

OPEN SPACE
Policy Considerations
Foothills Subarea Committee
submitted by Amy Mower
April 4, 2007

There are many reasons for supporting open space in the Foothills. For one, it will help maintain the rural, foothills of the Cascades Mountains wilderness character of the land we all cherish.

I urge the Foothills Subarea Committee to adopt a policy that encourages open space in the Foothills as it will serve to help maintain rural character, a mandate which we have received from the residents of the Foothills.

The policy to be adopted by the Subarea Committee could be as simple as utilizing the bullet points which I list below, and then conclude with the last paragraph of this proposal. Before my conclusion, I discuss several different types of open space preservation, which is not meant to be complete list. It is not my intention that that discussion be part of the Policy.

Suggested Open Space Policy Introduction:

“There are many public benefits of conservation of open space. To paraphrase the Nature Conservancy, the American Farmland Trust, and the Whatcom County Land Trust, public benefits of open space include the following:

- *Protect water quality and air quality, by conserving forests and watersheds*
- *conserve watersheds and aquifers, helping ensure a clean supply of water for all of us*
- *conserve wildlife habitat*
- *preserve open space*
- *preserve farmland, ranchland, timberland, forests and rivers*
- *maintain rural character of our communities, neighborhoods and forests and mountains*
- *maintain traditional, historic uses of property, adding to the rural character*
- *buffer public lands, state parks and national parks, keeping development from pressing up against park borders*
- *maintain landscapes and views for tourism*
- *preserve historical and cultural sites*
- *preserve scenic beauty*
- *preserve rural quality of life*
- *competitive attractiveness of open space as factor attracting retirees, tourists, labor supplies and businesses*

Perhaps most interesting is the following benefit:

- *require less in public services and generate more in local revenues than other uses of the property.”*

As discussed by the Nature Conservancy, there are several national studies which show that undeveloped lands cost communities much less in public services than developed lands, and in fact generate excess funds for the community. *Fact Sheet: Why Save Farmland?* American Farmland Trust Farmland Information Center, May 2002; **available online at [ww.farmland.org](http://www.farmland.org)**; *Economic Benefits of Land Conservation*, Trust for Public Land, 2007. **available online at www.tpl.org**.

Please see last page for the next and last paragraph for the suggested Policy

Commentary on Conservation Methods

There are many ways to preserve open space. Each method has its positive points and potential drawbacks.

a) **There are conservation easements**, where the land owner grants a non-profit entity a conservation easement, which protects the property forever in whatever manner the land owner and the nonprofit entity agree upon. The land owner can either sell or donate the easements.

i) The advantages of conservation easements are that they are private, not subject to state regulation. The landowner determines how much or how little the public has any access, if any. Frequently, easements do not permit any access.

ii) A land owner who has donated a conservation easement to a nonprofit entity can get a charitable deduction for federal taxes, with a qualified appraisal acceptable to the IRS showing the difference in market value of the property before and after the donation, and compliance with other detailed requirements required by the IRS.

iii) Frequently, a conservation easement is used for helping to transfer property to the younger generation in a family, as it reduces the taxable value of the real estate since it cannot be developed in a way which interferes with the conservation easement. Estate taxes are then lower, but the property stays in the family. A land owner can even reserve the right, in certain cases, to build a house for a family member, even though there is an easement in place.

iv) Timber companies can also put conservation easements on their properties, and that can be done in a way which preserves the right to harvest timber in a sustainable fashion, and in a manner which protects the wildlife habitat and the watersheds. The timber company gets a tax deduction and at the same time keeps the ability to harvest timber.

v) These are just a few examples of how a conservation easement can work. Each conservation easement is individually designed to the land owner and for the land.

b) donations of land to a non-profit conservation group, which also have the benefit of a charitable deduction for taxes paid to the IRS;

c) purchases of development rights, by states and communities, which in effect create conservation easements;

d) conservation easements on open space in cluster zoning (to preserve the development's open space in perpetuity); and

e) there is the Washington Statute on preserving current use of the property, which provides the land owner with a real estate tax benefit (RCW 84.34), while keeping the land open. Depending upon the land owner's choice, the tax benefit can be larger or smaller, determined by the amount of regulation the land owner accepts.

Suggested Conclusion to the Policy

“The Foothills Subarea Plan shall encourage the preservation of open space for the reasons listed above. The Policy shall provide for representatives of nonprofit conservation groups and local, county and state entities to hold public forums and conferences once a year at a central location in the foothills, rotating from Glacier to the Columbia Valley UGA to Deming. Education and assistance shall be provided by the Whatcom County as to the different vehicles available by which to preserve open space, including but not limited to donations of land or conservation easements, purchases of land or conservation easements, requiring conservation easements on open space in cluster developments and PUDs, purchases of development rights, and other methods as may be developed from time to time. Open space preservation shall be deemed a very important component of preserving the rural character of the Foothills Subarea, and shall be encouraged wherever possible.”