

## Development rights program good for Highlands

By ELLIOTT RUGA • March 21, 2010

A recent column by developer Matthew Sprung in which he predicts failure for the Highlands Transfer of Development Rights program is nonsense.

TDR is an often-used planning tool to transfer the development potential from an area designated for preservation to an area appropriate for growth and redevelopment. It has been successfully employed within municipalities and on county and regional levels.

Montgomery County, in Maryland, has preserved more than 90,000 acres using TDR. In the New Jersey Pinelands, where development credit certificates are bought and sold as investment instruments, a development credit purchased for \$2,200 in 1979 sold for \$40,000 in 2009. Sprung claims that "no municipality in the Highlands has stepped forward to become a receiving area for development."

Actually, 11 municipalities have expressed interest in becoming receiving areas and are currently working with the Highlands Council to explore the feasibility of becoming one: Bogota, Chester Borough, Clifton, Clinton, Harmony, Hopatcong, Long Hill, Lopatcong, Oakland, Tewksbury Township and Washington Borough.

If Senate Bill (S80) passes, voluntary Highlands receiving areas could be located anywhere in the state. Currently, voluntary receiving areas may only be located within the seven Highlands counties. This could go a long way toward compensating Highlands landowners who wish to sell their development rights. Mentioning that both the Highlands Council and the State Planning Commission would cooperate in designating receiving areas outside of the Highlands counties, Sprung grouses, "Why do we need both agencies involved?"

The council does not have the staff, nor was it empowered by the Highlands Act, to guide development outside of the Highlands region. The planning commission is a statewide agency. With public involvement, the joint planning expertise of the council and the commission can be an ideal partnership in creating the livable communities we all would like to see in New Jersey.

Sprung's basic misconceptions about the Highland Act and the Highlands Council might account for his flawed understanding of TDR.

He wrote, "The Highlands Water Protection and Planning Act was suppose to be a planning act. Land in the Preservation Area was to be preserved while land in the Planning Area was to be built."

That sounds like wishful thinking on the part of a developer. The primary goal for both the Preservation and Planning Areas, as stated in the Highlands Act, is to "protect, restore, and enhance the water quality and quantity" in the Highlands region. The act is not merely a planning act. In fact, "Highlands Water Protection" precedes "Planning" in the bill's full title. Nowhere does the act mention Sprung's characterization that the Preservation Area was to be wholly preserved and land in the Planning Area was to be built.

In fact, the council recently approved a redevelopment project in the Preservation Area and will probably approve another at future meetings. TDR is only one of the several tools available to help the Highlands Council achieve the mandates of the Highlands Act. However, by allowing the Highlands TDR program to expand beyond the Highlands region, we will see the achievement of those goals sooner, namely, the protection of the Highlands water, that 5.4 million people in New Jersey rely upon.

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