitation on interfund loans that might be brought to bear if revenue from LCLIP is insufficient to cover foregone revenue gaps created by the exemption incentive (used to purchase TDR credits). Both of these issues are tested below in the revenue analysis.

3.6 Assessing LCLIP Revenue Impacts

Using a LCLIP revenue model, a series of analyses were done to test if:

- Potential LCLIP revenues generated by future development in the study area are net positive over the amount of diverted impact fee revenues used to purchase TDRs
- LCLIP cash flow revenues could ramp up fast enough to cover foregone impact fee exemptions, so that impact fee and interfund loan laws were followed.

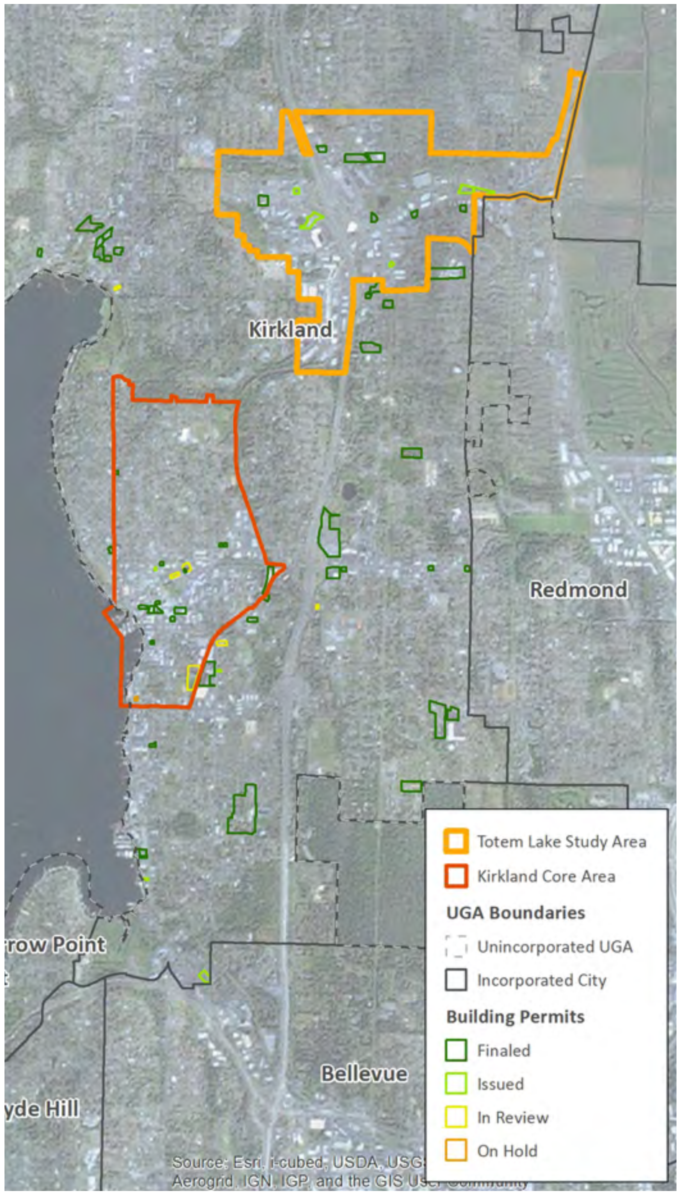
The LCLIP legislation limits the LCLIP district geography to at most 25% of the City's assessed valuation (see Appendix D for more information). Because the resulting tax increment is based on total incremental growth (not just based on projects using TDR), a city can create more LCLIP revenue leverage by designating a larger area (e.g. tax basis) for the accounting of new incremental growth for the purpose of LCLIP revenue contributions from King County.

This analysis considered two geographies for analysis (Exhibit 1):

- Totem Lake Neighborhood, which comprised 9% of the City's total assessed value in 2013 and 13% of the value of City permit activity over the past decade.
- Totem Lake Neighborhood with the Kirkland Core, which comprised 25% of the City's total assessed value in 2013 and 54% of the value of City permit activity over the past decade.

The analysis also considered different TDR credit values (as described in Section 2) that the City would be purchasing with TDR fee in lieu funds as well as the impact of the multifamily property tax exemption (MFTE) on delaying additions of taxable assessed value to the LCLIP district.

Exhibit 1: Totem Lake and Kirkland Core LIPA Boundaries



Source: BERK, 2013.

Totem Lake Scenario

The following scenario assumes that LCLIP is used just in the Totem Lake Neighborhood. Based on a baseline development projection provided by Heartland (based on past trends and calibrated for key future development opportunities), it was estimated the Totem Lake area might experience nearly 4 million square feet of development over the next 25 years. Other key assumptions include that the LCLIP district would be formed in 2015 and the program would run for the full 25 years. The City would target all of its 501 credits by year 20 in order to meet the final performance threshold. The purchase of TDR credits would be flat to reflect the abundant supply of lower cost credits over the life of the program (alternatively, the credits could get more expensive over time due to a more competitive market place for TDRs in the region). It is also assumed that all residential projects would use the MFTE program .

Exhibit 2: LCLIP Summary for Totem Lake Scenario

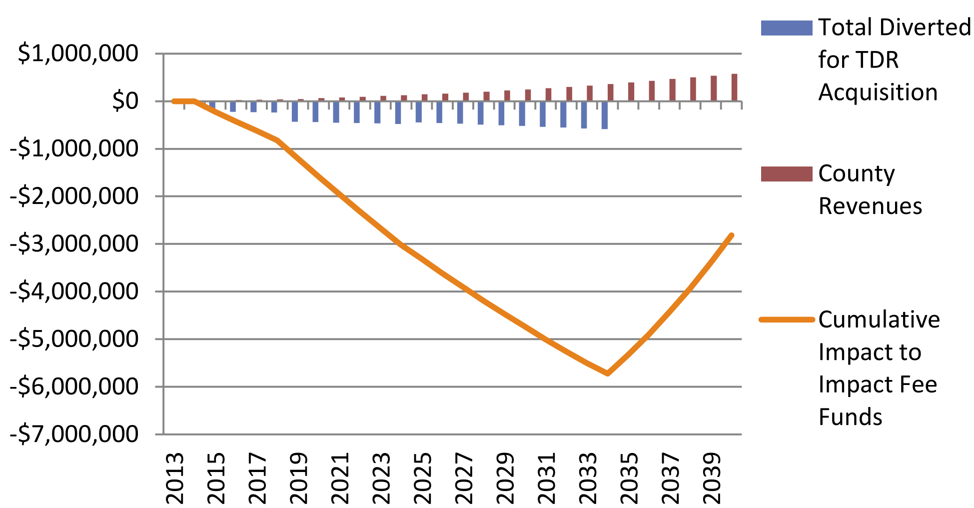
LCLIP Summary	
Total Impact Fee Potential (YOE$)	$21,900,000
Total Needed for TDR Purchase (YOE$)	-$8,800,000
Impact Fee Diversion Rate	40%
Total County Revenues (YOE$)	$6,000,000
Net Revenues (YOE$)	-$2,800,000
NPV of LCLIP Program	-$2,700,000

Source: BERK, Heartland, Forterra, 2013. Note all figures in 2013 dollars; 25-year present value at 4% discount rate for NPV figures.

Exhibit 2 summarizes the results of this revenue scenario. In order to raise enough funds to cover the cost of purchasing all 501 credits, the City would need to divert roughly 40% of potential impact fee funds, or about $8.8 million. The placement of these credits at the prescribed threshold times would generate $6 million in new funding capacity from tax increment from King County. As Exhibit 3 shows, LCLIP funds do not outpace divert impact fee revenues until year 20 of the program. The net balance at the end of the 25 years of the program is -$2.8 million. The net present value of the program (e.g. present value of the cash flow of new tax increment from the County less the cost to purchase credits) is -$2.7 million.

The results of this analysis suggest that TDR fee in-lieu program for just Totem Lake would not be able to generate enough new revenue to offset costs to purchase credits.

Exhibit 3: LCLIP "Fund Balance for Totem Lake Scenario



Source: BERK, 2013.

Totem Lake and Downtown Core Scenario

The following scenario assumes that LCLIP is used in the Totem Lake Neighborhood and the Downtown Core (as shown in Exhibit 1). Based on a baseline development projection estimate, the combined area could experience nearly 8 million square feet of development over the next 25 years. Other key assumptions include that LCLIP district would be formed in 2015 and the program would runs for the full 25 years. The City would target all of its 501 credits by year 20 in order to meet the final performance threshold. The purchase of TDR credits would be flat to reflect the abundant supply of lower cost credits. It is also assumed that 40% residential projects (measured in units) would use the MFTE program.

Exhibit 4: LCLIP Summary for Totem Lake and Core Scenario

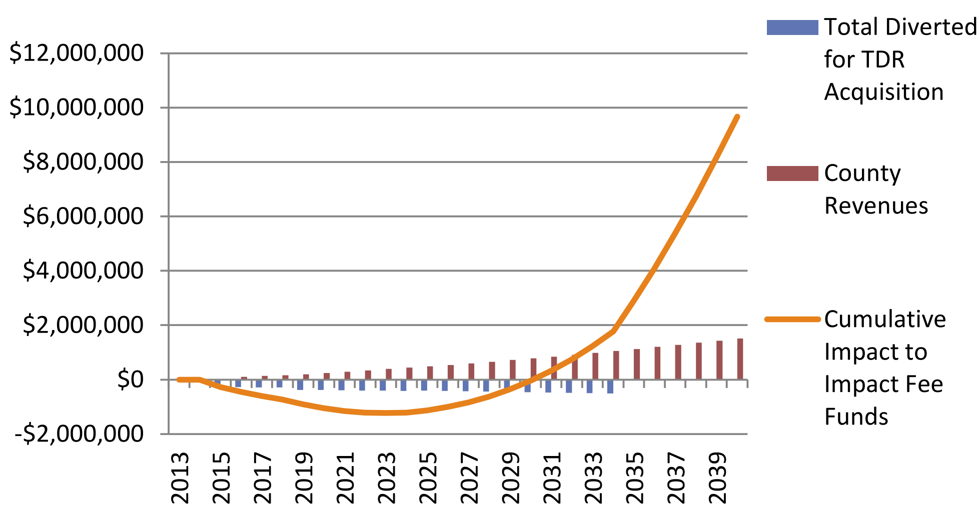
LCLIP Summary	
Total Impact Fee Potential (YOE$)	$47,600,000
Total Needed for TDR Purchase (YOE$)	-$8,100,000
Impact Fee Diversion Rate	17%
Total County Revenues (YOE$)	$17,800,000
Net Revenues (YOE$)	$9,700,000
NPV of LCLIP Program	$3,600,000

Source: BERK, Heartland, Forterra, 2013. Note all figures in 2013 dollars; 25-year present value at 4% discount rate for NPV figures.

Exhibit 4 summarizes the results of this revenue scenario. In order to raise enough funds to cover the cost of purchasing all 501 credits, the City would need to divert roughly 17% of potential impact fee funds, or about $8.1 million. The placement of these credits at the prescribed threshold times would generate $17.8 million in new funding capacity from tax increment from King County. As Exhibit 5 shows, LCLIP funds do not outpace divert impact fee revenues until year 15 of the program. The net balance at the end of the 25 years of the program is $9.7 million. The net present value of the program is $3.6 million.

The results of this analysis suggest that TDR fee in-lieu program that expanded the area to cover Totem Lake and the Downtown core would be able to generate net positive revenues to the City in the range of $3-4 million dollars. However, due to the compounding nature of the tax increment financing, most of the revenues occur in the later years of the program, leaving the program in the red for at least the first 15 years and not able to meet both impact fee and interfund loan timeframes to cover program deficits.

Exhibit 5: LCLIP "Fund Balance for Totem Lake and Core Scenario



Source: BERK, 2013.

3.7 Recommendations for LCLIP

Due to the limited potential for the placement of TDR credits within the Totem Lake neighborhood from density bonuses, starting an LCLIP program would likely not meet eligibility requirements or generate significant amounts of revenue. The development of an innovative TDR-Impact Fee in Lieu program for LCLIP has shown promise in its ability to generate significant new revenues. However, such a program is challenged to be compliant with laws governing the collection and spending of impact fees. Creating such a program at the current time is not advised.

With this grounding, it is recommended that the City take an opportunistic approach to creating an LCLIP program. To mitigate financial risks, the City can structure the start of the LCLIP program with major development/TDR milestones, such as through a development agreement for density bonuses from a development. Timing the program to the start of a known large-scale development would allow the City to capitalize on known demand for TDR and scale their LCLIP program to maximize the funding benefits. This could be done in tandem with either a large planned public or private purchase TDR credits that would help the City target its sponsoring City ratio and determine its strategy for meeting its threshold targets.

In moving forward on LCLIP, the following conditions should be monitored:

- Indications that confirm market interest in TDR, such as development applications that have been or are expected to be proposed that will need TDR credits in the proposed Totem Lake receiving area.
- Analysis of the expected use of TDR credits confirms a reasonably high likelihood of meeting the threshold requirements for TDR use in the LCLIP district.
- Infrastructure projects have been identified that qualify under the LCLIP program.
- A LCLIP district can be created that maximizes the projected LCLIP revenue to pay for infrastructure projects while meeting the requirements of the LCLIP legislation.
- As needed, a shared strategy approach with King County or another partner agency should be included in an approach to retiring TDR credits.

LCLIP Implementation Steps

Should the City choose to use LCLIP, the following next steps are necessary to implement the program.

- Identify a specific geographic area for increased density that will become a local infrastructure project area ("LIPA"). The LIPA must:
    - Include contiguous land (no "islands")
    - Not include more than 25% of the total assessed taxable property within the city
    - Not overlap another LIPA
    - In the aggregate, be of sufficient size to:
        - use the City's "specified portion" of transferable development rights (unless the City has purchased the transferable development rights to reserve for future development), and
        - not be larger than reasonably necessary
    - Contain all public improvements to be financed within its boundaries
- Accept responsibility for all or a share (a "specified portion") of the transferable development rights allocated from the Puget Sound Regional Council to the city. Consider whether to include any rights from another city through interlocal agreement.
- Adopt a plan for development of public infrastructure within the LIPA. The plan must:
    - Utilize at least 20% of the city's allocated share of transferable development rights
    - Be developed in consultation with the Department of Transportation and the county where the LIPA is located
    - Be consistent with any transfer of development rights policies or development regulations adopted by the city

- Specify the public improvements that will be financed
- Estimate the number of transferable development rights that will be used
- Estimate the cost of the public improvements

- Adopt transfer of development rights policies or implement development regulations, or make a finding that the city will receive its specified portion within one or more LIPAs, or make a finding that the city will purchase its specified portion
  - Adoption of transfer of development rights policies or implementation of development regulations must:
    - Comply with the Growth Management Act
    - Designate a receiving area(s)
    - Adopt developer incentives, which should be designed, at the City's election, to:
      - Achieve the densities or intensities in the City's plan
      - Include streamlined permitting strategies
      - Include streamlined environmental review strategies
    - Establish an exchange rate, which should be designed to:
      - Create a marketplace where transferable development rights can be bought and sold
      - Achieve the densities or intensities in the city's plan
      - Provide for translation to commodities in addition to residential density (e.g., building height, commercial floor area, parking ratio, impervious surface, parkland and open space, setbacks and floor area ratio)
      - Allow for appropriate exemptions from land use and building requirements
    - Require that the sale of the transferable development rights be evidenced by its permanent removal from the sending site (such as through a conservation easement on the sending site)
    - Not be based on a downzone within the receiving area
  - The City may elect to adopt optional comprehensive plan element and optional development regulations that apply within the LIPA
- Hold a public hearing on the proposed formation of the LIPA
  - Notice must be provided to the county assessor, county treasurer, and county within the proposed LIPA of the City's intent to create the area. Notice must be provided at least 180 days in advance of the public hearing.
- Adopt an ordinance or resolution creating the LIPA
  - The ordinance or resolution must:
    - Describe the proposed public improvements
    - Describe the boundaries of the proposed LIPA
    - Provide the date when the use of local property tax allocation revenues will commence and a list of the participating tax districts (the city and county)

- A certified copy of the adopted ordinance or resolution must be delivered to the county assessor, county treasurer and each participating tax district

- Provide a report along with the county to the Department of Commerce by March 1st of each year

Appendices

Appendix A: TDR Background

Appendix B: TDR Glossary

Appendix C: TDR Comp Plan Review

Appendix D: LCLIP Background

Appendix E: TDR Rule

APPENDIX A: TDR FRAMEWORK BACKGROUND

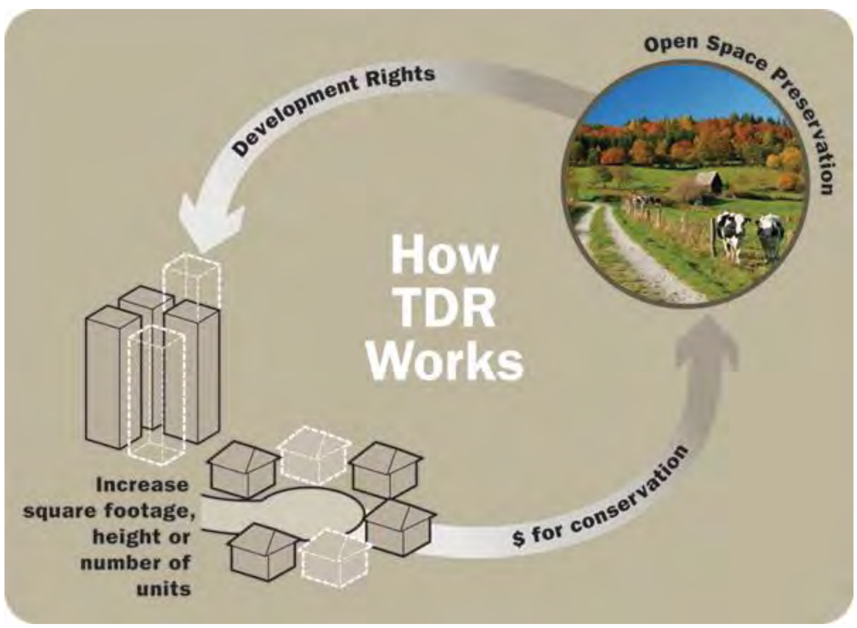
1.0 INTRODUCTION

1.1 What is TDR?

Transfer of development rights (TDR) is a market-based tool for helping implement a jurisdiction's growth and conservation policies. TDR uses the "economic engine" of new growth to conserve lands with public benefits, such as working resource lands (farms and forests), ecologically significant areas, or open space.

Through individual transactions, development rights are transferred from privately owned farmland, forestland, and natural areas (known as sending sites) to areas that can accommodate additional growth (known as receiving sites). Landowners in sending site areas receive compensation for giving up their right to develop, while developers in receiving sites pay for the right to develop at greater densities or intensities than would otherwise be allowed by zoning. When development rights are removed from a sending site, a conservation easement is placed on it, allowing for permanent protection of the parcel (unlike zoning regulations, which can be changed).

Exhibit 1: How TDR works



Source: Image credit: King County TDR website, accessed 3/12/13

TDR does not limit growth; rather, it allows communities to plan more effectively by directing that growth into areas where it is desired. In their comprehensive plans and development regulations, communities can identify which areas are suitable to receive development rights and how much additional development is appropriate.

Three key features of TDR programs include:

- **TDR is voluntary**. If landowners in sending areas choose not to participate, they are entitled to develop as permitted by current zoning. Likewise, in receiving areas, developers not participating in TDR are allowed to build to current zoning. Developers wishing to build above current zoning may do so by purchasing TDR credits.

- **TDR is market-based**. TDR creates a marketplace that allows property owners to buy and sell development rights to one another. Individual property owners may freely negotiate prices for the purchase and sale of these rights. Growth thus pays to conserve resource lands and open space.
- **TDR is flexible**. TDR can be designed to accommodate the needs of each community. Of the more than 200 TDR programs in the United States, the majority are oriented toward farmland and environmental conservation.[1] The goals of each program reflect the conservation and development objectives of the jurisdiction.

1.2 How Does TDR Work?

Once a TDR program is in place, the process for completing a transaction may involve two main players—a landowner and a developer. Conceptually, a TDR deal between these two takes the following steps, which are also illustrated in Figure 2 below.

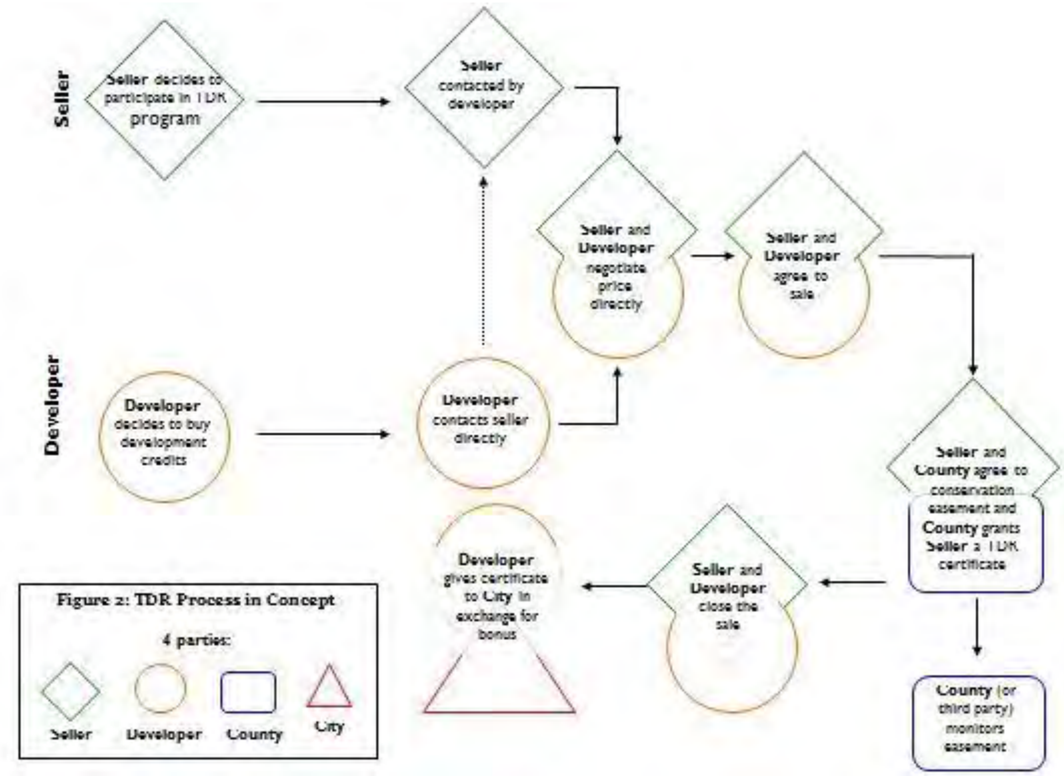
1. A property owner voluntarily decides to sell development rights from a parcel. The number of development rights for sale, or the number of units the landowner has a right to build (but has not executed) under zoning can be considered in terms of TDR credits. For this example, zoning would allow the landowner to build one house on the parcel.
2. A developer decides to pursue a project in a receiving area needing one TDR credit. The developer contacts the landowner to negotiate a price for the TDR credit available for sale.
3. The landowner and developer negotiate. The transaction moves forward if both parties agree on a price.
4. The landowner places a conservation easement on the property and the county grants the landowner a certificate representing the development right.
5. The landowner and developer close the sale.
6. The developer turns the certificate in to the city in exchange for a development bonus on the receiving site project.
7. A government agency, nonprofit organization, or quasi-governmental organization, such as a conservation district, occasionally monitors the sending site to ensure no homes have been built on the sending site.

A notable aspect of the TDR process is the flexibility available to landowners and developers in whether and how they participate in the program. Because TDR is voluntary, property owners can choose to sell all, some, or none of their development rights now or anytime in the future. Sellers choosing to sell their development rights can likewise choose to sell them in a one-time deal or over a series of individual deals.

Similarly, a developer choosing to purchase development rights can buy a single TDR credit from one seller or multiple credits from one or more sellers. Negotiations between a seller and developer determine whether the transaction takes place—without a favorable, agreed upon price, either party can choose not to participate in a deal.

[1] Forterra national TDR program database, updated February 2013.

Exhibit 2: TDR Flow Chart



Source: Forterra, 2013.

1.3 Does TDR Work?

A commonly asked question is: does TDR work? The answer is it depends; TDR has worked well in some communities and has been ineffective in others. TDR works when it is well planned in the context of a community's land use policies and goals. A survey of programs across the country shows that, generally speaking, TDR has been quite successful; the top 25 programs have helped to conserve more than 450,000 acres.[2] Programs in Washington alone have protected over 189,000 acres of rural, farm and forest land.

From the West Coast to the East Coast, in both rural and urban areas, well planned and implemented TDR programs have helped local and regional jurisdictions accomplish a variety of land use goals. Reflecting the flexibility of the tool, the top 25 programs focus on a range of issues, from conserving farmland to protecting historic buildings. Twenty of the top 25 programs include an agricultural conservation component. Examples of successful programs in different regions of the country include the following:[3]

- **Calvert County, Maryland** conserves farmland while providing flexibility for development in rural areas by allowing for additional development in rural communities, residential districts, and in town centers with the purchase of TDR credits.

---

[2] Top programs refers to number of acres conserved, Forterra national TDR program database, updated July 2012

[3] Unless noted otherwise, examples from: Pruetz, Rick. 2003. Beyond Takings and Givings. Marina Del Rey, California: Arje Press.

- **Boulder County, Colorado** uses TDR in conjunction with an open space sales tax and purchase of development rights program to conserve land. The program has voluntary agreements with 7 cities within the county to transfer development rights from rural to urban areas.
- **Redmond, Washington** offers developers increased height, the elimination of a requirement to provide open space, and increased surface-cover allowances when they purchase development rights from farmlands and critical habitat areas.[4]
- **Pierce County, Washington** designates resource areas or rural farms as eligible to participate in TDR, as long as preservation results in the protection of farm land, forest land, public trails, or the habitat of endangered species. Increased density is provided within incorporated cities (contingent on details of interlocal agreements), sites where amendments to the Comprehensive Plan have been granted resulting in increased density, and Planned Unit Developments.
- **Collier County, Florida** protects and conserves large connected wetland systems and significant areas of habitat for listed species by allowing development rights to be transferred to more suitable lands such as Rural Fringe Mixed Use Districts and Non-Rural Fringe Mixed Use Districts. Receiving Lands are allowed increased density of dwelling units per acre. [5]

[4] City of Redmond. Department of Planning and Community Development. "Comprehensive Planning: Transfer of Development Rights Frequently Asked Questions", accessed August 2012: http://www.redmond.gov/cms/One.aspx?portalId=169&pageId=3372

[5] Collier County. Comprehensive Planning Section. "TDR Program – Rural Mixed Use Fringe District," accessed August 2012: http://www.colliergov.net/Index.aspx?page=270

Exhibit 3: Top 25 Transfer of Development Rights Programs by Area Conserved

City or County	State	Year Began	# of Acres Conserved
King County	Washington	1993	184,400
New Jersey Pinelands	New Jersey	1980	58,005
Montgomery County	Maryland	1980	52,052
Palm Beach County	Florida	1980	31,000
Caroline County	Maryland	1989	28,264
Calvert County	Maryland	1978	24,723
Howard County	Maryland	1994	19,362
Indian River County	Florida	1985	11,914
Hillsborough Township	New Jersey	1975	10,571
Sarasota County	Florida	2004	8,199
Queen Anne County	Maryland	1987	8032
Blue Earth County	Minnesota	1970	6,160
Pitkin County	Colorado	1994	5,840
San Luis Obispo County	California	1996	5,464
Charles County	Maryland	1992	5,274
Boulder County	Colorado	1981	5,000
Payette County	Idaho	1982	4,113
Rice County	Minnesota	2004	4,074
Douglas County	Nevada	1996	4,003
Adams County	Colorado	2003	4,000
Collier County	Florida	1974	3,612
Marion County	Florida	2005	3,580
Churchill County	Nevada	2006	3,468
Town of Southampton	New York	1972	2,800
Chesterfield Township	New Jersey	1975	2,231

Source: Forterra national TDR program database, updated July 2012.

Exhibit 4: Top 25 Transfer of Development Rights City Programs by Area Conserved

City or Township	State	Year Began	# of Acres Conserved
Hillsborough Township, Somerset County	New Jersey	1975	10,571
Town of Southampton, Suffolk County	New York	1972	2,800
Chesterfield Township, Burlington County	New Jersey	1975	2,231
Groton	Massachusetts	1980	2,000
Claremont	California	1990	1,820
Black Diamond	Washington	2003	1,600
Plymouth	Massachusetts	2002	1,459
Pittsford	New York	1995	1,439
Warwick Township	Pennsylvania	1993	1,338
Long Island Pine Barrens	New York	1995	1,323
Manheim Township, Lancaster County	Pennsylvania	1991	900
Lumberton Township	New Jersey	1995	850
Seattle	Washington	1985	840
Granville Township	Ohio	1998	768
Brentwood	California	2001	742
South Burlington	Vermont	1992	497
West Vincent Township	Pennsylvania	1999	474
West Hempfield Township	Pennsylvania	2005	460
Redmond	Washington	1995	428
Crested Butte	Colorado	1993	393
Town of Hadley	Massachusetts	2000	356
Washington Township, Berks County	Pennsylvania	1990	300
Morgan Hill	California	1981	240
Perinton	New York	1993	238
Lower Chancefor Township, York County	Pennsylvania	1990	200

Source: Forterra national TDR program database, updated July 2012

1.4 TDR in Context

When carefully designed, TDR can be an effective growth management tool. It is, however, important to measure success in the appropriate context. TDR should not be expected to achieve economic development or growth goals overnight or in isolation. It is a long-term approach that performs best in conjunction with other tools, such as zoning or purchase of development rights (PDR), to achieve long-term land use goals. As a market-based tool, participation will fluctuate depending on prevailing market conditions. As a voluntary tool, TDR also cannot guarantee growth patterns or conservation of specific sites.

With this in mind, TDR can and should be viewed as means to advance economic development goals and achieve growth targets. It can also provide developers flexibility and incentives to build beyond zoning allowances. TDR can be a source of additional income for private landowners interested in conserving their land. In some cases, this may translate to landowners conserving working land, such as farms and forests, which they intend to keep with or without TDR. For others, TDR may provide an alternative means of earning money from land they may otherwise have chosen to develop or sell. In all cases, the voluntary, private decision to utilize TDR results in not only private, but also public benefits—conserving resource lands while accommodating growth supports economic development and helps retain quality of life.

2.0 TDR BASICS

2.1 TDR Fundamentals

While no two TDR programs are exactly alike, certain features are common to most programs. The following provides an overview of key TDR program elements. [6]

Goals

TDR is a flexible planning tool that can and should be customized to support the planning goals of each individual community. Clear community goals with public support are essential to a successful TDR program. Clear goals help focus the program marketplace on lands that are most important for conservation and areas where growth is desired.

Sending areas

A critical step in designing a TDR program is the identification and mapping of sending areas from which development rights can be sold. In determining the size and location of sending areas, a number of factors must be considered: the community's conservation goals, the number of development rights that could be transferred, the availability of receiving areas to accept the rights, the extent to which existing zoning supports land conservation, and the relative priority of conserving sites experiencing strong development pressure vs. those experiencing less development pressure.

Receiving areas

Designating viable receiving areas is one of the most critical and challenging aspects of TDR program development. Key factors in the designation include market demand for development, availability of infrastructure and services to support development, and community support for or opposition to increased development. While some programs establish both sending and receiving areas within a single jurisdiction, others have established cross-jurisdictional exchanges through interlocal agreements. Receiving areas may be designated by identifying specific geographies or established by criteria. Likewise, receiving areas may be designated through an initial planning process or added through incremental designations over time.

Development bonuses

Within receiving areas, developers can build beyond zoning allowances or receive other benefits in exchange for purchasing development rights. While most TDR programs offer increased residential density (either single family or multi-family) as a bonus, several programs have elected to award different types of bonus, such as increased floor area (e.g. Redmond, WA), added height (e.g. Sammamish, WA), increased lot coverage (e.g. Miami-Dade County, FL), or reduced limits on impervious surfaces (e.g. Issaquah, WA). This is a sample of available options and a more thorough examination of policy alternatives are presented later in this report.

[6] See Appendix B for a glossary of related terms.

Allocation and exchange rates

In order to generate market activity, TDR programs need to create sufficient economic incentive for buyers of credits. Since the value of an unbuilt home on a sending area property is often higher than the value of an additional receiving area unit, many programs feature exchange rates to address this imbalance. These establish how much bonus (units, floor area, building height, etc.) a development right is worth in a receiving area project. Exchange rates should create value for both buyers and sellers. The amount of bonus awarded is frequently informed by a market analysis.

Transaction mechanisms

How do credits change hands in a TDR market? While most programs rely on direct exchanges between private parties, many offer some form of public support for TDR transactions, such as providing market information to help link potential buyers and sellers. Other jurisdictions have created TDR banks to help facilitate transactions and to act as a strategic buyer or seller. In some cases, seed money has been provided to initiate a TDR bank and to make initial purchases of development rights; in such cases, the credits may be subsequently sold to developers, enabling the bank to create a revolving fund available for future TDR purchases.

Conservation easements

Once development rights have been sold from a sending site, those rights are extinguished and a conservation easement is placed on the property. These easements are generally held and enforced either by the sending site jurisdiction or by a non-governmental organization such as a land trust. Responsibilities for monitoring and enforcing conservation easements over time must be clearly assigned and funded.

Program administration

Staffing and administrative procedures are needed for successful operation of a TDR program. These include outreach to landowners and developers, facilitation of transactions, recording of conservation easements, tracking of development rights, and coordination of TDR transactions with a jurisdiction’s zoning and permitting processes. TDR programs should also be regularly evaluated and updated over time.

2.2 Limiting Factors

While many TDR programs have been enacted, not all have been successful. In considering options for Kirkland’s program, it is important to be mindful of the factors that have limited TDR program effectiveness elsewhere as well as to identify those factors that have contributed to the success of certain programs. Following are some of the most significant obstacles that appear to have limited TDR implementation.

Inadequate receiving areas

Without adequate receiving areas, there is no market demand for development rights and a TDR program cannot succeed. A robust TDR program needs to have sufficient market participants (on both the sending and receiving sides) to generate activity. While lands to be conserved can be easy to identify, many jurisdictions have found it difficult to designate viable areas in which to place development rights. Communities may be reluctant to accept additional development intensity without assurances of adequate infrastructure and protections for neighborhood character; there is familiarity with the status quo while the changes that growth brings are unknown. The presence or lack of a consensus on appropriate locations for growth can significantly affect a jurisdiction’s ability to designate adequate receiving areas—especially where the resources to be conserved lie in one jurisdiction, and the appropriate areas for development are inside a neighboring municipality.

Insufficient demand for growth

TDR is a market-based mechanism and, as such, can succeed only if there is demand for growth. If demand does not exceed the base zoning established for receiving areas, the marketplace for development rights will be limited. While local jurisdictions do not control the market, their zoning decisions have a substantial impact on developer interest in development rights. In areas where zoning already allows development beyond what the market can support, TDR offers no value. Similarly, if rezones to higher densities can be achieved without participation in TDR, interest in TDR will be significantly undercut. Some newer programs attempt to address these issues by focusing on where and how development is occurring in both urban and rural areas. Programs are also tapping into developer demand for flexibility in development standards other than density, such as floor area ratios, impervious surfaces, and parking requirements.

Lack of infrastructure and amenities to support increased density

If the areas designated to receive development rights lack the infrastructure needed to support added growth—for example, roads, utilities, and storm water facilities—supporting TDR-driven development becomes a challenge. If significant infrastructure upgrades are needed, the cost may be prohibitive to a developer, even with the added development density enabled through TDR.

Lack of program leadership and transaction support

A review of TDR history reveals that adopting legislation is not enough, by itself, to ensure TDR program success. Active support is needed to foster a robust marketplace for TDR transactions. Especially at the outset of a program, support is needed to overcome the natural uncertainty that property owners may feel in considering a new and unfamiliar form of real-estate transaction, and the unease that developers may feel about a new step or option in the development permitting process. Public education, program advocacy, and transaction support are key ingredients in successful programs.

2.3 Success Factors

In reviewing the national experience with TDR to-date, three factors stand out as key elements in highly successful programs. Kirkland has an opportunity to build on other jurisdictions' experience by focusing on these elements to make TDR a more effective land management tool than it has to date.

Ensure Zoning Compatibility

The underlying zoning and development regulations in sending and receiving areas may be the most potent factor in the success of a TDR program. Zoning regulations can either stimulate or deter landowner and developer interest in the program. Property owners in sending areas are more likely to participate if a TDR sale can provide enough financial gain to offset a need or desire to develop their property under existing zoning regulations. Developers will participate if TDR incentives offer significant financial value beyond what can be achieved under baseline zoning regulations.

Some jurisdictions have launched TDR programs with a large-scale downzoning of resource lands to be conserved, using TDR as a means of compensating landowners for development restrictions and creating a strong incentive for participating in the TDR marketplace. On the receiving side, zoning that matches or exceeds market demand for development negates the profit a developer might achieve through TDR. Enforcing or reducing the base zoning in TDR receiving areas is an option to reinforce this profit incentive; however, as in sending areas, downzoning is often not feasible and may conflict with planning objectives or be unpopular among landowners as it affects property rights.

Use Market Studies to Fine-Tune TDR Programs

TDR programs founded on a clear understanding of the local real-estate market are more likely to generate transactions than those without a basis in market dynamics. Without such an assessment, TDR values may not generate interest from potential buyers and sellers. Assessing the value of development rights from both a seller's and buyer's perspective is critical to the design of workable allocation and exchange rates, to effectively calibrate the economic equation for TDR transactions, and to thereby generate an active market.

Market studies to support TDR program design must be tailored to local real estate conditions. Critical elements include calculating developers' willingness to pay for bonuses and estimating values of development rights. Local jurisdictions are encouraged to review mechanisms and establish protocols for updating TDR values over time.

Facilitate TDR Transactions

Many jurisdictions with successful TDR programs have recognized the need to help buyers and sellers connect. In some cases, these jurisdictions have created a bank to facilitate transactions. Public support for TDR transactions can take a variety of forms, depending on the types of transaction mechanisms established. Even when programs rely strictly on individual private transactions (rather than a bank) to accomplish TDR sales, the sponsoring agency can encourage participation by conducting outreach to eligible landowners and developers, by providing information for interested parties, and by providing technical support for transactions. TDR banks go further by acting as a buyer and a seller, and by helping to even out economic cycles that may favor purchases at one time and sales at another.

APPENDIX B: TDR GLOSSARY

Conservation easement

A conservation easement is a legal agreement between a landowner and a land trust or government agency that permanently limits uses of the land in order to protect its non-development values. It allows the landowner to continue to own and use the land, to sell it, or to pass it on to heirs. A conservation easement is placed on a sending site at the time development rights are sold from the property. The conservation easement typically prohibits any further development of the property but allows resource uses, such as farming and forestry, to continue.

Development bonus

A development bonus is a zoning-code provision allowing more intensive development in exchange for provision of specific public benefits, such as neighborhood amenities, affordable housing, or purchase of development rights. Development bonuses often allow increased building height or density, but can also include flexibility in use restrictions or other development standards.

Development right

Development right means an interest in and the right under current law to use and subdivide a lot for any and all residential, commercial, and industrial purposes.

Exchange rate

The exchange rate is the relationship between the number of development rights allocated to a sending site (typically a specified number of single-family dwelling units) and the amount of development bonus available on a receiving site (which may be extra single-family units, multi-family units, commercial square footage, and/or flexibility in development standards). The term encompasses both simple transfers of dwelling units from one site to another and more complex conversions of TDR credits; it is therefore used in place of the term "transfer ratio" (see below).

Interlocal agreement

An interlocal agreement is a legal contract between two or more local jurisdictions (cities and counties) that specifies the conditions under which TDR credits may be transferred (typically from an unincorporated county into an incorporated city). Interlocal agreements must be endorsed by the legislative bodies of both jurisdictions.

Property Rights

The legal limits governing the use and control of economic resources by individuals and corporations. In this case, the rights associated with real property.

Receiving sites

Receiving site means those lots where the procurement of TDR credits facilitate a permissible change in the allowed intensity on the property pursuant to the TDR chapter and all other controlling policies and law.

Rezone

Rezone means an amendment to the zoning ordinance, requiring the same enactment as an original zoning.

Sending sites

Sending site means designated lot or lots from where landowners may sell their development rights in exchange for placing a conservation easement on the property.

Exchange rate

This term is used in many TDR programs to describe the numerical relationship between the amount of development potential forgone on sending sites, and the amount of additional development allowed on receiving sites. A 1-to-1 ratio means that the sending sites forgo the same number of houses per acre as are allowed on receiving sites. It implies a simple transfer of dwelling units from one area to another.

TDR bank

A TDR bank is an entity operated by a local jurisdiction, regional government, or private organization for the purpose of buying, selling, and holding development rights, and/or facilitating private TDR transactions. By providing a single point of contact, a TDR bank can streamline the process for buyers and sellers of development rights.

TDR certificate

TDR certificate is a form of currency that represents how many TDR credits a sending area landowner has available for sale or a buyer has for use.

TDR certificate letter of intent

TDR certificate letter of intent is a document issued to a landowner upon an approved TDR sending site application. The letter contains a determination of the number of development rights calculated for the sending site and an agreement by the County to issue a corresponding number of TDR certificates in conversion for a conservation easement. The sending site owner may use the TDR certificate letter of intent to market development rights to potential purchasers, but the document has no value itself and cannot be transferred or used to obtain increased development rights within receiving areas.

TDR credit

A TDR credit is a term for the TDR commodity used in receiving sites. TDR credits reflect the number units a seller has a right to build or sell on a sending site based on zoning (i.e. development rights). TDR credits may also reflect the number of TDR certificates required for a given development project.

Transaction types

A TDR program can offer one or more transaction types, which are the various mechanisms available for buying and selling development rights. The simplest transaction type is a private transaction between the owner of a sending site and the developer of a receiving site, executed at the time a TDR development project is proposed. Other options include buying and selling development rights to/from a TDR bank or a private investment corporation, or participating in a conservation credit or purchase of development rights program run by the local city or county.

Transfer of Development Rights

Transfer of Development Rights (TDR) means the transfer of the right to develop or build from sending sites to receiving sites.

APPENDIX C: TDR COMP PLAN POLICY REVIEW AND RECOMMENDATIONS

OVERVIEW

Forterra conducted a review of the Kirkland Comprehensive Plan policies to assess whether existing policy language provides sufficiently clear direction for the City to pursue the creation and adoption of a TDR and an infrastructure financing program such as the Landscape Conservation and Local Infrastructure Program. It was found that there are numerous sections in the Kirkland Comprehensive Plan that identify goals and policies that a TDR and infrastructure financing program could directly or indirectly advance, including: Vision; Community Character; Natural Environment; Land Use; Economic Development; and Capital Facilities.

Specific goals and policies promote the use of incentives for preservation and restoration of open space, environmental resources, and historic landmarks. The Comprehensive Plan also discusses projected population growth, and provides direction for how to achieve focused economic development and job growth in specific areas, while maintaining community character and urban vitality. Redevelopment and investments in infrastructure and capital facilities are identified as strategies to achieve commercial and economic development. A TDR and infrastructure financing program can help achieve these goals by incentivizing redevelopment and providing funding for public amenities. While TDR is not identified as a specific tool, there is policy support for increased heights and density. Additionally, there is support for engaging in regional coordination to solve problems.

Since the Kirkland Comprehensive Plan lacks language identifying TDR as a specific tool to achieve these goals, Kirkland should consider adding language to the Comprehensive Plan identifying TDR as an incentive to help achieve policy goals. The Regional TDR Program also requires cities to accept TDR credits from farms, forests and some rural lands. Since these lands are not prioritized in the Comprehensive Plan for protection, if Kirkland wishes to participate in the Regional TDR program, the City should consider adding language to the Comprehensive Plan identifying these lands as important for conservation.

The Totem Lake Neighborhood has been identified for redevelopment and investment. The Neighborhood Plan identifies specific areas within the neighborhood that are appropriate for commercial development and increased heights and density. If the City of Kirkland moves forward with adopting a TDR program, these areas should be identified as receiving areas for TDR credits. Additionally, TDR should be added to the Neighborhood Plan as an incentive program to achieve policy goals surrounding economic and commercial development.

In October, 2012 City officials hosted the Totem Lake Symposium to generate ideas on how to revitalize Kirkland's Urban Center. The stakeholders identified lack of sense of place and lack of public or private funding as major barriers to revitalization. Funding for infrastructure, incentives for development and amenities were identified as solutions. It was also recommended to evaluate zoning and regulations and use more flexible zoning for the area.

Recommendations for Updated Comprehensive Plan Policy Language:

Add ***bold and italicized*** language to the following comprehensive plan policies:

> *Additional language indicating broad support for TDR as a tool to advance open space conservation goals:*

VI. Policy LU-7.4: Work with adjacent jurisdictions and State, federal, and tribal governments to identify and protect open space networks to be preserved within and around Kirkland.

Preserving open space corridors inside in the City need not conflict with private property rights or preclude the reasonable use of land. To this end, a variety of strategies should be considered that provide opportunities for negotiating "win-win" approaches to preservation and development ***including market-based tools such as TDR***.

Add additional language indicating support for TDR as a tool to protect resource lands:

The city should provide a narrative that supports the policy for conservation of resources lands outside the city, such as: ***Recognizing the public benefits provided by local farmland and forestland for provision of food, timber, and additional ecosystem services, the City has an opportunity to contribute to the protection of those lands through participation in the regional Transfer of Development Rights program, RCW 43.362.***

X. ***Policy PR-3.3: Consider market-based conservation tools such as Transfer of Development Rights to protect farmland and forestland within the region.***

Add additional language indicating support for TDR as a tool to advance salmon conservation goals:

V. Policy NE-2.8: Implement market-based conservation tools such as TDR to maintain and protect critical areas and corridors that link habitat for Chinook salmon.

Additional language indicating support for TDR as a tool to advance water quality goals:

V. Policy NE-2.1.1: Use Transfer of Development Rights as an incentive to landowners to conserve land from development, for helping maintain water quality by protecting pervious surface and lands providing watershed functions.

V. Policy NE-2.4: Improve management of stormwater runoff from impervious surfaces by employing low impact development practices where feasible through City projects, incentive programs, ***such as Transfer of Development Rights,*** and development standards.

Policy NE-2.5: Use incentive based programs such as Transfer of Development Rights to conserve lands to maintain the quality of Kirkland's water resources for water supply and habitat purposes.

Add additional language indicating support for LCLIP:

XIII. Policy CF-5.3: Use a variety of funding sources to finance facilities in the Capital Facilities Plan.

The City's first choice for financing future capital improvements is to continue using existing sources of revenue that are already available and being used for capital facilities. These sources may include the following:

- Gas tax;
- Sales tax;
- Utility connection charges;
- Utility rates;
- Real estate excise tax;
- Interest income;

- Debt;
- Impact fee for roads and parks;
- Grants.
- ***Infrastructure financing program such as the Landscape Conservation and Local Infrastructure Program***

If these sources are inadequate, the City will need to explore the feasibility of additional revenues.

XIII. Policy CF-5.11: Where appropriate, the City may use infrastructure financing programs such as the Landscape Conservation and Local Infrastructure Program to fund capital improvements in areas designated for growth.

Existing Comprehensive Plan Language:

The City of Kirkland's Comprehensive Plan policies support pursuit of a TDR program through implicit connections where TDR could be applied to advance related policy objectives.

Chapter II. Vision/Framework:

The Vision described in the Comprehensive Plan identifies open space as important to preserve in order to provide habitat, ecosystem services, and water quality. Additionally, the City demonstrates support for preserving natural areas and open space within the City. TDR can help advance this policy goal by designating these open space areas within and outside of the city as sending areas.

> **II. Vision/ Framework Goals:** We strive to protect and restore the shoreline and water quality of Lake Washington. We preserve our open space network of wetlands, stream corridors, and wooded hillsides. These natural systems provide habitat for fish and wildlife and serve many essential biological, hydrological and geological functions.
>
> Streets are lined with a variety of trees, and vegetation is abundant throughout the City. The water and air are clean. We consider community stewardship of the environment to be very important.

> **II. Framework Goal-5:** Protect and preserve environmental resources and reduce greenhouse gas emissions to ensure a healthy environment.

The Comprehensive Plan refers to developing a sustainable community and planning for regional growth to minimize low-density sprawl to direct growth to urban areas. A TDR program can help achieve this goal by transferring developing rights to designated receiving areas within the urban area.

> **II. Framework Goal-7:** Encourage a sustainable community.

> **II. Framework Goal-14:** Plan for a fair share of regional growth, consistent with State and regional goals to minimize low-density sprawl and direct growth to urban areas.

Policies show support for regional TDR program:

II. Framework Goal-15: Solve regional problems that affect Kirkland through regional coordination and partnerships.

Chapter IV. Community Character:

IV. Policy CC-4.6: Preserve natural landforms, vegetation, and scenic areas that contribute to the City's identity and visually define the community, its neighborhoods and districts*.*

Chapter V. Natural Environment:

Kirkland has goals and policies to protect natural systems from negative impacts such as land development and to use a system-wide approach to effectively manage environmental resources such as watersheds. Section **V. Natural Environment - A. Introduction** *below provides support to protect natural resources while accommodating future growth. The section specifies that a variety of tools are needed to protect natural areas that traverse private property. TDR could be added to this list as a type of incentive to foster sound practices.*

V. Natural Environment - A. Introduction: Additionally, Kirkland's desire and duty to protect natural resources must be balanced with the City's obligations to:

- Accommodate future growth; and
- Provide a development process that is timely, predictable, and equitable to developers and residents alike.

A variety of tools are needed to effectively manage the natural environment, because natural systems traverse private and public property lines as well as jurisdictional boundaries. These tools include:

- Programs and practices used by the City to maintain land for which it is responsible, such as
- parks, open space, and rights-of-way;
- Public education and involvement to cultivate a culture of stewardship;
- Incentives to foster sound practices by Kirkland residents, businesses, and institutions;
- Acquisition of the most ecologically valuable sites by the City when feasible; and
- Regulations accompanied by effective enforcement.

V. Goal NE-1: Protect natural systems and features from the potentially negative impacts of human activities, including, but not limited to, land development.

V. Policy NE-1.1: Use a system-wide approach to effectively manage environmental resources. Coordinate land use planning and management of natural systems with affected State, regional, and local agencies as well as affected federally recognized tribes.

V. Policy NE-1.3: Use a variety of techniques to manage activities affecting air, vegetation, water, and the land to maintain or improve environmental quality, to preserve fish and wildlife habitat, to prevent degradation or loss of natural features and functions, and to minimize risks to life and property.

V. Goal NE-2: Manage the natural and built environments to achieve no net loss of the functions and values of each drainage basin; and, where possible, to enhance and restore functions, values, and features. Retain lakes, ponds, wetlands, and streams and their corridors in their natural condition.

V. Policy NE-2.1: Using a watershed-based approach, apply best available science in formulating regulations, incentives, and programs to maintain and, to the degree possible, improve the quality of Kirkland's water resources.

V. Policy NE-2.2: Protect surface water functions by preserving and enhancing natural drainage systems wherever possible.

V. Policy NE-2.7: Support regional watershed conservation efforts.

V. Goal NE-5: Improve air quality and reduce Kirkland's contribution to climate change.

Chapter VI. Land Use:

VI. Goal LU-7: Establish a coordinated and connected system of open space throughout the City that:

- Preserves natural systems,
- Protects wildlife habitat and corridors,
- Provides land for recreation, and
- Preserves natural landforms and scenic areas.

VI. Policy LU-7.3: Distribute parks and open spaces throughout the City, but particularly focus new facilities in areas of the City facing the greatest population growth, in areas where facilities are deficient, and/or in areas where connections of the open space network could be made.

The City has identified using strategies to protect open space that do not conflict with private property rights. TDR is one strategy that could be used to protect open space, and should be identified as a potential strategy.

VI. Policy LU-7.4: Work with adjacent jurisdictions and State, federal, and tribal governments to identify and protect open space networks to be preserved within and around Kirkland.

Preserving open space corridors inside in the City need not conflict with private property rights or preclude the reasonable use of land. To this end, a variety of strategies should be considered that provide opportunities for negotiating "win-win" approaches to preservation and development.

Additionally, Kirkland's Comprehensive Plan recognizes growth that will occur in the region, and plans to accommodate growth targets for housing and jobs. The City identifies regional solutions to solve these problems, but does not identify regional tools. We recommend that the City update this language to include the Regional TDR Program as a regional tool to address these problems.

VI. Land Use: Between 2003 and 2022, the City will grow by nearly 9,697 new residents and 8,800 jobs, resulting in increased needs for housing, commercial floorspace, and public services. Under the Growth Management Act, planning policies seek to direct growth to existing and emerging urban areas within the metropolitan region. The King County Growth Management Planning Council has determined that Kirkland must plan to accommodate 5,480 new households and 8,800 new jobs over the next 20 years. These increases in households and jobs are referred to as "growth targets."

Future growth will raise other issues relating to land use: special needs housing, increased traffic congestion, diminished natural resources and challenges to locate regional facilities. A larger proportion of elderly residents will focus new attention on the special housing and transportation needs of this group. Land use relationships which support transit and provide shops and services closer to home will be important for those with decreased mobility. And, with growth not only in Kirkland, but throughout the Puget Sound region, the community will continue to suffer from the problems of traffic congestion, diminishing natural resources, and the need to find locations for new regional facilities. Regional solutions will be needed to solve these problems.

VI. Goal LU-2: Promote a compact land use pattern in Kirkland to:

- Support a multimodal transportation system;
- Minimize energy and service costs;
- Conserve land, water, and natural resources; and
- Efficient use of land to accommodate Kirkland's share of the regionally adopted 20-year population and employment targets.

VI. Policy LU-2.1: Support a range of development densities in Kirkland, recognizing environmental constraints and community character.

VI. Policy LU-2.3: Ensure an adequate supply of housing units and commercial floorspace to meet the required growth targets through efficient use of land.

To meet growth goals, the Kirkland Comprehensive Plan demonstrates policy support for density and mixed-use zoning. Density and mixed-use zoning are components of a successful TDR program.

VI. Policy LU-3.2: Encourage residential development within commercial areas.

VI. Policy LU-4.2: Locate the most dense residential areas close to shops and services and transportation hubs.

VI. Goal LU-5: Plan for a hierarchy of commercial development areas serving neighborhood, community, and/or regional needs.

VI. Policy LU-5.2: Maintain and strengthen existing commercial areas by focusing economic development within them and establishing development guidelines.

VI. Policy LU-5.3: Maintain and enhance Kirkland's Central Business District (CBD) as a regional Activity Area, reflecting the following principles in development standards and land use plans:

- Create a compact area to support a transit center and promote pedestrian activity.
- Promote a mix of uses, including retail, office and housing.
- Encourage uses that will provide both daytime and evening activities.
- Support civic, cultural, and entertainment activities.
- Provide sufficient public open space and recreational opportunities.
- Enhance, and provide access to, the waterfront.

Kirkland's Comprehensive Plan identifies specific subareas for development to occur. These subareas should be considered to be designated as receiving areas for TDR credits.

VI. Policy LU-5.4: Support Totem Lake's development as an Urban Center with a diverse pattern of land uses.

- Recognize Totem Center, the area around Totem Lake Mall and Evergreen Healthcare
- Medical Center, as the "core" district where the highest densities and intensities of land use are focused.
- Create a compact area to support the planned transit center and promote pedestrian activity.
- Encourage uses which will provide both daytime and evening activities.
- Provide sufficient public open space and recreational opportunities.
- Enhance the natural condition and function of Totem Lake.
- Promote superior urban design throughout the Urban Center through standards that address human and architectural scale and design.
- Through coordination of improvements in the public realm, affirm and create a "sense of identity" for the Totem Lake Urban Center.

- Ensure that the built environment enhances and contributes to a highly successful pedestrian environment, particularly in Totem Center, where connections between business, transit and the living environment are key to establishing a vibrant community. The Design Guidelines for Totem Lake Neighborhood and the Pedestrian Oriented Design Guidelines provide specific direction for this area.
- Provide an interconnected street system for pedestrian and vehicular access.

VI. Policy LU-5.5: Enhance and strengthen the commercial viability of the Rose Hill Business District by implementing the NE 85th Street Subarea Plan.

VI. Policy LU-5.6: Encourage increased residential capacity in the North Rose Hill Business District (NRHBD) to help meet housing needs.

- Encourage mixed-use commercial/residential development.
- Promote a broad range of uses as an extension of the Totem Lake Urban Center.
- Provide a transition to the residential core in the North Rose Hill neighborhood.

VI. Policy LU-5.7: Emphasize new office development with a complementary mix of supporting uses in the Business District at the Yarrow Bay interchange area.

VI. Policy LU-5.8: Promote development within the Bridle Trails, Houghton/Everest, and Juanita Neighborhood Centers that becomes part of the neighborhood in the way it looks and in the functions it serves.

Chapter VIII. Economic Development:

To accommodate population growth projections, the City of Kirkland is planning for increased housing and employment. To meet these demands, Kirkland's identified strategy is to diversify the tax base, provide job opportunities, and provide goods and services to the community. Kirkland encourages economic growth by attracting businesses, and identifies redevelopment of commercial areas as one way to attract new businesses. Investments in redevelopment and infrastructure can help to maintain attractive neighborhoods, and funnel growth into commercial centers.

VIII. Economic Development: The King County Planning Policies have assigned Kirkland and other jurisdictions housing and growth targets. Kirkland is expected to grow in population from 45,054 in 2000, to 55,327 by the year 2022. In 2000, 32,384 people were employed in Kirkland. By the year 2022, Kirkland is targeted for an additional 8,800 jobs for a total employment of 41,184.

VIII. B. Economic Concept: The following goals and policies provide the framework for a three-pronged strategy for the future of the Kirkland economy: the importance of diversifying our tax base, providing job opportunities, and providing goods and services to the community. The challenge will be to provide an economic climate that maintains a healthy economy for jobs and businesses without sacrificing the qualities that make Kirkland a desirable place to live.

To accomplish this, the Economic Development Element:

- Encourages economic growth while maintaining attractive residential neighborhoods and a healthy natural environment.
- Promotes a growing and diverse economy that has a variety of business sectors.
- Promotes a positive business climate so businesses will grow and enhance Kirkland's role in the Eastside and Seattle Metropolitan economy.
- Supports strengthening our retail shopping areas, including specialty retail in the Downtown, destination retail in Totem Lake, providing local goods and services in our neighborhood commercial areas and encourages attractive commercial and mixed-use development.

The policies identified below provide support for attracting businesses and strengthening commercial development. Redevelopment of commercial areas is identified as a strategy to attract new businesses. VIII. Policy ED-1.4 below provides support for strengthening Kirkland's tax base through business property taxes and sales tax. Kirkland can advance these policy goals by implementing a TDR and infrastructure financing program. An infrastructure financing program such as the Landscape Conservation and Local Infrastructure Program would allow the City of Kirkland to access future tax revenue associated with growth and use it for redevelopment in the commercial area. These investments in redevelopment would catalyze further growth in commercial areas.

VIII. Goal ED-1: Foster a strong and diverse economy consistent with community values, goals and policies.

Business retention is a number one priority for Kirkland's economic development efforts. Existing businesses are the foundation of the Kirkland economy and are encouraged to thrive and expand. Businesses contribute to a stable tax base and are integral to the community as many business owners and employees are Kirkland residents. Existing businesses are the best source for business expansion and job growth, as 60 to 80 percent of all new jobs typically are created by existing businesses.

Attracting new businesses can help diversify the local economy and strengthen existing businesses. Business recruitment strategies differ for different commercial areas based upon market demand and the desired character of each district. Opportunities exist in several of our commercial areas for redevelopment to strengthen or intensify commercial development. Ideally, in addition to strengthening retail areas, recruitment efforts should focus on businesses that provide higher paying jobs and draw customers from outside the community to purchase goods and services in Kirkland.

VIII. Policy ED-1.4: Strengthen Kirkland's tax base.

Businesses also make a significant contribution to the City's property tax base. With the above in mind, economic strategies in Kirkland should strive to achieve:

- A net importation of sales tax (reduce sales leakage to other jurisdictions), and
- A diversity of business sectors that contribute both jobs and revenue, such as high-technology; start-up companies; wholesale; manufacturing; contracting; and businesses involved in the emerging arts, tourism and recreation. The mix of businesses in the community should be monitored so that business recruitment efforts

There is policy support for incentives to encourage economic development, including infrastructure improvements and regulatory incentives. A TDR program provides incentives to developers to build additional height and density. LCLIP or other infrastructure financing programs can help advance this goal by providing infrastructure improvements that will in turn incentivize business development.

VIII. Policy ED-2.6: Establish or support incentives to encourage economic development. Providing incentives as a way to attract and retain quality businesses or create new jobs may be necessary to create a positive business environment. Washington State statutes strictly limit the types of incentives that cities may use to attract or retain private business.

Types of incentives that could be explored are:

- Public/private development agreements for construction projects;
- Recruitment strategies that will result in new jobs;
- Tax deferrals or credits to certain industries;
- County-sponsored industrial revenue bonds;
- Participating in County, State or federally sponsored low interest loans or grants;
- Installing infrastructure improvements;
- Use of special taxing districts;
- Expediting permitting and regulatory incentives.

The City is required by the Growth Management Act to plan for capital facilities along with new development and redevelopment. An infrastructure financing program such as LCLIP can help provide funding for capital facilities.

Chapter XIII. Capital Facilities:

XIII. CAPITAL FACILITIES: The Capital Facilities Element is a six-year plan for fully funded capital improvements that supports the City's current and future population and economy.

The Capital Facilities Element contains level of service standards for each public facility, and requires that new development be served by adequate facilities.

The purpose of the Capital Facilities Element is threefold:

(1) To establish sound fiscal policies to guide Kirkland in planning for public facilities;

(2) Identify facilities needed to support growth and development consistent with the policies of the Comprehensive Plan; and

(3) Establish adopted standards for levels of service.

The concurrency requirement in the Growth Management Act mandates that capital facilities be coordinated with new development or redevelopment.

Kirkland's concurrency ordinance fulfills this requirement.

The City has determined that roads, water and sewer facilities must be available concurrent with new development or redevelopment. This means that adequate capital facilities have to be finished and in place before, at the time, or within a reasonable time period (depending on the type of capital facility needed) following the impacts of development.

Meeting concurrency requires a balancing of public and private expenditures. Private costs are generally limited to the services directly related to a particular development. The City is responsible for maintaining adequate system capacity that will meet adopted LOS standards.

The Capital Facilities section also provides support to match capital facilities with anticipated growth and use infrastructure as a means to spur economic growth.

XIII. Goal CF-1: Contribute to the quality of life in Kirkland through the planned provision of public capital facilities and utilities.

XIII. Policy CF-1.1: Determine needed capital facilities and utilities based on adopted level of service and forecasts of growth in accordance with the Land Use Element.

XIII. Policy CF-1.3: Encourage public amenities and facilities which serve as catalysts for beneficial development.

Certain public facilities, such as parks, utility lines, and roads, add to the economic viability of surrounding private development. By providing these improvements, the City creates an environment which attracts desirable economic activities.

XIII. Goal CF-4: Ensure that water, sewer, and transportation facilities necessary to support new development are available and adequate concurrent with new development, based on the City's adopted level of service standards.

XIII. Goal CF-5: Provide needed public facilities that are within the ability of the City to fund or within the City's authority to require others to provide.

XIII. Policy CF-5.1: Base the Capital Facilities Plan on conservative estimates of current local revenues and external revenues that are reasonably anticipated to be received by the City.

LCLIP and other infrastructure financing programs can provide additional sources of funding and avoid having to adjust adopted levels of service and land use plan.

XIII. Policy CF-5.2: Consider adjustments to the adopted levels of service, land use plan and/or revenue sources if funding is not available to finance capacity projects for capital facilities and utilities.

The Comprehensive plan supports looking at alternative sources of funding for capital facilities, however the policy below states that the first choice is to use existing sources of revenue.

XIII. Policy CF-5.3: Use a variety of funding sources to finance facilities in the Capital Facilities Plan.

The City's first choice for financing future capital improvements is to continue using existing sources of revenue that are already available and being used for capital facilities. These sources may include the following:

- Gas tax;
- Sales tax;
- Utility connection charges;
- Utility rates;
- Real estate excise tax;
- Interest income;
- Debt;
- Impact fee for roads and parks;
- Grants.

If these sources are inadequate, the City will need to explore the feasibility of additional revenues.

XIII. Policy CF-5.10: Where appropriate, the City may use local improvement districts or latecomer fees to facilitate the installation of public facilities needed to service new development. Some new development may be able to fulfill its obligation by creating a special district. Others may be required to build (or pay for) entire facilities (i.e., a new road) to serve their development, but they may recoup some of the cost from other subsequent development ("latecomers") that use the excess capacity created by the new public facility.

<u>Chapter Totem Lake Neighborhood Plan:</u>

The Kirkland Comprehensive Plan also includes a Neighborhood Plan for discussing goals and policies for the Totem Lake Neighborhood. The Neighborhood Plan provides support for economic and commercial growth occurring in Totem Lake. The City of Kirkland should consider designating Totem Lake as a receiving area for TDR and a LCLIP for LCLIP. The goals below provide support for fostering a diverse and vibrant economic environment, with commercial and employment opportunities.

<u>XV.H. Totem Lake Neighborhood - Introduction:</u> Consistent with the Comprehensive Plan, this neighborhood plan addresses future land use through 2012. However, the intensity of land uses that are planned for the neighborhood, particularly those expected to occur in the Totem Center area, are likely to come to pass over a much longer period. It is anticipated that this plan will be updated on an ongoing basis, to respond to changing conditions within the neighborhood and the City.

Framework goals that provide the basis for this plan include:

- Foster a diverse, vibrant economic environment, supplying broad commercial and employment opportunities.
- Promote the strength and vitality of Totem Center.
- Preserve, protect, and enhance the natural environment in the Totem Lake Neighborhood.
- Support new development and redevelopment with adequate public services.
- Provide a sense of neighborhood identity.
- Protect and strengthen diverse residential areas.
- Improve circulation within and through the neighborhood.

<u>XV.H. Totem Lake Neighborhood Economic Development</u>

Framework Goal: Foster a diverse, vibrant economic environment, supplying broad commercial and employment opportunities.

The Totem Lake Neighborhood is a vital employment, retail and service center that serves the City of Kirkland and surrounding region. The Totem Lake Neighborhood is the City's largest employment center and the City's leader in retail sales. The neighborhood contains the City's only Urban Center, designated by the Growth Management Planning Council in 2003.

XV.H. Goal TL-1: Nurture and strengthen the role of the Totem Lake Neighborhood as a community and regional center for retail, health care, vehicle sales, light industrial and office employment.

XV.H. Policy TL-1.1: Support the growth and retention of commercial activity in the neighborhood.

XV.H. Policy TL-1.3: Plan for economic activity that creates new jobs and increases the diversity of employment opportunity in the neighborhood.

XV.H. Goal TL-2: Focus intensive growth within Totem Center (Districts TL 1, TL 2, and TL 3).

XV.H. Policy TL-2.1: Provide for increased intensity of development in Totem Center. In the Totem Lake Neighborhood, the most intensive commercial development is focused in Totem Center (see Figure TL-2). The Evergreen Hospital and Medical Center and the Totem Lake Mall play a key role in the overall health and vitality of the District, attracting a cluster of complementary and collaborative businesses.

XV.H. Goal TL-3: Preserve and intensify commercial areas outside of Totem Center.

XV.H. Policy TL-3.1: Protect and nurture existing retail and office areas.

XV.H. Policy TL-3.1: Protect and nurture existing retail and office areas. Outside of Totem Center, established retail areas are located around the I-405/NE 124th Street interchange and extend to the east and west along NE 124th Street as well as to the north and south along 120th Avenue NE and along both sides of 124th Avenue NE (see Figure TL-3). The greatest concentration of offices is located on the west side of I-405. The primary office area is the I-405 Corporate Center, extending south from NE 124th Street. A smaller office area is located along the south side of NE 128th Street (see Figure TL-3). These established retail and commercial areas provide a range of employment opportunities and services, and contribute to the City's retail sales tax revenue for a healthy economy. These areas should be retained and strengthened. In some areas, housing is the preferred use on upper floors, as described in Policy TL-26.3.

The policies below provide support for increased height in specific areas of Totem Lake. Should the City of Kirkland designate Totem Lake as a TDR receiving area, the areas identified below should be considered for increased height bonuses to developers who use the TDR program.

XV.H. Policy TL-3.2: Expand opportunities for office development south of NE 116th Street (districts TL 10D and TL 10E). The area south of NE 116th Street, known as Par Mac, is currently developed with a mix of light industrial, office, retail and service uses. Historically, this area was planned for and developed with manufacturing and light industrial uses that might benefit from proximity to the BNRR right-of way.

Over the past decade, many of these traditional uses have been converted to office, retail and other service uses, and the existing space no longer meets the needs of many industrial tenants. At the same time, the demand for office space in Kirkland and the Eastside as a whole has been increasing. In recognition of this ongoing trend toward office use, the Par Mac area should be designated for office use. Office spaces designed for uses in the high-technology sector should be specifically encouraged. These types of firms tend to provide high-wage jobs and other benefits to the area's economy.

Additional building height should be considered for future development in this area. Due to the topographic characteristics of the land, situated at a lower elevation than the freeway to the east and from many areas of residential development to the west, greater height in this area would have limited impacts on views or the character of the area. Additional height would also encourage greater redevelopment of the area than might occur at the existing permitted intensity. Design considerations associated with additional height will include views from the freeway, and the need to preserve some openness across the area. Existing industrial tenants in this area should continue to be supported through development standards that allow these uses to remain and expand.

XV.H. Policy TL-3.4: Enable expanded development opportunities for the commercial district located on the west side of 124th Avenue NE and south of NE 124th Street under a specific plan for the entire area (district TL 5). The retail and industrial area located east of I-405, west of 124th Avenue NE, south of NE 124th Street and north of NE 116th Street (District TL 5 on Figure TL-11), presents a unique opportunity for the development of a planned, mixed-use district within the southern portion of the Totem Lake Neighborhood. Assembly of land may be feasible in this area, as much of the area is contained in several large property ownerships, the largest being slightly over 9 acres. The western portion of the district is located adjacent to the freeway, and at a lower elevation that may enable greater building height with minimal impacts. The specific plan should evaluate the feasibility of a more intense commercial and residential district in this area, and consider options to:

- **Consider building heights in excess of those allowed in other commercial districts**

XV.H. Goal TL-6: Strengthen the role of Totem Center for employment in the city and region.

XV.H. Policy TL-6.1: Establish and actively support standards to ensure intensive redevelopment within Totem Center. Totem Center contains the most intensive land uses within the neighborhood. Designated land uses in Totem Center include mixed-use, the Evergreen Hospital Medical Center, and the Totem Lake Mall (see Figure TL-2).

In all of these areas, new development and redevelopment should be intense enough to create a sense of vitality and activity within the designated center. Minimum development thresholds should be established for new development and re-development.

XV.H. Goal TL-9: Support and strengthen the role of Evergreen Hospital Medical Center as an important part of the Kirkland community (district TL 3).

XV.H. Policy TL-9.2: Implement design principles for the Evergreen Hospital Medical Center.

Future development on the Evergreen Hospital Medical Center campus should be consistent with a master plan, reviewed by the City, which includes all known future development plans for the facility. Design principles contained in the Municipal Code and the Totem Center principles described above should apply to future development of this site. Additionally, the following principles should apply specifically to Evergreen Hospital and Medical Center:

Building heights in excess of those allowed under the current Master Plan should be considered. Prior to approval of increased building heights, an analysis of shadowing and transition to surrounding residential areas must demonstrate that the impacts of greater heights on the surrounding residential area can be effectively mitigated. Taller buildings should be located toward the center of the site, away from residential uses.

The City of Kirkland's goal is to eliminate barriers to development. The City should ensure that as a TDR program is developed, that it is designed for developers to easily access and in a way that makes it economically rewarding to use the program.

XV.H. Policy TL-6.2: Ensure that regulations support and facilitate redevelopment and re-investment.

Regulatory flexibility can encourage redevelopment and encourage reinvestment that will support the long-term viability of Totem Center. To identify and eliminate barriers to development, the City should conduct a regulatory audit to determine whether zoning code provisions unintentionally discourage development activity in Totem Center. The regulatory audit could consider complexity of applicable review processes, organization and accessibility of applicable regulations, and flexibility in the review process. New zoning classifications and/or overlay zones that offer simplified standards and/or a flexible mix of uses should also be considered.

The Neighborhood Plan also identifies the importance of residential development within mixed-use areas, and provides policy support for regulatory incentives such as increased height, bonus densities for affordable housing and decreased parking requirements for residential units. We recommend that the City update the policy below to include TDR as an additional incentive for residential development.

XV.H. Policy TL-7.1: Encourage residential development within mixed-use areas, including the Totem Lake Mall.

Housing has long been allowed in the mixed-use area. History indicates, however, that if left to market forces alone, significant levels of housing are not likely to result in this area. In order to ensure a viable residential community in Totem Center, the City should provide a range of regulatory incentives that support residential development. Examples of possible incentives include increased height, bonus densities for affordable housing and decreased parking requirements for residential units.

By combining a TDR program with a local infrastructure financing program, Kirkland can achieve additional goals for the Totem Lake Neighborhood. The goals and policies identified below provide direction for ideas for infrastructure investments to create an attractive neighborhood, including: landscaped boulevard, street trees, .

XV.H. Goal TL-8: Ensure that public and private development contribute to a lively and inviting character in Totem Center.

The fundamental goal for Totem Center is to create a pedestrian-oriented urban center with a safe, lively and attractive 24-hour environment.

XV.H. Goal TL-21: Ensure that public and private development contributes to a coherent and attractive neighborhood identity.

XV.H. Policy TL-21.1: Ensure that public improvements contribute to neighborhood identity. Public infrastructure, consisting primarily of public rights-of-way, is a significant land use in the Totem Lake Neighborhood. Public improvements should be designed and constructed in a manner that makes a positive contribution to the character of the neighborhood. High quality materials, the use of public art, and other measures to reflect and enhance the identity of the Totem Lake Neighborhood should be incorporated in public infrastructure design and construction.

XV.H. Policy TL-21.2: Encourage private development to help build the overall character of the Totem Lake Neighborhood.

XV.H. Goal TL-23: Develop a new landscaped boulevard that provides a green visual connection between the four quadrants of the neighborhood through enhanced landscape and public amenities.

XV.H. Policy TL-23.1: Create a landscaped boulevard that generally follows the alignment shown Figure TL-6.

XV.H. Goal TL-24: Provide interconnected streetscape improvements throughout the neighborhood that contribute to a sense of neighborhood identity and enhance visual quality.

XV.H. Policy TL-24.1: Establish a street tree plan for the neighborhood.

<u>Incentive Provisions:</u>

The Neighborhood Plan supports the use of incentives to achieve policy goals. The goals and policies below identify affordable housing and other residential housing opportunities as policy goals that can be advance through the use of height, density, and floor area bonuses. The City should carefully consider how these goals would interact with a TDR program and carefully craft a program to achieve multiple *goals. The City should also consider adding language identifying TDR as an incentive program to achieve height and density goals.*

XV.H. Policy TL-26.3: Expand housing opportunities in the Totem Lake Neighborhood.

In the Totem Lake Neighborhood, expanded housing opportunities are provided through high residential densities (minimum of 50 units per acre) and support for mixed-use development in Totem Center. These measures provide for a significant amount of additional housing while preserving existing multi and single-family areas in and adjacent to the Totem Lake Neighborhood.

Significant opportunities also exist to encourage housing within some of the general commercial areas of the neighborhood. Since housing development may be less financially profitable than office development where both uses are allowed, relatively high densities must be permitted to ensure that this use is on an equal footing with the development of an office use.

To further encourage developers to choose to provide housing, an increase in height should be allowed when upper story residential use is provided. This incentive would enable residential stand-alone developments where retail use is not mandated as a ground floor use.

This incentive for greater height for residential development would be appropriate for the areas listed below, and shown in Figure TL-7: 1. Totem Lake West, north of NE 124th Street, west of 116th Avenue NE, 2. Properties east of 124th Avenue NE, north of NE 116th Street and west of Slater Avenue, 3. Properties east of 124th Avenue NE, south of NE 124th Street, 4. Properties south of NE 116th Street, west of the Cross Kirkland Corridor, and 5. Property north of NE 116th Street, south of NE 118th Street, and west of the Cross Kirkland Corridor.

XV.H. Policy TL-27.1: Develop a variety of incentives and other measures to encourage development of affordable housing.

The Totem Lake Neighborhood provides an important source of housing that is affordable to local service and office employees. Zoning and regulatory incentives can help make housing more affordable to low to moderate income households. Additional incentives, such as bonus densities, public funding programs, public land donations, and development fee waivers, may also be needed to develop affordable housing projects. Similarly, partnerships with other public agencies and the private sector can introduce more diverse resources, which can help fund affordable housing. An assortment of affordability measures should be developed to help support housing projects in the Totem Lake Neighborhood.

XV.H. Policy TL-27.2: Provide incentives that encourage variety in housing style, size and services. The Totem Lake Neighborhood provides a range of housing types, including ownership and rental multifamily housing, and senior and assisted housing. Incentives should be developed to encourage continued variety in housing types, such as housing in mixed-use developments and housing oriented to use of transit facilities. Incentives could include reduced parking requirements for housing, increases in the floor area allowed for housing, and additional height where appropriate.

Mixed-use housing is another housing option that can increase housing opportunity and add vitality to the neighborhood. Incentives for mixed-use housing are provided in Totem Center.

Regional Policy Support:

The Lake Washington/Cedar/Sammamish Watershed (WRIA 8) is home to three populations of Chinook salmon that have been listed in 1999 as threatened by the federal government under the Endangered Species Act.1 The Shared Strategy for Puget Sound is a collaborative initiative of federal, state, tribal and local government and salmon recovery organizations to recover the Puget Sound salmon population. The plan is focused at the Puget Sound scale, and incorporates plans from more narrowly focused watershed groups. Kirkland is one of 27 local governments that contributed to the WRIA 8 Salmon Conservation Plan. The science based plan contains recommendations for prioritized actions to restore and protect salmon habitat through a collaborative approach including implementation of land use and stormwater management policies and programs, local protection and restoration projects, and public involvement opportunities.

TDR can be used as a tool to help advance efforts for conservation of critical areas in WRIA 8 for the purpose of salmon habitat restoration. Goals in the Shared Strategy for Puget Sound and the WRIA 8 Conservation Plan can be supported by a TDR program:

- Land use, planning, and infrastructure actions that address habitat-forming processes at a landscape scale, and focus on accommodating future growth while minimizing impacts to salmon habitat. Included are incentive programs, regulations, best management practices, low impact development recommendations, enforcement actions, and policies (WRIA 8 Conservation Plan Ch. 2 P. 7)
- Maintain and restore the corridors that link habitats, including headwaters, channel migration zones, floodplains, wetlands, lake shorelines, estuaries, and marine nearshore habitats (WRIA 8 Conservation Plan Ch. 4)
- Plan, develop, and implement management actions (for example, regulations, easements, incentives) to ensure protection of biologically important areas (WRIA 8 Conservation Plan Ch. 4)
- Supports protecting working landscapes such as farms and timberlands (Shared Strategy for Puget Sound Ch. 1, P. 10)

[1] Lake Washington/Cedar/Sammamish Watershed (WRIA 8) Chinook Salmon Conservation Plan. *Volume I.* July 2005.

The Puget Sound Partnership is the state agency leading the clean-up of Puget Sound. The 2012/2013 Action Agenda establishes recovery targets and outlines a framework to achieve a healthy Puget Sound. The three region-wide priorities identified in the Action Agenda are to prevent pollution from urban stormwater runoff; protect and restore habitat; and restore and re-open shellfish beds.[2]

Strategies identified for habitat protection and restoration include increased rural land protection, and and incentives to encourage increased density and growth within urban growth areas. TDR can be used as a tool to implement the following strategies:

- **Land Use Planning Barriers, BMPs and Example Polices.** By December 2012, Ecology and Commerce, working with local governments, will identify the primary barriers to incorporating policies consistent with implementation of the Action Agenda into local land use planning and decisions and identify best practices and assistance needed to overcome these barriers. This will address implementation of protection strategies, encouraging compact growth patterns, increased density, water quality standards, redevelopment, and rural lands protection. By December 2013, Ecology and Commerce will distribute example growth policies that include best practices that are consistent with protection and recovery targets and the Growth Management and Shoreline Management Acts. (A1.2 NTA 1)

- **Provide for growth.** Provide infrastructure and incentives to accommodate new and re-development within urban growth areas. (A4.2)

[2] Puget Sound Partnership. *Highlights of the 2012/2013 Action Agenda for Puget Sound.* August 28, 2012.

APPENDIX D: LCLIP BACKGROUND

1.0 LCLIP BACKGROUND

1.1 What is LCLIP?

The Pacific Northwest offers a high quality of life and diverse, vibrant economy, making it an attractive place to live and to do business. As a result, cities in the Central Puget Sound region face increasing demands for infrastructure to support a growing population and employment. With limited access to funding and financing for improvements, these challenges will compound in the future. At the same time, the region's farms and forests face increasing conversion pressure as the market for real estate remains strong. To address both of these issues simultaneously, the Washington State legislature adopted a regional infrastructure-financing program in 2011 that gives eligible cities access to new tools to invest in critical infrastructure while protecting resource lands.

The Landscape Conservation and Local Infrastructure Program (LCLIP) combines TDR with a financing option for cities. Under the program, cities commit to allowing a number of TDR credits into a municipal receiving area, thereby gaining access to a form of tax-increment financing for infrastructure. Cities invest in infrastructure improvements, which then support redevelopment. Increased growth uses the incentive of TDR to drive market-based conservation of regional resource lands.

Public infrastructure funding is accomplished in a number of different ways in Washington State. The legislature has, in recent years, examined a number of ways to increase investment in public infrastructure in the state. Tax increment financing is a method of capturing tax revenues from new growth within a geographic area resulting from a public investment to pay for new infrastructure. A number of tax increment financing programs have been created in the state: in 2001 the legislature created the Community Revitalization Financing Program; in 2006 the Local Infrastructure Financing Tool Program was created by the legislature; and in 2009 the legislature created the Local Revitalization Financing Program.[1]

Participating in LCLIP would require the commitment of a portion of incremental property tax revenues to an improvement district, such as Totem Lake, for qualified improvements. LCLIP dedicates incremental property taxes as capital funding for defined uses within a district. While the upside for a city is the use of a portion of its jurisdictional county's property tax revenues, a city must dedicate a proportional share of its property tax revenues from new construction to secure these resources. In cases where infrastructure investment is not the catalyst for development, but rather supports development likely to occur in the absence of the LCLIP program, these revenues would otherwise serve as general operating funds.

1.4.1 LCLIP Implementation

In order to gain the benefits of infrastructure financing and regional conservation, a city wishing to participate in LCLIP will make a number of decisions and take steps to put the program to work. The following summary provides a walk-through of the criteria a city must meet and the steps it must take to implement LCLIP.

[1] Final Bill Report, ESSB 5253

Eligibility

- The city must be incorporated in Snohomish, King or Pierce County and have a combined population and employment of at least 22,500. Kirkland meets these criteria and is eligible to participate. As of 2010 its population was 48,800.[2]

Program Elements

- Identify a specific geographic area for increased density that will become a local infrastructure project area ("LCLIP"). The LCLIP must:
  - Include contiguous land (no "islands")
  - Not include more than 25% of the total assessed taxable property within the city
  - Not overlap another LCLIP
  - In the aggregate, be of sufficient size to:
  - use the city's "specified portion" of transferable development rights (unless the city has purchased the transferable development rights to reserve for future development), and
  - not be larger than reasonably necessary
  - Contain all public improvements to be financed within its boundaries
- Accept responsibility for all or a share (a "specified portion") of the transferable development rights allocated from the Puget Sound Regional Council to the city. Consider whether to include any rights from another city through interlocal agreement.
- Adopt a plan for development of public infrastructure within the LCLIP. The plan must:
  - Utilize at least 20% of the city's allocated share of transferable development rights
  - Be developed in consultation with the Department of Transportation and the county where the LCLIP is located
  - Be consistent with any transfer of development rights policies or development regulations adopted by the city
  - Specify the public improvements that will be financed
  - Estimate the number of transferable development rights that will be used
  - Estimate the cost of the public improvements
- Adopt transfer of development rights policies or implement development regulations, <u>or</u> make a finding that the city will receive its specified portion within one or more LCLIPs, <u>or</u> make a finding that the city will purchase its specified portion
  - Adoption of transfer of development rights policies or implementation of development regulations must:
    - Comply with the Growth Management Act
    - Designate a receiving area(s)
    - Adopt developer incentives, which should be designed, at the city's election, to:

[2] US Census data 2010

        - Achieve the densities or intensities in the city's plan
        - Include streamlined permitting strategies
        - Include streamlined environmental review strategies
    - Establish an exchange rate, which should be designed to:
        - Create a marketplace where transferable development rights can be bought and sold
        - Achieve the densities or intensities in the city's plan
        - Provide for translation to commodities in addition to residential density (e.g., building height, commercial floor area, parking ratio, impervious surface, parkland and open space, setbacks and floor area ratio)
        - Allow for appropriate exemptions from land use and building requirements
    - Require that the sale of the transferable development rights be evidenced by its permanent removal from the sending site (such as through a conservation easement on the sending site)
    - Not be based on a downzone within the receiving area
  - The city may elect to adopt optional comprehensive plan element and optional development regulations that apply within the LCLIP
- Hold a public hearing on the proposed formation of the LCLIP
  - Notice must be provided to the county assessor, county treasurer, and county within the proposed LCLIP of the city's intent to create the area. Notice must be provided at least 180 days in advance of the public hearing.
- Adopt an ordinance or resolution creating the LCLIP
  - The ordinance or resolution must:
    - Describe the proposed public improvements
    - Describe the boundaries of the proposed LCLIP
    - Provide the date when the use of local property tax allocation revenues will commence and a list of the participating tax districts (the city and county)
  - A certified copy of the adopted ordinance or resolution must be delivered to the county assessor, county treasurer and each participating tax district
- Provide a report along with the county to the Department of Commerce by March 1st of each year

LCLIP Benefits

- City and county regular property taxes resulting from the increase in assessed value within the LCLIP from new construction and improvements. The amount of property taxes to be provided to the city to fund public improvements in the LCLIP is determined by applying city and county levy rates to up to 75% of the assessed value resulting from new construction or improvements within the LCLIP. Whether the city receives all or a portion of this amount depends on the number of transferable development rights accepted by the city compared to the rights allocated.
- The additional tax may be used by the city to fund the public improvements within the LCLIP, on a pay-as-you-go basis or to pay debt service on bonds issued to fund the public improvements. Eligible infrastructure improvements include:

  - Street, road, bridge, and rail construction and maintenance;
  - Water and sewer system construction and improvements;
  - Sidewalks, streetlights, landscaping, and streetscaping;
  - Parking, terminal, and dock facilities;
  - Park and ride facilities of a transit authority and other facilities that support transit-oriented development;
  - Park facilities, recreational areas, bicycle paths, and environmental remediation;
  - Storm water and drainage management systems;
  - Electric, gas, fiber, and other utility infrastructures;
  - Expenditures for facilities and improvements that support affordable housing as defined by WA law.
  - Providing maintenance and security for common or public areas.
  - Historic preservation activities authorized under WA law.
- The termination date for collection of the additional tax is the earlier of either the date the additional tax is no longer used or obligated to pay the costs of the public improvements, or a period from 10 to 25 years. The time period varies depending on what percentage of transferable development rights assigned to the city are either:
  - used in building permits within the LCLIP, or
  - acquired by the city for use in the LCLIP or for extinguishment
- The percentages of transferable development rights that must be achieved to access the additional tax are:
  - 25% of the city's specified portion of transferable development rights are used in the LCLIP or purchased by the city → 10 years
  - 50% of the city's specified portion of transferable development rights are used in the LCLIP or purchased by the city → 15 years
  - 75% of the city's specified portion of transferable development rights are used in the LCLIP or purchased by the city → 20 years
  - 100% of the city's specified portion of transferable development rights are used in the LCLIP or purchased by the city → 25 years

APPENDIX E: TDR RULE

WAC 365-198 TDR RULE

Chapter 365-198 WAC

Interlocal Terms and Conditions for the Transfer of Development Rights

NEW SECTION

WAC 365-198-010 Authority and purpose (1) Chapter 43.362 RCW establishes a regional transfer of development rights program in central Puget Sound, including King, Pierce, Kitsap, and Snohomish Counties and the cities and towns within these counties. A transfer of development rights program is a market-based exchange mechanism that encourages the voluntary transfer of development rights from sending areas that a community wants to conserve to receiving areas where growth and the infrastructure to support growth are planned. Participation in the regional transfer of development rights program by counties, cities and towns is optional.

(2) The purpose of this chapter is to make it easy to transfer development rights from counties to cities and towns in the regional transfer of development rights program. The purpose of the regional transfer of development rights program is to conserve resource, rural and other land prioritized for conservation consistent with RCW 43.362.040 and county transfer of development right programs, and to encourage growth in cities and towns consistent with the state growth management act under chapter 36.70A RCW.

(3) The purpose of this chapter is to adopt by rule terms and conditions of an interlocal agreement for transfers of development rights between counties, cities, and towns. Counties, cities, and towns participating in the regional transfer of development rights program have the option of adopting the terms and conditions by reference to transfer development rights across jurisdictional boundaries as an alternative to entering into an interlocal agreement under chapter 39.34 RCW. If a city or county chooses to adopt the terms and conditions provided in this rule, nothing in this chapter prohibits the city or county from adopting additional terms and conditions in the adopting ordinance or resolution.

(4) This chapter shall be deemed to provide an alternative method to an interlocal agreement for transferring development rights between a county and city or town under the regional transfer of development rights program, and shall not be construed as imposing any additional condition upon the exercise of any other powers vested in counties, cities and towns. Nothing in this chapter prohibits a county, city, or town from entering into an interlocal agreement under chapter 39.34 RCW to transfer development rights under the regional program.

NEW SECTION

WAC 365-198-020 Applicability (1) This chapter applies to transfers of development rights between King, Pierce, Kitsap and Snohomish Counties and the cities and towns within these counties. This chapter only applies to transfers from county-designated sending areas consistent with RCW 43.362.040 to city or town-designated receiving areas. Transfers of development rights may be between any county and any city or town within the four-county region. A transferring county shall consult in good faith with the county in which a city is located in regards to transfers of development rights between counties and cities, and the subsequent designated receiving area and receiving area ratio in the city or town.

(2) Utilization of this chapter for transfers of development rights between King, Pierce, Kitsap and Snohomish Counties and the cities and towns within these counties is optional.

(3) Prior to using this chapter for transfers of development rights, a county must adopt transfer of development rights policies or regulations that designate sending areas consistent with RCW 43.362.040 and procedures to implement the regional transfer of development rights program.

(4) Prior to using this chapter for receiving development rights, a city or town must adopt policies or regulations that designate receiving areas and state the receiving area ratio or ratios for rights to be received.

(5) The terms and conditions that are adopted by reference by a city or town in sections 4 and 6 are not binding on the city or town unless the transferring county has also adopted required language in sections 5 and 6 by reference. Conversely, the terms and conditions that are adopted by reference by a transferring county in sections 5 and 6 are not binding on the county unless the receiving city or town has also adopted required language in sections 4 and 6 by reference.

NEW SECTION

WAC 365-198-030 Definitions The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" means the department of commerce.

(2) "Development rights credit" means the tradable good representing development rights. Development rights credits are purchased and sold, either on the open market or through a transfer of development rights bank. For sending site landowners, credits are assigned and certified by the transferring county based on the number of development rights assigned to their property pursuant to the county's transfer of development rights program. For developers, credits are based on the receiving area ratio.

(3) "Receiving area ratio" means the number or character of development rights that are assigned to a development right for use in a receiving area. Development rights in a receiving area may be used at the discretion of the receiving area jurisdiction, including but not limited to additional residential density, additional building height, additional commercial floor area, or to meet regulatory requirements. The receiving area jurisdiction exercises its discretion regarding the use of development rights when it adopts policies or regulations to allow the use of development rights.

(4) "Receiving areas" are lands within and designated by a city or town in which transferable development rights from the regional transfer of development rights program established by this chapter and certified by the transferring county may be used.

(5) "Receiving cities and towns" mean the cities and towns that have chosen to participate in the regional transfer of development rights program by receiving development rights pursuant to RCW 43.362.060.

(6) "Regional transfer of development rights program" means the regional transfer of development rights program established by RCW 43.362.030 in central Puget Sound, including King, Pierce, Kitsap, and Snohomish Counties and the cities and towns within these counties.

(7) "Sending area" includes those lands designated by the county as sending areas from which transferable development rights can be sold, and that meet conservation criteria as described in RCW 43.362.040 as follows:

(a) Land designated as agricultural or forest land of long-term commercial significance;

(b) Land designated rural that is being farmed or managed for forestry;

(c) Land whose conservation meets other state and regionally adopted priorities; and

(d) Land that is in current use as a manufactured/mobile home park as defined in chapter 59.20 RCW.

(8) "Sending area ratio" means the number of development rights that a sending area landowner can sell per the transferring county's transfer of development rights program.

(9) "Transfer of development rights" includes methods for protecting land from development by voluntarily removing the development rights from a sending area and transferring them to a receiving area for the purpose of increasing development density or intensity in the receiving area.

(10) "Transfer of development rights bank" means an entity operated by a county or other public agency or private organization for the purpose of buying, selling, and holding development rights or facilitating private development right transactions between landowners and developers.

(11) "Transferable development right" means a right to develop one or more residential units, including fractions of residential units, in sending areas that have been certified by the transferring county, and can be sold and transferred for use consistent with:

(a) A transferring county's adopted program and the regional transfer of development rights program; and

(b) A receiving ratio adopted by the city or town for development in a designated receiving area.

(12) "Transferring county" means the county that has agreed to participate in the regional transfer of development rights program pursuant to RCW 42.362.060.

NEW SECTION

WAC 365-198-040 Terms and conditions for cities and towns (1) Cities and towns that choose to the use this chapter as an alternative to an interlocal agreement must adopt the following terms and conditions by reference to this chapter in an ordinance or resolution:

(a) The city or town has adopted policies or regulations for receiving areas per attached ordinance(s) or resolution(s);

(b) Upon good faith consultation with the transferring county, and the county from within which the city is located, the city or town has designated receiving areas in the city or town within which transferable development rights or development rights credits may be used per attached ordinance(s) or resolution(s);

(c) Upon good faith consultation with the transferring county, and the county from within which the city is located, the city or town has adopted receiving area ratio or ratios for the transferable development rights or development rights credits to be received per attached ordinance(s) or resolution(s);

(d) The city or town, in consultation with the county from within which the city or town is located and the transferring county, shall develop a process to notify the transferring county when it has approved the use of transferable development rights or development rights credits for a specific project in the designated receiving area to allow the transferring county to track and extinguish credits as they are used. For purposes of this chapter, a city's or town's approval under this subsection occurs when the city or town planning department has issued the first building permit for a project using development rights credits. Prior to development approval, the city or town shall consult with the transferring county to ensure the development rights credit or credits proposed for development use in the designated receiving area are valid. The county shall respond to the city or town as to whether the development rights credits are valid within a reasonable time; and

(e) The city or town shall work with the transferring county and the department to identify performance measures consistent with RCW 43.362.070 to report to the transferring county and the department.

(2) Optional terms that a city or town may adopt verbatim or by reference are:

(a) Upon good faith consultation with the transferring county, the city or town shall identify the sending areas from which the city or county agrees to accept transferable development rights.

(b) The city or town has estimated the capacity for development with transferable development rights (or development rights credits) from the transferring county per attached ordinance(s) or resolution(s).

(c) The city or town shall establish and operate a transfer of development rights bank to purchase, sell, and hold development rights.

NEW SECTION

WAC 365-198-050 Terms and conditions for counties (1) Counties that choose to use this chapter as an alternative to an interlocal agreement must adopt the following terms and conditions by reference to this chapter in an ordinance or resolution:

(a) The county has adopted policies, regulations and administrative procedures to implement the regional transfer of development rights program, including but not limited to:

(i) Facilitating and promoting the qualification and certification of transferable development rights to eligible property owners for the sale of their transferable development rights from properties in the county's designated sending areas consistent with RCW 43.362.040;

(ii) Establishing procedures to facilitate the sale of transferable development rights or development rights credits; and

(iii) Establishing procedures to require, maintain, and enforce deed restrictions on a sending site from which transferable development rights or development rights credits are purchased in order to prohibit those sites from being developed in violation of deed restrictions.

(b) The county shall notify receiving cities and towns by December 31 of each year the number of available development rights credits remaining in designated sending areas.

(i) If the city or town, in consultation with the transferring county, has identified the sending area or areas from which it has agreed to accept transferable development rights the notification shall indicate the number of credits remaining in that sending area for the respective city or town.

(ii) If the county administers a transfer of development rights bank, annual notification of transactions shall be provided.

(2) Optional terms that a county may adopt by reference to this chapter in an ordinance or resolution:

(a) The county shall establish and operate a transfer of development rights bank to purchase, sell, and hold development rights.

(b) The county shall facilitate private transferable development rights transactions between willing sellers and buyers.

NEW SECTION

WAC 365-198-060 Joint terms and conditions for counties, cities and towns Counties, cities, and towns that choose to use this chapter as an alternative to an interlocal agreement must adopt the following joint terms and conditions by reference to this chapter in an ordinance or resolution:

(1) The county and city or town shall establish an evaluation and monitoring program based on quantitative and qualitative performance measures developed by the department for monitoring the regional transfer of development rights program under RCW 43.362.070.

(2) The county and city or town shall enter into a dispute resolution process through mediation, with an agreed upon mediator and process, if agreement cannot be reached regarding interpretation or implementation of any terms and conditions in this chapter adopted by reference. The parties shall use the mediation process in good faith to attempt to come to agreement early in the process, and prior to any appeals or litigation that they might otherwise be entitled to bring.

(3) The terms and conditions in this chapter adopted by reference shall become effective on the effective date of the adopting ordinance or resolution.

(4) The county, city or town may repeal the provisions of this chapter adopted by reference upon 90 days' written notice by the transferring county to the cities or towns or by cities and towns to the transferring county if:

(a) The city or town's development regulations allowing the use of development rights credits, or the provisions of the county's development regulations allowing transfer of development rights to cities are held invalid by any court of competent jurisdiction in a final judgment no longer subject to appeal; or

(b) The county, city or town materially defaults in the performance of the obligations as set forth in provisions of this chapter adopted verbatim or by reference, and fails to cure the default within thirty (30) days' of receipt of written notice from the county, city or town.

(5) A city or town's repeal of the terms and conditions in this chapter adopted by reference shall not affect the use of development rights credits previously certified by the county. Development credits certified by the county prior to repeal by the city or town that have not been used in the city or town's receiving area may be used in the county's or another city or town's designated receiving area.

(6) The city or town shall indemnify and hold harmless the transferring county and its officers, agents and employees or any of them from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by reason or arising out of any negligent action or omission of the city or town, its officers, agents, and employees, or any of them, in performing obligations pursuant to this chapter. In the event that any suit based upon such a claim, action, loss, or damage is brought against the county, the city or town shall defend the same at its sole cost and expense, provided that the transferring county retains the right to participate in said suit if any principle of governmental or public law is involved; and if final judgment be rendered against the transferring county and its officers, agents, employees, or any of them, or jointly against the city or town and transferring county and their respective officers, agents, and employees or any of them, the city or town shall satisfy the same.

(7) The transferring county shall indemnify and hold harmless the city or town and its officers, agents and employees, or any of them from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by reason or arising out of any negligent action or omission of the transferring county, its officers, agents, and employees, or any of them, in performing obligations pursuant to this chapter. In the event that any suit based upon such a claim, action, loss, or damage is brought against the city or town, the transferring county shall defend the same at its sole cost and expense, provided that the city or town retains the right to participate in said suit if any principle of governmental or public law is involved, and if final judgment be rendered against the city or town and its officers, agents, and employees, or any of them, or jointly against the city or town and county and their respective officers, agents, and employees, or any of them, the county shall satisfy the same.

(8) The county and city or town acknowledge that if the claims, actions, suits, liability, loss, costs, expenses and damages referenced in subsections (6) and (7) of this section are caused by or result from the concurrent negligence of the city or town, its agents, employees, and/or officers and the county, its agents, employees, and/or officers, the provisions of this chapter adopted by reference shall be valid and enforceable only to the extent of the negligence of each party, its agents, employees and/or officers.

NEW SECTION

WAC 365-198-070 Template for adopting terms and conditions The department shall provide an ordinance or resolution template for adopting terms and conditions verbatim by reference consistent with this chapter for use by counties, cities and towns participating in the regional transfer of development rights program.

RESOLUTION R-5057

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND EXPRESSING THE CITY COUNCIL'S SUPPORT FOR REGIONAL TRANSFER OF DEVELOPMENT RIGHTS AND THE CITY COUNCIL'S WILLINGNESS TO CONSIDER REGIONAL TRANSFER OF DEVELOPMENT RIGHT POLICIES AS PART OF THE COMPREHENSIVE PLAN UPDATE AND IMPLEMENTING DEVELOPMENT REGULATIONS, FILE NO CAM13-1936.

WHEREAS, the Kirkland Comprehensive Plan contains goals of implementing regional growth management strategies to help reduce sprawl, including goals which support the preservation of open space, encourage coordination with other jurisdictions, and support incentive programs to achieve these goals; and

WHEREAS, the Washington State Growth Management Act ("GMA"), RCW 36.70A, establishes a policy of directing development density into urban areas and discouraging development of rural land; and

WHEREAS, the GMA encourages the conservation of productive forest and agricultural lands and the retention of open space to conserve fish and wildlife habitat and enhance recreational opportunities; and

WHEREAS, the GMA requires counties to adopt county-wide planning policies in cooperation with cities; and

WHEREAS, by Interlocal Agreement, King County ("County") and the City of Kirkland ("City") adopted and ratified the Countywide Planning Policies for the County; and

WHEREAS, the Countywide Planning Policies call for programs and regulations to protect and maintain the rural character of farm and forest lands and direct growth to cities and urban centers; and

WHEREAS, the City recognizes the importance of working with the County to reduce sprawl and protect lands important to salmon habitat, farmlands, and forestlands by encouraging development in designated urban centers, while funding and creating urban infrastructure necessary to foster livability in growing communities; and

WHEREAS, regional Transfer of Development Rights ("TDR") is an important tool that can help the City and the County achieve these goals; and

WHEREAS, in 2011, the Washington State Legislature approved, and the Governor signed, ESSB 5253, also called the Landscape Conservation and Local Infrastructure Program ("LCLIP"); and

WHEREAS, LCLIP is a new tool for cities and counties to partner on a program that links regional TDR with local infrastructure financing; and

WHEREAS, under LCLIP, in exchange for the City receiving TDRs from rural and resource lands for increased urban development, the County may partner with the City to help fund City infrastructure investments and public improvements to support the new growth by sharing a portion of the County's property tax revenue with the City; and

WHEREAS, the City partnered with the County on a National Estuaries Program grant to pay for consultant studies to evaluate implementing regional TDR and the economic feasibility of LCLIP and other financing tools to fund infrastructure to support growth in the Totem Lake Urban Center; and

WHEREAS, the consultant analyses indicate that: (1) a modest but implementable regional TDR program may be possible in Totem Lake's TL-5 zone, and (2) LCLIP could be a useful tool with modest financial benefits to the City, but would need to be timed to be implemented alongside future City development agreements in the Totem Lake Urban Center; and

WHEREAS, the cities of Seattle, Bellevue, Issaquah, Sammamish, and Normandy Park have entered into TDR interlocal agreements with the County; and

WHEREAS, any future TDR interlocal agreement between the City and the County should include funding from the County for public amenities in the City's neighborhoods that accept rural development rights for greater development.

NOW, THEREFORE, be it resolved by the City Council of the City of Kirkland as follows:

Section 1. The City Council supports the concept of regional Transfer of Development Rights (TDR) and partnering with King County on a regional TDR effort, at the appropriate time, through an interlocal agreement.

Section 2. As part of the City's update to its Comprehensive Plan, by or before June 2015, the City Council will consider amending existing policies and incorporating new policies into the City's Comprehensive Plan that provide broad support for TDR, similar to those shown in the attached Exhibit A and by this reference incorporated.

Section 3. As part of the City's update to its Comprehensive Plan, by or before June 2015, the City Council will consider incorporating development regulations into the City's Zoning Code to implement TDR policies similar to those shown in Exhibit A and by this reference incorporated.

Passed by majority vote of the Kirkland City Council in open meeting this _____ day of ___________, 2014.

Signed in authentication thereof this ____ day of ___________, 2014.

____
MAYOR

Attest:

____
City Clerk

Exhibit A

Comprehensive Plan

As part of the City's update to its Comprehensive Plan, existing policies may be revised and new policies may be incorporated to provide support for the use of the Transfer of Development Rights (TDR). These policies may be similar to those shown below. Amended and new text is shown as bold or italicized:

VI. Policy LU-7.4: Work with adjacent jurisdictions and State, federal, and tribal governments to identify and protect open space networks to be preserved within and around Kirkland.

Preserving open space corridors inside ***and surrounding*** the City need not conflict with private property rights or preclude the reasonable use of land. To this end, a variety of strategies should be considered that provide opportunities for negotiating "win-win" approaches to preservation and development ***including market-based tools such as Transfer of Development Rights***.

X. Policy XX-XX: Consider market-based conservation tools such as Transfer of Development Rights to protect farmland and forestland within the region, salmon conservation, and water quality purposes.

X. Policy XX-XX: The City should consider partnering with King County on a regional TDR effort, at the appropriate time, through an interlocal agreement (ILA). The ILA should require King County to provide the City with funding for public improvements in the neighborhoods accepting the increased development capacity through TDR.

XIII. Policy CF-5.3: Use a variety of funding sources to finance facilities in the Capital Facilities Plan.

XIII. Policy CF-5.11: Where appropriate, the City may use infrastructure-financing programs to fund capital improvements in areas designated for growth.

V. Policy NE-2.4: Improve management of stormwater runoff from impervious surfaces by employing low impact development practices where feasible through City projects, incentive programs, ***such as Transfer of Development Rights,*** and development standards.

Zoning Code

Regulations to implement amendments to Comprehensive Plan policies in support of TDR should include regulations that should incorporate the concepts noted below:

- The TL-5 zone in the Totem Lake Urban Center should be considered as a possible receiving area for regional TDRs. The City should consider amending the Zoning Code for the TL-5 zone to allow for increases in maximum floor area ratio (FAR) or other development incentives tied to the use of regional TDR with King County.

- Provisions for increased development capacity should be established through development agreements for properties that participate in regional TDR. LCLIP should be considered alongside any future development agreement the City contemplates for properties located within the Totem Lake Urban Center.