

APPENDIX A

COMMUNITY PARTICIPATION PROCESS



Community Participation Process

A. North City Specific Plan (NCSP) Steering Committee Meeting and Community Workshop #1 – Visioning, Opportunities & Constraints (9/18/07)



The first of four NCSP Steering Committee Meetings and Community Workshops for the North City Specific Plan were held on September 18, 2007, in the Study Session Room at City Hall. The workshop was attended by over 50 participants from the community. The 22 members of the Steering Committee included several large landowners in North City, representatives from the City's Commissions and Council, and from other involved agencies. Discussions focused on how to best plan for the nearly 5,000 acres of vacant land in North City.



Consultant Presentation

After introductions, the Consultant Team presented PowerPoint slides showing the Specific Plan area boundaries, purpose of the Specific Plan, existing conditions (including market conditions and development potential), and opportunities and constraints for the area. The team then identified development and infrastructure potential, site limitations, and various ideas for the types of land uses that could be developed in North City.

Open Discussion

Many participants agreed that master planning North City would offer a prime opportunity for Cathedral City to become a focal point in the Coachella Valley. It also provided an exciting opportunity to develop an enticement to attract visitors.

Participants noted the cost of infrastructure for the Plan area, the impacts of the Coachella Valley Multiple Species Habitat Conservation Plan (MSHCP), and the physical site constraints (including drainage and wind). A primary focus of discussion was the pros and cons of providing primarily commercial/industrial development (versus residential development) in the Plan area to generate tax revenue for the City.

Visioning

During the visioning process, participants identified the need for a catalyst development – a unique element that would trigger development in the area and be a draw for North City. Ideas included

an upscale destination resort, multi-purpose sports facility, race track, mixed-use “town center”, architecturally unique mall, and family-oriented destination.

The importance of the natural environment was highlighted as a key consideration. Ideas included:

- Taking advantage of the open space and views.
- Using water features to create a bold statement.
- Creating oases-like settings in new development.
- Using sustainable development principles and green building approaches.
- Incorporating alternative energy sources.



Next Steps

The ideas offered at the Steering Committee Meeting and Community Workshop would be addressed in the Conceptual Land Use Alternatives to be presented at the second workshop and incorporated into the overall planning process.

B. NCSP Steering Committee Meeting and Community Workshop #2 – Conceptual Specific Plan Alternatives (12/17/07)



The NCSP Steering Committee Meeting and Community Workshop #2 were held on December 17, 2007, in the Study Session Room at City Hall. Approximately 50 people attended the Workshop. The purpose of the Steering Committee Meeting and Workshop was to present and discuss two conceptual land use alternatives for the Specific Plan area based on community input received at the first Steering Committee Meeting and Workshop. Participants had an opportunity to comment on the proposed alternatives and to guide the development of a preferred alternative.

Consultant Presentation

The Consultant Team presented PowerPoint slides identifying the Specific Plan area boundaries and the purpose of the Specific Plan. Two conceptual land use alternatives (Alternative 1 and 2) were also presented. These alternatives illustrated the proposed location of each land use type within the Specific Plan area, including the general size, development intensity, description of allowed uses and reason for the proposed location of each land use. This was followed by photos of mixed-use, commercial, business park and residential projects at various densities in other communities to illustrate the development potential and recommended building design concepts in North City.

The PowerPoint presentation also addressed the circulation system proposed to support the land use concept for each alternative. Fiscal impacts and preliminary financing strategies for required public infrastructure were also provided. A representative from the Coachella Valley Association of Governments (CVAG) presented the benefits and impacts of the Coachella Valley Multiple Species Habitat Conservation Plan (MSHCP) on new development in North City.

Open Discussion

Committee members and workshop participants provided positive feedback on various elements of each alternative, while also suggesting issues for further study and refinement. In general, a majority of the participants favored some elements of Alternative 1. Following are general consensus points on the conceptual land use alternatives:

- Preference for Mixed Use 2 designation adjacent to Palm Drive.
- Redesignate the residential area adjacent to the freeway.



- Redesignate the Edom Hill area to industrial.
- Add “big box” uses to Mixed Use I.
- Extend the Mixed Use I designation to the eastern edge.
- Evaluate commercial uses at the intersection of Mountain View and Varner.
- Preference for the Landau overcrossing.
- Realign Valley Center Boulevard.

Next Steps

Input received at the Steering Committee Meeting and Community Workshop #2 would be used to arrive at preferred land uses for North City, around which the Specific Plan would be framed.

C. North City Bus Tour (1/17/08)

Site Visit and Open Discussion

A bus tour of the North City Specific Plan area was conducted on January 17, 2008. The bus tour, open to the public, was set up for the Planning Commissioners and was also attended by several members of the Steering Committee, including a Councilmember, as well as property owners in the Specific Plan area and members of the public-at-large. The purpose of the tour was to envision and discuss the future of North City while being immersed in the environment. The bus stopped at several key locations where participants discussed the pros and cons of the various land use alternatives presented at Workshop #2.

Next Steps

The dialogue generated by the bus tour would be incorporated into the recommendations to be presented at Workshop #3.



D. NCSP Steering Committee Meeting and Community Workshop #3 – Preferred Land Use Concept (2/12/08)

The third NCSP Steering Committee Meeting and Community Workshop, held on February 12, 2008, in the Study Session Room at City Hall, were well-attended. A “Preferred” Land Use Concept for North City was presented. This Concept was based on the extensive input received on the two Conceptual Land Use Alternatives at the December 2007 Steering Committee Meeting and Community Workshop. Also considered in preparing the Preferred Concept were comments received at City Council, Planning Commission, Streets and Transportation Commission, and Agua Caliente Planning Commission meetings.



Consultant Presentation

The Consultant Team presented PowerPoint slides highlighting the community participation process to date and describing the proposed Open Space Framework and the Preferred Land Use Concept. A market and fiscal review of the implications of the recommended land uses was also presented.

Feedback Exercise

Following the presentation, participants engaged in a group feedback exercise where they voted to “agree” or “disagree” with the proposed locations of the recommended land uses. They also posted comments that could further refine the Preferred Land Use Concept. This included feedback on the variety of uses proposed to be permitted in each land use category. The proposed locations and intent of the Mixed Use Urban (MU-U)¹ and Mixed Use Neighborhood (MU-N)¹ categories were well-received and overwhelmingly supported. Comments were made on the addition of uses, such as hotels, to the proposed Business Park category, and whether to expand the MU-U boundary into the proposed Business Park area.



Open Discussion

Significant discussion evolved around the appropriate land use for the Edom Hill area. The two uses discussed were Light Industrial and Destination Resort. The City’s current zoning in that area is Light Industrial. One concept was to maintain this land use, but to emphasize “green” industrial users, such as solar and wind energy, recycling facilities, etc. The second concept discussed for this area was a destination resort in the form of a traditional resort with a golf course or an “eco-resort” that could include a desert education center, native-plant botanical garden and passive recreation, such as hiking trails. After much discussion, Steering Committee

¹ Subsequent to the community workshops, the nomenclature for the mixed use districts was changed to better reflect the intent of these two districts. Mixed Use-Urban (MU-U was previously Mixed Use-Commercial (MU-C) and Mixed Use-Neighborhood (MU-N) was previously Mixed Use-Residential (MU-R).

members did not reach consensus on a preference for Light Industrial uses or a Destination Resort, and workshop participants favored Light Industrial for the Edom Hill area. Other suggested uses included a wind farm and a cemetery.

Next Steps

Over the next several months, the Consultant Team and City Staff would finalize the Preferred Land Use Concept based on the input received. The Specific Plan text would then be prepared for the preferred concept. The Environmental Impact Report (EIR) for the Specific Plan would also be prepared. The next Steering Committee Meeting and Community Workshop would be to present and receive input on the Draft Specific Plan.



E. NCSP Steering Committee Meeting and Community Workshop #4 – Public Review Specific Plan (11/18/08)

The fourth and last scheduled Steering Committee Meeting and Community Workshop for the North City Specific Plan were held on Tuesday, November 11, 2008, in the Study Session Room at City Hall. Both the Meeting and Workshop were well-attended.

Consultant Presentation

The Consultant Team presented PowerPoint slides that summarized the provisions of the Specific Plan, described the vision for North City and concept overview, the elements of the Draft Specific Plan, an overview of the environmental analysis, and steps for implementing the Specific Plan. In general, the Draft Specific Plan, including the two Mixed-Use Zoning Districts, the open space framework, the circulation network and streetscape improvements, and the overarching goal to create a sustainable North City, was well received.



Open Discussion

The NCSP Steering Committee, which included several of the landowners with larger holdings in North City, and representatives from City Commissions and Council and from other involved agencies, unanimously agreed that the height limits proposed by the Draft Specific Plan be increased, particularly in the Mixed Use Zoning Districts. There were also requests for more flexible development standards, including increased maximum densities and smaller minimum lot sizes. The Steering Committee also discussed the potential for a future study to develop a public transportation system within North City, as well as linking North City to downtown and East Palm Canyon Drive/Highway 111.

During the Community Workshop, several property owners suggested realigning Valley Center Boulevard in the western portion of the Specific Plan area to separate the Mixed Use – Commercial (MU-C) and Mixed Use – Residential (MU-R) Districts. It was suggested that this would increase opportunities for commercial development along Valley Center Boulevard and create a buffer between the two land use districts. In addition, there was general agreement among Workshop participants that the height limits recommended in the Draft Specific Plan be increased.

In both sessions, questions were asked regarding the environmental analysis of the North City Specific Plan and how it could potentially benefit developers. The Consultant Team explained that the Environmental Impact Report (EIR) for the North City Specific Plan is a Program EIR.

Depending on the intensity and nature of a proposed development, subsequent projects could use the Program EIR, tier off the Program EIR by preparing a Negative Declaration or Addendum to the Program EIR, or prepare supplementation or subsequent environment analyses as necessary.

Next Steps

All comments received at the Steering Committee Meeting and Community Workshop #4 would be evaluated for inclusion in the next draft of the Specific Plan, which would be presented to the Planning Commission and City Council during public hearings in 2009.

APPENDIX B

SUPPORT DOCUMENTS



APPENDIX B

Support Documents

The following documents are available at the City of Cathedral City Planning Department:

Overview of Market Conditions and Identification of Development Potential
Prepared by Keyser Marston Associates, September 2007

Opportunities and Constraints Memorandum
Prepared by The Arroyo Group team, September 2007

Infrastructure Analysis and Hydrology Study
Prepared by JMC², September 2007, Updated April 2008

Existing Transportation Conditions
Prepared by Iteris, Inc., September 2007

Future Baseline Traffic Conditions
Prepared by Iteris, Inc., December 2007

Addendum to Infrastructure Analysis and Hydrology Study
Prepared by JMC², October 2008

Fiscal Impact Assessment and Preliminary Infrastructure Financing Strategy, North City Specific Plan
Prepared by Keyser Marston Associates, April 2009

Fiscal Impact Assessment and Infrastructure Financing Costs, North City Specific Plan – Accelerated Development Alternative
Prepared by Keyser Marston Associates, April 2009

APPENDIX C

**TRANSFER OF DEVELOPMENT RIGHTS (TDR)
PROGRAM AND SAMPLE TDR ORDINANCE**



Transfer of Development Rights (TDR) Program and Sample TDR Ordinance

A. Introduction to Transfer of Development Rights (TDR) Programs^{1,2}

The North City Specific Plan recognizes the Coachella Valley Multiple Species Habitat Conservation Plan (MSHCP) and provides the opportunity for owners of residentially-zoned property within the MSHCP Conservation Areas to transfer development rights to other sites located outside the MSHCP boundary, with the intent to preserve the majority of MSHCP land for open space. A Transfer of Development Rights (TDR) program is the recommended mechanism to achieve this goal.

TDR programs use the market to implement and pay for development density and location decisions. A TDR program permits landowners to shift densities from one site to another through a negotiated transaction. Under this approach, a landowner in a “sending” area could sell development rights to a landowner in a “receiving” area. The receiving area landowner would receive a density bonus in exchange for purchasing development rights in the sending areas. The sending area landowner would be required to record a conservation easement to restrict the use of the sending property for open space or agricultural uses. TDR programs offer many advantages to local governments that want to control land use but also compensate landowners for restrictions on the development potential of their properties. TDR programs use the free market to protect environmentally sensitive lands while providing for increased densities in appropriate areas.

B. Benefits of a TDR Program

The major attraction of a TDR program is its role in offsetting economic hardships incurred by private landowners. Fundamental to a TDR program is the premise that the resource owner's objection to potentially restrictive regulation will be blunted by the benefits that the resource owner is enabled to receive, either by selling his/her package of development rights to owners of transferee parcels or, should the resource owner also be the owner of the transferee site, by retailing the market value of the additional development potential that the rights represent.

A TDR program is also a technique that can be viewed as a means to balance the burdens and benefits of land-use regulation in the context of a comprehensive plan in which areas containing agricultural land, open space, and environmentally sensitive lands are designated for preservation, while other areas are designated for growth and development.

¹ “Transfer of Development Rights Program: Using the Market for Compensation and Preservation” by Jason Hanly-Forde, George Homsy, Katherine Lieberknecht, Remington Stone

² “21st Century Land Development Code” by Robert H. Freilich, S. Mark White, with Kate Murray

By providing compensation and mitigation to owners of restricted lands designated for preservation because of their agricultural, historical, environmental, or even aesthetic values, and by providing incentives of increased densities to owners of land in areas designated for redevelopment or growth, a TDR program facilitates traditional growth management goals and objectives. The result is a better urban form through preservation of open space and the shifting of growth into areas targeted for higher density. The improved urban form achieves efficiencies in the utilization and development of infrastructure, promotes energy savings by reducing sprawl, concentrates mixed use development in centers creating enhanced employment opportunities, and stimulates infill in underdeveloped areas.

C. Steps to Establish a TDR Program

Establishing a TDR^{3,4} program would generally include the following steps:

1. Designation of sending areas

All properties that fully or partially fall within the MSHCP boundaries would be designated as sending areas.

2. Designation of receiving areas

The receiving areas would be designated both within and outside the Specific Plan area where there is pressure for development and where infrastructure and services can be efficiently provided. More receiving opportunities than there are rights available for transfer could be provided. Infrastructure investments could be targeted in receiving areas.

3. Establishment of TDR credits

In a TDR program, the rights become the currency of development. The development value (not price) of a TDR credit is set so that one equals another. Credits can be bought and sold at any time, not just when a particular development in the receiving site is pending. Also, a TDR should be a general investment available to anyone, not just possible developers. Local citizens, land trusts and investors may all have an interest in the market for development.

4. Public Education

Public education is essential so that everyone remembers the program goals and learns the operation of the market. The program should be aggressively marketed in both the sending and receiving areas. Mailings to and public meetings for landowners in sending areas, potential developers and residents and owners of receiving areas are an integral part of the education effort.

5. Establishment of a TDR Program

In order to establish a TDR Program, the City would need to adopt a TDR ordinance. A sample TDR ordinance from the American Planning Association's Smart Land Development Regulations Model Codes (<http://www.planning.org/research/smartgrowth/>) is included in this appendix.

³ "Transfer of Development Rights Program: Using the Market for Compensation and Preservation" by Jason Hanly-Forde, George Homsy, Katherine Lieberknecht, Remington Stone

⁴ The New Jersey Pinelands Development Credit Program, The New Jersey Pinelands Commission

MODEL TRANSFER OF DEVELOPMENT RIGHTS (TDR) ORDINANCE

The model ordinance below establishes a general framework for severing development rights involving net density and intensity (through FARs) from a sending parcel and transferring them to a receiving parcel. Section 101 of the ordinance authorizes a transfer of development rights (TDR) for a variety of purposes, including environmental protection, open space preservation, and historic preservation, which are the most typical.

Under Section 104, the local government has two options in setting up the TDR program. The first involves the use of overlay districts, which would zone specific areas as sending and receiving parcels. The second involves identifying which zoning districts would be sending and receiving districts in the text of the ordinance itself, rather than through a separate amendment to the zoning ordinance. In both cases, the designations must be consistent with the comprehensive plan. Section 105 of the ordinance contains a table that shows, by use district, the permitted maximum increases in density and FAR that can be brought about through TDR.

Section 106 outlines a process by which the zoning administrator would determine the specific number of development rights for a sending parcel in terms of dwelling units per net acre or square feet of nonresidential floor area (for commercial and industrial parcels) and issue a certificate to the transferor. Sections 107 and 108 describe the instruments by which the development rights are legally severed from the sending parcel through instruments of transfer and attached to the receiving parcel. Section 107 describes how the applicant for a subdivision or other type of development permit would formally seek the use of development rights in a development project (e.g., a subdivision). Note that the transfer would not apply to rezonings, but only to specific projects where a development permit is going to be issued in order that development may commence.

Commentary to the ordinance describes, in Section 109, a development rights bank, a mechanism by which the local government purchases development rights before they are applied to receiving parcels, retains them permanently in order to prevent development, or sells them as appropriate in order to make a profit or direct development of a certain character to a specific area. Whether this is an appropriate role for local government or should be left to nonprofit organizations (e.g., land trusts) is matter for local discussion and debate. No ordinance language is provided, although the description in the commentary should be sufficient for local government officials to draft language establishing the bank.

Primary Smart Growth Principle Addressed: Preserve open space and farmland

Secondary Smart Growth Principle Addressed: Direct development towards existing communities

101. Purposes

The purposes of this ordinance are to:

- (a) preserve open space, scenic views, critical and sensitive areas, and natural hazard areas;

- (b) conserve agriculture and forestry uses of land;
- (c) protect lands and structures of aesthetic, architectural, and historic significance;
- (d) retain open areas in which healthful outdoor recreation can occur;
- (e) implement the comprehensive plan;
- (f) ensure that the owners of preserved, conserved, or protected land may make reasonable use of their property rights by transferring their right to develop to eligible zones;
- (g) provide a mechanism whereby development rights may be reliably transferred; and
- (h) ensure that development rights are transferred to properties in areas or districts that have adequate community facilities, including transportation, to accommodate additional development.

Comment: *The local government may tailor this list of purposes to its particular planning goals and objectives or leave it with a wide range of purposes and implement the ordinance to achieve specific goals and objectives.*

102. Authority

This ordinance is enacted pursuant to the authority granted by [cite to state statute or local government charter or similar law].

Comment: *It is important to determine whether the local government has legal authority to enact a TDR program because not all local governments in all states have identical powers. In addition, enabling legislation for TDR may require that the transfers be done in a certain manner other than is described in this model.*

103. Definitions

As used in this ordinance, the following words and terms shall have the meanings specified herein:

“Development Rights” mean the rights of the owner of a parcel of land, under land development regulations, to configure that parcel and the structures thereon to a particular density for residential uses or floor area ratio for nonresidential uses. Development rights exclude the rights to the area of or height of a sign.

Comment: *Unless sign area and height are excluded from the definition of “development rights,” it is possible to transfer them to another parcel, resulting in larger or taller signs. In*

some cases, development rights might extend to impervious surface coverage, and a transfer of such rights would allow more extensive lot coverage.

“Density” or **“Net Density”** means the result of multiplying the net area in acres times 43,560 square feet per acre and then dividing the product by the required minimum number of square feet per dwelling unit required by the zoning ordinance for a specific use district.

“Density” or “Net Density” is expressed as dwelling units per acre or per net acre

“Floor Area” means the gross horizontal area of a floor of a building or structure measured from the exterior walls or from the centerline of party walls. “Floor Area” includes the floor area of accessory buildings and structures.

“Floor Area Ratio” means the maximum amount of floor area on a lot or parcel expressed as a proportion of the net area of the lot or parcel.

“Net Area” means the total area of a site for residential or nonresidential development, excluding street rights-of-way and other publicly dedicated improvements, such as parks, open space, and stormwater detention and retention facilities, and easements, covenants, or deed restrictions, that prohibit the construction of building on any part of the site. “Net area” is expressed in either acres or square feet.

[**“Overlay District”** means a district superimposed over one or more zoning districts or parts of districts that imposes additional requirements to those applicable for the underlying zone.]

Comment: *This definition is only necessary if the TDR designation is accomplished via an overlay district.*

“Receiving District” means one or more districts in which the development rights of parcels in the sending district may be used.

“Receiving Parcel” means a parcel of land in the receiving district that is the subject of a transfer of development rights, where the owner of the parcel is receiving development rights, directly or by intermediate transfers, from a sending parcel, and on which increased density and/or intensity is allowed by reason of the transfer of development rights;

“Sending District” means one or more districts in which the development rights of parcels in the district may be designated for use in one or more receiving districts;

“Sending Parcel” means a parcel of land in the sending district that is the subject of a transfer of development rights, where the owner of the parcel is conveying development rights of the parcel, and on which those rights so conveyed are extinguished and may not be used by reason of the transfer of development rights; and

“Transfer of Development Rights” means the procedure prescribed by this ordinance whereby the owner of a parcel in the sending district may convey development rights to the

owner of a parcel in the receiving district or other person or entity, whereby the development rights so conveyed are extinguished on the sending parcel and may be exercised on the receiving parcel in addition to the development rights already existing regarding that parcel or may be held by the receiving person or entity.

Comment: *This definition recognizes that development rights may be sold to an entity (e.g., the local government or a nonprofit organization) that will hold them indefinitely.*

“**Transferee**” means the person or legal entity, including a person or legal entity that owns property in a receiving district, who purchases the development rights.

“**Transferor**” means the landowner of a parcel in a sending district.

104. Establishment of Sending and Receiving Districts.

[Alternative 1: Amend the zoning map using overlays]

(1) The [local legislative body] may establish sending and receiving districts as overlays to the zoning district map by ordinance in the manner of zoning district amendments. The [planning director] shall cause the official zoning district map to be amended by overlay districts to the affected properties. The designation “TDR-S” shall be the title of the overlay for a sending district, and the designation “TDR-R” shall be the title of the overlay for a receiving district.

Comment: *When a zoning map is amended, one practice is to list the ordinance number and the enactment date in a box on the map, along with the signatures of the planning director and the clerk of the local legislative body (e.g., the clerk of council). This allows for an easy reference if there should be any later questions about whether the map amendment accurately reflects the legal description in the ordinance.*

(2) Sending and receiving districts established pursuant to Paragraph (1) shall be consistent with the local comprehensive plan.

[Alternative 2—Specify zoning districts that can serve as sending and receiving districts]

(1) The following zoning districts shall be sending districts for the purposes of the transfer of development rights program:

[list names of districts]

(2) The following zoning districts shall be receiving districts for the purposes of the transfer of development rights program:

[list names of districts]

Comment: *Since the sending and receiving districts are being established as part of the ordinance rather than through separate overlays, the local government would need to make a declaration of consistency with the comprehensive plan for such districts as part of the enactment of these two paragraphs.*

105. Right to Transfer Development Rights

- (1) Each transferor shall have the right to sever all or a portion of the rights to develop from the parcel in a sending district and to sell, trade, or barter all or a portion of those rights to a transferee consistent with the purposes of Section 101 above .
- (2) The transferee may retire the rights, resell them, or apply them to property in a receiving district in order to obtain approval for development at a density or intensity of use greater than would otherwise be allowed on the land, up to the maximum density or intensity indicated in Table 1.

Table 1
Maximum Density and Intensity Allowed in Zoning Districts through Transfer of Development Rights (TDR)

Note: District names, densities, and intensities are hypothetical examples only.

Zoning District Title	Maximum Density in Dwelling Units Per Net Acre	Maximum Intensity in Floor Area Ratio	Maximum Density with TDR	Maximum Intensity in Floor Area Ratio with TDR
R-1	4		8	
R-2	8		16	
R-3	16		32	
C-1		0.2		0.4
C-2		1.0		2.0
C-3		2.0		4.0
C-4		4.0		8.0
I-1		0.75		1.5

(3) Any transfer of development rights pursuant to this ordinance authorizes only an increase in maximum density or maximum floor area ratio and shall not alter or waive the development standards of the receiving district, including standards for floodplains, wetlands, and [other environmentally sensitive areas]. Nor shall it allow a use otherwise prohibited in a receiving district.

Comment: *In some cases, it may be desirable to allow the transfer of the right to additional impervious surface coverage on a site. For example, if a certain zoning district limits the amount of surface parking by a maximum impervious surface parking ratio and additional parking is needed, Table 1 should be amended to authorize this.*

106. Determination of Development Rights; Issuance of Certificate

(1) The [zoning administrator] shall be responsible for:

- (a) determining, upon application by a transferor, the development rights that may be transferred from a property in a sending district to a property in a receiving district and issuing a transfer of development rights certificate upon application by the transferor.
- (b) maintaining permanent records of all certificates issued, deed restrictions and covenants recorded, and development rights retired or otherwise extinguished, and transferred to specific properties; and
- (c) making available forms on which to apply for a transfer of development rights certificate.

(2) An application for a transfer of development rights certificate shall contain:

- (a) a certificate of title for the sending parcel prepared by an attorney licensed to practice law in the state of [*name of state*];
- (b) [five] copies of a plat of the proposed sending parcel and a legal description of the sending parcel prepared by [licensed *or* registered] land surveyor;
- (c) a statement of the type and number of development rights in terms of density or FAR being transferred from the sending parcel, and calculations showing their determination.
- (d) applicable fees; and
- (e) such additional information required by the [zoning administrator] as necessary to determine the number of development rights that qualify for transfer

Comment: *A local government should consult with its law director or other legal counsel to determine the requirements for an application for a TDR. Consequently, this paragraph as well as other Sections of the ordinance may need to be revised to reflect state-specific issues concerning real property law and local conditions.*

(3) A transfer of development rights certificate shall identify:

- (a) the transferor;
- (b) the transferee, if known;
- (c) a legal description of the sending parcel on which the calculation of development rights is based;
- (d) a statement of the number of development rights in either dwelling units per net acre or square feet of nonresidential floor area eligible for transfer;
- (e) if only a portion of the total development rights are being transferred from the sending property, a statement of the number of remaining development rights in either dwelling units per net acre or square feet of nonresidential floor space remaining on the sending property;
- (f) the date of issuance;
- (g) the signature of the [zoning administrator]; and
- (h) a serial number assigned by the [zoning administrator].

(4) No transfer of development rights under this ordinance shall be recognized by the [local government] as valid unless the instrument of original transfer contains the [zoning administrator's] certification.

107. Instruments of Transfer

(1) An instrument of transfer shall conform to the requirements of this Section. An instrument of transfer, other than an instrument of original transfer, need not contain a legal description or plat of the sending parcel.

(2) Any instrument of transfer shall contain:

(a) the names of the transferor and the transferee;

(b) a certificate of title for the rights to be transferred prepared by an attorney licensed to practice law in the state of [name of state];

(c) a covenant the transferor grants and assigns to the transferee and the transferee's heirs, assigns, and successors, and assigns a specific number of development rights from the sending parcel to the receiving parcel;

(d) a covenant by which the transferor acknowledges that he has no further use or right of use with respect to the development rights being transferred; and

(e) [*any other relevant information or covenants*].

(3) An instrument of original transfer is required when a development right is initially separated from a sending parcel. It shall contain the information set forth in paragraph (2) above and the following information:

(a) a legal description and plat of the sending parcel prepared by a licensed surveyor named in the instrument;

(b) the transfer of development rights certificate described in Section 106 (4) above.

(c) a covenant indicating the number of development rights remaining on the sending parcel and stating the sending parcel may not be subdivided or developed to a greater density or intensity than permitted by the remaining development rights;

(d) a covenant that all provisions of the instrument of original transfer shall run with and bind the sending parcel and may be enforced by the [*local government*] and [*list other parties, such as nonprofit conservation organizations*]; and

(e) [*indicate topics of other covenants, as appropriate*].

(4) If the instrument is not an instrument of original transfer, it shall include information set forth in paragraph (2) above and the following information :

- (a) a statement that the transfer is an intermediate transfer of rights derived from a sending parcel described in an instrument of original transfer identified by its date, names of the original transferor and transferee, and the book and the page where it is recorded in the [land records of the county].
- (b) copies and a listing of all previous intermediate instruments of transfer identified by its date, names of the original transferor and transferee, and the book and the page where it is recorded in the [land records of the county].

(5) The local government's [law director] shall review and approve as to the form and legal sufficiency of the following instruments in order to affect a transfer of development rights to a receiving parcel:

- (a) An instrument of original transfer
- (b) An instrument of transfer to the owner of the receiving parcel
- (c) Instrument(s) of transfer between any intervening transferees

Upon such approval, the [law director] shall notify the transferor or his or her agent, who shall record the instruments with the [name of county official responsible for deeds and land records] and shall provide a copy to the [county assessor]. Such instruments shall be recorded prior to release of development permits, including building permits, for the receiving parcel.

Comment: *The procedures in paragraph (5) may need to be modified based on the structure of local government in a particular state and the responsibilities of governmental officials for land records and assessments. The important point is that the TDRs must be permanently recorded, and the property of the owner of the sending parcel, the value of which is reduced because of the transfer, should be assessed only on the basis of its remaining value.*

108. Application of Development Rights to a Receiving Parcel

(1) A person who wants to use development rights on a property in a receiving district up to the maximums specified in Table 1 in Section 105 above shall submit an application for the use of such rights on a receiving parcel. The application shall be part of an application for a development permit. In addition to any other information required for the development permit, the application shall be accompanied by:

- (a) an affidavit of intent to transfer development rights to the property; and
- (b) either of the following:

1. a certified copy of a recorded instrument of the original transfer of the development rights proposed to be used and any intermediate instruments of transfer through which the applicant became a transferee of those rights; or

2. a signed written agreement between the applicant and a proposed original transferor, which contains information required by Section 106(2) above and in which the proposed transferor agrees to execute an instrument of such rights on the proposed receiving parcel when the use of those rights, as determined by the issuance of a development permit, is finally approved.

(2) The [local government] may grant preliminary subdivision approval of a proposed development incorporating additional development rights upon proof of ownership of development rights and covenants on the sending parcel being presented to the [local government] as a condition precedent to final subdivision approval.

(3) No final plat of subdivision, including minor subdivisions, shall be approved and no development permits shall be issued for development involving the use of development rights unless the applicant has demonstrated that:

(a) the applicant will be the bona fide owner of all transferred development rights that will be used for the construction of additional dwellings, the creation of additional lots, or the creation of additional nonresidential floor area;

(b) a deed of transfer for each transferred development right has been recorded in the chain of title of the sending parcel and such instrument restricts the use of the parcel in accordance with this ordinance; and

(c) the development rights proposed for the subdivision or development have not been previously used. The applicant shall submit proof in the form of a current title search prepared by an attorney licensed to practice law in the state of [name of state] .

109. Development Rights Bank [optional]

Comment: *This section should establish a development rights bank, otherwise referred to as a “TDR Bank.” The local government or any other existing or designated entity may operate the bank. The TDR Bank should:*

- *have the power to purchase and sell or convey development rights, subject to the local legislative body’s approval;*
- *have the power to recommend to the local legislative body property where the local government should acquire development rights by condemnation;*
- *have the power, to hold indefinitely any development rights it possesses for conservation or other purposes;*
- *receive donations of development rights from any person or entity; and*
- *receive funding from the local government, the proceeds from the sale of development rights, or grants or donations from any source.*

No model ordinance language for the creation of the TDR bank is provided here because the specifics of such must be determined by the operating entity.

References

Fruita, Colorado, City of. Land Use Code, Chapter 17.09, Transfer of Development Rights/Credits [accessed December 14, 2004]:
www.fruita.org/pdf/LUC_4_2004/Chapter17_comp.pdf

Howard County, Maryland. Zoning Ordinance, Section 106, Density Exchange Option Overlay District [accessed December 14, 2004]:
<http://www.co.ho.md.us/DPZ/DPZDocs/ClusterDEO070104.pdf>

Redmond, Washington, City of. Community Development Guide, Section 20D.200, Transfer of Development Rights/Purchase of Development Rights Program [accessed December 14, 2004]:
[http://search.mrsc.org/nxt/gateway.dll/rdc dg?f=templates&fn=rdcdgpage.htm\\$vid=municodes:RedmondCDG](http://search.mrsc.org/nxt/gateway.dll/rdc dg?f=templates&fn=rdcdgpage.htm$vid=municodes:RedmondCDG)

Sarasota County, Florida. Zoning Code, Section 4.11, TDR Overlay District Intent Statements and Section 6.12, TDR Overlay District Development Standards, website [accessed December 14, 2004]:
<http://www.scgov.net/Frame/ScgWebPresence.aspx?AAA498=AFC1BAAF0A89CB7B9BBBAA7C0A4B273C8B5B3B5C86FBBAAC981B0ABB8A2C2B1C980ADB9C2B9>

St. Mary's County, Maryland. Zoning Ordinance, Chapter 26, Transferable Development Rights [accessed December 14, 2004] <http://www.co.saint-marys.md.us/planzone/docs/TDRammendment.pdf>

APPENDIX D

PROGRAM ENVIRONMENTAL IMPACT REPORT



APPENDIX D

Program Environmental Impact Report

The Final Program Environmental Impact Report (Prepared by HDR, Inc., July 2009) is available at the City of Cathedral City Planning Department.

