Rhode Island Transfer of Development Rights Mini-Conference

Held on Wednesday, March 27, 2013

Audiences: Professional planners (4 AICP CM credits offered) and other consultants, community staff and officials, state and federal agencies, non-profits, and other interested parties.

Description: Participants learned about the use of Transfer of Development Rights (TDR) as a technique to save open space and encourage village development in Rhode Island. National experts provided an overview of TDR and case studies from around the country, while local experts discussed current efforts and future possibilities of TDR in Rhode Island.

Presenters:

- William Fulton, Principal, The Planning Center |DC&E; AICP
- Rick Pruetz, Planning Consultant; FAICP
- Nate Kelly, Senior Planner, Horsley Witten Group, Inc.; AICP
- Peter Flinker, Principal, Dodson & Flinker, Inc.; ASLA, AICP

Thanks to RI Housing for partnering in delivering this workshop.

Materials:

Agenda
List of Attendees
Speaker Biographies
TDR 101 presentations
Use of TDR presentations
Current Directions & Future Prospects for TDR presentations
Making TDR Work in RI presentations
RI Transfer of Development Rights Mini-Conference
Wednesday, March 27, 2013, 1:00 p.m. to 5:00 p.m.
Save the Bay, Providence, RI

AGENDA

1:00 p.m.  Welcome
Jennifer West, Coastal Training Program Coordinator, Narragansett Bay Research Reserve
Scott Millar, Chief, RIDEM Sustainable Watersheds Office
Peter Flinker, Dodson & Flinker

1:15 p.m.  TDR 101: Introduction to TDR, with local, regional and national examples and status in Rhode Island
Rick Pruetz, FAICP
Bill Fulton, The Planning Center/ DC & E
Nate Kelly, Horsley Witten Group

2:00 p.m.  Q&A

2:15 p.m.  Use of TDR: As part of a local and regional conservation/development strategy, with case studies featuring village development
Peter Flinker, Dodson & Flinker
Rick Pruetz, FAICP
Bill Fulton, The Planning Center/ DC & E

3:00 p.m.  Break

3:15 p.m.  Current directions and future prospects for TDR: Recent projects and programs; trends in adoption and structure; market trends and policy
Nate Kelly, Horsley Witten Group
Rick Pruetz, FAICP
Bill Fulton, The Planning Center/ DC & E

4:00 p.m.  Making TDR work in Rhode Island: Local, regional and state-level alternatives; using TDR to help implement the statewide plan
Peter Flinker, Dodson & Flinker
Rick Pruetz, FAICP
Bill Fulton, The Planning Center/ DC & E

4:45 p.m.  Wrap-up

5:00 p.m.  Adjourn

Workshop coordinated in partnership with the Narragansett Bay Research Reserve and RI Housing.

Funding partially provided by a 2012 RI Division of Planning Challenge Grant.
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Speaker Biographies

**William Fulton, The Planning Center/ DC & E; AICP**
Bill Fulton is the Principal of The Planning Center DC&E. Bill specializes in urban planning, metropolitan growth trends, economic development, TDR and policy projects with a focus on government agencies, land conservation organizations and developers as clients. Leading DC&E's Ventura office, he is well known as the best-selling Author of the Guide to California Planning and the L.A. Times best-seller, The Reluctant Metropolis: The Politics of Urban Growth in Los Angeles. Currently serving as Ventura's Deputy Mayor, Bill is also a Senior Scholar at the School of Policy, Planning, and Development at the University of Southern California. He is also the founding publisher of California Planning & Development Report. Bill holds a Master's Degree in Journalism/Public Affairs from The American University in Washington, D.C., and a Master's Degree in Urban Planning from UCLA.

**Rick Pruetz, FAICP**
Rick Pruetz is a planning consultant specializing in open space preservation, particularly through transfer of development rights (TDR). He has prepared TDR studies and/or ordinances for over 23 cities and counties and conducted over 70 TDR workshops and presentations in 26 states. He is the author of numerous articles as well as books such as Saved by Development: Preserving Environmental Areas, Farmland and Historic Markland with Transfer of Development Rights, and TDRs and Other Market-Based Land Mechanisms. He has been a professional planner since 1979, serving for over 14 years as the Asst. Community Development Director/City Planner of Burbank, California. Prior to that, he was a historic preservation/downtown revitalization planner with Waukesha, Wisconsin and an environmental planner with Camp Dresser McKee. Rick Pruetz received a Master of Urban Planning degree from the University of Wisconsin - Milwaukee in 1979. He also holds a masters degree from Northwestern University and a B.A. from the University of Wisconsin.

**Nathan Kelly, Horsley Witten Group; AICP**
Nathan Kelly is Senior Planner for the Horsley Witten Group, Inc. and directs the firm’s Providence Office. Nate has successfully managed projects for over ten years at Horsley Witten, providing professional planning and zoning services to more than 50 New England municipalities. His work has ranged from comprehensive zoning revision projects to developing affordable housing, open space, rural land preservation and economic development studies. Many of Nate’s projects require extensive public outreach in the form of charrettes, public forums and public hearings and he regularly provides technical training on a wide variety of innovative regulatory tools. Some of his most notable local projects include the North Kingstown Transfer of Development Rights program, the Massachusetts Smart Growth/Smart Energy Toolkit, KeepSpace facilitation, and re-writing the permitting process and performance standards for the Quonset Development Corporation. Nate’s project teams have received numerous awards from the Rhode Island Chapter of the American Planning Association and he regularly provides technical support to Grow Smart RI. Nate is a member of the Rhode Island and Massachusetts Chapters of the American Planning Association and received his Masters Degree in Urban and Environmental Policy from Tufts University.

**Peter Flinker, Dodson & Flinker; AICP**
Peter Flinker is a partner with Dodson & Flinker, Inc. He received a Masters in Landscape Architecture from the University of Massachusetts in 1987 and has been with Dodson Associates
(now Dodson & Flinker) ever since, becoming a principal in 1999 and named partner in 2012. As both a registered Landscape Architect and member of the American Institute of Certified Planners, the focus of his work has been projects that bridge the gap between site design and planning at the town and regional scale. Peter maintains an active portfolio of work that includes downtown revitalization, watershed protection, greenway planning and sustainable design for new communities. He is a frequent presenter to conservation groups, town boards and professional organizations on the topics of Smart Growth and Sustainable Development. As an author and illustrator, Peter has prepared numerous publications designed to help both professionals and laypeople understand complex planning and design concepts. These projects include The South County Design Manual, winner of a 2002 national honor award from the American Society of Landscape Architects, and the Rhode Island Conservation Development Manual. Another recent publication, the Urban Environmental Design Manual, winner of a 2007 merit award from the Boston Society of Landscape Architects, applies the firm’s unique visual approach to explore how low impact development techniques can be combined with urban revitalization to build more sustainable communities. Each of these publications combine a general introduction to the topic with case studies and detailed instructions for implementing the techniques at the local level. For many of Dodson & Flinker’s municipal clients, Peter has applied these ideas to the development of illustrated design guidelines and form-based zoning codes that help communities move projects from vision to reality. Peter has been a leader in developing approaches to watershed management and regional open space planning that give cultural, historic and recreational resources equal weight with natural resources in setting priorities for greenway planning and open space preservation. Exemplified by the Rhode Island Greenspace program, winner of a 2006 honor award from the Boston Society of Landscape Architects, this approach builds on extensive public participation on the local level to establish priorities for greenways and greenspaces that are then merged into regional plans at a watershed scale. Dodson & Flinker has applied this approach in many other areas, including Massachusetts’s Deerfield River Watershed, the bi-state Blackstone River National Heritage Corridor and the Upper Housatonic River Valley in Connecticut. In each of these projects, an understanding of natural, cultural and recreational systems is tied to visionary plans for conservation and development that allow communities to grow and thrive while preserving both ecological health and historic character.

Scott Millar, Chief, RIDEM Sustainable Watersheds Office

Scott Millar is the Administrator of the Sustainable Watersheds Office at the Rhode Island Department of Environmental Management. Mr. Millar has 30 years of environmental management and policy experience. In his current position he leads DEM’s smart growth initiative. Scott’s Office provides technical and financial assistance as well as training to encourage communities to use their land use authority to prevent and restore impacts to the environment. Scott has managed and edited six guidance manuals to demonstrate how innovative land use techniques can work effectively in both rural and urban settings. Mr. Millar also has 20 years of community experience as a planning board and conservation commission chair as well as coordinating the preparation of his community’s comprehensive plan. Mr. Millar graduated from the University of Rhode Island with a BS in Natural Resources Science and a MS in Wildlife Biology.
Transfer of Development Rights in Rhode Island
Mini-Conference: March 27, 2013
Using TDR to Grow Greener
Village Guidance

- TDR
- Model Ordinances
- Design Guidelines
- Lessons Learned
- Economic Incentives
- Existing Impediments
TDR 101

Rhode Island 3-27-13 Part 1
Rick Pruetz, FAICP

• TDR Basics
• Example
• History
• What makes TDC work
TDC Basics

TDC: market-based, zoning tool
- Allows bonus development in appropriate places
- Only when developers provide community benefits (initially preservation of open space and landmarks)

Sending area owners can
- Decline or
- Convey easement (or title) in return for TDCs

Receiving area developers
- Build to baseline or
- Buy TDCs, exceed baseline, achieve greater profit
When TDR Works...

• Sending area owners
  – Profit from TDR sales
  – Continue to own and use land under development limitations

• Receiving area developers
  – More profitable density
  – Approval certainty in some programs

• Community
  – Achieves conservation as well as development goals
  – Without reliance on taxes
Montgomery County, MD

- Farmland loss
- County wanted to compensate landowners for preservation
- Traditional compensation sources inadequate
- Adopted 90,000-acre TDR sending area
• Build on-site at density of one unit per 25 acres
• Can deed-restrict site & sell 1 TDR per 5 acres
Montgomery County, MD

Various TDR Receiving Zones

- Choose 5 units/acre without TDR purchase
- Or 7 units/acre by buying one TDR for each extra unit
Montgomery County

Results

- Landowners sell development rights and keep farm income
- Developers find TDR option more profitable
- County has preserved 52,052 acres without tax dollars
What can TDR protect?

Of 247* TDR programs:

- 205 environment, farmland, open space, hazard avoidance & greenbelts (often multi-purpose including smart growth)
- 20 historic preservation
- 22 other (housing, infrastructure, urban design, revitalization)

* Some communities have multiple programs
US TDC Launched in 1968

247 communities in 34 states
Where does TDR Work Best?

429,213 acres saved by top 20 land-preservation TDR programs

King County, WA: 141,400 acres
New Jersey Pinelands: 58,900 acres
Collier County, FL (RLS): 54,962 acres
Montgomery County, MD: 52,052 acres
Palm Beach County, FL: 35,000 acres
Calvert County, MD: 13,896 acres
Queen Anne’s Co., MD: 11,176 acres
Sarasota County, FL: 8,200 acres
Pitkin County, CO: 6,976 acres
Boulder County, CO: 5,900 acres
San Luis Obispo County, CA: 5,463 acres
Blue Earth County, MN: 5,360 acres
Howard County, MD: 4,525 acres
Payette County, ID: 4,200 acres
Miami-Dade County, FL: 4,145 acres
Charles County, MD: 4,089 acres
Rice County, MN: 3,850 acres
Douglas County, NV: 3,728 acres
Collier County, FL (RF): 3,519 acres
Chesterfield, NJ: 2,272 acres
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<td>Demand for Bonus Development</td>
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<td>2</td>
<td>Customized Receiving Areas</td>
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<tr>
<td>3</td>
<td>Strict Sending Area Regulations</td>
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<td>4</td>
<td>Few Alternatives to TDR</td>
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<td>7</td>
<td>Strong Public Preservation Support</td>
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<td>8</td>
<td>Simplicity</td>
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<td>Promotion &amp; Facilitation</td>
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Create Demand

- Reduce baseline
- Promote bonus development
- Offer wanted bonuses
  - Residential density
  - Floor area
  - Other: lot coverage
  - Quota exemptions
- Maximize receiving areas
  - Downtowns
  - New towns
  - Low density areas
  - All upzoned land
    - Self adjusts to plan changes
    - Separates TDC and upzoning
Few Alternatives to TDC

Problem - bonus development by:

- Project amenities
- Other approval methods
- Exceptions

Density Transfer Charge

- Option: cash-in-lieu proceeds devoted exclusively to TDC program goals
- Assures compliance
- Priority targeting
- Leverage grants and other funding
Problem: 1:1 Transfer ratio
Solution: Higher TDR allocation ratio

Assume

- Developers will pay $10,000 per bonus dwelling unit
- One bonus unit per TDR
- Sending area owners will accept $2,000 per preserved acre

Allocation ratio of one TDR/ five acres should satisfy all parties
Allocation rate might not equal on-site density limit - Montgomery County
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
What’s Required to Make it Work?

• An understanding that TDR is an *implementation* tool, not a *plan*
• Clear program goals that implement Comprehensive Plan policies
• Policy-maker and community support
• An understanding the TDR programs require time to mature
When it Doesn’t Work

• When local governments ask too much of the policy tool
• When the program is designed without/in lieu of a long-range plan to accommodate growth
• TDR is not a “silver bullet”. Rarely are all targeted sending areas preserved with private funds, while promulgating economic development in receiving areas.
What’s TDR’s Role in Local Policy?

• Are there areas that have PDR and active conservancy groups?

• Will TDR strengthen land use valuation tax programs?

• Should the TDR program compensate landowners for environmentally sensitive land, even though this land tends to have low real estate value anyway?

• Are there State departments or other programs that can help administer a TDR program? (i.e. manage easements, operate a bank etc.) Or should each local City/Township administer its program?
Is State Help Needed?

- Counties play no role in land use
- State has many incentives for resource protection and targeted growth
- Policy-maker and community support
- State can align incentives to support TDR programs
Regional Examples
TDR 101: INTRODUCTION TO TDR

New Jersey Pinelands

• Helps maintain active agriculture

• Protects environmentally sensitive areas

• Has preserved 55,000+ acres of land

• More than 40 transfers per year
State-Sponsored Regional Cooperation Puget Sound, WA
Falmouth, MA

- Protects
  - Water Resource Protection District
  - Chapter 61A Parcels
  - Areas of Critical Environmental Concern
  - Coastal Resource Overlay District
- Receiving Areas are eligible for Density Bonuses that vary between 20% to 40% depending on the underlying zoning

Source: Massachusetts Dept. Smart Growth/Smart Energy
Town of Carver, MA

- Has a program but never used
- Seeks protection of sensitive areas
- Insufficient bonus

Multiple Village Scenario
Town of Carver, MA

- Proposed amendments would target large catalytic developments as receiving areas, but

- Developers may decide to build large projects elsewhere where can get density for free

Thonet Village Scenario
Southeastern Regional Planning and Economic Development District

- Market analysis for regional plan similar to RI Statewide Sustainability Plan
- Included TDR valuation of multiple types of TDR Commodities
- Analysis of State incentives
Local TDR Programs

- Providence
- North Kingstown
- Exeter

City of Providence Skyline
Exeter’s Working Landscapes
Post Road Growth Focus
North Kingstown: the First Comprehensive TDR Program

- Post Road has its own Comprehensive Plan Element.
- Post Road has its own focus plan.
- Years of discussion on “growth management”, “density”, “design”, “housing”, etc.
TDR 101: INTRODUCTION TO TDR

North Kingstown

- Sending and Receiving Areas

- Outlying Farms and Forest lots chosen primarily by size.

- Post Road receives with very large density bonuses.
Exeter: Using TDR to Build a Village

- Emerged from a multi-year planning process and a “Vision for Exeter.”
- Part of a strong growth management policy
- Program designed with scenario-based planning
VILLAGE USING TDR
Washington County TDR Study

- Examination of TDR in Comprehensive Plans
- State legislation for TDR requires amending
- State “Growth Center” program could be the key to unlocking TDR in Rhode Island
Session 2: Use of TDR as part of a local and regional/development strategy
Rhode Island Towns & Villages
Land Use and Villages
Prepared by Dodson & Flinker
Jan 02, 2013

LEGEND
- Villages
- Growth Centers
- Urban Service Boundary
- Railroad
- Major Roads
- State Boundary
- Town Boundary
- Major Rivers
- Lakes & Ponds
- Local Conservation Areas
- State Conservation Areas

Land Use Types
- Commercial and Mixed Use
- Industrial (manufacturing, design, assembly, etc.)
- Institutional (schools, hospitals, churches, etc.)
- Low Density Residential (>2 acre lots)
- Medium to High Density Residential (<2 acre lots)
## Village Typology

### Historic Villages
- Harrisville, Nasonville and Pascoag – Burrillville
- Carolina – Charlestown
- Cross Mills – Charlestown
- Chepachet - Glocester
- Knightsville, Pawtuxet Village and Rolfe Square – Cranston
- Jamestown
- New/Old Harbor – New Shoreham
- Allenton, Hamilton, Lafayette and Wickford - North Kingstown
- Branch Village and Slatersville – North Smithfield
- Georgiaville and Greenville - Smithfield
- Matunuck, Peacedale, Wakefield and West Kingston – South Kingstown
- Shannock – Richmond/Charlestown
- North Scituate and Hope Village - Scituate
- Apponaug - Warwick
- Natick and Arctic – West Warwick

### Main Streets
- County Road – Barrington
- West Main Street – Middletown
- Boon Street – Narragansett
- Providence Growth Corridors
- Upper Main Road - Tiverton

### Downtowns
- Broad Street - Central Falls
- Pawtucket
- Providence Growth Centers
- Westerly
- Woonsocket

### Commercial Strips
- Rt. 102 Corridor – Burrillville
- Rt 6/94 - Foster
- Bliss Corners -Tiverton
- Post Road – North Kingstown
- Wickford Junction - North Kingstown
- I-95/Richmond Commons – Richmond
- Rt. 7 Corridor – Smithfield
- Warwick Station - Warwick

### New Villages
- West Cranston Village – Cranston
- I-95 Interchange – Exeter
- Exeter Road – Exeter
- Exit 1 - Hopkinton
- East Main Street - Middletown
- Rt. 2/102 - North Kingstown
- Exit 5 Village – West Greenwich
A Vision for Exeter
A Game Plan for Our Future
Village Core 8du/Acre

Cottage 12du/acre

Village Edge 4du/acre
Apartment and Townhouse
15-25 du/acre
Planner Interviews:
Transfer of Development Rights

• Rural towns would like more funding for conservation, but worried about losing tax base.
• Rural towns suspicious of density.
• Suspicion of developers’ hidden agendas.
• Difficult to find receiving sites that can accommodate significant additional density.
• Inner suburbs generally interested in bringing in density from more rural areas.
• Conflicts with other means of achieving density.
• Most are open to it, but not expecting to pursue in the short term.
TDR in Local/Regional Conservation/Development Strategy

TDR and other Conservation Tools
TDR in Local/Regional Conservation/Development Strategy

Other Conservation Tools

• Purchase of development rights (PDR)
• Assessing an in-lieu fee for conservation/restoration
• Mitigation land banking
• Development agreements
• Clustering/conservation development
• Utilization of the value of ecosystem services
• Creating an incentive zoning menu
• Zoning amendments such as downzoning sensitive areas
TDR and Other Conservation Tools

- A TDR Bank could complement conservation nonprofits by targeting preferred sites

- TDR can be used to permanently conserve land in use-based tax saving programs

- TDR sending areas may include resource protection zones

- In-lieu fee can be used buy TDRs, cover administration costs, finance receiving-area amenities, etc.
TDR in Local/Regional Conservation/Development Strategy

TDR and Other Conservation Tools--PDR

- TDR could complement PDR programs at low cost
- Different funding sources, same goal
- Ensure PDR uses revenues quickly for market consistency
- Builds on a PDR Framework
TDR in Local/Regional Conservation/Development Strategy

TDR and Other Conservation Tools—Mitigation Bank

- Use TDR before a “receiving-area project” is built. Through a bank that buys the land, restores it, and then sells credits and/or development rights and to be used in new projects. (Lake Tahoe)

OR

- Use TDR after a “receiving-area project is built”. Through new projects paying an in-lieu fee that accrues capital and eventually gets used for restoration and/or development rights. (King County, WA)
TDR in Local/Regional Conservation/Development Strategy

TDR and Other Conservation Tools—Incentive Zoning Menu

- Incentive Zoning Menus provide amenities and high-quality design for bonuses....

- But diminishes revenue available for TDRs
TDR and Other Conservation Tools—Downzoning Sending Areas

- The sending area supply could equal the receiving area capacity depending on the revised zoning requirements—solves the “oversupply” issue.

- Downzoning rural areas could meet considerable resistance from property owners.

- Some TDR programs assign TDRs to compensate for reduced development potential (Montgomery County, Beaufort County)
TDR in Local/Regional Conservation/Development Strategy

Case Studies
Ave Maria, Collier County, FL

- New Community planned in rural Collier County in 2004
- All new development uses TDRs
- Simple receiving-area TDR requirements including by-right approval
- A few very large landowners agreed to participate in system
- Open space protects Florida Panther
Lake Tahoe, CA/NV

- TDR used to infill/revitalize downtown
- Transfers land coverage within hydrological basins
- Impervious surface area, commercial floor area, hotel units and residential dwelling units are traded
- Allocates TDR for habitat restoration
- Land-use authority to MPO
Existing Programs and Frameworks

Land Use 2025

Rhode Island of 2025 will be a unique and special place, retaining its distinctive landscape, history, traditions, and natural beauty, while growing to meet its residents’ needs for a thriving economy and vibrant places to live.

Rhode Island State Land Use Policies and Plan

Executive Summary
Compact Development Approach

- The Urban Service Boundary and Growth Centers
Strip and Plaza Redevelopment
Coupling TDR with the Low and Moderate Income Housing Act

- TDR can bolster housing choice

*Images courtesy of Union Studio Architects*
Scenic Lands at Risk of Development

A Citizen’s Guide to the Farm, Forest, and Open Space Act

- TDR can provide another option for Farm, Forest, and Open Space parcels
Lands at Risk of Inundation

Sea Level Rise, Climate Change and Flooding

Aquifer Protection

- Water Quality and Water Quantity
Chesterfield Township, Burlington Co., NJ

Rhode Island 3-27-13 Part 2
Rick Pruetz, FAICP

- Population 7,699
- 14,000 acres
- Philadelphia 35 miles
- NYC 60 miles
- First TDR 1975
- County property tax
- 2002 TDR program
TDR Demand

• Collaborative planning
• Old York Village
• Smart growth award winner
• Current maximum density: 1 DU/3.33 acres
• TDR = 1 SF (7,000 sf lot), 2 MF units or 2,000 sf floor area
• 6% affordable; no TDR needed
• Center: school & commercial
• $50,000 per TDR
• $500,000 homes
Receiving Area

- One receiving area
- Greenbelt separation
- Architectural compatibility
- 560 acres
- 1,200 DUs: capacity for entire TDR supply
- Infrastructure plans done
- Developers install sewer/water and pay development fees for transportation, recreation
Sending Area

- 7,472 acres zoned agriculture and 10 acres in size
- On site density: 1 unit per 10 acres
- 1/50 acre easement
- Allocate 1.1 TDR per:
  - 2.7 acres of slightly-constrained soils
  - 6 acres of moderately-constrained soils
  - 50 acres of severely constrained soils
- Supply: 1,383 TDRs
Other Success Factors

- Exceed baseline only by TDR
- Developer certainty if
  - Adhere to code
  - Pay infrastructure fees
  - Retire TDRs
- Strong public support
- Simplicity
- Facilitation
- TDR Bank (County TDR Bank stabilized TDR market)
- 7,412 acres preserved
  - 2,742 TDR
  - 4,670 PDR
  - 2008
Livermore, CA

- Population 80,000
- San Francisco 44 miles
- South Livermore Specific Plan
  - TDR & Mitigation
  - 5,000 acres
  - 22 new wineries
- North Livermore UGB Initiative
  - Alameda County
  - Reserve by zoning
  - Preserve by TDR
Receiving Area

- Incremental approach
- All future upzones to TDR receiving zones
- Former zoning density becomes baseline
- All units above baseline comply with TDR or DTC
- Maximum density = current or future plans
- Rezoning separated from TDR adoption
  - Facilitates TDR
  - Retains traditional upzoning process
TDR Demand & Market

Strong demand
• To exceed baseline: SF and MF
• To manage permit quotas
• TDR projects
  – Priority housing allocations
  – With or without bonus density

Economic study supported WTP
• $48,000 per SF unit
• $12,000 per MF unit
• Lower WTP in downtown

No alternatives to TDR
  – Except affordable housing
Sending Area

- 14,000 acres in county
- Minimum lot sizes
  - 40 acres
  - 100 acres
- Allocate 1 TDR/5 acres to permanently secure zoning plus
- Bonuses
  - 11 TDRs to forego each potential lot
  - 12 TDRs to remove existing unit and preclude future development
Density Transfer Charge

- Assures compliance without finding and negotiating with sellers
- Proceeds exclusively preserve sending area land
- Target priorities
- Leverage other funding
- $1.5 M funding purchase of significant parcel

Public support

- Sending area TDR changes require voter approval
Collier County, FL

- Population 320,000
- 1960s: infamous development disasters
- 1974: TDR program
- 2004 Rural Fringe TDR
  - Preservation
  - Restoration
- RLS program
  - Landowner proposed
  - 195,000 acres
  - Controversial location
  - Litigation
- Now >80% County preserved
  - US, Florida, NGOs, Conservation Collier and TDR
Demand

- Collaborative land use/infrastructure plan for smart growth new town developers want to build
  - Cathedral & university
  - Commercial/residential mix
  - 11,000 DUs
- 8 TDRs per receiving area acre developed
  - Promotes plan vision
  - No extra cost to maximize development potential
Receiving Area

- Common ownership of sending and receiving sites promotes successful plan
- Receiving area preserves surrounding greenbelt
- Reduces potential opposition from adjacent residents
- But interior location controversial

Source: Wilson Miller
Sending Area

- 100,000 acres of agricultural land, habitat and environmentally significant flow ways
- 1 DU per 5 acres on site
- Allocation formula
  - Awards more TDRs for more significant resources
  - Awards more TDRs for level of conservation chosen by owner

Source: Wilson Miller
Other Success Factors

TDR compliance cannot be circumvented

Project approval certain when developers follow rules, including TDR compliance

Status

- 54,000 acres preserved
- Florida Panther Preserve buffer
- Corkscrew Regional Ecosystem Watershed
- State Forest buffer
Boulder County, CO

- Population 300,000
- Denver 30 miles SE
- Over 2/3 preserved
- Co./City 134,680 acres
- Comprehensive Plan
  - Secured by inter governmental agreements (IGAs) between County and cities
  - Super IGA coordinates development and preservation countywide
- 1989 TDR program now called TDR/PUD operates in county and within many city planning areas per IGAs
- 2008 TDC program promotes smaller houses
Demand

- Baseline: 2 DUs/35 acres
- Maximum density determined by PUD
- Residential TDRs convertible to non-residential floor area
  - Cannot exceed residential-equivalent traffic etc.
- Receiving areas near Niwot and cities
- Low baseline allows low-density development to create demand
Sending Areas

- Sending areas mapped
- 75% of TDRs from receiving site subarea
- 1 DU/35 acres on site or
- Record easement
  - 35 to 52-acre site
    - Transfer 2 TDRs
    - One unit on site + 1 TDR
  - 105 to 112-acre site
    - Transfer 6 TDRs
    - One unit on site + 5 TDRs

- Aim: implement plans for surrounding farms, open space and greenbelts
TDR & IGAs

- Promote orderly growth
- Super IGA = County Plan
- Sending areas
  - Agricultural/environmental greenbelt around Longmont
  - Joint City/County easements
- Receiving areas: county land at urban edge
- Receiving developments
  - City/County approval
  - Meet City requirements
  - Pay City fees to City
  - Sewer to City standards
  - Road dedications to City
Other Success Factors

• TDR Bank: County serves as seller of last resort

• Public Support for Preservation
  – County and City voters approved open space sales taxes
  – County tax: up to $17 million annually
  – Good outcomes:
    • 2/3 County preserved
    • 134,680 by City & County
    • Boulder Valley Greenbelt
Session 3: Current Directions and Future Prospects for TDR
Exeter Program

• “Fee-in-lieu” of TDR allowed for Planned Village Development.

• Sending Area is district wide

• But not all land is valued the same
North Kingstown

- Moving forward with Residual Land Value analysis for fee-in-lieu
- Implementing TOD with TDR at Wickford Junction
- Compact Village Development uses TDR to expand building mass
- "Nutrient Trading" used in groundwater protection areas.
Rhode Island Sustainable Communities Grant

• Plans for Economic Development, Housing, and Growth Centers

• Plans, policies and strategies will be “asset-based”
More than 247 programs in 34 states

- State initiatives
  - Washington State incentives and 10 TDR planning grants
  - 2006 Virginia law

- Environment
- Economy
- Urban livability
- SmartCode
- Tool combinations
- Innovations
Coastal Preservation

Reducing coastal storm damage one of many goals
• Oxnard, CA
• Charlotte County, FL
• Pacifica, CA

2005 hurricane season
Sarasota County, FL 2006 Plan
restricted development in:
• Flood hazard zones
• Barrier islands
• Category 1 or 2 storm surge
• Habitat, farmland, open space and other

Sending site owner motivations:
• Site constraints
• Coastal building regulations
TDR to reduce wildfire danger: 1977 - Malibu Coastal Program

Drought, dead trees worsen hazard

Pitkin County, CO severely limits backcountry development:

- Wildfire, landslide, avalanche
- Ecosystems/habitat
- Lack of roads/infrastructure

Sending zone

- 35-acre minimum parcel
- Maximum floor area 1,000 sf

Receiving areas: TDRs

- Allow building permits under quota system and/or
- Extra 2,500 sf floor area / TDR
Watershed TDR

- Tahoe RPA, CA/NV
- Hebron, CT
- Central Pine Barrens, NY
- Dade County, FL
- Southampton, NY
- Kitsap County, WA
- Whatcom County, WA
- Bellingham, WA
- Falmouth, MA
- Lake County, FL
- New Jersey Pinelands, NJ
- Austin, TX
Greenbelts

Montgomery County Ag Reserve
• Preserves farmland, environmental resources and rural character
• Greenbelt curbs sprawl and concentrates growth

Larimer County, CO
• Protects parkland, habitat, watershed and other environmental resources
• Community separator for City of Fort Collins
Economic Development

- Promoted indirectly when TDR
  - Supports ag, forestry, tourism and efficient infrastructure
- Job preservation primary goal in Churchill County, NV and Beaufort County, SC
  - TDR helps reduce residential development in crash zones around Fallon and Beaufort Naval Air Stations
  - Retains key employer
Urban Livability

Initially TDR for historic preservation
TDR now targets multiple urban goals
Seattle, WA

• Accepts King County TDCs
• Landmarks & landmark theaters
• Open space (Olympic Sculpture Park)
• Affordable housing
• Performing arts theaters

TDR bank started with $1.2 million
• Helped Olympic Sculpture Park
• Secured 359 affordable units
• Facilitated two landmark theaters
• TDC sales help pay construction bond on Symphony Hall
SmartCode template includes TDR mechanism
- Density: baseline & TDR
- Goal of reducing or eliminating development potential in natural, agricultural and rural areas

Reminder: preservation is
- One of Ahwahnee Principles
- Key Smart Growth goal

Many communities remove TDR mechanism but now in
- El Paso, TX
- Pass Christian, MS
- Pike Road, AL
- Ridgeland, SC
- San Antonio, TX
King County, WA
- Conservation Futures
- Portion of property tax dedicated to open space preservation
- Often used to buy TDRs rather than land or easements
- Snoqualmie Forest:
  - $22 million bought
  - 90,000 acres preserved
  - 990 TDRs banked for resale
- TDR changes finite revenue into ongoing revolving fund
Tool Combinations: Palm Beach County, FL

- Bond proceeds bought 35,000 acres of environmentally-sensitive land
- County severed TDRs and sells them for $25,000 each (2007)
- In 2004-5, TDR sales earned over $10 million
- Proceeds become ongoing revolving fund
- Used exclusively for preserve expansion and maintenance
Tool Combinations: Warwick Township, Lancaster County, PA

- Partners with the Lancaster County Farmland Preservation Program
- Other townships: PDR only
- In Warwick, County allows Township and Farmland Trust to bank and resell the TDRs
- County’s only requirement: TDR sales proceeds must be used for further preservation
- Office park receiving area
- TDRs increase lot coverage
- 1,318 acres preserved
Density Transfer Charge (DTC)
• Choose compliance with actual TDRs or pay DTC
• All proceeds dedicated to sending site preservation
• Facilitates compliance
• Cash allows leveraging and priority targeting
25 programs use DTC
• 20 programs DTC choice: including Livermore, CA
• 5 DTC only: including Warwick, Orange County, NY
• Large, diverse sending area
• Landowners wanted equitable TDR allocation
• One TDR / $20,000 appraised value
• Actual TDR sales price by private negotiation
• Site-specific determination of features affecting development value  
  – Opportunities and constraints: location, physical features, roads, infrastructure, view, amenities
Innovations
Pierce County, WA

Developer option of actual TDRs or site-specific DTC
• One half difference in fair market value of receiving site at
  – Current zoning
  – At approved density bonus
• Con: Appraisal increases cost and delay
• Pro:
  – Consistent DTC
  – May facilitate adoption
Innovation
Gunnison County, CO

TDR requirement: 10-percent of assessed land value increase from subdivision approval

- In large jurisdiction, automatically adjusts for wide variations in land value and housing types
- Adapts to fluctuations in market over time
- County can apply proceeds to highest preservation priorities and leverage other funding sources
TDR in Real Estate Market Trends
TDR in Real Estate Market Trends

- Demand for Product Types
- For-Sale vs. For-Rent
- Helping Higher Density Pencil
TDR in Real Estate Market Trends

Demand for Product Types

- Absorption Capacity Analysis
- ProForma RLV Analysis
- TDR Commodities and Exchange Rates
- RI and MA Comprehensive Permit laws allow developers to bypass zoning for high-density affordable housing projects
TDR in Real Estate Market Trends

Residual Land Value Formula

1. *Profit threshold for financial feasibility must equal 13% of total project costs. Total Costs are land costs plus construction costs (hard and soft costs):*

\[ P = 0.13 \left( C_L + C_{HS} \right) \]

Where \( P \) = Profit, \( C_L \) = Land Cost, \( C_{HS} \) = Hard and Soft Costs,

2. *Profit Equals Total Revenue minus Total Costs*  
\[ P = R - C_T \]

Where \( R \) = Total Revenue, \( C_T \) = Total Costs

3. *Therefore*

\[ R - C_T = 0.13 \left( C_L + C_{HS} \right) \]

4. *We use our model to insert a value for \( C_L \) that satisfies the equation. If \( C_L \) is equal to or higher than the current land selling price, then the project is feasible*
TDR in Real Estate Market Trends
For Sale vs. For Rent

- For sale residential is preferable for TDRs because there are more revenues available sooner

- Developers sell for-sale units immediately vs. 10-15 years for apartment projects

- The fact that project conservers open space through TDRs matters more to permanent owners
TDR in Real Estate Market Trends
Helping Higher Density Pencil

- Economies of scale make projects more feasible—higher improvement value while land costs remain the same

- Addition profits allowed through bonus must be split for TDRs and additional developer profit

- Cost of TDR for bonus unit cannot exceed cost of vacant land for same unit on a new site.
TDR Policy Trends
TDR Policy Trends

- TIF for TDR
- Ecosystem Services
- Sea-Level Rise
- Military installation protection
Session 4: Making TDR Work in Rhode Island and New England
State, Regional & Local TDR Models
Rhode Island 4-27-13 Part 4
Rick Pruetz, FAICP

State mandated, facilitated and incentivized
County facilitated, incentivized
Local initiative
State Mandated

- Malibu Coastal Zone, CA
- 1976 California Coastal Act
- 1977 Coastal Commission: TDR Program to retire substandard lots in Santa Monica Mountains subject to wildfire, floods and landslides
- At least one sending area lot retired per lot created in receiving zone
- State assisted by acquiring land and giving TDRs to land trust for resale
- Worked until 1991 when Malibu incorporated
State Program
New Jersey Pinelands

- 1980: One million acre planning area with 60 jurisdictions
- Strict development regulations maintain significant environment, agriculture, and aquifer
- Receiving: 23 jurisdictions
- State required
  - Local regs to conform to plan
  - Inter-jurisdictional transfers
- 58,900 acres preserved
- 4,446 rights transferred
State Control
Tahoe Regional Planning Agency, CA/NV

- Preserve water quality
- Restricts land coverage throughout 208,000 acres
- One mechanism transfers coverage rights
- Others motivate relocation of existing coverage (if from SEZ, permit not subject to quota)
- California Tahoe Conservancy buys, banks and sells TDRs
- South Lake Tahoe uses TDRs in downtown redevelopment
State Sponsored Plan 
Central Pine Barrens, Suffolk County, NY

- 102,500 acres on Long Island
  - Sensitive habitat
  - Recharges aquifer for 1.8 million people
- To resolve lawsuit, State, County and townships adopted Plan
- Three towns created receiving areas capable of accepting 2.5 times the TDR supply from their portion of Barrens
- As of right TDR approval
- State buys and sells TDRs
State Incentives
New Jersey

• TDR successes in Lumberton & Chesterfield Townships, NJ
• 2004: New Jersey adopted enabling legislation
• State TDR Bank Board offers TDR planning grants
• 2005: 6 grants awarded
• Woolwich Township, Gloucester County adopted plan to preserve 4,000-acre sending area with variable TDR allocation based on soils
State-Sponsored Regional Cooperation Puget Sound, WA

- Regional TDR Alliance: partnership of Forterra, Puget Sound Regional Council, Washington State and four counties (King, Kitsap, Pierce, Snohomish)

- 2011: Grants for 10 cities and 1 county to prepare TDR programs and interlocal agreements
State Incentivized Regional TDR
Washington Landscape Conservation Program

- 2011: Washington State adopts Landscape Conservation and Local Infrastructure Program
- Cities that meet targets for accepting regional TDRs can use tax increment financing to fund infrastructure
- 34 cities in three counties eligible to become receiving areas
- Seattle and King County are first to use law in South Lake Union
County Incentivized Inter-Jurisdictional TDR

King County, WA

- Almost twice RI land area
- Promotes transfers into cities from 25+ miles away
- Awareness of urban-rural interdependency
- Adds incentives
  - $500,000 to Seattle for green streets
  - If GHG regs are adopted, County TDRs can mitigate
- Now IGAs with Seattle, Bellevue, Sammamish, Issaquah
County Land Preservation Incentive
Boulder County, CO

• Super IGA and individual IGAs implement city and County preservation goals

• Sending areas
  – Agricultural/environmental greenbelt around Longmont
  – Joint City/County easements

• Receiving areas: county land at urban edge

• Receiving developments
  – City/County approval
  – Meet City requirements
County Planning Support
Lancaster County, PA

Township-level TDR programs
• Benefit from proximity of sending areas
• But need county coordinated visions and often technical assistance
• 31 Pennsylvania townships use TDR

Lancaster County: land use controlled by 41 separate townships
• Plan establishes goals
• County planners assist
• 85,500 acres of farmland
• Preservation is contagious
  – PDR
  – Conservation easements
  – TDR
  – PDR/TDR (Warwick)
Local Level Inter-Jurisdictional

Warwick Township & Village, Orange County, NY

• Township land annexed by Village is zoned Annexation District (AD)
• AD baseline is maximum density of prior Town zone
• Bonus for “compensating amenities” or cash-in-lieu of $50,000/BDU
  – 25% to protect Village watershed needs within Town
  – 30% Town discretion
  – 45% Village discretion
Inter-Jurisdictional TDR Watershed Protection Incentive

- Bellingham, WA
- Relies on Lake Whatcom Watershed primarily in Whatcom County
- Bonus floor area granted in Old Town Bellingham when developers participate in Lake Whatcom Watershed Property Acquisition
- One square foot of bonus floor area for one square floor of watershed land preserved
- Developers comply using DTC
Local Inter-Jurisdictional Farmland Preservation Objective

- Water and other vital resources may not be needed to motivate some jurisdictions
- Livermore, CA created sending area under Alameda County jurisdiction
- Initiative called for preservation of 14,000-acre area for agricultural, environmental protection, recreation and orderly growth
TDR Models for All Governmental Levels

- State mandated, facilitated and incentivized
- County facilitated, incentivized
- Local initiative

To select a model

- Map and calculate how well preservation and development goals match up within and between jurisdictions
- Explore public officials’ willingness to mandate and/or encourage TDR
State-Driven Incentives
Is State Help Needed?

- Counties play no role in land use
- State has many incentives for resource protection and targeted growth
- State can align incentives to support TDR programs
Restructuring Incentives

• State incentives need to be organized around the principle of promoting TDR.

• Opportunities exist to align TDR and affordable housing requirements.

• TDR should not compete with other density bonus programs or incentives.

• As it prepares to embark on Sustainability Plan, the State should look for ways to incorporate TDR.
Notable Incentives Programs Identified in MA

- MassWorks
- TIF/DIF
- Smart Growth Districts (Chapter 40R)
- State Revolving Fund
- Partnership Communities (proposed in CLURPA)
- Community Preservation Act
- Economic Development Incentive Program
- APR Program
- Conservation Restriction Program

What similar programs/laws are applicable for Rhode Island?
Barriers to Overcome

- Availability of funds
- “Priority fatigue”
- Local support
Implementing the Regional Plan
Implementing the Regional Plan

- Provide State support for local adoption and administration of TDR programs.

- Align State policies and incentives with TDR goals to maximize participation in TDR program.

- Create a State-funded TDR bank.

- View Washington County TDR program as a pilot program for the State.

- Create a TDR information/transaction clearinghouse.
Implementing the Regional Plan

- Create “Subregional TDR Program”
  - Gives Towns/Cities maximum flexibility in creating sending and receiving areas and establishing base densities.
  - Sending and receiving areas could be “paired.”
  - TDRs could be sent between jurisdictions.
  - Sending areas would be confined to land near each town.
- Could involve option of cash-in-lieu of TDR.
Implementation Steps

• Identify program goals

• Identify sending and receiving areas

• Conduct receiving-area market analysis

• Define sending-area TDR values and transfer ratios by geography and conditions

• State/City/Town feedback on implementation strategy