

# LITTORAL TRUTHS

Issues, Concerns and Best Practices that Impact the Coastal Zone

## TDR—Preserving Land While Managing Growth

Today, New Jersey municipalities face the difficult task of striking the right balance between growth and protecting the environment and the quality of life in the most densely populated state in the nation. There is no faster growing region in our state than the coast and it faces no greater challenge than sprawl. As communities strive to fend off costly over development, many are finding that traditional zoning mechanisms and available preservation dollars fall far short of their needs. Consequently, New Jersey continues to lose about 18,000 acres of open space each year, affecting our communities and our quality of life.

The truth is, environmental protection and growth do not have to be mutually exclusive. The State Transfer of Development Rights Act, or TDR, enables these two elements not only to mix, but also to mutually support each other. Since 2004, TDR has provided municipalities with a powerful SmartGrowth tool that leverages private capital to direct new development to areas that can easily sustain it and away from those that cannot. With TDR in place, build-out occurs in tandem with preservation.

### An Equitable and Profitable Solution

This legislation authorizes municipalities throughout the state to implement local or regional TDR programs. By incorporating TDR provisions into their land-use plans, municipalities can give landowners within identified preservation zones the option to sell

and retire the building rights to their land, while retaining ownership and use. When a transfer of development rights occurs, the landowner severs the right to develop the land any further. The areas or districts a municipality wishes to preserve are designated as *sending zones*. When a

**TDR helps communities preserve open space, manage growth, and enhance the quality of life for their residents.**

landowner within a sending zone sells his or her building rights for cash, the property's buildable lots are quantified into development credits that can then be purchased by developers including the municipality itself. The landowner then enters the land into a restrictive covenant that preserves it as open space, usually for all time. In a TDR program, development credits are assigned to tracts of land based on present zoning, environmental constraints, and other established goals and objectives of the program and the municipal Master Plan. The credits are then transferred out of the sending zone and into a *receiving zone*, where growth can be better accommodated. Purchasers of TDR

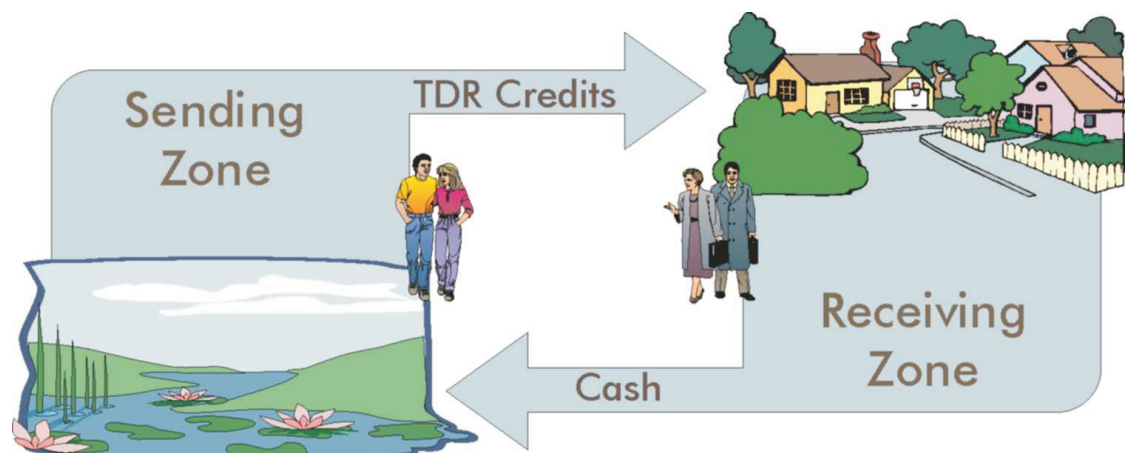
credits are permitted to build in the receiving zone at higher levels of density or for uses otherwise not permitted by the underlying base zoning. For example, a developer might build some types of commercial projects in a residential zone.

### Benefits of TDR

Developers benefit because TDR stimulates growth and saves time and money on design and on the local approval process. Municipalities benefit because even rapid growth becomes a known sum that is both predictable and equitable to members of the community. It becomes growth over which they greater control. Landowners benefit because they receive needed cash and retain ownership and use of their property, including the right to sell. The environment and the coast benefit because TDR encourages good stewardship and provides another tool to protect sensitive areas.

### How Do Municipalities Implement TDR?

Implementing a TDR program requires in-depth planning and some initial investment by the participating municipality. The State TDR Act requires oversight and monitoring of municipal programs at the state and county levels.



TDR amends the Master Plan and requires the following elements: 1) Development Transfer Plan, 2) Utility Service Plan, 3) Transfer Ordinance, 4) Capital Improvement Plan, 5) Real Estate Market Analysis, 6) Plan Endorsement, and 7) Periodic Review.

## Receiving Zones



Relatively built-up areas in proximity to existing infrastructure including

- Sewer, water
- Gas, electric, phone
- Roads, transportation
- Shopping
- Schools

### Funding the Program

To help promote the program, the State Transfer of Development Rights Act authorizes the State TDR Bank to provide municipalities with a 50% matching planning assistance grant of up to \$40,000 for the purpose of preparing some of the required documents. To facilitate the exchange of development rights into marketable credit, the TDR Act authorizes municipalities and counties to create their own TDR bank or utilize the State TDR Bank. In addition, participating municipalities may apply to the state bank or the state farmland preservation program for matching funds to purchase development rights. By implementing a local TDR bank, municipalities can also act as brokers and buy TDR credits for later sale.

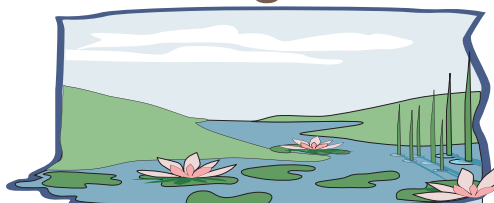
### TDR is Flexible and Adaptable

Different municipalities have different planning needs and objectives. Some want to ensure the continued viability of agriculture in their area. Others

want to check sprawl and runaway taxes by protecting the best examples of remaining undeveloped land. Some want to attract infill and re-development. TDR can help realize these goals because it is designed to be both custom-tailored and controlled at the local level. It is also almost exclusively funded by growth, which has no shortage of willing investors.

When used in conjunction with other SmartGrowth techniques and programs, TDR can foster transformation of strip malls into vibrant, pedestrian-friendly centers that serve as true area Destinations.

## Sending Zones



- Farmland
- Wildlife Habitat
- Mature forest tracts
- River corridors
- Wetlands and environmentally sensitive areas
- Areas of high scenic value
- Historic neighborhoods

TDR can steer investment and growth back toward underutilized areas of the built landscape and enable left-behind communities to reclaim their former glory. It can help communities preserve their historic and/or unique characteristics while managing growth.

### A Proven SmartGrowth Tool

TDR is not new. It has a proven track record in New Jersey and across the country. TDR first came to New Jersey in 1981 as part of the Comprehensive Management Plan for the Pinelands National Reserve. The Pinelands program, however, is regional in scope and sends

development credits outside sending municipalities to designated "Regional Growth Areas". Nonetheless, the Pinelands Development Credit Program represents one of the largest such programs in the country, with over 36,750 acres protected through 2002. Currently, the largest TDR program in the country resides in Montgomery County, Maryland, where over 50,000 acres have been protected since program inception in 1980. TDR first became available for New Jersey municipalities as a pilot program in Burlington County. Success in such townships as Chesterfield and Lumberton convinced lawmakers to make TDR available to all 566 municipalities in the state. Since being signed into law in March of 2004, an ever-increasing number of municipalities throughout the state are exploring the feasibility of implementing a TDR program in their communities or are already engaged in some phase of its implementation.

### To Learn More

The American Littoral Society is a non-profit, coastal conservation group headquartered on Sandy Hook, NJ. We empower people to care for the coast through programs that focus on learning, advocating, and conserving. To learn more about how TDR can benefit your community and the coast, visit our web site at [www.littoralsociety.org](http://www.littoralsociety.org) or contact us:

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Care for the coast**