



# **N.J. State Transfer of Development Rights Bank Board**

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June 2007

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## **State TDR Bank Board**

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## From the Governor



**Gov. Jon S. Corzine**

Our farmland, open space and historic resources are an important part of the character of our communities and the quality of life we enjoy here in the Garden State.

Protecting them is a challenge that requires us to use all the tools at our disposal. Preservation through the purchase of land or development rights has been an important tool but it is not the only one available to us.

Transfer of Development Rights (TDR) is an innovative approach that helps municipalities plan for how they can best accommodate needed development while protecting their most valued natural, agricultural and cultural resources.

By complementing traditional farmland and open space preservation efforts, TDR has the potential to play an increasingly important role in helping towns achieve their preservation goals, promote smart growth and provide for livable communities that future generations will be proud to call home.

## From the Secretary



**Secretary Kuperus**

More than 157,000 acres of farmland have been permanently protected through the Farmland Preservation Program. While that is an impressive achievement, we still have far to go to preserve the estimated 600,000 acres of farmland needed to sustain New Jersey's agricultural industry in the future.

While we clearly cannot afford to protect all the farmland, as well as the open space, we will need through preservation alone, we are fortunate to have TDR as yet another strategy to help us achieve our goal.

TDR – originally available only to Burlington County municipalities as a pilot program – became a viable tool for towns statewide in 2004 with enactment of the State Transfer of Development Rights Act. Currently, 11 more municipalities are pursuing the development of TDR programs, and more are certain to follow, supported by grant funding from the State TDR Bank Board and Department of Community Affairs' Office of Smart Growth.

The municipalities that will realize the greatest success in preservation over the coming years will be those that take advantage of every means available to protect their farmland and other important resources. We look forward to continuing to work with towns across New Jersey to harness the power of TDR to plan for growth and in the process protect our farmland, open space and historic treasures.

## **Executive Summary**

The following is a summary of State Transfer of Development Rights (TDR) Bank activities in 2006 and an update on the implementation of transfer of development rights in New Jersey.

Throughout the year, the State TDR Bank Board, in coordination with state partner organizations, has been actively involved in providing information, technical assistance and grant funding to municipalities interested in the transfer of development rights. There also has been significant effort toward the promotion and marketing of the concept statewide.

To date, TDR in New Jersey is being successfully carried out by two Burlington County municipalities and within the New Jersey Pinelands region. Eleven additional municipal programs and a Highlands regional TDR program are currently in development, with several TDR feasibility studies also under way.

Full utilization of State TDR Bank functions have yet to be required by those developing TDR programs that the Bank may eventually serve. Legislatively mandated State TDR Bank functions and their current implementation levels are described herein.

## **TDR in New Jersey**

Transfer of Development Rights is a municipal planning tool used to manage growth and development through the transfer of development potential from areas that require special protection to areas that can absorb increased development. These areas of protection may include farmland, woodland, floodplain, aquifer recharge areas, natural habitats, recreation or parkland, or land that has unique aesthetic, architectural or historical value. TDR involves the exchange of development potential in the form of saleable credits. Landowners in designated protection areas, or “sending areas,” can sell these credits to those who wish to develop areas designated as appropriate for growth, or “receiving areas.” Development credit purchasers use credits to acquire increased development density in these receiving areas. Typically, a carefully designed transfer of development potential program uses the resources of the private market to fund this exchange of development potential, in some cases with the assistance of a TDR bank.

### **New Jersey State Transfer of Development Rights Bank**

The State Transfer of Development Rights Bank was established, pursuant to section 3 of the State Transfer of Development Rights Bank Act (P.L.1993, c.339 (C.4:1C-51)), to support development potential transfers in New Jersey. Major tasks charged to the State TDR Bank under this Act include:

- The purchase, or provision of matching grants for the purchase, of 80 percent of the value of development potential from properties within designated TDR sending areas;
- The provision of a financial guarantee with respect to any loan secured using development potential as collateral;
- The provision of planning assistance grants to municipalities to help cover the cost of preparing the planning documents required to enact viable TDR ordinances;
- Service as a development transfer bank for any municipality that has adopted a development transfer ordinance, or any county in which at least one municipality has adopted a development transfer ordinance; and
- The establishment and maintenance of a Development Potential Transfer Registry to record all development potential transfers.

The Transfer of Development Rights Bank Board is a 10-member public body located in, but not of, the State Agriculture Development Committee (SADC). The members include the Secretary of Agriculture (chair), the State Treasurer, the Commissioner of Environmental Protection, the Commissioner of Transportation, the Commissioner of Banking and Insurance, the Commissioner of Community Affairs, the President of the State Board of Agriculture, the Chairperson of the State Planning Commission, the President of the Association of New Jersey Environmental Commissions (ANJEC) and one member of the general public, who must be a farmer actively engaged in agriculture and appointed by the Governor.

The State Agriculture Development Committee (SADC) is responsible for providing primary staff support to the New Jersey State TDR Bank. In addition to existing SADC staff, one full-time staff person for the Bank, Steven Bruder, was hired in August 2005. Also in 2005, SADC Executive Director Susan Craft was appointed Executive Director of the State TDR Bank. Prior to her appointment to the SADC, Ms. Craft

worked extensively on the development of the Burlington County TDR programs in her role as Director of Land Use Planning for Burlington County.

### **Existing TDR Programs in New Jersey**

#### **Pinelands Development Credit Program**

Transfer of development rights was first authorized in the state in 1981 with the Pinelands Development Credit (PDC) Program. The PDC Program is a component of the Pinelands Comprehensive Management Plan (CMP) created to regulate development in the Pinelands region. The program was enacted to offset the severe development restrictions imposed within the Preservation Area District, Agricultural Production Areas and Special Agricultural Production Areas designated by the CMP, and to transfer development out of these sensitive areas. Development potential is transferred to infrastructure-supported areas designated by the CMP as Regional Growth Areas. Before property owners may sell PDCs, they must first be certified by the Pinelands Development Credit Bank.



The PDC program is administered by the Pinelands Commission and the Pinelands Development Credit Bank. As of December 2006, this regional TDR program had resulted in the preservation of more than 49,000 acres, according to the Pinelands Development Credit Bank.

*Pinelands Development Credit Bank Website:* <http://www.state.nj.us/dobi/pinelands/pinelandsbank.htm>

*New Jersey Pinelands Commission Website:* <http://www.nj.gov/pinelands/>

#### **New Jersey Pinelands Development Credit Bank**

As noted above, the Pinelands Development Credit Program has resulted in the preservation of more than 49,000 acres, making it one of the most successful examples of TDR in the nation.

To facilitate these development transfers, the state created the Pinelands Development Credit Bank (PDC Bank) in 1985. Among its responsibilities, the PDC Bank:

- Issues PDC certificates, which then enable these transferable development rights to be bought and sold;
- Tracks the sale and purchase of PDCs to ensure that accurate records of all transactions are maintained;
- Provides information about opportunities to buy and sell PDCs;
- Purchases PDCs itself in certain cases; and
- Periodically sells PDCs it has purchased.

When the first PDCs were transferred in 1985, the price per development right was valued at \$2,250. This equates to a PDC price of \$9,000. Credit sales then remained relatively stagnant until the late 1990s when development demand in the Pinelands increased significantly. Recent sales information indicates that the price of a PDC is currently ranging between \$80,000 and \$160,000 per PDC, or \$20,000 to \$40,000 per development right, according to the Pinelands Development Credit Bank.

The State TDR Bank maintains an open dialogue with the PDC Bank. The Secretary of Agriculture is

appointed as an ex-officio member of the PDC Bank Board, with an SADC staff designee attending quarterly meetings. The primary staff person to the PDC Bank also serves as designee for the Commissioner of Banking and Insurance on the State TDR Bank Board.

*Pinelands Development Credit Bank Website: <http://www.state.nj.us/dobi/pinelands/pinelandsbank.htm>  
New Jersey Pinelands Commission Website: <http://www.nj.gov/pinelands/>*

### **Burlington County TDR Demonstration Act**

In 1989, the Legislature sought to demonstrate the feasibility of municipal TDR programs outside of the Pinelands region. The result was a pilot transfer of development rights program created under the Burlington County Transfer of Development Rights Demonstration Act, P.L.1989, c.86 (C.40:55D-113 et al.), which extended authorization for TDR to all municipalities in Burlington County. Under this legislation, two municipalities in Burlington County – Lumberton Township and Chesterfield Township – pursued successful TDR programs.

To facilitate TDR implementation in these municipalities, Burlington County established the Burlington County Development Credit Bank. This bank has been responsible for monitoring of these programs, promotion of credit sale and funding for public education, and is administered by staff from the Burlington County Department of Resource Conservation.

### **Lumberton Township**

Lumberton Township was the first municipality to transfer development potential under the Burlington County Transfer of Development Rights Demonstration Act. The Lumberton TDR program occurred in two phases. In 1995, the first Lumberton TDR program was established to preserve farmland on 1,513 acres in the western portion of the township. Based on this initial success, the Township adopted a second TDR program, in 2000, to preserve farmland on 1,355 acres in the municipality's eastern portion. TDR credit allocation to landowners in these sending areas is based upon a parcel's soil septic suitability. Lumberton used this approach because it reflected the number of units that could realistically be constructed on a sending area parcel under existing zoning.

Lumberton's receiving areas under the 1995 TDR program are located in the township's five Rural Agricultural/TDR Receiving Area zones. Within these receiving areas, the density of a receiving site can increase from a minimum of 0.7 units per acre to a maximum of 4 units per acre with the use of development credits. Under the TDR provision adopted in 2000, the designated receiving area consists of 185 acres zoned for a mixed-use, age-restricted community with residential, neighborhood retail, office space, public or quasi-public facilities and open space. Within these receiving areas, the density of a receiving site can increase from a minimum of 0.7 units per acre to a maximum of 3 units per acre.

Initial credit values were established by the Township at \$14,000 per credit. Credit values are now determined on the open market, with most recent transfers recorded at up to \$30,000 per credit.

To date, 265 TDR credits have been enrolled, equating to the permanent preservation of more than 850 acres of farmland within the township. One hundred percent of the receiving areas to date are developer-owned, with 95 percent of the units built, according to Burlington County's Office of Resource Conservation.



### **Chesterfield Township**

Chesterfield Township implemented its municipal TDR program in 1997 with the intent of preserving its agricultural resource base. The township receiving area, known as Old York Village, comprises 560 acres in the northwest corner of Chesterfield. This receiving area was chosen because of its proximity to existing water treatment facilities in Bordentown and easy access to transportation corridors. The receiving area is planned to accommodate 1,200 attached and detached single-family residential housing units, a new elementary school and active recreation areas. The site plan for Old York Village also incorporates a network of neighborhood parks and a mixed-use village center with retail, office and convenience uses. It was designated as a Town Center under the State Development and Redevelopment Plan in April of 2000 and was granted Special Area Standards by the New Jersey Site Improvement Advisory Board to accommodate the desired community design.



TDR credit allocation in Chesterfield is also based upon a parcel's soil septic suitability. Under the Chesterfield Master Plan, a single TDR credit can be used to construct one single-family receiving area home, with fractions of credits used to construct smaller homes, townhouses and apartment units. Credits may also be used toward development of commercial and institutional uses.

Initial credit values were established with the Township at \$23,000 per credit. In July 2004, an auction was held at which 50 credits were sold at \$50,000 per credit. More recent sales have recorded values of up to \$65,000 per credit.

To date, approximately 90 percent of Chesterfield's receiving area is developer-owned. Construction is under way, with nearly 60 percent of the residential units developed. Thus far, the transfer of development potential has resulted in the preservation of more than 2,200 acres, according to Burlington County's Office of Resource Conservation.

By 2004, the success of the Burlington County pilots prompted the Legislature to enact the State Transfer of Development Rights Act (N.J.S.A. 40:55D-137 et seq.). This legislation extended availability of TDR to municipalities state-wide, allowing for both intramunicipal and intermunicipal



*Photo courtesy of Clarke Caton Hintz*

transfers. This bill also formalized the planning process required to enact TDR and mandated a list of planning documents required prior to adopting a TDR ordinance. To assist municipalities, the Act authorized the State TDR Bank Board to provide Planning Assistance Grants.

The State TDR Act made New Jersey the first state in the nation to authorize statewide comprehensive TDR enabling legislation. Within New Jersey, there are currently 11 municipalities pursuing intramunicipal TDR under the State TDR Act, with several poised to enact development transfer ordinances within the coming months. Several more municipal and regional programs are being investigated for TDR feasibility at this time.

### **State Agency Coordination**

**Department of Community Affairs, Office of Smart Growth** -- The Office of Smart Growth is responsible for state planning oversight and the administration of incentives for promoting growth in accordance with the New Jersey State Development and Redevelopment Plan (State Plan). The Office serves as an information clearinghouse, point of state agency coordination and provider of technical assistance to local governments. In cooperation with the State TDR Bank, the Office of Smart Growth provides technical and financial support to municipalities interested in TDR implementation. Through its Smart Future Program, the Department of Community Affairs provides Smart Future Planning Grants to investigate TDR applicability and fund its implementation. These grants may be used as a match for grants provided by the State TDR Bank. Smart Future Planning Grants related to TDR have been granted for both intramunicipal and multi-jurisdictional programs.

To date, grants for intramunicipal programs have been provided to:

- Alexandria Township, Hunterdon County
- Ocean Township, Ocean County
- Mannington Township, Salem County
- Stafford Township, Ocean County
- Hillsborough Township, Somerset County
- Hopewell Township, Cumberland County
- Woolwich Township, Gloucester County
- Washington Township, Mercer County
- Berkeley Township, Ocean County
- Montgomery Township, Somerset County
- Fanwood Borough, Union County



Grants to investigate multi-jurisdictional TDR programs within Salem City, Alloway, Quinton and Elsinboro townships in Salem County and within Western Southern Cumberland County have also been awarded.

An additional task charged to the Office of Smart Growth is the administration of municipal Plan Endorsement. Plan Endorsement is a process that encourages municipalities to engage in cooperative regional planning, ensuring municipal, county, regional and state agency plans are consistent with the State Plan and with each other. An endorsed plan grants municipalities and counties priority status for available funding, streamlined permit reviews, and coordinated state agency services. Plan Endorsement completion is re-

quired, under the State TDR Act, prior to eligibility for municipal TDR ordinance enactment.

Plan Endorsement, or amendment of an existing endorsed plan, is usually one of the final steps in the TDR development process for a municipality. To date, four municipal petitions for Plan Endorsement have been endorsed statewide. Of the municipalities pursuing TDR, Ocean Township, Ocean County, is the only one that has completed this process. Several municipalities, however, have begun Plan Endorsement with pre-petition meetings. These include:

- Woolwich Township, Gloucester County
- Berkeley Township, Ocean County
- Oxford Township, Warren County
- Hopewell Township, Cumberland County
- Fanwood Borough, Union County
- Montgomery Township, Somerset County
- Hillsborough Township, Somerset County

*Office of Smart Growth Website: <http://www.nj.gov/dca/osg/>*

### **New Jersey Highlands Council**

On November 30, 2006, the New Jersey Highlands Council released its draft Regional Master Plan (RMP). This plan outlines water protection and land use policies for the Highlands region, and includes a preliminary outline for implementation of a regional TDR program. As proposed, this program will attempt to implement TDR on an unprecedented scale, involving up to 213 municipalities in seven counties.

As mandated by the Highlands Water Protection and Planning Act (P.L. 2004, c. 120), the Highlands TDR program is to be regional in scope and premised on the resource assessment and smart growth component of the RMP. The purpose of the program shall be to:

- Serve as another land use tool to aid Highlands region municipalities in the protection of the region's unique resources, including its water resources, ecological resources and agricultural resources;
- Provide a mechanism for property owners to sell the development potential of their lands where the Highlands Act has impacted development potential; and
- Serve as a catalyst to ensure proper planning for efficient development within designated receiving zones.



Unlike the regional TDR program for the New Jersey Pinelands, the Highlands Act did not authorize the designation of mandatory receiving areas in the region. Voluntary receiving areas for Highlands TDR credits are permitted both within the areas designated by the RMP as Planning Areas and within any municipality outside of the Highlands region but within the seven Highlands counties. The Highlands Act provides for a number of incentives to entice municipalities to become voluntary receiving areas. These incentives include:

- The ability to charge impacts fees of up to \$15,000 per unit for development projects within voluntary receiving areas;
- Up to \$250,000 in enhanced planning grants to offset the planning and other related costs of designating and accommodating voluntary receiving areas;
- A grant to reimburse the cost of amending municipal development regulations to accommodate voluntary receiving zones; and
- The ability to control design of voluntary receiving areas.

The Highlands Council has actively solicited input from partner organizations as they construct the TDR program framework. The State TDR Bank Board and staff have been, and will continue to be, participants in that dialogue.

*New Jersey Highlands Council Website: <http://www.highlands.state.nj.us/>*

## **Major State TDR Bank Activities**

### **Development Potential Purchase**

The State TDR Bank has the power to purchase, or to provide matching funds for the purchase of, 80 percent of the value of development potential from properties within designated TDR sending areas. The board may engage in development transfer by sale, exchange or other method of conveyance, provided that in doing so, the board does not substantially impair the private market.

To date, none of the active TDR programs in the state have approached the State TDR Bank for this purpose. The Burlington County municipalities that have enacted TDR ordinances have used the Burlington County Development Credit Bank, and the Pinelands Development Credit program uses its own PDC Bank. As municipalities statewide enact ordinances, the State TDR Bank will undoubtedly be required to play a more active role in development potential purchase.

### **Provision of Grants, Loans to Municipal or County Transfer of Development Rights Banks**

In addition to direct purchase, the State TDR Bank is authorized to provide funding for development potential purchase to development transfer banks established by a municipality or county.

To date, neither the Burlington County Development Credit Bank nor the two Burlington County municipalities themselves have sought State TDR Bank funding for this purpose. Several municipalities currently pursuing TDR ordinance enactment have, however, recently expressed interest, as has the Highlands Council.

Given the limited scope of current regulations, State TDR Bank staff will draft new regulations in coming months regarding provision of grants and loans to municipal or county TDR Banks.

### **Loan Guarantees**

To provide financial assurance to TDR credit holders, the State TDR Bank has the power to provide a financial guarantee with respect to any loan secured using development potential as collateral. This function has also yet to be implemented. As municipalities enact TDR ordinances, it is anticipated that the State TDR Bank's role in this capacity will be increasingly required.

### **Planning Assistance Grants**

The planning required to enact viable TDR ordinances can be substantial. As such, the State TDR Bank is authorized to provide Planning Assistance Grants to municipalities to cover up to 50 percent of the cost of preparing planning documents. Originally, the State TDR Bank Act provided for up to \$10,000 per municipality for this purpose. With the 2004 passage of the State TDR Act, this funding is now available in an amount up to \$40,000. Documents required by the Act that are eligible for grant funding include:

- A utility service plan element pursuant to section 19 of the Municipal Land Use Law, P.L.1975, c.291 (C.40:55D-28);
- A development transfer plan element of a master plan pursuant to section 19 of the Municipal Land Use Law, P.L.1975, c.291 (C.40:55D-28);

- A real estate market analysis required pursuant to section 12 of the State TDR Act, P.L.2004, c.2 (C.40:55D-148); and
- A capital improvement program pursuant to section 20 of the Municipal Land Use Law, P.L.1975, c.291 (C.40:55D-29).

To date, the State TDR Bank has approved Planning Assistance Grants for 13 municipalities. The first two grants, each in an amount of \$10,000, were presented to Lumberton Township and Chesterfield Township (Burlington County) in 1998. The next five were approved at the TDR Bank Board meeting on October 11, 2005, for the following municipalities:

- Hopewell Township, Cumberland County
- Woolwich Township, Gloucester County
- Berkeley Township, Ocean County
- Montgomery Township, Somerset County
- Fanwood Borough, Union County

At the TDR Bank Board's February 15, 2006 meeting, five more grants were approved for:

- Prospect Park, Passaic County
- Frankford Township, Sussex County
- Oxford Township, Warren County
- Mannington Township, Salem County
- Ocean Township, Ocean County

A grant to Hillsborough Township, Somerset County, also was approved at the TDR Bank Board's meeting on June 13, 2006.

The following is a brief summary and status update of the TDR programs proposed for the approved Planning Assistance Grant municipalities.

***Berkeley Township, Ocean County*** – Berkeley Township is attempting to transfer the development rights from more than 600 acres of undeveloped wooded parcels to redevelop an underutilized commercial and industrial area along State Highway 9. The Township hopes to create a mixed-use town center development using TDR to provide residential and commercial bonus density. For this project, the Township also received an \$85,000 Smart Future Grant from the Office of Smart Growth.

Much of the initial project analysis and receiving area design has been completed. A review of the environmental impacts of access to a new receiving area will be needed to complete these documents. It is anticipated that a completed Plan Endorsement petition will be submitted in fall of 2007.

***Fanwood Borough, Union Count*** – The Borough of Fanwood intends to use TDR to preserve the character of the Fanwood Park Historic District and promote higher density redevelopment near its train station. Property owners in the historic district will receive transferable credits in exchange for the placement of historic façade easements, and subdivision restrictions, on their properties. This proposal promotes redevel-

opment and transit-oriented development, and will be the first historic preservation TDR program in the state. In addition to the Planning Assistance Grant from the State TDR Bank, the Borough also received a \$120,000 Smart Future Grant from the Office of Smart Growth for planning of this project.

The documents required for Plan Endorsement and TDR enactment are currently being reviewed and approved by the municipality. A completed petition for Plan Endorsement will be submitted shortly for State Planning Commission review.

*Borough of Fanwood's TDR Website: <http://www.visitfanwood.com/tdr/index.htm>*

**Frankford Township, Sussex County** – Frankford Township is a rural municipality attempting to use TDR to establish a mixed-use center while protecting its 10,800 acres of assessed agricultural land and woodland. Located just outside of the designated Highlands region, the Township is attempting to direct growth pressure to create a traditional town center along Route 206 at “Ross’s Corner.” The Office of Smart Growth awarded a \$45,000 grant to establish the design framework for the TDR receiving area.

Following a public visioning exercise, the Township is currently in negotiation with the owner of the receiving area regarding its design. Following design consensus, details of receiving area capacity will be determined. The Township TDR advisory committee has prepared a TDR sending area analysis and is currently considering methods for credit allocation.

**Hillsborough Township, Somerset County** – The Township of Hillsborough intends to implement a TDR program to preserve its core agricultural district, agricultural areas remaining elsewhere in the Township and its portion of the Sourland Mountain region. Using sending area credits, the Township hopes to direct development to a mixed-use town center at the crossroads of Route 206 and Amwell Road, a transit-oriented village along the West Trenton Rail Line and a corporate center along Amwell Road. In addition to the Planning Assistance Grant from the State TDR Bank, the Township also received a \$50,000 Smart Future Grant from the Office of Smart Growth for planning of this project.

The Township recently hired a consultant to begin planning for this ambitious project.

**Hopewell Township, Cumberland County** – Hopewell Township is attempting to use TDR to promote township-wide agricultural preservation. As an agrarian community with more than 14,000 farmland-assessed acres, the Township would like to direct residential and agriculture industry development into a receiving area that will have access to public water and sewer. A Smart Future Grant from the Office of Smart Growth in the amount of \$120,000 has also been provided for the planning of this project.

The Township is currently creating a town center vision plan for its receiving area. The receiving area is 1,300 acres located in the central portion of the township adjacent to the City of Bridgeton, a designated regional growth center. Negotiations with the City of Bridgeton regarding expansion of sewer and water infrastructure into the receiving area are currently under way.

The documents required for Plan Endorsement and TDR enactment are currently being reviewed by the municipality. A completed petition for Plan Endorsement is expected by the end of spring 2007.

***Mannington Township, Salem County*** – As one of the top 5 agricultural municipalities in the state, Mannington Township would like to use TDR to preserve its rural character and 19,700 acres of farmland-assessed land. In addition to the Planning Assistance Grant from the State TDR Bank, the Township also received a \$45,000 Smart Future Grant from the Office of Smart Growth for project planning.

Thus far, the Township has comprehensively reviewed and revised its current planning documents to identify the best policies for agricultural retention. The Township is currently considering sending area zoning possibilities and identifying potential receiving areas. Receiving area identification will consider agriculturally important soils, availability of sewer infrastructure, the presence of historic farmhouses and farmsteads, and proximity to environmental features such as the Mannington Meadows.

***Montgomery Township, Somerset County*** – Montgomery Township is attempting to establish a TDR program to preserve its Sourland Mountain Special Resource Area and transfer the development to the Belle Mead designated growth area. As part of its plan, Montgomery will send credits from the Sourlands to a proposed transit-oriented development at the Belle Meade station on the former West Trenton Rail Line. Credits will be converted into commercial development in the area surrounding the train station. The Township's aggressive open space preservation program has focused on acquiring the larger tracts in the sending area. The Township hopes to use TDR as another tool to control development in this area. For this project, the Township also received a \$105,000 Smart Future Grant from the Office of Smart Growth and a \$14,700 Smart Growth Grant from Somerset County.

Currently, the Township is considering sending area expansion and alternative receiving area possibilities based on initial findings of the real estate market analysis. The Township also is working with the New Jersey Department of Transportation on the proposed Route 206/Hillsborough bypass study. Once these issues are resolved, progress toward completion of planning for TDR can resume.

***Ocean Township, Ocean County*** – The Township of Ocean intends to use TDR to preserve its unique environmental and coastal resources, and direct new development to the designated Waretown Town Center growth area along State Highway 9. In addition to funding from the State TDR Bank, the Township was granted \$100,000 by the Office of Smart Growth as a Shore to Grow, Shore to Preserve TDR demonstration project.

The Township is currently planning for establishment of its receiving area. This planning includes NJDEP and Pinelands Commission approval of the site as a CAFRA Town Center. The Township also is preparing a form-based Waretown Town Center Plan for the site, which includes design guidelines, streetscape improvements and a transportation development district. This will serve as the vision plan for the TDR receiving area.

Ocean Township previously completed the Plan Endorsement process. Once further planning for the project is completed, the Township will seek amendment to include the documents required for TDR.

***Oxford Township, Warren County*** – Oxford Township is located entirely within the Highlands region and is attempting to establish a TDR program to redevelop an abandoned industrial site adjacent to the existing downtown. In addition to State TDR Bank funding, the Township received a \$65,000 Smart Future Grant



from the Office of Smart Growth and a Municipal Planning Partnership grant from the Highlands Council to determine TDR receiving area development feasibility.

The Township is currently awaiting establishment of the Highlands regional TDR program before deciding whether to pursue intra-municipal TDR or to participate in the regional program.

***Prospect Park, Passaic County*** – The Borough of Prospect Park is located within one of the seven counties included in the Highlands Region but is not within the Highlands itself. The Borough is attempting to establish TDR to increase the redevelopment density of an existing quarry site that encompasses 25 percent of the Borough’s land area. The Borough plans to use the quarry site as a receiving area for credits generated within the Highlands region to increase its redevelopment density. Accepting credits from the Highlands will make the Borough eligible to receive the benefits of Highlands TDR receiving area designation. In addition to funding from the State TDR Bank, the Township was granted a \$20,000 Smart Future Grant by the Office of Smart Growth and a \$42,500 Municipal Planning Partnership Grant from the New Jersey Highlands Council.

Thus far, the Borough has performed redevelopment feasibility assessments for the receiving area and participated in a visioning process as part of the New Jersey Mayors’ Institute on Community Design, organized by the Regional Plan Association. Two conceptual redevelopment plans have been proposed by the municipal TDR advisory committee. Although the site has several years of quarrying potential left, the owners have initiated the phased reclamation of the site.

***Woolwich Township, Gloucester County*** – As one of the fastest growing municipalities in the state, Woolwich Township is hoping to use TDR to protect its agricultural areas and transfer development potential to a mixed-use regional center proposed along State Highway 322 and a smaller center along Auburn Road. This ambitious project will help protect more than 4,000 acres of farmland-assessed land and help create a stronger commercial ratable base for the Township. For this project, the Township received a \$110,000 Smart Future Grant from the Office of Smart Growth. The Association of New Jersey Environmental Commissions also provided a \$12,500 grant to design pedestrian and bicycle circulation in the receiving area.

The documents required for Plan Endorsement and TDR enactment are currently being reviewed by the municipality. A completed petition for Plan Endorsement is expected by the end of spring 2007.

For a map of municipalities funded for TDR by the State TDR Bank and Office of Smart Growth, see the inside back cover of this report.

### **Municipal or County Use of the State TDR Bank**

The governing body of any county in which at least one municipality has adopted a development transfer ordinance may establish a development transfer bank for the purchase, sale, or exchange of development potential. In the absence of its own bank, the governing body of any municipality that has adopted a development transfer ordinance may also utilize the State TDR Bank or a county development transfer bank.

Of the municipalities currently pursuing TDR, several have begun investigating their need for a TDR bank

and whether they will establish their own or rely on the State TDR Bank for this purpose. As the initial TDR pilot programs approach ordinance enactment, it is expected that the State TDR Bank will be asked to play an increasingly active role as a banking resource.

### **Registry**

The State TDR Bank Board is charged with establishing and maintaining a Development Potential Transfer Registry for the purpose of recording and tracking development potential transfers. This Registry shall include:

- The name and address of every person to whom and from whom development potential is sold or otherwise conveyed, the date of the conveyance, and the consideration, if any, received;
- The name and address of any person who has utilized development potential, the location of the land to which and from which the development potential was transferred, and the date this transfer was made; and
- An annual enumeration of the total number of development transfers, listing the municipality or municipalities involved in the transfer and the instrument of transfer.

To date, development potential transfers within Burlington County have been recorded by municipal clerks and forwarded to the Burlington County Development Transfer Bank. The State TDR Bank has incorporated this data into a registry to form the base of the State Development Potential Transfer Registry. With the anticipated future need for the State Registry, TDR Bank Board staff will be drafting procedural requirements for the direct sharing of development potential transfer information between participating municipalities and the State TDR Bank. It is envisioned that this sharing will be done electronically, with data available for review on the State TDR Bank website.

### **TDR Promotion**

#### **TDR Seminar and Tour**

On September 22, 2006, the State Agriculture Development Committee sponsored an informational workshop on the implementation of TDR. This session, which occurred at the Rutgers EcoComplex in Mansfield Township, Burlington County, was targeted at applying TDR in rural and agricultural municipalities, and was well attended by officials from throughout the state. Session speakers addressed TDR implementation, lessons from emerging TDR programs in the state, receiving area design and an overview of Burlington County pilot programs. The workshop also featured a bus tour of the partially completed Chesterfield TDR receiving area, with explanation from the project planner and one of the private developers involved in the TDR process.



With the success of this seminar, the State TDR Bank, in coordination with the Association of New Jersey Environmental Commissions, is planning a second TDR seminar for June 2007. The target audience will include municipal officials, environmental commission members and planners, to convey a similar message about the benefits and implementation of TDR.

## **Website Update**

State TDR Bank staff have been working throughout the year on an update of the Bank's website. The website is intended to serve as a comprehensive resource for TDR information that will benefit both interested novices and planning professionals alike. The updated site is now available and includes:

- A comprehensive explanation of TDR;
- Examples of TDR use both in New Jersey and throughout the country;
- An outline of State TDR Bank functions;
- An explanation of TDR benefits for landowners, municipalities and developers;
- Information on urban design for receiving area creation; and
- Links for more information on these topics.

*State TDR Bank Website: <http://www.state.nj.us/agriculture/sadc/tdrbank.htm>*

## **Public Presentations**

State TDR Bank and Office of Smart Growth staff have been actively promoting the TDR concept at public meetings throughout the year. Numerous presentations to municipalities interested in TDR have been given statewide. These municipalities include:

- Berkeley Township, Ocean County
- Oldmans Township, Salem County
- Woolwich Township, Gloucester County
- Mannington Township, Salem County
- Frankford Township, Sussex County
- Oxford Township, Warren County
- North Brunswick Township, Middlesex County
- Raritan Township, Hunterdon County
- Wantage Township, Sussex County

Discussions on TDR also have taken place with many of the 63 municipalities and 12 counties currently participating in the Farmland Preservation Planning Incentive Grant Program.

Efforts to explain the benefits of TDR also have been directed at both regulatory state agency and non-profit partners. Cooperation from these agencies will be crucial to the success of TDR implementation in New Jersey. To date, presentations have been given to:

- New Jersey Department of Transportation Transit Village Task Force
- New Jersey Green Acres Program Staff
- New Jersey Builders Association
- Association of New Jersey Environmental Commissions (ANJEC) TDR Workshop attendees
- Senior staff of the New Jersey Department of Environmental Protection
- New Jersey Conservation Foundation's Land Conservation Rally
- Highlands Council Technical Advisory Committee charrette attendees

## **Regulation Adoption**

### **State TDR Bank Rules (N.J.A.C. 2:77)**

On June 22, 2006, the State Transfer of Development Rights Bank Board readopted rules governing actions of the Bank. Additions included standards and procedures for the review and viability determination of a municipal TDR ordinance and requirements for the establishment of a State Bank TDR registry. Also established were procedures for the approval and issuance of planning assistance grants to municipalities.

These regulations are available for download at: <http://www.state.nj.us/agriculture/sadc/tdrrules.htm>.

### **Real Estate Market Analysis Regulations (N.J.A.C. 5:86)**

On December 7, 2005, the Department of Community Affairs adopted rules for the preparation of the real estate market analysis that is required prior to the adoption, or significant amendment, of a transfer of development rights ordinance. These rules ensure that the required real estate market analysis portrays an accurate picture of the current and future land market, including the relationship between the development rights anticipated to be generated in a sending zone and the likelihood of their utilization in a receiving zone. These regulations set forth specific requirements for who may conduct a real estate market analysis, detail what the analysis entails and set forth what information is to be included in the report. They are available for download at:

*Office of Smart Growth website:* <http://www.nj.gov/dca/osg/docs/tdrrules.pdf>

## **Budget**

In 1993, the State Transfer of Development Rights Bank Act (P.L. 1993, c. 339) appropriated \$20 million for deposit into the State TDR Bank. This money was allocated from the 1989 Development Potential Transfer Bank Fund established pursuant to the Open Space Preservation Bond Act of 1989 (P.L. 1989, c. 183). At the time of appropriation, not more than \$400,000 was to be expended for administrative costs, staff assistance or professional service expenditure, and up to \$400,000 was to be expended for the purposes of the Planning Assistance Grant program established in the bill.

In 2004, the State Transfer of Development Rights Act amended the State Transfer of Development Rights Bank Act to increase the amount available to municipalities for Planning Assistance Grants from \$10,000 to \$40,000 each and increase the total amount for Planning Assistance Grants statewide to \$1,500,000. With 13 Planning Assistance Grants to date (2 at \$10,000 and 11 at \$40,000 for a total of \$460,000), the amount currently unencumbered for these grants is \$1,040,000.

This year an appropriation bill (Section 6 of P.L. 2006, c. 73) again amended the State Transfer of Development Rights Bank Act to increase the amount available for administrative costs by \$1.1 million. This increase provides for up to \$1.5 million, from the original \$20 million appropriation, to be available for administrative costs, staff assistance or professional service expenditure. With the increased activity of the Board in the past year, \$200,000 has been budgeted for Fiscal Year 2007 to cover these administrative costs.

With the subtraction of allocated funding for administrative costs and Planning Assistance Grants, the State

TDR Bank has \$16,990,000 remaining available for purchase of development potential or provision of grants or loans to municipal and county TDR banks. As noted previously, there has been significant interest in this funding from municipalities planning for TDR and from the New Jersey Highlands Council. As municipalities statewide enact TDR ordinances, competition for this money will undoubtedly increase as will the State TDR Bank's role in planning for its disbursement.

## Looking Forward

It is anticipated that the State TDR Bank Board will be increasingly active in the coming year. As previously noted, a number of Planning Assistance Grant municipalities are scheduled to enact TDR ordinances in coming months. These initial programs will test the existing regulations' ability to implement the legislatively mandated functions of the Bank and inform the Board about the necessity for regulation amendment.

The ability to establish prospective TDR programs in New Jersey will be dependent upon municipal planning officials and their ability to function under state regulatory and administrative guidelines. Cooperation from state partners is essential to making the TDR establishment process clearly defined, expedient and implementable. The success of these early TDR programs will be crucial in determining the faith municipal officials statewide will have in the ability of TDR to achieve their planning goals. The State TDR Bank will continue to work with partner agencies to refine this establishment process.

The State TDR Bank will also continue to work with its partners to help identify future TDR opportunities. As New Jersey's state planning initiatives focus on the development and redevelopment of identified centers, incorporation of TDR can help achieve both the goals of planning for development and preservation of the environs. This coordination is especially appropriate where public funds for development infrastructure are being spent, such as with the New Jersey Department of Transportation's Transit Village Initiative.

TDR education will continue to be a large part of the Bank's promotion campaign. As noted, Bank staff are planning a second TDR Seminar for June 2007 targeted toward municipal officials, environmental commission members and planners. Staff will also continue to improve upon demonstration materials, including a TDR brochure, PowerPoint presentations, the State TDR Bank website and graphics to demonstrate TDR and other conservation planning concepts. The ability to properly visualize these techniques will be crucial to their acceptance for implementation.

Promoting the transfer of development rights, working with state agency partners and amending existing TDR Bank regulations will be a continually evolving process. This process, however, has great potential to promote widespread acceptance and utilization of TDR and result in large-scale preservation in New Jersey.

# TDR Funded Municipalities

