

# **A G E N D A**

## **JAMES CITY COUNTY BOARD OF SUPERVISORS**

### **READING FILE**

**June 14, 2011**

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#### **FOR YOUR INFORMATION**

1. Transfer of Development Rights Feasibility Study: Contextual Analysis

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MEMORANDUM

DATE: June 14, 2011

TO: The Board of Supervisors

FROM: Leanne Reidenbach, Senior Planner  
Allen J. Murphy, Jr., Director of Planning/Assistant Development Manager

SUBJECT: Transfer of Development Rights Feasibility Study: Contextual Analysis

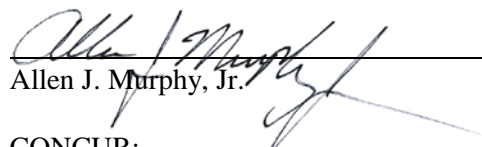
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Attached is the Contextual Analysis for the Transfer of Development Rights (TDR) Feasibility Study. This is the second of four deliverables that Design, Community, and Environment (DC&E) were contracted to develop. The first deliverable was the background research presented at the Board's work session on December 14, 2010. The purpose of the second deliverable, the Contextual Analysis, is to evaluate a potential TDR program within the framework of the County's existing growth management and rural land/agricultural preservation tools to determine if the programs would complement each other, or whether TDR would interfere with the tools the County has already established.

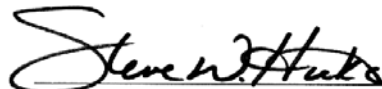
The Contextual Analysis shows that TDR can be a valuable growth management tool for James City County and is compatible with the County's existing tools including Purchase of Development Rights, Greenspace, Agricultural and Forestal Districts, Use-Value Taxation, and Conservancy easements. The forthcoming market analysis will provide a greater understanding of how much TDR could supplement these tools by determining if there would be demand in the development market for buying and selling TDRs.

This analysis is provided for informational purposes and to help in the final decision-making process later this year. When the remaining two deliverables (the market analysis and the final recommendations) are finalized later this year, the final documents will be presented to the Board as a package by staff and DC&E at a work session.

  
Leanne Reidenbach

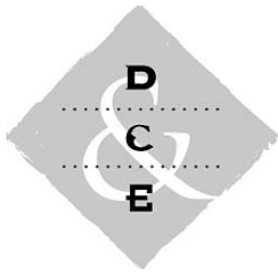
  
Allen J. Murphy, Jr.

CONCUR:

  
Steven W. Hicks

LR/AJM/nb  
TDRFeasStdy\_mem

Attachment



88 N. OAK STREET,  
SUITE 2B  
VENTURA, CA 93001  
TEL: 805 643 7700  
FAX: 805 643 7782  
[www.dceplanning.com](http://www.dceplanning.com)

## MEMORANDUM

DATE June 14, 2011  
TO Steven Hicks, Development Manager  
James City County  
FROM Bill Fulton & Aaron Engstrom, DC&E  
RE **TDR Feasibility Study- Contextual Analysis**

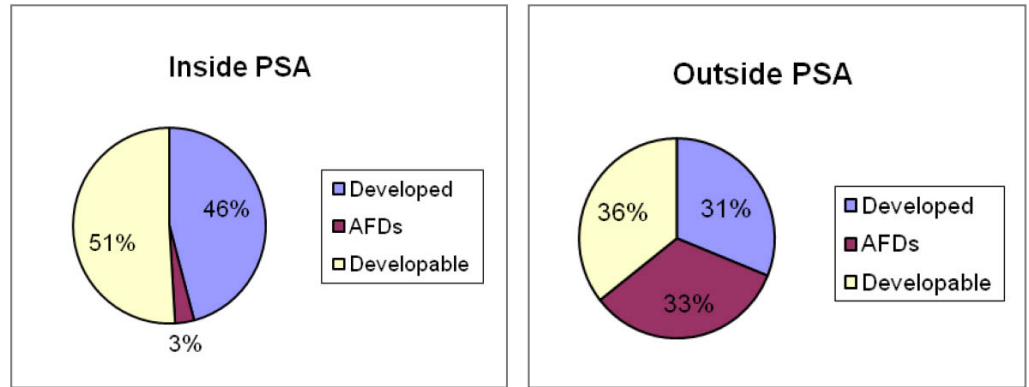
### *A. Introduction: Policy Framework*

If James City County were to adopt a Transfer of Development Rights (TDR) program, it would be only one of several growth management tools employed by the County. In order to understand the role the TDR program can play, it is important to understand the context of existing policies and tools in James City County – both the policy context and the context of existing growth management tools.

The policy document that shapes growth management in James City County is the Comprehensive Plan, which was adopted in 2009. The foundation policy for growth management in the Comprehensive Plan is the Primary Service Area, or PSA, which identifies areas to be served by the County's public water and sewer system. The Comprehensive Plan assumes that most property inside the PSA will be available for development at suburban or urban levels, while most property outside the PSA will remain rural with at least 3-acre lots. The Comprehensive Plan does call out the "Economic Opportunity" area, a 900-acre area near the Mooretown Road/Hill Pleasant Farm area, which is outside the PSA, but is designated for development, mostly for non-residential property. The expectation is that the property will be brought into the PSA prior to or concurrent with a rezoning to the appropriate development district.

As Figures 1 and 2 below suggest, the PSA does not currently represent a hard line between developed and undeveloped areas. More than 8,000 acres outside the PSA are currently developed or planned to be developed, while more than 1,500 acres inside the PSA are currently protected as Agricultural and Forestal Districts (AFDs). Nevertheless, most developed land is located inside the PSA and most working landscapes (farm and timber land) are located outside the PSA.

FIGURE I PERCENT ACRES INSIDE VERSUS OUTSIDE OF THE PSA



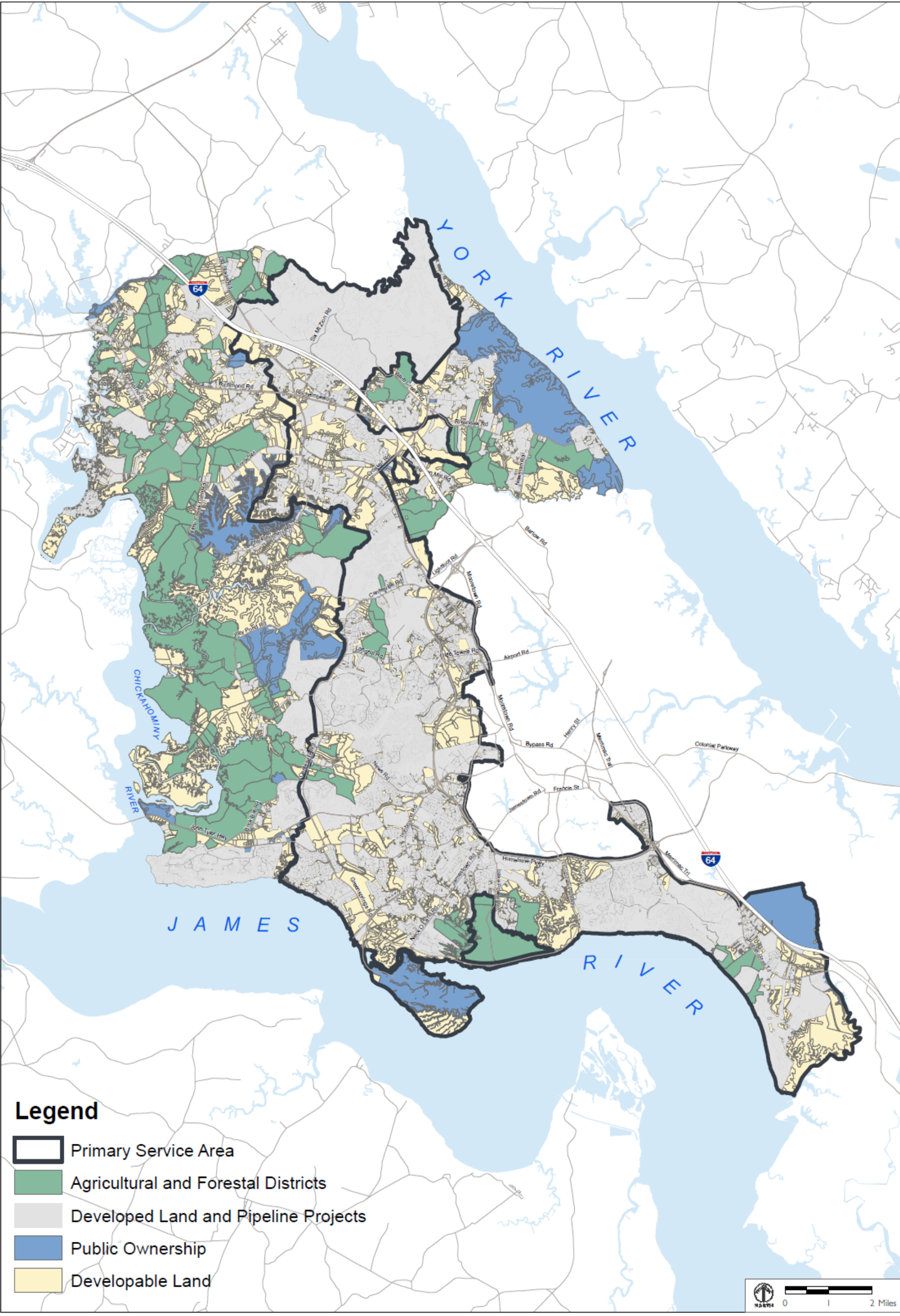
Notes: Developed land based on assessor parcels with high improvement value to land value ratio and "Subdivision Buildout 2010" map. The following improvement to land value ratios were used: vacant = 0-0.1, partially developed/developable = 0.1-1.1, developed = greater than 1.1. All figures were calculated including water and RPA and based on GIS acreages.

The Comprehensive Plan calls on the County to examine the feasibility of a TDR program (LU 6.1.2 (d)). It also contains several other policies that could potentially support a TDR program, including:

- ◆ Continue to fund and aggressively apply the Purchase of Development Rights (LU 6.1.2) and Green Space Acquisition programs.
- ◆ Aggressively promote the use of agricultural and agri-business (LU 6.1).
- ◆ Amend the A-1 zoning ordinance to permit more by-right agri-business, eco-tourism and green energy uses (LU 6.1.3).
- ◆ GSA LU 6.2.1 and 6.2.2 call for setting lot sizes in rural areas at a significantly lower density than the 3 acre size now permitted.

The idea of a TDR program came after TDR was enabled by the State and around the time an earlier study on the development of rural areas that included a debate over the size of rural lots, and the impetus for completing a feasibility study was included in the 2009 Comprehensive Plan. The TDR program could provide the County with another tool to help preserve rural land in larger blocks, while still keeping rural landowners financially whole, by transferring development rights from rural areas to preferred growth areas (whether inside the PSA or in the EO). In providing guidance for this study, the Board of Supervisors has emphasized three important possible goals for the TDR program:

1. Conserve rural sending areas while keeping rural landowners whole financially;
2. Focus on preserving working landscapes, especially those with agricultural potential; and
3. Promote economic development in the EO.



Note: The purpose of this map is to provide a general idea of the status of development in James City County.

### ***B. Growth Management and Land Conservation Tools***

A TDR program is only one of many growth management tools used to implement the goals of a local comprehensive plan. James City County has already used several other growth management tools. This section is devoted to reviewing the role of each of those tools and, given their success, determining the best role for the TDR program in the overall growth management system. In James City County, these tools can be separated into two categories: tools that have a direct influence on future development, and tools that have an indirect influence on future development. These tools can be grouped into these categories as follows:

Tools that directly influence future development:

1. Publicly Funded Open Space Conservation Programs
2. Land Trust/Conservancy Programs that create conservation easements
3. Chesapeake Bay Act Ordinance

Tool that indirectly influence future development:

4. Use Value Taxation and AFDs
5. Proffers

#### **1. Publicly Funded Open Space Conservation Programs**

James City County currently has two publicly funded open space conservation programs: the Purchase of Development Rights (PDR) program, which acquires voluntarily offered, perpetual conservation easements on qualifying lands outside the PSA, either by purchase or gift, and the Greenspace program, which mostly focuses on acquisition of sensitive land or easements on such land inside the PSA. These programs are currently funded through a \$20 million bond issue approved by County voters in 2005.

##### **a. PDR Program**

The PDR program is the most analogous program to a TDR program. In each case, rural landowners sell their development rights but retain private ownership of their land, most often for continued use as a working landscape such as a farm. In this very limited sense, a primary difference between a PDR program and a TDR program is the source of funding. In the PDR program, rural landowners are compensated with county bond proceeds, while in a TDR program, rural landowners are compensated by developers seeking higher density for their projects.

The PDR program in James City County was designed to conserve rural tracts of high quality land outside the PSA, but does not target specific sites. Criteria for conservation include:

- ◆ Parcel size
- ◆ Adjacency to parks and other conservation easements
- ◆ Farmland resources
- ◆ Environmental resources
- ◆ Community Character Corridor resources



- ◆ Natural, cultural and scenic resources
- ◆ The amount of the parcel suitable for development

When the County acquires a voluntary perpetual conservation easement from a landowner through the PDR program, the landowner's development rights are extinguished by a signed and recorded Deed of Easement. The County holds the conservation easement on the property preventing future development, but the landowner retains ownership of the property.

The PDR Program was adopted by the Board in November 2001, funded in 2002, and acquired its first conservation easements in 2003. Over the life of the program PDR has preserved approximately 500 acres on 5 sites. In March 2010, the Board approved the purchase of a 6<sup>th</sup> conservation easement on 39 acres. Closure of this easement is dependent on the landowner. PDR currently has four applications under review representing 350 acres. Furthermore, PDR has transferred several applications to the more flexible Greenspace Program in order to protect these strategically important parcels representing approximately 250 acres. PDR also assisted the Virginia Department of Forestry in acquiring a conservation easement on 250 acres in 2010, saving the PDR Program several million dollars in acquisition costs.

**b. Greenspace Program**

Focused on purchasing property or easements restricting development rights or activities within certain areas of a property, mostly within the PSA, the Greenspace program has conserved 1,300 acres. Unlike the PDR program, the Greenspace program is not formally adopted through an ordinance, there are no institutionalized criteria, and no advisory committee. Rather, the County has developed a priority list and functions opportunistically when key parcels become available. The types of land conserved include farms, tree buffers, public and private parks, and open space. In one case, the County leases land purchased through the Greenspace program for farming.

**2. Land Trust/Conservancy Programs**

Although not a program operated by the County, the efforts of the Williamsburg Land Conservancy to acquire development rights through donation are also an important part of James City County's growth management system.

The Conservancy holds 17 easements totaling more than 1,100 acres in the county. Throughout the nation, the main benefit of donating development rights to a private land trust is the federal tax deduction. Rural landowners donate their development rights to a private land trust when they want to retain the property's ownership and generate income. They seek to offset the land ownership through a tax write-off under IRS Code Section 170(h).

In Virginia, however, there is an additional incentive for rural landowners: the Land Preservation Tax Credit. When a rural landowner donates a conservation easement to the Williamsburg Land Conservancy, the landowners can apply for a tax credit worth up to 40 percent of the value of the easement, subject to certain restrictions. Furthermore, rural

landowners who qualify for this tax credit can sell the credits to other individuals who have high incomes and therefore are in need of tax deductions. These tax credits are, on average, being sold for 78 cents on the dollar throughout the state.<sup>1</sup> Thus, unlike in other parts of the country, rural landowners in James City County who donate easements to the Conservancy can receive cash for the donation by selling the tax credits. This makes the donation of land an option for landowners of all incomes. In addition, the Virginia State Capital Gains tax exclusion allows a landowner to sell a parcel with a conservation easement without paying capital gains tax on the sale amount.

Thus, rural landowners seeking to retain their property but receive cash from their development rights can either seek a PDR arrangement from the County or donate the land to the Conservancy and seek to try to sell the tax credits. The terms of the easements are somewhat different in the two situations and the PDR easements are comparably less restrictive than Conservancy easements, primarily because the Conservancy's easements are restricted by IRS tax requirements. The PDR program's easements allow 5 percent impervious surface compared to 2.5 percent by federal standards. PDR also allows greater flexibility for accessory dwelling units, floor area, and parcel sizes.<sup>2</sup>

### 3. Chesapeake Bay Act Restrictions

The County adopted the Chesapeake Bay Preservation Ordinance in 1990 and developed our own provisions that exceed what is required to comply with the Chesapeake Bay Act and protect sensitive land from development. James City County's Ordinance has several provisions that conserve land and hence manage growth. These include:

1. Resource Protection Areas (RPAs), which are lands required for water quality and therefore are extremely restricted in terms of development potential, even if they are on private property.
2. Impervious surface regulations, which generally limit impervious surface on most parcels to 60 percent of the parcel area, except in some industrial zones, where up to 70 percent of the parcel area may consist of impervious surface. This regulation is mainly dealt with for more intense development (commercial or multi-family housing) within the PSA.

Thus, the Chesapeake Bay Preservation Ordinance can restrict the development potential that many landowners have, depending on the property's characteristics and the design of the proposed development.

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<sup>1</sup> Williamsburg land Conservancy stakeholder interview, December 16, 2010. The Virginia Department of Conservation confirmed that the 78-cents figure is consistent with the information they have.

<sup>2</sup> Stakeholder meeting with Ed Overton, PDR Program Administrator, and Caren Schumacher, Williamsburg Land Conservancy Executive Director, December 16, 2010.



#### **4. Use Value Taxation and AFDs**

These tax incentives provide rural landowners with a tax incentive for short-term land conservation. By voluntarily restricting a property's use to rural activities such as farming, landowners can qualify for enrollment in an Agricultural and Forestal District (AFD) and qualify for use-based, rather than market-based, taxation. By one estimate, enrollment in an AFD can reduce the property tax on a parcel by more than 80 percent. However, these tax incentives are available only for 4- to 8-year term that can be renewed for as long as the landowner wishes to remain in the district and their property continues to meet the AFD requirements.

Approximately 17,000 acres or 15 percent of County land is enrolled in 14 different AFDs. While enrolled in AFDs the land may not be rezoned. Inside the PSA, the AFD designation is often used to hold large parcels of land intact while a more specific plan for development is being prepared. The AFD eligibility and withdrawal policies for all districts are anchored by core parcels. If these large parcels of 200-acres or larger are removed from an AFD, other small parcels that may be under different ownership may also have to be removed if the district no longer meets the size or proximity requirements. AFDs provide protection for landowners from nuisance ordinances and eminent domain for transportation projects. An AFD can also be designated as a TDR sending area, and this relationship is discussed in Section C.

#### **5. The Proffer System**

Though not a growth management tool focused on the geographical location of development, the proffer system does provide James City County with an important opportunity to manage the infrastructure needs associated with new development. In a typical development project, developers proffer facilities or cash for schools, roads, public utilities, and other necessary infrastructure in order to get upzoned.

Obviously, the option of purchasing TDRs stands in competition, to some extent, to proffer payments for public infrastructure. This issue has parallels in other states that don't use the proffer system. In some cases developers are given an incentive zoning "menu" of proffer-type items, including TDRs and infrastructure that can be exchanged for higher density (compared to proffers that are offered to get rezoned to a higher density). Furthermore incentive zoning is not currently practiced in Virginia and the practice of obtaining certain proffer-type items in exchange for by-right density may not be legal. The DC&E team will work with the staff in determining which approach is most appropriate in dealing with this very difficult issue under Virginia law.

#### ***C. Coordination of the TDR Program with Other Growth Management Tools***

No single growth management tool, including a TDR program, can successfully achieve all of the County's growth management objectives. Only by working together will these programs have maximum effect. To this end, the TDR program should be coordinated with these other growth management tools as much as possible. In crafting the TDR program, the County should take the following considerations into account:

### 1. Land Conservation Programs

In the sending areas, the TDR program is an additional method to conserve rural land, along with the other land conservation programs. Thus, for rural landowners seeking cash for their development rights, it provides a fourth option, along with the County's PDR, Greenspace, and AFD programs and the Williamsburg Land Conservancy's efforts. Although the Greenspace program functions mostly inside the PSA, it is also used to preserve key parcels located outside of the PSA when the landowner is not interested in PDR or seeks a fee-simple sale of the land.

More options are always a good thing for property owners because they increase the chances of a successful transaction. For rural landowners, their choice among these four options will come down to the details driving the implementation and operation of each program, including the amount of cash received, the timeliness of payment (TDR Bank vs. no TDR Bank), the ease of the transaction, and the easement limitations placed on the property. Based on the evidence we have seen, including the amount of activity, it would appear that most James City County rural landowners currently prefer to enroll in an AFD and receive the tax breaks. Relatively few have chosen to also include a public or private easement on an AFD, although it is permissible to do so.

Thus, a TDR program must be carefully constructed to address these factors. As the TDR study progresses, it will address the question of which entities should play specific roles in program implementation. This will raise the question of which roles, if any, should be played by the County and the Conservancy in the TDR program. Three specific issues about roles will be addressed:

- 1) How TDRs are valued
- 2) Who should operate the TDR Bank, if one is created
- 3) Issues related to the resulting conservation easements

#### a. TDR Valuations

Both the County's PDR program and the Conservancy's efforts are based on before and after appraisals to determine the value of the development rights. In circumstances where TDR values are based on appraisals, the same methodology should be used. This is most likely to be in situations where the TDR Bank (if it is established) is the buyer of development rights. On direct buyer-seller transactions, the price could be negotiated.

#### b. The TDR Bank

Most TDR programs have a TDR Bank that buys, holds, and sells development rights for the purpose of stimulating the market at the beginning and smoothing over the market over time. If the County concludes that establishing a TDR Bank should be part of the program, the County will have to designate an entity to operate the Bank. The County, the Conservancy, or another entity could be designated as the Bank.

On the one hand, it might make sense to combine the Bank with the existing PDR Program, since they would both be “in the same business” (buying development rights). This system is used in King County, Washington, and a few other places.

On the other hand, a close association with the County may not be perceived as an advantage to rural landowners, so the County might consider affiliating the TDR Bank (and the TDR program generally) more closely with the Conservancy or another land nonprofit – an approach that is common in many places.

In either case for James City County, the designated entity (either the County or the Conservancy) would have experience valuing and acquiring development rights but not selling them. Whether it is the County, the Conservancy, or another entity, the entity must be prepared for the full range of market transactions. Establishing a bank could have implications for staffing and training, which will be examined in more detail in DC&E’s recommendations report.

c. Conservation Easements

Once development rights are sold, rural landowners will be required to place a conservation easement on their property. This raises the question of which entity holds the easement and what types of use restrictions are contained in the easement.

Both the County and the Conservancy currently negotiate easements and then hold them after acquiring development rights. The County holds easements that are from both the PDR and Greenspace programs. The County has a standard template for easements under the PDR program, whereas the Greenspace program easements are more flexible and tailored to specific situations. The Conservancy’s easements are somewhat flexible but are also tied to the Virginia Land Use Preservation Tax Credit with specific criteria. The County would have to decide which entity holds the easements permanently and what use restrictions should be contained in those easements.

d. Agricultural Forest Districts

AFD districts can also be designated as TDR sending areas. Both AFDs and TDRs allow a landowner to convert to a land use-based tax status that evaluates the parcel value based on the production value of the land and not the land itself. Fredericksburg, Virginia has adopted a TDR program that allocates additional TDRs to AFDs in sending areas.<sup>3</sup> It is consistent with the County’s policies to permanently preserve AFD land, and TDR could be used for this purpose.

The upfront payoff from selling TDRs, combined with the nuisance and eminent domain protection afforded by the AFD designation, may provide landowners with enough incentive to enroll their property in both programs. Conversely, the permanent deed restriction enacted through TDR may discourage some landowners who are uncertain

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<sup>3</sup> James City County Conversation with Candice Perkins, Senior Planner, City of Fredericksburg, March 17, 2011

about making permanent changes to their property rights, and this may be the reason why few AFDs currently have easements.

From the County's perspective, a consideration is whether it is valuable to designate AFD districts, or core parcels within the districts, as TDR sending areas. There is a possibility that there might be a reduction in AFD addition rates by designating AFDs as TDR sending areas. It is also possible that there may be requests to withdraw parcels from AFDs if they sell all the development rights on the property, though staff does not think this would spur a significant number of withdrawal requests. If large parcels are removed from the AFD, the district may have trouble meeting minimum size and distance requirements. The possibility of permanent protection through TDR may be more beneficial and attractive to pursue for some landowners than the temporary protection of AFDs.

## **2. Chesapeake Bay Ordinance**

As stated above, the Chesapeake Bay Ordinance can create significant limitations on development potential for many property owners – most specifically those landowners whose property falls within a Resource Protection Area (RPA). These restrictions pose an important question for the TDR program, which is whether rural landowners' development rights should be based on the gross or net developable acreage.

If gross acreage is used, the effect would be for rural landowners to be granted development rights on their RPA land, even though they cannot actually develop the RPA property on-site. If net acreage is used, the effect would be that many rural landowners would have fewer development rights than in the gross acreage scenario and, hence, less incentive to participate in the market. However, using net acreage would be a more accurate reflection of how many units would have been allowed to be built on a given property.

Montgomery County, Maryland, includes sensitive areas when sending-area TDR are allocated based on acreage. The downzoning to 1 unit per 25 acres was the most significant factor in the programs' design of sending areas, and even with sensitive areas included; a 25 acre site can still accommodate the single unit permitted.<sup>4</sup> Additionally, the high demand for land in Montgomery County reduces the relative impact of sensitive areas on land value.

The James City County situation does not have the same level of demand for rural estate lots as Montgomery County, and the RPA areas can have a significant impact on whether a 3-acre sending site would be developable and hence get TDRs. Therefore, the use of net acreage in calculating development rights in James City County would reduce the supply of TDR and increase the probability that the program conforms with the State enabling legislation by balancing the number of units generated by sending areas and land available for development in receiving areas.

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<sup>4</sup> Conversation with Jeff Zyontz, Montgomery County Counsel Legislative Analyst, March 28 2011.

A downzoning of the sending areas would make inclusion of the RPA areas less of an issue. If there is a downzoning, the TDRs could be allocated based on gross acreage only if the base transfer ratio is based on the new lower density. This would:

- ◆ Streamline the program mechanics and compensate landowners for the downzone,
- ◆ Be an added incentive to participate in the TDR program if landowners are reluctant,
- ◆ Permanently conserve RPA areas whereas legislation is not perpetual,

If the base transfer ratio for TDRs is based on the originally permitted zoning of the property (3 acre minimum lot size), using gross acreage would increase the overall number of units allowed in the County.

The restriction on impervious surface also poses an issue and possibly an opportunity mostly for development within the PSA. By restricting impervious surface to 60 percent of parcel area, the County has, in effect, placed a cap on the overall amount of impervious surface in the County, which means a market for trading impervious surface could be created. As a note, this requirement may need to be amended subject to adoption of the State's stormwater management regulations. Such a market exists in the Lake Tahoe Basin, where each property owner has a limit on impervious surface, but impervious surface rights can be bought and sold.

A system of trading impervious surface rights could be considered as part of the TDR program. The impervious surface restriction is one of the most common concerns of developers of commercial and multi-family projects inside the PSA in James City County. Rural land subdivisions approach this restriction less frequently. It is possible that allowing impervious surface transactions could improve water quality protection by moving impervious surface to those locations where it will do the least harm, rather than simply allocating it to each property owner on a proportional basis. For such a market to work, however, the demand for additional impervious surface would have to be high enough that developers would be willing to pay considerable sums of money to acquire more, especially since developers will still be required to treat water quality and quantity as if there was only 60% impervious coverage, thus potentially raising the costs of development. Also, depending on the changes to State stormwater regulations, such as if the permitted impervious surface coverage is increased; trading impervious surface may become less attractive to developers. A further hurdle would be that State TDR enabling legislation would have to be amended to allow this transfer and the Chesapeake Bay Ordinance would have to be amended to potentially allow more flexibility for higher impervious coverages in receiving areas. Finally, the tracking and analysis required of this type of transfer may be more complicated than the transfer of residential units.

### **3. Proffers**

Of all the growth management tools discussed in this memo, Proffers represent the tool most likely to conflict with TDRs. Proffers come into play only when developers seek a rezoning. Hence, both proffers and TDRs represent an additional cost to developers in seeking higher density. On the one hand, for the TDR market to succeed, the acquisition of TDRs must represent a clear path toward higher density. On the other hand, if developers

can use TDRs to obtain higher density, they may not offer needed proffers, meaning the County could face a shortage of infrastructure.

Ideally, the TDR program should be constructed in such a way that developers can accommodate both proffers and TDRs. The economic analysis undertaken in this study will take into account a typical proffer package and determine under what circumstances additional funds would be available to purchase TDRs. A fundamental question is whether TDRs should *replace* proffers for any increment of density.

#### 4. Linking TDRs to PSA Changes

One final possibility would be to link the TDR program to changes in the PSA. In essence, this would mean that developers seeking to expand the PSA would have to obtain TDRs in order to do so. Two possible mechanisms could be used:

First, TDRs from a sending area *outside* the current PSA could be required in order to bring other property inside the PSA. This method, for example, could be used in the EO, which is outside the PSA but is targeted for certain types of development.

Second, TDRs from sending areas *inside* the PSA could be required in order to bring other property inside the PSA. For this method to be successful, the County would have to designate specific sending areas inside the PSA and specific receiving areas (including but probably not limited to the EO) outside the PSA. In either of these instances, the County would have to pursue an amendment to the State enabling legislation.

#### D. Conclusion

Overall, DC&E believes that at this stage in the feasibility study, TDR could benefit the County without hampering other preservation programs that are already in place by utilizing TDR in the following ways:

- ◆ PDR: The County could prioritize TDRs to achieve the same result as PDR, but without using bond-funded County revenues, if landowners are equally or more willing to participate in a TDR program as they are in a PDR program.
- ◆ Greenspace: The County could use TDR if a fee-simple purchase at or below market value cannot be negotiated, and if a landowner is interested in permanent conservation while continuing use of the land. However the strategic method of preserving key sites in the Greenspace program would be difficult to replicate with a TDR program unless there is a TDR Bank because TDR is wholly voluntary and dependent on a willing sending area landowner and a receiving market for money.
- ◆ Conservancy Easements: The Conservancy should be involved in the TDR program but its precise role will need to be decided by the County.
- ◆ AFDs and Use-Value Taxation: The County could use TDR to permanently conserve AFD districts, if landowners are willing to permanently forego development in exchange for a one-time sale of TDRs and TDR does not dilute the value of AFDs.

- ◆ The County could exclude RPAs during the allocation of TDR in order to limit the supply of TDR in sending areas, unless 1) inclusion of the RPAs is required to significantly increase landowner willingness to participate in the TDR program, or 2) there is a downzoning involved and the new zoning (10 acre minimum lot size) is used as the base transfer ratio rather than using the original zoning (3 acre minimum lot size). In this case the RPAs will not have as much impact on land values and the number of development rights on a site. Again, if the original zoning is used as the base transfer ratio, basing density on gross acreage will lead to an increase in the total number of units permitted in the County.

This analysis shows that TDR can be a valuable growth management tool for James City County that uses private revenue to conserve open space rather than County funds. TDR is compatible with the Use-Value Taxation Policies and AFDs but affords permanent, rather than short-term, conservation. On a more comprehensive level, TDR's market-based approach to conservation relies on demand for TDRs that would be driven by receiving-area development. It also relies on the program's ability to bridge timing issues that government-funded programs are less susceptible to. The Task C Market Analysis will provide a greater understanding of how much potential the TDR program really has to supplement the growth management tools currently used by James City County by determining whether the market and demand is available under current zoning regulations.