



Planning Implementation Tools Transfer of Development Rights (TDR)



Center for Land Use Education

www.uwsp.edu/cnr/landcenter/

November 2005

TOOL DESCRIPTION

Transfer of Development Rights (TDR) is a voluntary, incentive-based program that allows landowners to sell development rights from their land to a developer or other interested party who then can use these rights to increase the density of development at another designated location.

While the seller of development rights still owns the land and can continue using it, an easement is placed on the property that prevents further development. (See Conservation Easement fact sheet) A TDR program protects land resources at the same time providing additional income to both the landowner and the holder of the development rights.

COMMON USES

Farmland protection

TDR programs are a way to permanently protect blocks of productive farmlands. Developers give farmers cash for their development rights. Farmers can use the money in any way they please (e.g. pay down debt, start a retirement account, pay operational expenses). The farmer still owns the land and retains the right to farm it.

Natural Resource Protection

A TDR program can provide a source of private money to purchase development rights on unique natural areas, critical habitat, and areas important for resource protection such as groundwater recharge areas.

Guide New Urban Development

A TDR is useful in rapidly urbanizing communities to guide housing to desirable locations. Receiving districts can be located in places where urban growth or higher densities are desired or where urban services are available.

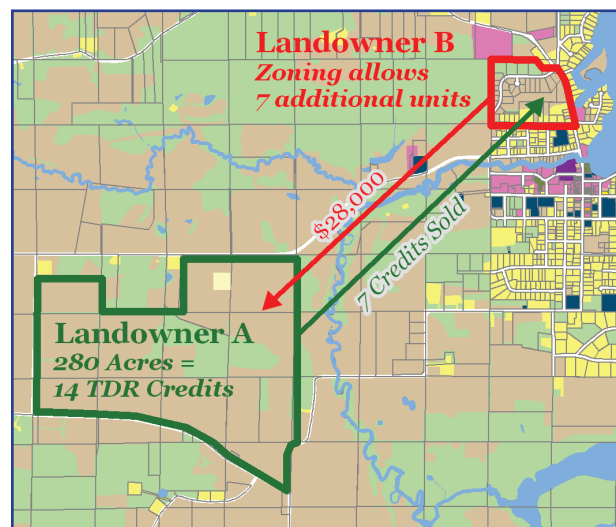
Possible Uses

Preservation of:

- ◆ Farmland
- ◆ Grazing land
- ◆ Timber land
- ◆ Open space
- ◆ Critical habitat
- ◆ Historic buildings and districts

Figure 1. Landowner A, a farmer, would like to get additional economic return from his property. In exchange for restrictions on his land, Landowner

A sells the development rights that are part of his property. This permanent prevention of development helps the community reach its farmland preservation goals. Landowner B would like to develop her property in the receiving area which already has public services. Landowner B finds that she would earn a larger profit by purchasing TDR credits from Landowner A, thereby allowing her to build more housing units.



IMPLEMENTATION

CREATION

There are four elements in successful TDR programs:

- 1. Designate a preservation zone (Sending Area).**
Identify target areas that the community desires to protect (i.e. contiguous blocks of productive farmland or sensitive natural resources).
- 2. Designate an urban growth zone (Receiving Area)**
Identify target areas in the community where development is desirable (i.e. near businesses, existing urban services, along a transportation corridor).
- 3. Determine a market for development rights**
TDRs only work when a demand exists for development rights. It is important that long-term growth expectations exist for receiving areas to assure landowners in the sending areas that their development rights have value. Adequate incentives must be provided to landowners before they will sell development rights.
- 4. Define TDR Procedures and Transfer Ratio**
TDR procedures include establishing what will be used to determine the number of development credits received (i.e. acres protected, amount of prime agricultural soil, dollar value of the land) and determining how many additional units a developer will receive per credit. Guidelines should also be set up to aid staff in their role as liaison between landowners and developers.

ADMINISTRATION

Establishing a TDR bank, run by a local government, can help the program run smoothly. Instead of developers purchasing development rights directly from landowners, the local government acts as a middleman to buy and then sell available development rights. A TDR bank makes the program more predictable and manageable for landowners and developers.

A well trained staff person is needed to manage development right transfers either by running the TDR bank, or by negotiating the transactions between landowners and developers. Staff will need to monitor the market for development rights and recommend adjustments to their value as needed. Staff also plays a large role in educating local officials, landowners, and developers about the program. Staff must ensure that the municipality's capital improvement program and ordinances continue to support the program as development transfers occur.

Creating Development Credits

A formula is used to convert development rights into specific development credits based on such factors as the area put under protection, e.g. one credit for every 20 acres protected, or on the cash value of the land, or for every \$1,000 paid to the landowner. The formula also identifies how much you receive for each credit in the receiving area, e.g. one credit allows you to build an additional family unit or increase the floor area ratio of a building by a given percent.

Successful TDR programs have:

- Credits to buy,
- Increasing growth pressure in the area,
- Incentives that target growth to the receiving area.

Report Card: Transfer of Development Rights

Cost	Money or staff resources required to implement tool.
C	A TDR program will likely require dedicated staff to set up and manage the program. Start-up money will be needed if a TDR Bank is created. Money to purchase development rights comes from developers rather than tax dollars.
Public Acceptance	The public's positive or negative perception of the tool.
B	The public likes the fact that money to purchase development rights comes from the private sector, not taxpayers. Property owners in the receiving area however, may have a problem with the increased density if existing utilities can not support it and building design isn't accepted.
Political Acceptance	Politician's willingness to implement tool.
C	Local officials approve of the market financing the program. Intergovernmental agreements that transfer development from one municipality to another must contend with tax-base transfer issues. Determining appropriate standards and prices for development credits may be difficult.
Equity	Fairness to stakeholders regarding who incurs costs and consequences.
A	Rural landowners voluntarily sell their development rights and are compensated for them. Developers get density bonuses for purchasing development rights, so costs are not handed down to homebuyers.
Administration	Level of complexity to manage, maintain, enforce, and monitor the tool.
D	TDR is one of the most difficult land management techniques to establish. Administration of TDR programs is complex and costly and maintaining a market may be difficult.
Scale	The geographic scale at which tool is best implemented.
Local to Regional	The program can be run on any scale but works best over an area that includes both rural and urban areas. The scale will also be dependent on the ability of the managing agency or organization to create a successful program with enough credits to buy and corresponding need for development.

GRADING EXPLANATION

A - Excellent
B - Above Average

C - Average
D - Below Average

F - Failing

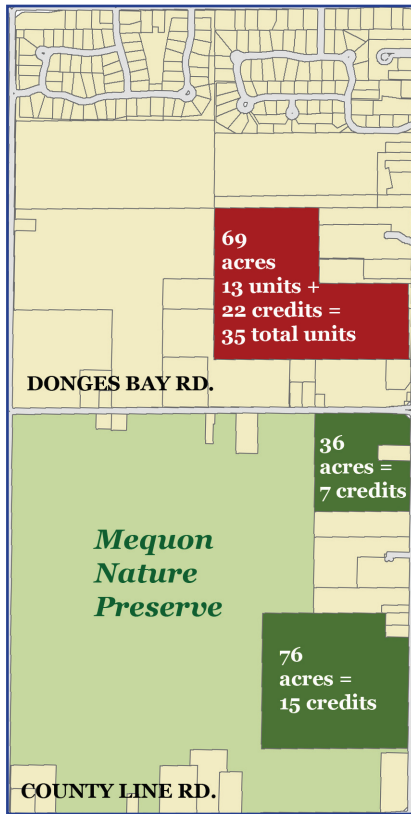


Figure 2
Transfer Formula for Mequon
 The underlying village zoning yields 1 single family unit per 5 acres. One development credit is equal to one additional unit. Seven development credits from the 36 acre parcel and 15 credits from the 76 acre parcel (the sending areas) were added to the existing 13 units allowed in the 69 acre receiving area for a total of 35 possible units. In addition, the developer received a “1.8 times the allowed units” bonus for constructing duplexes creating a total of 63 duplex units or 31.5 possible two-unit buildings. The final site plan yielded 30 two-unit buildings.

WISCONSIN EXAMPLES

Mequon

The city of Mequon has created a TDR program to protect the city’s nature preserve from bordering development. A developer bought the development rights on 112 acres owned by a local nursery. A conservation easement was placed on the land that guarantees that no housing can be built on the property. The development rights will be transferred by allowing increased density on property north of the preserve that is owned by the developer.

Waukesha County

Waukesha County has a TDR program to protect prime agricultural land. The county allows increased density developments in areas with municipal services in exchange for the purchase of development rights on community identified prime agricultural tillable lands. For the areas of increased density, the ordinance lists permitted uses, defines building location, height and size, requires grouping of lots and a minimum lot size. Each district has a total maximum density that must be maintained. The development proposal must be approved by the Town Planning Commission and the County Zoning Agency before it can be implemented.

FOR MORE INFORMATION

Arendt, Randall (1994). *Rural by Design: Maintaining Small Town Character*. Planners Press, American Planning Association Chicago, IL

Daniels, Tom and Deborah Bowers (1997). *Holding Our Ground: Protecting America’s Farms and Farmland*. Island Press, Washington, D.C.

Dane County, Transfer and Development Rights Introduction. Available at <http://www.co.dane.wi.us/plandev/planning/tdr/section1.htm>

Pruetz, Rick (Summer 1998). *Putting Growth in Its Place with the Transfer of Development Rights*. Planning Commissioners Journal, Issue 31

ACKNOWLEDGEMENTS

Document prepared by Douglas Miskowiak and Linda Stoll, 2006. CLUE gratefully acknowledges all external reviewers. Design and layout by Robert Newby. Figure 1 and 2 developed by Douglas Miskowiak. Data for the Mequon example provided by the City of Mequon Department of Community Development.

This document is part of CLUE’s collaboration with the USDA, NRCS, GEM, and UWEX, entitled, “Partnership for Community Planning – Models for Land Use Education, Planning, and Management.”