



CO00032893

SNOHOMISH COUNTY COUNCIL
SNOHOMISH COUNTY, WASHINGTON

AMENDED ORDINANCE NO. 08-051

RELATING TO THE GROWTH MANAGEMENT ACT, REVISION OF GOAL 14 AND
ASSOCIATED OBJECTIVES AND POLICIES TO PROVIDE FOR GREATER FLEXIBILITY
IN THE TRANSFER OF DEVELOPMENT RIGHTS PROGRAM IN THE SNOHOMISH
COUNTY GROWTH MANAGEMENT ACT COMPREHENSIVE PLAN (GMACP)
(GPP 11 TRANSFER OF DEVELOPMENT RIGHTS)

WHEREAS, RCW 36.70A.130 and .470 direct counties planning under the Growth Management Act (GMA) to adopt procedures for interested persons to propose amendments and revisions to the GMACP or development regulations; and

WHEREAS, the Snohomish County Council adopted chapter 30.74 SCC, "Growth Management Act Public Participation Program Docketing" to comply with the requirements of RCW 36.70A.130 and .470; and

WHEREAS, the Snohomish County Council has determined that the consideration of the proposed amendments and revisions to the GMACP and development regulations would promote a county purpose as established under RCW 36.70.130 and RCW 36.70A.470 and chapter 30.74 SCC; and

WHEREAS, on May 21, 2007 and May 29, 2007, the Snohomish County Council held public hearings to receive public testimony on proposed County and non-County initiated amendments to the comprehensive plan for consideration on the 2007 Final Docket XII; and

WHEREAS, the Snohomish County Council, on June 25, 2007, approved, by Motion No. 07-182, a list of proposed comprehensive plan amendments for inclusion on Final Docket XII and authorized the County Executive, through the Department of Planning and Development Services (PDS), to process Final Docket XII consistent with chapters 30.73 and 30.74 SCC; and

WHEREAS, Final Docket XII, including the proposals to amend the map and text of the GMACP were presented to the Planning Advisory Committee (PAC) of Snohomish County Tomorrow (SCT); and

WHEREAS, pursuant to chapter 30.74 SCC, PDS completed final review and evaluation of Final Docket XII, including the proposals to amend the map and text of the GMACP, and forwarded recommendations to the Snohomish County Planning Commission; and

1 WHEREAS, the Snohomish County Planning Commission held a public hearing and
2 received public testimony on Final Docket XII on January 22, 2008 and January 29, 2008; and
3

4 WHEREAS, on January 29, 2008 the Snohomish County Planning Commission
5 deliberated on Final Docket XII at the conclusion of the public hearing and voted to recommend
6 that the proposed countywide Transfer of Development Rights policies, as enumerated in its
7 recommendation letter of February 26, 2008, not be included in Docket XII; and
8

9 WHEREAS, the Executive recommended to the County Council an alternative ordinance
10 that allows changes to be made to the existing TDR program through interlocal agreements,
11 development agreements and code changes for more program flexibility; and
12

13 WHEREAS, changes to the Arlington Pilot Program interlocal agreement are necessary to
14 create conditions for transfer of credits that will operate on free market principles; and
15

16 WHEREAS, the current TDR policies in the GMACP only allow changes through the
17 docketing process which does not permit timely response to changing market conditions; and
18

19 WHEREAS, the Snohomish County Council held a public hearing on April 30, 2008,
20 continued to May 12 and June 3, 2008, to consider the entire record, including the Planning
21 Commission recommendations on Final Docket XII, and to hear public testimony on this
22 Amended Ordinance 08-051.
23

24 NOW, THEREFORE, BE IT ORDAINED:
25

26 **Section 1.** The county council makes the following findings:
27

- 28 A. The county council adopts and incorporates the foregoing recitals as findings as if set forth
29 fully herein.
30
- 31 B. The proposed changes will allow the county greater program flexibility and the ability to
32 extend the TDR program through interlocal agreements, development agreements or code
33 amendments.
34
- 35 C. The proposed changes will allow for timely response to changing market conditions so that
36 the transfer of credits can be based on free market principles.
37
- 38 D. Proposed revisions to Goal 14 will allow changes to be made to the City of Arlington pilot
39 transfer of development rights program by amendment to the interlocal agreement,
40 development agreement, or code amendment.
41
- 42 E. The proposed GPP policies conform to Objective LU 14A "Develop and implement a TDR
43 program based on free market principles for the purpose of permanently conserving specified
44 natural resource lands."
45

1 F. The proposed GPP policies conform to Policy 14.A.11.3 “Based on an assessment of the
2 measures of program success, changes to the sending or receiving area designations, transfer
3 ratios, and other policy and code provisions should be considered and implemented, when
4 appropriate.”
5

6 G. A draft supplemental environmental impact statement (DSEIS) to the EIS issued for the 2005
7 Snohomish County GMACP 10-Year Update was issued on December 26, 2007 for the
8 proposed amendments. A Final SEIS, including response to comments on the DSEIS, was
9 prepared following the 30-day comment period and was issued on April 1, 2008. The
10 purpose of the SEIS was to analyze potential significant adverse environmental impacts of
11 the proposals and any alternatives that were not previously identified in the EIS and which
12 provided supplemental analysis and information relating to the proposed map and text
13 amendments.

14 H. The county council includes in its findings and conclusions, the completed final review and
15 evaluation of the proposal completed by PDS in accordance with 30.74 SCC and is hereby
16 made a part of this ordinance as if set forth herein.
17

18 **Section 2.** The county council makes the following conclusions regarding the amendments
19 adopted by this ordinance:
20

21 A. The proposal by PDS to adopt revisions to (Goal 14) and associated objective and policies
22 support the establishment of a market driven transfer of development rights program aimed at
23 conserving natural resource lands of long-term commercial significance and more closely
24 meets the goals, objectives and policies of the GPP
25

26 B. All SEPA requirements with respect to this non-project action have been satisfied.

27 C. The County complied with state and local public participation requirements under the GMA
28 and chapter 30.73 SCC.

29 D. Additional conclusions as determined by council.
30

31 **Section 3.** The county council bases its findings and conclusions on the entire record of the
32 county council, including all testimony and exhibits. Any finding, which should be deemed a
33 conclusion, and any conclusion which should be deemed a finding, is hereby adopted as such.
34


35 **Section 4.** Based on the foregoing findings and conclusions, the Snohomish County GMA
36 Comprehensive Plan – Transportation last amended by Ordinance No.07-139, is amended as
37 indicated in Exhibit A to this ordinance which is attached hereto and incorporated by reference
38 into this ordinance as if set forth in full.
39

40 **Section 5.** The County Council directs the Code Reviser to update SCC 30.10.060 pursuant to
41 SCC 1.02.020(3)
42

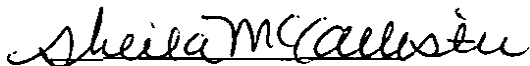
1 **Section 6.** Severability. If any section, sentence, clause or phrase of this ordinance shall be held
2 to be invalid or unconstitutional by the Growth Management Hearings Board, or a court of
3 competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or
4 constitutionality of any other section, sentence, clause or phrase of this ordinance. Provided,
5 however, that if any section, sentence, clause or phrase of this ordinance is held to be invalid by
6 the Board or court of competent jurisdiction, then the section, sentence, clause or phrase in effect
7 prior to the effective date of this ordinance shall be in full force and effect for that individual
8 section, sentence, clause or phrase as if this ordinance had never been adopted.

9
10 PASSED this 3rd day of June, 2008.

11
12 SNOHOMISH COUNTY COUNCIL
13 Snohomish County, Washington


14
15 
16 _____
17 Council Chair

18 ATTEST:

19 
20 _____
21 Asst. Clerk of the Council

- 22 APPROVED
23 EMERGENCY
24 VETOED

25 DATE: 18~~th~~ June 2008, 2007

26
27
28 
29 _____
30 Snohomish County Executive
31 PETER B. CAMP
32 Executive Director

33 ATTEST:

34 
35 _____
36 Approved as to form only:
37
38
39
40
41 Deputy Prosecuting Attorney
42
43
44
45

D-26

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6 **EXHIBIT A**

7 Amended Ordinance No. 08-051

8 Final Docket XII Amending Goal LU 14 to the GMACP

9 GPP 14 Transfer of Development Rights
10

11 **GOAL LU 14**

12 **Conserve important natural resource lands**
13 **through the use of complementary Transfer of**
14 **Development Rights (TDR) and Purchase of**
Development Rights (PDR) programs.

15 **Objective LU 14.A**

16 **Develop and implement a TDR program based on**
17 **free market principles for the purpose of permanently**
conserving specified natural resource lands.

18 ~~**((Policies for TDR Sending Areas))**~~

19 **LU Policies 14.A.1**

20 Natural resource lands targeted for conservation through the TDR
21 program shall be referred to as "sending areas" and shall be: (a)
22 designated as Transfer of Development Rights Sending Area
23 Overlay on the Future Land Use Map, which shall also retain the
24 underlying natural resource designation; and (b) depicted on the
25 official zoning maps with an "SA" suffix: or (c) designated by
interlocal agreement, development agreement or code amendment.

26 **14.A.2**

27 Agricultural and forest lands as defined in RCW 36.70A.170 shall
28 be eligible for designation as TDR sending areas, ~~((subject to the~~
29 ~~overlay established pursuant to LU Policy 14.A.1,))~~ based on
30 consideration of the following factors: (a) the extent to which the
31 area has historically been used for commercial agricultural or forest
32 production; (b) the extent to which future residential or commercial
33 development is likely to occur in or near the area, as evidenced by
34 overall market trends; and (c) the extent to which conservation of
35 the area would further the natural resource goals of the General
Policy Plan.

36 **14.A.3**

37 TDR implementing regulations shall allow the transfer of
38 development rights only from sites that are located within TDR
39 sending areas and comply with additional substantive
40 requirements, to be established by regulation, which help to further
the natural resource goals of the General Policy Plan.

1 14.A.4 TDR implementing regulations shall establish a clear, orderly
2 process for landowners within designated TDR sending areas to
3 obtain TDR certificates in exchange for recording a conservation
4 easement restricting non-agricultural development on the sending
5 site. The number of TDR certificates issued shall be based on the
6 approximate development potential of the sending site, multiplied
7 by a "transfer ratio" established by the county, if necessary, in
8 order to facilitate the creation of a market for TDR certificates.
9 TDR certificates shall be valid for transfer purposes only and shall
10 not entitle the sending area landowner to development approvals.

11 14.A.5 Requirements for TDR conservation easements shall be established
12 by regulation and shall specify the substantive terms and conditions
13 applicable to the sending site, including: (a) the prohibition of new
14 residential development on all portions of the sending site for
15 which TDR certificates are issued; (b) the prohibition of all
16 development within the sending site that would impair or diminish
17 the natural resource values of the land; and (c) provisions for the
18 administration, enforcement, recording, and acceptance of TDR
19 conservation easements.

20 ~~((Policies for TDR Receiving Areas))~~

21 14.A.6 Lands where development rights from TDR sending areas may be
22 used shall be referred to as TDR receiving areas and shall be
23 (a) designated as Transfer of Development Rights Receiving Area
24 Overlay on the Future Land Use Map; and (b) depicted on the
25 official zoning maps with an "RA" suffix applied to the underlying
26 zoning classification; or (c) designated by interlocal agreement,
27 development agreement or code amendment.

28 14.A.7 In identifying potential TDR receiving areas, the county council
29 shall give priority to areas where: (a) market pressures favor
30 increased development; (b) existing or planned urban services will
31 be available to accommodate new growth and development; (c) the
32 adjacent city and surrounding community support the proposed
33 TDR receiving; and (d) a designated TDR sending area is located
34 in the same area or region as the proposed TDR receiving area

35 14.A.8 The TDR Receiving Area Overlay may only be applied to areas
36 located within the Rural Urban Transition Area concurrent with the
37 addition of such areas to an adjacent urban growth area (UGA) or to
38 other areas agreed to by interlocal agreement, development
39 agreement, or code amendment. Expansions of a UGA to include a
40 TDR receiving area must be conditioned by the county council on
41 compliance with the requirements set forth in LU Policy 14.A.9 and
42 will become effective only if those conditions are satisfied within a
43 time period specified by ordinance. In the event that those

1 conditions are not satisfied within the required time period, the
2 population allocated to support the UGA expansion pursuant to PE
3 Policy 1.A.6 shall revert back to the TDR population reserve set
4 forth in Appendix D.

5 14.A.9

6 UGA expansions to include a TDR receiving area shall be
7 conditioned by the county council on execution of an interlocal
8 agreement between the county and a city adjacent to the UGA
9 expansion area. The agreement, which may be included as an
10 addendum to an existing interlocal agreement, shall be approved by
11 ordinance and executed by the county only if the following
provisions are included:

- 12 1. An agreement by the city to annex the TDR receiving area in a
13 timely manner following expansion of the UGA.
- 14 2. An agreement by the city to adopt TDR regulations prior to
15 annexation and to apply those regulations to the TDR receiving
16 area following annexation. These regulations, as provided for
17 in the agreement, must include:
 - 18 a. A requirement that applicants for residential development
19 in connection with a subdivision, short subdivision, binding
20 site plan, planned residential development, or other official
21 site plan provide the city with TDR certificates issued
22 pursuant to chapter 30.35A SCC as a condition to
23 development approval. For the pilot TDR receiving area
24 designated outside the city of Arlington, the number of
25 TDR certificates required must equal or exceed 25% of the
26 number of single family residential units and 50% of the
27 number of multifamily residential units resulting from the
28 proposed development. The minimum TDR percentage
29 required under interlocal agreements for future incorporated
30 TDR receiving areas may vary, based on local
31 circumstances and market conditions.
 - 32 b. A requirement that applicants for commercial
33 developments provide the city with TDR certificates issued
34 pursuant to chapter 30.35A SCC and a provision
35 establishing the number of TDR certificates to be required
36 for approval of commercial development applications.
 - 37 c. Other provisions, if any, that are deemed appropriate by the
38 city, such as requirements for the presentation and
39 extinguishment of TDR certificates.
- 40 3. An agreement by the county to retain existing zoning for the
41 receiving area in order to prevent urban development from
42 occurring prior to annexation and thus ensure that urban

1 development within the receiving area will be compatible with
2 the city's development standards and served by adequate
3 facilities.

- 4 4. Other provisions, if any, that are deemed appropriate by the
5 city and the county, such as requirements for zoning, master
6 planning, and permit review within the TDR receiving area.

7 ~~((Purchase and Sale of TDR Certificates by Snohomish
8 County))~~

9 14.A.10 The county intends for TDR transactions to occur predominantly in
10 the private sector, directly between sending area and receiving area
11 landowners. However, to promote and encourage use of the TDR
12 program, the county shall be authorized to buy, hold, and resell
13 TDR certificates issued for sending sites within the TDR pilot
14 program sending area located in the Stillaguamish River Valley.
15 The purchase and sale of TDR certificates shall be subject to a
16 competitive process, pursuant to chapter 30.35A SCC, which
17 ensures that the county receives fair market value for the sale of
18 TDR certificates and that decisions concerning potential purchases
19 are based on the goals of this chapter.

20 ~~((Policies for Promoting, Monitoring and Expanding
21 the TDR Program))~~

22 14.A.11 The effectiveness of the TDR program should be evaluated and
23 adjustments made to the program as determined appropriate:

- 24 1. Performance indicators or measures of program success should
25 be developed;
- 26 2. The level of development rights transfers between sending and
27 receiving areas should be monitored; and
- 28 3. Based on an assessment of the measures of program success,
29 changes to the sending or receiving area designations, transfer
30 ratios, and other policy and code provisions should be
31 considered and implemented, when appropriate.

32 14.A.12 Opportunities to create "non-residential" receiving areas and transfer
33 options should be evaluated and, where appropriate, be established
34 through amendment of the comprehensive plan and/or implementing
35 code. Examples of such options include increases to commercial
36 floor area, impervious surfaces, parking stalls, or building heights
37 through the use of transferred development rights.

38 14.A.13 Opportunities to designate additional natural resource lands as
39 sending areas should be evaluated and, where appropriate, be
40 established through amendment of the comprehensive plan and

1 implementing code. When 50% or more of the projected number of
2 transferable development rights have been utilized in the designated
3 sending areas, the addition of sending area lands should be
4 considered by the county.

5 14.A.14 A public outreach and education process, focusing on sending and
6 receiving area landowners, should be implemented to inform
7 potential program participants and to encourage participation in the
8 TDR program.

9 14.A.15 The county should consider actions to promote the transfer of
10 development rights including:

- 11 1. Helping facilitate the transfer of development rights from
12 sending area to receiving area landowners;
- 13 2. Selective purchase and sale of private development rights to
14 stimulate private sector transfers; and
- 15 3. Funding of public amenities in receiving areas to enhance the
16 livability of the neighborhoods where higher densities are
17 encouraged.
- 18 4. Working with cities to identify receiving areas within the city
19 limits and existing UGA's.

20
21 **Objective LU 14.B Develop and implement a Purchase of Development**
22 **Rights (PDR) program utilizing available funding**
23 **sources for the purpose of permanently preserving**
24 **natural resource lands.**

25 **LU Policies** 14.B.1 A PDR program may, at the option of the county, be used for the
26 purpose of permanently preserving natural resource lands.

27 14.B.2 The PDR program shall be coordinated with, and be designed to
28 complement, the TDR program.

29 14.B.3 Agricultural and forest lands as defined in RCW 36.70A.170 shall
30 be eligible for conservation through the PDR program. Other lands
31 having high natural resource, environmental, or open space values
32 may also be determined eligible for conservation.

33 14.B.4 An application process, application forms and review criteria shall
34 be developed and utilized to consider landowner proposals to sell
35 developments rights.

36 14.B.5 A public outreach and education process, focusing on sending area
37 landowners, shall be implemented to inform potential program
38 participants and to encourage participation in the PDR program.

1 14.B.6 Sources of funding for any PDR program shall be identified. The
2 use of county Conservation Futures fund monies, grant, and local
3 bond revenues should be considered. Where appropriate,
4 applications for grant monies should be prepared and submitted.

5 14.B.7 The effectiveness of the PDR program shall be evaluated and
6 adjustments made to the program as determined appropriate:

- 7 1. Indicators or measures of program success shall be developed;
- 8 2. The level of development rights sales shall be monitored; and
- 9 3. Based on an assessment of the measures of program success,
10 changes to the PDR program shall be considered and
11 implemented, when appropriate.

12
13 Changes to Glossary--Appendix E

14
15 **Page E-12**

16 **Receiving Area:** An area that has been zoned as a TDR receiving area pursuant to chapter
17 30.35 A SCC: or designated a receiving area by interlocal agreement, development agreement,
18 or code amendment (~~and is eligible to receive certified development rights from TDR sending~~
19 ~~sites--)~~)

20 **Page E-13**

21 **Sending Area:** Land designated as a TDR sending area on the future land use map and located
22 within a zone used to implement the sending area designation, as indicated on the official
23 zoning map through the suffix "SA": or designated a sending area by interlocal agreement,
24 development agreement, or code amendment.