PLANNING COMMISSION AGENDA ITEM

CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: **Transfer of Development Rights and LCLIP**
DEPARTMENT: **Planning & Community Development**
PRESENTED BY: **Paul Cohen, Planning Manager**

☐ **Public Hearing**	☐ **Study Session**	☐ **Recommendation Only**
☒ **Discussion**	☐ **Update**	☐ **Other**

INTRODUCTION

The Landscape Conservation and Local Infrastructure Program (LCLIP) was passed into State Law in 2011. LCLIP creates incentives for both land conservation in the county and infrastructure improvements in the city. The City recently received a grant to study the feasibility of applying LCLIP in the 145th and 185th light rail station subareas, Town Center, and the Community Renewal Area (Aurora Square).

At tonight's meeting the City's consultant, ECONorthwest, will explain the program and provide their preliminary findings to the Planning Commission. The feasibility study will be complete in July 2015, and staff will present the final findings of the LCLIP study at that time. However, staff would like to present the study to date before the Commission considers the relevant issues of development potential and development agreements in the light rail station subarea plans. This same presentation was given to the City Council on December 8th.

BACKGROUND

The Landscape Conservation and Local Infrastructure Program (LCLIP) was passed into State Law in 2011. LCLIP creates incentives for both land conservation in the county and infrastructure improvements in the city. This purpose of the program is to encourage the Transfer of Development Rights (TDR) with a public infrastructure financing tool called tax increment financing (TIF). This program seeks to credit added development potential in exchange for preservation of natural and rural lands in the county, while providing greater assessed tax revenues for the City to pay for improvements such as plazas, parks, sidewalks, bike lanes, etc. to encourage vibrant, livable cities.

DISCUSSION

The City began looking at the LCLIP program as a way to include TDRs into the light rail station subareas. In exchange for accepting development rights, the City will have access to financing for revitalizing designated districts. The City will also be able to

Approved By: **Project Manager ____** **Planning Director ____**

bond against the future tax revenue generated by the development projects to make essential infrastructure improvements.

The City recently received a grant to study the feasibility of applying LCLIP in the 145th and 185th light rail station subareas, Town Center, and the Community Renewal Area (Aurora Square). At tonight's meeting the City's consultant, ECONorthwest, will explain the program and their preliminary findings to the Commission. The attached memo (Attachment A) from ECONorthwest provides background information and analysis of the LCLIP program as it applies to the City of Shoreline.

NEXT STEPS

The feasibility study will be complete in July 2015, and staff will present the final findings of the LCLIP study at that time. However, staff would like to present the study to date before the Commission considers the relevant issues of development potential and development agreements in the light rail station subarea plans prior to your public hearing and recommendations to the Council on the 185th light rail station subarea plan and development regulations on January 15, 2015.

ATTACHMENT

Attachment A – Consultant Report

ECONorthwest
ECONOMICS • FINANCE • PLANNING

DATE: November 21, 2014 **ECO Project #: 21764**

TO: Steve Szafran and Paul Cohen, City of Shoreline

FROM: LCLIP Project Team: Erik Rundell and Morgan Shook (ECONorthwest), Nick Bratton (Forterra), Matt Hoffman (Heartland)

SUBJECT: LCLIP IN SHORELINE

The City of Shoreline (Shoreline) is exploring the viability of the Landscape Conservation and Local Infrastructure Program (LCLIP) within the city. LCLIP is a form of tax increment financing enacted in 2011. The program gives cities access to incremental county property tax revenues to finance public improvements within city-designated LCLIP districts.

This memorandum provides an overview of the potential use of the program in Shoreline. The memorandum first provides a summary of LCILP and then reviews Shoreline's existing policies and regulations to assess possible changes needed to implement LCLIP. Lastly, the memorandum outlines the different mechanisms Shoreline may consider for retiring development rights as part of LCLIP.

What is LCLIP?

The program offers the use of tax increment financing to a city in return for: 1) the creation of a Transfer of Development Right (TDR) program; and, 2) the acceptance of a specified amount in regional development rights. TDR programs allow additional building area beyond the base zoning in a defined urban area in exchange for the purchase of the right to develop farm and forest lands in a rural area, thus preventing development of those lands.

In exchange for the placement of transferred development rights in LCLIP districts, the jurisdictional county (in this case King County) agrees to contribute a portion of its regular property tax to the sponsoring city for use for a defined period (up to 25 years).

The LCLIP program targets only a portion of the incremental property taxes generated from new development. This is not a new tax to residents or businesses. The remaining portion of the property tax still accrues to the sponsoring city and to the jurisdictional county. Existing and incremental revenues flowing from sales, business and occupation, and utility taxes still accrue to the city as if the LCLIP had not been enacted, as well as other capital restricted revenues.

Sponsoring City Ratio

The LCLIP legislation established the total number of transferable development rights that a city is assigned. Shoreline's allocated share from PSRC is 231 TDR credits. In adopting an LCLIP program, the city may decide to accept its entire allocated share or a portion of it. This accepted amount is known as the city's specified portion. The "Sponsoring City Ratio" reflects the specified proportion of development rights a city has chosen to accept of the city's allocated share. The resulting ratio (anywhere from 0 to 1) acts to pro-rate the amount of new construction value that can accumulate to an LCLIP district.

Accepting the full allocated share (all 231 credits for a ratio of 1) would maximize potential LCLIP revenues while taking something less than the full allocated share would reduce the potential value of the program to a city. A sponsoring city-specified portion must be equal to or greater than twenty percent of the sponsoring city allocated share.

In choosing its ratio, the city is trying to select an amount of credits it hopes to place over a 20-year period to meet the threshold requirements (discussed below) and extend the program (and revenues) the full 25 years. In doing so, the city is seeking to encourage enough new development to generate sufficient LCLIP revenue to support its infrastructure financing goals while balancing the risk of TDR utilization by the market or via public intervention.

Performance Thresholds

While the LCLIP program can run for a maximum of 25 years, the legislation requires participating cities to demonstrate performance of the use of credits within their Local Improvement Project Area (LIPA). Cities using the LCLIP tool must meet a series of performance thresholds pegged to the specified portion of credits in order to continue to access its share of county revenues. These thresholds are as follows:

- Threshold #1: Placement of 25% of the specified portion is required to start the program.
- Threshold #2: Placement of 50% of the specified portion is required by year 10 to extend it 5 years.
- Threshold #3: Placement of 75% of the specified portion is required by year 15 to extend it 5 years.
- Threshold #4: Placement of 100% of the specified portion is required by year 20 to extend it 5 years to its conclusion.

Local Improvement Project Area

A Local Improvement Project Area (LIPA), or LCLIP district, is the designated area in which:

- TDR credits will be placed and measured for performance monitoring.
- Infrastructure projects will be specified and funding will be used.
- The calculation of the new construction as the tax basis for LCLIP revenues will be based.

A city may have multiple and non-contiguous LIPA(s) as long as the area(s) meet the legislation requirement of containing less than 25% of the city's assessed value.

The City has four different areas within Shoreline that it is considering for use with LCLIP. The areas include the Town Center zone, Aurora Square, and the study areas for future Link light-rail stations at 145th Street and 185th Street.

Review of Relevant Polices and Regulations in Shoreline

Overall, Shoreline's existing policies support the use of TDR and LCLIP. Shoreline currently offers incentives to advance affordable housing and density goals, although not in the form of incentive zoning; however, it does not have a TDR program in place.

Shoreline's comprehensive plan language establishes a policy foundation for the use of LCLIP and TDR to encourage quality development, revitalize neighborhoods, and provide infrastructure that supports growth. Shoreline should look to the comprehensive plan goals and policies to determine areas that LCLIP funding should be directed towards. Shoreline may consider using LCLIP as a source of funding to meet the goals of catalyzing a master-planned, sustainable lifestyle destination in Aurora Square. Additionally, light rail station expansion areas would benefit from infrastructure investments as the city plans to work with stakeholders to identify and fund additional improvements that can be efficiently constructed in conjunction with light rail and other transit facilities.

Existing Incentives

Shoreline currently offers a variety of incentives to developers to encourage affordable housing, density, and high quality development. However, Shoreline does not currently have a formal incentive zoning program. Shoreline's form based code suggests that bonus options other than additional units or floor area would be approaches to pursue for TDR utilization. Importantly, there are no incentives currently offered for additional height. This would potentially make bonus height an incentive for a TDR program. Additional TDR incentives that award parking reductions or impact fee offsets should be considered in light of existing incentives offered to promote other public benefits.

It is important to look at existing incentive programs to understand how the program would interact with other incentives. For example, if Shoreline were to offer an affordable housing incentive program that provided bonus height in exchange for the inclusion of affordable housing units, developers might have to choose whether to achieve bonus height through TDR or through creating affordable housing units.

Implications for LCLIP

As part of implementing LCLIP, Shoreline will have several important policy decisions to make as part of establishing a program. A strong LCLIP program for the City of Shoreline must position the City to maximize LCLIP revenues through structuring the following program parameters.

- **LIPA geography.** The City will want to create a LIPA(s) that meets the nexus requirements. However, creating a district(s) that contains areas where development is expected will help create a large new construction tax base to use as the basis of the revenue calculation. The larger the tax base, the more funding leverage the City will have for a select sponsoring city ratio. Important questions to consider include:

    - Does Aurora Square present an opportunity for absorbing a significant number of TDR credits through developer agreements or a rezone?
    - Do station area rezones present an opportunity for absorbing TDR credits through incentive zoning?
- **TDR Code Provisions.** The number of TDR credits used is a function of several factors:
    - The nature of the incentive associated with TDR. Typical TDR incentives offer additional FAR or height. However, TDR can be connected with any variety of opportunities associated with development ("conversion commodities"). Other examples include connecting TDR with reduced setbacks, structured parking requirements, or impervious surface limitations. This is discussed in more detail below.
    - The demand and capacity to place TDR credits. The city must determine how much demand there may be for utilizing an incentive. If using incentive zoning, there must be demand to build beyond the zoning capacity and enough total zoning capacity to retire the specified portion. In addition, TDR may be among a menu of options that developers can choose from.
    - The "exchange rate" for TDR. The amount of incentive a developer receives per TDR credit used in large part determines the extent to which a TDR consumes the incentive zoning available. The incentive created by the TDR exchange rate must be equal to or exceed a developer's willingness- and ability-to-pay, otherwise TDR will not be used.
- **City-specified portion and program timing.** In order to maximize the flow of LCLIP revenues, the City has an incentive to meet all four performance thresholds. Doing so means the city must select a specified portion that is targeted at some expected absorption of TDR credits over the horizon of the program. This element of the LCLIP program is the most difficult technical aspect that the city must consider. Forecasting future development is difficult, much less determining the rate at which that development could utilize TDRs.

Transfer of Development Rights (TDR) Options

There are several different methods a city could pursue to place development right credits. In Shoreline, the viability of each option varies depending on the geographic areas that the City is considering. LCLIP is a relatively new program, and as a result, the legality of some TDR options is not well established. It is noted where this is the situation. The remainder of the memorandum summarizes each option and in what areas the options could likely be used.

Incentive Zoning

One commonly used TDR mechanism is incentive zoning. Incentive zoning allows developers to vary from base zoning requirements by providing some public benefit, in this case the purchase of development right credits. The incentive can either add value to a project by allowing additional height or density, or by reducing project costs through relaxed parking requirements or by providing access to a multifamily tax exemption (MFTE) program, for example.

Developer Agreements

Developer agreements are a voluntary way for a city to establish standards and conditions for development of a site with the property owner. TDR use can be negotiated into a developer agreement. For example, TDR purchase of X reduces the amount of infrastructure improvements required by the development, which lowers development costs, and/or awards density or other bonuses that improve project revenue.

City Purchase with Sales Tax Revenues

A city could use a portion of its sales tax revenue to purchase all or a portion of the City's allocated TDR commitment identified by LCLP. The city would first have to estimate the total purchase price of its commitment and the potential return in property tax revenues through LCLIP. The City could resell those credits to developers when other TDR mechanisms take effect, such as incentive zoning or developer agreements.

Optional Impact Fee In-lieu

The city could establish an optional impact fee that could be paid in-lieu of existing impact fees. The overall objective of this approach is to leverage existing impact fee payment to achieve an overall higher revenue stream from county property taxes. A development project would have the option of paying a proportionate (but lower) fee into a TDR fund in place of an impact fee. The city would then use those funds to purchase development rights. The additional revenues from LCLIP could be used to pay for projects that would have otherwise been paid for with impact fees and/or other funds.

District or Citywide New Fee

Total cost of city's full LCLIP credit allocation is spread across all taxed properties in a district or citywide over 20 years. The city then raises that amount over time (either in districts or citywide) through a fee (creating a new revenue source) to pay for credit acquisition. The actual legality of this method is uncertain and this mechanism has not been used before.

Participation Required

A last option is that the purchase of TDR credits is required for new development as part of an area rezone. The actual legality of this method is uncertain and this mechanism has not been used before.

TDR Options by Geographic Area

The table below shows where these options could likely be applied in Shoreline. The options could still be applied to those areas **without** a "yes", but it would require more research and/or confirmation.

	Geography			
TDR Approach	Town Center	185th Station Area	145th Station Area	Aurora Square
Incentive Zoning			Yes	
Developer Agreement				Yes
City purchase with sales tax	Yes	Yes	Yes	Yes
Optional Impact Fee in-leu	Yes	Yes	Yes	Yes
District or City-wide new fee	Yes	Yes	Yes	Yes
Participation Required		Yes	Yes	