

St. Lucie County Western Lands Study



Options and Opportunities for the Future

*Summary: March 6, 2010,
Educational Forum and
Public Input Workshop*

THE ST. LUCIE COUNTY WESTERN LANDS STUDY: OPTIONS AND OPPORTUNITIES FOR THE FUTURE

Summary: March 6, 2010, Educational Forum and Public Input Workshop

Topic: Land Use Planning Tools for Retaining Farmland

Location: The Havert L. Fenn Center, 2000 Virginia Avenue, Fort Pierce, Florida

Structure: The workshop was divided into five parts (agenda Appendix A):

- Introductions and overview of the western lands and the January 14 educational forum, Preserving Farmland through Profitable Agriculture
- A review of land use planning tools for retaining agriculture
- An overview of TDRs, RLSA, and other incentive-based conservation programs in Florida
- A panel session to review TDR programs in Florida
- Forum participant questions and dialogue with the panel

The Western Lands Study: The St. Lucie County, Florida, Board of County Commissioners initiated the Western Lands Study in the fall of 2009. The study addresses the fundamental issues related to the future of nearly 195,000 acres in the western part of St. Lucie County – the heart of the county's agricultural economy. The goal is to develop a plan that considers new and innovative planning tools and strategies and will protect and enhance property values, promote smart growth, foster continued agricultural production, and ensure the cost-effective provision of local government services. The premise for the study stems from St. Lucie County's commitment to smart growth and acknowledgement that a functioning network of agriculture, open space, and natural areas is essential for regional sustainability.

Information about the Western Lands Study: To view forum presentations and learn about opportunities for public involvement in the Western Lands Study, go to: <www.stlucieco.gov/growth/western_lands.htm> or contact Kara Wood, Planning Manager, St. Lucie County Growth Management – phone, 772-462-1589; email, woodk@stlucieco.org; and mail, 2300 Virginia Avenue, Fort Pierce, FL 34982-5652.

Report Organizations: The following summary of the March 6 forum is organized according to the Speaker Presentations and Participant Feedback.

Speaker Presentations

The day began with introductions and a review of the Western Lands Study and the January 14 forum on economic tools for maintaining farmland through profitable agriculture. Two presentations followed: a review of land use planning tools for retaining agriculture and an overview of Transfer of Development Rights (TDRs), Rural Land Stewardship Agreements (RLSA), and other incentive-based conservation programs in Florida

Introductions and Western Lands Study Review

Charles Grande, Chair of the Board of County Commissioners Chair welcomed the forum participants and recapped the purpose of the day: to learn about the sale, transfer, and monetization of development rights on land. "Transfer of development rights programs are complex, which is why today is devoted to learning from some speakers who have worked with TDR programs," Grande noted.

The importance of a successful TDR program for maintaining agricultural lands was underscored when Grande quoted a fellow commissioner as saying, "If we go through the western lands study and end up with nothing more than a workable TDR program that allows landowners to stay in farming and monetize their development rights, we will have succeeded."

Following Commissioner Grande's opening comments, Mark Satterlee, the St. Lucie County Growth Management Director, reviewed the agenda for the day and described the opportunities for participant feedback. Marie York, President of York Solutions and Associate Director of the Center for Building Better Communities at the University of Florida, followed with a review of the five overarching themes that emerged from participant feedback at the January 14 forum.

One: If agriculture is to be a significant part of the county's future, St. Lucie County needs to play an active and much more aggressive role in growing and supporting the agricultural economy, facilitating the business of farming and ranching, and helping to answer the question, "What is the next crop that I can plant?"

Two: Monetizing ecosystem services which are currently provided for free by agricultural landowners presents an opportunity for new revenue-producing agricultural products. That applies to water storage and purification in particular.

Three: The potential of agriculture to add value through producing renewable energy and sequestering carbon will require further exploration and supportive local and state governments.

Four: There is a high degree of interest in creating the networks, venues, and support infrastructure that connect local food producers to consumers (from individuals and restaurants to schools and institutional food consumers such as hospitals).

Five: There is no one magic bullet. A full-menu approach is needed to tilt the economics in favor of remaining in agriculture. Landowners must be able to combine a number of options and opportunities in order to generate the revenues they need. The type of agricultural operation, the features of the land, and the type of land ownership should be considered.

York noted that all forum and other Western Lands Study information is on the county's website. In addition, feedback from the January 14 and March 6 forums will be summarized and provided as background information for the April 24 countywide assembly.

A Review of Land Use Planning Tools for Retaining Agriculture

Tom Daniels (see Appendix B for a bio), a Professor in the University of Pennsylvania's Department of City and Regional Planning, highlighted the range of land use planning tools that communities around the country are using to successfully retain agriculture. "My purpose today," Daniels began, "is to provide ideas and options that you can consider when making decisions. It is not to tell you what to do. It is your community, and you are the experts on what will work."

The goals of a farmland preservation program, Daniels continued, generally are to maintain a critical mass of farms and farmland to keep the farm support businesses and the overall agricultural industry in operation, and affordable land prices for farming. The program needs to provide both the landowner and the public with reliability over time, have reasonable costs compared to the benefits, and sustain landowner as well as public and political support. Public benefits include better control over the pace of development, preservation of open space (thereby raising non-farm property values), reducing the increase in the cost of public services and facilities, and strengthening the local economic base and food supply.

As context for discussing transfer of development rights (TDRs) and purchase of development rights (PDRs) programs, Daniels reviewed private landowner property rights and the challenges that agricultural landowners face.

- Landowner property rights can be viewed as a bundle of sticks. They include air, water, and mineral rights, and the right to lease, sell, and pass property on to heirs, and the right to develop land. Any one of those rights can be sold or donated separately from the others.
- Challenges facing landowners include earning a profit and a living from a land-based business such as farming and forestry, passing the land to the next generation (sometimes difficult because of estate taxes), and deciding whether to sell land for development or continue to farm.

Landowners deciding to preserve their land for future generations have several options:

- Sell or donate the land in fee simple.
- Sell (through a Purchase of Development rights (PDR) program) or donate development rights (also known as a conservation easement).
- Transfer the development rights through a TDR program.
- Engage in limited development such as residential cluster development on part of a tract of land and maintaining the balance in farming or open space use.
- Use a mix of the above.

Which option to pursue is voluntary on the part of the landowner, and involves negotiations between a buyer (a developer, for example) and a seller (in the case of PDRs and TDRs), and donor and donee (with regard to a donation). A conservation easement is placed on the conserved portion of the land, but the land remains in private ownership and the landowner retains all remaining rights including the ability to sell the land. The seller or donor receives compensation in cash and/or through tax benefits. For governments, that payment avoids issues related to the taking of private property.

To set up a TDR program, the government creates the market by designating sending areas (those to be conserved) and receiving areas (where more intense development is appropriate and supported). The government also assigns development rights to landowners in the receiving areas. To help create a strong TDR market, the government should require that developers purchase TDRs in order to build at higher than normal densities. Operating a TDR bank is another way governments can build a TDR market.

Daniels concluded with the observation that a successful TDR program requires cooperation - from landowners, public officials, the development community, and the public at large. Commitment is also important - landowners to remain in agriculture, developers to put development in the right places, and public officials and the general public to supporting the program.

A Sampling of TDR Success Tips

TDR lessons learned from Florida and around the country highlight the importance of:

- Designing a program that has clear goals that meet local needs and respects and reflects the local context.
- Having landowner support and involving landowners in program design.
- Making sure that the TDRs provide real value and that sending and receiving areas are viewed as desirable.
- Not giving away density in re-zonings (purchasing a TDR must be the only way to develop higher than currently allowed densities).
- Maintaining at least twice as many receiving sites as development rights being transferred.
- Providing special design guidelines for the receiving area so that the density will be accepted.
- Minimizing the uncertainty of the TDR transaction.
- Involving the public and explaining the benefits.
- Keeping the program simple to understand, use, and administer.

An Overview of TDRs, RLSA, and Other Incentive-Based Conservation Programs in Florida

Clay Henderson, Senior Counsel for the law firm of Holland and Knight, began by stressing that there is no magic bullet or one-size-fits-all solution when it comes to designing a program to conserve farmland. "One community cannot cut and paste a program from another one," Henderson noted. "Each community has to figure out what will work and then tailor its own program. All affected have to agree that it will work." Trust is also important, Henderson continued, as are public-private partnerships that stretch today's limited public dollars available for acquisition.

The range of TDR programs being used in Florida illustrate how different approaches are being used in each community. TDR programs are being used to conserve productive farmland, promote compact development patterns and a clear edge between urban and rural, and restore, link, and preserve environmentally sensitive areas. In some communities, TDRs are used in combination with a PDR program.

- Alachua County - using TDRs as part of a Planned Development that involves two or more tracts of land and the transfer of units of density from designated conservation sending areas. The receiving area is evaluated for its viability to support increased development. A minimum of 50 percent of the combined area of the two parcels must be set aside as open.
- Charlotte County - using a TDR variation called Transfer of Development Units (TDU) to preserve environmentally sensitive land and address substandard platted lands. Density is permanently severed and transferred to locations more appropriate for urban development. No increase in entitlement density is permitted without the TDU.
- Collier County - employing TDRs to protect environmentally sensitive land (the sending lands composed of 45,000 acres) within its Rural Fringe Mixed-Use Land Use District. Receiving areas (22,000 acres) are those lands with less environmental value. Density bonuses are given for enrolling early, implementing a restoration and maintenance plan, and conveying land to a public agency as a gift. Collier County also has a PDR program.
- Lee County - using TDRs to protect farmland and natural systems in southeast Lee County's groundwater resource area. The initial receiving areas will be four new mixed-use communities near Lehigh Acres where the purchase of TDRs will be required to develop at urban intensities. Additional receiving areas will include transit corridors and other urban sites in participating municipalities.
- Marion County - using TDRs to protect farmland and designated conservation lands (the sending area). The receiving area is the Ocala Urban Reserve where TDRs are required to achieve urban densities. Close to 3,000 acres of farm and timber land have been protected under the program.

- Osceola County - requiring that a TDR must be purchased when a development comes in below a target density of five units per acre. Sending areas are conservation, agricultural, and habitat lands outside the county's Urban Growth Boundary (UGB). Receiving areas are those inside the UGB that do not meet the minimum density threshold.
- Sarasota County - using TDRs to conserve environmentally sensitive and active agricultural sending areas. The largely undeveloped areas that the county's 2050 Comprehensive Plan calls for being hamlets and villages are the receiving areas. Over 8,000 acres have been protected.
- Volusia County - planning to use TDRs to protect conservation and agricultural sending areas, with an emphasis on environmentally sensitive areas. Receiving areas have not been designated.

Henderson also reviewed a number of innovative planning approaches designed to conserve large areas of open space and farmland and concentrate development in a much smaller footprint than that of a conventional subdivision. One of those programs is the North St. Lucie County Towns, Villages, and Countryside (TVC) Plan, which is using TDRs to shape future development into well-defined mixed-use towns and villages with clear edges and, in turn, preserve environmentally sensitive and agricultural lands. Others include the conservation design plans for Farmton and Restoration in Volusia County and the Collier County Rural Land Stewardship Program, which operates like a TDR program but awards credits on the basis of environmental protection or productive agriculture.

A Panel Session to Review TDR Programs in Florida

Panelists Michael Houston, Principal, the Houston Group, and Isaac Hoyos, Principal Planner, Palm Beach County, presented, respectively, the North St. Lucie County TVC Plan TDR experience, the Palm Beach County TDR experience, and a sampling of two innovative conservation design plans in Volusia County. Clay Henderson also participated on the panel to explain the lessons learned from the Volusia County conservation design plans described earlier.

Houston reviewed the plan for Laurel Gardens Village, which will be on the site of a former citrus grove in the TVC area. The plan will concentrate the development on 125.5 acres of the 502-acre site. Density multipliers were given for preserving countryside, including land for the greenway, called for in the TVC plan; multipliers were also given for providing workforce housing and sites for target industries identified in the TVC plan. The result is 768 permitted units that will be located on 149.22 acres, for a net neighborhood density of 6.63 dwelling units per acre. The development will have a town center and a combination of apartments and townhomes as well as single family homes.

Palm Beach County, Hoyos noted, used its TDR program (currently under a moratorium) to preserve 35,000 acres in the sending areas (agricultural, environmentally sensitive, and rural residential lands) for an estimated price of over \$80,000 per TDR. The TDR program includes a county TDR bank. Receiving areas are lands within the Urban Services Areas, with increased credits for more urbanized locations. Palm Beach County has preserved 21,000 acres in its Agricultural Reserve, a tier in the county's tiered approach to long-range planning. The Agricultural Reserve is linked to the county's TDR and PDR programs.

Forum Participant Questions and Dialogue with the Panel

Participant feedback, which came through questions and comments throughout the day, is summarized below. An overriding message from agricultural landowners was that they need to be involved in discussions about maintaining agricultural land. "When you talk about preserving agriculture, the landowners should be the first, not last, group you talk to," a landowner observed.

Another important message was that land use-related tools to retain agriculture, such as TDRs, should be coupled with economic development programs to help St. Lucie County farmers, ranchers and growers be more competitive and open up new markets. In other words, agricultural landowners need less, not more restrictions, on the ability to farm. "Farmers want to farm," a landowner noted. "If you limit what we can do and do not invest in making agriculture more profitable when you talk about preserving agriculture, you're planning a cemetery. To maintain agriculture, it has to be profitable."

As highlighted below, forum participants had some very specific comments about establishing a TDR program.

- Agricultural landowners need to be involved in the design of a TDR program.
- A TDR program needs to be voluntary - i.e., no one has to participate.
- To work, the program has to add value for the landowner and be coupled with a policy of "no free density" without purchasing development rights. There also needs to be a market for the TDRs, and that can be facilitated by a TDR bank.
- Interlocal agreements could be used to transfer development rights across jurisdictional boundaries - for example, from the western lands to an urban center. They could also be used to limit the expansion of urban growth or service boundaries without the use of TDRs.
- TDR receiving areas need to be desirable places to live or locate a business (if the receiving area includes commercial uses).

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- A TDR program should be coupled with other options (for example, a PDR program and some type of limited development).
 - TDR and similar programs should be combined with strategies to provide for affordable housing. In Palm Beach County, that was done through an inclusionary housing requirement.

Forum participants also discussed the role of agricultural landowners in providing publicly-needed ecosystem services. Water storage and purification were cited as examples. Another comment was that urban dwellers need to become more connected with the agricultural areas within the county. U-pick-it operations provide one way of doing that.

Participants were reminded of the focus of the two Western Lands Study educational forums: how to make agriculture more profitable and how to create value for landowners who choose to separate some of their development rights from the land (a TDR program, for example). The intent is that the combination of the two should equal or be greater than the value received for developing the land. The challenge, participants noted, is to work together to tailor a program that will work in St. Lucie County.

Appendix A

THE ST. LUCIE COUNTY WESTERN LANDS STUDY: OPTIONS AND OPPORTUNITIES FOR THE FUTURE

March 6, 2010 Educational Forum and Public Input Workshop: Land Use Planning Tools for Retaining Farmland

The Havert L. Fenn Center, 2000 Virginia Avenue, Fort Pierce, Florida

AGENDA

- 9:00 I. Welcome - *Charles Grande, Chairman, St. Lucie County Board of County Commissioners, District 4*
- II. Announcements and Introductions - *Mark Satterlee, AICP, St. Lucie County Growth Management Director*
- 9:05 III. Overview of the Western Lands Study - *Marie York, President, York Solutions and Associate Director, Center for Building Better Communities at the University of Florida*
- 9:15 IV. A Review of Land Use Planning Tools for Retaining Farmland - *Dr. Tom Daniels, Professor of City and Regional Planning in the University of Pennsylvania's Department of City and Regional Planning*
- 10:15 V. TDRs, RLSA, and Other Incentive-Based Conservation Programs in Florida - *Clay Henderson, Senior Counsel, Holland and Knight*
- 11:00 Break
- 11:15 VI. Panel Session to Review Florida TDR Programs - *Tom Daniels, Moderator*
- Panel Members: *Clay Henderson, Senior Counsel, Holland and Knight
Michael Houston, Principal, Houston Cuozzo Group
Isaac Hoyos, Principal Planner, Palm Beach County*
- 11:45 VII. Participant questions and dialogue with the panel
- 12:25 VIII. Closing Comments - *Mark Satterlee*
- 12:30 Adjourn

Appendix B

Keynote Speaker Bios

Tom Daniels

Tom Daniels is a Professor of City and Regional Planning in the University of Pennsylvania's Department of City and Regional Planning, where he teaches land use planning, growth management, and land preservation. For nine years, he was Director of the Agricultural Preserve Board of Lancaster County, Pennsylvania, where he managed the county's nationally recognized Purchase of Development Rights program. Daniels is the author of *When City and Country Collide: Managing Growth in the Metropolitan Fringe* and co-author of *Holding Our Ground: Protecting America's Farms and Farmland* and *The Environmental Planning Handbook for Sustainable Communities*, published in 2003 by the American Planning Association. Daniels also co-authored *The Small Town Planning Handbook*, published in 2007. He has served as a consultant to Evergreen Capital Advisors, the National Fish and Wildlife Foundation, and the Plum Creek Timber Company on its Moosehead Lake project in Maine, and often serves as a consultant to state and local governments. Tom is a graduate of Harvard and holds a Master's Degree from the University of Newcastle (UK) and a Ph.D. from Oregon State University in Agricultural and Resource Economics.

Clay Henderson

Clay Henderson is Senior Counsel at the national law firm of Holland & Knight. He practices in the public policy section in the areas of environmental law, land use, and Smart Growth and represents public agencies, large private landowners, and conservation organizations. His experience in conservation land acquisition and sustainable development includes negotiating the acquisition of over 250,000 acres of land now part of national and state parks and preserves. Clay's long association with Florida environmental policy includes serving as President of the Florida Audubon Society prior to joining Holland & Knight. Clay also developed the first county endangered lands acquisition program, helped launch Preservation 2000 and Florida Forever, chaired the Florida Greenways Commission, and, as a member of the Florida Constitution Revision Commission, drafted many of the revisions to the environmental provisions of the constitution. He also served two terms on the Volusia County Council, serving as chair for one year, and was a member of the Florida Communities Trust and the Property Rights Study Commission. In 2006, Clay received the Bill Sadowski Memorial Award for public service in environmental law from the Florida Bar. He received his bachelor's from Stetson University and his juris doctor from Cumberland Law School in Birmingham, Alabama.