



Salem County TDR Task Force

Meeting Highlights: June 15, 2010

Salem County Agricultural Complex (Ware Building), Mannington, NJ

Present:

Don Asay Mannington Township
Matt Blake American Littoral Society
Timothy Brill State Agriculture Development Committee
Rick Brown NJDEP, Division of Watershed Management
Steven Bruder State Agriculture Development Committee
Jaime Corbett NJDEP, Division of Watershed Management
Karl Hartkopf NJ Dept of Community Affairs, Office of Smart Growth
John Hasse Rowan University
Louis Joyce Salem County Planning
Katherine Otto New Jersey Future
Suzanne McCarthy DVRPC
Amy Miller DVRPC
Harry Moore Oldmans Township
Francis Rapa New Jersey Conservation Foundation
Cheryl Reardon ANJEC/Pilesgrove Township
Joseph Scarpa Green Paradigm Realty
Kathy Stuart Office of Senator Sweeney
Chris Sturm New Jersey Future
Ernest Tark Mayor, Mannington Township
Deborah Turner-Fox Administrator, Pittsgrove Township
Susan Weber New Jersey Department of Transportation

Status of Statewide and Salem County TDR Task Force

Suzanne McCarthy reported that DVRPC has presented on the TDR project to one municipality, Penns Grove, at their Town Council meeting. For the remaining municipalities, it may be best to meet with committees, such as Land Use, Master Plan, or Economic Development Committees, where more discussion can occur. By the end of July, DVRPC hopes to meet with as many municipalities as possible.

Chris Sturm reported on the most recent meeting of the State TDR Task Force held on May 14. A draft report has been completed, which will be sent to the Task Force next week for feedback. July 19 is the next meeting of the State TDR Task Force.

The State Task Force is looking at how to make municipal TDR easier, such as by having fewer requirements. It is also looking into other tools to transfer growth where it makes sense, such as more powerful and easier to use provisions for clustering on non-contiguous lots. Another priority would be for the state to be more helpful in implementing TDR and

not just having a regulatory involvement. So far, the State TDR Task Force has addressed regional TDR in a first meeting, and at least a second meeting is needed.

Figuring out the Receiving Areas has been the Achilles heel of this so far. There is a need for regulatory reform in order to facilitate development in Receiving Areas, and to ensure that the rules don't change regarding growth in Receiving Areas. One proposal to support development in Receiving Areas would be to prioritize permits in these areas.

The next step in the statewide TDR analysis is review of the paper from the State TDR Task Force and the meeting on July 19, when the future of the study will be discussed. The next Salem County TDR task force will be in September, before which there will be a Salem County paper to review, as well.

Current TDR Programs and Alternatives

There are a number of TDR programs currently active or in the planning/analysis stages in New Jersey. These include Berkeley Township (Ocean County), Hillsborough (Somerset County), Woolwich Township (Gloucester County), Jersey City (Hudson County), Mansfield Township (Burlington County), and Chesterfield Township (Burlington County).

The Pinelands TDR program designated mandatory receiving areas where there has been a great deal of growth. However, there have not been enough credits purchased recently in the receiving areas as hoped to preserve land in the sending areas.

The Highlands TDR program was developed with the intention of protecting the water resources in that area. Unlike the Pinelands programs, all receiving areas are voluntary. Due to recent legislation, all receiving areas now can be anywhere in the state. However, none have been created yet. The TDR Bank for the Highlands program has \$10 million and has made some purchases in sending areas.

There are other novel approaches to transferring growth that could also be considered for Salem County. For example, in California, the City of Davis/Yolo and Solano County has imposed a penalty for developing agricultural land. Developers must preserve twice the amount of land developed or pay a fee-in-lieu. Another example is in Hadley Township, Massachusetts, where developers can purchase TDR credits or pay a fee-in-lieu for the benefits of extra floor area, increased lot coverage, or lower parking requirements.

John Hasse spoke on the potential approach of impervious coverage cap and trade. In such an environmentally-based program, such as the one in the Lake Tahoe, California area, impervious cover is capped at 10% for all properties. Developers can increase their impervious cover by purchasing credits. Local zoning remains in place. If this model is followed, urban areas and redevelopment areas would be exempt from the cap. In rural areas, the impervious cover cap could be reduced to 5%. Also, there could be bonus coverage allowed for LEED-NJ projects. This type of program acknowledges the water quality impacts of development and has an understandable rationale behind it.

The Lake Tahoe region program has been in existence for nearly 20 years and no longer faces legal challenges. However, there is no location aspect to this program, and so it could still lead to development in the wrong place. Also, the size of the parcel makes a big difference, because 5% of a quarter-acre parcel is much different than 5% of a 200-acre parcel. However, it is the starting point of a new strategy of managing growth. A statewide impervious cover cap and trade program would be better than a county program so counties would not be competing against each other for commercial growth. Also, this program has been based on preserving water quality, when the issue in Salem County is preserving agricultural land. In addition, this program does not account for deforestation, which has no impervious coverage but contributes to water quality impairment as much as if not more than impervious coverage. Lastly, there is the issue of enforcement to deal with, since many environmental laws are already not enforced.

Another growth management strategy is the Urban Development Areas program in Virginia, where many counties and municipalities must designate Urban Development Areas in their Master Plans. These areas have minimum densities and traditional neighborhood design.

Concerns about TDR in Salem County

In Salem County, finding sending areas is easy. The challenge is in identifying receiving areas. A receiving area must be in a good location for growth, considering environmental and infrastructure factors. It also must be in a strong market for development. There also must be local support for growth in that area.

A regional TDR program should avoid a "one-size-fits-all" approach for all communities. Instead, the unique circumstances of places should be considered.

A regional TDR program in Salem County could be a hybrid program like in the Pinelands. All ideas need enabling legislation from the state.

Potential for Receiving Areas in Salem County

Recommendations and Comments made at the meeting included the following:

Oldmans would be interested in having a receiving area if it was in the right area, such as one that allowed infrastructure to be concentrated.

In the Meadowlands, there is a regional tax sharing program that shares the growth benefits of industrial and commercial communities with low-density environmentally sensitive areas. In Salem County, there is a need for additional commercial activity as well, and a shared pool of tax benefits like in the Meadowlands may work well to equitably share the benefits of growth.

In Salem County, small treatment plants could be created to accommodate growth in non-sewered areas. Even a receiving area with a relatively small footprint could preserve thousands of acres.

The Salem County "Smart Growth" Plan from 2004 is an example of the municipalities coming together. Things haven't changed much from that plan, which expressed that the river communities want growth, particularly around the highway interchanges..

There needs to be an energy plan for Salem County. There are no regulations now and alternative energy generation is considered inherently beneficial. Solar fields should be located on landfills and vacant industrial land, not agricultural land. Solar energy could be part of a TDR plan and developers could pay credits for preservation.

There could be a tax on the use of productive farmland for uses other than farming.

A regional sewer plant at the DuPont plant would take away the limitations on future sewer service areas in the county. This is a potential solution to some receiving areas and would allow higher density and increased development. There would be a bi-county agency of Gloucester and Salem Counties to oversee the plant. There will be a decision by the end of this year as to whether to go forward with this conversion, although it would likely be four years before the plant would come on-line. The cost of extending sewer will be very substantial. The bi-county agency should allocate new sewer service areas based on a land use plan that includes preservation of key agricultural lands and open space, and could prioritize TDR receiving areas.

Challenges for Receiving Areas in Salem County

TDR is developer-driven and needs developers to buy-participate by purchasing development credits in exchange for extra density. If the market determines that TDR is not feasible, then it won't happen. Developing in the receiving zones has to make economic sense from the developer's perspective. The density in the receiving areas has to be low enough to generate demand for higher density.

There would probably have to be incentives to entice municipalities to accommodate growth in the receiving areas. For instance, the sending areas might contribute to the receiving areas for the cost of schools and infrastructure. Developer contribution fees are typically insufficient to pay for the cost of schools. One solution would be added state aid to schools. Another would be ongoing negotiation between sending and receiving areas to determine school payment issues. This may require a dedicated tax from a voter referendum. Other incentives could include technical assistance or planning grants.

Another issue in both sending and receiving areas is affordable or inclusionary housing. However, in the current political situation in the state, the requirement for affordable housing is unknown and pending.