Appendix XXII.6

Examples for TDCs Under the *Partial Allocation* Rule

The intent of the ***Partial Allocation Rule*** is to implement the Growth Policy by providing flexibility and development options after the allocation of TDCs while still maintaining the integrity of the TDC program and the underlying zoning. The ***Partial Allocation Rule*** states that the construction or development of any Residential Dwelling Unit or the creation of any new Tract of Record on the lands subject to the Transferable Development Credit Allocation (TDCA) Zoning Overlay shall require the retirement of the commensurate number of TDCs. The ***Partial Allocation Rule*** is explained in further detail by the following examples:

Scenario 1: 80-Acre Tract of Record in the AG-160 Zoning Sub-District.

Example 1: Construction of a Residential Dwelling Unit on a Tract of Record Subject to the TDCA Zoning Overlay

Landowner A has an undeveloped 80-acre tract of record in the AG-160 zoning sub-district and is interested in having TDCs allocated to his property. Landowner A follows the process described in Art. XXII, Sect.2, resulting in 10 TDCs being allocated to his property in exchange for voluntarily accepting certain restrictions on the construction of new or additional Residential Dwelling Units and/or Tracts of Record on the subject property for a period of 40 years, as memorialized by the placement of Transferable Development Credit Allocation (TDCA) Zoning Overlay.

In year three, Landowner A decides that he would like to build a Residential Dwelling Unit on the existing 80-acre tract. The TDCA Zoning Overlay allows a Residential Dwelling Unit to be built on the property because it is authorized by the underlying zoning as the 80-acre parcel existing prior to adoption of the AG-160 zoning sub-district; however, the *Partial Allocation Rule* requires Landowner A to retire one of the TDCs he was allocated in order to construct the Residential Dwelling Unit. After retiring the subject TDC, Landowner A has nine TDCs left and 37 years remain until the expiration of the TDCA Zoning Overlay.

Example 2: Family Transfer on a Tract of Record Subject to the TDCA Zoning Overlay

This example starts where the preceding example (Example 1) left off; Landowner A has an 80-acre tract of record with one Residential Dwelling Unit and continues to hold nine TDCs. It is now year 15 of the TDCA Zoning Overlay and Landowner A wants to give a tract of land to each of his two children utilizing the family transfer exemption. While the underlying zoning (Art. III, Sect. 3.01) allows for one Residential Dwelling Unit per 160 acres, and the existing 80-acre tract is already developed, Art. III, Sect. 3 exempts new tracts of land created via family transfers from the baseline density requirement, thus Landowner A may create a five-acre tract of record for each of his two children. The *Partial Allocation Rule* applies, and requires Landowner A to retire two of the TDCs he was allocated to compensate for the Residential Dwelling Unit that will be built on each of the two family transfer parcels. Landowner A now has seven TDCs left and 25 years remain until the expiration of the TDCA Zoning Overlay.

Example 3: Removal of the TDCA Zoning Overlay Prior to Expiration of the Term Restriction

This example starts where the preceding example (Example 2) left off; Landowner A has a 70-acre tract of record with one Residential Dwelling Unit and continues to hold seven TDCs. It is now year 20 of the TDCA Zoning Overlay and Landowner A sells three TDCs to a developer and continues to retain four TDCs.

In year 25 of the TDCA Zoning Overlay, the underlying zoning changes from one unit per 160 acres to one unit per 20 acres. Landowner A would like to do a minor subdivision so that he could sell off two 20-acre pieces of his property (and keep a 30-acre piece), but is unable to do so because of the TDCA Zoning Overlay. Landowner A discusses the *Partial Allocation Rule* with the Planning Department. Assuming the *Partial Allocation Rule* is still applicable, it allows landowners enough flexibility to explore other development options so long as they retire the appropriate number of TDCs.

The allocation of 10 TDCs to Landowner A's property was based on Landowner A's voluntary decision to forego certain development opportunities on his 80-acre property for a period of 40-years. Developing at the density allowed by the current zoning (one unit per 20 acres) and selling off two 20-acre tracts would consume half of the property the TDC allocation was originally based on, thus in order to be eligible to create the two 20-acre tracts, Landowner A would need to retire half of the TDCs he was originally allocated. Since Landowner A was originally allocated 10 TDCs, he would need to retire five TDCs.

As a result of the decisions Landowner A has made over the previous 25 years, he only has four TDCs. Landowner A finds and secures a TDC from another party in order to retire a total of five TDCs and remove the TDCA Zoning Overlay from 40-acres of his property. (Note that Landowner A must go through subdivision review to create the two 20-acre tracts to sell). The TDCA Zoning Overlay remains on the balance of Landowner A's property (the 30-acre parcel he retained) and the two family transfer parcels until the expiration of the TDCA Zoning Overlay in year 40.

Scenario 2: 160-Acre Tract of Record in the AG-160 Zoning Sub-District

<u>Example 4: Development of a Rural Cluster Development Project on Land Subject to the TDCA Zoning Overlay</u>

Landowner B has a 160-acre tract of record in the AG-160 zoning sub-district with an existing farmstead. Landowner B is interested in having TDCs allocated to her property. She follows the process described in Art. XXII, Sect. 2, resulting in 20 TDCs being allocated to her property in exchange for voluntarily accepting certain restrictions on the construction of new or additional Residential Dwelling Units and/or Tracts of Record on the subject property for a period of 40 years, as memorialized by the placement of Transferable Development Credit Allocation (TDCA) Zoning Overlay. One TDC was automatically retired by the existing farmstead, thus Landowner B has 19 TDCs to work with. In year one, Landowner B sells four TDCs to a developer and retains a total of 15 TDCs.

In year 10, Landowner B decides to investigate doing a Rural Cluster Development (RCD) Project, but is unable to do so because of the TDCA Zoning Overlay. Landowner B discusses the *Partial Allocation Rule* with the Planning Department. The *Partial Allocation Rule* allows landowners enough flexibility to explore other development options so long as they retire the appropriate number of TDCs.

Based on the characteristics of her property, the RCD process determines she would be eligible for a density of one unit per 40-acres; instead, she decides she would like to do a three-lot RCD project (the farmstead, plus two additional Residential Dwelling Units). Under the *Partial Allocation Rule*, to do the RCD Project, she must retire TDCs commensurate with the proposed use. At a density of one unit per 40 acres, the RCD project would utilize 120 acres of her 160-acre property, thus 75% of the TDCs she was originally allocated, or 15 TDCs total must be retired in order for her to do the RCD project. One TDC was already retired for the existing farmstead when the TDCs were originally allocated. That TDC must be factored into the equation, and since the farmstead will be part of the RCD project, she must retire 14 additional TDCs.

As a result of the decisions Landowner B has made over the previous 10 years, she has retained 15 TDCs. Landowner B goes through RCD zoning and subdivision review processes and when she is ready to get final plat approval of the RCD project, she retires the 14 TDCs. The TDCA Zoning Overlay is lifted from the appropriate 120-acres of the subject property and is replaced by the RCD Zoning Overlay. The TDCA Zoning Overlay remains on the 40-acres of Landowner B's property not included in the RCD project until the expiration of the TDCA Zoning Overlay in year 40. Landowner B retains one TDC.