

# Transfer of Development Rights (TDR's)

*What they are, where they come from and how they can be used*

# What is a Transfer of Development Right (TDR)?

- TDR is a legal and zoning mechanism which allows landowners to retain legal title to their land, but sell its development rights for use on other properties
- In other words, TDRs allows the landowner to disconnect the right to develop the property, from the property itself, and sell or transfer it for use on a different parcel of land in the community, while retaining the legal title to their land.
- It's a useful device to shift development from ecologically fragile land to more appropriate parcels.

# TDR's: How it works

- TDR is based on the concept that ownership of land gives the owner a “bundle of rights,” each of which may be separated from the rest.
- One of the “bundle of rights” is the right to develop the land. Ex: Build a house on it.
- A transferred development right is a development right that has been moved (transferred) from its parent parcel (sending) to another.
- The development potential is removed from the parent (sending) parcel and legally transferred to the receiving parcel whereby additional incremental development is allowed.
- The buyer of the development rights is then permitted to exceed the maximum density or septic restrictions set forth in the local and/or County zoning regulations when using the transferred rights.
- **Example:** Under typical TDR systems, farmers are able to keep their land for agricultural production and sell the property’s development rights, which are then used on non-agricultural land.

# How it Works Continued

- Under NY State statutes, when a municipality has identified areas in need of preservation (e.g., farmland or historic buildings) or where development should be avoided (e.g., shorelines at risk from sea level rise, storm surge or flooding), these areas are established as “sending districts.”
- Owners of land in these sending districts may sell their development rights
- Those development rights will be transferred to lands located in “receiving districts” or to a development rights bank.
- In short, the sending district is the area being protected. The receiving district is the area that has been determined to be suitable for denser development.

# Sending District

- The Sending District/Parcel is defined as an area, or individual properties, sought to be protected from development.
- As a consequence, these parcels “send” or transfer their development rights to properties in the receiving area.
- Once the development right is removed from the sending property, the land of the sending parcel is encumbered by a protection mechanism, to prohibit further development, such as a conservation easement.

\*We will identify Shelter Islands sending and receiving districts through a Generic Environmental Impact Statement under the State Environmental Quality Review Act (SEQRA) that will take approximately 12 months to complete

# Receiving District

- The Receiving District/Parcel is located where additional density can be accommodated with a minimum of adverse consequences.
- Receiving Areas “receive” transferred rights, allowing development to occur at a density greater than would normally be allowed without resulting in a “net” increase to the density of the Island.
- All receiving districts are still subject to Suffolk Counties stringent water, sewage and environmental regulations

# Types of TDRs in Suffolk County

In Suffolk County, a development right can be one of two types.

1. **Development Right Credits**- These can be used to increase allowable density.
2. **Sanitary Credits**- permits additional sanitary flow on a receiving parcel (also known as a wastewater credit).

# Development Right Credit

- Zoning/Development right is a right permitted to a lot, parcel or area of land under a zoning ordinance or local law regarding permissible use, area, density, bulk, or height of improvements executed thereon.
- A typical development right credit could be used to increase the number of units or floor area ratio (or other zoning constraints) above the maximum allowed in the zoning district.

# Sanitary Flow Credit

- A sanitary flow credit is the right permitted to a parcel of land to discharge sanitary waste into the ground pursuant to the Suffolk County Sanitary Code (Article 6) for the specific hydrogeological (groundwater recharge) zone in which the land is situated.
- A full sanitary flow/wastewater credit is equivalent to the right to develop a single-family detached residential parcel with an individual on-site sewerage system.
- The Suffolk County Department of Health Services, through the mathematics and chemistry involving nitrogen pollution to groundwater and human health related to drinking water, has established that 300 gallons per day of sanitary waste is equivalent to the discharge of a detached single family residential dwelling or 1 sanitary flow credit.

# Uses of TDR's



- The Town of Shelter Island does not currently have a Transfer of Development Rights Program, making the Suffolk County Department of Health Services the regulating agency for the Island's use of TDRs.
- The Town of Shelter Island has the ability to tightly define the types and uses of TDRs available on the Island if we establish our own program.
- By establishing our own TDR program, the Town of Shelter Island will be able to define Island appropriate uses of TDRs, based on the sending and receiving parcels that will be established in our pending Environmental Impact Study.
- By establishing our own TDR program Town of Shelter Island becomes the regulating agency of TDR sale and use on the Island

# Uses of TDRs Continued

- The Town of Shelter Island is exploring the use of TDR's (development and sanitary credits) from preserved land to create Community Housing Opportunities.
- On Shelter Island, the use of TDR's will be limited SOLELY to community housing and may not be used for any other purpose, including commercial development.

## By effectively using TDR's,

- Environmentally fragile areas can be preserved
- Green space can be maintained
- Appropriate housing density can be created in locations where water, sewer and transportation resources exist.

# Benefits of TDR Programs

There are four primary benefits of a TDR program:

- 1) It permits preservation of lands where further development is undesirable
- 2) It does so without loss of new development to the community
- 3) It does so without depriving landowners of a reasonable economic return on their property
- 4) It involves minimal expense to the municipality.