

**BELLINGHAM ANNEXATION AREAS
TRANSFER OF DEVELOPMENT RIGHTS
PROGRAM
FEASIBILITY ANALYSIS**

PREPARED FOR CITY OF BELLINGHAM

BY PROPERTY COUNSELORS

JANUARY 2009

INTRODUCTION AND SUMMARY

INTRODUCTION

The City of Bellingham has a Purchase of Development Rights (PDR) in place to limit development of environmentally sensitive areas, as well as a Transfer of Development Rights (TDR) program to encourage additional density in key locations. The City has purchased property and development rights in the Lake Whatcom Watershed, using funds from a surcharge on water usage in the city. The City has also designated the Old Town area as a potential receiving area for development rights in return for contributions to the Lake Whatcom Watershed Property Acquisition Program. The City is exploring expanding its TDR program to provide for additional density in annexation areas within the Urban Growth Area (UGA).

Whatcom County also has a TDR program. Established in 1999, the program designates several receiving areas including areas within the City of Bellingham's UGA. The map on the following page shows potential annexation areas along the City's current boundaries. Urban Residential Mixed Use (URMX) zoning in these areas provides for a density of one unit per five acres in unserved areas; and a base density of six units per acre in areas served by public sewer, water and stormwater collection and detention facilities. Such services are generally only available through annexation to the City. The density can be increased to ten units per acre with transfer of development rights. The City is considering whether to adopt its own TDR program for these areas after annexation.

The City has initiated an economic analysis to consider the feasibility of such a program. The study will address the following issues:

Does such a program provide an incentive for increased density in the areas?

What are the appropriate parameters for purchase ratios (relationship between numbers of receiving units for each sending unit) and price per unit?

What other elements of a program would enhance its potential for success?

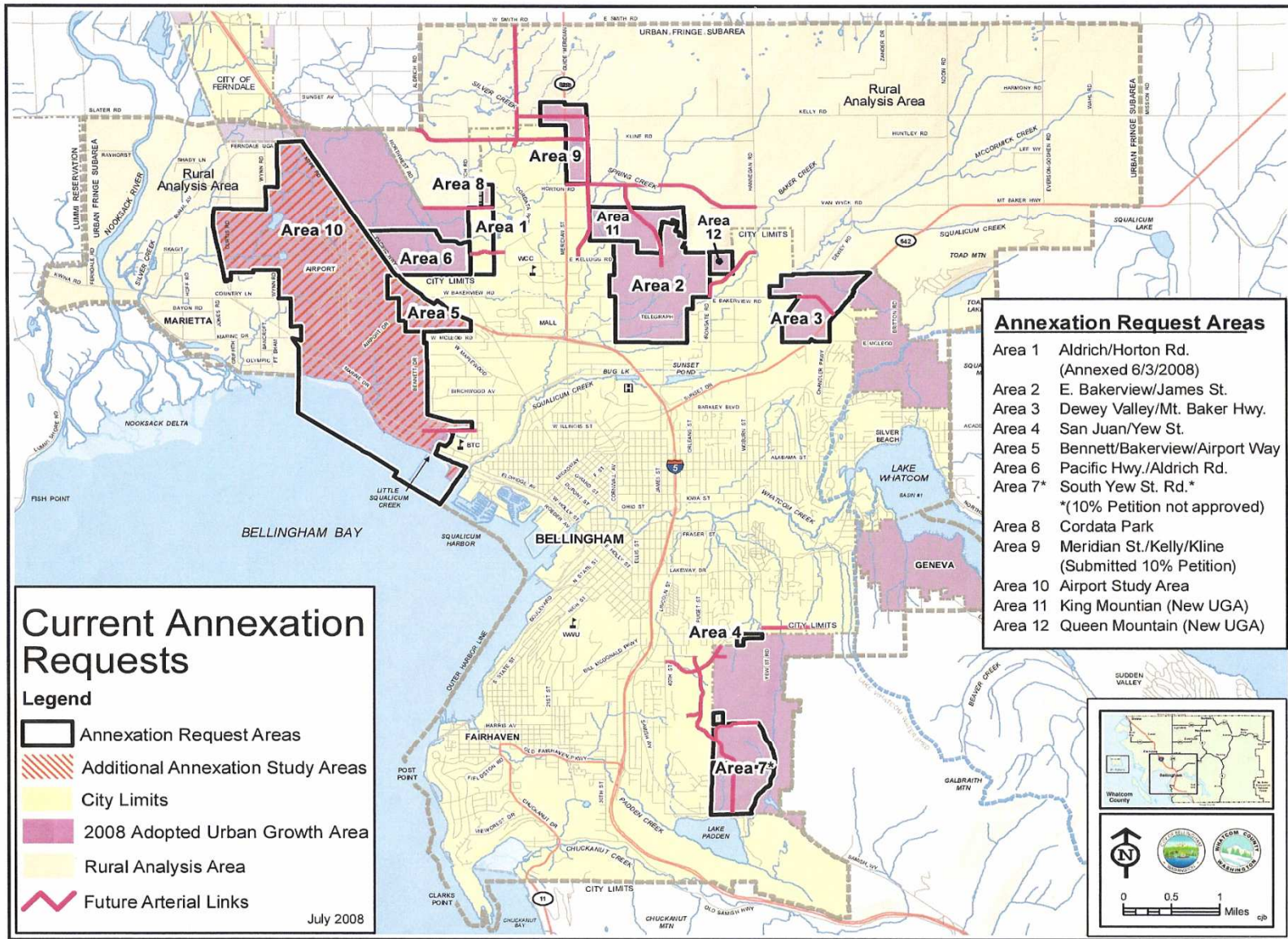
Property Counselors has conducted the study and prepared this report to document the results. It is organized in three sections:

Review of Market for Single Family Development in Annexation Areas

Review of Local TDR Programs and Economic Parameters

Recommendations for TDR Program

The key results of the study are summarized in the remainder of this section.



SUMMARY

REVIEW OF MARKET FOR SINGLE FAMILY DEVELOPMENT IN ANNEXATION AREAS

Raw land prices were approximately \$20,000 to \$30,000 per lot in 2004. Land planned for larger lots sold for higher amounts. Prices have dropped since that time. In several instances, property is listed or sold recently at prices lower than prices two to three years earlier. In one case, the price was lower for land with a preliminary plat approval than it was earlier as raw land. Finished lot prices showed similar trends. Lots that are larger are selling for higher prices. Further, recent sales are significantly lower than earlier sales

The number of actual lots for plats in the Urban Mixed Use zones represented only 43% of the maximum number of lots allowed. Builders are not taking advantage of the potential density available to them outright, without even considering the potential for transferring additional development rights.

Based on the city's land capacity analysis completed in 2006, there is a shortage of capacity for land to accommodate projected population growth through 2022. The shortage could be accommodated in one of two ways: higher achieved density in existing UGA, or designation of additional lands. Given that the available land supply will meet almost 90% of the forecast growth, that there are review areas under consideration for expansion of the UGA, and that existing areas in the UGA are not being built out to their theoretical maximum densities, it does not seem that there will be any significant demand for TDRs in the annexation areas in the next decade.

REVIEW OF LOCAL TDR PROGRAMS AND ECONOMIC PARAMETERS

Bellingham and Whatcom County each have purchase and transfer of development rights programs in place. While there have been extensive purchases of properties and property rights, there have not been any TDRs actually used other than one project where the developer transferred rights from another property he owned. Most developers are skeptical about the value of TDRs primarily because of uncertainty about exactly how it would work and whether higher density projects could ultimately be approved. Equally important, new subdivisions are being developed at densities below the base densities under current zoning. Developers are forgoing development rights they are already entitled to; they are not likely to pay for additional rights.

RECOMMENDATIONS FOR TDR PROGRAM.

There are eleven active TDR programs in Washington State. There are several key elements common to successful TDR programs.

Suitable Receiving Sites

Cooperation between Sending and Receiving Jurisdictions

Balanced Market for Supply at Sending Site and Demand at Receiving Site

Attractive Financial Incentives

TDR Bank and Facilitating Mechanisms

Community Support

The conditions in Bellingham and Whatcom County, and the experience elsewhere support the following conclusions and recommendations.

1. A Transfer of Development Rights program isn't likely to be successful in the annexation areas given current densities and economic conditions. New plats in the areas around City boundaries are currently being developed at densities lower than the base densities allowed by zoning. These conditions are likely to continue for the foreseeable future, the next five to ten years. The City does have the power to impose base densities as a condition of annexation.
2. One action that the City could take to change these conditions would be to lower the base densities below the level evident in recent subdivisions. While this would create value for additional development rights, it wouldn't necessarily promote goals of increased density in urban areas where infrastructure is available. We do not recommend such a change.
3. While such a program is not a practical tool at this time, the City could still create a program, providing a structure that will be increasingly attractive over time. As the City approaches its development capacity, there will be increased demand for development rights, and at some point there will be an incentive for developers to purchase those rights.
4. The program is likely to be used initially on an exception basis only. In order to encourage these pioneering efforts, financial terms should be set at favorable levels initially. The effective cost per TDR at the receiving end should not exceed \$3,000.
5. Expansion of the Lake Whatcom Watershed Purchase program could provide a TDR bank as a TDR program becomes more popular.
6. If a TDR program is to be an effective tool in the future, it will be important to identify a demonstration project to provide evidence of the benefits of the program and the mechanics of how it can work. The City should support a demonstration program on a representative site, which offers flexible land use options and very favorable financial terms during the demonstration period.

7. The City could enhance the attractiveness of the program with an amenity contribution to fund public improvements in the receiving area. These improvements wouldn't take the place of developer funded improvements, but would enhance the marketability of any new development.

REVIEW OF MARKET FOR SINGLE FAMILY DEVELOPMENT IN ANNEXATION AREAS

An overview of the single-family residential market in Bellingham area provides an understanding of the nature and strength of the underlying market as well as quantitative information for setting TDR program parameters. This section addresses market conditions in terms of:

- Residential Market Overview
- Single Family Residential Lands and Lot Sales
- Development Densities
- Overall Balance of Land Supply and Demand

RESIDENTIAL MARKET OVERVIEW

Bellingham has an estimated 34,694 housing units in 2008, as shown in Table 1. This represents a 57% increase since 1990. Single family accounts for 51% (17,566 units) of the total units, while multifamily units represent 47% (16,277 units) of total units. The proportion of multifamily units has increased from 36% of total units in 1990, while the percentage of single family units has declined.

**Table 1
Bellingham Housing Inventory**

Housing Type	1990		2001		2008	
	No. of Units	% of Total	No. of Units	% of Total	No. of Units	% of Total
Single Family	13,176	59.6%	15,042	51.7%	17,566	50.6%
Multi Family	8,011	36.2%	13,264	45.6%	16,277	46.9%
Mobile Homes	927	4.2%	792	2.7%	851	2.5%
	22,114	100.0%	29,098	100.0%	34,694	100.0%

Source: Whatcom County Real Estate Research Report 2002
State of Washington Office of Financial Management Sept 2008

Table 2 provides a summary of building permit trends in the City. Total residential building permits in Bellingham increased sharply beginning in 2003, then declined significantly in 2007 and 2008 year-to-date. The majority of new permits since 2003 consist of multi-family units, which have outpaced new single family units by a rate of over three to one.

Table 2
Residential Building Permits
City of Bellingham 1985-2008

Year	Single Family	Duplex	Multi Family	Misc.	Total
1985	84	10	361	*	455
1986	115	5	89		209
1987	133	2	236		371
1988	157	16	411		584
1989	204	32	437		673
1990	149	54	372		575
1991	124	56	319		499
1992	197	92	331		620
1993	204	112	324		640
1994	289	88	835		1,212
1995	258	38	309		605
1996	307	32	113		452
1997	273	58	169		500
1998	272	60	120		452
1999	275	44	467		786
2000	238	38	617		893
2001	249	26	414		689
2002	223	40	373	10	646
2003	260	34	701	63	1,058
2004	306	38	563	26	933
2005	179	46	722	23	970
2006	157	42	1485	-39	1,645
2007	189	22	289	-8	492
2008 (thru Aug.)	53	0	84	0	137

Source: *Whatcom County Real Estate Research Report 2008*

Whatcom County Planning Department

* Misc. permits prior to 2002 were included elsewhere

SINGLE-FAMILY RESIDENTIAL LAND AND LOT SALES

There has been very limited sale activity involving undeveloped land suitable for single-family residential development in the past year. This is not surprising due to the housing and credit crisis impacting new development in Bellingham and throughout the country. During the course of our investigation, we learned of only two sales of subdivision land in recent months; consequently, sales dating back to 2004 were investigated for use in this analysis.

RESIDENTIAL LAND AND PLAT SALES

Table 3 summarizes sales of undeveloped (“raw”) residential land, as well as recent sales and listings of plats with preliminary or final approval. A plat with final approval has improvements in place and offers finished lots. A plat with preliminary approval has plans and entitlements in place but no improvements. Raw land has zoning in place but no other entitlements.

Table 3
Residential Land and Plat Sales/Listings

Plat Name/ Location	Sale Date	Density	No. of Lots	Lot Size (Avg Sq Ft)	Price per Lot	Status at time of Sale
Sunnybrook Britton Rd./Sunnybrook Ln.	2006	12,000 sf	13	12,000	\$54,166	Raw Land
Padden Trails Kellogg St., N. of Lk. Padden	2004	20,000 sf	224	7,100	\$25-30,000	Raw Land
Stonecrest Hannegan Rd.	2004		80	7,892	\$20-25,000	Raw Land
Cordata E-8/E-9 Aldrich/Kline/Cordata Pkwy.	Sept. 2008 July 2005	4-6/ac	428	4,140	\$11,682 \$40,421	relim. Plat Approv Raw Land
Samish Glen 2300 36th St.	Oct. 2008	12,000 sf	13	5,970	\$118,000	Final Plat Approv
San Juan Hill Adams Ave./44th St.	Listing	20,000 sf	51	7,500	\$37,059	relim. Plat Approv
Vacant Land 4050 Deemer Rd.	Listing Aug. 2007	3,600 sf	28	NA	\$21,393 \$31,071	Raw Land

As indicated in the table, one of the more recent sales of raw land consisted of property off of Britton Rd. at Sunnybrook Lane which was purchased in 2006. The buyer paid \$54,166 per lot for this site which was subsequently developed into thirteen 12,000 square foot single-family lots. In mid-2005, D.R. Horton, the nation’s largest homebuilder, paid Trillium \$40,421 per lot for 72 acres in the northwest portion of the Cordata area. Developers associated with two other plats in Bellingham, the 224 lot-Padden Trails and 80-lot Stonecrest, stated that in 2004 they paid in the range of \$25,000 to \$30,000 per lot and \$20,000 to \$25,000 per lot, respectively, for these properties.

Indicative of the downturn in the current market and other problems, D.R. Horton just sold their 428-lot Cordata project (which received preliminary plat approval last April) in September for \$5,000,000, or only \$11,682 per lot. The buyer, Ted Mischaikov, also

acquired 125 ready-to-build Horton lots in the same area for \$6,500,000, or \$52,000 per lot.

The only other recent sale of residential land was Greenbriar Construction's acquisition of the Samish Glen plat east of I-5 at 36th St. in south Bellingham. Sale price was equivalent to \$118,000 per lot for this 13-lot development which obtained final plat approval in August.

Current listings of residential land include the San Juan Hills plat owned by Pacific Crest Partners, located east of Adams St. at 44th Ave. in south Bellingham. Asking price for this 51-lot plat, with an average lot size of 7,500 square feet, is \$37,059 per lot. Preliminary plat approval was obtained for this site in March 2008. A 4.6-acre raw site on Deemer Rd. in northeast Bellingham, reportedly allowing for 28 lots, is currently advertised at \$599,000, or \$21,393 per lot. This property previously sold in August 2007, around the peak of the housing market, for \$870,000, or \$31,071 per lot.

FINISHED LOT SALES

Sales of finished single-family lots which have occurred in the past year or two, as well as current listings are summarized in Table 4.

Table 4
Finished Lots Sales and Current Listings

Plat Name/ Location	Sale Date	Lot Size (Sq Ft)	Lot Prices
Sunnybrook Sunnybrook Lane	June '07-July '08	12,000	\$163,000-\$177,000
Wildrose Hills Kenoyer Drive	Mid-'06-Early '07	7,200-10,900	\$120,000-\$150,000
Karen's Bakerview Bakerview Rd./Kramer Ln.	Apr-07	4,617-5,097	\$128,000-\$130,000
Birch Heights Alabama St./Birch St.	Listings (19 Lots)	7,200-10,358 50,530	\$170,000-\$190,000 \$250,000
Savannah Park Silver Oak Court	Listings (4 Lots)	8,184-9,258	\$175,000
Creekside Cove Deemer Rd./Waterleaf Ln.	Listings (19 Lots)	2,440-4,878	\$84,000-\$125,000
School Place McGrath & Tree Farm Ln.	Listings (15 Lots)	5,900-6,500	\$140,000-\$149,000

In the Sunnybrook plat off of Britton Rd., 11 finished lots sold between mid-2007 and mid-2008 at prices ranging between \$163,000 and \$177,000 per lot. These are larger lots (12,000 square feet) that have mountain views. Twelve lots in Wildrose Hills, a plat south of Lakeway Dr. on Kenoyer, sold for \$120,000 to \$150,000 per lot in the latter half of 2006 and early 2007. Lot size ranged from 7,200 to 10,900 square feet at this subdivision. Smaller lots at the Karen's Bakerview plat on Bakerview Rd. (4,617 to 5,097 square feet) sold in Spring 2007 for \$128,000-\$130,000.

The newest subdivision in Bellingham is Birch Heights, located south of Alabama St. at Birch St. This 19-lot plat consists primarily of 7,200 to 10,358 square foot lots with views of Lake Whatcom, Bellingham Bay and/or the Cascade foothills. List prices are currently in the \$170,000 to \$190,000 range, which reflects an approximate 5% to 15% reduction from their initial list prices in September. Savannah Park, just northeast of Lake Whatcom, has four lots ranging between 8,184 and 9,258 square feet currently for sale at \$175,000 per lot.

Creekside Cove is an over 55 community of 19 lots on Deemer Rd., south of Bakerview Rd. in north Bellingham. This subdivision has smaller lots between 2,440 and 4,878 square feet that have limited territorial views. First listed in July 2008, lot prices were

reduced \$12,000 to \$19,000 per lot in August to their current range of \$84,000 to \$125,000 per lot. Just off the Mt. Baker Highway at Tree Farm Lane is the School Place plat. Fifteen lots ranging between 5,900 and 6,500 square feet have been on the market since last March at prices of \$140,000 to \$149,000. The lots have mountain views.

SUMMARY OF RESIDENTIAL LAND SALES

As shown in Table 3, raw land prices were approximately \$20,000 to \$30,000 per lot in 2004. Land planned for larger lots sold for higher amounts. Prices have dropped since that time. In several instances, property is listed or sold recently at prices lower than prices two to three years earlier. In one case, the price was lower for land with a preliminary plat approval than it was earlier as raw land.

As shown in Table 4, finished lot prices showed similar trends. Lots that are larger are selling for higher prices. Further, recent sales are significantly lower than earlier sales

DEVELOPMENT DENSITIES

The demand for development at different densities determines the degree to which a TDR program will provide an incentive to developers. If higher densities create value, a developer will be willing to spend a portion of that value in return for the density. Table 5 on the following page summarizes the average residential density for several single family plats in the UGA Urban Residential Mixed Use (URMX) zones. URMX zoning in these areas provides for a density of one unit per five acres in unserved areas; and a base density of six units per acre in areas served by public sewer, water and stormwater collection and detention facilities. The density can be increased to ten units per acre with transfer of development rights.

As shown, the number of actual lots for the 11 plats represented only 43% of the maximum number of lots. The average density was only 3.8 per gross acre compared to an average maximum of 9 lots. While the average percentage of maximum capacity was lower in some of the older plats, the percentage for the most recent plat shown, Birch Heights, is only 53%. Builders are not taking advantage of the potential density available to them outright, without even considering the potential for transferring additional development rights.

The City acknowledges this reality in the report on the Land Supply Methodology prepared in May 2006. "Given the resistance to higher residential densities by many of the UGA property owners; the uncertainties regarding how many TDRs will be utilized to achieve densities beyond 6 units per acre; and the documented utilization rate of existing zoned capacity; staff recommends modeling growth with the 6 unit average...(page 8.)

These results suggest that the demand for additional density in the UGA URMX zones through TDRs is not high.

Table 5
Built Density - Bellingham UGA URMX Zones

Plat Name	Year	Acres	Actual Lots	Lots/ Gross Acre	Net Acres Developed	Lots/ Net Acre	Max. Lots/ Gross Acre	Max. Lots	% of Max. Capacity Built	Recent Home Prices
Baker Creek Estates	1999	9.0	43	4.78	5.50	7.82	10	90	48%	\$240,000-\$280,000
Glengary Estates	2000	4.6	26	5.65	3.55	7.32	10	46	57%	\$184,000-\$308,000
Toad Creek Vista	2001	5.0	18	3.60	4.17	4.32	10	50	36%	\$350,000
Creekside Meadows	2002/03	18.3	70	3.83	7.90	8.86	10	183	38%	\$258,000-\$290,000
Spring Creek Meadows	2003	25.0	92	3.68	13.05	7.05	10	250	37%	\$295,000-\$460,000
Hillside Estates	2002-04	17.5	74	4.23	12.74	5.81	10	175	42%	\$250,000-\$380,000
Trickle Creek	2003-05	18.7	72	3.85	8.28	8.70	10	187	39%	\$261,000-\$364,000
Wildrose Hills - Div. 1 Phase 1	2006	8.7	19	2.18	3.50	5.43	4	35	55%	\$500,000-\$560,000
Sunnybrook	2007	4.7	13	2.77	3.60	3.61	3	14	92%	\$455,000-\$645,000
School Place	2007	4.1	18	4.39	2.50	7.20	4	16	110%	No Home Sales Yet
Birch Heights	2008	6.0	19	3.17	3.70	5.14	6	36	53%	No Home Sales Yet
Total		121.6	464.0	3.82	68.5	6.77	9	1,082	43%	

Source: City of Bellingham Land Supply Methodology, May, 2006
Property Counselors

OVERALL BALANCE OF LAND SUPPLY AND DEMAND

Over time, the potential demand for TDRs will be related to the balance of supply and demand for residential lands. The City regularly prepares an analysis of the adequacy of land supply and demand within the UGA. The most recent analysis was completed in 2006, based on data from 2005. While this information is not current, it does suggest some long term trends.

**Table 6
City of Bellingham Summary of Land Supply Analysis**

Projected Population Growth	
Forecast Growth 2002-2022	31,601
Actual Growth 2002-2005	(4,222)
Population displaced by Industrial Development	<u>538</u>
Remaining Growth to Accommodate	27,917
Land Capacity (Net Capacity for Population Growth)	
Urban Centers	8,516
City Neighborhoods	8,389
UGA Planning Areas	<u>8,197</u>
	25,102
Additional Capacity Required	<u>2,815</u>

Source: Bellingham Comprehensive Plan, Land Use Chapter

As shown, there is a shortage of capacity for land to accommodate projected population growth through 2022. The shortage could be accommodated in one of two ways: higher achieved density in existing UGA, or designation of additional lands. The current land supply analysis calls for designating an additional 821 gross acres of residential land in several review areas. Given that the available land supply will meet almost 90% of the forecast growth, that there are review areas under consideration for expansion of the UGA, and that existing areas in the UGA are not being built out to their theoretical maximum densities, it does not seem that there will be any significant demand for TDRs in the annexation areas in the next decade.

REVIEW OF LOCAL TDR PROGRAMS AND ECONOMIC PARAMETERS

Both Bellingham and Whatcom County have Purchase of Development Rights (PDR) and Transfer of Development (TDR) programs in place. The characteristics and experience of each provide lessons for any program expansion in Bellingham. In particular they provide evidence on which to base transfer parameters. This section addresses these issues in three subsections:

Description of Local Development Rights Programs

Demand for Transferable Development Rights

Value of Development Rights.

DESCRIPTION OF LOCAL DEVELOPMENT RIGHTS PROGRAMS

The programs in Whatcom County and the City of Bellingham are described below.

WHATCOM COUNTY

Whatcom County has both purchase and transfer of development rights programs. The purchase of development rights is intended to preserve farmland. The development rights are purchased and extinguished; they are not available for transfer. Funding is provided by a combination of a Conservation Future bond levy and US Department of Agriculture grant funds. The average price paid per development right was \$48,000 as shown in Table 7.

The TDR program was created in 1999. Eligible sending areas are in the Lake Whatcom and Birch Bay watersheds. Eligible receiving sites are in the Urban Growth Area Mixed Use zones of the county. URMX zoning allows for a minimum net density of six units per acre in areas served by public sewer, water and stormwater collection and detention facilities. Without these facilities in the maximum density is one unit per five acres, Density can be increased to ten units per acre with transfer of development rights. Each development right transferred from the Lake Whatcom Watershed may be used to develop three dwelling units in the UGA.

The TDR ordinance also authorizes creation of a TDR Bank with the powers to purchase and sell rights, hold rights, accept donations, and accept in-lieu payments. The TDR Bank has not been put in place. Currently, TDRs are bought and sold in private transactions. The County is considering another TDR program for agricultural lands.

The level of TDR activity as of fall 2008 was 229 TDRs purchased and 31 units transferred. 23 of the development rights were transferred between properties owned by a single owner. None of the other transferred units has actually been used. Prices of TDRs have been between \$2,000 to \$6,000.

Table 7
Whatcom County Purchase of Development Rights Program

	Transactions	Price	Acres	Units	Price / Acre	Price / Unit
Property Acquisitions						
2002	1	\$480,000	40	7	\$12,115	\$68,571
2003	2	940,200	196	38	4,787	24,742
2004	1	1,065,000	91	18	11,703	59,167
2005	1	170,000	40	3	4,263	56,667
2006	3	895,000	204	12	4,381	74,583
2007	3	560,000	70	6	8,058	93,333
Total	11	\$4,110,200	640.70	84.00	\$6,415	\$48,931

Source: Whatcom County Planning and Development Services

BELLINGHAM

The City has a purchase program for the Lake Whatcom Watershed as well. The acquisition process includes several steps:

1. Staff identifies available and high priority properties.
2. Council approves properties to be purchased.
3. City makes offer for either outright purchase or restrictions on property.
4. City purchases restrictions (development rights or impervious area credits).
5. City can purchase property outright and save property for utility or park use, or impose restrictions and resell the property with restrictions in place.

The program is funded with a surcharge on City utilities, as well as bond funds. The City had purchased 1,188 acres outright, and purchased conservation easements and covenants for 164 additional acres. 1352 acres are protected in total, representing 669 units of residential development capacity. The prices vary greatly from transaction to transaction, but the average price per acre was \$14,000 and the average price per unit was \$30,000 as shown in Table 8.

Table 8
City of Bellingham Lake Whatcom Watershed Property
Acquisitions as of 6-2-2008

	Transactions	Price	Acres	Units	Price / Acre	Price / Unit
Property Acquisitions						
2001	1	\$400,000	35	18	\$11,429	\$22,222
2002	15	5,603,796	702	216	7,986	25,944
2003	8	1,046,875	51	26	20,642	40,264
2004	2	4,350,000	196	248	22,194	17,540
2005	1	39,000	0	2	92,857	19,500
2006	4	3,953,700	144	31	27,504	127,539
2007	1	810,000	50	10	16,200	81,000
2008	1	450,000	10	2	45,000	225,000
Total	33	\$16,653,371	1,188	553	\$14,023	\$30,115
Conservation Easements and Covenants						
Total	3		164	116		
Total Protected			1,352	669		

Source: City of Bellingham Department of Public Works

The City has adopted a subarea plan for Old Town that allows for a density bonus for contributions to the Lake Whatcom Watershed Property Acquisition Program. Up to a maximum of .5 additional floor area ratio is available at a price to be set by City Council resolution. A transfer price of \$12 per square foot was identified as a reasonable rate by Property Counselors in a report to the City in 2007. While this program is equivalent to a TDR program, it is structured as a fee-in-lieu of development rights purchase.

DEMAND FOR TRANSFERABLE DEVELOPMENT RIGHTS

Interviews were conducted with numerous residential developers active in the Bellingham area to gauge strength of demand for transferable development rights (TDRs). The opinions of these developers and their rationale are summarized in the following paragraphs.

As background, only one project with TDRs has been undertaken in Whatcom County to date. In 2005, Alliance Properties applied for extension of water and sewer utility service zones to provide city water and sewer to their proposed subdivision known as Stonecrest, located near the northwest corner of E. Bakerview Rd. and Irongate Rd. The site was in Whatcom County's Urban Residential Mix (URMX) zone, a designation which is primarily single-family allowing for one dwelling unit per five acres. A minimum of six dwelling units per acre is allowed if public sewer, water and stormwater drainage facilities are provided. With TDRs, density can be increased to 10 units per acre.

Alliance Properties' proposal met the exception to the City Council's policy on utility service zone extensions, which states that the Council will review utility extension

requests in designated TDR receiving zones. Such requests have to include proof of purchased or transferred TDRs, applied to the subject property to achieve maximum density practicable. Alliance ended up applying 23 TDRs from other sites they owned, more than the required number of TDRs to reach the County's URMX maximum density of 10 dwelling unit per acre. Nine TDRs were used for the Stonecrest development.

Several individuals representing the development community stated the TDR program had limited appeal due primarily to uncertainty associated with the program. Such uncertainty is manifested in a scenario whereby a developer purchases TDRs to obtain higher density, than encounters neighborhood opposition when they attempt to proceed with their proposed project. In essence, they felt that TDRs had no value today due to such uncertainty, and this is evident by the program's lack of use.

One developer opined that inducements were needed to make TDRs attractive to developers. As an example, he cited the tax abatement program that was instigated as part of the push for downtown housing. He went on to say that other incentives, besides just financial incentives, must be provided such as faster permitting and regulatory approvals, tasks that save developers time. Again, though, this individual reiterated that the fact that no one is using the TDR program indicates that economic incentives are lacking.

A couple individuals did state that higher density which can be obtained through the TDR program was indeed desirable as infrastructure and related development costs can be spread out over more lots. It is imperative to know the likelihood of successfully acquiring upzoning potential when negotiating purchases of raw land as such impacts prices paid to landowners. This reiterates the uncertainty theme that developers feel is inherent in the TDR program, resulting in its lack of utilization.

VALUE OF DEVELOPMENT RIGHTS

The value of development rights is determined in the marketplace, based on the value to the seller at the sending site, and the value to the buyer at the receiving site. Any discrepancy can be reconciled through a transfer rate. For example, if the value of one development right at the sending end is \$35,000, and the value at the receiving is \$5,000, a transfer rate could be set at seven TDR at the receiving equivalent to one TDR at the sending site.

As presented above, the price for TDRs sold under the existing County program, has varied between \$2,000 and \$6,000. These prices are equivalent to \$6,000 to \$18,000 per development right at the sending end, using the 3:1 transfer ratio. This is considerably less than what the City or County has paid in the purchase programs. In effect, private purchasers are negotiating lower prices than the agencies.

The value of a development right at the receiving end should be related to the cost of raw land for residential development. As presented in the previous section, raw land costs were approximately \$20,000 to \$30,000 per lot in 2004/2005. More recent prices are

significantly lower at \$10,000 to \$15,000. (The low end is skewed by Horton's fire-type sale of 428 lots.) The fact that the prices for TDRs are lower than the average raw land cost per lot reflects three key factors:

- The housing market may not put the same value on land for the product at higher densities as it does for land for the product at base densities.
- Site conditions may not lend themselves to additional density.
- The administrative requirements of the program may discourage its use.

For all these reasons, the current value of TDRs at the receiving end is effectively zero.

- While there have been TDRs purchased at prices up to \$6,000, there haven't actually been any TDRs used.
- Most developers we talked to had no interest in participating.
- Most importantly, new subdivisions are being developed at densities below the base densities under current zoning. Developers are forgoing development rights they are already entitled to; they are not likely to pay for additional rights.

RECOMMENDATIONS FOR TDR PROGRAM

The experience of the existing development rights programs in Whatcom as well as the experience in other programs in the state provide a basis for recommending features of an expanded program in Bellingham. This section is organized in three subsections:

Other TDR Programs in Washington

Elements of Successful Programs

Conclusions and Recommendations

OTHER TDR PROGRAMS IN WASHINGTON STATE

Table 9 summarized the characteristics of several TDR programs in Washington State as compiled by the Cascade Land Conservancy. The programs are similar in that they target the preservation of resource lands, open space and critical areas. Seattle has the additional objectives of preserving historic structures and affordable housing. Generally the level of program activity is very low. Elements of the more active programs are described further below.

KING COUNTY AND SEATTLE

The existing King County TDR program was created in 1999 to direct development growth away from rural and resource lands and into urban areas. The program allows for transfers within unincorporated King County, as well as to designated areas of Seattle and Issaquah under terms of interlocal agreements. To date, 520 credits have been approved at eligible private sending sites. 479 TDR credits have been sold in 57 private transactions, and 329 credits have been redeemed. King County also operates a TDR Bank. The bank has purchased 1,124 credits, sold 49 credits, and has a balance available of 1,075. The average price per TDR credit purchased by the County was \$23,100. The average price per TDR credit sold by the County was \$27,100.

There is a somewhat active market for TDR credits in King County. Recent trends indicate an average value for TDR credits of \$20,000, with some transactions higher, and some lower.

**Table 9
TDR Programs in Washington State**

	Year	Objective	Acres in Sending Areas	Projects in Receiving Areas	TDR Bank
Bainbridge Island	1996	Agricultural Lands	0	0	No
Black Diamond	2003	Open Space Protection			Yes
Burlington (proposed)		Farmland			
Clallam County	1998	Ag Lands/Critical Areas/Open Space			No
Island County (revoked)	1984	Farmland	88		
Issaquah	2005	Critical Areas	2	1	In process
King County	1993	Rural Resource/Public Benefit lands	91,500 (2005)	3 in Denny Triangle	Yes
Pierce County (proposed)		Ag Lands/Open Space			
Redmond	1995	Ag Lands/Critical Areas	415	13	No
Seattle	1985	Affordable Housing/Historic Pres./Open Space Farmland Resource	883 acres 833 low inc. units	3	Yes
Snohomish County	2004	land/Open Space	72	14TDR's	No
Thurston County	1996	Agricultural lands			No
Vancouver		Historic Preservation			
Whatcom County	1999	Watersheds		31 transferred	No

Source: Cascade Land Conservancy (4/30/07)
Property Counselors

The City of Seattle and King County entered into an interlocal agreement that provides for the transfer of King County TDR credits to the Denny Triangle area. The agreement authorizes the transfer of 68 TDR credits to the designated area. One credit is equivalent to 2,000 square feet of additional development. The eligible sending areas are rural sites in the Cedar River and Tolt watersheds. Three projects have utilized the program, with TDR credits purchased for an average price of \$15,000 to \$30,000. The County is providing a \$500,000 amenity payment to fund street improvements in the area.

King County also provided an amenity payment of \$200,000 to Issaquah to provide additional incentive to utilize the program.

CITY OF REDMOND

The City of Redmond program allows for transferring development rights from designated sending areas (streams, wetlands, critical wildlife habitat areas, and steep slopes) to designated receiving areas (suitable urban sites with adequate infrastructure).

Each TDR may be used at the receiving end to increase building area, increase impervious surface, increase building height, or increase parking. As shown in the table, over 415 acres have been purchased and applied to 13 projects. The average price per TDR was \$35,000.

SUMMARY OF PROGRAMS

The programs in King County are the most active among those shown in the table. These programs offer receiving sites with strong demand for development. The use of TDRs is a cost-effective way to acquire the right to build additional area.

The existence of a TDR bank operated by a public agency facilitates development rights transfer. However, the market for private transactions was also strong. While the TDR bank purchased 1,128 credits (TDRs) compared to 475 units purchased privately, only 49 credits were sold from the bank compared to 329 for private transactions.

ELEMENTS OF SUCCESSFUL PROGRAMS

There are several key elements of any successful TDR program.

SUITABLE RECEIVING SITES

The strongest factor for success is the presence of demand for development at the receiving site. In particular, the receiving sites should have the following characteristics.

Strong Market Conditions. The area-wide market must be strong and the site itself should be in a popular local market area.

Adequate Infrastructure. Capacity of roads and utilities should be adequate to support additional density, or plans and funding should be in place to provide that capacity.

COOPERATION BETWEEN SENDING AND RECEIVING JURISDICTIONS

Sending areas are frequently located in rural or unincorporated areas, while receiving sites are in urbanized areas, often in cities. An interlocal agreement is usually required for transfers from county sites to city sites. The benefits of the transfer may be shared county-wide, while the burden is borne by the residents at or near the receiving site. The interlocal agreements between King County and Seattle and Issaquah provide for amenity payments to fund infrastructure improvements to accommodate the additional density at the receiving sites.

BALANCED MARKET FOR SUPPLY AT SENDING SITE AND DEMAND AT RECEIVING SITE

A successful program requires that there be some balance between the capacity for TDRs at the sending and receiving areas. If there is too much capacity at the sending end, there will be downward pressure on prices paid for TDRs and property owners may not participate. If there is too much capacity at the receiving end, the increased density will be dispersed. A transfer ratio (ratio of number of TDRs at the receiving end per TDR at sending end) can be set to provide some balance between capacity at each end.

ATTRACTIVE FINANCIAL INCENTIVES

The price for TDRs must provide an incentive for both the purchasers and sellers to participate. The value at the sending end is based on property values in the surrounding area. The value at the receiving end is determined by the value of the completed development and the alternative methods of assembling development rights. If a developer can meet market opportunities under existing zoning provisions he or she won't pay extra for transferred development rights. If either the base densities are too high, or the cost of a variance is low, the value of transferred development rights will be low as well.

TDR BANK AND FACILITATING MECHANISMS

A TDR bank provides a marketplace for purchasing and selling development rights. It can decouple the requirement to match a willing buyer and a willing seller, as the bank acts as one side or the other in the transaction. In many cases a TDR bank will have independent sources of funding such as grants or Conservation Futures tax levies. The bank can be flexible in balancing seller expectations and buyer requirements.

As noted for King County, a TDR bank does not preclude a strong private market. A clearinghouse function can be as important as a formal bank if that function provides information on purchases and sales and can bring together buyers and sellers.

In the case of either a bank or clearinghouse function, the goal is to create a market with low transaction costs. The administrative requirements of the program in terms of designations and appraisals are part of the overall cost of the program and must be controlled in order to encourage use.

COMMUNITY SUPPORT

As with any public program, there must be community support if it is to succeed. This is directly related to several of the other factors.

- The community at the receiving end must be willing to accept the additional density.

- The community must recognize the benefits of critical area preservation, and support interlocal agreements.
- A developer must feel confident that public opposition won't delay or halt the project.
- The public must support any public funding applied to a purchase of development rights program.

CONCLUSIONS AND RECOMMENDATIONS

1. A Transfer of Development Rights program isn't likely to be successful in the annexation areas given current densities and economic conditions. New plats in the areas around City boundaries are currently being developed at densities lower than the base densities allowed by zoning. If developers aren't willing to increase density when the additional rights are already paid for, they won't pay more for additional rights. These conditions are likely to continue for the foreseeable future, the next five to ten years. The City does have the power to impose base densities as a condition of annexation.
2. The primary action that the City could take to change these conditions would be to lower the base densities below the level evident in recent subdivisions. While this would create value for additional development rights, it wouldn't necessarily promote goals of increased density in urban areas where infrastructure is available. First, developers may build to the lower base densities. Further, lowering base densities reduces land capacity, thus making it more difficult to accommodate population growth forecast through 2022. We do not recommend that base densities be reduced.
3. While such a program is not a practical tool at this time, the City could still create the program, providing a structure that will be increasingly attractive over time. As the City approaches its development capacity, there will be increased demand for development rights, and at some point there will be an incentive for developers to purchase those rights.
4. The program is likely to be used initially on an exception basis only. In order to encourage these pioneering efforts, financial terms should be set at favorable levels. An effective cost per TDR at the receiving end should not exceed \$3,000. In order to match expectations of property owners in sending areas (as supported by previous transactions) of \$30,000 to \$50,000 per TDR, a transfer rate would have to be established at approximately ten TDRs at the receiving end for each TDR at the sending end. If a TDR bank is established, with a decoupling of purchase prices at each end, a TDR price can be set at \$3,000 at the receiving end.
5. Expansion of the Lake Whatcom Watershed Purchase program could provide a TDR bank if or when the program becomes more popular. The Watershed program has restrictions (development rights) that it has purchased or separated from property

rights that it has purchased. The bank could purchase additional rights, and sell rights over time. The sales could provide funds for additional purchases.

6. If a TDR program is to be an effective tool in the future, it will be important to identify a demonstration project to provide evidence of the benefits of the program and the mechanics of how it can work. There is little experience with use of TDRs in Whatcom County. There is cynicism about TDRs among developers that is at least partly due to uncertainty about how it works. The City should support a demonstration program on a representative site, which offers flexible land use options and very favorable financial terms during the demonstration period.
7. The City could enhance the attractiveness of the program with an amenity contribution to fund public improvements in the receiving area. These improvements wouldn't take the place of developer funded improvements, but would enhance the marketability of any new development. The amount of the amenity payment would have to be equal to or greater than the cost of purchased TDRs if there is to be a net incentive to a developer. At the same time any amenity payments should be conditioned upon the development meeting City requirements for additional density.