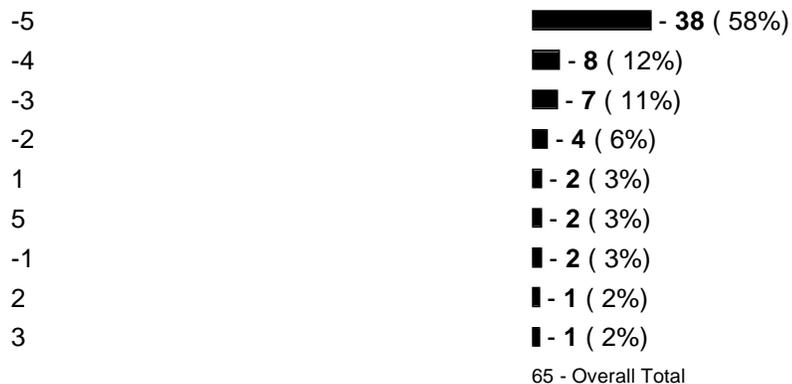
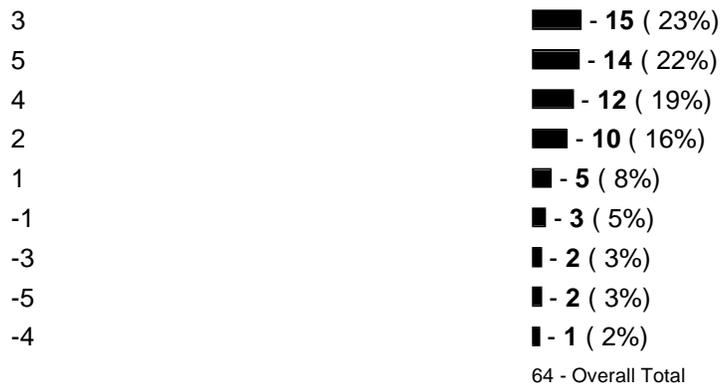


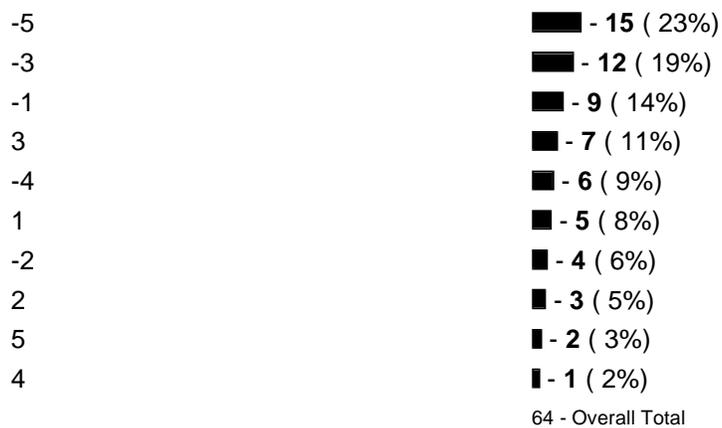
Two story multifamily buildings



Two and three story detached homes



Four story multifamily building



Two story detached homes



2	■ - 16 (25%)
3	■ - 14 (22%)
4	■ - 12 (19%)
5	■ - 12 (19%)
1	■ - 4 (6%)
-3	■ - 4 (6%)
-5	■ - 2 (3%)
64 - Overall Total	

Three and on-half story townhomes



-5	■ - 11 (17%)
----	---------------

3	■ - 11 (17%)
1	■ - 10 (16%)
-3	■ - 9 (14%)
2	■ - 6 (9%)
-1	■ - 4 (6%)
-4	■ - 4 (6%)
-2	■ - 4 (6%)
5	■ - 4 (6%)
4	■ - 1 (2%)
	64 - Overall Total

Two and on-half story townhomes



2	■ - 11 (18%)
-5	■ - 9 (15%)
1	■ - 8 (13%)
3	■ - 8 (13%)
4	■ - 8 (13%)
-1	■ - 5 (8%)
-2	■ - 5 (8%)
5	■ - 4 (6%)
-3	■ - 4 (6%)
	62 - Overall Total

Public Spaces

- This last portion of the survey includes photos of a variety of public spaces.
- Although Central Martinez is largely built-out, there are opportunities for future open spaces. To this extent, parks, plazas, squares and sidewalks have been included.
- Please consider the size and scale of Central Martinez in your scoring, as well as the priority of need for the particular type of space portrayed.

CONTINUE

██████████ - 3 (100%)

3 - Overall Total

Square with fountain



- 3 ██████████ - 16 (24%)
- 4 ██████████ - 13 (20%)
- 5 ██████████ - 12 (18%)
- 2 ██████████ - 9 (14%)
- 1 ██████████ - 8 (12%)
- 5 ██████████ - 4 (6%)
- 3 ██████████ - 2 (3%)
- 2 ██████████ - 2 (3%)

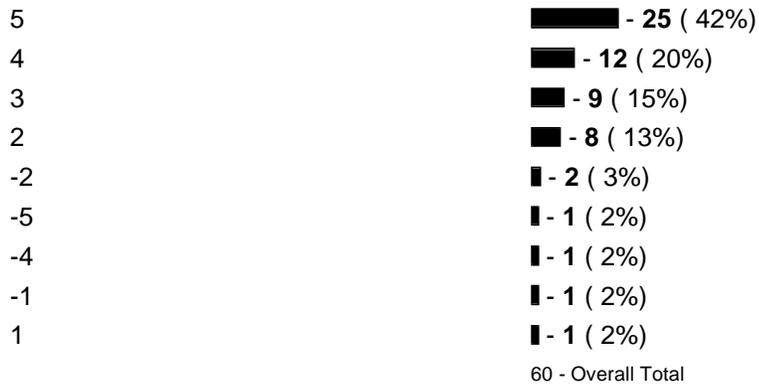
66 - Overall Total

Plaza with fountain

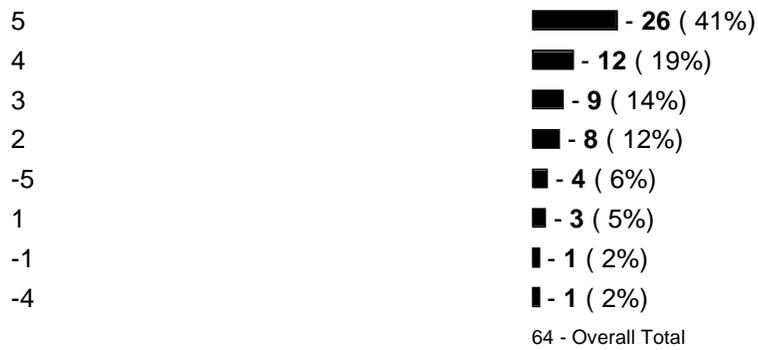


4	■ - 19 (29%)
5	■ - 16 (24%)
2	■ - 11 (17%)
3	■ - 9 (14%)
1	■ - 4 (6%)
-5	■ - 3 (5%)
-3	■ - 2 (3%)
-1	■ - 1 (2%)
-2	■ - 1 (2%)
66 - Overall Total	

Sidewalk



Planted median on residential street



Park with playground



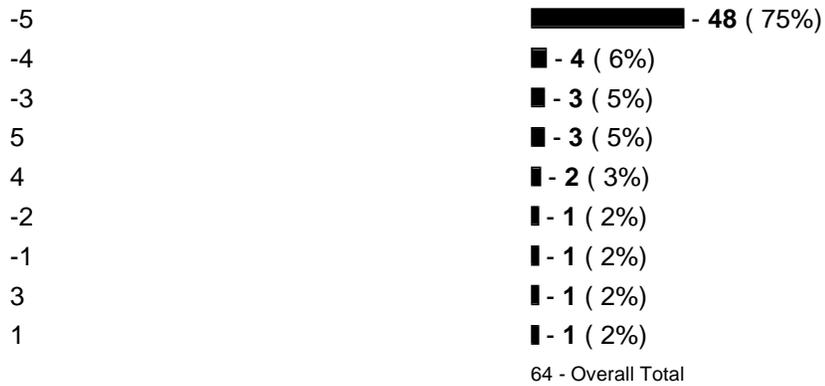
Sidewalk pocket park



5	■	- 19 (30%)
3	■	- 11 (17%)
4	■	- 11 (17%)
2	■	- 11 (17%)
1	■	- 7 (11%)
-2	■	- 2 (3%)
-3	■	- 1 (2%)
-4	■	- 1 (2%)
		63 - Overall Total



Sidewalk (non-existent)



Sidewalk



5	■ - 12 (21%)
2	■ - 9 (16%)
4	■ - 9 (16%)
3	■ - 7 (12%)
1	■ - 5 (9%)
-3	■ - 4 (7%)
-5	■ - 3 (5%)
-1	■ - 3 (5%)
-4	■ - 2 (4%)
-2	■ - 2 (4%)
	56 - Overall Total

Sidewalk



5	■ - 18 (30%)
4	■ - 10 (17%)
3	■ - 10 (17%)
1	■ - 9 (15%)
2	■ - 6 (10%)
-5	■ - 3 (5%)
-2	■ - 2 (3%)
-3	■ - 1 (2%)
-1	■ - 1 (2%)
	60 - Overall Total

Park



5	■	- 27 (43%)
3	■	- 14 (22%)
4	■	- 8 (13%)
2	■	- 7 (11%)
1	■	- 6 (10%)
-3	■	- 1 (2%)
		63 - Overall Total

Sidewalk



3	■ - 14 (22%)
5	■ - 13 (21%)
1	■ - 10 (16%)
2	■ - 9 (14%)
4	■ - 6 (10%)
-1	■ - 3 (5%)
-4	■ - 3 (5%)
-5	■ - 2 (3%)
-2	■ - 2 (3%)
-3	■ - 1 (2%)
63 - Overall Total	

Park



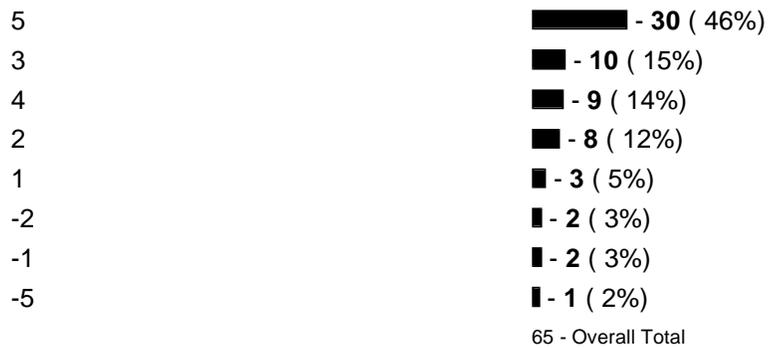
5	■	- 17 (27%)
3	■	- 15 (24%)
2	■	- 11 (18%)
4	■	- 7 (11%)
-4	■	- 4 (6%)
1	■	- 3 (5%)
-2	■	- 3 (5%)
-3	■	- 1 (2%)
-1	■	- 1 (2%)
62 - Overall Total		

Sidewalk



-5	■ - 23 (35%)
-3	■ - 8 (12%)
-2	■ - 7 (11%)
5	■ - 7 (11%)
1	■ - 5 (8%)
-1	■ - 4 (6%)
3	■ - 4 (6%)
2	■ - 4 (6%)
-4	■ - 3 (5%)
65 - Overall Total	

Green with play fountain

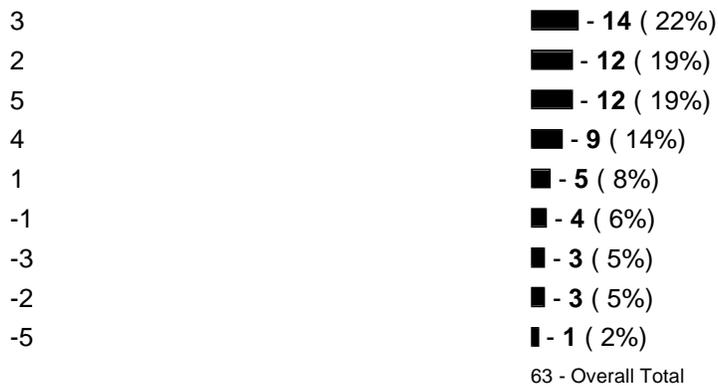


Courtyard



5	■ - 24 (35%)
3	■ - 14 (20%)
4	■ - 13 (19%)
2	■ - 10 (14%)
1	■ - 3 (4%)
-2	■ - 1 (1%)
-5	■ - 1 (1%)
-4	■ - 1 (1%)
-3	■ - 1 (1%)
-1	■ - 1 (1%)
	69 - Overall Total

Square with fountain



Playground



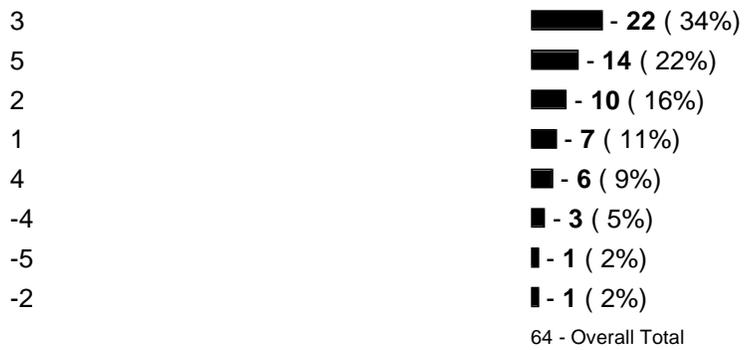
5	■ - 23 (38%)
3	■ - 15 (25%)
2	■ - 7 (12%)
4	■ - 6 (10%)
1	■ - 4 (7%)
-2	■ - 2 (3%)
-5	■ - 1 (2%)
-1	■ - 1 (2%)
-3	■ - 1 (2%)
60 - Overall Total	

Sidewalk



3	■ - 17 (27%)
4	■ - 12 (19%)
5	■ - 11 (18%)
2	■ - 9 (15%)
1	■ - 6 (10%)
-2	■ - 2 (3%)
-5	■ - 2 (3%)
-4	■ - 1 (2%)
-1	■ - 1 (2%)
-3	■ - 1 (2%)
62 - Overall Total	

Sidewalk



Pocket park



Congratulations!

- You have now completed the Central Martinez Area Study Image Preference Survey.
- The results of all respondents will be tabulated and summarized for your review.
- Thank you for your help and participation!

SUBMIT SURVEY █ - 17 (100%)
 17 - Overall Total

Survey designed by [Tunnell-Spangler-Walsh and Associates](http://www.tunspan.com).
 Questions/comments/problems: Caleb Racicot, 404-873-6730 or cracicot@tunspan.com.

4.5 TAX ALLOCATION DISTRICTS

Note:

The University of Georgia's Land Use Clinic prepared the following document for the City of Dalton. While not specific to Columbia County, it provides an excellent overview of the State of Georgia's Tax Allocation District requirements.

**FUNDING DALTON’S REDEVELOPMENT THROUGH A ‘TAD’: FINANCING BY
TAX INCREMENTS**

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TADs and TIF: an overview

Redevelopment of declining corridors can be limited by both a lack of private incentives to developers and a lack of funding.¹ Many states have authorized redevelopment through tax increment financing (TIF) to avoid these problems.² Upon designation of a group of land parcels

¹ Document from McKenna Long & Aldridge, LLP, Tax Allocation Districts in Georgia: An Overview, (on file with author) [hereinafter *TADs: An Overview*]. “In the 1960’s and 1970’s, federal and state governments began cutting back economic development programs that could be used to revitalize communities. Tax increment financing, or TIF, as it is know elsewhere, has become a popular tool to attract new business, invest in infrastructure improvements, and rebuild blighted areas.” *Id.*

² *Id.*

TIFs are used in 44 states to stimulate development and redevelopment. ...Illinois has over 400 TIFs—120 in Chicago alone. The TIF program has been credited with providing the catalyst for the dramatic renaissance of downtown Chicago. Portland, Oregon has created ten TIFs, including...a project that includes transportation improvements, new housing, mixed-use

as a tax allocation district (TAD), redevelopment of the area will be financed by taxes collected from that area through TIF. The terms TAD and TIF are used interchangeably; while it is referred to as a TIF in most jurisdictions,³ Georgia's statute refers to this financing tool as a TAD.⁴ This document will refer to the district and general concept as a TAD and the means of financing as a TIF, unless it is in the context of a quote and then this document will defer to the quoted authority. Regardless of the term, the intention is the same: to redevelop an area using taxes from the benefited area to finance the project.

Ordinarily, development and construction of infrastructure is financed by taxes collected from the general public. Taxing authorities such as school boards, counties, states, and special tax districts (i.e. fire, recreation, hospital, etc.) each impose a tax on a percentage of the value of an individual's property.⁵ These taxes provide revenue to each of the taxing authorities as an annual budget to provide services for their jurisdiction. From the budget, currently existing municipal services must be paid, such as school services, emergency personnel and equipment, and other community needs. The budget can also fund redevelopment of a particular community or area when it is underdeveloped or becomes blighted. But when general funds are used to finance redevelopment, they are diverted from other currently existing municipal services. Redevelopment, therefore, is often foregone in favor of financing current services. In contrast, when a particular "blighted area"⁶ is designated as a TAD, the jurisdiction can avoid using

development, and public facilities in a 653-acre area covering three neighborhoods. Kansas City, Missouri also has used TIFs successfully both to facilitate site-specific developments and to stimulate development in large blighted areas, [including] a project...demolishing over 140 blighted properties within a 22-acre site and rebuilding a mixed-use development with office, retail, and residential elements. *Id.*

³ Jim Durrett & Chick Krautler, *Millennium Housing Commission, Mar. 12, 2001*, at <http://www.mhc.gov/hearings/testimony/Brown.doc> (last visited Oct. 7, 2003). See also O.C.G.A. §§ 36-44-2, through 36-44-23 (authorizing municipal redevelopment powers relating to TADs).

⁴ O.C.G.A. §§ 36-44-2, through 36-44-23 (authorizing Redevelopment Powers Law for municipalities).

⁵ This percentage is called a millage rate.

⁶ Many states require an area to qualify as "blighted" before it can be designated a TAD. Many states differ on what constitutes "blight," and Georgia does not even use the term. However, according to O.C.G.A. § 36-44-3 (7), an area qualifies for TAD redevelopment in very broad terms, including:

(a) Any urbanized or developed area in which structures, buildings, or improvements, by reason of dilapidation, deterioration, age, or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, is conducive to ill health...high unemployment, juvenile delinquency or crime and is detrimental to the public health, safety, morals or welfare;

(b) Any urbanized or developed area which by reason of the presence of a predominant number of substandard, slum or deteriorated or deteriorating structures; the predominance of defective or inadequate street layout; inadequate parking, roadways, bridges, or public transportation facilities incapable of handling the volume of traffic flow into or through the area...the faulty lot layout in relation to size, adequacy, accessibility, or usefulness; unsanitary or unsafe conditions; deterioration of site or other improvements...or any combination of the foregoing substantially impairs or arrests the sound growth of the community, retards the provision of housing accommodations or employment opportunities; or constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use.

(c) Any open area in urbanized or developed area that because of factors in (a) or (b) substantially impairs or arrests the sound growth of the community.

(e) Any area within an urbanized or developed area which is substantially underutilized by containing open lots or parcels of land or by containing a substantial number of buildings or

general funds or raising taxes throughout the community to finance the redevelopment. Instead, taxes specifically levied from the TAD district are used in place of taxes from the general public. Finally, a TAD designation ensures that taxes levied from one area of the jurisdiction will not finance another area's redevelopment.

When "properly used, TIF can be a powerful tool for revitalization of declining urban areas and is important in the wake of declining federal financial assistance for urban renewal projects."⁷ Using TADs to finance redevelopment entails risk because the success of a TAD is contingent on defining realistic goals of redevelopment and setting parameters for the implementation of and periodic review of TIF.⁸ However, if used properly, a community can finance its own redevelopment without raising taxes or diverting funds from other local needs.

TIF: how does it work?⁹

A contiguous area of land is designated as a TAD because it is ripe for redevelopment either because it has become a blighted area or because it is underdeveloped. Specific requirements for "blight" vary by municipality, but generally it is defined broadly to qualify the TAD for the municipality's redevelopment powers. When a TAD is designated, a taxing authority will assess, and 'freeze,' the taxable value of all taxable property.¹⁰ The frozen property value is called the 'tax allocation increment base.'¹¹ The taxing authorities are guaranteed to receive revenue based on this value, and property owners will never pay taxes on *less* than this frozen property value during the years the TAD is in place.¹² Taxes levied, based

structures which are 40 years old or older or by containing structures or buildings of relatively low value as compared to the value of structures or buildings in the vicinity of the area or...an area in which there is a shortage of housing that is affordable for persons of low or moderate income which the local legislative body designates as appropriate for community development or any combination of the foregoing factors;

(f) Any geographic area designated within the comprehensive plan of a political subdivision for redevelopment which has previously been developed for commercial, residential, industrial, office, or similar or ancillary uses and which lies within the service delivery area of the political subdivision, in which the current condition of the area is less desirable than the redevelopment of the area for new commercial, residential, industrial, office, or other uses or a combination of uses, including the provision of open spaces or pedestrian and transit improvements, and any environmental factors impairing redevelopment of area....

⁷ Julie A. Goshorn, In A TIF: Why Missouri Needs Tax Increment Financing Reform, 77 WASH. U. L. Q. 919, 924 (1999).

⁸ *See id* at 936-37 (explaining that "[t]ax increment financing allows a municipality to act without accountability to voters. Moreover when a legislature gives municipal governments little guidance on projects, and when these projects do not garner much public attention, the potential for abuse and corruption increases.") *Id*.

⁹ For other sources and explanations of TADs and TIF, *see generally*, *Tax Increment Financing*, Illinois Department of Revenue, available at <http://www.revenue.state.il.us/businesses/other/increment.htm> (last visited February 24, 2004); *Tax Increment Financing*, Des Plaines Illinois Economic Development, no longer available on-line; *Tax Increment Financing*, City of Oswego, available at <http://www.ci.oswego.or.us/finance/LORA/Two.htm> (last visited February 24, 2004); Julie A. Goshorn, In A TIF: Why Missouri Needs Tax Increment Financing Reform, 77 WASH. U. L. Q. 919, (1999); George Lefcoe, Finding The Blight That's Right For California Redevelopment Law, 52 HASTINGS L.J. 991 (July 2001).

¹⁰ O.C.G.A. § 36-44-3 (15) (2001).

¹¹ O.C.G.A. § 36-44-3 (14) (2001).

¹² A property owner will never be taxed on less than the frozen property value for the duration of the TAD. Taxing authorities will continue to receive taxes levied on this tax base even if properties outside the TAD receive a tax

on the frozen property value, will continue to fund schools, municipal services and existing infrastructure for as long as the area retains its designation as a TAD. But although the property value is frozen, a taxing authority may change the millage rate—that is, a percentage of tax that is applied to the property value.¹³

However, as property values rise, so will property taxes.¹⁴ The excess of taxes over the base amount will be placed into a separate account to finance redevelopment in the TAD area. This excess is called the “tax increment.” This increment allows a designated blighted area to finance its own revitalization. When the TAD is dissolved by resolution of the local legislative body,¹⁵ the increment fund is closed. The frozen tax base that has been allocated to taxing authorities since the TAD was created is unfrozen, and the taxing authorities levy taxes based on the redeveloped property values.

To illustrate the principle of TIF, consider this example: suppose an area is determined to be underdeveloped.¹⁶ It is currently worth \$100,000. Property taxes are currently assessed at 10% (millage rate) of the property value. Therefore, the residents pay \$10,000 in property taxes of general tax revenue to pay for local government services, school districts, etc. The area is then designated as a TAD, and until the designation is terminated, property taxes will continue to be levied and distributed to the same taxing authorities based on a property value of \$100,000. Suppose then, in the year after TAD designation, property values rise by 5%, either due to redevelopment or mere inflation. The property is now worth \$105,000.¹⁷ The property taxes (10%) will then be multiplied by the current property value (\$105,000) to determine this year’s property taxes (\$10,500). While schools and local government will continue to receive the \$10,000 that it expected from the base amount, there will be an excess of \$500 of taxes generated because of the increase of property values. The excess \$500 is placed into a separate fund to finance further redevelopment.

The subsequent year even greater increments are available for redevelopment. If property values again increase by 5%, the property will be worth \$110,250. Again, the base

break from the taxing authority, i.e. lowering the millage rate (although, once TAD bonds are issued, the millage rate cannot be lowered beyond the last millage rate according to O.C.G.A. § 36-44-3 (15) (b) (2001). If the millage rate stays the same, but property values actually fall, again property owners will continue to pay the tax base, the frozen amount, to taxing authorities although they would be paying less property tax without a TAD designation.

¹³ So, if the Board of Education has a millage rate of 18 mils (which is equal to 1.8%), then the property owner will pay a tax to the Board of Education determined by multiplying the millage rate (1.8%) by the value of his taxable property. However, even the millage rate may not fall below the rate applied on the last date tax allocation bonds were issued.

¹⁴ Property owners will always pay property taxes equal to the taxable value of their property multiplied by the millage rate, which is true with or without a TAD in place. Therefore, a TAD does not increase taxes. Instead, it just distributes the taxes levied differently. Rather than the taxing authorities receiving all tax revenue, they only receive the same amount (tax base) each year while the TAD is in place that they received the year before the TAD was created. From the property owner’s point of view, taxes will rise, but this is not because of the TAD but because their property values have increased (rise of property taxes over the base = tax increment). The total taxes = tax base + tax increment. When the TAD is dissolved, the total taxes will again be allocated to the taxing authorities.

¹⁵ O.C.G.A. § 36-44-12 (2001).

¹⁶ The numbers in this example do not reflect actual millage rates, property values, etc. They are merely hypothetical numbers for easy calculation. Also, property is not taxed on its entire assessed value. For example, in Georgia, properties are only taxed on 40 percent of its value. Therefore if a property is valued at \$100,000, it will only be taxed on \$40,000 of the property’s value. The millage rate will then be multiplied to the taxable assessed value to calculate property taxes.

¹⁷ \$105,000 = [previous property value (\$100,000) x (105%)]

\$10,000 will be distributed to the taxing authorities, and the excess available for redevelopment will be \$1,025. If this increase in values continues, TIF can generate substantial funds to finance redevelopment.

BOND MECHANISMS

Generating sufficient funds for redevelopment through TIF can take years, particularly if the costs of redevelopment are considerable. However, the costs of redevelopment accrue immediately. Most governments anticipate this timing problem by issuing bonds reflecting the estimated cost of redevelopment.¹⁸ Private investors buy these municipal bonds, and the municipality uses the sale proceeds to pay the current costs of development. The bondholders receive either annual interest, or a larger outlay when the bond matures, or both. The government pays the bondholder proceeds from the separate account where the tax increment is accruing.

However, problems may arise when the bonds mature. If the costs of redevelopment are underestimated or the property values overestimated, there will be insufficient funds to pay off the bondholders. Using the above example, suppose in year two the municipality expected property values to increase by 20%, instead of the actual 5%, as a result of the redevelopment.¹⁹ The tax increment would have been estimated to provide \$2,600 for redevelopment.²⁰ From the above example, actual increment for year two was only \$1,025. This would result in a deficiency of \$1,575. The government will now be short on funds to repay the bondholders.

The TAD may not be dissolved until all the redevelopment costs have been paid.²¹ (If the TIF exceeds expectations and the increment taxes are greater than the municipality's obligations to the bondholders, the bonds can be retired at an earlier date, and the TAD dissolved.²²) If the TAD fails to collect sufficient increment funds, the obligation falls on the general public to pay the bondholders.²³ The taxing authorities must either raise taxes or repay the municipality's bond obligations with general funds. Because TIF entails the risk that property values may not appreciate even after redevelopment, "this risk makes some governments wary of employing TIFs. [But] such concern, while important, must be weighed against the alternative[s]."²⁴ The alternatives include continued blight, with buildings "underachieving" their tax revenue potential while continuing to need taxpayer financed public services.

¹⁸ *But see* Goshorn, *supra* note 8 at FN 38 (stating that "[i]n some states, a special fund is created directly, and no bonds are issued. The end result is the same: the incremental property tax revenues are used to repay the debt from the project whether incurred through bonds or otherwise.").

¹⁹ If property values increase by 20%, the estimated property value would be \$126,000. [Previous property value (\$105,000) x (120%)] = \$126,000 current property value.

²⁰ \$2,600 = [(current property value of \$126,000) x (10% tax) - (\$10,000 tax base)]

²¹ O.C.G.A. § 36-44-12 (2001).

²² *Id.* O.C.G.A. § 36-44-3 (8) (2001) (saying increment may be used to pay bondholders "any premium paid over the principal amount thereof because of the redemption of such obligations prior to maturity").

²³ *See* Jen Melby & Joshua C. Hall, *Tax Increment Financing: An Infrastructure Financing Solution*, BUCKEYE INSTITUTE, July 11, 2003, available at http://www.buckeyeinstitute.org/Articles/2003_07_11HallMelby.htm (last visited February 24, 2004) (stating that without increment funds, the burden of "the improvement costs fall[s] back on the general taxpayer.").

²⁴ *Id.*

The risk of failed TADs in the face of looming municipal debt is illustrated by the city of Southlake, Texas.²⁵ Not only did the city overspend on public buildings, but also construction of private buildings was slower than expected. Southlake had planned development for a town hall, but construction costs exceeded their estimates, so they more than doubled the amount of debt they issued, from \$8 million to \$17 million. Southlake will be able to make its \$800,000 bond payment for this year. However next year (2004-05), the bond obligations will rise to \$1.2 million and then to \$3 million in the 2005-06 fiscal year. To meet the bond obligations for the 2004-05 year, “Southlake needs a 36 percent increase in revenue, far more than it could get from higher property values. The only way to get that kind of money would be to raise the tax rate or add new buildings.”²⁶ This example shows that improperly managed, a TIF does not pay for its own improvements—rather, all of the municipality’s taxpayers can be burdened with hundreds or thousands of dollars more in unexpected costs.

OTHER CAUTIONS ABOUT TAD

Some commentators have suggested that TIFs and TADs should be used only as a last resort when the area has declined so much that private investors and developers will be unlikely to invest in the land.²⁷ “TIF redevelopment makes sense as a policy choice only if it is clear that the private market cannot appropriately redevelop the area in question in the foreseeable future, but for the TIF incentives. Otherwise, compared to other tools that might encourage private sector redevelopment, TIF is too complex and costly.”²⁸ Revitalizing declining corridors through TIF has been generally more successful when there are numerous small lots within the TAD, and the owners are unable to reach a consensus on a revitalization program. Because the creation and maintenance of a TAD is a complex and time intensive regulatory process, it is not for every community. While the benefits can be considerable, so can the risks. Whether a TAD is an appropriate mechanism for financing redevelopment is a decision that hinges on the particular facts and situation of a district. Also, TIF should be used conservatively in estimating not only the prospective property values, but also the bond obligations.

Qualifying as a TAD in Georgia under the Redevelopment Powers Law

LEGISLATIVE INTENT

The Georgia General Assembly has granted redevelopment powers to municipal corporations in the “Redevelopment Powers Law” (RPL).²⁹ The intent is to redevelop areas that are economically and socially depressed or in general, “have a deleterious effect upon the public

²⁵ Mike Lee, *TIF bills coming due for 2 cities*, STAR-TELEGRAM, Feb.9, 2003, available at <http://www.dfw.com/mlld/startelegram/news/local/states/texas/northeast/5142513.htm> (last visited February 25, 2004).

²⁶ *Id.*

²⁷ Goshorn, *supra* note 8 at FN 142.

²⁸ Email from James Smith, Property law professor, University of Georgia School of Law, to Marisa Huttenbach (Sept. 15, 2003) (on file with author).

²⁹ O.C.G.A. §§ 36-44-1,2-23 (2001).

health, safety morals, and welfare.”³⁰ The powers are to be “liberally construed to carry out such purpose[s],”³¹ which allows municipalities considerable discretion in defining and implementing redevelopment.³²

QUALIFYING AS A “REDEVELOPMENT AREA”

Because the purpose of the legislature in enacting the RPL was redeveloping economically and socially depressed areas, a district must fall within the definition of and qualify as a “redevelopment area” within the meaning of the RPL.³³ A redevelopment area is defined broadly, and a district will qualify as a redevelopment area if it satisfies more than one of a list of factors.³⁴ The factors are general indications of deteriorating or underdeveloped districts. Once

³⁰ O.C.G.A. § 36-44-2 (2001).

Economically and socially depressed areas exist...and these areas contribute to and cause unemployment, limit the tax resources...while creating a greater demand for governmental services and, in general have a deleterious effect upon the public health, safety, morals, and welfare....To encourage such development, it is essential that counties and municipalities of this state have additional powers to form a more effective partnership with private enterprise to overcome economic limitations that have impeded or prohibited redevelopment of such areas. It is the purpose of this chapter, therefore, to grant such additional powers to the counties and municipalities of this state, and it is the intention of the General Assembly that this chapter be liberally construed to carry out such purpose. Id.

³¹ *Id.*

³² See also “redevelopment” and “redevelopment area” definitions. O.C.G.A. § 36-44-3 (2001).

³³ O.C.G.A. § 36-44-3 (7) (2001).

³⁴ See *id.* (defining and listing qualifying factors of redevelopment area). These factors include:

(a) Any urbanized or developed area in which structures, buildings, or improvements, by reason of dilapidation, deterioration, age, or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, is conducive to ill health...high unemployment, juvenile delinquency or crime and is detrimental to the public health, safety, morals or welfare;

(b) Any urbanized or developed area which by reason of the presence of a predominant number of substandard, slum or deteriorated or deteriorating structures; the predominance of defective or inadequate street layout; inadequate parking, roadways, bridges, or public transportation facilities incapable of handling the volume of traffic flow into or through the area...the faulty lot layout in relation to size, adequacy, accessibility, or usefulness; unsanitary or unsafe conditions; deterioration of site or other improvements...or any combination of the foregoing substantially impairs or arrests the sound growth of the community, retards the provision of housing accommodations or employment opportunities; or constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use.

(c) Any open area in urbanized or developed area that because of factors in (a) or (b) substantially impairs or arrests the sound growth of the community.

(d) Any area located within an urbanized or developed area and which immediately prior to becoming an open area, qualified as a redevelopment area under (a) or (b)

(e) Any area within an urbanized or developed area which is substantially underutilized by containing open lots or parcels of land or by containing a substantial number of buildings or structures which are 40 years old or older or by containing structures or buildings of relatively low value as compared to the value of structures or buildings in the vicinity of the area or...an area in which there is a shortage of housing that is affordable for persons of low or moderate income which the local legislative body designates as appropriate for community development or any combination of the foregoing factors;

(f) Any geographic area designated within the comprehensive plan of a political subdivision for redevelopment which has previously been developed for commercial, residential, industrial, office, or similar or ancillary uses and which lies within the service delivery area of the political subdivision, in which the current condition of the area is less desirable than the redevelopment of the area for new commercial, residential, industrial,

a district falls within this definition, a municipality may seek to exercise redevelopment powers to redevelop the area.

REQUIREMENTS FOR EXERCISING REDEVELOPMENT POWERS

Municipalities must satisfy enumerated requirements to trigger *the ability* to exercise redevelopment powers. Only once the municipality has first satisfied the statutory requirements to wield redevelopment power can a municipality then use the redevelopment powers to create a tax allocation district within a redevelopment area.³⁵

First, the General Assembly “must adopt a local law authorizing the county or municipality to exercise the redevelopment powers.”³⁶ Then a majority of the qualified voters of the county or municipality must approve the local law in a referendum.³⁷ These steps authorize the exercise of redevelopment powers.³⁸ However, powers granted by this subsection which are not granted by other applicable law “may be exercised only for the purpose of adopting and implementing redevelopment plans.”³⁹

CREATION OF REDEVELOPMENT AGENCIES

A redevelopment agency must be created to exercise redevelopment power.⁴⁰ Two options exist in the creation of a redevelopment agency:

- (a) a local legislative body of a political subdivision by resolution may designate itself as the redevelopment agency, or
- (b) a local legislative body may create a public body corporate and politic to serve as its redevelopment agency.⁴¹

If the local legislative body creates a separate redevelopment agency, the municipality may delegate any of its redevelopment powers to the redevelopment agency.⁴² However, the local legislative body retains some redevelopment powers which cannot be delegated to the

office, or other uses or a combination of uses, including the provision of open spaces or pedestrian and transit improvements, and any environmental factors impairing redevelopment of area....

(g) any area combining any factors specified in subparagraphs (a) through (f).

³⁵ O.C.G.A. § 36-44-5 (2001).

³⁶ Document from McKenna Long & Aldridge, Tax Allocation Districts in Georgia, [hereinafter *McKenna TADs*] (on file with author); O.C.G.A. § 36-44-22 (2001).

³⁷ *McKenna TADs*, *supra* note 37 at 5.

³⁸ O.C.G.A. § 36-44-5 (2001). The RPL authorizes a political subdivision to “*exercise any powers necessary or convenient to carry out the purposes of this chapter*.” These powers include, but are not limited to...describing the boundaries of a redevelopment area...causing redevelopment plans to be prepared...approving by resolution the plans...implementing the provisions...creating TADs within redevelopment areas and define the TAD boundaries...defining the boundaries for redevelopment plans other than those creating TADs...issuing TAD bonds...managing monies and special fund of a TAD...entering into contracts...acquiring and retaining or disposing of property for redevelopment purposes or using or disposing of property presently owned by the political subdivision for redevelopment purposes. *Id.*

³⁹ *Id.*

⁴⁰ O.C.G.A. § 36-44-4 (2001).

⁴¹ *Id.*

⁴² O.C.G.A. § 36-44-6 (2001). This section also contains the procedural requirements of such a delegation.

redevelopment agency.⁴³ For example, the local legislative body must by resolution: (1) approve any redevelopment plan before implementation;⁴⁴ (2) describe the boundaries of any redevelopment area;⁴⁵ (3) create a TAD;⁴⁶ (4) issue any tax allocation bonds. Finally, the power of eminent domain may only be exercised by the local legislative body of the county or municipality, or a downtown development authority, and may not be delegated to a separate redevelopment agency.⁴⁷

THE REDEVELOPMENT PLAN

First, a redevelopment agency should write a redevelopment plan for the district. A redevelopment plan requires enumerated findings.⁴⁸ It must (1) specify the boundaries of the redevelopment area; (2) state and explain why the redevelopment area has not been and will not reasonably be anticipated to be subject to growth and development through private enterprise;⁴⁹ (3) explain proposed uses after redevelopment of real property; (4) describe redevelopment projects (including cost estimates and proposed financing methods for the redevelopment projects); (5) describe contracts, agreements, or other instruments creating obligations of more than one year for the political subdivision; (6) describe any relocation payments to be made by the political subdivision; (7) include a statement that redevelopment plan conforms with the local comprehensive plan, master plan, zoning ordinance, and building codes or explains exceptions thereto; (8) estimate redevelopment costs⁵⁰ to be incurred or made during implementation of the redevelopment plan; (9) recite the last known assessed valuation of the redevelopment area and the estimated assessed valuation after redevelopment; (10) provide that if the property to be redeveloped is designated as a historic property under Georgia law,⁵¹ it will not be either substantially altered inconsistent with technical standards for rehabilitation or demolished unless feasibility for reuse has been evaluated; (11) specify the effective date for creation and termination of the TAD; (12) contain a map specifying boundaries of the TAD with existing uses and conditions of real property; (13) specify the estimated tax allocation increment base of the TAD; (14) specify property taxes used to compute tax allocation increments⁵² and supported by resolution;⁵³ (15) specify the amount, term, and rate of interest of proposed tax allocation bonds to be issued; (16) estimate positive tax allocation increments for the period of the bonds; (17)

⁴³ *Id.*

⁴⁴ *Id.* Resolution may be amended, modified or repealed by the local legislative body adopting it. *Id.*

⁴⁵ “Redevelopment area” is defined by O.C.G.A. § 36-44-3 (7) (2001).

⁴⁶ The resolution creating the TAD must be by the local legislative body of the county or municipality which will issue the tax allocation bonds. *McKenna TADs, supra* note 37 at 8.

⁴⁷ O.C.G.A. § 36-44-6 (2001).

⁴⁸ O.C.G.A. § 36-44-3 (9) (2001).

⁴⁹ If the redevelopment area includes natural or historical assets, the redevelopment plan should contain findings that these natural or historical assets have not been and will not reasonably be anticipated to be adequately preserved or protected without the redevelopment plan. *Id.*

⁵⁰ See definition of “redevelopment costs” as defined by O.C.G.A. § 36-44-3 (8) (2001). See also “redevelopment costs” explanation following in FN 101, 102 and accompanying text.

⁵¹ Art. 2 of Chapter 10 of Title 44, the Georgia Historic Preservation Act or listed on or has been determined by any federal agency to be eligible for listing on the National Register of Historic Places.

⁵² Tax allocation increments should be computed by reference to O.C.G.A. § 36-44-9 (2001).

⁵³ Supported by resolution as required under O.C.G.A. § 36-44-8 (2) (2001).

specify the property⁵⁴ pledged for payment or security of payment for TAD bonds; (18) include such other information as may be required by resolution of the political subdivision whose area of operation includes the proposed redevelopment area.⁵⁵

Once the redevelopment agency has created a redevelopment plan, and the plan proposes a TAD, the agency must first submit the plan for approval to all political entities, such as political subdivisions and the board of education, which will be affected by the tax allocation increment.⁵⁶ The redevelopment agency must then present the redevelopment plan to the local legislative body, which must approve it.⁵⁷ The local legislative body may approve the redevelopment plan as submitted, amend and approve it, or reject and return it to the redevelopment agency for further consideration.⁵⁸ If the redevelopment plan is rejected by the local legislative body and returned to the redevelopment agency for further consideration, the process for submission to the local legislative body, including notice to the public for both a public hearing and local legislative body meeting for approval of the redevelopment plan, applies to the amended redevelopment plan.⁵⁹ Upon approving the redevelopment plan, the local legislative body must adopt a resolution.⁶⁰

LIMITATIONS ON TAD

Creation

A municipality may create several TADs within its area of operation.⁶¹ However, a municipality may not create an additional TAD when the taxable value of property within the *proposed* TAD added to the taxable value of property within all its *existing* TADs is greater than

⁵⁴ Property may include positive tax allocation increments, all or part of the general funds derived from the tax allocation district, and any other property from which bonds may be paid under O.C.G.A. § 36-44-14, subject to O.C.G.A. § 36-44-9, 20.

⁵⁵ O.C.G.A. § 36-44-3 (9) (2001).

⁵⁶ O.C.G.A. § 36-44-8 (1) (2001).

⁵⁷ O.C.G.A. § 36-44-8 (2) (2001). *See also* O.C.G.A. § 36-44-7 (b) (2001). Before approving the plan, the local legislative body must then hold at least one public hearing with notice to the public on the proposed redevelopment plan within 60 days after the redevelopment plan is submitted. “Notice to the public” constitutes advertising in one or more newspapers of general circulation within the area at least once during a period of five days immediately preceding the date of each public hearing.

⁵⁸ O.C.G.A. § 36-44-7 (2001). The meeting to consider the redevelopment plan must be held within 45 days of the public hearing. The same “notice to the public” is required before the meeting of the local legislative body as before the public hearing. (*See* FN 59, *supra* for public hearing requirements). *Id.*

⁵⁹ *Id.* Even if the redevelopment plan is resubmitted to the local legislative body in its original form, the original submission process applies.

⁶⁰ O.C.G.A. § 36-44-8 (2001). The resolution requires describing the TAD boundaries...creating the district on Dec. 31, following the adoption of the resolution or on Dec. 31 of the following year...naming the TAD for identification purposes...specifying the estimated tax allocation base...specifying the property taxes to be used for computing tax allocation increments...specifying the property to be pledged for payment of TAD bonds (for example, positive tax increments, general funds derived from TAD, and other properties under O.C.G.A. § 36-44-14 (2001)). The resolution also requires findings that (1) the redevelopment area not been subject or will not be subject to development through private enterprise and (2) the improvement will likely enhance the value of a substantial portion of the other real property in the district. *Id.*

⁶¹ Definition of “area of operation” as provided by O.C.G.A. § 36-44-3 (2) (2001).

10 percent of the total taxable value of all property located within the area of operation of the political subdivision.⁶²

Financing

Procedures for determining applicable property taxes,⁶³ tax allocation increment base,⁶⁴ allocation of tax increments,⁶⁵ and taxable value of and millage rate on property for TAD purposes⁶⁶ are described under the RPL. Before the creation of a TAD, the redevelopment agency must apply in writing to the State Revenue Commissioner, and the Commissioner must certify a base taxable value for all properties in the TAD within 60 days after the creation of the TAD.⁶⁷ Although a taxing authority may increase or decrease the millage rate after the TAD is created, the base value of the properties remains frozen for the purposes of calculating the tax base allocated to each taxing authority.⁶⁸ In addition, once tax allocation bonds are issued, the millage rate assessed by the taxing authorities may not be decreased below the last millage rate applied when the bonds were issued.⁶⁹

A local legislative body may issue tax allocation bonds by resolution.⁷⁰ This amount authorized for bonds may not exceed the estimated aggregated redevelopment costs for the TAD.⁷¹ Tax allocation bonds may be issued only for the purpose of paying redevelopment costs for a TAD,⁷² and these bonds should mature no later than 30 years from their creation.⁷³

A political subdivision under its redevelopment powers may also enter into contracts with either private entities or financial institutions to finance redevelopment costs.⁷⁴ However, a political subdivision may not enter into contracts with financial institutions that obligate the political subdivision or redevelopment agency for more than 25 years.⁷⁵ A political subdivision also may not enter into contracts with private entities which obligate the political subdivision for more than 30 years.⁷⁶

⁶² O.C.G.A. § 36-44-17 (2001). (The total current taxable value of property within the *proposed* district) + (the total of current taxable value of property within all its *existing* TADs) is greater than 10 percent of (the total current taxable value of all taxable property located within the area of operation of the political subdivision). *Id.*

⁶³ O.C.G.A. § 36-44-9 (2001).

⁶⁴ O.C.G.A. § 36-44-10 (2001).

⁶⁵ O.C.G.A. § 36-44-11 (2001).

⁶⁶ O.C.G.A. § 36-44-15 (2001).

⁶⁷ O.C.G.A. § 36-44-10 (2001).

⁶⁸ O.C.G.A. § 36-44-15 (2001).

⁶⁹ *Id.*

⁷⁰ O.C.G.A. § 36-44-14 (2001). *See generally*, the requirements for tax allocation bonds, notes, and other obligations, O.C.G.A. § 36-44-14 (2001).

⁷¹ O.C.G.A. § 36-44-14 (g) (2001).

⁷² O.C.G.A. § 36-44-14 (a) (2001).

⁷³ O.C.G.A. § 36-44-14 (e) (2001). Bonds must also be issued and validated in accordance with the state laws for validating revenue bonds. O.C.G.A. § 36-44-14 (h) (2001).

⁷⁴ O.C.G.A. § 36-44-16 (2001) (authorizing contracts with financial institutions). O.C.G.A. § 36-44-19 (2001) (authorizing contracts with private entities). *See* O.C.G.A. § 36-44-3 (8) (2001) (defining “redevelopment costs”).

⁷⁵ O.C.G.A. § 36-44-16 (2001).

⁷⁶ O.C.G.A. § 36-44-19 (2001). Contracts with private entities include any contract relating to the exercise of redevelopment powers with any private persons, firms, corporations, or business entities up to 30 years. *Id.* These contracts include but are not limited to, contracts to survey or otherwise obligate real property for redevelopment. *Id.*

Termination of TAD

A TAD shall be terminated when the local legislative body dissolves the TAD by resolution; however, the resolution may not be adopted until all the redevelopment costs have been paid.⁷⁷ If the special fund⁷⁸ for redevelopment costs is insufficient to pay principal and interest due on tax allocation bonds, a local legislative body may use its general funds to satisfy the obligation.⁷⁹ However, the general funds must (1) be derived from the designated TAD and (2) only be used if the special fund is insufficient to satisfy the bond obligations.⁸⁰

Conflicts of Interest

RPL restricts public officials and employees from involvement with redevelopment where conflicts of interest exist. No officials or employees of a political subdivision, board, commission or redevelopment agency may *voluntarily* acquire an interest in any property included or planned to be included in a redevelopment area.⁸¹ If such an official or employee has acquired such an interest in property either *involuntarily or within two years prior* to submission of the redevelopment plan, the individual must disclose the interest.⁸² If the employee does not disclose the property interest, it will be considered misconduct.⁸³ In addition, if the employee either voluntarily acquires an interest or does not disclose an interest, then subsequent contracts or transactions entered into are voidable by the local legislative body.⁸⁴

TAD Examples in Georgia

The city of Atlanta has implemented TADs to finance redevelopment in several areas.⁸⁵ At least fifteen communities in Georgia are in the process of establishing TADs.⁸⁶ Current projects include Atlantic Station,⁸⁷ Westside,⁸⁸ Princeton Lakes,⁸⁹ and Perry/Bolton TADs.⁹⁰

⁷⁷ O.C.G.A. § 36-44-12 (2001).

⁷⁸ The special fund may include positive tax increments, lease, or other contract payments to fund redevelopment. O.C.G.A. § 36-44-20 (2001).

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ O.C.G.A. § 36-44-21 (2001).

⁸² O.C.G.A. § 36-44-21 (2001). The disclosure must be to the local legislative body or municipality and the redevelopment agency, and must be entered into the minutes of these entities. *Id.*

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ City of Atlanta Tax Allocation District Program, Department of Planning and Community Development [hereinafter *Atlanta TAD Program*]. April 2003, no longer available on line.

⁸⁶ Avondales Estates, [hereinafter *Avondale Estates*]. available at http://avondaleestates.org/elections/ballot_measure.htm (last visited February 25, 2004) These communities include Athens-Clarke County, City of Atlanta, Bibb County, City of Byron, Clayton County, City of College Park, City of East Point, City of Fort Valley, Fulton County, City of Hapeville, Houston County, City of Macon, City of Marietta, City of Perry and City of Warner Robins. *Id.*

⁸⁷ Also referred to as Atlantic Station, the Atlantic Steel TAD was “used to finance the public improvement for mixed-use (residential, retail, office, entertainment) redevelopment of 128-acre site that was the home of Atlantic Steel.” *Atlanta TAD Program*, *supra* note 87. The TAD contribution is estimated to be \$170 million, and the purpose of the TAD was to create jobs, provide affordable living and public transit. *Id.* See also Atlantic Steel TAD map, available at http://www.atlantada.com/ecopro_atlanticsteel_map.htm (last visited February 25, 2004).

Atlantic Station was the first redevelopment in Georgia to be financed with TAD bonds.⁹¹ The blighted area was a brownfield⁹² area formerly used by Atlantic Steel as a steel mill. The project goals included improving the environment while enhancing the economic and social climate of the area. The TAD designated a 138 acre area for redevelopment and approved the issuance of \$85 million in bonds.⁹³

The redevelopment of Atlantic Station has exceeded expectations. Over 400 town homes are under the first stage of construction, and nearly 40 percent are pre-sold.⁹⁴ The on-site property values have increased from \$220,000 to \$330,000.⁹⁵ Property values of surrounding neighborhoods have also risen. For example, in Homepark, a neighborhood south of Atlantic Station, property values have doubled since 1995.⁹⁶

Although the success of the Atlantic Station TAD provides an example of using TADs to finance redevelopment, the success may not be directly transferable to another TAD district. The Atlantic Station TAD may have been a safer investment at the outset because the developer is doing new development, where cost estimates can be more accurate.⁹⁷

Options/ Incentives for Redevelopment Using TAD Funds

INFRASTRUCTURE

TAD funds are most often used for public infrastructure. These include construction or improvement of sewers, roads, public parking, sidewalks, plazas, streetscapes, landscaping,

⁸⁸ Westside TAD will provide new residential units around Centennial Olympic Park and other areas, cultural attractions i.e. one or more museums, and loft-style office space. *Atlanta TAD Program*, supra note 87. See also Westside TAD map, available at http://www.atlantada.com/ecopro_westsidetad_map.htm (last visited Oct. 7, 2003).

⁸⁹ The Princeton Lakes TAD incorporates 400 acres near Hartsfield Airport which has experienced noise nuisances and environmental degradation because of the difficult topography and location within a flood plain.

Redevelopment plans include new residential units, office space, retail, hotels, banks, a day care center, an elementary school and new parkland and pathways. To generate \$366 million of private investment, between \$5 million and \$40 million in bonds will be issued. *Atlanta TAD Program*, supra note 87.

⁹⁰ The Perry/Bolton TAD plans to revitalize the district through multifamily rental units, affordable rental apartments for the elderly, single-family homes, an 18-hole PGA-caliber championship gold course, a new library and school. *Atlanta TAD Program*, supra note 87.

⁹¹ Atlantic Station, *ADA Helps Pave the Way for Atlantic Station*, [hereinafter *Atlantic Station's ADA*], available at http://atlantada.com/w2002_atlanticstation.htm (last visited Oct. 7, 2003).

⁹² With certain legal exclusions and additions, the term 'brownfield site' means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant. Public Law 107-118 (H.R. 2869) - "Small Business Liability Relief and Brownfields Revitalization Act" signed into law January 11, 2002.

⁹³ *Atlantic Station's ADA*, supra note 93.

⁹⁴ Atlantic Station, *68 Million Park Place South Under Construction*, available at http://atlantada.com/w2002_parkplace.htm (last visited February 25, 2004).

⁹⁵ Telephone Interview with Adam Baker, Atlantic Station, (Sept. 2003).

⁹⁶ *Id.*

⁹⁷ Because Atlantic Station was a compete development from the beginning, the developers could look at district's zoning book and calculate the value of the post-redeveloped land. If they built X units on the land and sell the units at, for example, \$100,000 per unit, the developers can estimate the value of the land at resale. This makes estimation of costs and property values with redevelopment easier for TIF and bond decisions. Adam Baker Interview.

building renovation, debt service, design and engineering.⁹⁸ Dalton may wish to use TAD funds for public improvements such as sidewalks, landscaping and streetscaping to create pedestrian-friendly environments along the commercial strips.⁹⁹ Street lighting along these pedestrian paths and outdoor gathering places financed by TAD funds may create safer, public environments for shopping and eating.

Dalton may also wish to provide public transportation to its residents. Many costs of public transportation may be financed by TAD funds. For example, the City of East Point used TAD funds to build a pedestrian bridge, a multi-modal commuter rail station to link the MARTA stop to the proposed Macon-Atlanta Commuter Rail, and a transit rail plaza to link the rail station to the residential area.¹⁰⁰ Sandy Springs has proposed using TAD funds for a TMA/Shuttle system start-up and a Sandy Springs Shuttle for public transit as well as multi-level parking structures near the public transportation nodes.¹⁰¹ Similarly, Dalton may wish to build bus stops and purchase buses for public transportation.

Many TAD districts have addressed concerns of traffic congestion through TAD funds. Sandy Springs has proposed to finance construction of grid traffic lanes to ease traffic congestion.¹⁰² Dalton also may wish to finance a grid street pattern where feasible to ease traffic congestion on main arteries. TAD funds could also be used to subsidize the costs to adjacent commercial property owners of adding and maintaining inter-parcel access.¹⁰³ In the alternative, Dalton may wish to finance the construction and maintenance of inter-parcel alleys. (Under the RPL, Dalton may either condemn or acquire land parcels and/or compensate land owners for relocation expenses.¹⁰⁴) These alleys would run behind the commercial properties, providing alternative access between the properties without adding congestion to the main streets, and avoiding potential conflicts between adjoining property owners over placements of inter-parcel access driveways.

NON-INFRASTRUCTURE COSTS

Redevelopment using TAD funds is not limited to infrastructure.¹⁰⁵ Rather, “the Redevelopment Powers Law allows use of TAD funds for any capital or soft (engineering,

⁹⁸ *Avondale Estates*, *supra* note 88.

⁹⁹ East Point City [hereinafter *East Point*], available at <http://www.eastpointcity.org/atlanta.htm#Toc5267750198> (last visited February 25, 2004). The East Point TAD will finance infrastructure including engineering, design, site preparation, and permitting...roadway and intersection improvements...bridges...utilities...traffic signals...sidewalks and walking trails...landscaping. *Id.*

¹⁰⁰ *Id.*

¹⁰¹ Proposed Sandy Springs Tax Allocation District and Redevelopment Plan [hereinafter *Sandy Springs TAD*]. See generally *Sandy Springs Revitalization, Inc.*, available at <http://www.sandsysprings.org/ssri/TAD> (last visited February 25, 2004), explaining TAD generally and proposed projects for redevelopment).

¹⁰² *Id.*

¹⁰³ *But see*, Dalton Overlay District, Interparcel Access (cautioning that use of TAD and other public monies for maintenance of interparcel access may give rise to implied public right-of-way).

¹⁰⁴ See O.C.G.A. § 36-44-6 (b) (5) (2001) (authorizing only local legislative body to exercise eminent domain); O.C.G.A. § 36-44-3 (8) (E) (2001) (authorizing relocation costs to be funded by TAD funds).

¹⁰⁵ TAD funds were used to finance infrastructure in the Atlantic Station TAD, Westside TAD, and Camp Creek TAD. *TADs: An Overview*, *supra* note 2.

architectural, financing, administrative, etc.) cost of development.”¹⁰⁶ Therefore, funds can be used as an incentive for private development. However, the jurisdiction should consider Georgia law and federal tax law in structuring any incentive program.¹⁰⁷

RESIDENTIAL

Georgia municipalities have subsidized low-income housing using TAD funds. For example, the Red Oaks TAD proposes a \$100 million single-family bond construction program to build homes ranging from \$75,000 to \$250,000.¹⁰⁸ Dalton may wish to ease its low-income housing deficiency by using TAD funds to assemble properties, condemn and/or compensate tenants and owners for relocation costs and build low-income housing, subsidizing the costs of these homes with TAD funds, if Dalton chooses to place residential parcels within the TAD area.

GREENSPACE

Under Georgia’s RPL, redevelopment includes “[t]he preservation, protection, renovation, rehabilitation, restoration, alteration, improvement, maintenance, and creation of open spaces or green spaces.”¹⁰⁹ The Community Greenspace Advisory Committee viewed tax increment financing available under Georgia’s Redevelopment Powers as including funding for “the development of greenway corridors, local parks, and other green space associated with new or redeveloped residential and/or commercial subdivisions....The Law contemplates the creation

¹⁰⁶ Email from Sharon Gay, McKenna Long & Aldridge, LLP, to Marisa Huttenbach (Oct. 29, 2003) (on file with author). O.C.G.A. § 36-44-3 (8) (2001). Expenditures for redevelopment costs include any expenditures made or monetary obligations incurred to carry out redevelopment powers. Redevelopment costs may include any one or more of the following: *capital costs*, for construction or improvements of public works, new buildings, fixtures or structures...renovation, rehabilitation, reconstruction, remodeling, repair, demolition, alteration or expansion of *existing buildings or structures or fixtures...acquisition of equipment...clearing and grading of land...financing costs* including, but not limited to, all necessary and incidental expenses related to interest, principal, or premiums paid to retire bonds or other financial obligations issued to pay for other redevelopment costs...*professional service costs*, including costs incurred for architectural, planning, engineering, financial, marketing and legal advice and services...*imputed administration costs*, including reasonable charges for time spent by public employees pursuant to implementation of the redevelopment plan...*relocation costs*, authorized by the redevelopment plan, for persons or businesses displaced including relocation payments paid following condemnation...*organizational costs*, including costs for environmental and other studies and costs of informing the public of the redevelopment plan...*compensation paid to another political subdivision* or board of education in lieu of tax revenues due...*real property assembly costs*. O.C.G.A. § 36-44-3 (8) (2001).

¹⁰⁷ Sharon Gay Email. The local legislative body is limited in using TAD funds to pay redevelopment costs in three ways. *First*, the local legislative body is limited by the RPL, which defines redevelopment costs in O.C.G.A. § 36-44-3 (8) (2001). *Second*, the local legislative body is limited by the federal tax code. As a practical matter, municipal bonds are not marketable without tax-exempt status. The Code provides guidelines for the municipal bonds to acquire tax-exempt status. One provision provides that when the payment of the principle or the interest of municipal bonds is allocated to private entities and the portion of this allocation exceeds 10% of the principle and/or bond interest, the municipal bonds does not qualify for tax-exempt status. The Code determines whether a bond is a “private activity bond” by a two-part test described by § 103, which refers to §§ 142-148 of the Internal Revenue Code. *Third*, the local legislative body is limited by political issues: a local political body may be more comfortable financing infrastructure with the increment rather than by dedication to private entities. *Id.*

¹⁰⁸ *East Point*, *supra* note 104.

¹⁰⁹ O.C.G.A. § 36-44-3 (5) (F) (2001).

of open spaces as necessary to eliminate the ill effects of blighted areas.”¹¹⁰ Dalton may wish to finance greenspace along the corridor. For example, TAD funds could be used to conserve and maintain flood plain area using parks and conservation easements. Dalton could also purchase smaller land plots within a commercial district and improve and maintain smaller “pocket parks” for the benefit of the public.¹¹¹

SECURING FEDERAL FUNDS

A TAD can be used to secure additional federal funds for redevelopment.¹¹² Oftentimes, a federal grant becomes available for a municipality to foster redevelopment of a declining area. The grant may be conditional on matching federal funds, creating a plan for development—and applying before the funds are otherwise allocated. Several municipalities have allowed TAD increment to accrue until federal grants become available. In other words, the TAD increment could provide double the projected revenue for redevelopment and allow the municipality’s bonds to mature early.

TADs in Comparison to CIDs

Although both TADs and CIDs are tax financing options for redevelopment, one option may be more appropriate for a particular district.¹¹³ A TAD is generally more appropriate than a CID when the properties themselves are small, the number of owners is large, and the owners may be absentee and/or passive investors.¹¹⁴ While CIDs entail community involvement and communication to self-impose a tax for redevelopment, a TAD requires only a minimum of community involvement. A TAD also requires greater municipal control and enforcement. Each jurisdiction must determine whether to use either or both mechanisms based on the particular situation.

Conclusion

A TAD can be a powerful tool for revitalization of declining urban areas when it is clear that the private market cannot appropriately redevelop the area. Because the creation and maintenance of a TAD is a complex and time intensive regulatory process, it is not for every community. While the benefits can be considerable, so can the risks. TIF should be used conservatively in estimating not only the prospective property values, but also the bond obligations. Despite the risks, a community can finance its own redevelopment without raising taxes or diverting funds from other local needs by creating a TAD. Many of Dalton’s proposed projects include easing traffic congestion, improving infrastructure, streetscaping, constructing

¹¹⁰ Janice C. Griffith, *The Preservation of Community Green Space: Is Georgia Ready to Combat Sprawl with Smart Growth?*, 36 WAKE FOREST L. REV. 563, 593 (2000).

¹¹¹ See, e.g., *Sandy Springs TAD*, *supra* note 106.

¹¹² *Id.*

¹¹³ See generally, Tiffany Smith, Community Improvement Districts and Business Improvement Districts memo, (Oct. 15, 2003), which is Appendix B of this document.

¹¹⁴ *Sandy Springs TAD*, *supra* note 106.

pedestrian paths, and providing public housing and transportation. These projects may all be subsidized in part or in whole by TAD funds.