

Transfer of Development Rights & Possibilities for Coastal Communities

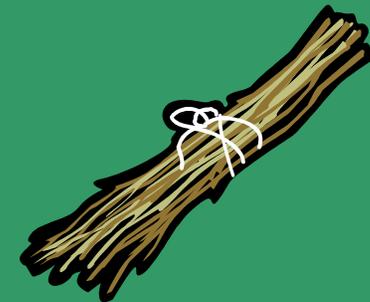
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November 19, 2007

Private Interest in Land

(A bundle of divisible rights)

The right to.....

- Exclude others
- Sell or transfer title
- Divide lands
- Grant easements
- Rent or lease
- Develop for agriculture, residential use, mining, etc. subject to reasonable regulation

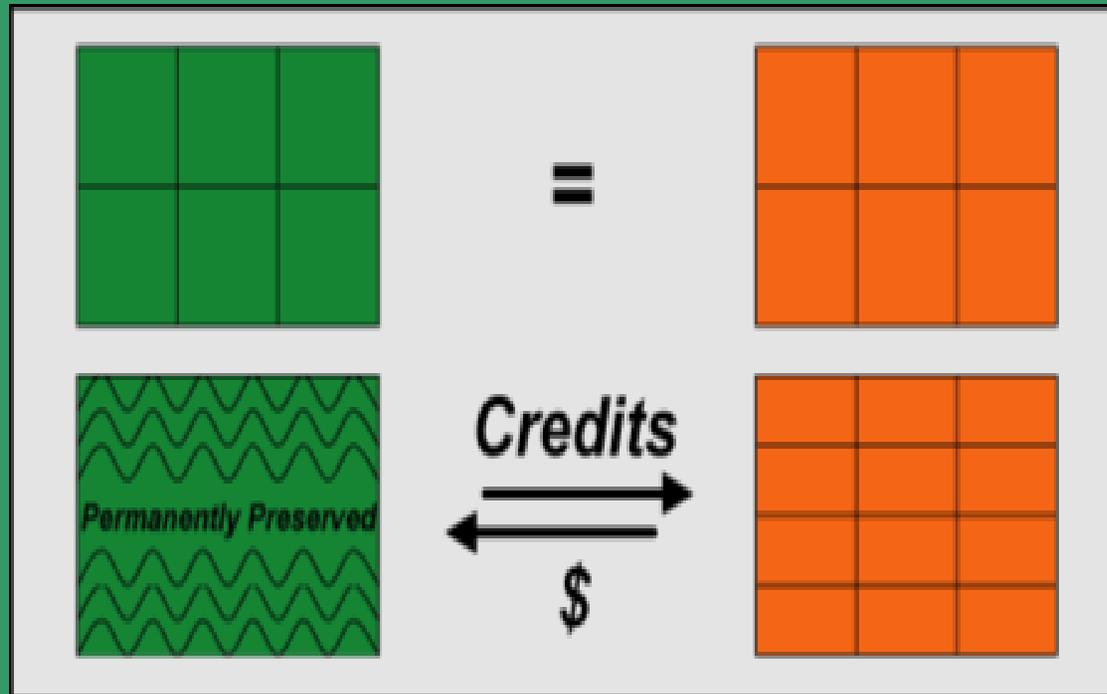


Public Interest in Private Land

What are the community's options?

- Acquire property rights through zoning or regulation
 - Negative landowner equity impacts
 - Takings challenge possibility
 - Lack of permanent protection
- Purchase rights with public funds
 - Costly \$\$\$\$
- Utilize private market to purchase through TDR

What Is TDR?



Establishing a TDR Program

Step 1: Define goals

What are we trying to accomplish?

- Farmland preservation
- Environmental protection
- Open space / recreation land acquisition
- Historic preservation
- Viewshed protection
- Public access
- Affordable housing
- Compensate landowners for diminution of equity

Establishing a TDR Program

Step 2:

Determine what rights are we want to acquire or sever

Is fee simple acquisition required?

Is an interest less than fee simple adequate?

- Easement
- Deed Restriction

Establishing a TDR Program

Step 3:

Determine how to allocate credits

Assign credits based on a sending area properties:

- # of potential developable units
- Gross acreage
- Potential commercial square footage
- \$ value of rights acquired
- Resource value

Establishing a TDR Program

Step 4: (The hard part!)

Determine where credits will transfer to

What do you want to create using TDR credits?

- Redevelopment on an existing brownfield or underutilized site
- Residential units over existing commercial
- Incentives for commercial development
- New center on a greenfield

Where are opportunities or constraints?

- Sewer and water infrastructure
- Transportation
- Available land
- Public Sentiment



Establishing a TDR Program

Step 5:

Create a market for credit transfer

Real Estate Market Analysis

Sending area incentives

Receiving area incentives

Receiving area design

Establishing a TDR Program

Step 6: Requirements of State TDR Act

- Development Transfer Element
- Capital Improvement Program
- Utility Service Plan
- Real Estate Market Analysis

Plan Endorsement
&
County Approval

TDR Ordinance

Periodic Review



TDR Uses for Coastal Communities

Farmland Preservation

- Transfer of residential development potential
- Property permanently deed restricted to agricultural use
- Examples:
 - Chesterfield Township, Burlington County
 - Lumberton Township, Burlington County
 - Montgomery County, Maryland

TDR Uses for Coastal Communities

Environmental Protection

- Habitat protection
- Riparian buffers / Watershed protection
- Steep slopes
- Wellhead protection
- Maintain appropriate densities (while maintaining landowner equity compensation)
- Remove development from hazard prone areas
 - Potential or existing units
- Transfer units to areas with access to public infrastructure
 - Potential or existing units

TDR Uses for Coastal Communities

Acquisition of Open Space / Recreation Land

- Fee acquisition
- Conservation deed restriction
- Uses
 - Public use / access or recreation
 - Provision of necessary public recreation improvements (bathroom /shower facilities, parking)

TDR Uses for Coastal Communities

Historic Preservation

- Historic façade easements
 - Fanwood, Union County
- Transfer of “air rights”
 - Grand Central Terminal Case

TDR Uses for Coastal Communities

Viewshed Protection

- Possible through:
 - Fee acquisition
 - Conservation deed restrictions
 - Transfer of “air rights”

TDR Uses for Coastal Communities

Public Access

- Physical Access
 - Fee simple property acquisition
 - Public access easements
 - Easements to maintain water dependent uses
 - Commercial uses
 - Recreational uses
- Visual Access
 - Fee simple, easement or air right acquisition

TDR Uses for Coastal Communities

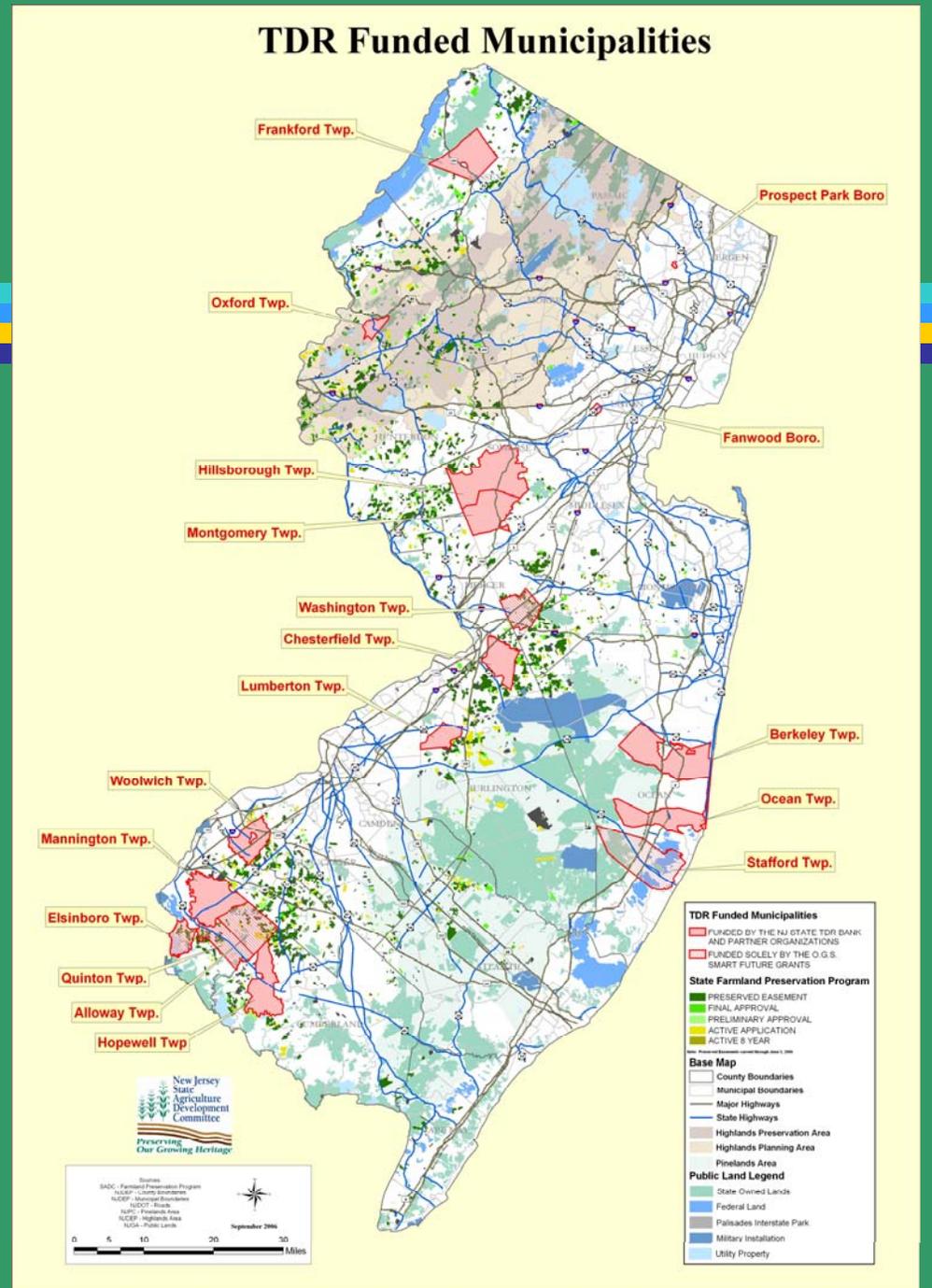
Affordable Housing

- Conversion of market rate to affordable housing in exchange for transferable credits

Hybrid Programs

TDR in New Jersey

- Pineland Development Credit Program
- Burlington County Pilots
 - Chesterfield Township
 - Lumberton Township
- Statewide Pilot Municipalities
 - Planning Assistance Grants
 - 50 percent cost-share grant up to \$40,000
 - 11 funded pilot projects statewide



Lessons Learned

- TDR is a flexible planning tool that can be tailored to local conditions & goals
- TDR can accelerate growth – it is not a “no-growth” tool
- Good Design = Equity Protection
 - Quality design drives the growth and the desire for credits
 - Demand drives credit value
- Public outreach and input is critical
- TDR inherently technical - requires significant planning investment
- Availability of infrastructure is core planning issue for receiving area
- TDR will not happen without **BOLD LOCAL LEADERSHIP**

For More Information

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