

Making Transfer of Development Rights Work

American Farmland Trust

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Concept

- More development at receiving site for
- Community benefit at sending site (including farmland preservation)

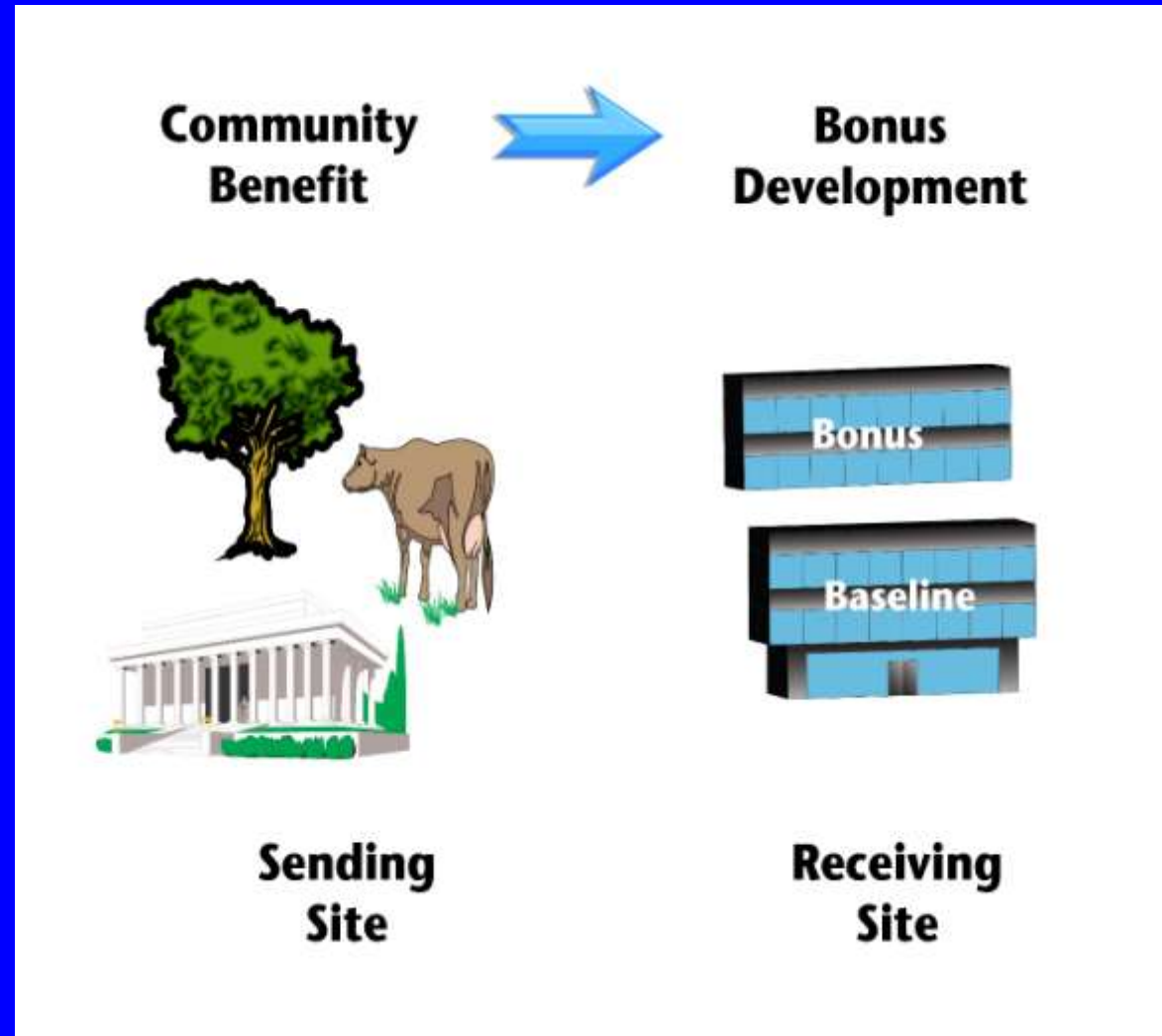
Market-based (PDR uses taxes)

Works with zoning

Voluntary

- Send area owners can decline TDR option
- Developers can decline bonus

TDR Basics



Sending site owners can choose not to use TDR



Or choose TDR

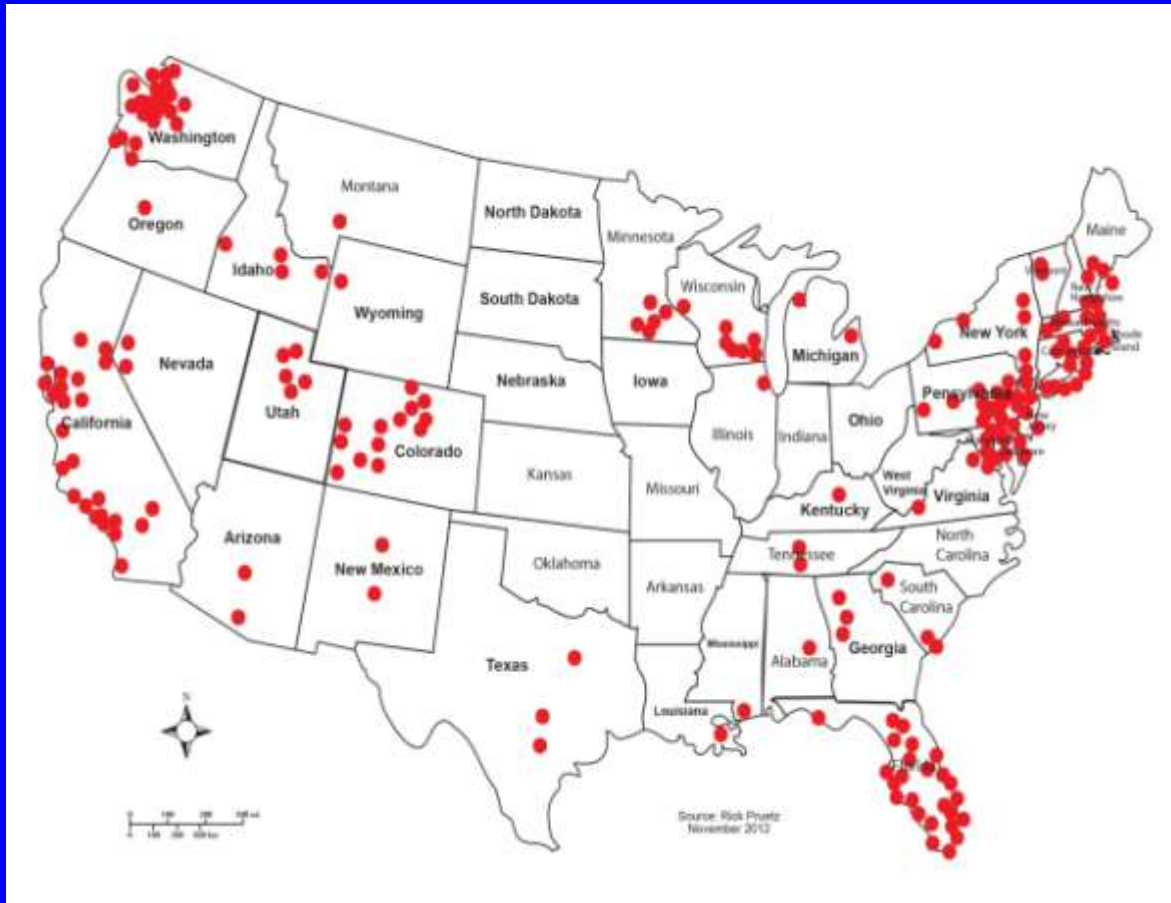
- Record easement restricting development
- Create number of TDRs allocated by code
- Sell TDRs as compensation for preservation

Receiving area developers can choose non-TDR option, or



- Buy TDRs
- Build bonus development (above baseline)
- Gain additional profit

Over 320 TDR Programs (283 in US)



Top 20 programs permanently preserved over 430,000 acres

- King County
- NJ Pinelands
- Collier County
- Montgomery County

Not all work
2009 JAPA study determined why

Top Ten TDR Success Factors

- 1 Demand for Bonus Development
- 2 Customized Receiving Areas
- 3 **Strict Sending Area Regulations**
- 4 **Few Alternatives to TDR**
- 5 **Market Incentives**
- 6 Certainty of TDR Use
- 7 Strong Public Preservation Support
- 8 Simplicity
- 9 Promotion & Facilitation
- 10 TDR Bank

Without TDR

One Unit On Site



With TDR

Preserve Site



Transfer One TDR
To Receiving Site



**SENDING SITE
DUAL ZONING**



Without TDR

One Unit On Site



With TDR

Preserve Site



Transfer Five TDR's
To Receiving Site



**SENDING SITE
DUAL ZONING**



Affordable TDRs

1:1 allocation ratio *may*
create costly TDRs

Estimate how much
developers can afford
to pay

Estimate how much
sending area
landowners want per
acre preserved

Estimates do not appear
in ordinance

Ordinance allocation
ratio aims for TDR
price attractive to
buyers and sellers

Montgomery Co.

Per TDR Profit May Differ By Type of Receiving Area Development



Montgomery Co, MD: One TDR =

- 1 bonus single-family DU or
- 2 attached units

Chesterfield, NJ: One TDR =

- 1 single-family dwelling
- 1.1 detached village homes
- 1.3 triplex units
- 2 multiple-family units



Livermore, CA: Two TDRs =

- 1 single family dwelling or
- 4 multiple-family units

Incentives Developers Want

Most common incentive:
increased
residential density

What if developers don't
want to exceed maximum
density of current zoning?

- Reduced density
 - Thurston County, WA: 1 TDR = 1 DU less than 5/acre or 1 DU greater than 7/acre (to 8/acre)
 - Osseola County, FL:
 - 1 TDR per bonus unit
 - 2 TDRS per unit below minimum in Urban Infill
 - 3 TDRs per unit below minimum in Urban Expansion Area





Motivate Smart Growth Densities

Chesterfield, NJ and developers plan village with new densities and uses that complete farmland preservation



Collier County, FL: smart growth new town so far preserved 55,000 acres

Both address density concerns by separating receiving area from existing development

Adopt TDR Mechanism in General Plans



General plans identify areas for increased development potential regardless of TDR

Clarify this by adopting TDR concurrent with plan adoption

Livermore, CA

- All areas planned for upzoning are TDR receiving areas
- Baseline = maximum density of former zone
- TDR to exceed baseline
- Clarifies that TDR is not inducing growth but implementing preservation as well as development goals

Not increased density but

- Bonus floor area within individual dwelling
- Larger homes can pay for services and afford TDRs

San Luis Obispo Co., CA

- Cambria program baseline as low as 600 sf per unit
- Buy extra floor area from sending sites preserved by land trust

Aspen/Pitkin Co, CO

- Baseline 5,750 sf per DU
- 2,500 bonus sf per TDR to maximum 15,000 sf
- \$250,000 per TDR

Innovative Developer Incentives: Residential Floor Area



Developer Incentives: Popular Land Uses



Resistance to density:

- Fear of change
- Concern that service costs will exceed tax revenues

Retirement complexes

- Retain empty nesters
- Positive fiscal impact
 - Low service cost (schools)
 - Steady income without jobs

Brookhaven, NY

- Density bonus via TDR in three types of receiving areas, incl:
 - Planned Retirement Congregate Housing Community Zone
 - Planned Retirement Community

Developer Incentives Multiple Forms of Bonus Development Potential



TDRs granted for sending site residential limitations can be converted to bonuses that receiving area developments want

- King County TDR yields 2,000 sf of bonus floor area, residential or non-residential, in Seattle
- Milton, GA TDR yields two bonus dwelling or 4,500 sf of bonus non-residential floor area
- TDRs avoid waiting for building permits within quota system in:
 - Livermore, CA
 - Tahoe RPA, CA/NV
 - Aspen/Pitkin County, CO

Developer Incentives Conversions for Diverse Development Bonuses

Riverhead, NY: grants multiple forms of extra non-residential development at ratio of 300 gpd sewage flow/TDR

Burbank, CA: bonus development at receiving site = reduced potential at sending site in vehicular trips

Cupertino, CA: vehicular trip transfer program allowed a concentration of development that became Apple campus.



Developer Incentives More Conversions

TDRs can also allow

- Reductions of minimum yard and maximum parking limits
- Bonus building mass & height
- Lot coverage (Warwick, PA)
 - 10% baseline with up to 70% at extra 4,000 sf coverage per TDR
 - Business park receiving area: jobs & popular land uses
 - Warwick and Lancaster Farmland Trust join County Ag Preservation Board in buying easements
 - County lets Township and Trust sever, hold and sell TDRs
 - Proceeds fund more preservation
 - TDR program stretches limited preservation dollars



TDR + Other Tools

King County, WA

- In addition to traditional acquisition, King County buys, banks & sells TDRs
- \$22 million preserved 90,000 acres and sells 990 TDRs, recovering initial preservation cost

Palm Beach County, FL

- Bond preserved 35,000 acres
- Severed and sells 9,000 TDRs for up to \$50,000 each
- Sale proceeds fund expansion/maintenance of preserve system



TDR banks

- Pro: Assure developers ability to comply (if stocked)
- Con: Seed money (King County & Palm Beach County)

DTC: Cash in lieu of TDRs dedicated to send area preservation

- Advantages
 - Assures compliance (and preferred receiving area density)
 - Requires no seed money
 - Target priority benefits
 - Supplements other funding
- Livermore, CA: \$24,000 DTC
 - All developers choose DTC option
 - DTC funds match grants for sending area preservation

New Trends Density Transfer Charge (DTC) Now Used by 25 US Communities



New Trends SmartCode



Model zoning code

- Implements smart growth
- Including farmland preservation
- Facilitates insertion of baselines and bonuses in every zone
- SmartCode is online and free
- Hundreds adopted since 2003
- Not all retain TDR mechanism
- Farmland preservation advocates should urge retention of TDR in SmartCode
- Calibration is needed but SmartCode concept reminds all stakeholders that smart growth requires rural preservation as well as urban development

FOREWORD BY DWIGHT H. MERRIAM

The
TDR HANDBOOK

Designing and Implementing
Transfer of Development Rights Programs



Arthur C. Nelson, Rick Pruetz, and Doug Woodruff
with
James C. Nicholas, Julian Conrad Juergensmeyer, and Jonathan Witten

More Information

SmartPreservation.net

TDR program profiles

TDR news

TDR studies

- TDR-Less TDR Revisited
- TDR-Ready Communities
- TDR Turns 40

The TDR Handbook:
(Island Press 2012)