

# Transfer of Development Rights

Town Of Acton, MA

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# Development patterns based on conventional zoning create less than optimal conditions

**Underdeveloped  
Commercial Centers**

**Overdeveloped  
Residential Sprawl**



# Two-Fold Objective

**Concentrate  
Development in Growth**



**Preserve Existing  
Open Space**



# Why Use TDR?

- **Landowners:**
  - Continue traditional uses and retain land
  - Compensated for lost development potential
- **Local Government:**
  - Preserve open space, historic landmarks, environmental space without paying for it
  - Allow for controlled growth

# Definitions

## **Development Rights:**

**The amount of development that could take place on a tract of land under Zoning Bylaw provisions.**

## **Sending Areas:**

**Areas identified as priorities for preservation or significant decreases in development potential.**

# Definitions continued...

## Receiving Areas:

**Areas that have potential to support more development than what is allowed by existing bylaws and/or regulations.**

## Credit Bank:

**A third party entity that can store and administer the sale of development rights.**

# TDR Concept

Owner of "sending" parcel sells development rights in exchange for permanent conservation easement.

growth area



preservation area



Owner of "receiving" parcel buys development rights to build at densities higher than allowed under base zoning.

# Suggestions for Successful TDR Program

- Real Estate Market Analysis
- Public Participation
- Incorporation into zoning policy as the only means of increasing development density
- TDR Bank
- Multi-jurisdictional programs to increase the size of the market

# Implementing TDR

## Important Questions to Ask:

- **Sending and Receiving Areas:**
  - “What are the resources we need to protect?”
  - “Where can we handle increases in development capacity?”
- **Administrative Capacity:**
  - “Do we have a permitting body that clearly understands the program?”
  - “Do we need a TDR Credit Bank?”
  - “Will the City/Town play a role in establishing the value of development rights or will the market be used to establish value?”

# Implementation: Understanding the Market

## Market Analysis

- Is the market for development in the Receiving Areas strong enough to draw investment in higher densities?
- How do property values compare between Sending and Receiving Areas?

**Use a qualified professional to develop an understanding of the existing market!**

# Implementation: 3 Valuation Methods

50 acres x 1 dev. right per 10 ac.  
= 5 dev. rights

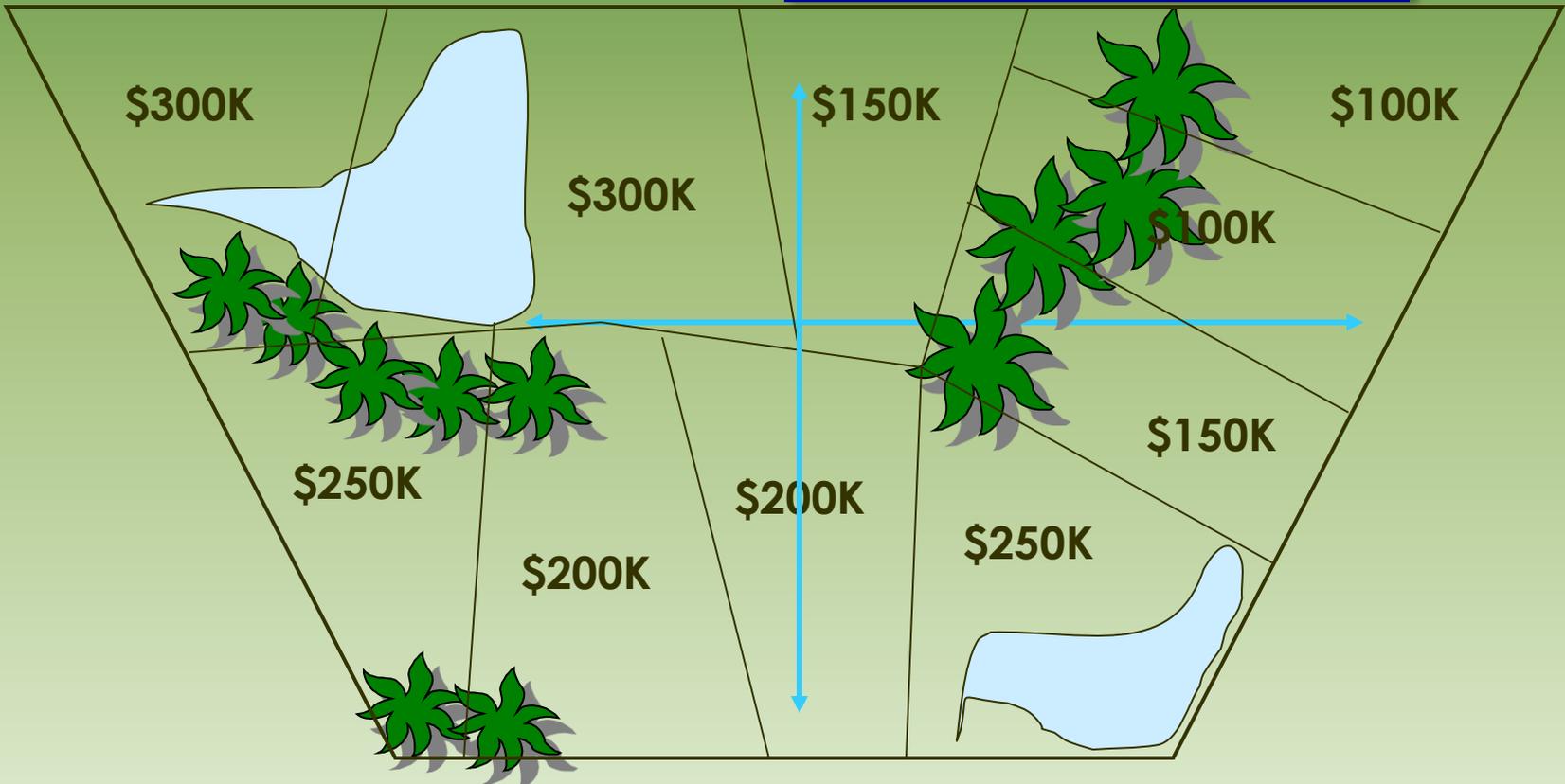
1. Maximum Developable Area

10 lots x 1 dev. right per lot  
= 10 dev. rights

2. # Buildable Lots (Yield Plan)

\$2mil x 1 dev. right per \$100k  
= 20 dev. rights

3. Dev. Appraisal of Lots



# Determining Land Bid

Assume 2 Types of Actors:

1. *D*eveloper land bid function:

2. *F*armer (or preservationist) land bid function:

Combined Value - No Variation

Values on Varying Use/Land Characteristics\*

$$B_D = D_0 + \sum_i D_i C_i$$

Values on Varying Use/Land Characteristics\*

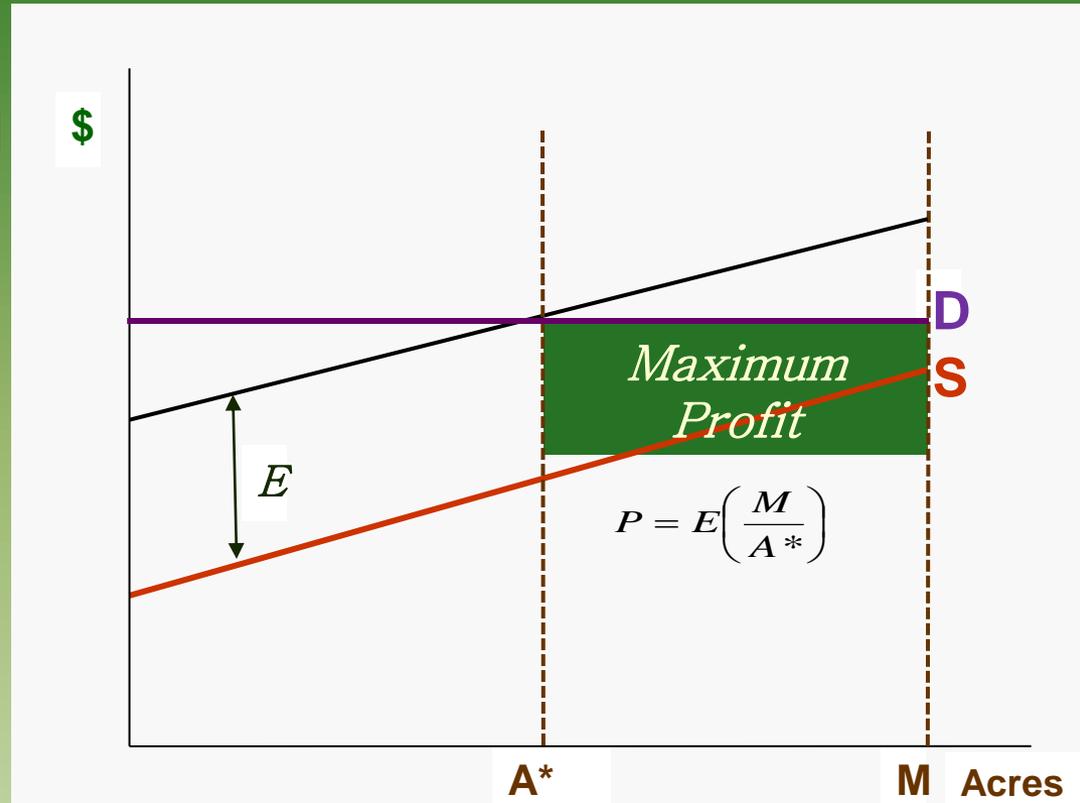
$$B_F = F_0 + \sum_j F_j C_j$$

**F:** Ecological values, agricultural productivity yield, etc.

**D:** Slope/topography, access to infrastructure, etc.

# Land Bid: Graphical Illustration

- $E$ : external benefits of preserving farmland/natural areas
- $A^* - M$ : Acres of undeveloped land (assumption: most efficient level of conservation)
- $S$ : Farmers max. bid
- $D$ : Developer's bid (assumption that it has same value regardless of  $E$ )



Adapted from Thosnes and Simons, 259

# Implementation: ID Through Planning

## Town of New Suburbia, MA: Master Plan



Transit Oriented Design district will use Chapter 40R provisions to allow for expanded higher density housing opportunities.



Higher density housing will be connected to transit center with period lighting and walkways.



Transit center characterized by small-scale commercial development in classic village center design. Incorporates second story housing opportunities.



Revise Zoning Bylaw to ensure OSRD and LID techniques are applied to areas with significant development potential.



Revise Zoning Bylaw to allow accessory dwelling units in an area characterized by residential development.



Existing farmland identified as high acquisition priority through Open Space and Recreation Plan. Funding sources could include Self-Help Program, Community Preservation Act or Agricultural Preservation Restriction.

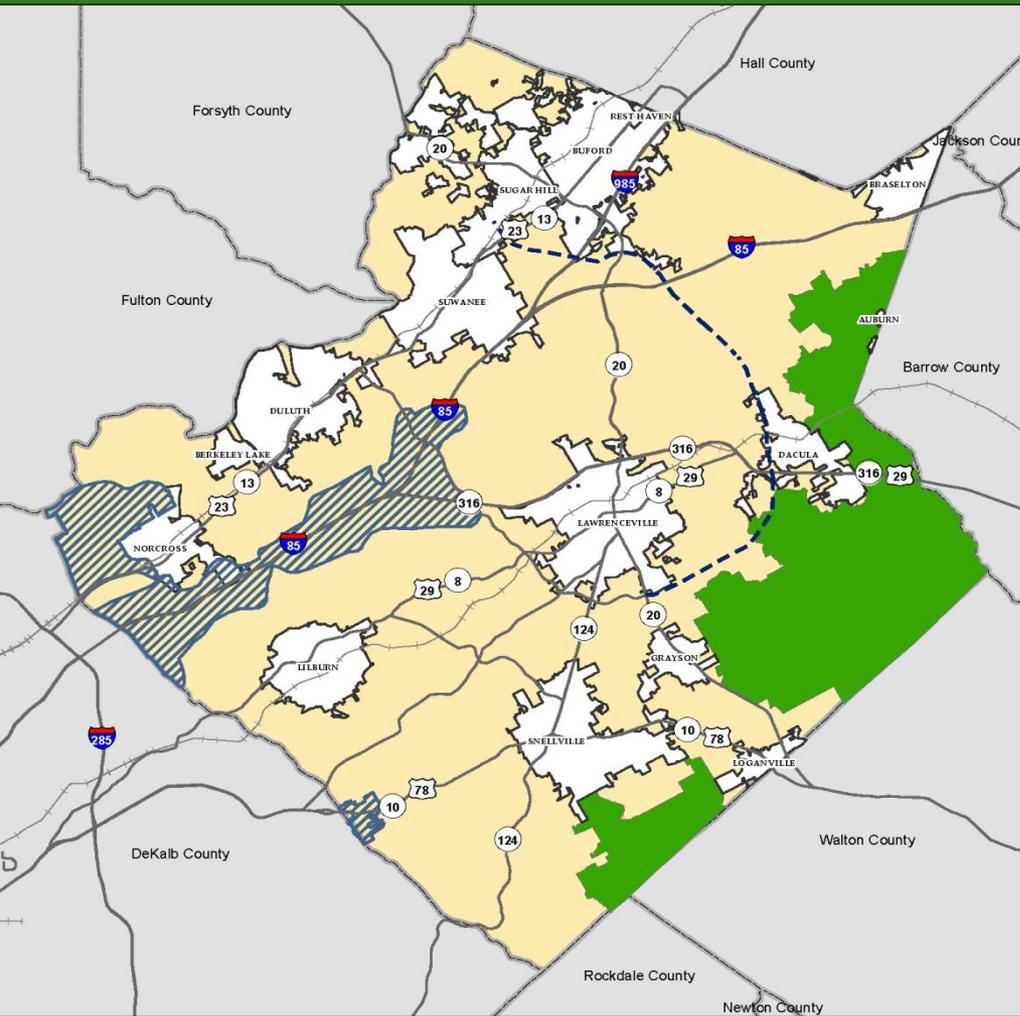
### Master Plan Goals:

1. Direct new development to the existing core areas to the greatest extent possible.
2. Develop standards and bylaws that result in more sustainable development of existing green space.
3. Facilitate sustainable increases to affordable housing stock.
4. Revitalize downtown area with flexible zoning provisions that focus on Transit Oriented Design.

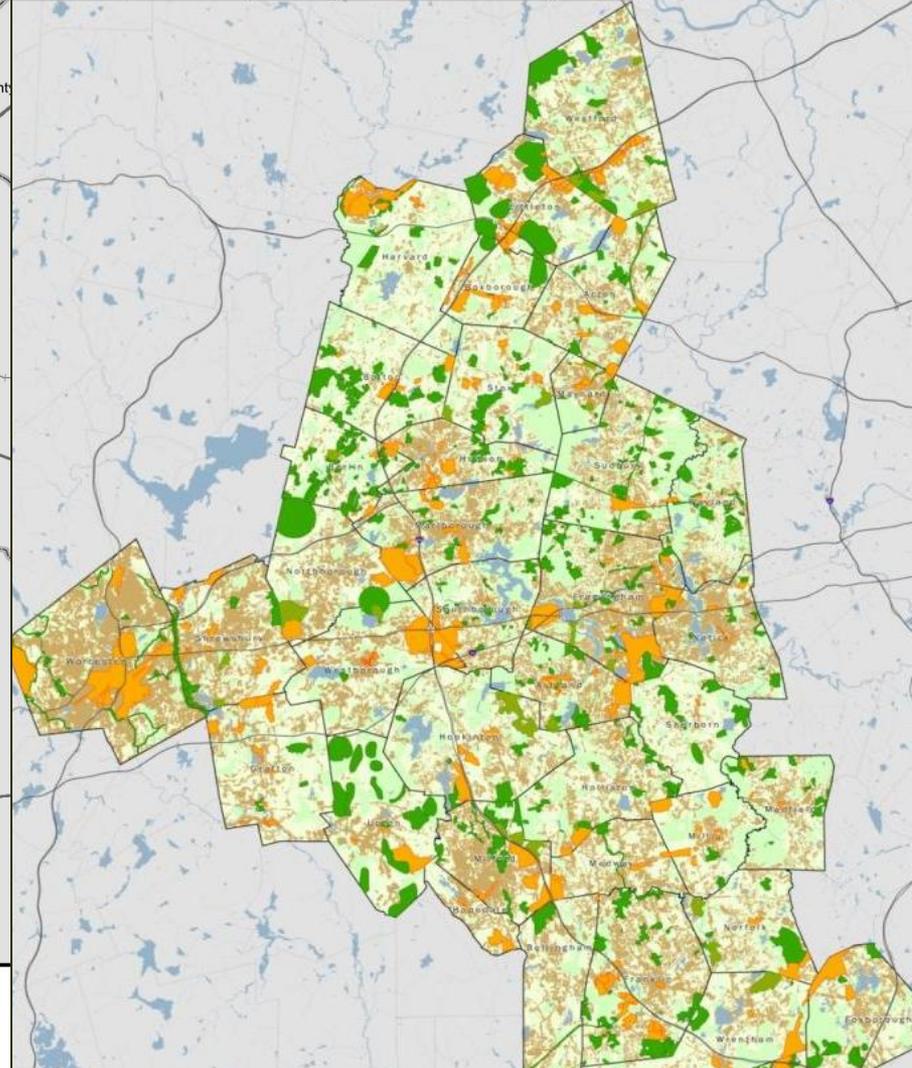
### Legend

- |   |                                    |   |                    |
|---|------------------------------------|---|--------------------|
|  | Infill Opportunity Areas           |  | Collector Streets  |
|  | Open Space Priority                |  | Commuter Rail Line |
|  | Significant Developable Greenspace |  | Transit Center     |

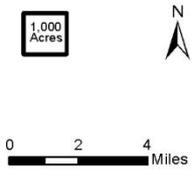
# Implementation: Sending/Receiving Analysis



95 Development Compact Regional Study Priority Areas



- Sugarloaf Parkway Extension
- Potential TDR Sending Areas
- Potential TDR Receiving Areas
- Municipalities
- Unincorporated Areas



- Priority Protection Areas
- Priority Development Areas

# Implementation: Determine Development Disincentives - Sending Area

1. Reduce development potential in Sending Areas through increased minimum lot size

**Example: Sending Area Overlay**

**Original Minimum Lot Size = 1 acre**

**Revised Minimum Lot Size = 10 acres**

2. Increase Permit Scrutiny in Sensitive Areas

**Example: Sending Area Overlay**

**“Subdivisions of five or more lots in a designated Sending Area shall require an Environmental Impact Report as described in the Planning Board Rules and Regulations”**

# Implementation: Dvlp. Incentive - Receiving Area

Density Bonuses = fixed percentage increase of development rights over and above the Sending Area yield

**Example:**

**“The number of Development Rights that can be transferred from the Preservation District shall be 1.5 times the amount of Development Rights determined from a Yield Plan ”**

# Implementation: TDR Credit Bank

TDR Credit Banks: provide holding place for purchased development rights before they can be transferred

**NOTE:**

**Banks should be established as an independent third party (non-profit corporation, enterprise fund, etc.) to ensure that development rights are readily available when Receiving Area opportunities arise.**

# Example 1: Montgomery County, Maryland

Sending Area identified as 90,000 acres of undeveloped agricultural land. Area down-zoned from 5-acre minimum lot size to 25-acre minimum. Development rights can be traded at the original density.



Receiving areas identified by proximity to existing infrastructure. Density bonuses awarded at varied scaled depending on the location of the Receiving Area.

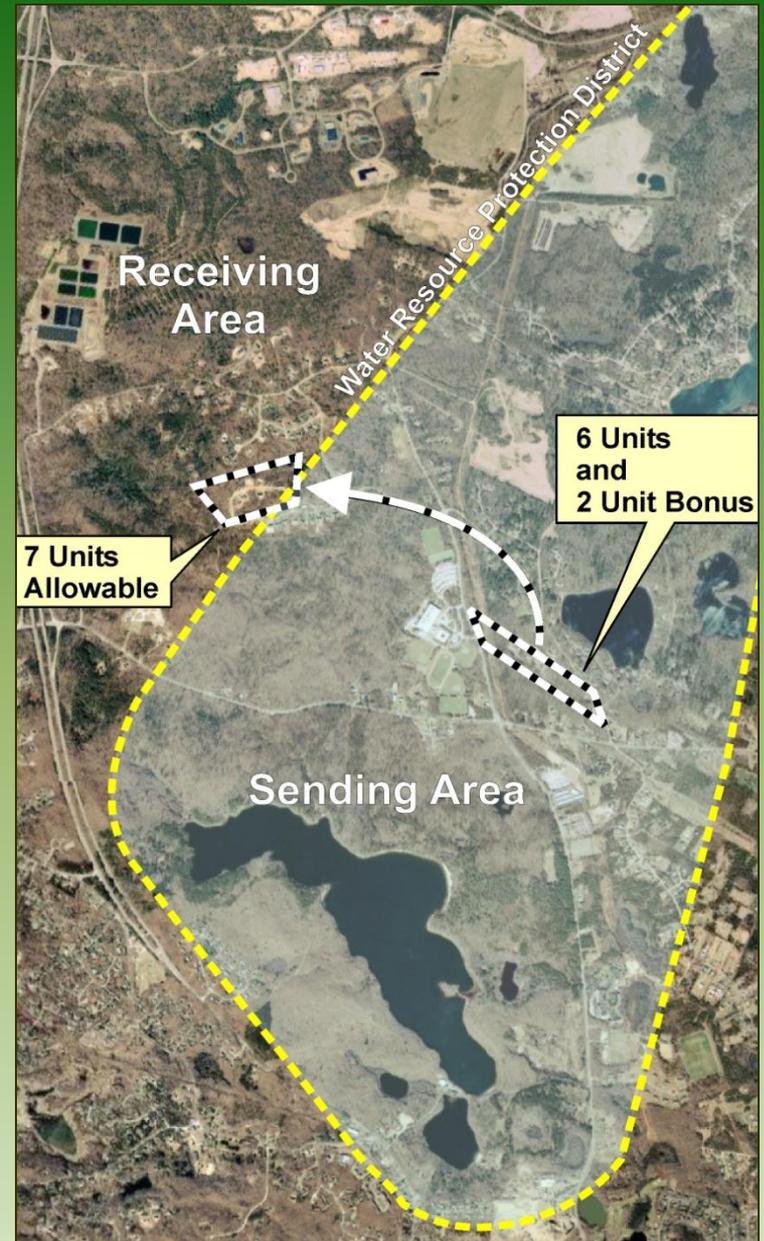
# Example2: Falmouth, MA

## Sending Areas Identified through Careful Planning Process:

- Water Resource Protection District
- Chapter 61A Parcels
- Areas of Critical Environmental Concern
- Coastal Resource Overlay District



Receiving Areas are eligible for Density Bonuses that vary between 20% to 40% depending on the underlying zoning



## Other Examples:

Westfield: Transfer of residential development rights to business district  
Conversion rate of 1 dwelling unit for 2000 square feet of commercial space in exchange for:

- ✓ Increase in height limits;
- ✓ Increase in percent lot coverage beyond base commercial regulations;
- ✓ Receiving area must have municipal water and sewer service.

Hadley: Transfer of farmland to commercial / industrial  
Conversion rate: 1 acre farmland to 2000 square feet of commercial/indust. In exchange for:

- ✓ Reduction in parking requirements,
- ✓ Increase in allowable lot coverage
- ✓ Alternative Method for Transactions = payment to the town based upon the average value of purchased rights in the town in the past 3 years.

# Resources

[government.cce.cornell.edu/doc/html/Transfer%20of%20Development%20Rights%20Programs.htm](http://government.cce.cornell.edu/doc/html/Transfer%20of%20Development%20Rights%20Programs.htm)

*TDR Programs: Using the Market for Compensation and Preservation*

[www.dem.ri.gov/programs/bpoladm/suswshed/pdfs/tdrreprt.pdf](http://www.dem.ri.gov/programs/bpoladm/suswshed/pdfs/tdrreprt.pdf)

*Transfer of Development Rights Report*

[www.farmlandinfo.org/documents/27746/FS\\_TDR\\_1-01.pdf](http://www.farmlandinfo.org/documents/27746/FS_TDR_1-01.pdf)

A Fact Sheet from the Farmland Information Center

[www.lincolnst.edu/pubs/pub-detail.asp?id=424](http://www.lincolnst.edu/pubs/pub-detail.asp?id=424)

*Transfer of Development Rights for Balanced Development*

[www.state.nj.us/dca/osg/resources/tdr/index.shtml](http://www.state.nj.us/dca/osg/resources/tdr/index.shtml)

*TDR: How Does It Work?*

[www.nj.gov/agriculture/sadc/tdr.htm](http://www.nj.gov/agriculture/sadc/tdr.htm)

New Jersey State Transfer of Development Rights Bank

[www.state.nj.us/dobi/pinelands/pinelandsbank.htm](http://www.state.nj.us/dobi/pinelands/pinelandsbank.htm)

Pinelands Development Credit Bank webpage

# Questions?

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