

DRAFT PRINCIPLES FOR A COUNTY TDC PROGRAM

March 23, 2006

1.0 General Principles

1.01. TDC's Primary Goal.

The Transferable Development Credit (TDC) program's primary Goal is to preserve as much of the following land as possible for the various uses of the agricultural industry in the county, and for habitat, view corridors and open space:

- Agricultural Productive (AP), currently zoned 1 home per 5 acres, and
- Rural (R), currently zoned 1 home per 5 acres, and
- Agricultural Rangeland (AR), currently zoned 1 home per 40 acres

1.02. Voluntary.

The TDC program must be voluntary.

1.03. Understandable.

The TDC program must be understandable to the average citizen and manageable by a limited staff.

1.04. Transfer Growth.

To accomplish the goals set forth above, the TDC program should not result in a change in the average residential densities allowed within Hollister's and San Juan Bautista's Future Growth Areas, but should result in an increase within the County's future "Receiving Areas" (defined in Section 3.0 below), and a significant reduction in the densities and the land lost to residential development in the AP, R and AR zoned areas designated "Sending Areas" (defined in Section 2.0 below).

1.05. No Gain or Loss of Existing Rights.

With only a few exceptions to encourage affordable housing, and to compensate the cities and the county for the unrecoverable costs of growth, and to encourage the preservation of the open space most highly valued by the community, the TDC program should result in no net increase or decrease in the maximum number of homes presently allowed within the county plus the two Cities, nor should it deprive a family of their existing rights to build the presently allowed number of homes on their property. The Goal of the TDC program is to encourage the property owners of AP, R and AR zoned land to either:

- a. construct their presently allowed new homes in a cluster of homes within their property (rather than spreading them out into 5 acre or 40 acre home sites), with the remainder of the land being preserved for open space and agricultural uses, or
- b. transfer all or a portion of their presently allowed new homes to a parcel within a Receiving Area and thereby preserve an even greater portion of their property for open space and agricultural uses.

2.0 Sending Areas

2.01. AP, R and AR Zoned Land.

Except for the designated Receiving Areas, all AP, R and AR zoned areas outside of Hollister's and San Juan Bautista's adopted Sphere of Influence should be designated "Sending Areas". The TDC program should encourage "sending" the allowable "Transferable Development Credits" in these Sending Areas to more appropriate Receiving Areas.

2.02. Transfer or Cluster.

The owners within the Sending Areas should be required to either send their Transferable Development Credits to a Receiving Area, or "Cluster" their development into a cluster, away from roads, view corridors and environmentally sensitive areas. The Board of Supervisors may make a positive finding that a particular development proposal meets all of the goals of the TDC program by proceeding in a somewhat different manner than a standard Cluster development. For instance, the Varian Ranch development in San Louis Obispo Country is one of many alternate development prototypes which allow a parcel to develop at its zoned density, but still preserves the vast preponderance of the land as an economically viable working ranch.

2.03. Cluster Development.

A "Cluster" development is a residential development sited on no more than 10% of an AP or R zoned parcel or group of parcels if served by a sewer, (average of ½ acre per home site), or on no more than a 1 acre site if served by a septic system, and no more than 5% of an AR zoned parcel or group of parcels, (average of 2 acres per home site). The "Cluster" should

provide a mix of housing densities and the housing area(s) should be fenced from the Remainder Parcel. The Remainder Parcel should be a separate parcel encompassing a unified agriculture, habitat or open space area. The Remainder Parcel should have an agricultural/open space easement recorded against it. A portion of the Remainder Parcel could be used for underground septic systems and for storm water retention basins to service the Cluster.

2.04. Sending Area Clusters Must Compete For Growth Allocation Permits.

If an owner in a Sending Area does not want to participate in the TDC program by transferring their Transferable Development Credits to a Receiving Area, they should be allowed to build a “Cluster” development on their property, provided they compete for the non TDC bonus growth allocation permits. The on-site Cluster developments should also be subject to all subdivision ordinances and other rules and regulations pertaining to on-site developments.

2.05. Determine The Number Of On Site Buildable Units.

The owner(s) of a parcel proposing a Cluster development on their parcel must first provide sufficient topographic and geologic evidence to the County Planning Department to allow it to “certify” the number of homes the owner may build on their parcel. The number of Buildable Units shall become that parcel’s “Certified Buildable Rights”. In order to encourage applicants to transfer their TDCs to a Receiving Area, an applicant in a Sending Area may request this determination prior to submitting a full development application for an on-site Cluster development. This determination by staff may be appealed to the County Planning Commission and then to the Board of Supervisors.

2.06. Transferable Development Credits.

“Transferable Development Credits (TDC’s)” should be determined as follows:

- a) Applicants desiring to establish their TDC rights should be required to submit to the County Planning Department an Assessors Parcel Map showing the acreage of their parcel, or a record of survey prepared by a registered civil engineer, and a map of the parcel prepared by a registered civil engineer displaying the topographic features of the property and a preliminary title report showing all easements. The Source of the topographic information may be either the highest resolution USGS topographic map available or an aerial survey with more detailed topographic information.
- b) The applicant’s registered civil engineer shall note on said map;
 - (i) the zoning of the parcel,
 - (ii) the acreage within FEMA adopted 100 year flood plains,
 - (iii) the acreage with slopes greater than 30%,
 - (iv) the acreage of the parcel not within a 100 year flood plain and not within a slope greater than 30%,
 - (v) the number of existing homes on the property,
 - (vi) all existing acres with open space and/or agricultural easements
- c) The number of TDCs assigned each parcel should be determined as follows;
 - (i) One full TDC should be allocated for each 5 acres in an AP or R zone and one TDC should be assigned for each 40 acres in an AR zone which are outside of an adopted 100 year flood plain and outside areas with a slope greater than 30%. One TDC shall be deducted for each existing residence within these areas.
 - (ii) One half of a TDC shall be allocated in accordance with the above zoning to those portions of the parcel within an adopted 100 year flood plain, plus the acreage within a slope greater then 30%. One TDC shall be deducted for each existing residence within these areas.
 - (iii) Three additional Bonus TDCs shall be assigned to each five acres in a AP or R zone and each 40 acres in a AR zone which has been designated by the Board of Supervisors as “Open Space and Agricultural Lands of Special Significance to the Community”.
 - (iv) One and only one of the assigned Bonus TDCs on lands designated “Open Space and Agricultural Lands of Special Significance to the Community” may be sold in return for the owner recording a 25 year Open Space and Agricultural easement to the county. The rest may be sold only in return for an easement in perpetuity.
- d) No TDCs shall be allocated to the acres with an existing open space and/or agricultural easement.
- e) Round up to the next whole number if the result is 0.50 or more, otherwise round down.

- f) The county and owner shall record a document certifying the parcel's total assigned Transferable Development Credits. When TDC's are sold or added to the parcel, a document shall be prepared by the county and recorded to that effect.
- g) The number of TDC's assigned to a parcel at any given time shall be that parcel's "Certified TDC Rights".

2.07. TDC as an Investment.

TDCs may be purchased by any individual, partnership, corporation or organization and held for resale.

3.0 Receiving Areas

3.01. Areas to be Exempt From the County's TDC Program.

The following areas, as of the date of the adoption of the TDC ordinances, should be exempt from the provisions of the County's TDC ordinances;

- a. Lands already annexed to a city, and
- b. Lands within the cities Adopted Sphere of Influence, and
- c. Lands which, on more than 50% of that parcel's boundary, are abutting or directly across the street from lands already annexed to a city.

Owners in these areas may voluntarily purchase TDCs in order to gain City growth management points if the city includes TDCs in its program.

3.02. Growth Should Be Encouraged Within Receiving Areas.

The TDC program should provide for and encourage growth in pre-designated "Receiving Areas". Additional Receiving Areas will have to be chosen from time to time by the Board of Supervisors in order to maintain an adequate supply of Receiving Areas. Without an adequate supply of clearly defined pre-designated Receiving Areas, with pre-designated allowable density ranges, there will be little market for the Sending Area's Transferable Development Credits.

3.03. Criteria for Designation of Receiving Areas.

Receiving Areas should be designated in locations where they will minimize the negative impact on achieving the stated goals of the TDC program.

- a) The two Cities' existing "Future Growth Areas" should be designated initially as Receiving Areas on the County's TDC maps, except that rivers, streams, wetlands and other environmentally sensitive areas should be designated Sending Areas.
- b) The county's existing RU, RR, RT, Urban and Areas of Special Studies Zones should also be designated initially as Receiving Areas, except that rivers, streams, wetlands and other environmentally sensitive areas should be designated Sending Areas.
- c) Receiving Areas also need to be designated by the County within an adequate number of other appropriate areas that will remain within the county's jurisdiction. These Receiving Areas need to be designated initially and then added to at each General Plan Review or every 10 years, whichever is sooner.
- d) Each Village Center should include a transit stop, shopping, office and other employment opportunities and apartments. Each Village should contain a wide variety of lot sizes and home sizes and apartments to meet the needs of all income levels, not just the highest and lowest. The average size of the lots and homes should gradually increase as one leaves the Village Center and approaches the Village edge. Every Village should have ample parks and open space and at least one elementary school. Every Village should provide a municipal water and sanitary sewer system and should provide urban levels of police and fire protection, all maintained and paid for by their own county service district. Every Village should be a "walkable" size (approximately 80% of the population should live within 3,000 feet of the Village Center).
- e) No Receiving Area should be placed on prime farm land (grade 1 and grade 2 soils with adequate good water available for growing crops) or in a sensitive environmental area and each County Receiving Area should be large enough and dense enough to create a sustainable Village, with a clearly defined "urban" Village Center.

The new Receiving Area Villages should be clearly separated by open space and/or topographic features from the existing two cities and from each other.

Villages should be approved only where they do not significantly reduce the view corridor or the large greenbelt which now exists along Highway 25 between the Pajaro River and Highway 156 and along Highway 156 between Highway 101 and Union Road and along the north side of Highway 156 between Highway 25 and Highway 152. Open space uses such as linear parks and golf courses should be placed as buffers between the Village edges and any adjoining highways and agricultural uses, except grazing.

- f) The County may want to consider designating Tres Pinos as a Receiving Area Village and encourage the careful completion of Tres Pinos as a sustainable village, as it already has a store, school, restaurants and municipal water and sewer systems. The county should also consider designating other existing developed areas as Receiving Area Villages to encourage the intensification of their land use and the creation of a Village center. Existing cross roads often make sound anchors for new villages.

3.04. Cities' Sphere Of Influence.

All areas within Hollister's and San Juan Bautista's Spheres of Influence adopted by LAFCO, and as amended from time to time, should be designated Receiving Areas and should not be Sending Areas, except that areas designated by a city as open space and agricultural areas and areas within designated river and stream corridors within the cities' Sphere of Influence should be designated Sending Areas.

3.05. Future Planning Areas.

The TDC designation should be changed from Sending Area to Receiving Area when a city, in the future, adopts an area as a "Future Planning Area".

3.06. Agreement To Purchase Increases In Density on Annexation.

Only those owners who offer to mitigate the significant impacts of developing their agricultural lands to densities above the parcels Certified TDC Rights, after deduction of all multifamily units by purchasing TDCs should be approved by LAFCO for inclusion in the city's expanded Sphere of Influence. If the city is requesting that the parcel be annexed to the city, the city should first agree that the additional units approved above the parcels Certified TDC Rights, after deduction of all multifamily units, will be purchased 90% from the Sending Areas and 10% from the city prior to final map approval or start of construction, whichever is sooner. The city should not be required to purchase these TDCs. They should be considered "Bonus TDCs" and are issued to the city to compensate the city for otherwise unrecoverable costs of development of lands within the city's jurisdiction. The TDCs purchased from the city shall be purchased at the average cost per TDC of all TDCs purchased by private parties from private parties in the previous year.

3.07. Increases in Density Within Existing County Lands Should be Purchased.

If the Receiving Area parcel is being developed within the county, the additional units approved above the parcels Certified TDC Rights, after deduction of all multifamily units, should be purchased 90% from the Sending Areas and 10% from the county prior to final map approval or start of construction, whichever is sooner. The county should not be required to purchase these TDCs. They shall be considered "Bonus TDCs" and are issued to the county to compensate the county for otherwise unrecoverable costs of development of lands within the county's jurisdiction. The TDCs purchased from the county shall be purchased at the average cost per TDC of all TDCs purchased by private parties from private parties in the previous year.

3.08. Required Mix of Zones From Which TDCs Must Be Purchased.

In order to avoid favoring one property owner over another in the Sending Areas, the requirement for an applicant to purchase TDCs in order to increase densities in a Receiving Area should, for the first ten years of the TDC program, also include a requirement to purchase no less than 10% of the required TDCs from the lands to be designated "Open Space and Agricultural Lands of Special Significance to the Community" (see section 4.05 below) and no less than 40% of the required TDCs from lands which are presently zoned AP and R and no less than 10% from the county or city in which the development is proposed and up to 40% from the lands which are presently zoned AR.

3.09. Density Range of the Receiving Areas.

The Receiving Areas should not be allowed to be built out at a low average density, as that consumes agricultural land more rapidly. Therefore, the Receiving Areas should be pre-designated in the general plan as Receiving Area Villages and should be zoned Planned Development with a designated density range (minimum density as well as maximum). The residential component of any development within a Receiving Area should be required to average at least 7 units per net residential acre (net of all streets, parks, schools and all other uses), which would require a minimum average lot size of 6,223 square feet per

home. Even a few large lots up to 1 acre lots should be encouraged, but they would have to be offset by higher density uses elsewhere within that development. The maximum allowable density per net residential acre should be set as high as the infrastructure can support.

3.10. Mix of Uses and Densities.

A wide mix of uses and densities should be provided in the Receiving Areas.

3.11. Multi-Family Housing Exemption.

Although they should be counted in the calculation of minimum and maximum allowable densities for a parcel, multi-family housing (14 units per net acre or more) should be exempt from the requirement to purchase TDC's, as they are by their density already preserving open space and farm land and are needed to provide affordable housing. Increasing their cost by requiring the purchase of TDC's would not serve either of these goals.

3.12. Application to Change to a Receiving Area.

An Applicant may apply to change all or part of a parcel from a Sending Area to a Receiving Area and the county shall approve or deny the application based on the criteria set forth above.

3.13. Future Change From Sending Area to Receiving Area.

If a parcel has an agricultural/open space easement recorded against it and the Board of Supervisors later designates it as a Receiving Area, then the agricultural/open space easement shall be voided and the parcel shall have no Certified TDC Rights and no Certified Buildable Rights. The owner shall be required to purchase Transferable Development Credits from a Sending Area equal to the number of all future residential units.

3.14. Requirement to Report the Sale of TDCs.

The sale of all TDCs should be reported to the county within 30 days of the sale. The parcel(s) from which the TDCs have been purchased should be clearly identified. That parcel's "Certified TDC Rights" and the TDCs purchased and the number of TDCs remaining on the parcel should be stated. The price paid for the TDCs purchased, including all forms of compensation, should be disclosed to facilitate establishing a market price and to provide the information to base the price of the Bonus TDCs assigned to the cities and county. The new owner of the TDCs should be stated. When the new owner of the TDCs assigns the TDCs to a new parcel, the new parcel should be identified and the parcel's current "Certified TDC Rights" and added TDC rights should be shown. The county planning department should "certify" the changed "Certified TDC Rights" of each parcel.

4.00 Implementation

4.01. Obtain Public Input And Then Amend Our Recommendation.

The TDC committee should then present the draft Principles concurrently to any interested stakeholder groups and to the County Planning Commission. With their input, we can revise the Principles once again and present them to the County Board of Supervisors. After these hearings, the county staff can draft the ordinances with some assurance that they can make the TDC Principles work.

4.02. Amend The County's Subdivision Guidelines.

The county should amend its subdivision guidelines to incorporate as many of the TDC Principles as possible. These can be adopted immediately as they are not requirements and therefore they do not need CEQA review.

4.03. Amend County's General Plans.

The County's General Plan, Zoning ordinance and Growth Management Ordinance should be amended to fully implement the TDC program. As an example, the County's Growth management permit allocation point system ordinances should be amended to clearly reward those who actively use the TDC program. This should be done as part on the forthcoming General plan review process as this will need consultant time and CEQA review in order to become regulatory.

4.04. Amend The County's Growth Management Plan.

The County's Growth Management ordinance should be amended to reward an additional 1% growth per year to those in receiving areas that use the TDC program to increase their density, but are not within an approved Village. In addition, at least one and at most two Receiving Area Villages could be authorized to be under construction at all times. Each Village and Receiving Area should continue to be exempt under Ordinance 709 as it can only be created by density transfer, not through the creation of additional units within the county. Additional densities from Bonus TDCs should also be exempt. A new category should be created within the county's growth management ordinance for these Villages and other developments within receiving areas. Each of these developments should be authorized to build 100 units, or 10% of its approved number of

units each year, whichever is greater, without reducing the number of units available to the other land owners within the county.

4.05. Amend The County's and Zoning Ordinance.

The County zoning ordinance will need to be amended to reflect a number of the TDC Principles. For example, lands zoned one home per 5 acres would be permitted to be subdivided into 1 acre lots with a large remainder lot preserved as open space. No PUD should be required and no expensive mini- parks should be required if the TDC Principles are followed

4.06. Open Space and Agricultural Easement

The required open space and agricultural easement should restrict the use of the property in perpetuity to only open space and agricultural uses as presently defined in the county zoning code.

4.07. Designation of "Open Space and Agricultural Lands of Special Significance to the Community"

The TDC committee should recommend to the Board, at a minimum, a list of approximately 9,000 acres which have the highest open space and agricultural potential of the remaining unpreserved lands, for example the San Juan Valley, especially those lands encompassing grade 1 and 2 soils, with adequate good water available for growing crops, or which could "fill in" blocks of land previously preserved, or which are likely to be developed if not preserved in the near future ("Open Space and Agricultural Lands of Special Significance to the Community"). A committee should be appointed each year to recommend additions and deletions to maintain a minimum of 9,000 acres on this list. The "Open Space and Agricultural Lands of Special Significance to the Community" will be given preference in the required mix in Section 3.08 above.

5.00 Agricultural and Open Space Conservation Agency

5.01. Public Purchase of TDCs and Land.

An Agricultural and Open Space Conservation Agency ("Agency") should be created and the members should be appointed by the Board of Supervisors. This Agency should be empowered to borrow funds, with Board of Supervisors' approval, solicit state open space and park bond funds and solicit public and private grant funds to acquire TDCs to fulfill the goals of the TDC program. The Agency should also receive the TDCs from lands condemned for other public purposes and receive TDCs and land voluntarily donated by County landowners.

5.02. Central Registry.

The Agency should act as a central registry of those who buy and sell TDCs and those who are desirous of buying and selling TDCs.

5.03. Agency Purchase of TDCs.

The Agency should actively seek out the owners of the Open Space and Agricultural Lands of Special Significance to the Community and other lands which are important to achieving the goals of the TDC program from a habitat, view shed, view corridor, open space and/or agricultural preservation bases and purchase the TDCs from these lands in return for the owners recording an agricultural/open space easement against the land.

5.04. Agency Purchase of Land.

The Agricultural and Open Space Conservation Agency should also be authorized to purchase land, resell the TDCs at public auction or private sale, record an agricultural/open space easement against the land and then either transfer the land to the County for a public park or open space use, or resell the land at public auction as soon as practical to generate funds to pay its staff and buy more TDCs.

5.05.

The Agency should be required to resell via public auction the TDCs it acquires, at least once per year, and than use the receipts to pay its staff and purchase more TDCs.

If the Agency does not have TDCs to sell to those in need of TDCs, the Agency should establish a TDC price (fee) based on its best judgment as to the current market price of TDCs and issue TDCs to those who pay said market price.