



Community Development Department

Planning Division Building Safety Division Environmental Soils Division

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DATE: January 26, 2015
TO: Deschutes County Board of Commissioners
FROM: Nick Lelack, Director
Peter Gutowsky, Planning Manager
Todd Cleveland, Environmental Health Specialist III.
RE: Transferable Development Credit (TDC) Advisory Committee / Recommendation

I. BACKGROUND

TDCs, which include Pollution Reduction Credits (PRCs), are associated with the Regional Problem Solving and Groundwater Protection projects in southern Deschutes County. TDCs, which have been in place since 2003, are deeded restrictions on future property development. They are acquired voluntarily in designated areas for the preservation of water quality and open space. The acquisition of TDCs is one option for developers of new parcels in the Newberry Neighborhood in the city of La Pine. Similarly, PRCs, which were added to the program in 2006, certify the placement of a nitrogen reducing septic system in qualifying areas. They may be purchased as an alternative option to allow Newberry Neighborhood development. Revenue associated with TDCs and PRCs, together with Newberry Neighborhood land sale proceeds and other revenue sources, provide financial assistance to South County residents in implementing actions which reduce the amount of nitrates potentially entering the groundwater and therefore protecting the source of drinking water in the area.

In addition to funding sewer feasibility studies on an as-needed basis, financial assistance from this program has enabled rebates to be paid to South County property owners who have installed nitrogen-reducing septic systems. Low interest cost-deferred loans have also been made available to property owners to fund complete septic system replacement for those who may not otherwise qualify for project financing.

II. TDC ADVISORY COMMITTEE

Reconvening the TDC Advisory Committee was a high priority of the Board of County Commissioners (BOCC). It directly relates to one of their FY 2014/2015 Goals and Objectives:¹

- County Goal: Robust Economy
 - County Objective #4: Support land use policies that promote beneficial utilization of the land for economic growth

¹ <http://www.deschutes.org/Finance/Budget-and-Finance/Budgets/FY-2015-Proposed-Program-Budget.aspx>. Page 12.

- **CDD Department Measure:** Reconvene the TDC Advisory Committee to determine if changes are needed to facilitate economic growth in La Pine’s New Neighborhood in conjunction with groundwater in rural southern Deschutes County.

Deschutes County Code (DCC), Chapter 11.12 codifies the TDC Program.² DCC 11.12.040 specifically addresses the TDC Advisory Committee’s purpose, duties, and membership. Members are selected by the Community Development Department (CDD) based on the knowledge and expertise that each member may contribute to the development of the TDC program.

CDD received commitments from the following members:

Table 1 – TDC Advisory Committee

Bob Baggett, Oregon Department of Environmental Quality
Dennis Pahlisch - Pahlisch Homes
Ed Criss, Deschutes Co. Planning Commissioner – South County Region
Jon Jinings, Oregon Department of Land Conservation and Development
Judy Forsythe, Deschutes County Citizens Action Group
Kate Fitzpatrick, Deschutes River Conservancy
Michael Bentz, Myco Excavation
Monte Dammarell, South County Resident / Property Owner
Rick Allen, Interim La Pine City Manager
Ted Scholer, Retired Realtor
Vic Russell, Excavation / Finley Butte Aggregate

III. RECOMMENDATION

The TDC Advisory Committee convened on August 21 and conducted a total of five meetings.³ On December 18, members reviewed a matrix of options and identified their top two choices (Attachment). Table 2 summarizes their recommendations.

Table – TDC Advisory Committee Recommendations

Majority Recommendation
<ul style="list-style-type: none"> • Status quo • Reconvene TDC Committee in 24 to 36 Months
Other Observations
<ul style="list-style-type: none"> • TDC/PRC program does not work for Vic Russell • Pahlisch Homes, as the primary builder of the Neighborhood Planning Area, expects equitable treatment. <ul style="list-style-type: none"> ○ If the program stays in place, other developers should meet their share of the TDC/PRC obligation ○ If the program is terminated, Pahlisch should be compensated to offset their acquired PRCs

Attachment:

Matrix of Options

² <http://www.deschutes.org/County-Code.aspx?F=chapter+11.12.pdf>

³ [http://www.deschutes.org/Community-Development/Regional-Projects-and-Resources/Transferable-Development-Credit-\(TDC\)-Advisory-Com.aspx](http://www.deschutes.org/Community-Development/Regional-Projects-and-Resources/Transferable-Development-Credit-(TDC)-Advisory-Com.aspx)

TDC Advisory Committee Recommendations / Matrix of Options

Options		Impacts	Ranking
1.	<i>Status quo</i>	<p>Program remains unchanged</p> <p>At some point in the future, Pahlisch Homes applies the 183 PRCs they possess to their tentative plat in Quadrant 2b</p> <p>At some point in the future, Vic Russell obligated to obtain 104 PRCs for his tentative plat in Quadrant 1a and a total of 221 PRCs for Quadrants 1b and 1d</p> <p>NPA developers continue working with rural property owners to help install alternative treatment technology (ATT) septic systems to protect groundwater. NPA developers can also utilize the PRC fallback option (\$7,500) to help replenish the Groundwater Partnership Fund</p>	
2.	<i>Reconvene TDC Committee in 24 to 36 Months</i>	Allows the Committee to respond to Goal 11 Exception outcome and changing market conditions in NPA. If Goal 11 Exception is approved, TDC/PRC program emphasis can expand to allocate resources to address centralized sewerage opportunities	
3.	<i>Deferred Payment Option</i>	Vic Russell's existing PRC burden (325) allocated to Quadrants 1b and 1d; Tentative plat associated with Quadrant 1a and 104 PRC requirement, transferred to Quadrants 1b and 1d	
Eliminate TDC / PRC Program			
4	<u>Vic Russell Concept (#1)</u> ¹ <i>Eliminate TDC Program and Compensate Pahlisch Homes for their PRC Investments</i>	<p>Vic Russell no longer obligated to obtain PRCs</p> <p>Groundwater Partnership Fund foregoes the potential to generate up to \$2,437,500 due to elimination of Vic Russell's PRC obligation (assumes fallback option at \$7,500 per PRC)</p> <p>Pahlisch Homes owns 202.15 PRCs; their value based on the \$7,500 per PRC fallback option is \$1,516,125</p> <p>Reimbursement to Pahlisch comes from undetermined County funds or applying their \$1,516,125 "credit" to buy other County-owned quadrants in the NPA</p>	
5	<u>Vic Russell Concept (#2)</u> ¹ <i>Fallback Option and Compensate Pahlisch Homes</i>	<p>Vic Russell's PRC burden is \$468,000, a \$1,969,500 (81 %) decrease from his current obligation of \$2,437,500</p> <p>Pahlisch Homes owns 202.15 PRCs which are valued at \$1,516,125. An 81% reduction equals \$1,228,061. Reimbursement to Pahlisch comes from undetermined County funds or applying their \$1,228,061 "credit" to buy other County-quadrants in the NPA</p>	

¹ Until the County sells land in NPA, if any of Russell or Pahlisch Homes concepts are implemented, the Groundwater Partnership Fund, in the short-term, will no longer have sufficient funds to assist residents in South County with groundwater related issues (sewer feasibility study; ATT upgrades, new opportunities arising from Goal 11 Exception). Groundwater funds would be replenished once County-owned land in the NPA is sold to a developer.

6	<p><u>Pahlisch Response to Russell Concepts</u> *</p> <p><i>Proposal 1</i></p>	<p><u>Background:</u> Pahlisch Homes currently owns 26 lots in Phase 2c and owns the raw land in Phase 2b that has 100 tentative plated lots. These 126 total lots have adequate PRC/TDC Credits allocated to them so construction of the homes can proceed without additional cost. They have based their response to Vic Russell’s proposal on the information provided and his proposed remedies. The following remedies would be considered equitable and supported by Pahlisch Homes.</p> <p>Proposal 1) the elimination of the program we would request (126 lots * \$4500/lot = \$567,000) \$567,000 cash reimbursement for our existing credits from the County. This money can come from Russell or in combination from the County TDC/PRC program to be worked out by the County.</p>	
7	<p><u>Pahlisch Response to Russell Concepts</u> *</p> <p><i>Proposal 2</i></p>	<p>Proposal 2) Vic Russell pays \$567,000 cash directly to Pahlisch Homes as reimbursement for existing credits within an agreed time frame secured by personal notes agreeable to Pahlisch</p> <p>This proposal would be if the County drops the TDC/PRC program all together retroactive to Jan 1st 2015 and does not require any payment From Russell for platting his lots in future toward the TDC/PRC program.</p>	
8	<p><i>Amend La Pine Zoning Code and/or Submit City Land Use Application</i> ²</p>	<p>Vic Russell explores, a) amending the La Pine zoning code to remove TDC/PRC obligation and/or b) submitting a new tentative plat for Quadrant 1a, with a burden of proof demonstrating TDC/PRCs no longer apply</p>	

² Option 8 was discussed as a possibility by Rick Allen, interim La Pine City Manager.