



King County

Transportation, Economy and Environment Committee

STAFF REPORT

Agenda Item:	5	Name:	Rick Bautista Kendall Moore
Proposed No.:	2012-B0045	Date:	May 15, 2012

SUBJECT:

Briefing on Executive's 2012 proposed amendments to (1) King County Comprehensive Plan ("KCCP") policies and text related to transfer of development rights contained in Chapter 3 - Rural Area and Natural Resource Lands and (2) to implementing development regulations.

SYNOPSIS OF KEY ISSUES

The Executive proposes a number of revisions to TDR policies (found in "Section III.C," on pages 3-22 through 3-27). The text and policies regarding transfers of development rights have undergone the significant revisions in the following areas:

- Guidance for transfer ratios from various sending sites
- Sending site priorities
- And Receiving site preference

ANALYSIS

1. pp. 1-19, 2-32 and 3-24/25 TDR Sending Site Transfer Ratios

U-119 King County should ~~((apply))~~ limit the application of the urban residential, low land use designation and only use: to protect floodplains, critical aquifer recharge areas, high function wetlands and unstable slopes from degradation, and link these environmental features into a network of open space, fish and wildlife habitat and urban separators. The residential density for land so designated should be maintained at one unit per acre ~~((, provided that lands that are sending sites))~~ and further protected through density transfers under the Transfer of Development Rights Program ~~((may transfer density at a rate of at least four units per acre))~~

U-180

Urban separators are corridors of land that define community or municipal identities and boundaries, provide visual breaks in the urban landscape, and link parks and open space within and outside the Urban Growth Area. These urban corridors should include and link parks and other lands that contain significant environmentally sensitive features, provide wildlife habitat or critical resource protection, contain defining physical features, or contain historic resources. The residential density for land so designated should be maintained at one unit per acre (~~(, provided that lands that are sending sites))~~ and can be further protected through density transfers under the Transfer of Density Rights Program ~~((may transfer density at a rate of at least four units per acre)).~~

- ~~((R-317~~ For transfer of development rights purposes only, qualified sending sites are allocated development rights as follows:
- ~~a.~~ Sending sites with Rural Area or Agricultural zoning shall be allocated one TDR for every five acres of gross land area;
 - ~~b.~~ Sending sites with Forest zoning shall be allocated one TDR for every eighty acres of gross land area;
 - ~~c.~~ Sending sites with Urban Separator land use designation shall be allocated four TDRs for every one acre of gross land area;
 - ~~d.~~ If a sending site has an existing dwelling or retains one or more development rights for future use, the gross acreage shall be reduced in accordance with the site's zoning base density for the purposes of TDR allocation; and
 - ~~e.~~ King County shall provide bonus TDRs to sending sites in the Rural Area as follows:
 - ~~1.~~ The sending site is a vacant RA zoned property and is no larger than one-half the size requirement of the base density for the zone; and
 - ~~2.~~ The sending site is a RA zoned property and is located on a shoreline of the state and has a shoreline designation of conservancy or natural.)

ISSUE: BOOKMARK. Council staff identify two issues:

First, the deleted language (highlighted above) sets the stage for an Executive-proposed reduction to the ratio of density transfers from urban separator sending sites. This specific ratio was established in policy by Council to provide substantial incentives for density transfers from lands within urban separators or zoned R-1. The R-1 zone (used to implement the Urban Separator ("US") designation) has a base density of one unit per acre. The existing transfer ratio of 4 TDRs per acre for US-designated sites was intended to provide additional incentive for such transfers.

¹ During discussions on the briefing for chapter 2, Urban Communities, in the case of both U-119 and U-180, Executive staff agreed to end these policies with the sentence: "The residential density for land so designated should be maintained at one unit per acre."

The Executive's stated reason for the proposed deletions is because these standards are already reflected in the existing code (KCC 21A.37.040). However, Council staff notes that the Executive proposes to amend that code section to reduce that transfer ratio from 4 TDRs per acre to 2 TDRs per acre. This is a significant reduction in the level of incentive for such transfers and a significant policy shift of which the Council should be aware.

The Council must decide whether (1) it is still appropriate to provide such additional incentives for preservation of urban separators and (2) if so, is the proposed 2 TDR per acre transfer the appropriate level of incentive.

Second, the proposed deletion of R-317 eliminates all Council policy direction as to future revisions to KCC 21A.37.040. This could become problematic for the Council if future proposals deviate significantly from what had been stated policy.

2. p. 3-22/23 Use of new terminology

- R-314 King County supports and shall work actively to facilitate the transfer of Rural Area and Resource Lands development rights to:
- a. Preserve the rural environment, encourage retention of resource-based uses and reduce service demands;
 - b. Provide permanent protection to significant natural resources;
 - c. Increase the regional open space system;
 - d. Maintain low density development in the Rural Area and Resource Lands; ~~((and))~~
 - e. Steer development growth inside the Urban Growth Area in ways that promote quality urban neighborhoods where residents want to work and live; and
 - f. Provide mitigation for the impacts of urban development on global ~~((warming))~~ climate change by simultaneously reducing transportation-related greenhouse gas emissions from ~~((transportation))~~ exurban development and sequestering carbon through retention of forest cover.

ISSUE: BOOKMARK. The word "exurban" is a relatively new term of art not used elsewhere or defined in the Executive proposal. A review of the literature shows a number of definitions that differ significantly based upon the context in which the word is used.

Council staff are working on a definition to include.

3. p. 3-24/25 TDR Sending Site Priorities

- R-316 Eligible sending sites shall be lands designated on the King County Comprehensive Plan land use map as Rural Area (RA), Agriculture (A), Forestry (F), and Urban Separator, and shall provide permanent land

protection to create a significant public benefit. Priority sending sites are:

- a. Lands in Rural Forest Focus Areas;
- b. Lands ~~((adjacent))~~ in close proximity to the Urban Growth Area boundary;
- c. Lands contributing to the protection of endangered and threatened species;
- d. Lands that are suitable for inclusion in and provide important links to the regional open space system; ~~((and))~~
- e. Agricultural ~~((and))~~ lands that contribute to the local food system;
- f. Forest Production District lands;
- g. Intact shorelines of Puget Sound;
- h. County designated rural area landmarks and significant rural area archaeological sites; and
- i. Lands identified as important according to the Washington State Department of Ecology's Watershed Characterization analyses.

ISSUE: BOOKMARK. Council staff identifies the following issues:

The revision to subparagraph b. is intended to add siting flexibility, which Council staff does not challenge. However, the implementation or interpretation of term "close proximity" is problematic because it is open to interpretation.

The revision to subparagraph e. raises two issues:

1. It is not clear to Council staff what this new text adds to the understanding of the original intent of the policy, and
2. The current policy would give priority to all agricultural lands. However, the new seems to limit this stated priority to a much smaller subset of agricultural lands since the use of agricultural lands for food crops is relatively small portion (10-15%) of the APD land area.

The revision to subparagraph h. appears to be a significant divergence from the original stated purpose of TDR program to maintain lands "in forestry, farming, habitat, parks, or open space in perpetuity." Its use as an historic preservation tool may be inappropriate. Council staff also notes that this was NOT included in the public review draft and it is unclear as to what was the impetus for its inclusion.

4. p. 3-25 TDR Sending Site Tract Design

R-318 Prior to the county's allocation of transferable development rights to a sending site landowner, the landowner shall record and place on title of ~~((the))~~ sending site parcels a conservation easement documenting the development restrictions. If ~~((a))~~ development ~~((right(s)-is))~~ rights are being retained for future development, the subsequent development must be clustered, and the tract preserved with a permanent conservation easement shall be larger than the developed portion. ~~((In~~

~~the case of lands within the Rural Forest Focus Areas, no more than one dwelling unit per 20 acres shall be retained, and the tract preserved with a conservation easement shall be at least 15 acres in size.))~~

ISSUE: BOOKMARK. The text proposed to be deleted is council policy direction that guides future revisions to KCC 21A.37. This could become problematic for the Council if future proposals deviate significantly from what had been stated policy.

5. p. 3-25 TDR Receiving Site Preferences

R-319 TDRs may be ~~((made to))~~ used on receiving sites in the following order of preference as follows:

- ~~a. ((Unincorporated urban areas. Preference should be given to locations within designated urban centers, and to areas adjacent to transit stations and park and ride lots;~~
- ~~b. Transfers into incorporated areas shall be detailed in an interlocal agreement between the city receiving the development rights and the county;))~~

Incorporated Cities. Transfers into incorporated areas shall be detailed in an interlocal agreement between the city receiving the development rights and the county;

b. Unincorporated urban commercial centers;

c. Other unincorporated urban areas; and

~~((e))~~ d. Rural Areas zoned RA-2.5, ((that are not)) unless they are on Vashon Island, may receive transfers of development rights, but only from the Rural Forest Focus Areas.

ISSUE: BOOKMARK Council staff raises no issue with the proposed revisions related to stated order of preference for receiving sites, it should be noted that:

- Specifying a clear order of preference aids in program implementation, but does not ensure that more units will be going into the cities, and
- The stated order of preference represents a substantial shift, intended to address a concern increasingly raised by residents in unincorporated areas that many more TDRs are being used in unincorporated areas versus within the cities. In raising this concern, residents also point out, when additional density is allocated to a development in an unincorporated neighborhood, no additional public amenities (such as parks and open space) or traffic improvements are provided to address the impacts of the additional density. In contrast, when cities agree to receive additional density transfers, the County provides resources for the city to create public amenities or transportation improvement.

6. p. 3-26/27 Rural and Resource Land Preservation - TDR

R-321

The Rural and Resource Land Preservation TDR Program shall include, but is not limited to, the following:

- a. In addition to the density that is allowed on a receiving site in the urban growth area from the purchase of TDRs, the county shall evaluate the climate change ~~((related impacts of the proposed development. In so doing the county shall consider the climate change effects related to))~~ benefits achieved by reducing transportation related greenhouse gas emissions ~~((, sequestering of carbon on the sending site, and any other climate change effects))~~ that result from the transfer of development rights from the sending site, provided that such consideration is not precluded by administrative rules promulgated by the state ~~((, Furthermore, any standards related to consideration of climate change impacts through the SEPA process shall be subject to council review and adoption by ordinance))~~;
- b. In order to satisfy transportation concurrency requirements in the Rural Area in a transportation concurrency travel shed that is non-concurrent, a development proposal for a short subdivision creating up to four lots may purchase TDRs from other Rural Area properties in the same travel shed, or from the TDR Bank ~~((, in order to satisfy transportation concurrency requirements))~~ from credits from Rural Area properties in the same travel shed. The transfer shall not result in an increase in allowable density on the receiving site ~~((, A short subdivision creating two lots where the property has been owned by the applicant for five or more years and where the property has not been subdivided in the last ten years shall satisfy the transportation concurrency requirements without having to purchase TDRs))~~;
- c. King County shall provide an added density bonus of up to a 100% increase above the base density allowed in K.C. Code 21A.12.030, when TDRs are used for projects within any designated commercial center or activity center within the Urban Growth Area that provides enhanced walkability design and incorporates transit oriented development;
- d. King County may allow accessory dwelling units in the Rural Area that are greater than one thousand square feet, but less than 1,500 square feet, if the property owner purchases one TDR from the Rural Area; and
- e. King County may allow a detached accessory dwelling unit on a RA-5 zoned lot that is two and one-half acres or greater and less than three and three-quarters acres if the property owner purchases one TDR from the Rural Area.

ISSUE: BOOKMARK. The proposed deletion of subparagraph .b removes exemption for 2-lot short subdivisions when property has been owned by the same property owner for 10 years. Executive staff state that this is covered in County code and therefore is an unnecessary policy. Council staff agrees that the policy text proposed to be deleted in the last sentence of subparagraph b. is reflected in the County code (KCC 14.70.285.L), as stated by the Executive. However, Council staff note that the **policy** text was a specific addition by the Council in the 2008 KCCP update. It was added to address a unique set of circumstances deemed important enough to state in policy. Eliminating this specific policy direction would mean the Council intent would only be embodied in the Code. This could become problematic for the Council if future proposed revisions to the Code deviate significantly from the policy text which is proposed to be deleted.

OVERVIEW OF PROPOSED CODE CHANGES AND ISSUES:

The Executive proposes a number of development code revisions. While most of the revisions are technical in nature, Council staff has included an analysis of changes in the following areas:

- Critical areas – wildlife habitat areas and authority to request area reductions
- Transfer of Development Rights – transfer ratios and time limit for qualifications report
- Fall City Special District Overlay – review process for certain uses

ANALYSIS

7. Section 10 (KCC 21A.24.381) Critical Areas - Aquatic Habitat Restoration in APD

Current Code	Proposed Change	Executives Reason for Revision
<p>Establishes standards for locating aquatic habitat restoration projects in the APD.</p> <ul style="list-style-type: none"> • Projects must result in a net benefit to agricultural productivity • Projects must be identified in specific plans, including farm management plans and King County functional plans 	<p>Revises the standards as follows:</p> <ul style="list-style-type: none"> • Flood restoration and mitigation reserve projects are included • Projects, in conjunction with projects DNRP identifies, must improve agricultural productivity • Projects must be consistent included in or consistent with WRIA plans, Flood Plans, or other similar watershed scale plans 	<p>Consistent with proposed changes to Policy R-648</p>

ISSUE: BOOKMARK. Committee members have raised concerns about the Executive-proposed changes to policy R-648, which is the underlying basis for the proposed code changes. That issue has been bookmarked for additional Council discussions.

A final decision on these code changes must reflect any future decisions on that policy.

8. Section 14 (KCC 21A.37.040) TDR: R-1 zone transfer ratio

Current Code	Proposed Change	Executives Reason for Revision
R-1 Urban Separator sending sites have a base density of 4 dwelling units for purposes of the TDR program	R-1 Urban Separator sending sites have a base density of 2 du for purposes of the TDR program.	Reducing allocation of TDR from 4 to 2 per acre on Urban Separator ("US") sending sites puts RA, A and F zoned properties on equal footing with the US properties. KC has historically seen an excess amount of US TDR credits and many less rural, F and Ag credits being transacted. The goal moving forward is to level the playing field between these rural/resource and R-1 sending site TDRs.

ISSUE: BOOKMARK. The R-1 zone (used to implement the Urban Separator ("US") designation) has a base density of one unit per acre. The existing transfer ratio of 4 TDRs per acre for US sites was intended to provide additional incentive for such transfers. The Council must decide whether (1) it is still appropriate to provide such additional incentives; and (2) if so, is the proposed 2 TDR per acre transfer the appropriate level of incentive.

9. Section 14 (KCC 21A.37.040) TDR: Qualifications Report

Current Code	Proposed Change	Executives Reason for Revision
The number of development rights for a sending site is established in a TDR certificate letter of intent.	References to the certificate letter of intent are changed to a TDR qualification report. The report is valid for 5 years.	Removes duplicative process. The TDR qualification report has language that serves the same purpose as a letter of intent.

ISSUE: BOOKMARK. New terminology better reflects intent of the review of a parcel as a sending site. However, there is currently no time limit on the effect of certificate letter of intent, versus the proposed 5-year limit.

10. Section 25 (new chapter in KCC 21A.38) Fall City SDO uses

New chapter establishes standards for the Fall City Business District Special District Overlay ("SDO") Area Zoning Study for Fall City

Land Use Table	
Use Category	Specific Land Use
Residential	<p>The following uses are allowed by right:</p> <ul style="list-style-type: none"> • Multifamily residential units shall only be allowed on the upper floors of buildings and are limited to a residential density of 6 units per acre. If more than 10 units are provided, at least 10% of the units shall be classified as affordable (see Article 8: Definitions). • Home Occupation (per the requirements of Section 21A.30 of the Zoning Code) <p>The following uses are permitted with a conditional use permit:</p> <ul style="list-style-type: none"> • Bed and Breakfast (five rooms maximum) • Hotel/Motel
Recreational/ Cultural	<p>The following uses are permitted by right:</p> <ul style="list-style-type: none"> • Library • Museum • Arboretum <p>The following uses are permitted with a conditional use permit:</p> <ul style="list-style-type: none"> • Sports Club/Fitness Center • Amusement/Recreation Services/Arcades (Indoor) • Bowling Center
General Services	<p>The following uses are allowed by right:</p> <ul style="list-style-type: none"> • General Personal Services, except escort services • Funeral Home • Appliance/Equipment Repair • Medical or Dental Office/Outpatient Clinic • Medical or Dental Lab • Day Care I • Day Care II • Veterinary Clinic • Social Services • Animal Specialty Services • Artist Studios • Nursing and Personal Care Facilities <p>The following uses are permitted with a conditional use permit:</p> <ul style="list-style-type: none"> • Theater (Movie or Live Performance) • Religious Use
Government/ Business Services	<p>The following uses are allowed by right:</p> <ul style="list-style-type: none"> • General Business Service • Professional Office: Bank, Credit Union, Insurance Office <p>The following uses are permitted with a conditional use permit:</p> <ul style="list-style-type: none"> • Public Agency or Utility Office • Police Substation

	<ul style="list-style-type: none"> • Fire Station • Utility Facility • Self Service Storage
Retail/Wholesale	<p>The following uses are allowed by right on the ground floor of buildings:</p> <ul style="list-style-type: none"> • Food Store • Drug Store/Pharmacy • Retail Store: includes florist, book store, apparel and accessories store, furniture/home furnishings store, antique/recycled goods store, sporting goods store, video store, art supply store, hobby store, jewelry store, toy store, game store, photo store, electronic/appliance store, fabric shops, pet shops, and other retail stores (excluding adult-only retail) • Eating and Drinking Places including coffee shops and bakeries <p>The following uses are permitted with a conditional use permit:</p> <ul style="list-style-type: none"> • Liquor Store or Retail Store Selling Alcohol • Hardware/Building Supply Store • Nursery/Garden Center • Department Store • Auto Dealers (indoor sales rooms only)
Manufacturing	Manufacturing uses (excluding Home Industry Uses permitted per the requirements of Section 21A.30 of the Zoning Code) are prohibited.
Resource	<p>The following uses are allowed by right:</p> <ul style="list-style-type: none"> • Solar photovoltaic/solar thermal energy systems • Private storm water management facilities • Growing and Harvesting Crops (within rear/internal side yards or roof gardens, and with organic methods only) • Raising Livestock and Small Animals (per the requirements of Section 21A.30 of the Zoning Code) <p>The following uses are permitted with a special use permit:</p> <ul style="list-style-type: none"> • Wind Turbines
Regional	<p>The following uses are permitted with a special use permit:</p> <ul style="list-style-type: none"> • Communication Facility

Design Standards for New Construction	
Number of Floors	2 floors maximum plus an optional basement.
Ground Floor Elevation	<p>The elevation of the ground floor may be elevated a maximum of 6' above the average grade of the site along the front facade of the building.</p> <p>If the ground floor is designed to accommodate non-residential uses, the elevation of the ground floor should be placed near the elevation of the sidewalk to minimize the need for stairs and ADA ramps.</p>
Ground Floor Height	If the ground floor is designed to accommodate non-residential space, the height of the ceiling (as measured from finished floor) shall be no more than 18'.

Maximum Height	40' maximum as measured from the average grade of the site along the front facade of the building.
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ISSUE: BOOKMARK. The proposed SDO contains a number of standards relating uses that are either allowed outright or that require a conditional or special use permit. Council staff notes that the Executive proposes that the following uses require a conditional use permit:

- Small (5 rooms or less) bed and breakfasts
- Hardware/building supply stores
- Nursery or garden center
- Public agency or utility office

No rationale has been provided and it's not clear to Council staff what impacts from these uses would warrant that level of review.

ATTACHMENT:

1. Transfer of Development Rights Policy matrix
2. Development Regulations matrix

Chapters 2 and 3: Transfer of Development Rights Policies

Policy Revision	Executive Purpose	Committee Staff Comment
<p>U-119 King County should ((apply)) <u>limit the application of</u> the urban residential, low land use designation <u>and only use:</u> to protect floodplains, critical aquifer recharge areas, high function wetlands and unstable slopes from degradation, and link these environmental features into a network of open space, fish and wildlife habitat and urban separators. The residential density for land so designated should be maintained at one unit per acre ((, provided that lands that are sending sites)) <u>and further protected through density transfers</u> under the Transfer of Development Rights Program ((may transfer density at a rate of at least four units per acre)).</p>	<p>T0 move the specific formula for density transfers to the Code.</p>	<p>BOOKMARK Deleted language sets the stage for an executive proposed reduction to the ratio of density transfers from urban separator sending sites. This is a significant reduction in the level of incentive for such transfers and a significant policy shift of which the council should be aware.</p>
<p>U-180 Urban separators are corridors of land that define community or municipal identities and boundaries, provide visual breaks in the urban landscape, and link parks and open space within and outside the Urban Growth Area. These urban corridors should include and link parks and other lands that contain significant environmentally sensitive features, provide wildlife habitat or critical resource protection, contain defining physical features, or contain historic resources. The residential density for land so designated should be maintained at one unit per acre ((, provided that lands that are sending sites)) <u>and can be further protected through density transfers</u> under the Transfer of Density Rights Program ((may transfer density at a rate of at least four units per acre)).</p>	<p>a. Technical change to remove specific formula from policy b. to allow formula to be specified in the code</p>	<p>BOOKMARK Deleted language sets the stage for an executive proposed reduction to the ratio of density transfers from urban separator sending sites. This is a significant reduction in the level of incentive for such transfers and a significant policy shift of which the council should be aware.</p>
<p>R-314 King County supports and shall work actively to facilitate the transfer of Rural Area and Resource Lands development rights to:</p> <ol style="list-style-type: none"> Preserve the rural environment, encourage retention of resource-based uses and reduce service demands; Provide permanent protection to significant natural resources; Increase the regional open space system; Maintain low density development in the Rural Area and Resource Lands; ((and)) <u>Steer development growth inside the Urban Growth Area in ways that promote quality urban neighborhoods where residents want to work and live; and</u> <u>Provide mitigation for the impacts of urban development on global ((warming)) climate change by simultaneously reducing transportation-related greenhouse gas emissions from ((transportation)) exurban development and sequestering carbon through retention of forest cover.</u> 	<p>Updates goals of the TDR program to emphasize walkable communities and the benefit to greenhouse gas emission reductions.</p>	<p>BOOKMARK The word "exurban" is a relatively new term of art not used elsewhere or defined in the executive proposal. A review of the literature shows a number of definitions that differ significantly based upon the context in which the word is used. The word should be specifically defined and council staff will work with the executive.</p>

Chapters 2 and 3: Transfer of Development Rights Policies

Policy Revision	Executive Purpose	Committee Staff Comment
<p>f. <u>Forest Production District lands;</u> g. <u>Intact shorelines of Puget Sound;</u> h. <u>County designated rural area landmarks and significant rural areas archeological sites, and</u> i. <u>Lands identified as important according to the Washington State Department of Ecology's Watershed Characterization analyses.</u></p>		<p>much smaller subset of agricultural lands since use for food crop is small (10-15%) of APD land area.</p> <p>h. Diverges from original stated purpose of TDR to maintain lands " in forestry, farming, habitat, parks, or open space in perpetuity" and now an historic preservation tool</p>
<p>((R-317 For transfer of development rights purposes only, qualified sending sites are allocated development rights as follows: a. Sending sites with Rural Area or Agricultural zoning shall be allocated one TDR for every five acres of gross land area; b. Sending sites with Forest zoning shall be allocated one TDR for every eighty acres of gross land area; c. Sending sites with Urban Separator land use designation shall be allocated four TDRs for every one acre of gross land area; d. If a sending site has an existing dwelling or retains one or more development rights for future use, the gross acreage shall be reduced in accordance with the site's zoning base density for the purposes of TDR allocation; and e. King County shall provide bonus TDRs to sending sites in the Rural Area as follows: 1. The sending site is a vacant RA zoned property and is no larger than one half the size requirement of the base density for the zone; and 2. The sending site is a RA zoned property and is located on a shoreline of the state and has a shoreline designation of conservancy or natural.))</p>	<p>Deletion reflects intent to remove unnecessary and technical code-like language from comp plan policy. This language exists in KCC 21A.37</p>	<p>BOOKMARK</p> <p>Eliminates all council policy direction as to future revisions to KCC 21A.37.040. This could become problematic for the council if future proposals deviate significantly from what had been stated policy.</p>

91 Chapters 2 and 3: Transfer of Development Rights Policies		
Policy Revision	Executive Purpose	Committee Staff Comment
<p>R-318</p> <p>Prior to the county's allocation of transferable development rights to a sending site landowner, the landowner shall record and place on title of ((the)) sending site parcels a conservation easement documenting the development restrictions. If ((a)) development ((right(s)-is)) <u>rights are</u> being retained for future development, the subsequent development must be clustered, and the tract preserved with a permanent conservation easement shall be larger than the developed portion. ((In the case of lands within the Rural Forest Focus Areas, no more than one dwelling unit per 20 acres shall be retained, and the tract preserved with a conservation easement shall be at least 15 acres in size.))</p>	<p>Deletion reflects intent to remove unnecessary and technical code-like language from comp plan policy. This language exists in KCC 21A.37</p>	<p>BOOKMARK</p> <p>Eliminates all council policy direction as to future revisions to KCC 21A.37. This could become problematic for the council if future proposals deviate significantly from what had been stated policy.</p>
<p>R-319</p> <p>TDRs may be ((made to)) <u>used on</u> receiving sites <u>in the following order of preference</u> as follows:</p> <p>a. ((Unincorporated urban areas. Preference should be given to locations within designated urban centers, and to areas adjacent to transit stations and park and ride lots;</p> <p>b. Transfers into incorporated areas shall be detailed in an interlocal agreement between the city receiving the development rights and the county;)) <u>Incorporated Cities. Transfers into incorporated areas shall be detailed in an interlocal agreement between the city receiving the development rights and the county;</u></p> <p>b. <u>Unincorporated urban commercial centers;</u></p> <p>c. <u>Other unincorporated urban areas; and</u></p> <p>((e)) <u>d. Rural Areas zoned RA-2.5, ((that are not)) unless they are</u> on Vashon Island, may receive transfers of development rights, <u>but</u> only from the Rural Forest Focus Areas.</p>	<p>Sets the order of preference regarding which areas of King County are to be TDR receiving areas. Reflects that the operational priority of the TDR program is transfers of density into cities.</p>	<p>No Issue</p> <p>While council staff raises no issue with the proposed revision, it should be noted that this represents a substantial shift in order of preference,</p>
<p>((R-322)) <u>R-319a</u></p> <p>King County should ((increase)) <u>seek</u> funding for <u>incorporated and unincorporated</u> urban area amenities ((and the TDR Bank and seek private and other public funding)) to strengthen the TDR program and facilitate the transfer of development rights from ((the)) Rural and Resource Areas into the King County Urban Growth Area ((in order)) to preserve the rural environment, encourage retention of rural <u>and</u> resource-based uses, and avoid urban service demands in the Rural Area. ((King County should pursue public or private partnerships, and bond or levy proposals, for additional TDR Bank funding to target threatened private rural or resource lands. Rights purchased through such a program could be sold into any appropriate urban location.))</p>	<p>Change focus of obtaining funding for amenities to working with partners.</p> <p>Include emphasis on transferring TDRs from resource lands.</p> <p>Partnership provision moved to new policy R-319b</p>	<p>No Issue</p>

Chapters 2 and 3: Transfer of Development Rights Policies

Policy/Revision	Executive Purpose	Committee Staff Comment
<p>R-319b <u>King County should pursue public funding and public-private partnerships, and bond or levy proposals, for additional TDR Bank funding to target threatened private rural or resource lands. Development rights purchased through such a program should be sold into any appropriate urban location.</u></p>	<p>Moved from R-319a.</p>	<p>No Issue</p>
<p>R-320 The goals of the Rural and Resource Land Preservation Program are to: (1) reduce the development potential in rural and resource lands by 25%; (2) increase activity in the TDR market; (3) bolster demand for TDRs; (4) offer rural <u>and resource</u> property owners access to incentive programs; (5) protect low-density rural areas from encroaching urban development; and (6) reduce ((carbon)) <u>greenhouse gas</u> emissions by decreasing vehicle miles traveled from the rural <u>and resource</u> areas and by sequestering carbon ((in the Rural Area)).</p>	<p>Technical change</p>	<p>No Issue</p>

100 Chapters 2 and 3: Transfer of Development Rights Policies

Policy Revision

Executive Purpose

Committee Staff Comment

R-321

The Rural and Resource Land Preservation TDR Program shall include, but is not limited to, the following:

- a. In addition to the density that is allowed on a receiving site in the urban growth area from the purchase of TDRs, the county shall evaluate the climate change ~~((related impacts of the proposed development. In so doing the county shall consider the climate change effects related to))~~ benefits achieved by reducing transportation related greenhouse gas emissions~~((, sequestering of carbon on the sending site, and any other climate change effects))~~ that result from the transfer of development rights from the sending site, provided that such consideration is not precluded by administrative rules promulgated by the state~~((, Furthermore, any standards related to consideration of climate change impacts through the SEPA process shall be subject to council review and adoption by ordinance))~~;
- b. In order to satisfy transportation concurrency requirements in the Rural Area in a transportation concurrency travel shed that is non-concurrent, a development proposal for a short subdivision creating up to four lots may purchase TDRs from other Rural Area properties in the same travel shed, or from the TDR Bank~~((, in order to satisfy transportation concurrency requirements))~~ from credits from Rural Area properties in the same travel shed. The transfer shall not result in an increase in allowable density on the receiving site~~((, A short subdivision creating two lots where the property has been owned by the applicant for five or more years and where the property has not been subdivided in the last ten years shall satisfy the transportation concurrency requirements without having to purchase TDRs))~~;
- c. King County shall provide an added density bonus of up to a 100% increase above the base density allowed in K.C. Code 21A.12.030, when TDRs are used for projects within any designated commercial center or activity center within the Urban Growth Area that provides enhanced walkability design and incorporates transit oriented development;
- d. King County may allow accessory dwelling units in the Rural Area that are greater than one thousand square feet, but less than 1,500 square feet, if the property owner purchases one TDR from the Rural Area; and
- e. King County may allow a detached accessory dwelling unit on a RA-5 zoned lot that is two and one-half acres or greater and less than three and three-quarters acres if the property owner purchases one TDR from the Rural Area.

Technical changes.

Clarify that TDRs for transportation concurrency are for the same travel shed.

Subparagraph .b removes exemption for 2 lot short subdivisions when property has been owned by the same property owner for 10 years. This is covered in county code and is unnecessary here

BOOKMARK

Council staff agrees that the policy text proposed to be deleted in the last sentence of subparagraph b. is reflected in the county code (KCC 14.70.285.L), as stated by the Executive.

However, council staff notes that the policy text was a specific addition by the council in the 2008 KCCP update to address a unique set of circumstances. Eliminating this specific policy direction could become problematic for the council if future proposed revisions to the code deviate significantly from the policy text which is proposed to be deleted.

SUMMARY OF CODE REVISIONS

Section	Code	Current Code	Proposed Change	Executive Reason for Revision	Council Staff Comment
2	20.12.010	Adopts the comprehensive plans through 2008	Adopts the 2012 Comprehensive Plan	Standard text for adoption of revisions	No Issue.
Climate Exchange Fund					
3	4.08.057	Used for sale and purchase of carbon credits from the Chicago Climate Exchange and other emissions trading programs.	Delete references to the Chicago Climate Exchange (CCX)	King County is no longer participating in CCX.	No Issue.
Four to One Program					
5	20.18.170	Four to one program expired December 31, 2011	Extends four to one program to December 31, 2015		No Issue.
6	20.18.180	<ul style="list-style-type: none"> Establishes standards for lands to be added to the urban area through the four- to-one program and for the open space 	<ul style="list-style-type: none"> Adds requirement that drainage facilities to support the urban development must be located in the urban area. Adds requirement that land retained as open space is not needed for facilities necessary to support the urban development Deletes allowance for use of the open space for natural appearing stormwater facilities 	Policies U-185 through U-187	<p>No Issue.</p> <p>This is needed to address a governance issue that has arisen in previous 4 to 1 proposals (such as Maple Ridge Highlands) when the city annexed the urban portion, but the stormwater detention facilities in rural opens space stayed with the county. The county is required to maintain the facility but no SWM fees coming from the properties (now in city) generating the stormwater.</p>
SITUS file References					
4	20.12.050	Official zoning is contained in the SITUS file.	<ul style="list-style-type: none"> Official zoning is contained geographic system data layers maintained by King County. In case of a discrepancy between the data layer and the map or document adopted by ordinance, the map or document controls. 	The SITUS file is no longer maintained	No Issue.
7	21A.04.150	P-suffix conditions are shown in the SITUS file.	P-suffix conditions are contained geographic system data layers maintained by King County.		
8	21A.04.160	Special district overlay conditions are shown in the SITUS file.	Special district overlay conditions are contained geographic system data layers maintained by King County.		
26	21A.06.1177	Definition of "SITUS file"	Repealed		

Section	Code	Current Code	Proposed Change	Executive Reason for Revision	Council Staff Comment
9	21A.24.311	Critical aquifer recharge area map adopted by ordinance in 2008.	The critical aquifer recharge area map is updated	Takes into account new information since the 2008 update.	No Issue.
10	21A.24.381	Establishes standards for locating aquatic habitat restoration projects in the APD. <ul style="list-style-type: none"> Projects must result in a net benefit to agricultural productivity Projects must be identified in specific plans, including farm management plans and King County functional plans 	Revises the standards as follows: <ul style="list-style-type: none"> Flood restoration and mitigation reserve projects are included Projects, in conjunction with projects DNRP identifies, must improve agricultural productivity Projects must be consistent included in or consistent with WRIA plans, Flood Plans, or other similar watershed scale plans 	Policy R-648	BOOKMARK. Committee members have raised concerns about the Executive-proposed changes to policy R-648, which is the underlying basis for the proposed code changes. A decision on these code changes must reflect any decisions on that policy.
11	21A.24.382	Wildlife habitat conservation area development standards established for specific species, including red tailed hawk.	<ul style="list-style-type: none"> Red tailed hawk specific development standards are deleted. Requirements for rural breeding sites in subsection M are deleted. 	<ul style="list-style-type: none"> Red tailed hawks have been removed from the comprehensive plan as a species of local concern (Policy E- 418e) Subsection M is redundant because this standard is already covered in prior subsection L. 	No Issue.
12	21A.24.383	County may reduce the habitat conservation for specific species, including goshawks, peregrine falcons, and red tailed hawks, based on a critical areas report.	Authorization to reduce conservation area for goshawks, peregrine falcons, and red tailed hawks is deleted.	<p>Red tailed hawks have been removed from the comprehensive plan as a species of local concern (per revised Policy E- 418e).</p> <p>The habitat areas for goshawks and peregrine falcons have been determined to be within the highly developed urban areas, typically within cities and therefore outside of the county jurisdiction.</p>	No Issue.
13	21A.37.030	Reference in TDR code to "shorelands" as defined in the RCW	Replaces reference to shorelands with reference to "shoreline jurisdiction"	"Shoreline jurisdiction" is now defined in Ch. 21A.06	No Issue.

Section	Code	Current Code	Proposed Change	Executive Reason for Revision	Council Staff Comment
14	21A.37.040	<ul style="list-style-type: none"> R-1 Urban Separator sending sites have a base density of 4 dwelling units for purposes of the TDR program The number of development rights for a sending site is established in a TDR certificate letter of intent. 	<ul style="list-style-type: none"> R-1 Urban Separator sending sites have a base density of 2 du for purposes of the TDR program. References to the certificate letter of intent are changed to a TDR qualification report. The report is valid for 5 years. 	<ul style="list-style-type: none"> Reducing allocation of TDR from 4 to 2 per acre on Urban Separator ("US") sending sites puts RA, A and F zoned properties on equal footing with the US properties. KC has historically seen an excess amount of US TDR credits and many less rural, F and Ag credits being transacted. The goal moving forward is to level the playing field between these rural/resource and R-1 sending site TDRs. Removes duplicative process; TDR qualification report has language that serves the same purpose as a letter of intent. 	<ul style="list-style-type: none"> BOOKMARK. The R-1 zone (used to implement the US designation) has a base density of one unit per acre. The existing transfer ratio of 4 TDRs per acre for US sites was intended to provide additional incentive for such transfers. The council must decide whether (1) it is still appropriate to provide such additional incentives and (2) if so, is the proposed 2 TDR per acre transfer the appropriate level of incentive. BOOKMARK. New terminology better reflects intent of the review of a parcel as a sending site. However, there is currently no time limit on the effect of certificate letter of intent, versus the proposed 5-year limit.
15	21A.37.050	If not all development rights have been transferred from a sending site, the remaining allowed units may be constructed on the buildable portion of the property.	If not all development rights have been transferred from a sending site, remaining dwelling units must be located in a single, contiguous reserved residential area adjacent to any existing development or roadways.	Identifying the general area of the sending site property where future development is allowed is necessary to ensure protection of the conservation values on the property at the time the County places the easement.	No Issue. The general criteria of the existing text does nothing to ensure the maximum protection of conservation values on a sending site.
16	21A.37.055	An urban receiving site that purchases rural TDRs may include estimated greenhouse gas emission reductions in calculating the receiving sites greenhouse gas emissions	Clarifies that the emissions are transportation related and that the estimate is made by KC DNRP.	The TDR program has methodology to determine the GHG emission reduction realized through transportation-related emissions reductions via TDR; not sequestration.	No Issue.
17	21A.37.060	<ul style="list-style-type: none"> As part of a TDR for a sending site, a conservation easement is required. On F zoned sending sites, a forest stewardship plan is required and must include a description of the site's forest resources and the long term objectives for the site. 	<ul style="list-style-type: none"> Clarifies that the conservation easement must meet the requirements established in K.C.C. 21A.37.050. The forest management plan on a F zoned site also serves as a present conditions report documenting baseline conditions of the property. 	Documentation of the baseline or present conditions on an F-zoned property is needed. This is the standard for RA and A zoned properties.	No Issue.
18	21A.37.090	A written report is issued by DNRP documenting the interagency review committee's decision on a sending site certification.	The written report is renamed the "TDR Qualification Report"		No Issue. New terminology better reflects intent of the review of a parcel as a sending site.

Section	Code	Current Code	Proposed Change	Executives Reason for Revision	Council Staff Comment
Transfer of Development Rights (TDR) - continued					
19	21A.37.080	The TDR certificate of intent evidences a property's qualification as a sending site.	References to the certificate of intent is replaced by references to the "TDR Qualification Report"	Removes duplicative process; TDR qualification report has language that serves the same purpose as a letter of intent.	No Issue. New terminology better reflects intent of the review of a parcel as a sending site and the removal of duplicative process will make implementation of program less costly to applicants and the county.
20	21A.37.100	The purpose of the TDR bank includes the purchase and sale of development rights.	The purpose of the TDR bank in purchasing and selling TDRs is to bridge the time gap between willing sellers and buyers of development rights.	Clarifies the role the TDR Bank plays in implementing the TDR program and TDR market	No Issue
21	21A.37.110	The TDR certificate of intent evidences a property's qualification as a sending site.	References to the certificate of intent is replaced by references to the "TDR Qualification Report"	Removes duplicative process; TDR qualification report has language that serves the same purpose as a letter of intent.	No Issue. New terminology better reflects intent of the review of a parcel as a sending site and the removal of duplicative process will make implementation of program less costly to applicants and the county.
22	21A.37.130	The TDR bank may sell development rights to a city through an interlocal agreement between the city and county.	The TDR bank may also sell development rights to a city that has adopted the Wash Dept. of Commerce TDR administrative rule.	Commerce has adopted an administrative rule that cities and counties can adopt in lieu of an ILA.	No Issue. This is consistent with state law
23	21A.37.140	The TDR bank may sell development rights only to a city that has entered into an interlocal agreement with the county.	The TDR bank may also sell development rights to a city that has adopted the Wash Dept. of Commerce TDR administrative rule.	Commerce has adopted an administrative rule that cities and counties can adopt in lieu of an ILA.	No Issue. This is consistent with state law
24	21A.37.150	TDR amenity funds generally may not be spent in a city without an interlocal agreement. One exception is if the executive authorizes an expenditure of up to 12,000	Amenity funds may be spent without an interlocal agreement upon authorization by the TDR executive board rather than the Executive.	For small amounts, requiring King County Executive authorization is unnecessary. The TDR Exec Board consists of department directors.	No Issue.
Fall City Special District Overlay					
25	New Chap 21A.38		Establishes standards for the Fall City Business District Special District Overlay ("SDO")	Area Zoning Study for Fall City	BOOKMARK. The proposed SDO contains a number of standards relating uses that are either allowed outright or that require a conditional or special use permit. Council staff notes that the executive proposes that the following uses require a conditional use permit: <ul style="list-style-type: none"> • Small (5 rooms or less) bed and breakfasts • Hardware/building supply stores • Nursery or garden center • Public agency or utility office No rationale has been provided and it's not clear to council staff what impacts from these uses would warrant that level of review.



King County

Transportation, Economy and Environment Committee

STAFF REPORT

Agenda Item:	5	Name:	John Resha Kendall Moore
Proposed No.:	2012-B0045	Date:	May 15, 2012
Invited:	Paul Reitenbach, DDES Harry Reinert, DDES		

SUBJECT

Briefing on Executive’s 2012 recommended amendments to the text and polices of the King County Comprehensive Plan (“KCCP”) relative to the King County Strategic Plan (“KCSP”).

SYNOPSIS OF KEY ISSUES

Consistent with its Charter as a government of local management and control, the County has established a new policy and planning hierarchy through its Performance Management and Accountability System (“PMAS”) including adoption of the KCSP.

- The Proposed KCCP Introduction and Regional Planning Chapter do not appear to adequately integrate the role of the KCSP as it relates to the KCCP.
- There is a potential duplication of reporting requirements between the KCCP and KCSP.

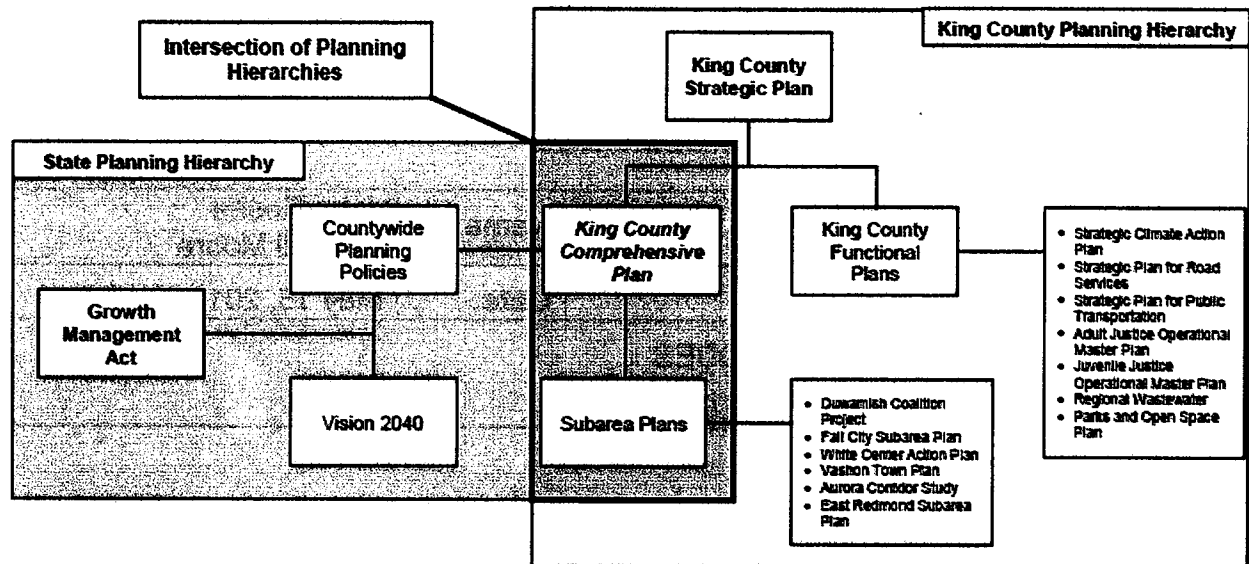
RELATIONSHIP OF THE KCCP AND THE KCSP

The State's Growth Management Act (“GMA”) establishes a planning hierarchy that establishes the very broad land use and planning requirements from the State. This hierarchy requires that at each subsequent level the plans are consistent with the requirements of the higher levels. Thus, the GMA hierarchy requires that the County, together with its cities, adopt Countywide Planning Policies (“CPPs”) and that King County establish a comprehensive plan consistent with both the GMA and the CPPs.

King County, as both a local and regional government, has established its own policy and planning hierarchy (King County's PMAS) through Ordinance 16202. This legislation established the requirement for the KCSP¹ as the highest level policy and planning document for the County. As such all other County plans, including the KCCP, should be consistent with accomplishing the goals of the KCSP.

¹ The KCSP was separately adopted via Ordinance 16897 in 2010.

This relationship is shown below in the Intersection of Planning Hierarchies chart.



ANALYSIS

This analysis of the relationship between the KCSP and KCCP is in addition to analysis of individual chapters presented and discussed in other Committee deliberations.

1. KCCP Introduction (subsections II and III, pages i-6 through i15)

As articulated in the March 6, 2012 staff report, the Introduction is updated to include references to the KCSP. While this section is intended to establish overarching themes and policies (Framework Policies) that apply to all sections of the KCCP, the insertion of the reference to the KCSP at page i-8 is not integrated into the Introduction. Rather, it reads as a reference to a new plan that has come into existence since the 2008 KCCP.

At pages i-12 through i-13, the objectives from the KCSP relating to environmental concerns are reproduced; again the reference seems a listing and does not establish how the objectives of the KCSP are to be integrated with the policies of the KCCP.

ISSUE: The KCSP language inserted into the KCCP introduction does not adequately set the context or framework for understanding the KCCP through the lens of the County's primary policy document, the KCSP.

With the adoption of the KCSP in 2010, King County established a new hierarchy into which the GMA (and its policies and plans) fits in as regulatory and guidance inputs² in

² In King County's "Lean" management vernacular, GMA's policies, plans and requirements are controls or constraints in the value stream of County operations.

order for King County to "insure responsibility and accountability for local and regional county governance" and to "preserve a healthy rural and urban environment."³

The insertion of a generic KCSP description on page i-8, and the insertion of the KCSP Objectives for the Environmental Sustainability Goal of the KCSP on pages i-12 and i-13 do not appear to reflect County's fulfillment of its Charter obligation to insure its land use and planning functions at the local and regional level as demonstrated by the new policy and planning hierarchy of the KCSP.

Of note is the impression that the KCSP is just an input into the KCCP, which could leave the reader a misunderstanding as to how the policies of the KCCP should be viewed relative to the broader policies and priorities of the County that are articulated in the KCSP.

2. Duplication of Performance Measurement and Management

The proposed KCCP Introduction includes a discussion of Performance Measurement and Management on pages i-14 and i-15, including FW-103. While the adopted KCSP and KCC Chapter 2.10 both require reporting, and a Performance Measurement Plan was adopted via Motion 13169, this section is proposed to be changed by inserting the bulleted text at the bottom of the following list on page i-14:

"King County is doing performance management for several important reasons:

- Ensure county goals are being met;
- Improve county services, where necessary;
- Increase transparency with the public;
- Increase use of data for more informed public discussion and decision-making; and
- Increase accountability at all levels of government.
- The King County Strategic Plan calls for increased attention to effective performance measurement."

No changes are proposed to FW-103.

ISSUE: While the philosophy of measurement and management are integral to the County's PMAS and to the success of any strategic plan, this section and policy create a separate requirement for reporting that could be viewed as redundant to the County's annual KCSP reporting.

3. Chapter 1 – Regional Planning

This chapter expresses the hierarchy of planning and the associated policies. The KCSP is inserted in a variety of text locations throughout the Chapter, and a new Section II. Planning Framework, subpart E. King County Strategic Plan and RP-206a are inserted as follows:

³ "insure responsibility and accountability for local and regional county governance" and "preserve a healthy rural and urban environment" are text from the Preamble of the King County Charter, highlighting the importance of local control and accountability

E. King County Strategic Plan

The King County Strategic Plan guides decision making throughout King County government. The plan recognizes the role of land use planning in shaping an environmentally sustainable, economically viable, and equitable future for the county.

RP-206a Planning in King County shall be consistent with the King County Strategic Plan by:

- a. encouraging vibrant, economically thriving and sustainable communities;**
- b. enhancing the county's natural resources and the environment;**
- c. supporting safe communities; and**
- d. providing equitable opportunities for all individuals.**

ISSUE: While the KCSP is mentioned, this Chapter does not appear to be updated to reflect the hierarchy represented by the KCSP and the integration of the GMA hierarchy, including:

- The Four Levels of Planning in King County table on pages 1-1 and 1-2 does not even include the KCSP and equates the KCCP at the same level as the Countywide Planning Policies;
- The insertion of KCSP language on pages 1-4 and 1-5 without context or reference to its relationship with the rest of the Chapter; and
- The inclusion of the KCSP as a new section "E." (page 1-11), after/below the "D. Functional Plans" section, that is not reflected elsewhere in the chapter. Additionally, being inserted as "E." gives the impression that the KCSP is something below Functional Plans in the Regional Planning Hierarchy.

Staff believes a rewrite of the Introduction, Sections II and III (pages i-6 through i-15), plus edits to Chapter 1, Regional Planning, to more adequately reflect the context and integration of the planning hierarchies would address all three issues identified within this staff report.