NEW JERSEY HIGHLANDS COUNCIL
TDR COMMITTEE
CHAIR REPORT FOR THE MEETING OF OCTOBER 11, 2007

On October 11, 2007, the TDR Committee held a meeting at the New Jersey Highlands Council office in Chester, New Jersey. Notice of the meeting was provided to the public on the Highlands Council's web site. Council Members Scott Whitenack, Mimi Letts and Glen Vetrano were in attendance while Council Member Tahesha Way participated via teleconference. Council staff members present were Eileen Swan, Tom Borden and Jeff LeJava. Also present were Anthony Graziano and Matthew Krauser of Integra Realty Resources, Inc. ("Integra"), consultants to the Council. The meeting was called to order at 4:10 p.m.

Mr. Whitenack opened the meeting by stating that the committee's objective was to lay out to the public the method by which Highlands Development Credits ("HDCs") would be awarded to residential parcels that comprise sending zones in the Highlands Development Credit Program. He then asked Mr. LeJava to discuss the method to be used in allocating HDCs to parcels in the sending zones.

Mr. LeJava began by explaining that the method HDC allocation was developed in consultation with Integra and that Council staff also received input on the allocation method from Council consultants Charlie Siemon and Lane Kendig. He stated that the allocation method accounts for lost development potential, location of the parcel within the Highlands Region, and the type of use the parcel could have been developed with prior to enactment of the Highlands Act. The allocation method is expressed as a formula:

> *Base Credit Number – Reserved Exemption (if any) x Market Adjustment Factor x End-Use Factor = number of HDCs*

Mr. LeJava then discussed each of the formula's components. He explained that the Base Credit Number for a given parcel is the number of lots or residential unit equivalents that could have been situated on the parcel on August 9, 2004, accounting for the municipal zoning and land use regulations, and State and federal environmental laws and regulations then in effect.

He stated that the Market Adjust Factor ("MAF") is a means of adjusting the number of HDCs allocated to a sending zone parcel based upon the location of the property in the Highlands Region. Specifically, the MAF is recognition that per acre values of residential property or per square foot values of non-residential property varies significantly depending on property location. He then explained how municipal tax assessment data was used in developing the MAFs.

With respect to the End Use Factor ("EUF") component, Mr. LeJava stated that it is a means of adjusting the number of HDCs allocated to a sending zone parcel considering the end use that could have been developed on the parcel prior to enactment of the Highlands Act based upon municipal zoning. The EUF is recognition that not all uses have the same underlying land value.

A discussion then ensued about the awarding of bonus HDCs to a sending zone parcel to encourage landowners with parcels located in conservation priority or agricultural priority areas not to exercise any applicable Highlands Act exemptions. Mr. LeJava stated that how such bonus HDCs are

allocated to appropriate parcels would require further discussion and consideration by the TDR Committee and ultimately, the entire Council.

Ms. Letts asked how HDCs would be allocated to property zoned for apartment buildings. Mr. LeJava explained that, because apartment buildings are assessed based upon their revenue stream and not simply on their land and improvement value, Integra and Council staff are working to incorporate apartments into the allocation method being developed for non-residentially zoned properties.

Members of the public then commented upon the allocation method and posed questions. Susan Kraham of the New Jersey Audubon Society asked that the staff explain the relationship between the MAF and EUF. In response, Mr. Graziano explained that the MAF adjusts the number of credits awarded to a parcel based upon the difference in the land value of a parcel to similarly situated parcels throughout the Highlands Region. He stated that the EUF adjusts the number of HDCs allocated to a parcel based upon the relative differences in land value associated with different types of residential end uses. Ms. Kraham also asked why the allocation formula rounds up to the nearest whole number when there is a significant concern with the supply of credits that will be created at the outset of the program.

Anthony Soriano, a planner for Morris County, asked whether environmental constraints will be accounted for in the allocation process. Mr. LeJava responded that, in determining the Base Credit Number, the environmental constraints that existed on August 10, 2004, in light of the environmental laws and rules then in effect, would be accounted for. Mr. Soriano pointed out that you can't simply back out constrained area from the calculation of a parcel's lot yield because of the ability to engineer around these issues, particularly on larger parcels. Mr. LeJava responded that a property owner will have the ability to seek reconsideration of the Council staff's allocation determination where the property owner is able to demonstrate that a higher lot yield could have been achieved on a parcel than that used by the Council in determining a parcel's Base Credit Number.

Helen Heinrich of the New Jersey Farm Bureau asked why Council staff had not developed a resource value factor that would award credits even on lots that did not have any real development potential prior to the Highlands Act because of then existing conditions. Ms. Heinrich explained that environmentally constrained properties might be the most valuable lands to be preserved by the Council, but the HDC allocation formula would award few, if any, HDCs to such properties. She stated that she believed the Council was going to take this approach. Ms. Heinrich also stated that she believed the Council should hold a TDR workshop to further explain the HDC allocation process, and provide an opportunity for the public to discuss with Council staff other TDR issues.

Matthew Sprung, Director of Land Acquisition North Central Region of K. Hovnanian Homes, and who also serves as chair of the Highlands Committee of the New Jersey Builders Association stated that more public discussion should occur about the Highlands TDR program because of its complexity and the many other TDR issues that still need to be addressed. He stated that he believes that Council should take the time to get it right and the program would benefit from more public input.

Candace Ashmun, a Commissioner with the New Jersey Pinelands Commission, stated any TDR credit allocation process should require a visit to each sending zone parcel. She explained that site

visits are conducted as part of the Pinelands Development Credit Program to determining credit allocation. Ms. Ashmun also asked what the deed restrictions will look like to be used in the Highlands program. She stated that the language used in the deed restrictions will be critical to ensuring the Council's preservation objectives are achieved.

Deborah Post, owner of Riamede Farm in Chester Township, asked when the TDR Committee and Highlands Council will admit that the TDR program cannot work because it is premised on voluntary receiving zones and does not have a capitalized development transfer bank.

David Shope, a farmer with property in the Highlands Preservation Area, asked whether the staff has determined how much sending zone property value has to be absorbed by the receiving zones to make the program work. He also asked whether HDCs will be retired when the State acquires land with HDCs. Mr. Shope stated that any development transfer bank established by the Highlands Council for this program must have the ability to provide loans to sending zone property owners.

Hank Klump, a farmer in Tewksbury, echoed Mr. Shope's statement regarding the bank. He said it is essential that bank provide loans with HDCs as collateral, otherwise farmers will not be able to continue their agricultural operations because they cannot secure financing.

The TDR Committee then adjourned at 5:55 p.m.