

FARMLAND ZERO NET LOSS

Setting the Stage

Programs and Policies	Permanence of protection	Acres protected or enrolled in Thurston County	Opportunities to make program more effective	Who needs to make a change
<p><u>Agricultural and Conservation Easements</u></p> <p>A voluntary legal agreement between a landowner and a land trust which permanently limits the use of the land to protect its agricultural or conservation value.</p>	High	2,095	More \$	County, State, Federal
<p><u>Fee Simple Purchase by a land trust or conservation agency</u></p> <p>Acquisition of land by a land trust or conservation agency.</p>	High	302	More \$	County, State, Federal
<p><u>Purchase of Development Rights (PDR)</u></p> <p>Thurston County has the potential to purchase and retire development rights from resource land owners as it did in the 1990's.</p>	High	942	Fund & Increase Awareness	County
<p><u>Transfer of Development Rights (TDR)</u></p> <p>Allows owners of property in a designated sending area to gain credit for unused development rights that can be sold and transferred to another property in designated receiving area.</p>	High	181	Improve Policy & Increase Awareness	County, Local Jurisdictions
<p><u>Rural Resource Cluster Development</u></p> <p>Mitigates the loss of farmland by clustering residential lots in a development, and setting aside 60% to 90% of the land area into a large resource parcel.</p>	High	875	Policy Change & Increase Awareness	County
<p><u>Current Use Open Space Farm and Agriculture Tax Program</u></p> <p>Protects farm lands by allowing taxation at current use rate rather than highest and best use.</p>	Low	34,237	Policy Change	State
<p><u>Current Use Open Space Tax Program</u></p> <p>Protects farm lands that currently do not meet the farm and agricultural requirements but have a high potential of returning to farming in the future by allowing taxation at current use rate rather than highest and best use.</p>	Low	736	Increase Awareness & Reduce Fee	County
<p><u>Long-Term Agriculture Zoning</u></p> <p>Designates areas within the county where agriculture is intended to be the primary use.</p>	Medium	12,320	Add Land to Zone	County

Funding	Existing / New	2015 Amount (varies by year)	Potential Amount	Who needs to make the change?
<p><u>Conservation Futures</u> Open space and farmland conservation program funded by property tax revenues.</p>	Existing	\$1 million per year	Additional \$400,000 per year	Thurston County with voter approval
<p><u>Washington Wildlife and Recreation Program (WWRP) Farmland Preservation Grants</u> Competitive State Grant - farmland purchase of easement to ensure the land remain available for farming in the future.</p>	Existing	\$4 million per biennium statewide	?	State
<p><u>US Department of Agriculture Natural Resource Conservation Services - Agricultural Conservation Easement Program (ACEP)</u> Competitive Federal Grant - specifically to fund the purchase of agricultural conservation easements.</p>	Existing	\$700,000 statewide	?	Federal
<p><u>Seek special US Department of Agriculture funding via a grant from the Regional Conservation Partnership Program (RCPP)</u> Competitive Federal Grant - designed for local partners to design and invest in conservation projects specifically tailored for their communities including farmland preservation projects.</p>	New	n/a	Multi-million dollars over several years	Local coalition of partners
<p><u>Additional Real Estate Excise Transfer (REET) Tax</u> New Tax - up to 1% of selling price paid by the purchaser of real property.</p>	New	n/a	?	Thurston County or voter initiative
<p><u>Individual Impact Investors</u> Investment Fund.</p>	New	n/a	?	?
<p><u>Portion of recording fee for farmland preservation</u> Reallocation of existing fee.</p>	New	n/a	?	?
<p><u>One-time or special legislative funding</u> Such as dollars for the Agricultural Conservation Easement Account, State Conservation Commission.</p>	Special	\$9 million	?	State

Agricultural and Conservation Easements

Voluntary legal agreement between a landowner and a land trust. It permanently limits the use of the land to protect its agricultural or conservation values. Agricultural conservation easements require continued agricultural use.

Overview

Easements allow the property owner to continue to own and perhaps occupy and use the land. They retain the ability to sell or pass it on to heirs. The owner profits by selling the easement to the land trust, or may receive a tax break by donating it. Because of its lower market value, land with an easement can be more affordable for prospective farmers.

Five land trusts hold easements in Thurston County:

- Capitol Land Trust
- Nisqually Land Trust
- Northwest Rangeland Trust
- PCC Farmland Trust
- South of the Sound Community Farm Land Trust (SSCFLT)

Where it has worked

Capitol Land Trust purchased an easement on 510 acres on the Black River in 2012. The property remains under the ownership of the Plowman family, who continue to farm the land. Land trust have purchased over 2,095 acres of agricultural easements in Thurston County. Another 600 acres of farm and ranchland are in the process of being protected by easements.

Challenges

- Though less expensive than fee simple purchases, conservation easements are expensive.
- The land trust owning the easement is responsible for ensuring the property owner does not violate the terms of the easement.

Opportunities to make the program more effective

- Increased funding (see funding sources on pages 14-17)

Fee Simple Purchase

Acquisition of land by a land trust.

Overview

With a [fee simple purchase](#), a land trust buys land and may lease or sell the land to farmers who agree to use the land for agricultural purposes. Land trusts can provide affordable access to land by their approach to long-term leases or sale of the land in exchange for an agreement to use sustainable agricultural practices. As the property owner, the land trust has greatest control over how the land is managed.

Two land trusts own fee simple farmland in Thurston County:

- Capitol Land Trust
- South of the Sound Community Farmland Trust

Where it has worked

In 2013, the South of the Sound Community Farmland Trust purchased nearly 100 acres of prime farmland near Rochester. Kirsop Farm holds a 90-year lease on 60 acres and additional acreage is leased to Enterprise for Equity to support educational and training opportunities for new farmers and low-income households. Over 300 acres of farmland have been purchased by land trusts in Thurston County.

Challenges

- Purchasing new farmland is expensive.
- Land trusts and conservation agencies are responsible for managing the property.
- Federal funding (ACEP) cannot be used for fee simple acquisition.

Opportunities to make the program more effective

- Increased funding (see funding sources on pages 14-17)

Purchase of Development Rights (PDR)

Thurston County has purchased and retired development rights on farms and has the potential to do so again.

Overview

Thurston County established a [Purchase of Development Rights \(PDR\) program](#) in 2011 (TCC 17.35). The program:

- Authorizes Thurston County and qualified conservation organizations to purchase development rights, with the purpose of preserving farmland.
- Compensates land owners for agreeing to conserve their land.
- Generally allows property owners to retain ownership of, and continue to reside on and farm the land.
- Authorizes Conservation Futures funds to be used as matching funds in partnership with non-profit land trusts to maximize and leverage public funds.

The PDR program calls for the establishment of an oversight committee to advise the Board of County Commissioners on the selection and ranking of project proposals.

Eligibility

The PDR program is open to all lands that meet the definition of agricultural lands, as defined in the Open Space Tax Program (RCW 84.34.020).

Where it has worked

No farmlands have been protected yet under the 2011 PDR program.

Challenges

- Thurston County's PDR program is unfunded and there is no active oversight committee.
- Projects seeking Conservation Futures funding must apply to that program directly and be ranked against other Conservation Futures applications.

Opportunities to make the program more effective

- Provide a source of funding
- Increase awareness of the program

Transfer of Development Rights (TDR)

TDR is a market based technique that encourages the voluntary transfer of growth from places where a community would like to see less development (called sending areas) to places where a community would like to see more or different kinds of development (called receiving areas).

Overview

Thurston County established a [Transfer of Development Rights \(TDR\) program](#) in 1995 (TCC20.62) to preserve farmland while allowing owners to realize the economic value of their property's development potential. Owners of property sell credits for unused development rights and developers purchase credits to build at a higher density.

Eligibility

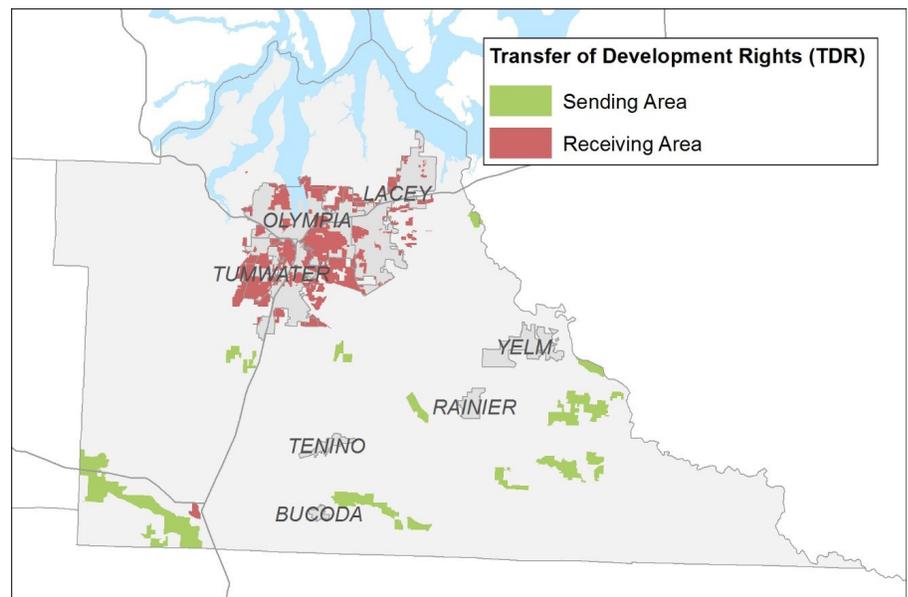
Sending Area: Parcels within the Long-Term Agriculture (LTA) Zoning District.

Receiving Area: The cities of Olympia, Lacey, and Tumwater, and Thurston County have identified areas within their zoning codes where TDR credits may be used to achieve specified urban densities. Receiving areas exist both within city boundaries and the unincorporated urban growth areas (UGAs).

Where it has worked

Two projects have benefited from the TDR Program: In 2011, Habitat for Humanity purchased 2 credits in order to build an additional dwelling unit for a project in the SFL 4-7 Zone off of Henderson Boulevard south of Yelm Highway. In 2014, credits were purchased to allow for additional density at the Woodard Lane Cohousing development in west Olympia (zoned R 4-8). Combined, the projects protected 181 acres of farmland. The average cost of a credit has been \$17,000.

Transfer of Development Rights (TDR) sending and receiving areas ►



(TDR) Explained

Challenges

- TDR programs have been most effective in larger cities with a strong infill and redevelopment market and developers willing to pay extra for increased density.
- There is resistance to higher-density projects in many neighborhoods.

Opportunities

Sending Areas Changes: Expand to include all lands that meet the definition of agricultural lands, as defined in the Open Space Tax Program (RCW 84.34.020), similar to changes made to the Purchase of Development Rights program in 2011.

Receiving Areas Changes: The TDR Program could be improved by increasing demand for credits.

Some options include:

- Allow credits to be used to increase density in cluster development in the rural County.
- Allow credits to be sold to developers outside of Thurston County where there is a market for increased density.
- Require that developers have purchased credits before being allowed to build Accessory Dwelling Units (ADUs) or Family Member Units in the rural County or for extra impervious surfaces (e.g. driveways, parking lots) constructed above the allowed limit.

Who needs to make a change?

Changing the TDR program would require a change in Thurston County Code.



Open Space Tax Program: Farm and Agriculture Land

Protects farm lands by allowing them to be taxed at current use rate rather than highest and best use. (http://dor.wa.gov/docs/pubs/prop_tax/openspace.pdf)

Overview

The Washington State Open Space Taxation Act (1970) lowers the property taxes paid by farmers by allowing eligible land to be taxed at its current use, rather than its “highest and best use,” as would be required otherwise under state law. The program provides a voluntary incentive for property owners to “...maintain, preserve, conserve, and otherwise continue in existence adequate open space lands for the production of food, fiber, and forest crops, and to assure the use and enjoyment of natural resources and scenic beauty for the economic and social well-being of the state and its citizens.”

The program is authorized under state law (RCW 84.34) and administered by Thurston County. The Thurston County Assessor maintains two values for each land parcel that is classified as “Farm and Agricultural Land”: a fair market value (based on its highest and best use) and a current use value (based on its classified use). Property taxes are based on the current use value.

Where it has worked

34,237 acres of farm and agricultural land in Thurston County are currently enrolled in the program.

Eligibility

To qualify for the Open Space Tax Program as “Farm and Agricultural Land,” property must be devoted primarily to the production of livestock or agricultural commodities for commercial purposes, and meet the following requirements:

- Parcels 20 acres or larger: plus housing if integral and proof of commercial income.
- Parcels 5 to 20 acres: \$200 gross income per acre per year for 3 of last 5 years.
- Parcels less than 5 acres: \$1,500 gross income per year for 3 of last 5 years.

The Thurston County Assessor determines if a property qualifies for this designation.

Challenges

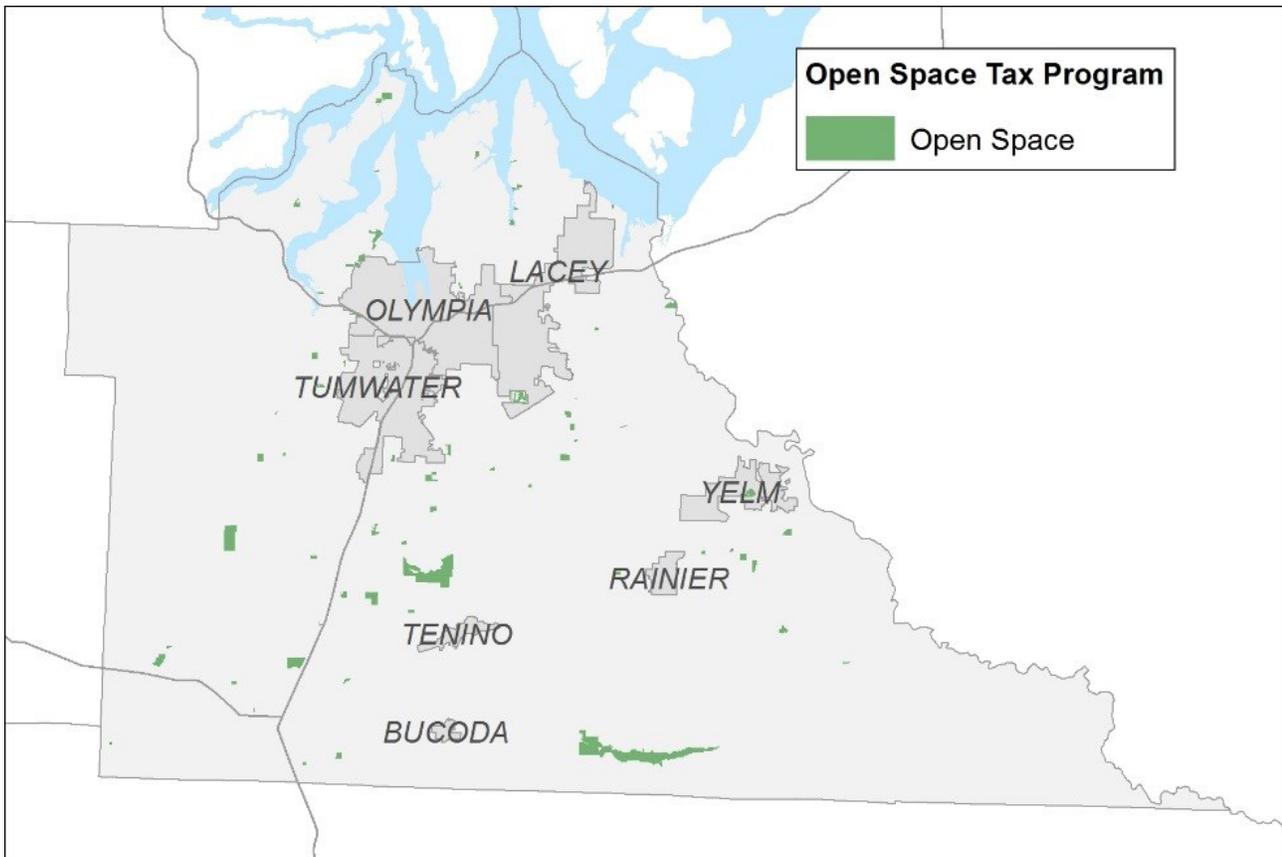
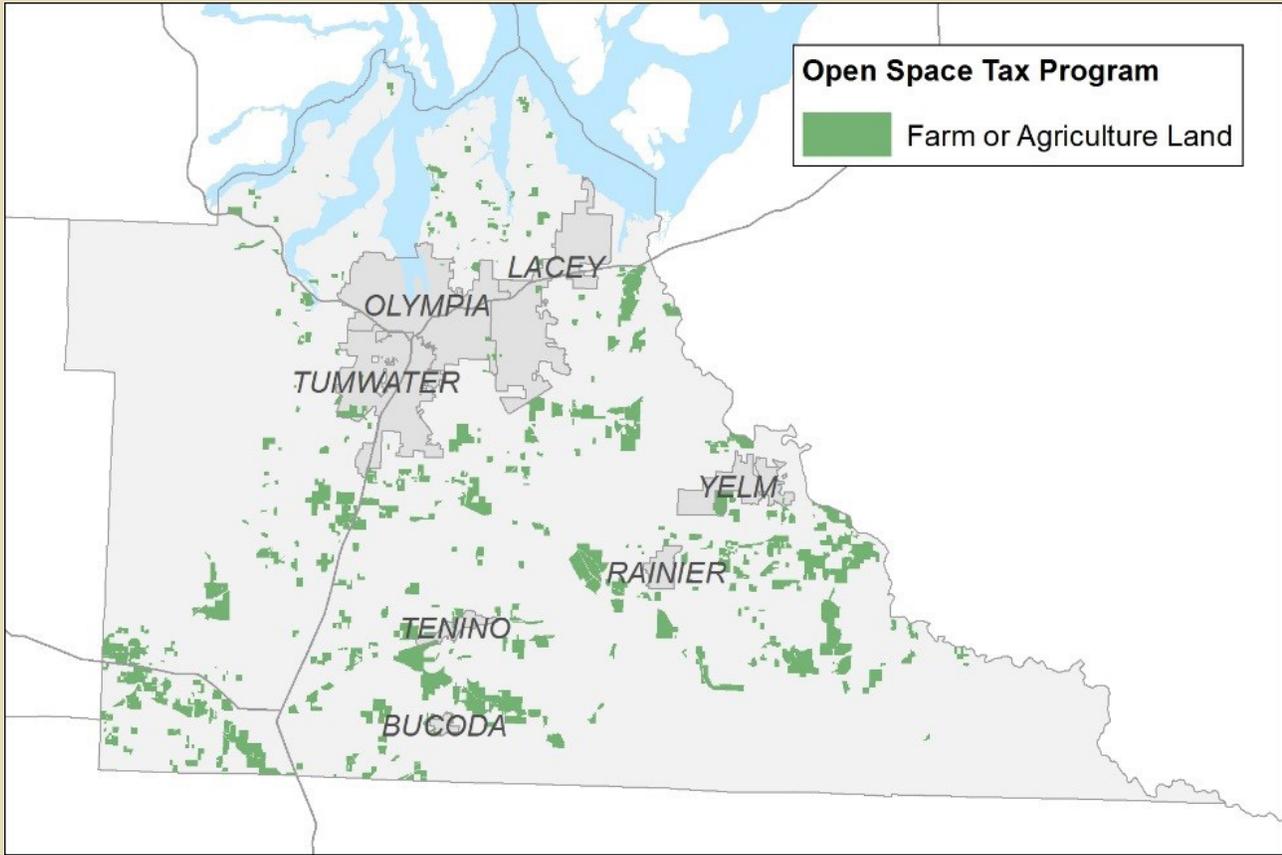
- The Open Space Tax Program does not provide permanent protection from open space lands converting to other uses.
- Land can be withdrawn from the program at any time. However, the property owner must pay back taxes, and in some cases penalties, unless he or she had the land in the program for eight years and gives two years notice of intent to withdraw from the program.

Opportunities to make the program more effective

- Increase the minimum amount of time in which land must be enrolled before it can be unenrolled without penalty.
- Increase penalties for leaving the program.

Who needs to make a change?

State



Open Space Tax Program: Open Space Land

Protects farmlands that do not meet the Open Space Taxation Act “Farm and Agricultural Land” requirements but have a high potential of returning to farming in the future by allowing them to be taxed at current use, rather than highest and best use.

Overview

In 1992, the state Open Space Taxation Act was amended to allow for a new classification: “Open Space Lands.” This includes land that was formerly classified as farm and agricultural land that no longer produces the required amount of income or is not currently being farmed, or traditional farmland not classified in the Open Space Tax Program that is not irrevocably devoted to a use inconsistent with agricultural uses, and has a *high potential of returning to farming in the future*.

The program is authorized under State RCW 84.34, and administered by Thurston County. The Thurston County Assessor maintains two values for each land parcel that is classified as “Open Space Land”: a fair market value (based on its highest and best use) and a current use value (based on its classified use). Property taxes are based on the current use value.

Where it has worked

736 acres of farm and agricultural land in Thurston County are currently enrolled in the program.

Eligibility

While the State defines “Farm and Agricultural Lands,” Thurston County has greater leeway in defining “Open Space Lands.” To qualify, property must contain natural resources or scenic beauty preserved for the public good. The size requirement for eligibility is:

- 1 or more acres for property inside the Urban Growth Area.
- 5 or more acres for property outside the Urban Growth Area.

Property owners interested in this classification apply to Thurston County Resource Stewardship’s planning department. The Planning Commission reviews the application and makes recommendations to the Board of County Commissioners. The Board makes the final decision.

Challenges

- The Open Space Tax Program does not provide permanent protection from open space lands converting to other uses.
- Land can be withdrawn from the program at any time. However, the property owner must pay back taxes, and in some cases penalties, unless he or she had the land in the program for eight years and gives two years notice of intent to withdraw from the program.

Opportunities to make the program more effective

- Promote the program
- Reduce the current \$1,416 application fee (2015)

Who needs to make a change?

Thurston County

Long-Term Agriculture Zoning

Designates areas within the county where agriculture is intended to be the primary use.

Overview

There are two zoning districts within Thurston County that fulfill this purpose:

- Long-term Agriculture District (LTA)
- Nisqually Agriculture (NA)

The purpose of these district is to:

1. Conserve agricultural lands of long-term commercial significance used for the production of crops, livestock, or other agricultural products;
2. Protect agricultural lands from incompatible development;
3. Encourage the continued economic viability of agriculture;
4. Encourage property owners to maintain property in agriculture uses; and
5. Promote and protect agriculture and its dependent rural community through the enhancement, protection, and perpetuation of the ability of the private sector to produce food and fiber.

Within these zoning districts, residential development is limited to farm residences and farm housing, at a density of one farm residence per 40 acres in the NA district, and one farm residence per 20 acres in the LTA district (referred to as density). In addition to the farm residence, farm housing for workers is also allowed.

Subdivision of land for residential purposes is allowed in these zoning districts under the “cluster” ordinance or Planned Rural Residential Development (PRRD). A PRRD requires a resource parcel to be set aside (85% of the total land area in the LTA district and 90% of total land area in the NA district).

Extent

12,320 acres in Thurston County are zoned Long-term Agriculture or Nisqually Agriculture.

Challenges

- While zoning limits uses that are inconsistent with farming, zoning does not guarantee the land will remain in production.

Opportunities to make the policy more effective

- Add additional lands to the agricultural zoning districts

Who needs to make a change?

Thurston County

Rural Resource Cluster Development

Mitigates for loss of farmland by allowing for clustering of residential lots in a development, and a set-aside of 60% to 90% of the land area into a large resource parcel.

Overview

Cluster developments, or Planned Rural Residential Developments (PPRD) differ from conventional subdivisions in that dwellings are “clustered” on smaller parcels, allowing a large resource parcel to be set aside for agriculture. Cluster developments mitigate the loss of farmlands due to development. Thurston County allows for cluster development with required resource parcels in the following zoning districts:

- Long-term Agriculture District (LTA)
- Nisqually Agriculture (NA)
- Long-term Forestry District (LTF)
- Rural Residential/Resource - One dwelling unit per five acres (RRR 1/5)

The resource parcel remains set aside permanently, unless the land is annexed by a city. Thurston County placed a moratorium on cluster developments in the late 2000s. The moratorium was lifted in June 2011 when new regulations were adopted. One of the main differences between the earlier and current regulations was the removal of most of the density bonuses given for clustering.

Where it has worked

Merryman Estates (pictured) is the only subdivision to be approved under the updated PPRD regulations. This 39 acre parcel has been subdivided into five residential lots and a 23 acre resource parcel (60 percent of the total plat area). The original farm home is now on a 7.7-acre lot, and the new residential lots are approximately 2 acres. Under a conventional subdivision, the parcel would have been subdivided into five 8-acre lots.

Challenges

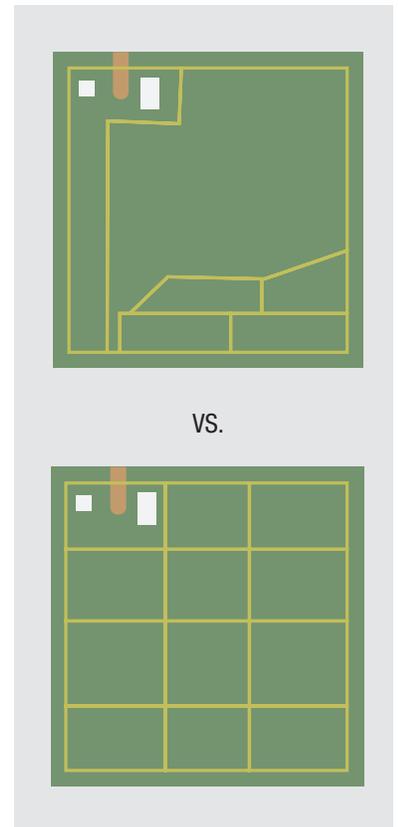
- Because cluster developments cluster dwelling units on a small area, they can have the perception of allowing urban levels of density in rural areas.
- Developers have less of an incentive to use cluster developments over conventional subdivisions because no additional housing units are allowed.

Opportunities to make the policy more effective

- Consider requiring rural cluster development when farmlands are being developed.
- Increase public awareness of the resource parcel.

Who needs to make a change?

Thurston County



Conservation Futures

Property tax at 5 cents per \$1,000 of assessed value to fund permanent conservation and farmland protection.

Overview

[Thurston County's Conservation Futures Program](#) is funded by property tax of 5 cents per \$1,000 of assessed value. In 1989, Thurston County became the first county in the State to implement the tax levy and has been collecting it ever since. This funding source is available for the Purchase of Development Rights (PDR) program, purchase of easements, or fee simple purchases of agricultural, timber, or open space land.

The state authorizes a tax levy maximum of 6.25 cents per \$1,000 of assessed value of each owned parcel depending on the year. In 2015, Thurston County taxpayers paid a rate of approximately 4.7 cents per \$1,000 assessed value. The rate paid by taxpayers in Thurston County increases according to the County's schedule for property tax increases—currently legislatively capped at 1% per year.

The funding derived from the tax levy, identified in the budget as Conservation Futures, is budgeted annually by the Thurston County Board of County Commissioners. Up to 15% of Conservation Futures funds collected in a given year can be used for maintenance and operation activities on lands previously acquired. Currently, this funding is provided to Public Works for trail maintenance.

About \$1 million is available to fund projects submitted for conservation or farmland protection. In 2015, there were eight applications covering 531 acres. The total request for funds was approximately \$2,927,000 for acquisition and easement projects. In addition to South of the Sound Community Farm Land Trust (SSCFLT), Capitol Land Trust (CLT), and the Nisqually Land Trust, requests came from PARC Foundation of Thurston County, Olympia Coalition for Ecosystems Preservation, and the City of Tumwater.

Where it has worked

Conservation Futures funding, in partnership with PCC Farmland Trust, was used to conserve 42 acres of the [Helsing Junction Farm](#) in Rochester in 2015.

Opportunities to increase the funding source

Ballot measure to increase tax from 5 cents per \$1,000 to 6.25 cents. This would bring in an extra \$400,000 annually - nearly one third more than the current rate. Jefferson, King, Skagit, Pierce, Clark, and Whatcom counties tax at the higher rate.

Who needs to make a change?

Thurston County – with voter approval

Washington Wildlife and Recreation Program (WWRP) Farmland Preservation Grants

Competitive State Grant farmland purchase of easements to ensure the land remain available for farming in the future.

Overview

This is a subset of the larger WWRP competitive [state grant program](#) funds, designed specifically for farmland preservation. In 2014, \$4 million of biennial funding was awarded to six projects statewide – out of \$22 million requested (25 projects statewide). It requires a match of at least 50% from other sources. Applications are due in early May of even years for funding starting in July – 15 months later.

Where it has worked

In 2015, Capitol Land Trust was awarded a \$750,000 WWRP grant to purchase a 550 acre agricultural easement on the Nelson Ranch in Thurston County. The property includes 3.5 miles of the Deschutes River, Mima Mounds, and native oak-prairie. Capitol Land Trust is providing a \$750,000 match to cover the total project cost of \$1.5 million.

http://www.wildliferecreation.org/our-campaigns/wwrp-projects/projects/Nelson_Ranch_Easement_Acquisition

Opportunities to increase the funding source

Increase funding for this program at the state level. The legislature asked for a study of the entire WWRP, due in December.

Who needs to make a change?

State

US Department of Agriculture Natural Resource Conservation Services - Agricultural Conservation Easement Program (ACEP)

[Agricultural Conservation Easement Program \(ACEP\)](#) - Competitive Federal Grant specifically to fund purchase of agricultural conservation easements.

Overview

The federal government allocates a proportion of this funding to each state. Washington State's allocation has declined recently, to \$700,000 statewide. The competitive grants must have a match of more than 50%.

Opportunities to increase the funding source

There are possibly opportunities to increase the state allocation, or total federal funding.

Who needs to make a change?

- Federal
- Advocacy from a coalition of partners in Washington State

Seek special US Department of Agriculture funding via a grant from the Regional Conservation Partnership Program (RCPP)

Competitive Federal Grant designed for local partners to design and invest in conservation projects specifically tailored for their communities including farmland preservation projects.

Overview

A new funding source, created by the 2014 Farm Bill, to support innovative conservation project on a broader scale than individual easement purchases. Funding could be requested by a coalition of state land trusts for a large (multi-million dollars over several years) farmland grant under the Department of Agriculture's [Regional Conservation Partnership Program \(RCPP\)](#). This will require dozens of partners and significant acreage. The pre-proposal is due in July 2016, with final proposals due in October 2016. This program operates under the same rules as ACEP and is highly competitive. Only 230 of the 600 applicants received funding in 2014.

Who needs to make a change?

Local coalition of partners

Additional Real Estate Excise Transfer (REET) Tax

New Tax - up to 1% of selling price paid by the purchaser of real property.

Overview

REET is a tax levied on property buyers. In Washington State, up to 1% is allowed for conservation purposes. San Juan County has implemented a 1% [Land Bank Tax](#).

The State of Vermont's approach is higher but protects buyers of lower cost homes by limiting the tax to 1% on the first \$100,000 of value (1.25% on the rest of the value). New York State has a 2% tax that funds much of their Farmland Protection Implementation Grant (financing for easement purchases from that source).

Who needs to make a change?

Placing a ballot measure before voters requires approval of the Board of County Commissioners or signatures of substantial number of voters.

Individual Impact Investors

Investment Fund

Overview

Individual Impact Investors could fund long-term or bridge loans to farmers or land trusts. Individual investors or groups of investors interested in the triple bottom-line fund purchases of farmland and sale or lease to a farmer committed to continuing farming or to a land trust with the same goal.

Who needs to make a change?

?

Portion of recording fee for farmland preservation

Reallocate existing fee

Overview

In Connecticut, \$3.20 of the \$40 fee goes into a Community Investment Act Fee providing \$10 million annually for Farmland Preservation.

Who needs to make a change?

?