

**NEW JERSEY HIGHLANDS COUNCIL
TDR COMMITTEE
CHAIR REPORT FOR THE MEETING OF MAY 24, 2007**

On May 24, 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 Member Mimi Letts was in attendance while Council Members Scott Whitenack, John Weingart and Tahesha Way participated via teleconference. Council staff members present were Eileen Swan and Jeff LeJava. The meeting was called to order at 2:10 p.m.

Mr. LeJava began the meeting by discussing staff's recommendation to enter into a contract with Integra Realty Resources ("Integra") to further assist the Highlands Council in developing the Highlands TDR Program. The contract will be billed on a time and materials basis, with costs not to exceed \$35,000.00, at an hourly rate of no more than \$250 per hour (140 hours). The term for the proposed contract is three months. There are four main tasks to be conducted under the proposed contract:

1. Utilizing a sampling of Highlands Preservation Area properties, compare the results of the residential HDC allocation method (Net Lost Development Potential x Market Adjustment Factor x End Use Factor) with actual sales transaction data and appraisal information;
2. Assist the Highlands Council with developing a work plan to (a) identify appropriate commercial markets in the Highlands Region, and (b) develop Commercial Market Adjustment Factors for use in calculating HDC determinations for commercially zoned property;
3. Examine the relative differences in average unit value of various land uses within the Highlands Region; and
4. Assist the Highlands Council in establishing the minimum value of a Highlands Development Credit.

Ms. Letts asked how commercial markets would be identified as part of the contract. Mr. LeJava explained that one purpose of the contract is to work with Integra to determine the most appropriate means of identifying commercial markets. According to conversations with Integra, Mr. LeJava stated that commercial markets are often defined by the transportation corridors on which commercial developments are located. Ms. Letts asked whether it would be better to define commercial markets based on the municipality in which they are located. Mr. LeJava explained that determining what the best method of identification is would be analyzed by Integra and shared with the Committee.

Ms. Letts then asked whether the same methodology that was developed for examining the relative differences in the value of residential development throughout the Highlands Region would be used for analyzing the value of commercial development. Mr. LeJava explained that primary purpose of the contract would be to determine whether the same methodology utilizing MOD-IV data could be employed, and if not, what alternative method should be used. Ms. Letts stated that she wanted to ensure that the methodologies are similar, if not the same, so that consistency is achieved.

Ms. Way asked whether environmental considerations are factored into the real estate analysis that staff is conducting. Mr. LeJava explained that the analysis looks only at variables that influence economic values of residential and commercial development. However, as Ms. Swan pointed out, environmental considerations are critical when determining whether a municipality may designate a TDR receiving zone.

Mr. Weingart asked whether the contract would advance program development in a timely manner. Mr. LeJava explained that the contract term is in line with achieving implementation of the first phase of the TDR Program by the end of the year.

Ms. Letts stated that Integra should provide monthly updates to the TDR Committee, and Mr. LeJava agreed that such reports would be provided.

Ms. Swan then asked for public comment on the proposed contract. Sylvia Kovacs, Warren County Environmental Commission, asked whether environmental externalities are being considered as part of the economic analysis for development of residential and commercial market adjustment factors. Mr. LeJava explained that such externalities are not considered, particularly where such considerations would add further complexity to the Highlands Development Credit (“HDC”) allocation method.

Julia Somers, Executive Director of the Highlands Coalition, stated that the Highlands Coalition believes that the HDC allocation system being developed by the Highlands Council is too complex. She stated that it will not work and that the Council should simply let the market figure it out what the value of HDCs will be.

Mr. LeJava then asked for the TDR Committee to vote on recommending the proposed Integra contract for consideration by the Plan Development Committee and Budget and Finance Committee at their May 31, 2007 meetings. Ms. Swan asked for a Council Member to move the vote. Ms. Letts moved to recommend approval to Plan Development and Budget and Finance Committees, and Mr. Weingart seconded the motion. All Council Members present voted in favor of the motion.

Mr. LeJava then provided an update of the proposed TDR legislation that would allow Highlands and Pinelands TDR credits to be transferred anywhere in the State. Mr. LeJava explained that, on January 4, 2007, Assemblywoman Linda Greenstein (D–Mercer, Middlesex) introduced A3864 (“TDR Expansion Bill”) that would permit municipalities outside of the Highlands and Pinelands regions to designate TDR receiving zones that may accept TDR credits from those areas in exchange for the ability to impose impact fees. Mr. LeJava discussed staff’s concerns with the bill as proposed, including the potential for opening up the Highlands Act to amendment. The bill was to be heard by the Assembly Environment and Solid Waste Committee on May 21, 2007.

Mr. LeJava stated that, on May 18, 2007, he and Ms. Swan attended a meeting in Trenton with Assemblywoman Greenstein; Susan Craft, Executive Director of SADC; Debbie Mans, environmental policy advisor to Governor Corzine; John Hazen of NJDEP; and several Assembly staff to discuss the proposed bill. At that meeting, Highlands staff expressed its concerns with the bill. Ms. Craft explained that the most appropriate way to effectuate expansion of TDR statewide is to amend the State TDR Act. Given the concerns expressed with the proposed bill, the

Assemblywoman agreed to withdraw the bill, and would await a draft of amendments to the State TDR Act, which she would advance.

Mr. LeJava then discussed the proposed amendments to the State TDR Act. Generally, these amendments will allow HDCs to be transferred to a receiving zone established anywhere in the State. In exchange, a municipality designating a receiving zone that accept HDCs may assess an impact fee of up to \$30,000 per unit for all new development within the receiving zone provided a certain percentage of development within the receiving zone are TDR bonus units. Additionally, the amendments to the State TDR Act will allow any municipality establishing an intra-municipal TDR program to assess impact fees of up to \$15,000 per unit.

Ms. Swan explained that Mr. LeJava is working with Ms. Craft on the amendments to the State TDR Act. The amendments will be heard by the Assembly Environment and Solid Waste Committee on June 14, 2007. Ms. Swan and Mr. LeJava will present testimony at the Committee hearing in support of the amendments.

Mr. LeJava then presented the TDR Committee with an update of the TDR Receiving Zone Feasibility Grant Program. Mr. LeJava stated that, on March 30, 2007, staff sent out over 500 letters to various municipal and county officials in all seven Highlands counties (213 municipalities in total) alerting them to the availability of the grant program. As of May 22, staff had received responses from twenty municipalities. To date, two municipalities, the City of Clifton and Township of Lopatcong, have passed resolutions stating their interest in participating in the grant program. Both will be submitting grant applications within the next several weeks. Mr. LeJava stated that he anticipates participation by several other municipalities. Ms. Swan announced that Clinton Township, Hunterdon County, is also considering submitting a grant application.

Mr. LeJava stated that he is pleased with the municipal interest expressed to date, but acknowledged that staff must also reach out to targeted communities from which staff has not yet received any response. To that end, Mr. LeJava explained that staff is developing a list of priority communities for outreach. The list is being developed in light of the work conducted by a TDR Studio at the Bloustein School, Rutgers University, during the 2006 Fall Semester. That studio devised a methodology for identifying municipalities outside of the Highlands Region, but within the seven Highlands counties, that may be strong candidates for designating TDR receiving zones.

The TDR Committee then adjourned at 3:10 p.m.