

The Land Use Tracker

Volume 1, Issue 4

Spring 2002

Managing Rural Residential Development

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As many communities begin to prepare their comprehensive plans and consider the various elements required under the comprehensive planning law, the relationship between agricultural or open space preservation with housing can be both confusing and contentious. Especially for those communities that are experiencing growth pressure struggling to manage rural residential development along with other community concerns can be difficult. One primary goal of many communities is to balance residential development with agricultural needs, open space, and natural resources while trying to retain a sense of place. Several plan implementation tools are available that local governments can use including, but not limited to: Large minimum lot size, purchase of and transfer of development rights, overlay zones for shorelands, hillsides, and other environmentally sensitive areas, and conservation subdivisions.

This is the first of two articles addressing rural residential development. In this article, I provide a brief definition of each tool, how each tool works, potential benefits, limitations, and references. In the following article, we will provide a more in-depth look at one of these tools – conservation subdivisions.

Which Tool is “Right” for Our Community?

Each community should decide on the types of tools they want to use. Recognize that your community can use these tools together – they are not mutually exclusive. It is reasonable, for example, to have a purchase of development rights program in place along with overlay zones and a conservation subdivision ordinance. Below is a list of criteria to consider when choosing plan implementation tools:

- Does your community have an accepted plan that identifies rural residential development or at least sprawl as an issue?
- Does the plan specify goals and objectives that address how your community will contend with rural residential development?
- Will the tool accomplish any of your community's goals and objectives?
- Is the tool politically acceptable?
- Can the local government or some other organization administer the new tool given current personnel or is another position or committee necessary?
- Are there any enforcement issues the local government personnel would need to contend with?
- To be effective, would the same tool need to be used by adjoining communities and is a cooperative effort possible?

Answering the above questions will give you a better idea which tools are appropriate to use in your community. Avoid choosing to use any plan implementation tool before you have done your homework and understand how that tool works and the implications for administering and enforcing it.

Tool	Definition	How it Works	Potential Benefits	Limitations
Large minimum lot size	<p>A common type of agricultural zoning that says that a farm cannot be broken into parcels below a certain size for farming purposes.</p> <p>Daniels and Bowers 1997: 117.</p>	<p>Designate minimum lot size within an agricultural zone.</p> <p>Determined by legal and political acceptance balanced with effective land protection.</p> <p>Examples: some Oregon counties – 80-acre minimum;</p> <p>McHenry County, IL – 40-acre minimum; Pennsylvania – 50-acre minimum.</p>	<p>Can be changed over time as circumstances change.</p> <p>Keep farmland in large blocks to maintain economic viability.</p> <p>Easy to administer.</p>	<p>Can be ineffective if lot size is reduced to a size that makes farming impossible.</p>
Purchase of development rights	<p>A landowner agrees to sell the rights to develop his/her property to a local government, land trust or DNR. The development rights to a piece of property can be separated from the bundle of rights that go with the land. With the sale of that development right, a conservation easement is put into effect which restricts development in perpetuity. The value of the development right is determined by the difference between the market value and agricultural value of the farmland.</p>	<p>Local government or land trust must determine how to buy development rights, bonds, impact fees, additional levy on property are some possibilities.</p> <p>A local ordinance designates how funds are to be allocated and which agency will operate the program.</p> <p>The PDR agency drafts program regulations and guidelines and selects criteria for making decisions on appropriate land to preserve.</p> <p>The PDR agency solicits and receives applications and ranks them.</p> <p>An appraisal of the development rights is conducted by a independent appraiser.</p>	<p>Seller gets sale price and possibly property and estate tax reduction. Voluntary and permanent means of land use control. Avoids property rights outcry that zoning can elicit. Equitable method of containing sprawl, protecting valuable farmland and openspace. Property is retained on tax rolls and is privately owned and managed. Can separate funding and managing conservation easements from administration of program.</p>	<p>Substantial acquisition costs involved.</p> <p>Can result in scattered preservation if only some landowners participate.</p> <p>Property owners may not donate development rights if they know they can be paid.</p> <p>Can undermine the power of regulation by creating incentive-based expectations.</p> <p>A challenge to administer and find funds.</p>
Transfer of development rights	<p>Similar to a PDR program in that the property owner agrees to separate his/her development rights from the bundle of rights that go with the land and a conservation easement is put into effect. Rather than the local government purchasing the development rights to a property, a TDR program transfer the "rights to develop" from one area to another. The property owner still sells his/her development rights, but those rights are bought by a developer. In turn, the developer can use those development rights to create a denser subdivision, for example.</p> <p>Daniels and Bowers 1997.</p>	<p>Must have a comprehensive plan in place.</p> <p>Transfer the "rights to develop" from one area – a "sending" or preservation area - to another – "receiving" or development area.</p> <p>The costs of purchasing the easements are recovered from developers who receive the building bonus.</p> <p>Buying development rights is similar to a PDR program, but more controlled than PDR.</p> <p>Designate sending and receiving areas. The components of a TDR program include a preservation zone, a growth area, a pool of development rights, and a procedure for transferring development rights.</p>	<p>Provides certainty about where development will happen</p> <p>Creates incentive for developers to buy development rights rather than the local government needing to find a source of funds to purchase them.</p> <p>Allows higher density (developer incentive) than zoning ordinance might allow.</p> <p>Creates a competitive market between sellers and buyers.</p>	<p>Lack of community willpower to designate a "receiving" area.</p> <p>Misconceptions about the concept of density and meaning of "higher" density.</p> <p>Program depends on a stable and predictable real estate environment.</p> <p>A consensus is necessary to place conservation easements on agricultural areas while allowing for an increase in development densities or "bonuses" in other areas.</p> <p>Can be a challenge to administer.</p>

<p>Overlay zones</p>	<p>A set of zoning requirements that is described in the ordinance text, is mapped, and is imposed in addition to those of the underlying district. It is a technique for imposing more restrictive standards for a certain area than those specified under basic zoning. Development within the overlay zone must conform to the requirements of both zones or the more restrictive of the two. It usually is employed to deal with special physical or cultural characteristics present in the underlying zone, such as flood plains, fragile environments, or historical areas.</p> <p>Schiffman 1999.</p>	<p>In Wisconsin a typical overlay zone is shoreland zoning. Shoreland zoning is overlaid onto usually already zoned areas, such as a residential zone around a lake.</p> <p>The ordinance must specify and map the area that is within the overlay zone.</p> <p>Other types of overlay zones include:</p> <p>Hazards overlay zones, such as floodplains;</p> <p>Hillside/slope overlay zones;</p> <p>Historic preservation overlay zones;</p> <p>Woodland protection overlay zones; and</p> <p>Groundwater overlay zones.</p>	<p>Communities can provide additional protection to environmentally sensitive areas without changing underlying zoning.</p> <p>Straightforward to administer.</p>	<p>Property owners, developers and other may not understand with which regulations they need to work.</p> <p>Like zoning, variances are possible and can dilute the power and usefulness of this type of zoning.</p>
<p>Conservation subdivisions</p>	<p>The purpose of a conservation subdivision is to protect natural resources while allowing for the maximum number of residences under current community zoning and subdivision regulations.</p>	<p>Can be formalized within an ordinance.</p> <p>One of the more popular methods advocated by Randall Arendt is a four step process that identifies primary and secondary conservation areas, designs open space to protect them, arrange houses outside of those protected areas and finally lay out streets, lots and infrastructure.</p> <p>Minnesota Land Trust and University of Minnesota 2001.</p>	<p>Achieves a community goal of preserving openspace at the same density standard.</p> <p>None of the land is taken for public use unless the developer/owners want it to be.</p> <p>There are a variety of ownership choices: The original landowner, a farmer, for example, can retain ownership of up to 70% of the land and continue to work that land as a farm; and/or a homeowner's association, a local government, or a land trust can manage the property.</p> <p>If implemented under a plan and with conservation as the motivation, potential benefits include: "does not require public expenditure of funds; does not depend on landowner charity; does not involve complicated regulations for shifting rights to other parcels; does not depend upon the cooperation of two or more adjoining landowners to make it work.</p> <p>Better Designs for Development in Michigan</p>	<p>It is not a panacea.</p> <p>Conservation subdivision design should take place with a planning framework and conservation goals in place.</p> <p>These subdivisions should connect to a broader network of conservation areas, if not a community will have a chopped up landscape.</p> <p>Conservations subdivisions not attached to already developed areas and not connected to services result in poor land use practices.</p> <p>May not provide any affordable housing.</p>

For Further Reading

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All comments and suggestions are appreciated for those who reviewed this article.