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Using Transfer Development Rights to Facilitate and Sustain Community Green Space and Gardens

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Premise- The greater Pittsburgh region has seen an increase in vacant property parcels in the post-industrial era. Economically depressed areas working on revitalization see these parcels as an asset and are looking for financially viable methods for redevelopment. Many communities and community supported non-profit organizations have converted vacant properties into greenspace, community gardens, rain gardens and other assets. As local government sponsored community planning progresses, many of these parcels are under threat for redevelopment due to their prime location or topography.

The City of Pittsburgh Comprehensive Plan calls for 22,000 acres of Publically-owned land to be transformed into green infrastructure, community gardens, urban farms, greenways, parklets, etc. A host of public benefits are derived from transforming tax delinquent and derelict parcels into assets for the local neighborhood. Green space and gardens beautify and promote a sense of community, help to improve air and water quality, provide fresh food and healthy recreation, and enhance surrounding property values. A downside is that the city, county and school district may not receive real estate tax revenue if these parcels become exempt from taxes once they are publicly owned and managed. If these parcels remain taxable, the non-profit community may be reluctant to acquire them due to the additional financial burden of paying property taxes. A Transfer Development Rights (TDR) program is a powerful tool to address these issues and generate a new source of private revenue to care for the gardens and green infrastructure.

Two Primary Forms of TDR Programs-

In either form, the local governing body MUST have established the program up front, as per the Municipalities Planning Code (MPC). The City of Pittsburgh operates independently of the MPC but would need to expand their existing program in the Golden Triangle and Riverfront Districts.

The most common Transfer Development Rights program works on a transactional basis, where the landowner is permitted to sell the development rights from his property directly to a developer through a negotiated sale contract. The developer then uses those development rights to increase the density of houses or commercial square footage on another piece of property per the program regulation. The higher density that developers are able to realize is the incentive for them to buy development rights.

A second method allows a local government to establish a Development Rights Bank to transfer development rights. In this method the local government would purchase development rights from properties in areas that it wants to protect from development or use for green infrastructure. Developers, who wish to develop at a higher density or more square footage than current zoning allows, would purchase development rights from the local government. The local government then uses the revenue to purchase additional development rights from properties they wish to protect.



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Pennsylvania Example- The Transfer Development Rights tool has been available for use by Pennsylvania municipalities for over two decades. Provisions for a Transfer Development Rights program are authorized in Sections 603 (c) (2.2) and 619.1 of the PA Municipalities Planning Code. Approximately 33 municipalities in the Commonwealth had the TDR tool incorporated into their zoning ordinances as of 2008. Warwick Township, Lancaster County, has the most active TDR program that has helped to protect over 1,500 acres of prime farmland.

Property Taxes- Allowing development rights to be severed from a parcel dedicated to a public use serves to keep the development rights in the marketplace. With the development rights moved to another parcel, the taxing bodies are maintaining tax revenue that would have otherwise been unutilized through standard zoning methods. As such, the taxing bodies would be able to maintain revenue instead of taking land off the tax rolls each time a parcel is proposed for a public purpose.

Practical Applications for Pittsburgh- A Development Rights Bank could be created that holds the development rights severed from the parcels that non-profit organizations and/or Community Support Organizations are using for a public purpose. Transfer Development Rights could be authorized through the community planning process, allowing the Community Support Organizations to protect parcels within the community. Many community organizations have created parklets and community gardens in central locations under threat of redevelopment. This revenue stream would create a funding opportunity for those Community Support Organizations to continue their work in the community. Allowing non-profit organizations to sell the development rights is a way for the City to promote and support the critical work of non-profit organizations without costing the City funding, while at the same time steering development to targeted areas.

A Development Rights Bank could be created from the City owned parcels identified as critical for stormwater management and public safety, e.g. hillsides and existing parks. Those development rights could then be sold to developers working in areas identified for targeted redevelopment. This creates a funding opportunity for the critical Green Infrastructure needed in the City while additionally earning tax revenue from the relocated density.

In summary the primary benefits of a TDR program are:

- 1) Development is directed to where infrastructure exists and where municipalities prefer it to be.
- 2) Development rights that are currently tied to property that is not generating any tax revenue are transferred to another parcel and effectively put back into the marketplace where they can generate property tax revenue.
- 3) A new source of private funding is generated for the Non-Profit Organizations working to revitalize communities, addressing storm water and Combined Sewer Overflow issues, creating urban gardens, etc. This capital can be used to improve and steward vacant parcels, increase capacity for the Non-Profit Organizations and thereby accelerate community revitalization.



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- 4) Land used for public purposes such as green space and community gardens is protected from being developed for a so called “higher and better use”.