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Yard Work

Exploring Natural Capital Public Policy Issues

Open Spaces and People Places:

Transfer of Development Credits

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Many farmers and ranchers in western Canada are struggling to maintain their way of life as the agricultural economy shifts. As a result, many of them are under pressure to sell their land to residential and commercial developers. This results in a loss of productive agricultural land. Government programs that allow for the transfer of development credits (TDC) provide a way to direct residential and commercial development away from productive agricultural land (and sensitive natural areas) toward increased density in already built areas.

While TDC for agricultural and ecological purposes is a new policy instrument in Canada, it has been used with some success in the US. Montgomery County, Maryland, for example, has preserved more than 41,000 acres (Schneider 2006).

Building the Case: Protecting Agricultural Land While Making Room for Development

Urban growth puts pressure on Canada's limited supply of agricultural land. As Canada's population and cities grow, more and more agricultural land is being consumed by residential and commercial development. Alberta, for example, has lost 6% of its Class 1 agricultural land to urban development and most of the province's agricultural land is concentrated in the booming Calgary-Edmonton corridor (Hoffman 2001). This may not be a surprise—urban settlements typically form close to quality farmland—but it is a growing concern as urban areas continue to grow at the expense of the long-term economic and ecological benefits generated by agricultural land.

Because of the increasingly harsh economic realities facing small agricultural operators in Canada, many farmers and ranchers are under pressure to sell their land to commercial and residential developers. The desire to keep the family farm (and the cultural, aesthetic, ecological and agricultural benefits it yields) is either not possible or represents walking away from a significant financial opportunity.

What's in a Name? Rights versus Credits
In the US, the term transfer of development **rights** (TDR) is used. However, because the Charter of Rights does not mention property rights, transfer of development **credits** (TDC) may be more appropriate in a Canadian context (see Kwasniak 2004).

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TDC programs provide a means by which farmers and ranchers (and other landowners) can receive financial compensation for protecting their land from commercial and residential development.

How TDC Works

The concept behind TDC requires some explanation:

Governments limit the number of residential units that can be built in certain areas. At the same time, there are landowners such as farmers and ranchers who would like to see their land stay a farm or ranch but could get a good price for it from a developer. If a developer buys the land, they are allowed to build a specific number of units on it.

A TDC system allows developers to take the number of units (credits) that they would be allowed to build on a parcel of agricultural or other land (the sending area) and add them to the number of units they are allowed to build in another area such as an existing residential community (the receiving area). This is done by purchasing the credits from the landowner.

The government then requires the owner of the sending area to sign an agreement that protects the land from future development in perpetuity. In this way, the landowner is financially compensated and the land remains available for agricultural use or stays in its natural state.

Success Factors

Government is the linchpin and must use its power of regulation to enable the transfer of development credits from sending areas to receiving areas and to require that the sending areas be protected from future development. In essence, it is a government zoning practice that encourages more efficient use of land by increasing density and directing development away from agricultural land and natural areas toward already built areas.

TDC and TDR are used for a variety of purposes and are not limited to attempts to direct development away from agricultural and natural areas. For example, TDC can be used to encourage the preservation of historic buildings: "A historic building is surrounded by skyscrapers. The building is only three stories high, but each building in the area has the right to thirty-five stories of airspace. The community doesn't want the historic building to be destroyed. The owners of the historic building could make a great deal of money by selling their building and allowing a thirty-five story office building to be built in its place. But if they sell their air rights to someone developing an office building nearby, they can make almost as much money, if not more, without demolishing the historic building. And the person who purchases their air rights can now build a sixty-seven story office building." (Source: http://en.wikipedia.org/wiki/Transfer_of_development_rights).

Here in western Canada, a Vancouver program encourages developers to protect buildings of historical value in exchange for being allowed to develop beyond existing density regulations.

TDC also requires land owners with an interest in selling credits rather than selling their land outright and developers with an interest in buying credits as opposed to simply developing new parcels of land or living within the development caps in already built areas. TDC programs should be planned for areas of high development pressure and where there is a clear benefit to developers (i.e., developers must find it profitable to buy credits for use in receiving areas).

How Did TDR Evolve in the US?

- Evolved from the implementation tool of clustering—allowing developers to concentrate development on one portion of a single parcel,saving environmentally sensitive land, prime agricultural soils or any other resource.
- 1968—New York City adopts the first US TDR program to protect historical landmarks.
- 1970s—Over 20 TDR ordinances were adopted in 11 states, including a farmland preservation program in Calvert County, Maryland.
- 1980s—Over 60 TDR programs were adopted in 19 states, including the program in Montgomery County, Maryland that has preserved over 41,000 acres to date. The State of New Jersey also instituted the million acre New Jersey Pinelands TDR Program that coordinates transfers between 60 jurisdictions and preserved 31,465 acres by August 2001.
- 1990s—Over 40 TDR programs were adopted in 13 states, including the introduction of a TDR bank in Palm Beach County, Florida to sell 8,800 TDRs and jumpstart its program.
- Today—Additional communities continue to adopt new TDR programs.

Source: Pruetz 2003

Public support is also essential—especially given the traditional resistance to increased density in built areas on the part of current residents. If a government wishes to implement a TDC program, it must ensure that it makes a strong case for the preservation of land for agricultural, historical or ecological purposes, and that this case appeals to those in the community who will be affected by the program.

If these conditions are in place, a successful TDC program can marry the twin needs of conservation and land development.

Conclusion

TDC programs should be seen as a possible addition to the policy tool kit of western Canada's policy-makers. TDC does exactly what a good land use policy should do: facilitate the preservation of areas of agricultural, historical and ecological importance and directing development toward more suitable areas. TDC is not a panacea, but it offers a new approach that should be seriously considered by policy-makers as a way to encourage responsible land use and to help ensure that our natural capital is maintained for future generations (land stewardship).

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