

**From:** [REDACTED]  
**Sent:** Wednesday, December 31, 2008 11:57 AM  
**To:** Planning  
**Subject:** Response to 12/29/08 Blog Comments on TDR

To Whomever Accesses this Email Address:

Please forward the below to all Steering Committee and Planning Commission members as I do not have email addresses for them all.

Thank you.

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To All Steering Committee and Planning Commission Members:

I shared the below with Rich Krapf earlier today in response to his comments on the Blog regarding TDR. It is important to note that I sent this to Rich not in my capacity as an EDA Director, but rather as a citizen, a professional planner and a colleague of Rich's on the Board of the Williamsburg Land Conservancy. With his blessing, I send my remarks earlier sent to Rich to you all now, unedited, for your review and information.

**1. No County has adopted TDR?**

While perhaps technically true, it is not the reality of what has been happening in the Commonwealth. One need look only as far west as our neighbor New Kent to see how informal TDR has been used for several years to positive outcome. Contact New Kent's Planning Director George Homewood to find out more if you wish. They have been using an informal TDR process, combined with zoning and conservation easements to achieve the desired outcome in New Kent. JCC has the opportunity to formally adopt a TDR program or to proceed informally as New Kent has done. Each has pros and cons that should be considered, debated and decided.

JCC likes to tout that is a progressive planning community. Having worked across the Commonwealth and out of state in planning for 20 years, I will tell you that JCC is not nearly so progressive as it likes to think. Examples of JCC's most progressive efforts are all in the negative, for example: the only County to propose 300-foot RPA buffers, with marginal at best improvements in water quality demonstrated and the only County to mandate maximum 60% imperviousness, with no demonstrable water quality benefits. I assert that JCC's use of environmental regulations to craftily advance growth management objectives has neither effected improved water quality nor reduced growth – it has cost landowners and businesses more money, it has actually exacerbate and facilitated growth (both in rate and quantity) and wasted precious and limited land resources in a small County sitting squarely in the crosshairs of growth – in the center of the Golden Triangle between DC, State Capitol and the Port of Virginia, major forces all. Taking an honest approach to using TDRs in JCC will make the County progressive in its planning, can avoid property rights infringement in the process, and can direct growth away from areas we wish to preserve and into areas that we recognize as valid and desirable places to grow into the 21<sup>st</sup> century – something we

see now, especially clearly in this downturn, as the essential, if perhaps unfortunate, requirement of a capitalist and democratic society.

## **2. Downzoning and who should do the work needed to proceed?**

Downzoning of rural lands base density is not required to effect a positive TDR outcome for JCC. TDR offers a market-based approach to land preservation that does not require a property rights negative approach to fashioning a policy/ordinance. Rural lands base density is in fact the engine which provides the economic incentive for people to conserve their land through the selling of TDRs – reduce their density and you reduce the potential revenue from selling TDRs. No less important is how the receiving areas are structured to require and accept TDRs as the justification for increased density and non-residential intensity. There is much work to be done, to be sure, and now is the time to do it given the recession/depression slowdown which affords a window of opportunity before economic growth returns.

Who is to say that a rural lands committee will ever be reconstituted? Who might that membership include, given the current political climate? How might that group be instructed to proceed through its charter? Some may not like the answers that emerge to these questions. Ultimately, who is better suited to considering, discussing and recommending policy on such important land use issues than the Planning Commission? The Planning Commission is indeed charged with reviewing and recommending land use policies to the BOS – that is its primary reason to exist and arguably it is the body in the County best suited to doing so. Shifting the political burden to ad hoc groups to do the hard work, and who then present to the PC only to find dramatic changes required is not an efficient use of time and money. The SC said itself that it should review all the matters coming before it in the Comp Plan as a group, not as smaller working committees, to prevent just that waste of time, energy, money and emotional capital. I urge the PC to take on this challenge, make the most of it through honest and broadbased deliberations and make a difference for future generations – and to do it now as part of a comprehensive approach to planning for our future.

## **3. Reduce overall development or effectively and equitably manage positive and beneficial growth – what is the goal?**

Citizen discussions regarding “*rate and pace of growth*” are really measures of velocity or change, not quantity. Reducing the overall development potential in the County can realistically only be accomplished through comprehensive downzoning, not through purchase of development rights (though I would certainly argue that the fair way to take away property rights is through purchasing them). Particularly now, but even in the good times of economic growth, there is and will likely always be vastly insufficient money available through County funding mechanisms to purchase the development rights that would bring about the outcome you suggest (and as you know, people have not been lining up to enter PDR given the strictures of the program we created). Allowing the (once and hopefully soon to be again) monetary resources of “the market” in JCC and beyond to come to bear on purchasing development rights and transferring them to designated growth areas will bring manifold increases in the available capital needed to make a positive difference. And it will minimize sprawling development in both the PSA and outside the PSA in the process, which will save money in the long run and bring about more efficient use of limited land resources.

Existing Staff, if used to its potential, can administer the program within existing resources. Existing Staff, if used to its potential, can manage the myriad other demands of the planning function in the

County if everything weren't set up to be determined on an ad hoc basis. SUPs and rezoning are what consume so much of everyone's time. Taking the time upfront to establish clear, understandable, predictable and outcome/performance-based standards will pay handsome dividends in the County's growth management efforts for years to come. And it will allow the PC and the Board to focus on long-range planning and thoughtful policy formulation as opposed to reacting to cases as they come forward to be heard.

As I forward the above to the full SC and PC, I do so with the hopes that all of you will see some of the opportunities before us today that will permit JCC to truly fashion a new, not simply updated, Comprehensive Plan.

Happy New Year to you all!