

## ***Transfer of Development Rights***

The transferring of development rights is one of the many options that the Town of Kinnickinnic has to consider when deciding how to plan its community. Transfer of development rights (TDRs) refers to a method for protecting land by transferring the development rights from one property, known as the sending area, and giving them to another property, which is known as the receiving area. This land management tool is best used to protect open space, natural resources, farmland, and urban areas of historical importance. This report covers the different kinds of TDRs, their benefits and drawbacks, how to purchase and manage an area by using TDR, and will look into different cases of towns that have used TDRs.



There are four main components that must be met for a TDR program to be successful. Without these components, landowners will have trouble finding a buyer for their development rights, or the developer may have a hard time buying the rights.

1. A designated preservation zone (the sending area).
2. A designated growth area (the receiving area).
3. A pool of development rights that can be legally severable from the land.
4. A procedure by which development rights are transferred from one property to another.

### **Types of TDR Programs**

There are two different types of programs that can be used to transfer development rights. The first is when the landowner sells their development rights directly to the developer, who uses them to increase the density of houses at another location. A common variation of this kind of TDR would be the developer increasing the density on a piece of land that they already own and are developing. A higher density development is a bonus given to the developers as more incentive to use this type of TDR program.

The second program would allow the local government to establish a TDR bank to transfer the development rights. In this case, if the developer wished to increase the density on one of their properties, they must purchase the rights from the local government. The TDR bank would then use the money to purchase the development rights from a property that they want protected from future development. The receiving area should still not exceed the maximum density as stated in the town's comprehensive plan. This is generally the most effective form of TDR, as the developers have a much easier time buying rights from the governmental entity instead of a private owner.

## **Benefits**

There are many ways that a community can benefit from TDR programs. Some of these factors show that a TDR can be an effective management tool. The following is a list of ways that a developing town or county can benefit from adopting a TDR program:

- The sending areas can protect agriculture, historic areas, and sensitive areas.
- Landowners in the sending area receive windfall from selling development rights.
- Completely voluntary by landowners in most cases.
- Effective way to planning an organized community.
- Developers receive density bonuses as incentives.
- Development occurs in designated areas where it may be needed.
- Creates a competitive market between landowners and developers.
- An additional 30-50 percent increase in density in receiving areas.
- Less expensive than unmanaged growth.

## **Drawbacks**

TDRs can be a very efficient planning tool if used correctly, but there are also some drawbacks that hinder the use of these programs. The following is a list of common problems that have been experienced by other communities using TDRs:

- An active real estate market is needed to balance protection and compensation.
- Requires initial participations from developers willing to pay for TDRs.
- Requires a lot of initial participation from landowner to sell their development rights.
- TDRs are usually very complex and difficult to administer.
- The community must have an effective comprehensive plan.
- The community must have tight zoning ordinances.
- There is usually an unfair redistribution of tax base.
- Educating the public on TDRs is time consuming and expensive.

## **Buying and Selling Development Rights**

Development rights are independent of ownership rights, and can thus be sold independently of them. The development right becomes a separate article of private property and can be shifted from one area to another and can have economic value. When a landowner sells off their development rights, the funds received will be taxed as capital gains. However, the economic value of the land in the sending area does not necessarily decrease in value.

TDRs are very similar to areas known as Purchase of Development Rights (PDR) programs. In a PDR, the rights can be purchased by either the governmental agency or by the developer and then that land can be used for development. The development rights in a TDR are purchased, but they are then sold to another area, which leaves the original area protected, and the developing area with more of a density bonus than normal.

The value that is used when determining how much the development rights are worth is the difference between the agricultural or open space value and the development value. For example, if the value of the agricultural land is \$2,000 per acre and the value of the same land if

used for development was \$5,000 per acre; the development rights for that land would be worth \$3,000 per acre. This \$3,000 would go to the land owner, and their land will no longer be able to be developed, even if the property is sold in the future. However, it is just as important for there to be long-term growth expectations to assure landowners in the sending area that there is value in their development rights.

## **Management**

TDR programs can be very effective if managed properly. The ultimate goal of a TDR program is to create an efficient growth pattern in the community while still preserving sensitive areas, so the first thing needed to manage a TDR is a growth management plan. This plan should be incorporated into the community's comprehensive plan and zoning ordinances. It will be necessary for the local municipality to include policies, zoning ordinances, and capital improvement programs within the receiving areas to assure the increased density bonus does not result in a public facility overload. Also, if a developer has an opportunity to gain an extra density bonus by some means other than TDR like variances, they will not have the incentive to purchase the development rights.

The next thing needed to manage a TDR program is a well trained planning staff that must very carefully manage the program. The staff will first have to be highly skilled in the planning fundamentals and have a strong commitment to the TDR program. They will need to be very certain of where development should happen next and where it should not. The staff will also need good skills in public relations in order to explain all points of the program to politicians, landowners, developers, and the public. There is likely to be political pressure to change back to the old ways of planning if the program has not had a chance to work.

## **Case Study**

The Town of Troy has just under 4,000 people according to the 2000 census, and is expanding at much a faster rate than the town of Kinnickinnic. The primary reason for this is the fact that the busy state highway 35 runs through it and connects River Falls to Hudson. Because of this, Troy has experienced a much greater amount of development pressure than Kinnickinnic. Also, this gives them much better conditions to adopt a kind of TDR plan. They have been using TDRs recently to protect some of the farmland as well as to expand their development density around highway 35. In one instance in the Town of Troy about 2 years ago, a lot was approved for development with 62 lots under normal zoning allotments and an additional 61 lots in the area from the transfer of development rights.

## **Conclusion**

TDRs can be an effective management tool for many communities that are experiencing a great amount of new growth. Currently, the Town of Kinnickinnic does not need to make use of TDRs, as they are not too many places in the town with this great of development pressure. Also, deciding to enact TDRs could make it difficult to develop on land that is protected if development pressure continues growing in the future. However, they should be considered and added to the comprehensive plan as a possibility for the future of the town.