Draft Preliminary Findings Report
Study of Marion County Transfer of Development Rights Program
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Executive Summary

Marion County's transfer of development rights (TDR) program is designed to inspire and motivate property owners in the Farmland Preservation Area (FPA) to voluntarily preserve their land with a conservation easement in order to protect the rural character, equestrian activities, and way of life in the Horse Capital of the World. The program aims to encourage owners to preserve their properties in return for the ability to sell transferable development credits (TDCs). TDCs are purchased not by public agencies but by private sector developers who use them to build additional development in places where more growth is wanted. So, with TDR, development pays for preservation.

TDR programs have protected hundreds of thousands of acres throughout the US through proactive TDR programs and creative solutions that make them work for both landowners and developers. However, the Marion County program has generated only one transfer in 17 years. After reading the Comprehensive Plan, reviewing the Land Development Code, and talking with several local leaders, my initial reaction is that the Marion County program could work by making certain modifications in four categories known as success factors.

1) Marion County allows increased density through planning and/or code amendments that do not require developers to buy TDCs. Marion County officials may want to consider various alternatives, including those offered in this report.
2) The Comprehensive Plan includes policies for requiring the use of TDR to increase floor area in non-residential buildings. County officials may want to consider generating more demand for TDCs by adopting these and other non-residential provisions in the TDR section of the Land Development Code.
3) TDR banks acquire, hold, and sell TDCs. Banks can use TDC sale revenues to preserve more sending area land, acquire more TDCs, and essentially create an ongoing revolving fund for preservation. Developers also benefit from the ability to buy affordable TDCs from a TDR bank whenever they need them. A non-profit organization, such as Horse Farms Forever, can serve as a TDR bank and can stock that bank with donated as well as purchased TDCs.
4) An economic study would help estimate the amount that developers should be able and willing to pay for TDCs after the adoption of program improvements.

Work in these four categories would greatly improve the TDR program. However, Marion County already enjoys significant advantages in many other success factors. For example in a Quality of Life Survey organized by HFF in 2021, residents ranked the preservation of land and natural resources as the most important issue facing Marion County and over 90% of the respondents agreed with the statement: Marion County's Farmland Preservation Area is home to some of the richest soils and pristine fresh water aquifers in the world and that it is critical to maintain its resources to ensure that the community's legacy as the Horse Capital of the World® remain for future generations.

This report offers first impressions. The Next Steps section at the end of this report outlines how future study phases would explore additional opportunities for fashioning a TDR program that preserves the FPA as proposed in the Comprehensive Plan and as desired by the people of Marion County.

Introduction

Horse Farms Forever (HFF) hired planning consultant Rick Pruetz to study the Marion County transfer of development rights (TDR) program to determine why it is underutilized. The TDR program is designed primarily to inspire and motivate property owners in Marion County's Farmland Preservation Area (FPA) to voluntarily preserve their land with a conservation easement in order to protect the rural character, equestrian activities, and way of life in the Horse Capital of the World.

Attachment A provides a list of the acronyms used in this report and Attachment B offers a brief explanation of the TDR mechanism in general. In all TDR programs, the sending area is the term given to places that the jurisdiction wants to preserve. The Marion County Board of County Commissioners has the ability to approve sending areas for Rural Land with significant resources outside of the FPA. However, Rural Land within the FPA automatically qualifies as a sending area and this report focuses on the FPA as the primary sending area.

FPA property owners who choose to permanently protect their land by conservation easement are allowed to sell transferable development credits (TDCs) according to an allocation ratio established by Marion County regulations. The conservation easement must encumber at least 30 acres of land and permanently limit future development to no more than one dwelling unit. The easement also prohibits family divisions and all non-residential development other than agricultural structures.

The allocation ratio grants one TDC per acre of sending area land encumbered by the easement minus one TDC for an existing or future dwelling. For example, an owner who records a conservation easement that retains one development right on the 30 acres of land encumbered by the easement would be granted 29 TDCs. Sending area property owners are motivated to participate by the ability to sell these TDCs as well as the benefit of knowing that they are helping to permanently protect the unique character of rural Marion County.

The TDR program has made notable progress, protecting roughly 3,200 acres of land to date. However, program adjustments are needed to preserve a greater portion of the FPA, which encompasses almost 200,000 acres.

TDCs are sold to developers in areas designated by Marion County as appropriate to receive the TDCs, called receiving areas. One additional dwelling unit is allowed for one TDC transferred to a receiving site up to maximum densities that vary depending on the location of the receiving site. For example, the density bonus is limited to two dwelling units above the maximum residential density allowed by zoning in Level I receiving sites, which include lands within the Urban Growth Boundary (UGB) that have a Future Land Use Element (FLUE) designation other than Rural Land.

Only one receiving site has used TDCs since the Marion County TDR program was adopted in 2005. Part of this poor track record was likely caused by a large inventory of approved developments and the uncertainty generated by economic downturns. However, HFF wonders whether the Marion County TDR program itself is in need of repairs and, if so, what kinds of improvements might help it succeed.

In an initial exploration of those questions, I reviewed the County's FLUE and Land Development Code (LDC) and conducted interviews with 13 stakeholders including elected officials, county professional staff, landowners, and local experts in real estate, land use law, development, and farmland preservation.

In response, this Draft Preliminary Findings Report is designed to stimulate thought and discussion rather than attempt to jump to final conclusions. Once this Phase I report has been reviewed and considered, HFF has the option of proceeding to a Phase II, which would involve additional interviews, a public workshop providing an opportunity for all stakeholders to comment on how the TDR program could be improved, and a Draft TDR Study allowing further public review and comment. Subsequently, HFF has the option of proceeding with a Phase III involving even more interviews and public comment documented in a Revised Draft TDR Study incorporating initial recommendations for review by HFF, followed by further study revisions and presentations.

This Draft Preliminary Findings Report is organized as ten sections covering the ten factors found in the most successful TDR programs in the United States. The Marion County TDR program could benefit from improvements in most of these success factors. But after the interview process and document review, I believe the four factors that may be most important to the success of the Marion County TDR program are:

Factor 1 - Alternative Ways of Gaining Additional Development Potential in Receiving Areas;

Factor 2: Demand for More Development Potential;

Factor 3: TDR Bank;
Factor 4: Market Considerations.

Factor 1: Alternative Ways of Gaining Additional Development Potential in Receiving Areas

Many TDR programs around the US fail because the jurisdiction approves additional development potential to receiving area projects without requiring TDCs. Some jurisdictions allow density bonuses for preserving farmland or natural areas on a portion of a single parcel through a cluster provision or planned unit development (PUD) process. Similarly, some jurisdictions grant extra on-site development potential for desirable project designs or features that enhance the development project itself. And some jurisdictions grant additional development potential through comprehensive plan amendments and/or upzonings without requiring TDCs. Transfers will not occur if receiving area developers can get the development potential they want with alternatives that are easier to use than TDR, cheaper than TDR, or free.

The wording of the TDR sections of the Marion County FLUE and LDC may partly explain why TDRs have been used on only one receiving site since the TDR program launched in 2005.

FLUE Policy 9.1.10: Methods to Increase Development Density and Intensity states: "Both Transfer of Development Rights programs may be utilized to increase density and/or intensity for property or a Comprehensive Plan Amendment may be applied for as allowed in this element." If I understand this section correctly, developers can choose to either use the TDR process or apply for a Comprehensive Plan Amendment. With the exception of Comprehensive Plan Amendments of properties designated Rural Lands (discussed below), the FLUE appears to be silent about whether TDCs would be required if applicants choose a Comprehensive Plan Amendment rather than use TDR. **Perhaps there was an assumption when this policy was adopted that some developers would rather buy TDCs than apply for a Comprehensive Plan Amendment. But the fact that TDCs have landed on only one receiving site in 17 years may suggest that developers assume it is easier and/or cheaper to seek a Comprehensive Plan Amendment than use the TDR process.**

The exception mentioned in the paragraph above appears in FLUE Policy 2.1.7. dealing with Comprehensive Plan Amendments that convert Rural Lands to a mixed use, industrial, commercial or residential future land use category: "The Board of County Commissioners may require that such conversion is conducted through the Transfer of Development Rights program." **Again, judging by the lack of TDC transfers, the Board of County Commissioners appears to have declined to require TDCs for Comprehensive Plan Amendments of Rural Lands.**

FLUE Policy 9.1.4.d. states: "Higher Density or Intensity – Additional density or intensity for properties that utilize the Transfer of Rights Programs shall require a Comprehensive Plan Amendment beyond the above allowances." Unless the Board of County Commissioners requires TDCs for density increases resulting from Comprehensive Plan Amendments, applicants are able to gain additional density without using TDR, including minor increments of density that could have been allowed via TDR.

The FLUE policy regarding Level II receiving areas seems to be inconsistent with the Land Development Code provisions for Level II receiving areas. FLUE Policy 9.1.8.4.b. which relates to Level II receiving areas, states: "Level II – Rural Land designated properties may increase residential densities up to that allowed under the Low Residential designation…". The Low Residential designation has a maximum density of one dwelling unit per acre. In contrast, Land Development Code Sec. 3.4.5.A.(2) states: "LEVEL II – The resulting gross density shall not exceed three 3 dwelling units per acre." Furthermore, increasing density to three units per acre in Level II receiving areas from the Rural Lands density of one dwelling unit per ten acres, or 0.1 dwelling unit per acre, would represent a density bonus of 2.9 units per acre, which would seem to be at odds with FLUE Policy 9.1.3.1., which limits the residential density bonus achievable via TDR to a maximum of two (2) dwelling units per acre.

Rather than attempt to reconstruct the intention of the current, underutilized TDR program, it may make more sense to consider how Marion County would like its TDR program to work in the future. If there is agreement about that, **a first step might involve exploring various alternatives for TDR baseline densities, meaning the density that developers can achieve without TDCs. All dwelling units above baseline density would require the use of TDCs.** The following questions represent just a few of the many possible scenarios.

- **Should Marion County require the use of TDCs to gain any additional development potential beyond the maximum amount allowed by a receiving site's current zoning?**

  Example: The future rezoning of a 10-acre lot from General Agriculture (A-1) (maximum density 1 du/10 acres) to Single Family (R-1) in the Medium Density Residential Future Land Use Designation (density range from 1 du/acre to 4 du/acre) might result in a zoning designation of A-1/R-1, meaning the baseline density is 1 du/10 acres and all dwelling units actually built above baseline require one TDC. If the developer of this 10-acre parcel decided to build a development at a density of 3 du/acre, 29 TDCs would be required. (10 acres x 3 = 30 minus 1 dwelling allowed under the A-1 zoning.)
- **Or, should Marion County approve future rezonings to the lowest density permitted within a site's future land use designation without TDCs but require TDCs to achieve all additional density above that baseline?**

  Example: Under this scenario, a future up-zoning from A-1 to R-1 in the Medium Residential FLUE designation (density range from 1 du/acre to 4 du/ acre) could be to a TDR/R-1 receiving zone in which the lowest density allowed in that zone, 1 du/acre, is baseline and all units above that would require TDCs. Under these assumptions, if the developer of a 10-acre site elected to build at 3 du/acre, 20 TDCs would be required. (10 x 3 = 30 minus 10 units allowed by baseline.)

- **Alternatively, should Marion County approve future rezonings to receiving zones in which baseline is the midpoint of the allowed density range and TDCs are required to achieve all additional density above that baseline?**
  Example: Under this scenario, a future up-zoning from A-1 to R-1 in the Medium Residential FLUM designation (density range from 1 du/acre to 4 du/ acre) could be to a "TDR/R-1" receiving zone in which a midpoint density in that zone, say 2 du/acre, is baseline and all units above that would require TDCs. Under these assumptions, if the developer of a 10-acre site elected to build at 3 du/acre, 10 TDCs would be required. (10 x 3 = 30 minus 20 units allowed by baseline.)
- **Or should Marion County continue what may be its current practice of approving rezonings to any density within a property's FLUE designation, including maximum density, but allowing two additional units above that maximum density?**
  Example: Under this scenario, land zoned R-1 in a Medium Residential Land Use Designation (with a density range of from 1 to 4 units per acre) might be allowed the maximum density of four units per acre with no TDC requirement but could achieve 6 units per acre by TDR. In this scenario, if the developer of a 10-acre site built at 6 du/acre, 20 TDCs would be required. (10 X 6 = 60 minus 40 units allowed by baseline.) This scenario does not change Marion County's current TDR mechanism, which is not generating activity. However, transfer activity might nevertheless occur due to improvements made to other success factors as discussed in the sections below.
- If Marion County changes its TDC program as discussed in the first three scenarios above, should consideration also be given to ensure that future PUDs support these changes?

Factor 2: Demand for More Development Potential

For TDR to work, the extra development potential available to developers when they buy TDCs must be something they actually want. Many TDR programs fail because developers are satisfied with the development potential already allowed to a receiving site without the need to use TDCs.

Alternatives for generating demand for additional residential development are discussed in the section above. However, Marion County should consider improving demand for TDCs by amending the LDC to include provisions to require TDCs to exceed baseline intensity for non-residential development as called for in the FLUE. Non-residential intensity is measured as floor area ratio (FAR), meaning the square feet of floor area per square feet of lot area. For example, a baseline intensity of FAR 1 would mean a building on a 10,000 square foot lot could achieve a baseline intensity of 10,000 square feet of floor area without using TDCs. To exceed that baseline intensity, a receiving site developer could provide TDCs to gain more floor area up to a maximum FAR stated in the LDC. **The FLUE already outlines the components needed to create non-residential demand for TDCs.**

FLUE Policy 9.1.8.2. states: "TDCs may be used for either to add residential units and/ or FAR to non-residential development as follows:

- **a. For Residential Units:** One (1) TDC equals one (1) dwelling unit with a maximum of two (2) dwelling units above the allowable density of land use designations in the policies of Objective 2.1.
- **b. For Non-Residential Area**: One (1) TDC equals 0.05 acre of non-residential development with a maximum increase in FAR of 0.25 above the allowable FAR in the policies of Objective 2.1.
- **c. Open Space**: One TDC equals 0.05 acre of open space. TDCs may be used to meet a maximum of 0.25 of a development's required open space."

FLUE Policy 2.1.3: Density and/or Intensity Bonus states: "The County shall allow for density and intensity bonus to occur within all Future Land Use designations that are within the UGB, Planned Service Areas and existing Urban Areas consistent with the County's Transfer of Rights Programs in Objective 9.1."

Although these policies are in the adopted FLUE, subsections b. and c. regarding additional non-residential intensity and reduced open space do not appear in the LDC division that administers the TDR program: Transfer of Rights Programs - Sec. 3.4. Similarly, LDC sections on individual zoning districts do not appear to mention using TDR for either additional FAR or open space reductions. **Demand for TDCs could be meaningfully increased by adding these intensity and open space mechanisms to the TDR program.** Consequently, Marion County may want to consider making these amendments to the LDC.

Marion County may want to consider requiring TDCs to exceed a baseline for structure bulk, perhaps established as a ratio of cubic feet of space per square foot of lot area. This type of requirement might generate demand from future distribution & warehousing facilities seeking to take advantage of Marion County's proximity to population centers and highway networks. However, adding this mechanism would require amendments to the FLUE as well as the LDRC. Consequently, Marion County may prefer to wait and see if other improvements suggested in this report produce a successful TDR program.

Factor 3: TDR Bank

Possibly, the inactivity of Marion County's TDR program is partly due to uncertainty about where developers can be assured of being able to buy TDCs quickly and easily at a reasonable price. **Dozens of US TDR programs address this concern using TDR banks, which are entities that buy, hold, and sell TDCs. TDR banks can counteract**

economic cycles by buying TDCs during construction downturns and selling them when demand returns. Banks can provide relief to sending area property owners having trouble finding buyers. On the other side of the transaction, banks can simplify TDR program compliance for receiving site developers by providing a source of readily-available TDCs, thereby avoiding the time and expense of having to find, negotiate, and buy TDCs from individual sending site owners. Banks can jumpstart transactions at a time when the players in the private market are waiting for others to make the first move. Banks can help set and stabilize TDC prices. Banks can take finite funds that are only used once in conventional acquisition processes and create a perpetual revolving fund for preservation by using the proceeds of TDC sales to purchase additional TDCs. Furthermore, banks can use the proceeds of TDC sales to target acquisitions of TDCs from high priority sending sites. **Some of the most successful US TDR programs are assisted by banks including King County, Washington; Palm Beach County, Florida; and the New Jersey Pinelands.**

A private non-profit organization, such as HFF, could serve as a bank for the Marion County TDR program. It might begin by accepting donated TDCs, holding them, and selling them for use on receiving sites at prices that developers are able and willing to pay. The proceeds of this sale could be used partly to defray administration costs and partly to fund ongoing preservation in the sending area via TDC purchases from willing sellers.

Factor 4: Market Considerations

Successful TDR programs enjoy TDC prices that are attractive to both buyers and sellers. Receiving site developers should be able and willing to pay an amount that generates more profit despite the extra cost of buying TDCs to exceed baseline levels of development. Typically, the price developers pay for TDCs must be sufficient to motivate sending area property owners to preserve their land and sell the resulting TDCs. However, a TDR bank using donated TDCs can sell TDCs at discounted prices as long as it continues to receive donated TDCs. If most sending area landowners prefer to sell their TDCs rather than donate them, the bank may have to buy TDCs at prices that are higher than its sales prices, thereby reducing the number of TDCs it is able to buy.

At this point in time, the Marion County TDR program has not seen enough transactions to establish how much sending area property owners want for TDCs and how much developers are able and willing to pay for TDCs. **An economic study could be used to determine how much developers should be able and willing to pay assuming Marion County ultimately improves its TDC program. Without an economic study, it may be necessary to rely on the amount that receiving site developers agree to pay per TDC.**

Sending Area Development Regulations

The provisions of a TDR program should be consistent with the jurisdiction's vision for the sending area. Marion County FLUE Objective 3.3, Farmland Preservation Area, aims to protect open space, agriculture, rural character, scenic views, and significant natural resources critical to the enhancement and preservation of its designation as the Horse Capital of the World.

FLUE Policy 9.1.6.2.a. reads: "TDR Program: A parcel of land must be a minimum of 30 acres in size and the associated conservation easement must include a minimum of 30 acres in order for a parcel to be included in the TDR program. Land utilized for this program shall be contiguous and appreciable size, not spread out or consist of multiple isolated partial or full parcels." The definition of "parcel" in the LDC states: "A parcel may consist of contiguous platted lots." This suggests that the 30-acre easement can encompass several lots under common ownership as long as these lots are contiguous and of appreciable size. After recordation, LDC Sec. 3.4.3.B.1. states that the easement will: "Prohibit construction of more than one dwelling unit within the Conservation Easement, or no additional dwelling units if the Conservation Easement already has a dwelling unit."

The easement protects the land from future development but the TDR program presumably allows the easement to encompass lots that previously were developed with dwelling units. That outcome is possible due to LDC Sec. 3.4.3.B.(2): "In the event the Conservation Easement contains more than one (1) dwelling unit, the additional dwelling unit(s) is permitted to remain as a non-conforming use and structure; however, it shall not be expanded or increased in size regardless of circumstance." This appears to allow the construction of dwelling units on multiple parcels followed by a conservation easement that grandfathers these structures while still allowing the creation of a sending site with usable TDCs. If this outcome is considered undesirable, Marion County may want to consider various options for amending LDC Sec. 3.4.3.B.(2), such as the following.

- Should sending sites be allowed to have no more than three preexisting dwelling units? This would conceivably allow three 10-acre parcels to be encumbered by a 30-acre conservation easement that precludes all further development and land divisions but allows three dwellings built prior to the recordation of the easement to remain as non-conforming uses.
- Or should sending sites be limited to no more than one dwelling within the 30-acre easement which also precludes all further development and land divisions?

Promotion and Facilitation

TDR programs are more likely to be effective when planners make the effort to promote and facilitate them. Educational materials explaining the TDR mechanism and its benefits remind potential stakeholders of this option and also indicate that a jurisdiction is serious about putting TDR to work.

The websites of some of the most successful US TDR programs, including Montgomery County, Maryland, King County, Washington, and the New Jersey Pinelands, have user-friendly materials including program explanations, sample easements, and application forms. Prominently posting TDR resources on the Growth Services web page would help to market the program, assist potential applicants, and demonstrate Marion County's commitment to the program.

Optimal Receiving Areas

King County, Washington, the New Jersey Pinelands, and other US TDR programs have successfully transferred TDCs from rural sending sites under county jurisdiction to receiving sites within a different jurisdiction. Interjurisdictional transfers can be difficult to establish but receiving sites within cities often have existing infrastructure capable of accommodating more development and may be in need of revitalization.

Marion County has apparently not explored the possibility of interjurisdictional TDC transfers with Ocala and other incorporated cities. However, during the interviews, I got the distinct impression that this possibility was not worth pursuing at this time. Consequently, it might make sense to focus on other success factors in the near term with the understanding that Marion County can consider pursuing interjurisdictional transfers if receiving areas under County jurisdiction ultimately prove to be inadequate.

Certainty of Use

Approval procedures that involve public hearings and discretionary decisions can create delays, added costs, and even project denials. In contrast, administrative approval procedures give developers confidence that they can plan and schedule TDR receiving site projects with a fair degree of certainty of staying on schedule and within budget.

Consequently, some jurisdictions adopt TDR regulations for entire receiving areas with multiple property owners. The environmental review, public hearings, and discretionary decisions are conducted in advance and the resulting codes may include detailed requirements for infrastructure and design. Once those regulations are in effect, projects are approved by staff as long as the plans comply with all of the rules and include the necessary number of TDCs. Receiving areas offering these ministerial approval procedures have often developed quickly due in part to developer confidence in the likelihood of being able to build their projects as planned, scheduled, and budgeted.

During interviews for this phase, I have been told that ministerial approval would not significantly boost TDR activity because developers in Marion County are accustomed to taking individual projects through public hearings and discretionary review. I also learned that the Marion County Board of County Commissioners prefers to scrutinize individual projects and would be unlikely to change that practice even if developers reported that they would be more likely to use the TDR option if it offered a ministerial approval process.

Simplicity

Program simplicity is a helpful characteristic because the TDR mechanism should ideally be understandable to the multiple stakeholders involved including landowners, developers, homeowner groups, preservationists, appointed/elected officials, and the general public. If Marion County decides to change and/or clarify parts of its TDR program, it may want to ensure it is easy to understand. Since comprehensive plans and codes are not always user-friendly, Marion County may also decide to offer informational guides that clearly explain the process to the general public as well as potential applicants.

Public Support

A recent poll found overwhelming support for the FPA. I assume that Marion County will continue to celebrate its status as the Horse Capital of the World, which should solidify public support for the goals of the TDR program.

In the Quality of Life Survey, organized by HFF in 2021, residents ranked the preservation of land and natural resources as the most important issue facing Marion County and over 90% of the respondents agreed with the statement: Marion County's Farmland Preservation Area is home to some of the richest soils and pristine fresh water aquifers in the world and that it is critical to maintain its resources to ensure that the community's legacy as the Horse Capital of the World® remain for future generations.

Next Steps

As mentioned above, this Draft Preliminary Findings Report is designed to stimulate thought and discussion rather than attempt to jump to final conclusions. Following review and revisions, I will make a virtual presentation of this report to the Board of HFF that summarizes the benefits of a successful TDR program and explains the results of this initial assessment with the overriding goal of generating discussion about how the Marion County TDR program might be improved. HFF has the option of proceeding to a Phase II, which would involve additional interviews, a public workshop providing an opportunity for all stakeholders to comment on how the TDR program could be improved, and a Draft TDR Study allowing further public review and comment. Subsequently, HFF has the option of proceeding with a Phase III involving even more interviews and public comment documented in a Revised Draft TDR Study incorporating initial recommendations for review by HFF, followed by further study revisions and presentations.

Attachment A: Key to Acronyms

FLUE – Future Land Use Element (of the Marion County Comprehensive Plan)

FPA – Farmland Preservation Area

HFF – Horse Farms Forever

LDC - Land Development Code

PUD – Planned Unit Development

TDC – Transfer of Development Credit

TDR – Transfer of Development Rights

UGB – Urban Growth Boundary

Attachment B: What is TDR?

Transferable development rights (TDR) is a market-based way of implementing planning goals. Traditionally, TDR allows additional development potential in places where growth is wanted when developers pay for the reduction or elimination of development potential in places less suitable for growth.

A local government spells out the mechanics of its TDR program within its adopted land use regulations. In a classic TDR code, the jurisdiction defines and/or maps the area where it wants less or no development, called the sending area, and those places where extra development is wanted, called the receiving area. Owners of sending and receiving area land are free to choose whether or not to take advantage of the TDR option offered by the dual zoning established by the TDR ordinance.

Sending area property owners who decline to participate can continue to use their land in accordance with the underlying zoning. However, if they choose to participate, these property owners typically record a conservation easement that permanently reduces on-site development potential but continues to allow whatever land uses are consistent with the program's goals. In return for recording easements or transferring title to sending sites, the participating property owners are issued a commodity called transferable development rights, or TDRs, which they sell to developers in the receiving areas. Compensation from the sale of these TDRs motivates sending site owners to voluntarily participate.

Developers of receiving area property also have a choice. The ordinance allows a prescribed amount of development potential for developers who decline the TDR option. However, developers can choose to exceed this baseline by buying TDRs from sending area property owners. When a TDR program works, the extra development potential made possible by TDR generates sufficient additional revenue to motivate developers.

Although the logic is simple, TDR is more complex than traditional zoning and requires observance of important success factors. For example, developers must want to exceed baseline levels of development or they will have no reason to buy TDRs. Similarly, the TDR ordinance must be capable of producing a TDR value that is attractive to buyers and sellers. If TDRs cost too much, receiving area developers will not buy them and if sending area property owners do not feel adequately compensated, they will not sell TDRs. TDR ordinances can create a viable market by adjusting the number of TDRs available to sending sites and/or the additional development allowed per TDR to receiving sites. Consequently, by paying attention to local real estate economics, jurisdictions can create TDR programs that achieve important community goals at little public expense.