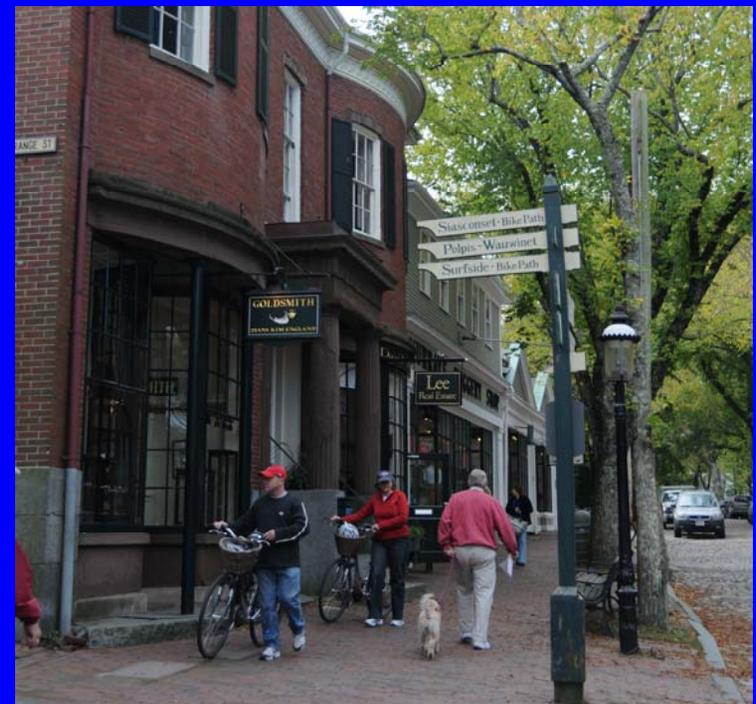


# Transfer of Development Rights

Partnering for Success: 11-5-9  
Rick Pruetz, FAICP

- TDR 101
- Selected Profiles
- Success Factors
- Case Study



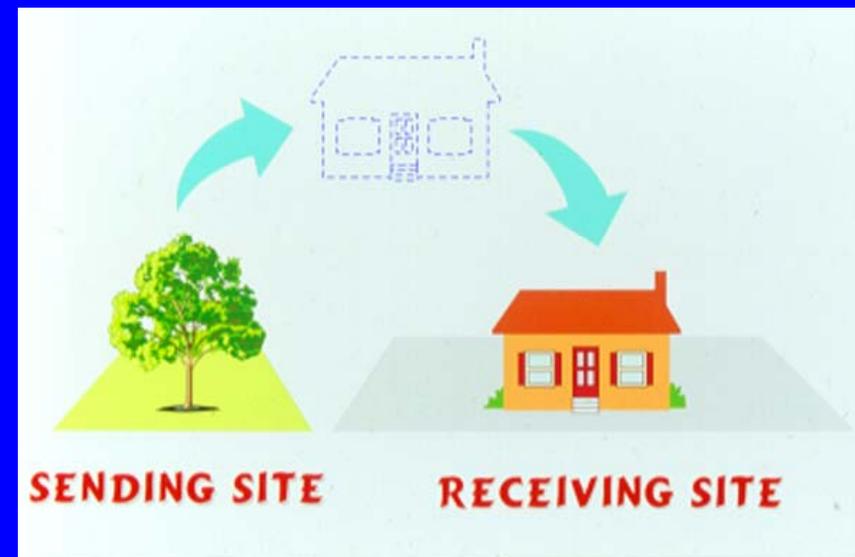
## TDR

- Market-based
- Works with zoning code

TDR encourages voluntary re-direction of growth

- *From* sending areas
- *To* receiving areas

## TDR Basics



# *Sending site owners can choose not to use TDR*



Or choose TDR

- Record easement restricting development
- Create number of TDRs allocated by code
- Sell TDRs as compensation for preservation

# *Receiving area developers can choose non-TDR option*

## choose non-TDR option



- Don't buy TDRs
- Build at or below baseline

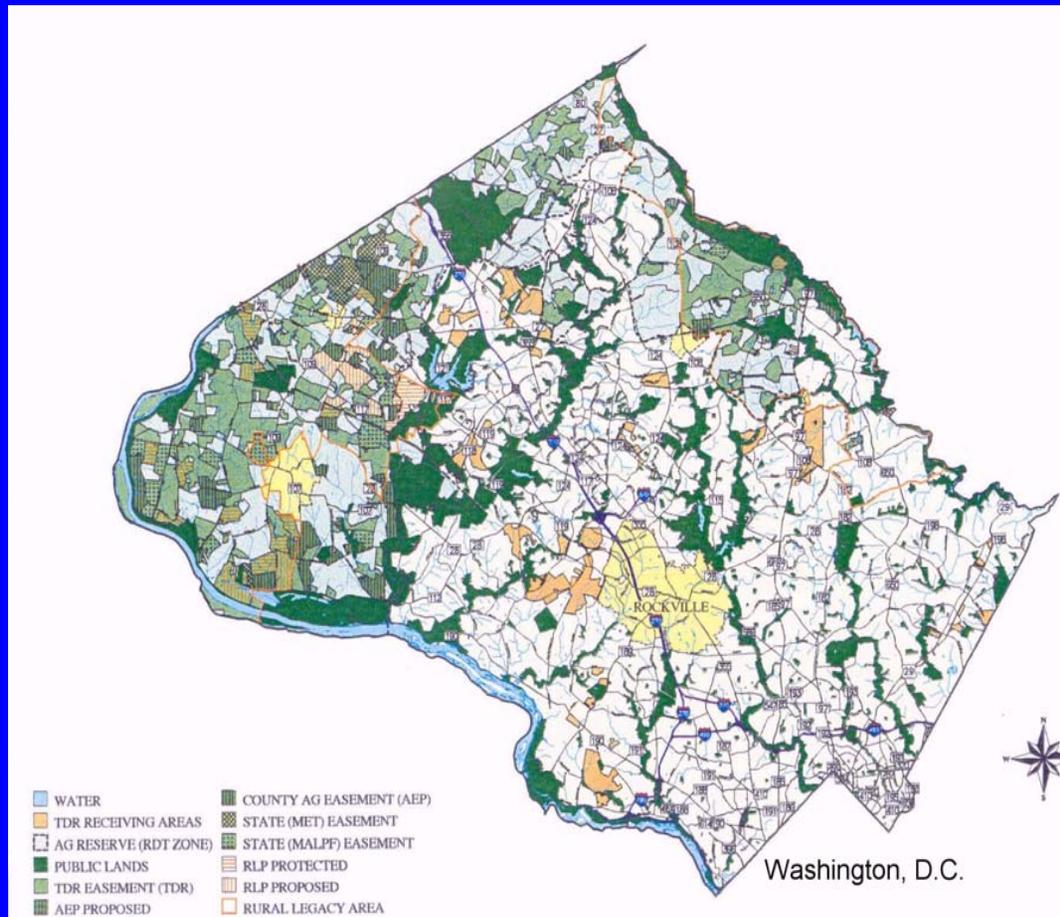
...Or choose TDR option:



- Buy TDRs
- Exceed baseline density limits
- Achieve more profit

Example

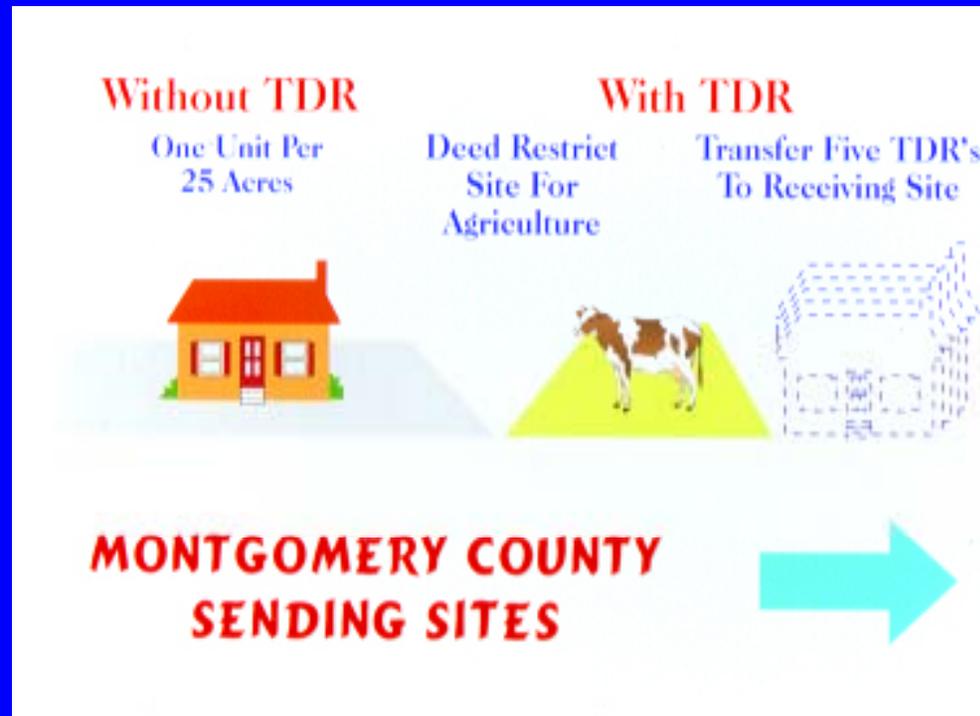
# Montgomery County, MD



- Farmland loss
- County wanted to compensate landowners for preservation
- Traditional compensation sources inadequate
- Adopted 90,000-acre TDR sending area

# Montgomery County, MD

## Sending Area



- Build on-site at density of one unit per 25 acres
- Can deed-restrict site & sell 1 TDR per 5 acres

Montgomery County, MD

# Various TDR Receiving Zones



- Choose 5 units/acre without TDR purchase
- Or 7 units/acre by buying one TDR for each extra unit

## Montgomery County

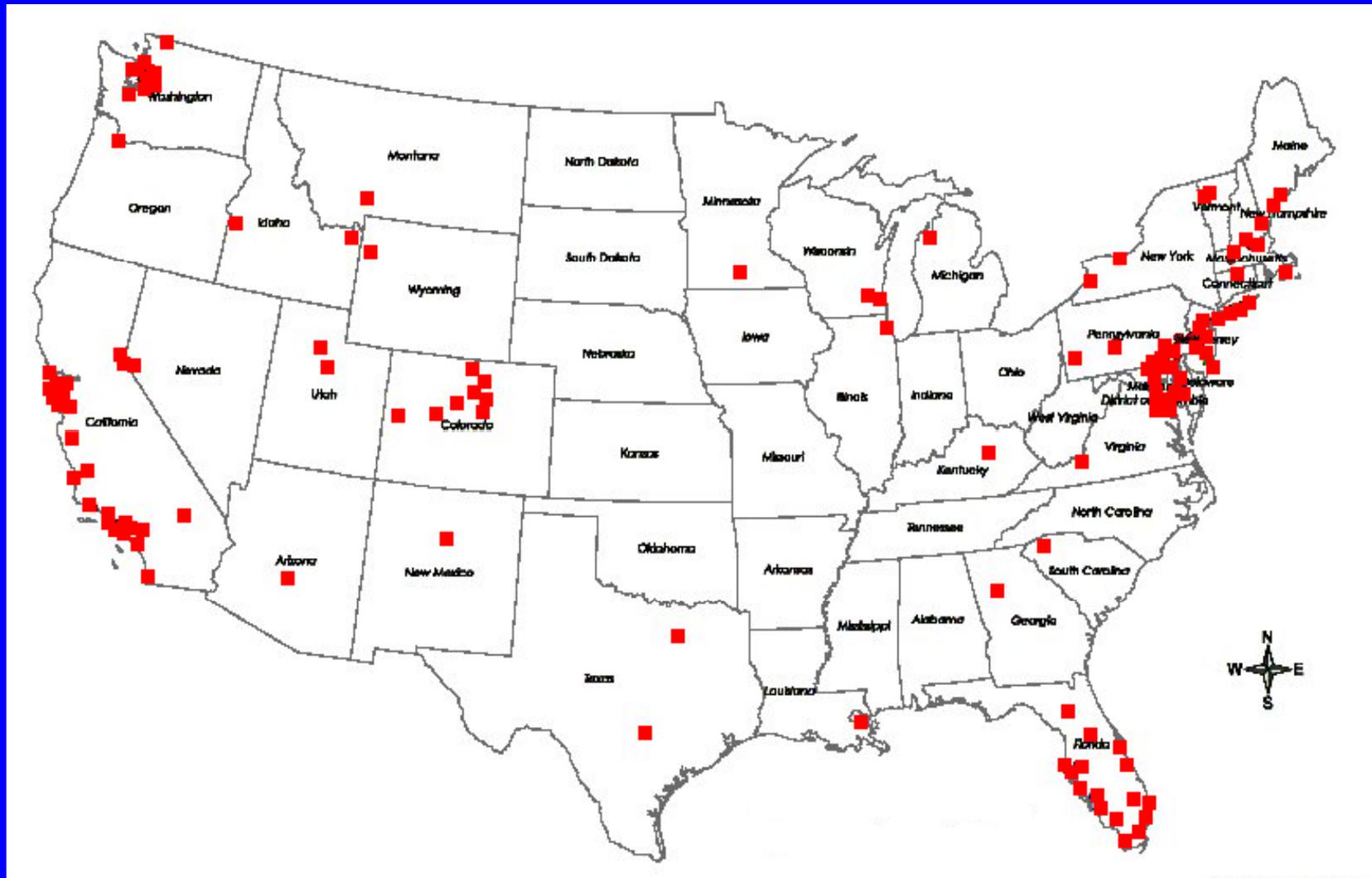
# Results



- Landowners sell development rights and keep farm income
- Developers find TDR option more profitable
- County has preserved 51,830 acres without tax dollars

# Who uses TDR?

Over 200 communities in 33 states



# What can TDR protect?

Of 191 TDR programs:

- 69 environmental
- 46 environment & farmland
- 41 farmland
- 15 historic preservation
- 20 other (housing, infrastructure, urban design, revitalization, airport/airbase clear zones)



King County, WA: 138,000 acres  
New Jersey Pinelands: 55,905  
Montgomery County, MD: 51,830  
Palm Beach County, FL: 35,000  
Collier County, FL (RLS): 31,400  
Calvert County, MD: 13,260  
Queen Anne's Co., MD: 11,176  
Sarasota County, FL: 8,200  
Pitkin County, CO: 6,452  
Boulder County, CO: 5,900  
San Luis Obispo County, CA: 5,463  
Blue Earth County, MN: 5,360  
Howard County, MD: 4,525  
Miami-Dade County, FL: 4,145  
Payette County, ID: 4,145  
Charles County, MD: 4,089  
Rice County, MN: 3,850  
Douglas County, NV: 3,728  
Collier County, FL (RF): 3,450  
Chesterfield, NJ: 2,272

## Where does TDR Work Best?

398,150 acres saved by  
top 20 TDR programs  
with land-preservation  
goal



## Program Profiles

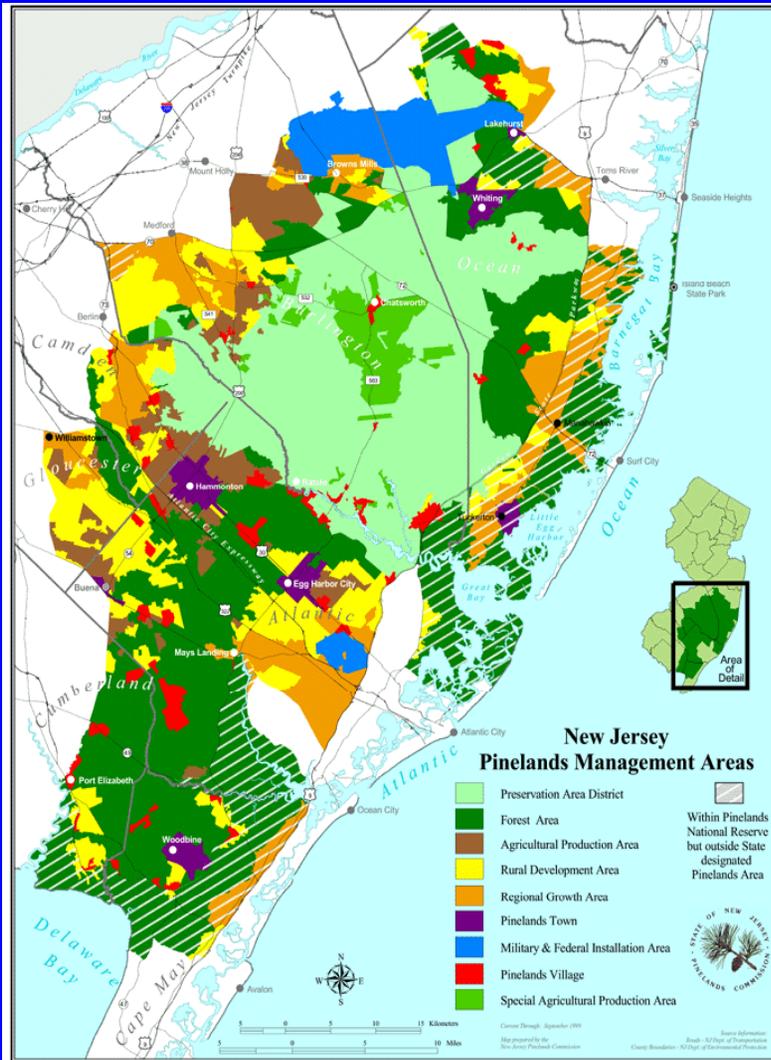
# King County, WA

- Dedicated portion of property tax stocks TDR bank
- Revenues from bank's TDR sales fund future acquisitions
- Inter-jurisdictional transfers to cities
  - Issaquah
  - Black Diamond
  - Seattle
  - Bellevue
- 138,000 acres preserved



## Program Profiles

# New Jersey Pinelands



- One million acre planning area with 60 jurisdictions
- Transfers between communities required by State
- 55,905 acres preserved

## Program Profiles

# Palm Beach County, FL



- Bond proceeds bought 35,000 acres of environmentally-sensitive land
- County severed TDRs and sells them for \$25,000 each (2007)
- Proceeds become ongoing revolving fund

## Program Profiles

# Collier County, FL

## Rural Land Stewardship

- TDRs granted based on resource quality and landowner easement choice
- Isolated, new town receiving site reduces opposition
- Density-neutral receiving areas (8 TDRs per acre)
- 31,400 acres preserved since 2002



Program Profiles

# San Luis Obispo County, CA - Cambria



Land Conservancy of San Luis Obispo County named official bank:

- \$275,000 loan
- Buys lots in fee
- Records easements and sells floor area (at twice purchase price on average)

Conservancy

- Doubled seed money
- Bought over 250 lots
- Created preserve

# Top Ten TDR Success Factors

- 1 Demand for Bonus Development
- 2 Customized Receiving Areas
- 3 **Strict Sending Area Regulations**
- 4 **Few Alternatives to TDR**
- 5 **Market Incentives**
- 6 Certainty of TDR Use
- 7 Strong Public Preservation Support
- 8 Simplicity
- 9 Promotion & Facilitation
- 10 TDR Bank

# Success Factor 1 Demand for Bonus Development



Developers must want to exceed baseline

Optional strategies to increase demand:

- A) Downzone
- B) Promote smart growth
- C) Require TDR for all future upzonings
- D) Alternative incentives



Success Factor 1: Strategy A

# Downzone Receiving Area

Best with unitary  
sending/receiving  
zones

Mostly downtowns

Calvert County down-  
zoned send/receive  
zone twice to achieve  
land use goals

Success Factor 1 - Strategy B

# Promote Smart Growth Density

Allow and encourage compact, pedestrian-friendly neighborhoods

Work with developers

Chesterfield, NJ



Success Factor 1 –

Strategy C

## Tie TDR to Future Growth

General plans identify areas  
for future up-zonings

Require TDR for units  
resulting from up-zonings

Livermore, CA

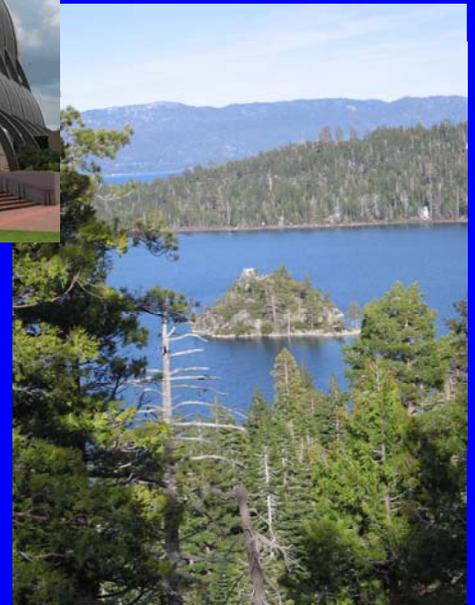
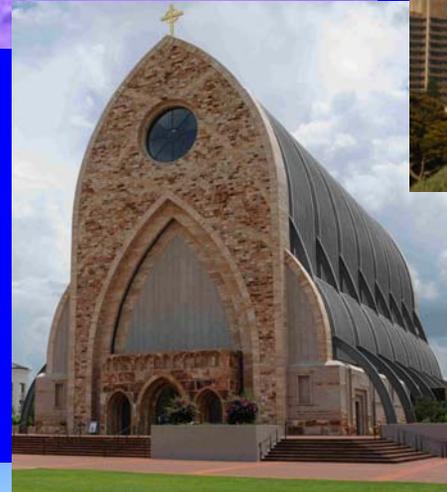
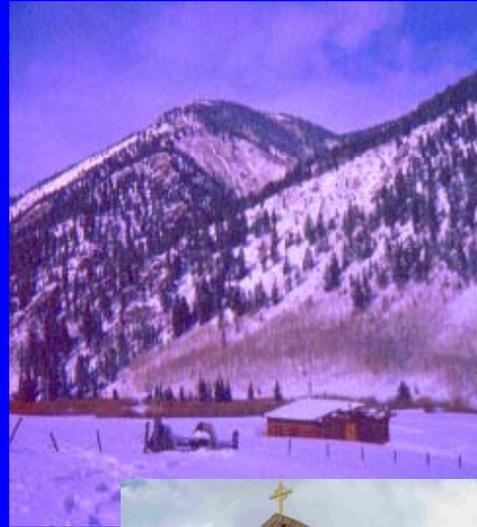
- TDR receiving areas identified by 2003 plan
- Plus up-zonings implementing future plan amendments



Success Factor 1 - Strategy D

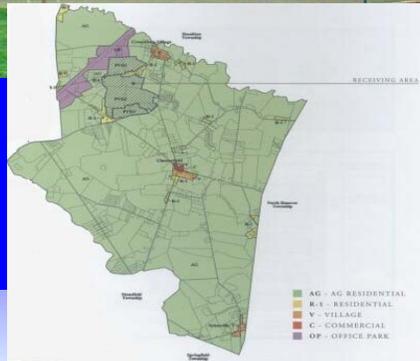
# Demand for Bonus Development Other than Density

- Residential floor area
- Commercial floor area
- Acres developed
- Land coverage
- Permit quotas



## Success Factor 2

# Customized Receiving Areas



Infill sites ideal but difficult  
Urban edge sites popular

- Served by infrastructure
- Consistent with plan
- Not surrounded by existing homes

New towns and new villages can overcome neighbor opposition

Rural sites

- Not ideal land use
- But preserves land if rural development is inevitable

## Success Factor 2

# Inter-Jurisdictional

Boulder County, CO

King County/Seattle, WA

Warwick, Orange County, NY

- Annexed land zoned Annexation District (AD)
- AD baseline is maximum density of prior Town zone
- Bonus for “compensating amenities” or cash-in-lieu of \$50,000/BDU
  - 25% to protect Village watershed needs within Town
  - 30% Town discretion
  - 45% Village discretion



## Success Factor 3

# Strict Sending Area Regulations

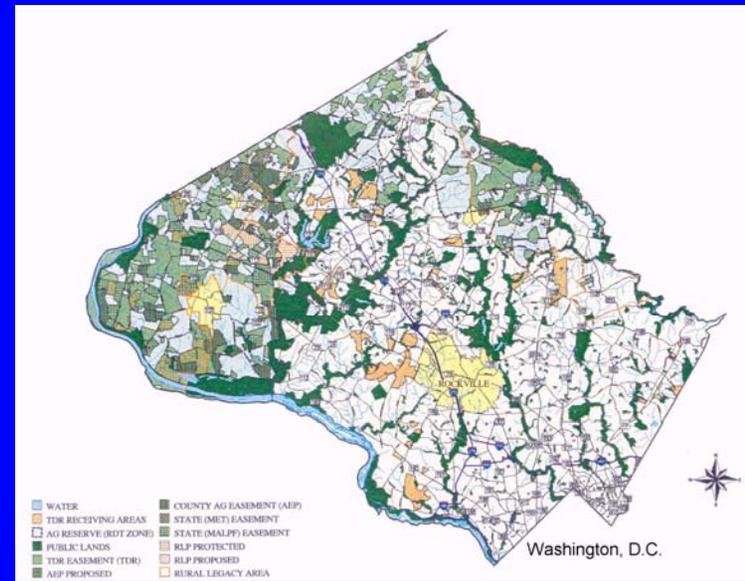
Owners motivated by constraints: terrain, lack of infrastructure, location...

Strict sending area regulations:

- Implement plan
- Demonstrate community commitment to preservation

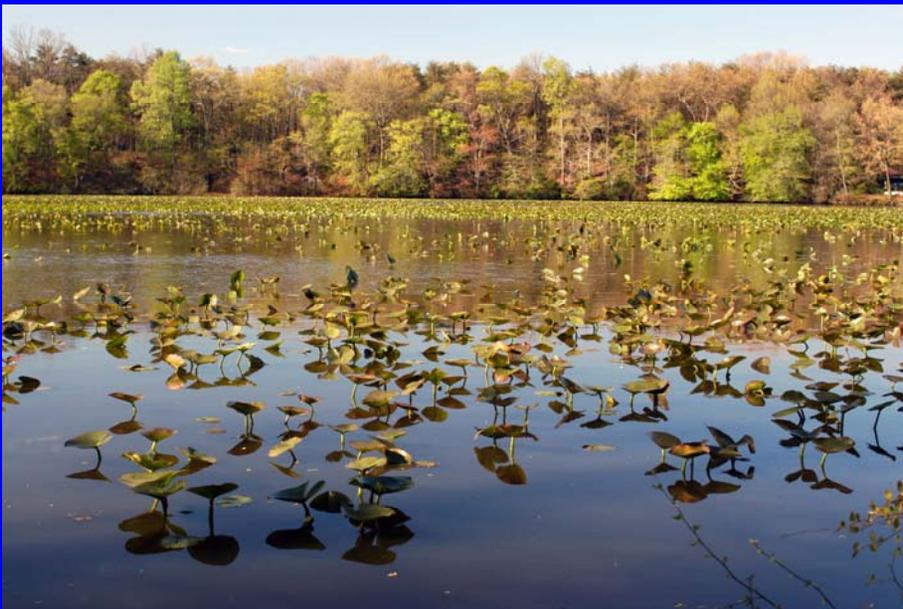
Of 20 leading TDR programs

- All but 2 limit sending area zoning to 1/5 acres or less
- Many allow much less (King County, WA)



Success Factor 4

# Few Alternatives to TDR



Many programs fail when developers can get bonus development by:

- Project amenities
- Other approval methods
- Requesting exceptions

Alternatives hamstring TDR

Of 20 leading programs, 17 allow few ways to circumvent TDR

Example: New Jersey  
Pinelands Commission

## Success Factor 5

# Market Incentives

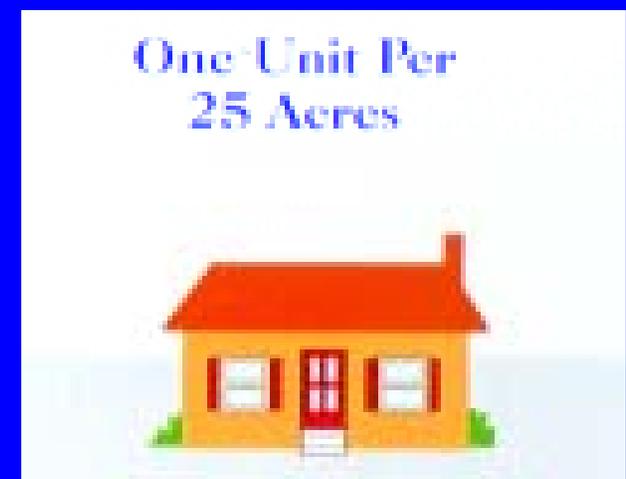
Example: TDR allocation ratio

Assume

- Developers will pay \$10,000 per bonus dwelling unit
- One bonus unit per TDR
- Sending area owners will accept \$2,000 per preserved acre

Allocation ratio of one TDR/ five acres should satisfy all parties

Allocation rate might not equal on-site density limit - Montgomery County





Success Factor 6

## Certainty of Ability to Use TDR

Minimize discretion -  
developers dread

- Delays
  - Cost increases
  - Last-minute project changes
  - Possibility of disapproval
- Of 20 leading programs, 14  
offer reasonable certainty
- Collier County RLS

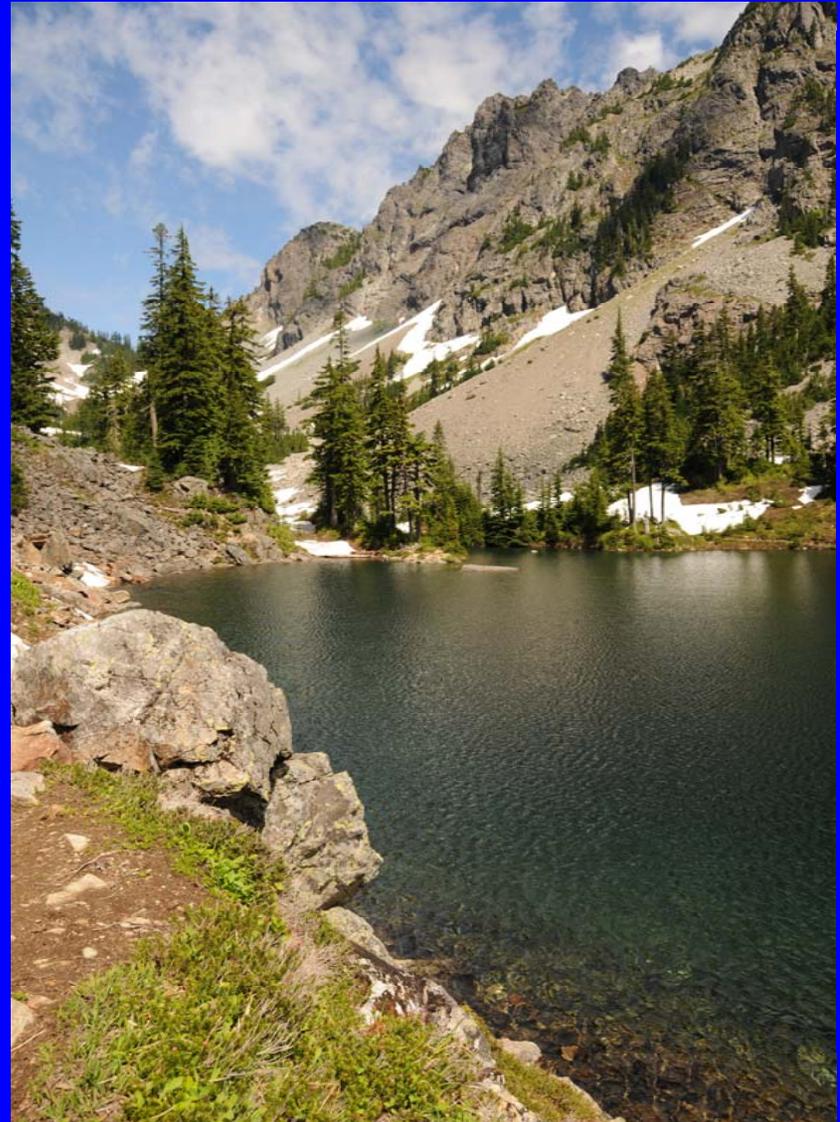
## Success Factor 7

# Strong Public Preservation Support

Public support:

- Allows elected officials to adopt workable programs
- Minimizes exceptions

Of 20 leading TDR programs, 13 also had PDR, TDR bank and/or voter-approved conservation taxes



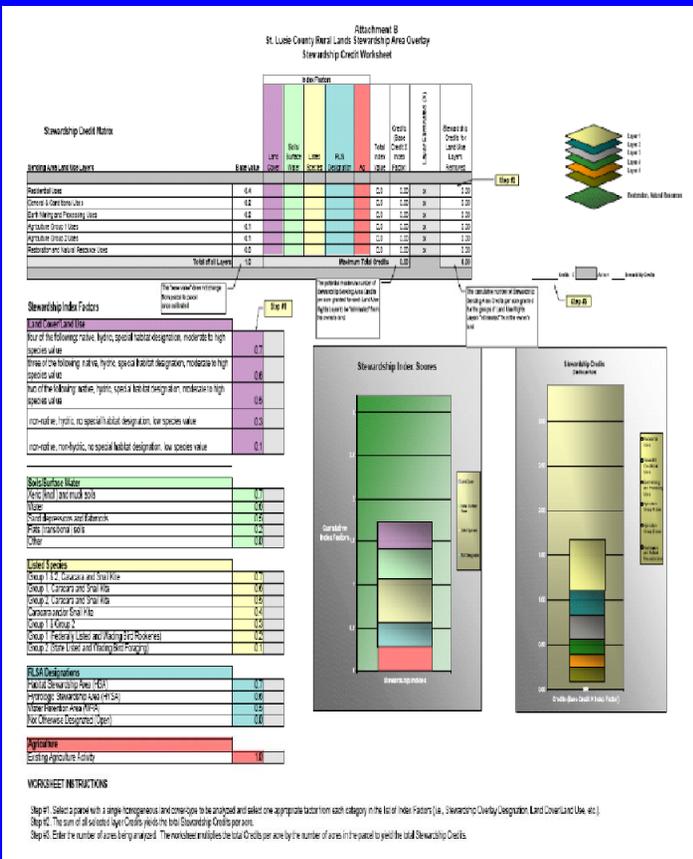


# Success Factor 8 Simplicity

Simplicity builds support from diverse constituency: landowners, developers, preservationists, homeowner organizations and general public

Of 20 leading programs, 13 are simple - Blue Earth County, MN

Complexity sometimes inevitable: Collier Co., FL



## Success Factor 9

# TDR Promotion & Facilitation

Help developers and landowners use  
TDR

Remind public of benefits

New Jersey Pinelands

- Facilitates transfers
- Conducts research
- Provides school programs
- Organizes hikes, canoe rides, wildlife watching opportunities



Photo by John Bunnell

The New Jersey Pinelands Commission is happy to announce that it is now offering in-class education programs pertaining to the Pinelands.



The Commission's Public Programs staff is available to visit your school, upon request and pending our availability. These programs are approximately 30 to 45 minutes in length and provide a general overview of the New Jersey Pinelands and the Pinelands Protection Plan, along with a question-and-answer session that encourages student participation.



Presentations are in a PowerPoint format that includes many Pinelands images. Discussion will be focused on the importance of water and the natural, historic, and cultural resources of the region. These programs are geared for grades 4-6. However, the program can be adjusted to accommodate any age group or grade level.



The goal of this program is to raise awareness, appreciation and further stewardship of the Pinelands by exposing students to this unique and special part of southern New Jersey.



For more information or to arrange a program please contact the Public Programs office at: (609) 894-7300 ext. 125 or e-mail: [info@njpines.state.nj.us](mailto:info@njpines.state.nj.us).



## Success Factor 10

# TDR Bank



- TDR banks – public entity buys and sells TDRs
- Land trusts and others can also perform intermediary role
- Of 20 top programs, only 4 had official banks but banks produced great results
- King County, WA bank alone preserved over 90,000 acres
- Palm Beach County, FL banked TDRs from land purchased with bond and sells them for price adjusted annually

# Top Ten TDR Success Factors

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- 8 Simplicity
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- 10 TDR Bank

**Case Study**  
**Livermore CA**

- San Francisco Region
- Population 83,000
- Lawrence Livermore & Sandia National Labs
- Oldest CA vineyards
- Mitigation preserved southern vineyards
- TDR used to preserve North Livermore – 14,000 acres in Alameda County



## Livermore, CA

# TDR Demand



San Francisco Bay: high growth pressure helps

Livermore requires TDR for bonus units from all future upzonings (Success Factor 1 – Strategy C)

- Baseline = maximum density of prior zone
- Bonus = all units over baseline
- Bonus sf unit = 2 TDRs or \$50,000
- Bonus mf unit = 0.5 TDRs or \$12,500

# Livermore, CA

## TDR Demand

### General plan

- Promotes smart growth
- Higher densities require up-zoning
- Triggers TDR
- Success Factor 1 – Strategy B





## Livermore, CA TDR Demand

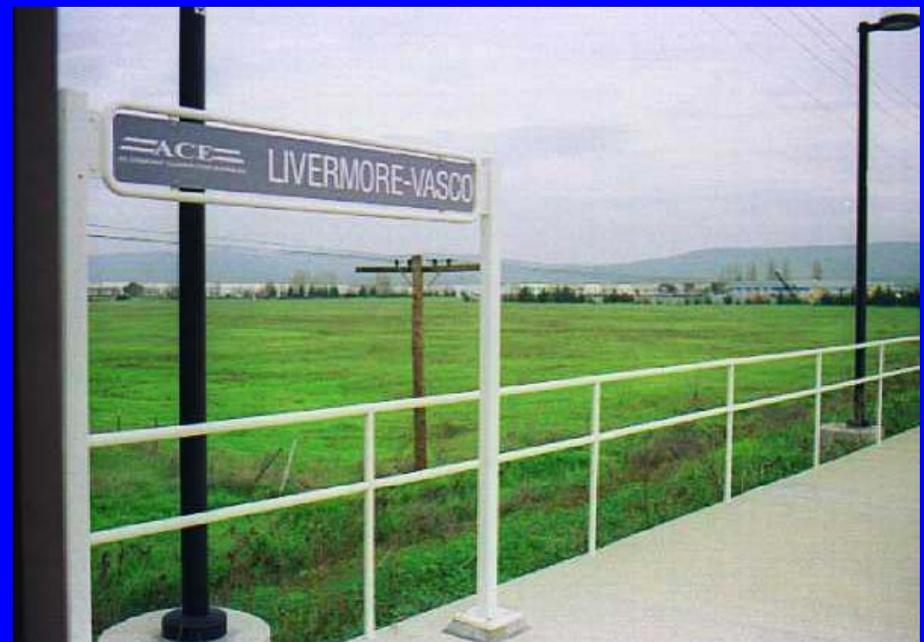
Strategy D - Offer developers something they want:

- Guaranteed housing allocations under City's annual permit quota system

# Livermore, CA Receiving Areas Fit Community

Livermore created infill receiving areas for

- Single-family residential
- Multiple-family residential in TOD





## Livermore, CA

# Sending Area Constraints

- Lack of infrastructure
- Minimum lot size: 100 acres

# Livermore, CA Market Incentives

Developers motivation:

- In lieu payment half estimated value increase of bonus single-family lot





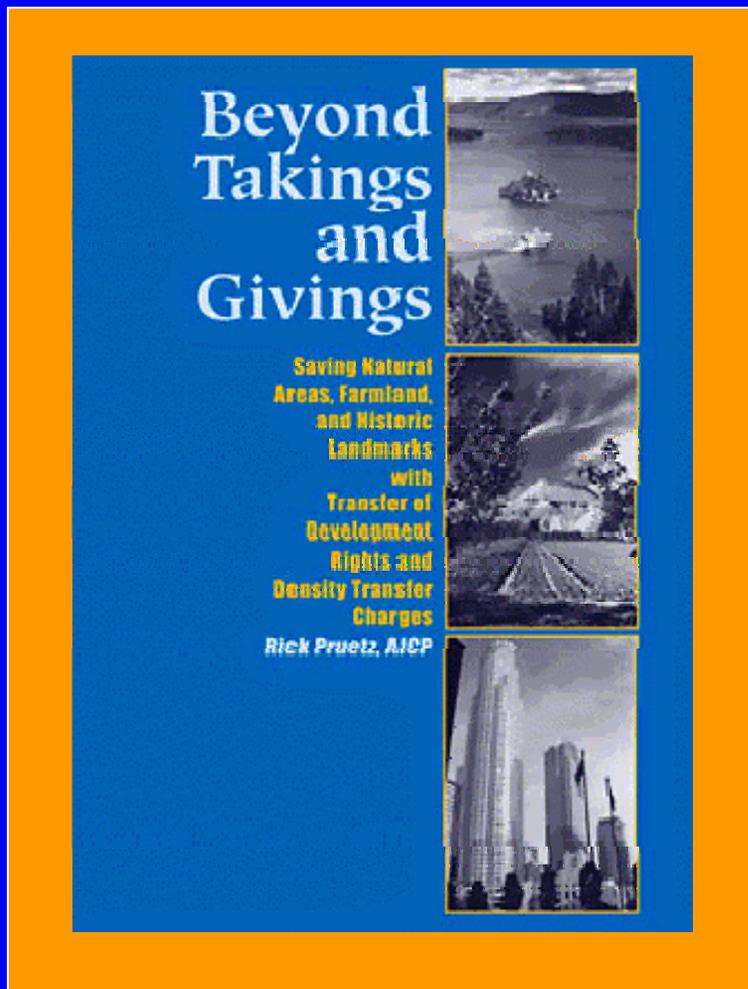
## Livermore, CA

# Other Factors

Of five helpful factors,  
Livermore excels at

- Simplicity
- Facilitation
- Public support for preservation

For more information:  
[www.BeyondTakingsAndGivings.com](http://www.BeyondTakingsAndGivings.com)



- Introduction to TDR
- Portions of *Beyond Takings and Givings*
- TDR program updates
- Programs adopted since 2003 publication date