

Case Study: TDR Programs Supporting Communities and Installations

The communities of Churchill County, Nevada and Beaufort County, South Carolina face similar challenges: growth is transforming the rural character of their communities and risking the viability of the military installations located there. In response, the counties developed programs to transfer development rights from sensitive areas to locations better able to accommodate growth. As a result of their efforts, Churchill County has protected almost 4,000 acres of agricultural land adjacent to Naval Air Station (NAS) Fallon while incompatible development will be limited on 1,403 properties within Marine Corps Air Station (MCAS) Beaufort's Air Installation Compatibility Use Zone (AICUZ).

Background

Located one hour east of Reno, in the growing community of Fallon, NAS Fallon is home to the Naval Fighter Weapons School and the Naval Strike and Air Warfare Center, as well as the location for Navy Seal Combat Search and Rescue training. Covering 84,000 acres and employing over 3,000 personnel, NAS Fallon is the only facility where an entire carrier air wing can conduct comprehensive training while integrating every element of the wing into realistic battle scenarios. According to Navy Real Estate Special Projects Director Alexandra Elias, "It is the most realistic battle scenario a pilot can have without actually being in a battle. Pilots on the base have said that the range and area look very much like Afghanistan."

MCAS Beaufort is home to all the Marine Corps' East Coast F/A-18 fighters and future home to operational squadrons of the F-35 fighter jets and two pilot training squadrons. It is also located in one of the most rapidly developing areas of the country 70 miles south of Charleston and less than 50 miles north of Savannah. With 6,900 acres and 4,700 personnel employed there, MCAS Beaufort is critical to supporting military readiness across the globe. In 2003, the Marine Corps updated its AICUZ and identified new areas where development should be limited to uses compatible with designated noise or accident potential zones.

Challenge

NAS Fallon's position as the premier center for tactical air warfare training makes it a priority for the Navy to protect from incompatible development. In addition to protecting NAS Fallon, county planners are also concerned with sustaining agriculture and maintaining an aquifer recharge area and future water supplies in a high desert climate. To meet the three goals, county planners developed a plan to transfer development away from the critical area between the city of Fallon and the installation to a region in the northwest corner of the city better suited to development.

With adoption of the new AICUZ ordinance, the City of Beaufort, Beaufort County, and the Town of Port Royal agreed to limit development in the area, which effectively "downzoned" the area. The majority of the "downzoned" area was in Beaufort County's jurisdiction. With a significant number of landowners in the affected area being low-income African-Americans, some descendants of former slaves, county and air station officials were concerned about the financial impact of new regulations limiting development. A TDR program was adopted to help mitigate the financial losses experienced by residents while keeping the AICUZ free from incompatible development.

Solution

In setting up any TDR program, the governing body must identify the areas to protect and to develop, determine eligibility for the program, and create approval processes. TDR programs create a “sending site” and a “receiving” site. A sending site is the property to be protected from development through an easement and which transfers its development rights to a receiving site. A receiving site is the location where the development rights are transferred to, often within a designated urban development or growth area to accommodate denser development.

In the case of Churchill County, the area primarily north and west of NAS Fallon was identified as a region needing protection. To be eligible, the “sending” site must provide a community benefit through preservation and must be at risk for significant degradation from increased residential development. Further, priority is given to properties that are:

- Irrigated
- In agricultural production
- In a water recharge area or within the military operations compatibility area
- 20 contiguous acres or larger

The county’s receiving sites must be within an urbanizing area or an area that is eligible for public water service, proximate to a receiving site, or not in an environmentally sensitive area or needing public service extensions funded by the county.

If a landowner wishes to participate in the TDR program, there are a number of steps to be followed, including working with his or her tax advisors to consider the financial implications of participating and submitting an application to Churchill County. The application is then routed for multi-agency review and comment. After the review process, the landowner receives a letter of intent to issue a TDR certificate upon completion of a conservation easement. The county then purchases a conservation easement that institutes height limits, prohibits development, retains water rights on the property, and supports agricultural uses. The landowner retains ownership of the land and receives a financial incentive for conserving it. The Navy then purchases a restrictive use easement that contains similar, but fewer, restrictions on development.

The result is a win-win-win-win for the community, NAS Fallon, the landowner, and the environment. “The TDR program could function without the Navy, and the Navy’s easements could function without the TDR program. But what we couldn’t do without is the conservation easement that allows us to buy the restrictive use easement. And from a monitoring standpoint, this is the easiest possible way for the Navy to ensure that development is prevented. We feel very good about the strength of the TDR program when used in conjunction with conservation easements,” notes Elias.

The TDR program in Beaufort County received an infusion of \$250,000 in state money to finance the purchase of development rights in the new AICUZ for MCAS Beaufort. Like the Churchill County program, there are certain criteria the sending and receiving sites must possess. For example, the sending parcels must be in the AICUZ, while the receiving areas must be located in the northern Beaufort regional growth area that is able to handle the growth and density coming from the sending area. In Beaufort’s case, the county made it a priority that smaller parcels to be purchased first to offset the negative financial consequences of downzoning via the new AICUZ. “The sending area is specifically land within the AICUZ; the receiving area is located within the sections of northern Beaufort County that have been specifically designated by the county as ‘growth areas,’ thereby directing higher density

development to the areas where it is most appropriate,” notes Ginnie Kozak, Planning Director for the Lowcounty Council of Governments.

Lessons Learned

According to Elias three things must be in place for a successful TDR program:

- Political will to manage the development
- Some amount of development pressure to encourage the actual transfer of development rights
- Public acceptance

One benefit to conserving land through a TDR program with conservation easements is that the sending areas as well as the properties protected with easements appear in maps and zoning ordinances, whereas a typical easement transaction is apparent only when one runs a title report. This extra visibility gives an additional layer of protection that Elias appreciates.

According to Alice Howard, former Community Plans and Liaison Director at MCAS Beaufort, public education is key to the success of a TDR program. Beaufort County officials took the time to conduct numerous one-on-one meetings with the landowners of the sending properties to convince them it was a good deal. These meetings were essential to the program’s success because of initial opposition from a local Tea Party Group. Kozak also recommends: “Keep briefing the elected officials on progress and have as many of them as you can at the public meetings so they can help answer questions and reassure the public. It went better at public meetings when at least two or three of them were there rather than just one.”

Accomplishments

- 3,500 acres of prime agricultural land in NAS Fallon’s buffer region permanently protected from incompatible development
- Approximately 35 Nevada landowners provided with economic benefits while encouraging additional density in areas with existing infrastructure
- 1,403 properties in MCAS Beaufort’s AICUZ to be permanently protected from incompatible development
- South Carolina landowners will receive economic benefits while pushing growth to more accommodating, higher density areas