

**General Plan 2020
Interest Group Committee Meeting Minutes
July 16, 2001**

Interest Group Committee:

Al Stehly	Farm Bureau
Alexandra Elias	American Planning Association
Bonnie Gendron	Back Country Coalition
Bruce Tabb	Environmental Development
Dan Silver	Endangered Habitats League
Eric Bowlby	Sierra Club
Gary Piro	Save Our Land Values
Greg Lambron	Helix Land Company
Jim Whalen	Alliance for Habitat Conservation
Karen Berger	Citizen Coordinate for Century 3
Karen Messer	Buena Vista Audubon Society
Kevin Doyle	National Wildlife Federation
Liz Higgins	San Diego Association of Realtors
Matt Adams	Building Industry Association
Michael Johnson	American Institute of Architects
Phil Pryde	San Diego Audubon

Steering Committee:

Dutch Van Dierendonck	Ramona Community Planning Group
John Elliott	Descanso Community Planning Group

Public at Large:

Barbara Lind	Jamul
Brent McDonald	Caltrans
Charlene Ayers	
Chris Anderson	Ramona Chamber of Commerce
Dave Shibley	
David A. Nilson	NCCE&LS
Jan Van Dierendonck	Ramona
Janet Anderson	Sierra Club
Jeanne Hendrix	Fallbrook
Joe Klasen	Potrero
Jonathan Smulian	WRT/Consultant
Lee Vance	
Mary Allison	USDRIC
Michael Thometz	MERIT
Parke Troutman	UCSD
Pat Flanagan	SDNHM
Ron Pennock	ECCC
Scott Molloy	

County:

Karen Scarborough (DPLU, group facilitator)
Gary L. Pryor (DPLU)
Ivan Holler (DPLU)
LeAnn Carmichael (DPLU)
Michelle Yip (DPLU)
Jennifer Bruin (DPLU)
Tom Harron (County Counsel)

Announcement –

This became a joint meeting for the Steering and Interest Group Committees to continue the discussion on TDRs.

Agenda Item II: Logistics –

a) Field Trip

- D. Coombs has done extensive work and has put in a recommendation on a map. J. Whalen felt that self-guided tours were a good idea because it can accommodate everyone's schedule. He also suggested that points of interests be given with the map. Committee members will also be able to arrange their own group tours with other members.
- G. Piro suggested that every member of the Interest Group and Steering Committee have a map of planning and sponsor group boundaries with the CWA line. P. Pryde suggested that the dwelling unit map with the CWA line would be a better option.
- E. Bowlby requested a map of proposed development. I. Holler responded that DPLU does not have a map of this because projects are brought in on an individual basis. K. Messer felt a map may be too ambitious and suggested a list of projects by planning and sponsor group areas. L. Carmichael responded that the list given to the Interest Group Committee at a previous meeting was by planning and sponsor group areas and was sufficient in telling how many dwelling units were being proposed. E. Bowlby stated that a monthly report would help tell us where we're going, what's happening out there and to monitor it.
- As the discussion led to moratoriums, K. Scarborough felt that an update of the Planning Commission hearing from Friday, July 13 was necessary as moratoriums were addressed at the hearing. G. Pryor stated that the Planning Commission felt that it was more a political question rather than a land use question so they felt it should go straight to the Board.

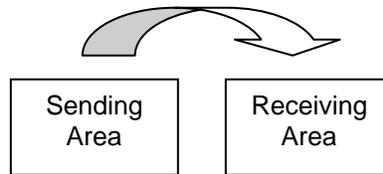
b) Next Workshop

- Saturday, July 14 was the first of a series on Growth Management Tools workshops. Another workshop has yet to be scheduled and outlined.
- M. Thometz asked how the TDR information would be available to those who were not at the workshop on Saturday. I. Holler responded that DPLU was in the process of duplicating video tapes. G. Pryor also mentioned the upcoming Steering Committee meeting.

Agenda Item III: Growth Management Tools –

- Works to voluntarily encourage the permanent preservation of a place you would want to save, called the sending area which could be farmland, environmentally sensitive areas, landmarks, etc. Once the owner chooses that option (in the sending area, the owner always has the choice) to operate under baseline zoning or a TDR option, the County ordinance would allow them to sell a certain pre-specified number of transferable development rights. Essentially, you are trying to get the sending

rights over to the receiving areas. Receiving areas are areas appropriate for growth, whether it already has growth, needs redevelopment, or is adjacent to other development, and always areas with appropriate infrastructure. Often, the motivation is that the receiving areas are close to shopping, jobs, schools, so forth.



Need to motivate both the sending site owners to sell and the receiving site owners to buy. Motivation for sending site owners can be through development requirements, rezoning, sometimes downzoning, and mainly by allowing them to sell a number of TDRs that make it more profitable to sell the TDR than actually develop onsite. The same applies to receiving site developers. Offer them a density for development with TDRs that is so profitable that that developer makes more money developing despite buying the TDR than without the TDR. Out of the over 140 programs in the country that use this, they are not all successful. Most of the time, they do not succeed because there is not demand for additional density or the existing zoning allows developers all the density they are interested in.

- How this might operate in San Diego County is to look at what areas have long term preservation. These programs operate for over decades so there is a need for long, sustainable interest in preserving that land. Also, there is a need to watch out for how much you want to accomplish in terms of the size of the sending area. If you designate too many acres as sending areas and start to get patchwork preservation in development, you build land use conflicts into your program. It also helps to have sending site zoning, baseline zoning that reflects the actual goals for that property. If in fact you want to preserve the land for its environmental services or farmland capabilities, the ideal circumstance is that it would require a downzoning so that there is not a disconnect between what it is a community is trying to accomplish and what the zoning code reflects as appropriate for onsite development. Most importantly, try to allocate or allow enough TDRs in sending areas so that property owners are motivated to sell to ensure there are transfers.
- *B. Tabb asked what has been done in the past. He feels the problem that San Diego County is going to run into is the resistance of receiving areas.* In terms of receiving areas, in some places they have incorporated cities within the county that accept transfers from rural unincorporated land. Many of these cases are programs that are mandated by state government (New Jersey and New York). There have been some examples of voluntary cooperation between cities and counties (King County in Washington and Boulder County in Colorado). If San Diego County goes in this direction, it will be looking at unincorporated communities as receiving areas. Most ideal receiving areas are those that are already partially developed as infrastructure is there and you are trying to concentrate development. The problem there is dealing with the perceived potential for land use conflict because there are people who do not believe that more growth can be accommodated and this is something that the General Plan needs to demonstrate could be done, in addition to the agreement of where these receiving areas will be located. And when looking at these sites, what will the developing community get as their baseline density. The most appropriate baseline density of a TDR program is the existing zoning. What a TDR program will do is to require developers to pay for rezonings from existing zones to future ones, the ones allowed in the plan. Don't know what kind of gap there will be between the existing and the plan that will be done within the next few months and years. Opportunity here is trying to drive this program, trying to increase TDR sales without increasing the density of what a community would want with or without a TDR program within receiving areas. TDRs are not the only tool. It operates with zoning and if there is enough public support, you can also have a Purchase of Development Rights. The advantage of this is there is no controversy that develops over receiving areas but the downside is that it is expensive and if there is no continuous funding source then it becomes difficult to achieve many and certainly not all of your preservation goals. Another benefit of TDRs, it does have this advantage of a perpetual funding source. You can create a TDR bank, that will provide seed money that can continue the preservation process. Question of receiving areas, many ways to look at the receiving area question. One is to look at the

whole perception question of those living within or near a receiving area believing that the growth will be detrimental. The General Plan is going to have to demonstrate that this growth can be accommodated with infrastructure. You are trying to cover the opposition from an infrastructure standpoint and grasping the perception that higher density is always bad. The receiving areas are not necessarily going to have to accept any more growth than without a TDR program, there may be a gap between the amount allowed under existing zoning and the proposed plan. The only thing the TDR program allows you to do then is, as you grow into that plan, you basically implement the plan. Whereas without TDR program, you get no offsite preservation.

- *B. Tabb asked if R. Pruetz has seen many programs that do not necessarily specify where receiving areas are that maybe they work on banking of TDRs so that someone who goes in and wants additional density regardless of where it is, can come in and buy those units and go where they want to go.* The answer is yes. The scenario that is drawn here is the traditional approach. There is also an instrumental approach. In order to overcome this hurdle of identifying all the receiving areas you can pay a density transfer fee. It's not really a fee but it's a set amount in which that community uses to purchase land in its greenbelt. That is a very simplified process, the beauty in that is it resolves that hurdle of identifying receiving areas upfront but it does obligate you to look at these requests at a site by site basis to ensure the infrastructure is there, etc. You're giving up your headaches at the front end but giving yourself a headache at the back end.
- G. Pryor brought up the example of 4-S Ranch which had a base density of 350 and went up to 4,750. The road systems were not planned for 4,750 and that is why there is a need to know some idea of where the receiving sites will be, in order to restructure capital improvement programs, sewer, water and roads, knowing that growth is going to go into it. So one may not know exactly when growth will be put in place but at least one can plan for it.
- *J. Whalen feels that you are not going to be satisfied if you do not know where the development is being taken away from at the time the transaction occurs overall in the preservation area. Also asked how the difference between high value single-family large lots vs. multi-family was being addressed. The other one is that I think we need to take on the downzoning issue right upfront because it is currently a solvable problem but in the current form is unattractable.* The environmental community will rightly want to know what the outcomes are going to be. The value setting mechanism, we have various mechanics that are very valuable that are, for example Rancho Santa Fe does not allow the mechanisms to move into the lot. And for example, in Jauanga, it's a hot, dry area that's more affordable where's it's about \$40,000 a lot. One of the questions assumes that you are always trading units or dwelling units or lots which is something that is always going to keep you from seeing how the system can work. Think of it in terms of what is being transferred are TDRs and you decide how many you are going to assign to a sending area because your question is that you have got sending areas that are of various values. One way of addressing that is to come up with categories of sending area development value and you have a high value area assigned more TDRs per acre for that area in an attempt to get that property owner interested in selling rather than building onsite.
- *What about separate site appraisal?* There is only one program that I know of that does actual site by site appraisals to try to determine value and that program has not had a track record yet to establish whether it works or not. It strikes me as a very cumbersome way of doing it but what traditionally you would do, you would get an appraiser to give you a very, very generalized idea of value to give you how many categories of sending site areas you have and admittedly this ignores site specific differences.
- *K. Scarborough asked if you were going to assign a certain amount of TDRs, is that at the same time or a different process that you would in a General Plan update be modifying a density, from one density to another density?* You do not have to, it can be a problem as an implementation ordinance, allocating TDRs. It's good to put everyone on notice of where your sending and receiving site areas are going to be and particularly letting the receiving area property owners know that if you are setting a maximum development you also tend to come around later with an ordinance that is going to set a threshold so that you only get up to that higher density by buying TDRs. That's important in the planning process. I do not necessarily think that you need to do the allocation during the General Plan. Downzoning issue upfront, one side is not going to be happy, the landowners may not be happy downzoning first and the other side may not be happy unless you downzone immediately. I would suggest if you do decide to go down this TDR approach is that you downzone as a function of your General Plan update make a convincing argument to property owners that they will be able to participate in a program that is going to generate transfers, one that has receiving areas, developing

capacity and developers who will buy the actual ability to make transfers. The more you can make the program feasible and workable the more comfort sending site owners will have that they will get compensation out of this program.

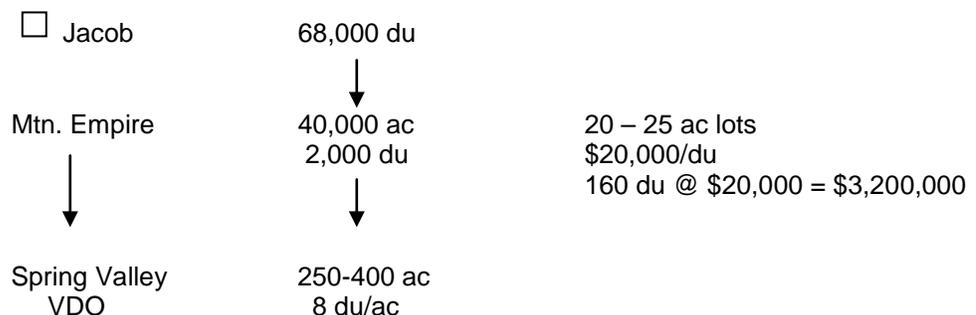
- J. Whalen thinks the answer is that neither faction or interest will be satisfied with one approach or the other unless captured at the same time. Karen said as a case example, if a downzone plan goes to the Board, there will be quite a bit of opposition at the podium if there was not also a downzone plan and TDR mechanism presented at the Board. Pruetz concluded that it is a matter for this body and staff to come to look at how specific that receiving area needs to be.
- G. Piro wanted to confirm that these receiving areas are not going to single family residences to high rises, they are just marginal increases to suburban densities. That's right, a lot of these programs operate at very suburban densities.
- G. Piro suggested adding a mandatory open space element to make receiving areas more acceptable.
- G. Piro asked how small of a group do you need to make TDRs work? He also requested that R. Pruetz expand on King County's program and on Calvert County because it is a voluntary approach. These things operate at a number of scales. The critical thing is not how large an area is but what is the balance of potential supply and demand of TDRs but I would be concerned about whether a community that is large enough or not in terms of having an internal mechanism say if they wanted to use TDRs just internally to concentrate development and create a greenbelt or whatever they want to do with it. Once you come up with a pattern of these programs that operate on a localized basis, you have to worry about your county wide goals and if those are being met east or west of the line. King county is a relatively new program and I think the most interesting part about it is that they have some interest and have signed interjurisdictional agreements with some of those cities who will accept transfer development rights in rural county land. Another thing about King County is that they created a bank using the general fund to jumpstart the program so they will go out and find the areas they are most interested as a county in preserving. They will basically harvest TDRs from those properties and they will sell them and have an ongoing revolving fund to use for future purposes. Calvert County in some respects is similar to Montgomery County. The land owner has to request basically a downzone from one to five acres to 25 acres in order to sell the TDRs. So in that respect, it is a more self selective kind of program. They say they have saved 10,000 acres in their program. Interesting thing is this is all operating at all pretty low level density, 1 to 2 acre lots. This is a program that demonstrates that even when not a lot of growth pressure is there, the county is willing to stick with it and has accomplished quite a bit with this program.
- K. Messer believes that our program needs a simultaneous setup of a downzone plan with a corresponding TDR program. She does not feel that we can achieve what we need to achieve without a downzone and perhaps there may be some sort of hybrid out there where some areas are downzoned and others are more voluntary depending on the sensitivity out there. She thinks our county would be the biggest area that would be covered by a TDR program because it is one of the largest counties in the United States and she thinks that means we need to focus our efforts and really identify where we want sending areas to be. Also believes that we need to have other tools in here that sort of gives our transfer program a leg up. Feels that if we design a very targeted program with clear goals and benefits we have a good shot at a foundation of money to kick this off.
- K. Doyle asked about having a sort of interjurisdictional TDR program, in that a small community can have a TDR program as well as a larger entity. That is going to be a tricky balancing act because you may have many communities that really like the idea of achieving their localized land use goals of creating greenbelts or saving some special environmental areas but not so interested in taking in anything from east county. I do not think there is any set answer. What I suggested before is that there be a requirement for some sort of percentage of your TDRs to have to be from outside of your community.
- Question regarding terms of the legal procedures of this. If an individual community wanted to do a TDR program, does it have to go through the County, the general plan process or some kind of dual process? G. Pryor responded that it would be a dual process in that you are probably going to get some aspects in the General Plan but going to have to implement the program separately.
- E. Bowlby asked does the formula for receiving areas include the money from the wealth created from an upzone, cover the infrastructure cost? Ideally you want to tell your land use advisor/appraiser you are trying to estimate the value of this increase in density. That may be the

direction to the appraiser but they may or may not necessarily get it right on target. What I am trying to say is that your goal is to take that into consideration, it may be an iterative process.

- *E. Bowlby stated that according to the "tools" handout, most large scale programs are state sponsored so he is assuming that there is some public investment and a receiving area or some type of public investment that is tied into a TDR program. Has that been the case or have you seen a scenario that is one private entity to another and covers the infrastructure end as well? Yes, it happens both ways. When I said that some of these programs are state mandated it means the State would say that you will have to cooperate in this plan, but there are many examples in a community that understands that the infrastructure has to be there or a developer will not be able to use the increase in density that comes about in this TDR. There are very small communities that understand this perfectly and have realized that infrastructure, for example a sewer expansion system in a receiving area, is part of a package. And in some cases the community itself goes through the expense of providing that or at least takes the initiative*
- *E. Bowlby asked if a community would have to cover the cost of infrastructure as it becomes a mandate for an upzone and wouldn't they have to be mandated on a minimum zoning? So in terms of balancing the formula and in terms of getting some of the population back down into the unincorporated areas, can you describe what are the things we would have to look at when crossing interjurisdictional lines in terms of those in a formula that would be set up in our region. Essentially, how I go about setting up a TDR program is looking at development values on a broad brushed basis, your average lots and sending and receiving areas, and just to see where the increase in value is after receiving a sense of what a developer might be willing to pay for a TDR. And then assigning a number of TDRs per acre that is necessary for an average sending site owner to feel appropriately compensated permanently restricting his or her property.*
- *D. Silver asked if there was a need to go into cities to some extent because he does not know if there will be enough demand for county area and and if the simple way of doing it is to say everybody is buying credits or units whether they got an upzone or bonus just to build within existing zoning, that way we can distribute it broadly and create a much more broader base. I would make that two categories though, if you are requiring a payment of a fee below your existing zoning density, that is a development fee of impact. I happen to think that impact fees in communities could very well be more aggressive in terms of having impact fees for open space purposes. My only problem is that open space is not necessarily at the high end of the list in terms of public's demand.*
- *G. Piro asked if it was correct that some areas lower the baseline density if people do not purchase credits? Some communities have actually reduced the baseline density from existing densities from receiving areas and that is true but you typically see that in an area where the goal is to, for example in a downtown area, reduce overall development to a certain amount or level to be accommodated by the infrastructure system.*
- *D. Silver asked if R. Pruetz had a sense of whether he would go with this kind of category system he had described earlier given the complexities, like a mixture of uses. Maybe many of your sending site owners are going to use that broad brush approach because some of them will feel that their property is worth more than they are going to get from their development rights. If that is absolutely an unacceptable outcome of the program you may want to go to the site by site system. The reason I am reluctant to recommend it is because there is only one program that I know of that uses it so they do not have a track record yet and what I think I am pretty sure will happen, you will get fewer people to participate because you have high end costs going in. My inclination is that the tendency is that a lot of people will drop out of it if you have too many procedural hurdles in it.*
- *L. Higgins asked that when talking about purchasing area and the cost purchase development rights, has this been used anywhere or has it come up anywhere where you set up a bank for HUD funds or state bond funds to decrease the cost of housing and tie that in with the Purchasing of Development Rights and bank them and give builders a credit out of that bank for bringing the price down on that property? Every community has obligations for affordability and I have not seen what you are suggesting, however, when a developer buys a TDR in order to make sure that that is not completely passed on through the end consumer or homebuyer, the government goes in there. It seems very complicated to me to become a participant in trying to improve the affordability of units through some kind of subsidy. To use it to decrease housing prices, the answer is no.*
- *L. Vance said that we have a policy in our existing General Plan right now that was put together specifically for the back county, it's called policy 3.5 in our land use element and that policy allows zoning to exceed the general plan in certain circumstances. It seems to me that you could have a*

similar approach here that where the sending areas would change under the general plan or have an overlay apply to it, you can focus on areas or either leave them a general plan designation on an overlay or change it to something more restrictive on the general plan but then you can leave the underlying zoning there and that basically is a signal that this policy should come into effect. I think what you are suggesting could create some confusion because on one hand, your General Plan says one thing and your zoning says another. You achieve the same results basically if you create those TDR programs, allocating TDRs that are going to reflect basically what everyone agrees to be the true development value of that property. Now it may or may not be its existing zoning, because in addition to zoning on its face you have got all the other developability but I guess I recommend you go in that direction rather than having this disparity in your zoning.

- J. Anderson asked how many TDRs does land that is undevelopable due to slope, floodplains and so forth have, do you have a TDR for steep slope or undevelopable areas or not? I think that it is better to allocate TDRs based on development value of land not just on one factor which would be on its face level. Do you allocate TDRs for the steep slope, that is a policy decision of the government. It can be in programs both ways.
- J. Anderson asked if you can make initial investments to use for infrastructure in receiving sites, then take a small tax out to recoup for losses? Many communities do go in and build the infrastructure and they pay for it. They make the receiving area capable of accommodating that growth.
- A. Stehly asked if there was a solution for lawsuits with TDRs and if a chart could be made up to identify how many points one would get for habitat or agriculture and so to value your TDR based on the preservation value? He also added that the population argument is of little concern if we preserve the back country. The answer is yes, you are likely to be sued. Some of it is procedural and that is easy to correct. The basic thing to keep in mind is that to always provide some kind of economic development value to that land. The matrix based on preservation value is a very key point. You can allocate your TDRs based on development value or preservation value.
- G. Pryor commented on the population issue stating that if you were to take the 850,000 and moved that into the CWA line, there becomes a need to program roads for that, sewer systems and water systems. With the 660,000 number, I have got a whole different set of infrastructure, requirements, and cost issue.
- D. Van Dierendonck asked what effect REGIS was going to have on any of the programs? There is a question of what prevents some pieces from being adopted and critical pieces from not being adopted so there is a need to have public services watching.
- J. Whalen proposed the following:



- E. Bowlby asked what is the definition of development rights. Development rights are based on the cost that gets assigned to that proper comparison. It is the valuation based on the acreage and not vested value.
- D. Silver asked what steps would you recommend to begin the program? Look at the values or what sending areas might want for development acres. Go through an environmental process and identify potential receiving areas and their thresholds of what the maximum density is going to be. Look at how many acres you should be sending to receiving areas.
- B. Tabb asked how you actually set up a formula to make up the difference in value between what the selling land is worth and the receiving areas for TDRs. Suggests working with an appraiser who advises you on these things.

- *R. Rowan commented that there were logical flaws when focusing on residential transfers. Some programs are entirely industrial/commercial but what is most appropriate here is to think of it as “credits”.*
- K. Messer was confused about not meeting the population target. R. Rowan clarified her statement that it seems that we are trying to lower the population target in the plan which cannot be done unless you can find others willing to up the densities outside of the jurisdiction.
- **Motion:** J. Whalen moved to have the County hire R. Pruetz as a consultant for TDRs. He asked that someone from the Steering Committee second it for symbolic purposes. D. Van Dierendonck seconded the motion.
- **Discussion:** In terms of the TDR plan, it is a voluntary based program where sending site property owners do not have to participate nor does the receiving areas. What is mandatory is to be in conjunction with downzoning.
- I. Holler mentioned that there has already been discussion with the hiring of R. Pruetz on a temporary basis.

Agenda Item IV: Process –

a) Status & Next Steps

- There is no date for maps.
- There was discussion on whether the group should begin to make their way down the list of 10 items J. Whalen had presented. K. Messer felt that it would be better to extract ideas from the TDR presentation, address them and move forward. G. Piro stated that J. Whalen’s list has to do with basic framework and that it would be informative to obtain what the Steering Committee got with the existing/proposed General Plan framework. L. Higgins felt that the group should jump forward because TDRs are just one tool. K. Messer felt that the group should be addressing specifics about tools and therefore, should not get sidetracked.

Agenda Item V: Public Comments –

- There were no public comments.

Next meeting –

Scheduled for Monday, July 30, 2001 in the County Administration Center, 7th floor tower, 12:15 pm - 2:45 pm.