

# Skagit County TDR Feasibility Study – Interim Report

Monday, December 4, 2006

Mount Vernon, WA

*Ag Prospects*

# TDR - definition

- “an implementation tool that encourages the voluntary transfer of development from places that communities want to save, called *sending areas*, to places that communities want to grow, called *receiving areas*.” (Pruetz 1997)

# TDR - overview

- Premise that development rights can be severed from a property and transferred to another.
- Some states have enabling legislation and others do not.
- Concept arose in NYC zoning ordinance in 1916 and was first formalized in a NYC program in 1968.

# TDR - status

- In 2000, Pruetz identified 134 programs throughout the United States and seven (7) in the State of Washington:
  - Everett, Island County, King County, Redmond, Seattle, Thurston County, and Whatcom County.
- Pruetz identifies 30 purposes to these programs.
- The majority of programs (40) are “multi-purpose” ; 34 are “environmental” and 27 are designed to preserve farmland. None identify preservation of forest lands as a purpose.



Distribution of TDR Programs

# TDR - programs

- Earliest programs were adopted in NYC; Calvert County, MD; and Collier County, FL in the 1960's and 1970's.
- Second generation programs (1980's) include the New Jersey Pinelands; Denver, CO. and Pittsburgh, PA.
- Third generation (1990's) includes Montgomery County, MD – case study to follow.

# TDR – New York City

- **New York City** – population 8.1 million has adapted their program ( 1968 adoption) over decades and is currently using a form of TDR to sell development potential from public properties to private developers.
- Churches in NYC are now marketing their development rights to raise funds for church endowments.
- TDR has been used for *community revitalization* (theatre district), *historic preservation* and *open space retention*.

# TDR – Calvert County, MD

- [Calvert County, Maryland](#), population 75,000, is located 25 miles from Washington, D.C. It has downzoned the rural area three (3) times to keep the TDR program active (adopted in 1978). They do not have a local PDR program, but opt occasionally to retire DRs from the TDR bank. By 2001, the county had placed 8,900 acres under easement through the TDR program – an average of only 390 acres per year.



# TDR – Collier County, FL

- [Collier County, Florida](#), population 251,000, adopted a TDR program in the 1960's. Collier includes the City of Naples and part of The Everglades. The program (adopted in 1974) languished through several plan changes and protected only 325 acres through the transfer of 526 DRs. One single transaction accounted for 350 of the DRs.
- In 1999, the county changed the code to limit transfers to areas designated as urban on the county's Future Land Use Map. The code changed the size of the parcel eligible to receive TDRs and reduced the maximum density bonus in some receiving zones.

# TDR – Collier County, FL

- According to recent articles, the program has been reinvigorated through a regional planning process to identify natural resource areas for preservation (sending areas) and developing detailed urban development plans which require the purchase of DRs to implement (receiving areas). The DRs purchased are not based upon the underlying zoning in the sending areas, but were designated based upon the ranking of preservation priority for the property. The initial project protects 16,000 acres of Everglades to build 1.2 million square feet of commercial space and 11,000 residential units in a “new town” project.

# TDR – Montgomery County, MD

- Montgomery County (population 875,000) and located immediately northwest of Washington, D.C. The county is 323,000 acres in area.
- County downzoned rural area in 1974 from 1:1 or 1:2 to 1:5 acres to prevent conversion of agricultural land.

# TDR – Montgomery County

- 26,000 acres designated Rural Open Space because existing development precluded “large-scale agriculture.”
- 110,000 acre “Rural Reserve” designated in 1980 to be preserved for farming.
- The county downzoned 91,591 acres from 1:5 to 1:25 acres.

# TDR – Montgomery County

- The 25-acre density was based upon a study which said this was the minimum size for a farm to function on a “cash crop” basis in the county.
- RDT (rural density transfer) was adopted which promoted on-site cluster development to preserve farming.

# TDR – Montgomery County

- DRs transferred to designated receiving areas were allowed at a 1:5 acre density but required that each sending site retain 1 DR per 25 acres.
- The county theoretically created 18,319 DRs for transfer, but in 1992, only 12,297 TDRs actually existed because of existing development, preservation easements and public ownership.

# TDR – Montgomery County

- The county rezoned receiving areas but created room for only 11,650 TDRs.
- As of 2000, 40,583 acres were under easement through the TDR process – approximately  $\frac{1}{2}$  the 92,000 acres downzoned as RDT.
- Through four other programs, an additional 11,897 acres have been preserved.

# Montgomery Analysis

- Major Findings:
  - MCTDR is preserving open space and maintaining farmland in the short-term, but not necessarily in the long-term.
  - The receiving area selection process did not take into account the already failing infrastructure of some Planning Areas and did not provide sufficient support to insure necessary level of service.



# Montgomery Analysis

- The portrayal of the TDR program to the residents in lower MC was not consistent with its implementation in the county.
- Jurisdictions with more political organization succeeded in reducing the number of receiving areas approved in the master planning process.
- One must compare the finer details of all the preservation programs across all Maryland counties to assess Montgomery's success in preserving agricultural land.

# Montgomery Analysis

- *Changes in the County's Agricultural Landscape...*
  - The future viability of farming in MC needs to be examined. After adjustments for inflation, the revenue from the land is decreasing.
  - From 1978 to 1997, there was a decrease in county farmland acres (33 percent) and the number of farms (21 percent), while the state farmland acreage decreased by only 17 percent with a similar decrease in farms.

# Montgomery Analysis

- Additionally, the average market value of farmland and buildings declined 37 percent
- Indicators showed Montgomery County agriculture lagged the state:
  - Smaller
  - Principal occupation
  - Older
  - Market value of agricultural products
  - Harvested cropland lags state average
  - Nursery and Greenhouse crops higher

# Montgomery Analysis

- The average market value of agricultural products sold dropped 48 percent (\$16m decrease) while the state only saw a 32 percent decrease.
- *Concerning Development Rights...*
  - Over 5,000 development rights have been sold since 1980. Since 1990, fewer than 200 have been sold per year, over the past 3 years, less than 100 have been sold annually.

# Montgomery Analysis

- TDR prices have fluctuated greatly. When adjusted for inflation (to 1999 dollars), the price per right reached a low of about \$5,500 in 1987 and a high of \$11,600 in 1996. The price of \$7,500 in 1999 was considerably lower than the starting price of \$9,100 in 1981.
- As of 2000, about 41,270 acres were in the TDR program and about 12,211 acres in easement programs. About 88,800 acres are public land.

# Montgomery Analysis

- *Impacts of the TDR Program on Receiving Areas...*
  - The median value of homes for all receiving areas is approximately 89 percent of the value of homes in Planning Areas which contain receiving areas. The rate of owner-occupied housing is lower, as well.
  - The proportion of total housing units developed with TDRs is extremely varied across developed areas.

# Montgomery Analysis

- Some county regions with TDR zones lost a high percentage of development potential because of environmental constraints and public pressure against development.
- The county's Annual Growth Policy shows that a number of Policy Areas have been under moratorium for residential development for more than 12 years.

# Montgomery Analysis

- Landowners are allowed to retain the last 20 percent of rights. The owners may still develop at 1 unit per 25 acres (1:25), the zoned density. This has caused farm parcelization.
- When Maryland counties are ranked by programs that provide long-term protection for farmland, (the distinction between TDR and easement programs) Montgomery County slips to 14<sup>th</sup> in the rankings.



# Montgomery Analysis

- Reference:

- *An Analysis of the Transfer of Development Rights Program in Montgomery County, Maryland: A Report of the University of Maryland's Spring 2001 Community Planning Studio.*

# TDR – Skagit Feasibility

- Current rural zoning is 1:40.
- Ratio between what builders will pay and current market for DRs is 4:1.
- Can the rural area be downzoned to 1:200 to make a market for DRs?

# TDR – Skagit Feasibility

- Can receiving areas be downzoned to accommodate mandatory TDRs? Or will they build out at lower density?
- Can an impact fee program be used to fund long-term land conservation?

# TDR Feasibility

- The “market” is not ready for TDR –
  - builders will only pay  $\frac{1}{4}$  current value of a rural DR
    - Creating more DRs will increase the value of rural land
  - new development may not absorb higher density without making it mandatory
  - insufficient planning has been done to implement an efficient program

# Alternative Actions

**Coordinate all potential land conservation funding:**

*Farmland Legacy Program*

*Farm and Ranchland Protection Program*

*Forest Legacy*

*Conservation Reserve Enhancement Program*

*Wetlands Reserve Program*

*Etc.*

# Alternative Actions

## **Capture commercial mitigation markets:**

*Wetlands mitigation*

*Farmland mitigation*

*Forestry mitigation*

*Habitat mitigation*

# Alternative Actions

**Utilize techniques to leverage funds:**

*Installment Purchase Agreements*

*Annuity Plans*

*Matching and Challenge Grants*

*Coordinate with land donations*

# Alternative Actions

**Increase land conservation funding:**

*Direct fundraising*

*Foundation and private grants*

*Increase rate*



# Recommendation

- Add review of feasibility of Alternative Actions to scope of study