

Examples of TDR Programs Nationwide

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Long Island Pine Barrens

Overview

The Long Island Pine Barrens is located in Suffolk County and is the largest undeveloped area on Long Island.

The region contains an aquifer which provides drinking water for the majority of Long Island residents.

This is a regional TDR program encompassing 102,500 acres in three municipalities: Southampton, Brookhaven, and Riverhead.

Credit values are established on the open market with the developer and land owner negotiating as a function of supply and demand.

Credits started at \$7,500 per credit in 1996 and are now selling for \$70,000 per credit in Brookhaven. Riverhead started at \$10,000 per credit and are now selling for over \$65,000 per credit. Finally, Southampton began in 1997 with credits selling in the \$9,250 to \$12,000 per credit range and are now selling in the \$70,000 to \$80,000 per credit range.

In 1995, the Central Pine Barrens Comprehensive Land Use Plan was adopted, dividing the region into a Core Preservation Area (55,000 acres) and Compatible Growth Area (47,500 acres). The Core Area is designated for preservation and the Compatible Growth Area is designated for controlled growth.

The goal of the program is to preserve 75% of the privately owned land in the Core Area.

TDR credits are termed Pine Barren Credits or PBCs.

Sending Areas

New development is mostly prohibited in the sending areas; however, expansion of existing dwellings and lots approved before July 1993 may be permitted.

Lots of ten acres or more may be developed if located on existing roadways.

PBCs are allocated to property owners in the Core Area based on parcel size, the underlying zoning of the parcel, and any prior parcel development. No deductions are taken for wetlands, steep slopes or other development constraints.

PBCs can be sold to potential purchasers by reviewing a list of buyers. Additionally, these credits can be listed with a real estate broker or sold to the Clearinghouse, the Pine Barrens TDR credit bank.

PBCs cannot be transferred outside of the town in which they are generated. For example, PBCs generated by a parcel in Southampton cannot be transferred to a receiving area parcel in Riverhead.

Receiving Areas

The three municipalities contain varying densities depending on the amount of PBCs purchased.

In Riverhead receiving areas, a single PBC permits an increase in intensity of development equal to three hundred (300) gallons per day per acre or the equivalent rated sewage flow as described in the Suffolk County Health Department Standards.

Southampton permits receiving areas, which are located in residential overlay zones, to increase density from one unit per five acres to one unit per one acre with the purchase of PBCs. For areas already zoned for one dwelling unit per acre, bonus density can be increased to one unit per half acre.

Through the purchase of PBCs, Brookhaven allows increases of density in commercial and industrial properties, as well as Planned Retirement Communities.

Strengths and Weakness

Developers can increase baseline density by as much as ten times.

PBCs must be permitted “as of right” in receiving areas.

A weakness is that there is little development potential on the sending sites.

From a regional perspective, another weakness is that PBCs may not be transferred between municipalities within the region.

Conclusions

To date, approximately 1,300 acres have been preserved through TDR.

As of April 1, 2006, a total of 601 parcels have been preserved, with an average parcel size of 2.24 acres. There were 759 credits generated, 259 credits redeemed and approximately 500 credits not redeemed.

Tahoe Regional Planning Agency

Overview

The Tahoe Regional Planning Agency was established in 1969. In 1987, the current master plan was created, which includes six counties in California and Nevada.

The new master plan seeks to implement controlled growth and to promote residential subdivision development in designated areas with proper infrastructure, away from environmentally sensitive land.

This program is a regional with voluntary receiving zones for TDR.

Credit values are established on the open market with the developer and landowner negotiating as a function of supply and demand.

Credits in the late 1990's were approximately \$30,000 per credit, with credits now selling between \$90,000 and \$100,000 per credit. However, there are signs of the market softening, which could have an affect on future credit prices.

Sending/Receiving Areas

Sending areas allow transfer of rights under four scenarios. Two of the scenarios include the transfer of development rights from vacant land and from already improved land. The other two scenarios include the transfer of "land coverage" and "building allocations."

The transfer of development rights from vacant land can be achieved by allocating rights to a receiving area in order to achieve development, regardless of the designated zoning. All rules and regulations of the existing zoning apply.

The transfer of development rights from already developed land can also have rights transferred by the demolition of existing structures adjacent to environmentally sensitive land.

The transfer of "land coverage" (i.e. impervious surface) can be obtained at a one to one transfer ratio or greater in certain regions. Once land coverage has been transferred to a receiving site, the sending site is deed restricted since the land coverage rights have been retired. Building allocation rights can be transferred from environmentally sensitive vacant land, which can not be developed due to various regulations. The receiving area must be less environmentally sensitive and planned for residential development. The land in

the sending area must be permanently preserved either by deed restriction or transfer of title.

Strengths and Weakness

The success of the program has been the strong demand for development throughout the region.

The main weakness of the program is the confusion associated with TDR and the process of credit allocation.

Conclusions

A significant amount of transfers within the region occur each year.

The program's combination of strong demand and strict building restrictions in sending areas provide for a good combination to lead to the purchase of TDR.

Montgomery County, Maryland

Overview

The TDR program in Montgomery County is considered one of the most successful TDR programs in the country in terms of the amount of land preserved.

The program was implemented in 1980 in order to preserve agricultural land and raw open space.

This program is a county-wide program and is a voluntary program for TDR.

Credit values are established on the open market with the developers and land owners negotiating as a function of supply and demand.

Credits started at \$3,000 per credit in 1980 to 1982, and are now selling between \$42,000 and \$45,000 per credit.

At the inception of the program, credits sold at a discount due to skepticism in the market. This permitted regional and local developers to purchase the credits inexpensively.

Sending Areas

Zoning within the sending sites, known as the Rural Density Transfer Zone, can be developed with one dwelling per 25 acres; however, through TDR, dwellings can be developed in the receiving areas at one dwelling per 5 acres. If there are any permanent dwellings on the sending site, one development right must be preserved.

Once a TDR has been transferred from a sending area, that TDR is retired from the sending area and recorded as preserved with the County Attorney's office so that the TDR can not be used again.

Receiving Areas

All of the receiving areas within the County have the ability to receive TDRs.

Two zoning designations are defined for the receiving areas, with one being for non-TDR uses and a second for developers using TDRs.

With the use of TDRs in the receiving area, developers can achieve bonus densities; however, the Planning Board has complete control over development in order to maintain the vision of the program.

If a developer incorporates moderately priced dwelling units (MPDUs) of at least 12.5% of the total project, a bonus density of up to an additional 20% is permitted beyond the density as allowed through TDR.

The purchase of TDRs is typically sold as a purchase option until a final plat approval is granted by the County.

Strengths and Weakness

The success of the program has been the ability for a landowner to sell a portion of their rights but maintain a fee interest in the property in order to obtain working capital for farming.

The strength of the real estate market over the past few years has increased demand for bonus densities allowed through the use of TDR.

Additional incentives that have led to the program's success include an expedited approval process for developers using TDR.

One weakness of the program has been the time it took to establish the receiving areas. There were 23 master plans developed before the receiving areas were created.

Conclusions

Of the 317,000 acres of total land in the county, 93,000 acres have been designated as the Rural Density Transfer Zone, which is land to potentially be preserved.

To date, approximately 49,000 acres have been preserved through TDR.

Calvert County, Maryland

Overview

The TDR program in Calvert County is considered to be one the most successful TDR programs in the country, similar to Montgomery County.

The program was implemented in 1978 in order to preserve agricultural land and for implementing smart growth in the region.

This program is a county-wide program and is a voluntary TDR program.

Credit values are established on the open market with the developer and landowner negotiating as a function of supply and demand.

The TDR program does not require easements to encumber a site with transferred rights, but rather a recording of covenants prior to sale.

Credits started under at \$1,000 per credit in 1978 and are now selling between \$6,750 and \$9,000 per credit. In 2004, the average credit value was \$5,200 per credit.

The original goal of the program was to preserve 20,000 acres; however, due to the success of the program, the goal of the program has increased to 40,000 acres.

Sending Areas

Owners who have land that is considered by the Agricultural Preservation Advisory Board to be suitable for forestry or agricultural purposes, may have their land designated as an Agricultural Preservation District (overlay zone).

The land must be designated as an Agricultural Preservation District or contain a minimum of 50 contiguous acres.

Landowners in the Agricultural Preservation District are allocated TDRs based upon one dwelling unit per five acres. Special areas allocate credits based upon greater density.

Once a TDR has been transferred from a sending area, the land must remain in the Agricultural Preservation District and density is limited to one dwelling unit per 25 acres or a maximum of 4 dwellings unit, regardless of the parcel size.

Receiving Areas

Land in the receiving areas is known as a Transfer Zone District (TDZ). The TDZ includes designated Town Centers and Rural Communities. A TDZ must be approved by the County Commissioners and must be located within a major subdivision with 50% of the site remaining as open space. Density within a TDZ can increase to one dwelling unit per two acres or greater near Town Centers.

The purchase of TDRs for use in receiving areas is typically sold as a purchase option until a final plat approval is granted by the County.

Strengths and Weakness

The success of the program has been the ability for developers to obtain increased average density from one unit per ten acres to one unit per two acres.

Many of the sending area landowners desire to continue farming, and utilize the funds obtained from the sale of TDRs as capital for existing farm operations or as extra income.

Conclusions

Of the 140,000 acres of total land in the county, 60% of the County includes farmland, forested land, and vacant land, which has the potential to be preserved.

To date, approximately 11,901 acres have been preserved through TDR. Other land preservation programs have helped preserve more than 20,000 acres throughout the entire county.

Charles County, Maryland

Overview

The TDR program in Charles County was established in 1992 for the preservation of agricultural land.

The county has established a goal to preserve 64,000 acres.

Although the program started almost fifteen years ago, it is only within the past two or three years that TDR has become an acceptable practice.

This program is a county-wide program and voluntary.

The Current amount of potential TDRs is more than 4,600, with only 978 being certified and 298 being extinguished.

Credit values are established on the open market with the developer and landowner negotiating as a function of supply and demand.

Credit values began at \$3,000 per credit in 1992 and are now selling at \$20,000 per credit; only one year ago, developers were paying \$8,600 per credit.

Sending Areas

Sending areas must be farms that are enrolled in the Maryland Agricultural Land Preservation Foundation (MALPF) District and must be in the program for a period of five years before becoming eligible to participate in the TDR program.

Once a parcel is enrolled in the program, the landowner is issued Development Credits. The number of credits is predicated on the existing Rural Conservation and Agricultural Conservation zones which allow for one dwelling unit per three acres.

Three Development Credits equals one Development Right.

Once a property owner is issued TDRs, they can be transferred and owned with the same rights as real property. Additionally, once transferred, the land is encumbered with a deed restriction which only permits agricultural uses.

Receiving Areas

TDRs can be utilized to increase density in the receiving areas.

With the use of TDRs, owners/developers of designated receiving sites can obtain bonus density as of right.

Density in receiving zones is one to one, with the ability to develop an additional two units by purchasing TDRs.

Owners in a receiving site area who wish to use TDR must include a subdivision plan and other documentation in order to apply for TDRs.

Strengths and Weakness

TDRs are the only mechanism for increasing density within the receiving areas.

Many sending area sites contain environmentally sensitive land, making development cumbersome. As a result, transferring credits is a good alternative to create value.

A weakness reported by a representative of the County is the lack of consistent regional planning/zoning for both the sending and receiving areas.

Conclusions

Charles County's TDR program has gained momentum over the past few years.

Of the 64,000 acres of total land to be preserved, 2,250 acres has been preserved through TDR.

As successful as the TDR program has been, other preservation resources will be necessary to preserve the 64,000 acres.

Collier County, Florida

Overview

The program was originally implemented in 1974 in order to preserve environmentally sensitive land and for controlling urban sprawl. Changes to the program occurred in December 1999 and most recently in July 2003.

This program is a county-wide program and is an involuntary TDR program.

Credit values are established on the open market with the developer and land owner negotiating as a function of supply and demand.

Minimum credit values are set at \$25,000 per credit.

Owners within the sending areas receive one credit per five acres.

The TDR program is relatively small program with the majority of TDR transfers occurring in one transaction.

Sending/Receiving Areas

In 1974, more than 80% of the County was placed in a Special Treatment overlay to control growth and limit development in environmentally sensitive land.

Currently, both sending and receiving areas must be located in urban areas designated as “urban” in the County’s Future Land Use Map.

The number of dwelling units that can be transferred from a sending site is based upon the density permitted by the sending site’s underlying zoning.

Base density under current zoning ranges from 1 unit per 2 acres to 1 unit per 10 acres. Bonus densities of five to ten percent are permitted on receiving sites.

Unlike other TDR programs which require preservation/deed restriction of a sending area, land within a sending area can be utilized for certain uses as designated by the Collier County Board of Commissioners.

Strengths and Weakness

The success of the program has been guided by the simple process of selling development rights, and the administrative approval of development on receiving sites that are less than 20 acres in size.

Extreme environmental restrictions in the Special Treatment Zone motivate developers to find alternative sites to develop.

Because landowners of potential receiving sites do not often build at the densities permitted by the underlying zoning, they are not interested in utilizing development rights to increase the density of development on their property.

Conclusions

Although a small TDR program, it has been able to preserve 325 acres of environmentally sensitive land.

A recent change to the zoning code, which permits greater bonus densities on potential receiving sites, has added to the demand for TDR.

Boulder County, Colorado

Overview

The TDR program was implemented in 1995 in order to preserve rural land. It is an outgrowth of two previous programs established by the county. Originally, the county adopted a technique known as Non-Urban Planned Unit Development (NUPUD), which allowed for bonus density for land which is preserved with a conservation easement on 75% of the site. NUPUD was later permitted to allow for a transfer of rights to Non-Contiguous Non-Urban Planned Unit Development (NCNUPUD). This includes the ability to transfer development rights to unincorporated section of cities where development is more prevalent.

The Boulder County TDR program is actually several TDR programs. The county has entered into intergovernmental agreements (IGAs) with a number of cities within the county including Boulder, Longmont, Lafayette, Niwot and Broomfield, to permit the transfer of development rights from vacant and agricultural lands in unincorporated portions of the county to the various cities.

Credit values are established on the open market with the developer and land owner negotiating as a function of supply and demand.

Credit values under the various IGA TDR programs have averaged \$50,000 per credit.

Sending Areas

Pursuant to the various IGAs, sending site owners are awarded development rights at two units per 35 acres. With an addition of water rights granted to the county by a sending site, the landowner receives an additional development right for a total of 3 units per 35 acres.

The extent of the TDR sending areas varies from program to program. For example, under the IGA with the City of Lafayette, the sending area is a 27-

square mile region that extends from one to four miles in each direction from the city limits.

A Development Rights Certificate is obtained by a property owner in the sending area when he or she applies for a conservation easement.

Receiving Areas

Receiving areas are established by each of the cities under their separate IGAs with the county.

Each individual city also establishes the maximum amount of additional density that will be permitted with the receiving areas when TDR is utilized.

Strengths and Weakness

Rules associated with the receiving areas create a predictable development process for developers but also provide site development flexibility.

Use of IGAs has helped bolster the overall program because each TDR program is tailored to the needs of a particular city.

As more land is preserved, there are fewer 35-acre parcels which can be preserved in the sending areas.

Conclusions

The program is not a thriving TDR program, mainly due to the limitations on potential receiving areas.

To date, approximately 6,000 acres have been preserved by the use of TDR.