Establishing Receiving Areas

Receiving areas are the locations to which development potential is transferred in the form of TDR credits. They can be within city limits or within an unincorporated urban growth area depending on the scale of the program (see Program Scale section). Within these areas developers may gain bonus uses by purchasing TDR credits. Perhaps more than any other element of design, the establishment of receiving areas is a step that influences a TDR program's effectiveness.

The receiving area plays multiple roles. At the program level, demand for incentives in the receiving area funds the conservation of sending sites. At the community level, the receiving area reflects the growth goals that a jurisdiction wants to achieve. Therefore the designation of receiving areas should be approached in the context of GMA goals for accommodating growth. For jurisdictions that fully plan under GMA, some of the work used to inform the selection of receiving areas will already be completed as part of the comprehensive planning process. Communities will want to draw on this prior work to identify potential receiving areas.

- What areas are planned for growth?
- What areas are not experiencing planned growth that might benefit from a TDR program?
- What areas might become appropriate for growth because of planned infrastructure improvements?

Because the local community has an interest in the shape growth takes in a receiving area neighborhood, a transparent decision-making process involving public outreach is important. As with any local planning process, it may be impossible to allay every concern. But there are many steps that governments should take to improve livability in receiving areas, such as ensuring adequate transit, public services, infrastructure, and amenities to meet the needs of a growing population.

GMA Considerations

In establishing receiving areas, cities and counties should ensure that these areas are consistent with their comprehensive plans as adopted under the Growth Management Act.

- RCW 36.70A.020 establishes planning goals to encourage development in urban areas, reduce sprawl, ensure adequate public services to serve development, maintain and enhance natural resource industries, retain open space, and protect the environment.
- RCW 36.70A.070 requires local comprehensive plans to address land use, affordable housing, funding for capital facilities, and protection of rural character.
- RCW 36.70A.110 and115 discuss requirements for communities to plan sufficient land capacity for 20 years of population growth.

Cities and counties should take certain policy considerations into account when locating receiving areas.

- Existing plans or community vision documents: What strategic goals has the community identified?
- Population trends: Which neighborhoods or areas are experiencing growth, or are planned or projected to grow?
- Infrastructure upgrades or investments: What plans exist for improving services or infrastructure, and do capital facilities plans support designation of a receiving area?
- Transit: How can receiving areas best be served by existing and future transit?
- Community composition: What are the economic uses, the character, and attributes that the community desires for the receiving areas?
- What other programs are in place or are being contemplated that need to be considered in designating a receiving area? For example, incentive programs for affordable housing or amenities such as streetscapes and parks.

Methods for Establishing Receiving Areas

Receiving areas may be established in a number of ways:

TDR Overlay

This approach involves the government designating one or more geographical areas to be the only eligible locations into which development rights may be transferred. Different overlays are appropriate for different development bonuses. In a program where the purchase of development rights provides higher density bonuses, the jurisdiction may identify receiving areas around transit corridors. In a program where the development incentives are conversion commodities like increased height or FAR (floor-area ratio), the most appropriate receiving areas may be commercial parks or a downtown office core.

As part of this approach, the jurisdiction should examine the work already done in planning for growth. Evaluating indicators of growth and understanding what areas are experiencing development will help inform decisions to locate overlays. Coordinating overlays with existing plans for growth will increase efficient use of planning resources and infrastructure.

Advantages:

- An overlay can target growth in an area consistent with the goals of a comprehensive plan.
- Overlays can help shape the composition of a designated area, for example by encouraging commercial, residential, or mixed-use development.
- There is certainty in where development rights may be used.

Disadvantages:

- Overlays only capture demand for development bonuses in a limited area.
- Opinions on the appropriateness of the overlay may vary within the community.

TDR Upzone

This approach requires that any area of the jurisdiction requesting a zoning change to a higher use purchase development rights as a condition of granting the change. Developers may still build to previous zoning without having to purchase development rights.

Advantages

- This approach captures the demand for higher density or other development bonuses.
- Upzones can target specific areas for growth.

Disadvantages

- It limits a jurisdiction's ability to direct growth to designated areas that are planned for growth.
- It may result in proposals for increased growth in areas where adequate facilities and services are not planned to support increased density or intensity with TDR. This adds uncertainty to the process for developers. If there is not adequate infrastructure planned, the jurisdiction will either have to deny the request to upzone, or amend its capital facilities plan and either require the developer to pay for the infrastructure or find another source of funding.

Examples:
Pierce County (WA)

Redevelopment

When a developer replaces an existing building with a new structure in an urban area, this indicates that market conditions make the cost of doing this favorable. A TDR program could capture these market conditions by linking the purchase of development rights to the replacement of existing buildings with larger ones. As land prices rise and demand for housing in urban areas grows, the opportunity to share redevelopment costs among more units becomes increasingly attractive. Redevelopment can also be planned by jurisdictions. For example, in the City of Sammamish, the revised Town Center Plan calls for the use of TDR in redevelopment. Additionally, the City of Snohomish is pursuing a TDR program as a way to help revitalize the Maple District redevelopment process.

Example: City of Snohomish

In its plan, Imagine Snohomish, the city identifies five strategic planning goals for the long term growth and redevelopment of the community. Subsequent to the publication of this plan, the city chose to explore TDR as one way of achieving its planning goals, particularly the redevelopment of the Maple District near its historic downtown. A TDR program would help support revitalization and create development patterns consistent with the strategic goals of the plan, including:

- Increase walkability within the city,
- Improve access to bicycle trails,
- Grow and diversify the city's economy and employment base,
- Maintain and enhance the city's special character and identity.

Advantages

- This approach captures the demand for higher density or intensity in areas that are already urbanized.
- This approach complements existing redevelopment plans.

Disadvantages

- Patterns of growth through redevelopment can be unpredictable and widely distributed if not planned.

Receiving Area Ratio

As a demand-driven tool, an effective TDR program must offer development rights at a price that developers are willing and able to purchase. The receiving area ratio is the number of additional dwelling units (or other development bonus) that a TDR credit may be used for in a receiving area development project beyond what base zoning allows. The allocation rate must be structured in such a way that the return on the investment justifies the additional cost to the developer and the risk of increasing the scale of the project.

During the design stage jurisdictions should seek input from developers to improve the level of participation in a TDR program. Developer demand is instrumental in successful TDR programs. If developers do not find the price of the development right to be cost effective, the program will fail to achieve the greater policy objectives. Jurisdictions should be prepared to encounter a range of ideas from the development community, and this varied input should be considered along with the results of the market analysis in structuring incentives.

Meeting with developers is a crucial step, and the government should target from which developers to seek input based on the proposed scale and planning goals it has already established. For example, if the desired scale of the program is within the city and the community planning goals are to concentrate office space in a downtown core, then the government should approach commercial developers for input.

Conversion Commodities

The most common use of a TDR for developers in TDR programs is a residential density increase. In return for purchasing development rights, the developer is allowed to build to higher density than is allowed by base zoning. Some existing programs cap the additional density that can be gained through TDR at a number of units or a percentage of the base density (King County, for example). However, this tool is flexible and can offer a wide range of incentives to developers depending on where demand exists in the market.

Other incentives that can supplement or substitute for increased density in TDR programs are commonly referred to as *conversion commodities*. These are useful in situations where demand exists for incentives that extend beyond the housing market. A sample of conversion commodities includes: [21]

1. Commercial Floor Area (CFA)
2. Building Height
3. Parking Ratio
4. Impervious Surface
5. Parkland and Open Space
6. Setbacks
7. Floor Area Ratio (FAR)
8. Impact Fees and Concurrency Conformance

Commercial Floor Area

As a marketable commodity, commercial floor area (CFA) consists of the ability to create or retain additional built square footage for commercial purposes. Frequently employed as part of an economic development strategy, policies regulating commercial floor area can be used as an alternative or in addition to a residential density bonus under a traditional TDR program. Many communities that are experiencing a jobs/housing imbalance choose to place a "cap" on whichever of the two is in greater supply to ensure a proper mix. Rather than limit residential development, the option to purchase more commercial square footage can result in the same outcome. In the Puget Sound area, TDR programs in both Issaquah and Redmond allow receiving-area developers to convert a TDR into increased commercial square footage. One TDR credit in Issaquah equates to the following:

- One residential dwelling unit/or comparable additional commercial
- square footage in commercial zones; and
- the associated number of p.m. peak hour trips; and
- impervious surface; or
- building height

21 Adapted from DC&E Market Analysis for Regional Transfer of Development Rights in Puget Sound

Case Study: Commercial Floor Area

In Redmond, Washington, receiving-area landowners can purchase TDR credits from a sending area in the form of a residential right, and are able to convert it to multiple commodities, including commercial floor area (CFA). They can be used in any number of combinations in commercial and mixed-use zones. Each TDR credit in the city of Redmond may be used to increase the amount of building floor area by 8,712 square feet, or one-fifth of an acre. Microsoft has been a significant program participant both for floor area and parking in the Overlake district, which is overlaid with a cap on CFA agreed to by the Cities of Redmond and Bellevue. TDR program participants can exceed development intensity allowed by base zoning regulations, but only within the overall maximum floor area restrictions.

Building Height

Additional building height is one of the most commonly used development commodities available for purchase through a TDR program. Combined with a regulated floor area ratio, or FAR, additional building height enables developers to fit more square footage within the building envelope than would otherwise be the case. In Seattle, the Olive 8 tower downtown was built higher than the 300-foot limit with the purchase of TDR credits. Additionally, the City of Redmond allows TDR credits to be used to increase the height limitation on a project by up to one story over each increment of floor area of 8,712 square feet.

Parking Ratio

Parking requirements can either be increased or decreased through the land use regulation process. Developers who seek to provide less parking than required by the local government can buy that right by purchasing a TDR credit. Typically measured as a percentage of floor area square footage or number of spaces, the parking ratio can also be decreased to allow developers to fit more parking into a project. Redmond permits developers to purchase and combine TDR credits to add up to 25 percent or 30 percent more parking per 1,000 square feet of gross floor area than would be allowed by regulations. However, the total parking ratio must not exceed five spaces per 1,000 square feet of gross floor area.

Impervious Surface

In jurisdictions where there are specific regulations on storm water run-off, either for watershed protection or public health and safety, there may be an opportunity to incorporate impervious surface area in a TDR program. Generally expressed as a percentage of the proposed project site, the amount of impervious surface, either as a man-made structure or paved surface that restricts water from reaching the underlying land, can trigger development review or be restricted at the entitlement phase. Impervious surface is a tradable commodity in some cities in King County as well as in other areas, such as the Tahoe Basin. For each underlying zoning district in Issaquah, there is a set of conditions that enable the augmentation of impervious surface area. In Issaquah, one TDR credit equals the following amount of impervious surface area in addition to one residential unit or the comparable commercial square footage:

- 2,000 square feet of impervious surface outside the Critical Aquifer Recharge Area (CARA), or
- 1,000 square feet of impervious surface inside the CARA.

Case Study: Impervious Surface

The process and conditions for increasing impervious surface ratio limits in receiving sites are based on the type of zone and the associated impervious surface ratio allowed in that underlying zoning district, including multifamily, mixed-use and commercial zones. Issaquah is also currently investigating ways to increase the permitted amount of lot coverage for a project that incorporates Low Impact Design (LID) techniques. Redmond permits developers to increase the maximum impervious surface or maximum lot coverage by 8,712 square feet, provided that the total increase does not exceed 10% of the project site. Because storm water run-off can counteract conservation efforts, impervious surface area ratios in receiving areas are tailored to improve storm water management of specific land uses.

Parkland and Open Space

Developers are often required to provide parkland and open space as a community benefit accompanying development, which also fall within the realm of marketable commodities. Each TDR credit in Redmond may also be used to substitute for the requirement to provide 8,712 square feet, or one-fifth of an acre, of public or private parkland.

Setbacks

Similar in theory to the parking ratio or impervious surface area, waived or decreased setback requirements on a project site enable developers to increase residential and/or commercial floor area. Taken together, setbacks and building heights create the building envelope but can also contribute to the “wedding cake,” or tiered, appearance of tightly grouped buildings. Issaquah permits developers to exchange one TDR credit for 1,000 square feet to modify building setbacks, minimizing the “wedding cake” effect.

Floor Area Ratio

Many zoning ordinances restrict non-residential building size by restricting the floor-to-area ratio (FAR). FAR is the ratio of building square footage to square footage of the underlying land. For example, if a lot is 10,000 square feet and the FAR is 1:1, this means that the building can be no greater than 10,000 square feet. Even for zoning ordinances that do not have an explicit FAR limit, the amount of square footage is implicitly restricted by the combination of setback and height requirements. Thus, FAR is an important consideration in defining the size and shape of buildings in any urban area. If a jurisdiction's planning goals include the growth or distribution of commercial development, offering FAR as an incentive can help achieve these goals.

> *Case Study: Floor Area Ratio*
>
> In the City of Everett, developers can transfer unused floor area per the maximum FAR standards for historic properties to a proposed development site within the B-3 (Central Business District) zone, provided the proposed development does not exceed the maximum FAR. In addition, an explicit or implicit FAR limit may come into play if a TDR credit can be converted into either commercial floor area or additional building height. For example, a receiving-area landowner may obtain more height by purchasing a TDR credit but may not be able to use that additional height because of FAR restrictions.

Exchange Rates (Sending and Receiving Area Ratios)

Also referred to as transfer ratios or multipliers, sending and receiving ratios correct the imbalance in value between development rights in sending and receiving areas. The market value of one dwelling unit on a 10-acre parcel in a rural area is often worth more than the value of one additional unit in an urban apartment building to a developer. Developers would be unwilling to pay the rural value for one right, and landowners would be unwilling to sell their rights at urban values.

Examples

A linear exchange rate/ratio is the simplest to implement. In King County's program, for example, for every one development right purchased a developer can build an additional two dwelling units in a receiving area, up to 200% of the base density. Pierce County uses a formula to determine how many rights a developer must purchase for any given project. Exchange rates can similarly be established for conversion commodities. One example of this is building height. The jurisdiction can establish the additional height a developer may obtain in an amount that adds sufficient value to the project to justify the cost.

The higher the receiving area ratio, the more it will favor developers. Setting it too high, however, will reduce the amount of conservation the program achieves. Finding an exchange rate that approximates an equilibrium for both buyers and sellers should be one of the objectives of a market analysis.

Incentives for Developers

What will motivate developers to participate in a TDR program? A developer will pay for increased revenue or reduced costs and risk. Depending on the market, a variety of incentives could be appropriate to encourage program participation. The key to answering this question is to discuss the issue with the intended users. Outreach to developers will help a jurisdiction inform program design. For example, one incentive in which developers have expressed interest is expedited permitting and review under the State Environmental Policy Act (SEPA). The cost of environmental review can represent significant additional expense for a project. Any delay to a construction project during the permitting process can have compounding effects on the cost of financing. For developers, time is money and certainty is critical to estimating costs. Local governments should consider the following optional incentives for developers.

"By Right" Permitting

"By right" permitting is means that project applications for permits that use transferable development rights would be subject to administrative review. Administrative review allows a local planning official to approve a project without noticed public hearings.
By linking TDR to a "by right" process, developers will benefit from predictability and time savings. The value of these benefits can often be sufficient motivation for purchasing development rights.

Advantages

- More certainty is provided to developers.
- Time and money savings will be appealing to developers.

Disadvantages

- The city or county will need to ensure the public is engaged in the designation of the receiving area and understands future development potential as they will not have a significant opportunity to engage in the permit decision through a public hearing.

"Up Front" Environmental Review of Receiving Areas

One incentive that a city can offer developers is up front environmental review in conjunction with the designation of a receiving area. The review would include and address any impacts to the natural or built environment that will be generated by a development project using a TDR. This can take a variety of forms under SEPA.

Subarea plans

Doing more substantial and detailed environmental review of the impacts of the use of TDRs in a designated receiving area through a subarea plan will benefit proposed projects using TDRS. The impacts identified in the subarea plan will not have to be re-reviewed in conjunction with the project permit application. The developer will know up front what the impacts are and can address them. This adds certainty to the permit process for the developer.

Categorical exemption for infill development

SEPA provides a categorical exemption for infill projects that meet the requirements of RCW 43.21C.229. A city or county may categorically exempt development that is new residential or mixed-use development proposed to fill in a designated urban growth area where current density and intensity of use in the area is lower than called for in the goals and policies of the applicable comprehensive plan. An environmental impact statement must have been prepared in conjunction with the comprehensive plan. A city or county with a designated receiving area that meets this requirement could categorically exempt projects that use TDR to meet comprehensive plan density and intensity goals.

Planned Actions

SEPA allows jurisdictions to provide a more streamlined environmental review process of permits by performing a more detailed environmental review to assess the impacts of a receiving area being built to maximum capacity using development bonuses. Designating planned actions and adopting a planned action ordinance requires more work up front on the part of the government, but yields the unique result of making subsequent participation in the TDR program very easy. Under RCW 43.21C.031 (Significant impacts), a local government can perform a SEPA analysis evaluating the impacts of maximum desired build-out assuming use of TDR in a designated receiving area. By planning for this level of development and doing the detailed environmental review, a city or county can thereby approve development permits consistent with designated planned actions without requiring further SEPA analysis at the individual project level and without an appeal under SEPA. The savings in time and money to developers are substantial.

Advantages

- This approach establishes certainty for developers.
- Time and money savings in projects for developers will be appealing.

Disadvantages

- The government bears the burden of initial time and cost of this approach.
- The city or county will need to ensure the public is engaged in the designation of the receiving area and environmental analysis, and understands future development potential, as they will not have a significant opportunity to engage in the permit decision through a public hearing.

Planned Action Ordinances

For more comprehensive information on planned action ordinances, refer to the RCW 43.21C.031; WAC 197-11-164, 168 and 172; and the SEPA Handbook.

Example:
City of Mountlake Terrace application of a Planned Action Ordinance.

Planning for Infrastructure and Amenities

An effective TDR program requires that a community devote adequate resources to the program's design and implementation, including planning for infrastructure in receiving areas. In designating a receiving area, a community will need to ensure that the existing capital facilities plan includes adequate infrastructure to support any increases in density or intensity as a result of using TDR in a project. If not, the capital facilities plan may need to be amended in conjunction with the designation of receiving areas.

For further discussion of infrastructure and amenity funding, please refer to Cascade Land Conservancy's paper,

Capital Funding for Infrastructure and Other Amenities in Cities – Incentives for Participation in a Transfer of Development Rights Program.