Item No. SS 2(a)(2)
January 20, 2009

CITY COUNCIL STUDY SESSION ITEM

SUBJECT

Regional transfer of development rights (Regional TDR) applicable to the Bel-Red Subarea.

STAFF CONTACTS

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POLICY ISSUES

Should the City implement a regional transfer of development rights (regional TDR) program that applies to the Bel-Red Subarea?

DIRECTION NEEDED FROM COUNCIL

____ Action
__X__ Discussion
__X__ Information

Tonight's Study Session provides information about a potential regional transfer of development rights (regional TDR) program that could be implemented for the Bel-Red Subarea. Sufficient policy support for regional TDR is already included in the draft Bel-Red Subarea Plan. If there is not enough time available for this discussion, regional TDRs could be brought back for review as part of the Bel-Red Land Use Code review in March.

BACKGROUND / ANALYSIS

Participation in a Regional TDR program is addressed favorably in the Bel-Red Steering Committee report. Incorporating Regional TDRs into the Bel-Red incentive zoning system could be an opportunity to help preserve open space and natural areas outside of the City that are important to the community and contribute to regional growth management goals. Subsequent to the Steering Committee effort, King County came forward with a proposal to promote Bel-Red as a receiving area for the King County Regional TDR program, offering a County capital investment in funding to help offset the loss of infrastructure funding due to the TDR bonus replacing Bel-Red's "Tier 1" bonus for parks and stream restoration.

Whether it makes sense to participate in a Regional TDR program involves analysis of how the program would fit into the proposed land use incentive system, balancing the local and regional benefits to be obtained via Regional TDRs against infrastructure revenues lost to Bel-Red. It also entails consideration of whether Regional TDRs are an appropriate tool for

preserving rural resource lands and open space, as opposed to conventional regulatory approaches.

A white paper assessing the Regional TDR proposal from King County and addressing the valuation of TDR credits was prepared by the City's economic consultant, Property Counselors. This was previously distributed to Council with other materials related to the long-term funding strategy, and is re-printed in tonight's packet as Attachment A.

NEXT STEPS

Staff is seeking Council direction on whether to proceed with a regional TDR component to the Bel-Red zoning incentive system at this time. If Council is interested in pursuing this, the draft Bel-Red Land Use Code will be revised to include regional TDRs in the amenity incentive system and staff will return with a detailed King County TDR Interlocal proposal for review.

ATTACHMENTS

A. White Paper on Regional TDRs

ECONOMIC EVALUATION FOR BEL-RED BONUS INCENTIVE SYSTEM EVALUATION OF REGIONAL TRANSFER OF DEVELOPMENT RIGHTS

PROPERTY COUNSELORS SEPTEMBER 2008

INTRODUCTION

The City of Bellevue is considering new zoning for the Bel-Red area. The proposed zoning will provide increased allowable density in the area, in return for investment in public infrastructure and public amenities. The incentive bonus system is intended to encourage more dense development as well as development that incorporates desirable features. The City has hired Property Counselors to assist them in evaluating the bonus incentive system and setting bonus rates that provide a real incentive, but also maximize public benefits.

Transfer of Development Rights (TDR) from eligible areas of unincorporated King County to Bel-Red sites is one of several features considered for the bonus incentive system. King County has proposed that the City join the County in establishing an interlocal agreement that provides for City participation in the county program. Specifically the County has proposed that:

- The City accept up to 75 rural TDR credits (equivalent dwelling units) to be purchased by developers for Bel-Red redevelopment. The eligible sending sites would be designated through joint discussions between the City and County to include properties with compelling interests for the City. Examples might include farm properties that supply the Bellevue Farmer's Market, or properties within key view corridors.

- The County pay the City $750,000 as an amenity Payment to fund parks and open space within the Bel-Red Plan area, in recognition that these investments are critically important to enabling development in Bel-Red, and that use of TDRs may reduce the amount of incentive zoning payments otherwise generated for these investments. To receive full payment of this amenity fund up-front, the County proposes that the City prioritize rural TDRs as a Tier 1 bonus. If the rural TDRs fall into Tier 2 or a separate tier, then the amenity payment would not be available up-front; an alternative sequencing would need to be negotiated with the County.

The City is interested in how this proposal can be incorporated into the proposed incentive bonus system. This report documents an analysis of TDR options. It addresses three specific questions:

How should the regional TDR bonus be calibrated?

How could the TDR bonus be incorporated within the tiered categorization of bonus features?

What is the impact of the proposed TDR bonus feature on incentives to developers and contributions to City infrastructure?

The report is organized in five sections:

Market for Transferable Development Rights

Calibration of TDR Value and Bonus Rate

Description of Options for Incorporating TDRs in Incentive Bonus System.

Evaluation of Options

Conclusions and Recommendations

MARKET FOR TRANSFERABLE DEVELOPMENT RIGHTS

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, similar to what is proposed for Bellevue.

Over the period 1999 through 2008 to-date, there have been 57 private TDR transactions, involving the sale of 479 TDR credits (equivalent units) counted at the sending end. The program includes both rural and urban credits, with rural credits originating in land zoned Resource, Agriculture or Forest; and urban units originating in lands zoned R-1 Urban Separator. A rural TDR credit is equivalent to two additional units at the receiving end, while an urban credit is equivalent to one additional unit at the receiving end of a transfer. As one would expect, the average price per rural TDR credit (at the sending end) is approximately twice the average price for an urban TDR credit. Alternatively, the average price per useable TDR at the receiving end is approximately equal for rural and urban credits.

Figure 1 summarizes the level of program activity in terms of private transactions and TDRs sold. As shown, activity was highest in 2004 and 2005. Figure 2 summarizes the trends in average price per TDR credit for equivalent rural sending sites. As shown, the average price was highest in 2000 (as the result of one prominent high price sale), declined through 2004, and increased to approximately $20,000 per TDR in 2007.

Figure 1.

KIng County TDR Program
Summary of Private Transactions

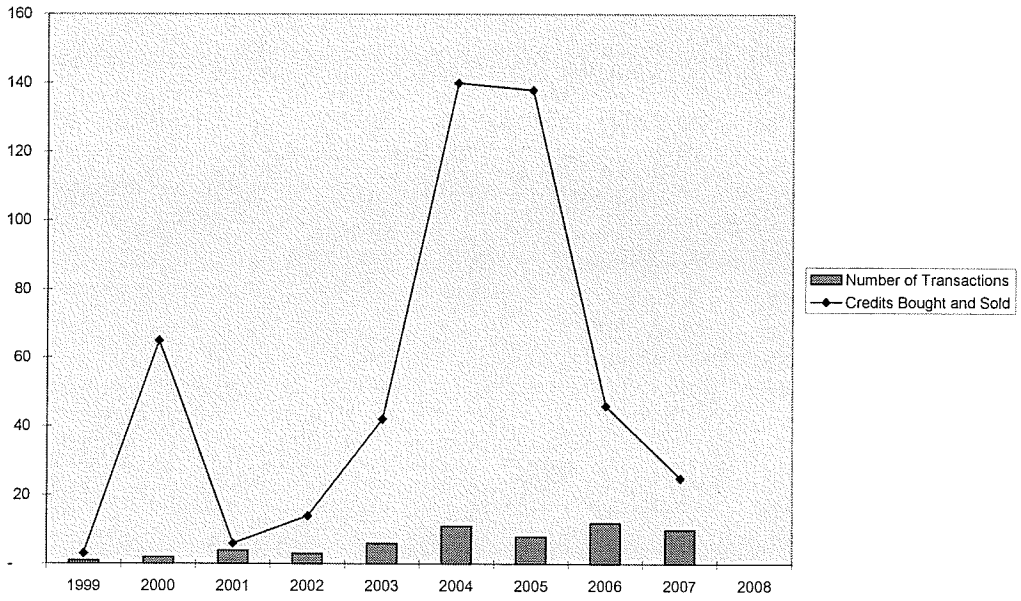
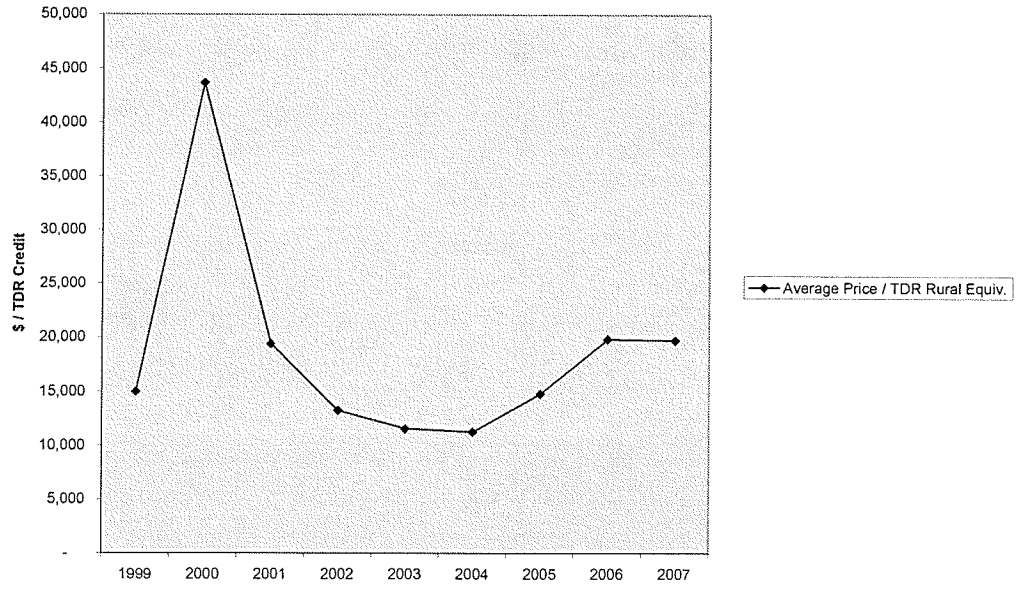


Figure 2.

King County TDR Program
Summary of Price Trends



To date, 520 credits have been approved at eligible private sending sites. 479 TDR credits have been sold. 329 credits have been redeemed.

The County also operates a TDR Bank. Activity levels to date are as follows:

TDR Credits Purchased by County	1,124
TDR Credits sold by County	(49)
Remaining Credits Available for Sale	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.

The market data indicates that there is a somewhat active market for TDR credits. Recent trends indicate an average value for rural TDR credits of $20,000, with some transactions higher, and some lower.

CALIBRATION OF TDR VALUES AND BONUS RATE

Calibration of the incentive system factors involves specifying the relationship between TDR credits and additional bonus area in Bel-Red. The TDR transfer program in the Denny Triangle area of Seattle under an interlocal agreement provides a starting point for specifying this relationship.

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 to date.

	Year Purchased	Type	TDR Sending Credits	Price/Sending Credit
2200 Westlake	2004/05	Private	19	$15,000
Olive 8 Tower	2007	TDR Bank	31	$30,000
Terry Ave. Tower	2007	TDR Bank	18	$22,000

The private purchase was equivalent to $7.50 per square foot of additional building area. The TDR Bank transactions were equivalent to $15 and $11 per square foot respectively. The first transaction was a relative bargain, although it reflected the market price at that time. The price range for the TDR Bank transactions reflected the conclusions of an appraisal/pricing study prepared for the County in March 2006 by Allen Bracket Shedd.

The pricing study considered a variety of evidence for values including:

The 2004/2005 TDR purchases at $7.50 per square foot.

Values of $15 to $20 per square foot for the City of Seattle's separate TDR program that allows for transfer of excess development rights related to Major Performing Arts and Landmarks and Low income Housing structures.

Values of $20 to $25 per square foot of total potential building area for recent Downtown Seattle residential project land sales.

The analysis discounted values because of site-specific considerations such as size, allowable heights, and likely use; and market factors such as downward pressures on rural sales prices. The conclusion of the analysis was that TDR bank prices be set at $10 to $15 per square foot of additional building area.

The driver for the calibration of the TDR bonus program is the estimated value of additional development rights. The underlying value for the bonus rates for other bonus features in the proposed Bellevue system is $15 per square foot. This rate was determined to be supportable by feasibility analysis and the recommendations of the Urban Land Institute (ULI) Technical Assistance Panel. None of the site-specific factors applied in the King county pricing study are applicable, because the Bel-Red plan is intended to accommodate the extra density associated with the incentive system. The range in price for TDR credits for rural sites is $15,000 to $25,000, with an average price in 2007 of $20,000. The appropriate bonus rate to provide equivalent bonus value at $15 per square foot would be 1,333 square feet of additional development per TDR credit.

This bonus rate is lower than the 2,000 square foot rate in the Denny Triangle area of Seattle. This fact is related to the lower average value per square foot of additional development in Seattle, which in turn is related to the discounts attributable to site-specific size and zoning conditions. One result of this difference is that a potential purchaser might consider the TDRs as more valuable in Seattle and have an incentive to apply them to projects there, but in fact the values are intended to be equivalent in both areas.

DESCRIPTION OF OPTIONS FOR INCORPORATING TDRS IN INCENTIVE BONUS SYSTEM.

The current proposed incentive bonus system calls for two tiers of bonus features:

Tier 1. Allowing additional FAR beyond a base value in return for:

Residential Projects: 50% for affordable housing and 50% for open space and stream restoration.

Commercial: 100% for open space and stream restoration.

Tier 2. Allowing additional FAR beyond the maximum for Tier 1, in return for a variety of on-site development features.

Note that the Tier 2 features are not available for bonus until the Tier 1 bonuses are fully utilized.

There are three general ways that the TDRs can be incorporated into the system:

As a Tier 1 Feature,

as a Tier 2 feature, or

as a feature in a separate tier independent of the other two, with separate limits.

These three options are evaluated below.

EVALUATION OF OPTIONS

The three options can be evaluated in terms of:

The extent to which they provide an incentive to developers.

The impact on the City in terms of priorities for bonus features.

The impact on the City in terms of its ability to fund necessary infrastructure.

The 1,333 square foot per TDR credit bonus rate is assumed to be the same for all three options. Further, in each case the County is assumed to provide $750,000 as an amenity payment, for up to 75 TDR credits. This amount is equivalent to $10,000 per credit or $7.50 per square foot of additional building area. The County proposes that if regional TDRS are included in the Tier 1 bonus, the amenity payment funds will be provided up-front, both earlier and with less uncertainty than would be the case with payments for developers.

OPTION 1. TIER 1 BONUS FEATURE

INCENTIVE TO DEVELOPER

The cost to the developer at the $15 per square foot value would be equivalent to the estimated cost of the other Tier 1 features. However, if a developer could purchase TDR credits privately at a price less than $20,000 per credit, that would be a cheaper method of acquiring extra density and provide an incentive to utilize that feature rather than stream restoration or affordable housing.

IMPACT ON CITY PRIORITIES

The amount of additional development allocated to this feature will reduce the amount of affordable housing or open space/stream restoration that would otherwise be provided in return for the extra density. In return, the City would benefit from the preservation of resource lands that are important to it. Some of the lost funding for affordable housing or stream restoration would be off-set by the County contribution, as described below.

IMPACT ON CITY INFRASTRUCTURE FUNDING

The City could collect funds for open space and stream restoration through the County's $750,000 up-front amenity payment offered with the TDR feature, and through each development's zoning incentive payments for the other features. The amenity payment would be equivalent to $7.50 per square foot of building area, while the zoning incentive payments would be equal to $15 per square foot. With the County's proposed 75 TDR limit on the TDR transfers, the maximum "lost" in-lieu payment equals 75 TDRs times 1,333 sq. ft. times $15/sq. ft. = $1,500,000, off-set by the $750,000 County contribution, to net $750,000. To the extent that developers provide the amenity feature rather than make an in-lieu payment, the "lost" payments would be less than this amount..

OPTION 2. TIER 2 BONUS FEATURE

INCENTIVE TO DEVELOPER

The cost to the developer at the $15 per square foot value would be equivalent to the estimated cost of the other Tier 2 features. However, if a developer could purchase TDR credits privately at a price less than $20,000 per credit, that would be a cheaper method of acquiring extra density. In fact, the other Tier 2 features are likely to be preferred by developers, all else being equal, because the other features will directly enhance the marketability of the development.

IMPACT ON CITY PRIORITIES

The amount of additional development allocated to this feature will reduce the amount of on-site amenities that would otherwise be provided in return for the extra density.

IMPACT ON CITY INFRASTRUCTURE FUNDING

The City could collect the $750,000 amenity payment with the TDR feature. To the extent that there wouldn't be in-lieu payments for the other bonus features, the amenity bonus would not be offset by the loss of any in-lieu payments. The amenity payment would not be available upfront for this option, however.

OPTION 3. SEPARATE TIER

INCENTIVE TO DEVELOPER

The developer would compare the cost of value for the TDR credits, independent of the cost and value of any alternative features. If the developer can negotiate a purchase price that is equal to or lower than $20,000 per credit, the feature would likely be used. The number of credits used will be affected by the numbers of credits allocated to the City, height and bulk limitations imposed in the area, and any other limitations the City would choose to apply.

IMPACT ON CITY PRIORITIES

TDRs would not compete with other desired bonus features. More development would be allowed in the area than would otherwise be allowed, however.

IMPACT ON CITY INFRASTRUCTURE FUNDING

The City would receive the $750,000 amenity payment, equivalent to $7.50 per square foot, without foregoing any payments associated with other bonus features. The amenity payment would not be available upfront for this option, however.

CONCLUSIONS

1. The appropriate bonus rate should be 1,333 square feet per TDR Credit. Such a rate would equate the estimated value of $15 per square foot of additional development with the current price of TDR credits of $20,000 on average.

2. The bonus system options provide a series of trade-offs among private incentives and funding to the City.

    - The County proposes that the TDR bonus be placed in Tier1. That would increase the likelihood that it would be used. Its use would reduce the amount of other bonus features that would be provided. Further, the amount of the County's amenity payment would be approximately one-half of the amount the City would receive in zoning incentive payments. However, the County's payment would be available up-front; the revenue off-set would occur over time as TDRs are used; and the offsets would be limited to $750,000 due to the 75-TDR limit on TDR transfers.

    - The TDR program isn't likely to be used to a significant extent as a Tier 2 bonus feature because the on-site bonus features in this tier are likely to provide enhanced marketability at the same cost. The program might be utilized under this option if a developer could purchase TDR credits at a rate significantly less than $20,000 per credit. The amenity credit would

be a net benefit to the City as it wouldn't forego any Tier 1 in-lieu zoning incentive payments for affordable housing, parks and open space.

- The Separate Tier Option would result in greater density than under the other options. However, the TDR bonus wouldn't take the place of any other desirable bonus feature, and the amenity credit would be a net benefit above and beyond any in-lieu zoning incentive payments. This option provides the most incentive for developers while providing additional infrastructure funding for the city. But it requires the City allowing FARs above the maximum otherwise allowed, and there as no guaranteed up-front amenity payment to the City.