

# What is Transfer of Development Rights (TDR)?

## AND CAN IT BE USED TO PRESERVE FARMLAND IN OCEANSIDE? Rev draft 11/5/21

TDR is a planning tool that can be used to preserve land. In Oceanside it is proposed as a way to save the farmland in South Morro Hills.

**How does it work?** One landowner, “sender”, agrees to sell the rights he has to develop his property. In exchange he agrees to keep all of the land he owns in agricultural use forever. Another landowner, “receiver” agrees to buy those rights. In exchange he agrees that development can only occur on 25% of the land he owns and that the remaining 75% will remain in agricultural use forever. This is a voluntary financial transaction between two private parties. The market determines the value of the development rights. The city requires easements that ensure the land remains in agricultural use.

**Limitations:** Currently both landowners could develop their property into 2.5 acre parcels ie 10 acres could become 4 houses. Under TDR, only owners of at least 10 acres could be “senders” and only owners of at least 20 acres could be “receivers.” But instead of 2.5 acres, these TDR’s would allow development based on 1 house/1 acre. So 10 acres would have TDR rights for 10 houses. Having “rights” for developing a specified number of units does not mean that number is buildable. There may be other constraints on development including topography, water/sewer/power availability, restrictions on hillside development, environmentally sensitive areas including wildlife corridor areas, etc. TDRs should be based on the number of units that is realistically buildable.

**Could TDR’s preserve more farmland? NO.** Development is being “sent” to farmland. A TDR program to actually save farmland would “send” it to areas where denser development is targeted. In Oceanside that is along the smart growth corridors. In order for the TDR program to actually PRESERVE FARMLAND, the receiving properties for development MUST BE OUTSIDE the SMH Agricultural Area. By changing from 2 .5 to 1 acres this actually allows thousands of more housing units to be built on farmland.

**Has this Strategy Worked Elsewhere:** Almost all of these programs fail for a variety of reasons. Key problems are low participation rates, administrative burden on public agency, and market factors. Demand and supply are hard to balance. If pricing is too high or the market does not support density where it is targeted there will be no buyers. If the value of sending property development is too high there is no incentive for that landowner to sell TDR’s- they will just retain their rights and develop the land themselves. For this to work a comprehensive analysis of market factors and pricing is needed- and that has not been done. Properly defining sending and receiving areas is critical. There are no successful examples where the receiving and sending areas are the same- you don’t save farmland by putting dense development on farmland!

Some successful programs limit sending areas to very large acreages, 500 acres or more. Some states have passed statewide legislation allowing this program to cross jurisdictional boundaries. Landscape scale transfers like that have a greater potential to be successful. Transaction costs can be very high with complex negotiations between sender and receiver, easement conditions imposed by the public agency, and burdens of public infrastructure. Such programs only work where they are supported by extensive public education and are perceived as fair by everyone- with real community benefits.

**The TDR program proposed for Oceanside has all of the earmarks of failure- a failure that results in the destruction of more farmland, not saving it.**

For more info visit to our webpage: [Save Oceanside Farmland-South Morro Hills Community Plan](#)